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Provisional text

JUDGMENT OF THE COURT (Grand Chamber)

4 June 2026 (*)

(Reference for a preliminary ruling – Judicial cooperation in criminal matters – European arrest warrant – Framework Decision 2002/584/JHA – Article 1(3) – Grounds for refusal of execution – Risk of the requested person suffering inhuman or degrading treatment prohibited by Article 4 of the Charter of Fundamental Rights of the European Union – Article 4(6) – Ground for optional non-execution – Undertaking of the Member State to enforce the sentence in accordance with its domestic law – Framework Decision 2008/909/JHA – Mutual recognition of judgments in criminal matters – Article 4(5) – Request by the executing Member State to the issuing Member State to forward to it the judgment imposing a custodial sentence with a view to enforcing that sentence on its territory)

In Joined Cases C722/23 [Rugu] ⁱ and C91/24 [Aucroix], (i)

TWO REQUESTS for a preliminary ruling under Article 267 TFEU from the Cour de cassation (Court of Cassation, Belgium), made by decisions of 22 November 2023 and of 31 January 2024, received at the Court on 28 November 2023 and on 6 February 2024, respectively, in proceedings relating to the execution of European arrest warrants

AR (C722/23),

intervening parties:

Procureur général,

and

Procureur général près la cour d’appel de Mons (C91/24)

v

HL,

THE COURT (Grand Chamber),

composed of K. Lenaerts, President, T. von Danwitz, Vice-President, F. Biltgen, K. Jürimäe (Rapporteur), L. Arastey Sahún, I. Ziemele, J. Passer and O. SpineanuMatei, Presidents of Chamber, S. Rodin, D. Gratsias, M. Gavalec, Z. Csehi and N. Fenger, Judges,

Advocate General: A. Rantos,

Registrar: M. Siekierzyńska, Administrator,

having regard to the written procedure and further to the hearing on 18 March 2025,

after considering the observations submitted on behalf of:

- AR, by O. Martins, avocat,
- the Belgian Government, by M. Jacobs, C. Pochet, and M. Van Regemorter, acting as Agents,
- the French Government, by R. Bénard and B. Dourthe, acting as Agents,
- the Netherlands Government, by E. Besselink and K. Bulterman, acting as Agents,
- the Polish Government, by B. Majczyna, acting as Agent,
- the Romanian Government, by M. Chicu and E. Gane, acting as Agents,
- the European Commission, by F. Blanc, H. Leupold and J. Vondung, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 10 July 2025,

gives the following

Judgment

1 These requests for a preliminary ruling concern the interpretation of Article 1(3) and Article 4(6) of Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ 2002 L 190, p. 1), as amended by Council Framework Decision 2009/299/JHA of 26 February 2009 (OJ 2009 L 81, p. 24) ('Framework Decision 2002/584').

2 The requests have been made in the context of the execution, in Belgium, of two European arrest warrants issued, in the first case, by the Romanian authorities, on 1 August 2023, against AR, a Romanian national residing in Belgium, for the purposes of enforcing a four-year prison sentence for trafficking in human beings (Case C722/23) and, in the second case, by the Greek authorities, on 9 March 2016, against HL, a Belgian national, for the purposes of enforcing, in Greece, a five-year prison sentence (Case C91/24) (together, 'the European arrest warrants at issue').

Legal context

European Union law

Framework Decision 2002/584

3 Article 1 of Framework Decision 2002/584, entitled 'Definition of the European arrest warrant and obligation to execute it', provides:

- '1. The European arrest warrant is a judicial decision issued by a Member State with a view to the arrest and surrender by another Member State of a requested person, for the purposes of conducting a criminal prosecution or executing a custodial sentence or detention order.
2. Member States shall execute any European arrest warrant on the basis of the principle of mutual recognition and in accordance with the provisions of this Framework Decision.
3. This Framework Decision shall not have the effect of modifying the obligation to respect fundamental rights and fundamental legal principles as enshrined in Article 6 [TEU].'

4 Article 4 of that framework decision, entitled 'Grounds for optional non-execution of the European arrest warrant', provides:

'The executing judicial authority may refuse to execute the European arrest warrant:

...

6. if the European arrest warrant has been issued for the purposes of execution of a custodial sentence or detention order, where the requested person is staying in, or is a national or a resident of the executing Member State and that State undertakes to execute the sentence or detention order in accordance with its domestic law;

...'

Framework Decision 2008/909/JHA

5 Article 3 of Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union (OJ 2008 L 327, p. 27), entitled 'Purpose and scope', provides in paragraph 1:

'The purpose of this Framework Decision is to establish the rules under which a Member State, with a view to facilitating the social rehabilitation of the sentenced person, is to recognise a judgment and enforce the sentence.'

6 Article 4 of that framework decision, entitled 'Criteria for forwarding a judgment and a certificate to another Member State', is worded as follows:

'1. Provided that the sentenced person is in the issuing State or in the executing State, and provided that this person has given his or her consent where required under Article 6, a judgment, together with the certificate for which the standard form is given in Annex I, may be forwarded to one of the following Member States:

- (a) the Member State of nationality of the sentenced person in which he or she lives; or
- (b) the Member State of nationality, to which, while not being the Member State where he or she lives, the sentenced person will be deported, once he or she is released from the enforcement of the sentence ...; or
- (c) any Member State other than a Member State referred to in (a) or (b), the competent authority of which consents to the forwarding of the judgment and the certificate to that Member State.

2. The forwarding of the judgment and the certificate may take place where the competent authority of the issuing State, where appropriate after consultations between the competent authorities of the issuing and the executing States, is satisfied that the enforcement of the sentence by the executing State would serve the purpose of facilitating the social rehabilitation of the sentenced person.

3. Before forwarding the judgment and the certificate, the competent authority of the issuing State may consult, by any appropriate means, the competent authority of the executing State. Consultation shall be obligatory in the cases referred to in paragraph 1(c). In such cases the competent authority of the executing State shall promptly inform the issuing State of its decision whether or not to consent to the forwarding of the judgment.

...

5. The executing State may, on its own initiative, request the issuing State to forward the judgment together with the certificate. ... Requests made under this paragraph shall not create an obligation of the issuing State to forward the judgment together with the certificate.

...'

7 Article 6 of that framework decision, entitled 'Opinion and notification of the sentenced person', provides, in paragraphs 1 and 2 thereof:

'1. Without prejudice to paragraph 2, a judgment together with a certificate may be forwarded to the executing State for the purpose of its recognition and enforcement of the sentence only with the consent of the sentenced person in accordance with the law of the issuing State.

2. The consent of the sentenced person shall not be required where the judgment together with the certificate is forwarded:

(a) to the Member State of nationality in which the sentenced person lives;

...

(c) to the Member State to which the sentenced person has fled or otherwise returned in view of the criminal proceedings pending against him or her in the issuing State or following the conviction in that issuing State.'

8 Article 25 of that framework decision, entitled 'Enforcement of sentences following a European arrest warrant', provides:

'Without prejudice to [Framework Decision 2002/584], provisions of this Framework Decision shall apply, mutatis mutandis to the extent they are compatible with provisions under that Framework Decision, to enforcement of sentences in cases where a Member State undertakes to enforce the sentence in cases pursuant to Article 4(6) of that Framework Decision, or where, acting under Article 5(3) of that Framework Decision, it has imposed the condition that the person has to be returned to serve the sentence in the Member State concerned, so as to avoid impunity of the person concerned.'

9 Article 26 of Framework Decision 2008/909, entitled 'Relationship with other agreements and arrangements', provides in paragraph 1 thereof:

'Without prejudice to their application between Member States and third States and their transitional application according to Article 28, this Framework Decision shall, from 5 December 2011, replace the corresponding provisions of the following conventions applicable in relations between the Member States:

- The [Convention on the Transfer of Sentenced Persons (*European Treaty Series* No 112), signed at Strasbourg on 21 March 1983,] and the Additional Protocol thereto of 18 December 1997;
- The European Convention on the International Validity of Criminal Judgements[, signed at The Hague on 28 May 1970];
- Title III, Chapter 5, of the Convention [implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders (OJ 2000 L 239, p. 19), signed at Schengen on 19 June 1990 and entered into force on 26 March 1995];
- The Convention between the Member States of the European Communities on the Enforcement of Foreign Criminal Sentences[, signed at Brussels on 13 November 1991].'

Belgian law

10 Article 4 of the loi relative au mandat d'arrêt européen, du 19 décembre 2003 (*Moniteur belge* of 22 December 2003, p. 60075) (Law of 19 December 2003 on the European Arrest Warrant) ('the Law of 22 December 2003') provides that:

'The execution of a European arrest warrant shall be refused in the following cases:

...

5° if there are valid grounds for believing that the execution of the European arrest warrant would have the effect of infringing the fundamental rights of the person concerned, as enshrined in Article 6 [TEU].'

11 Article 6 of the Law of 19 December 2003 provides:

'Execution may be refused in the following cases:

...

4° if the European arrest warrant has been issued for the purposes of enforcement of a custodial sentence or detention order, where the person concerned is Belgian or resides in Belgium and the competent Belgian authorities undertake to enforce the sentence or detention order in accordance with Belgian law;

...'

The disputes in the main proceedings and the questions referred for a preliminary ruling

Case C722/23

12 On 1 August 2023, the Romanian judicial authorities issued a European arrest warrant against AR, a Romanian national residing in Belgium, for the purposes of enforcing, in Romania, a four-year custodial sentence for trafficking in human beings.

13 By order of 22 September 2023, the chambre du conseil du tribunal de première instance francophone de Bruxelles (Investigation Chamber of the Brussels Court of First Instance (French-Speaking), Belgium) refused to execute that European arrest warrant on the basis of Article 4, 5°, of the Law of 19 December 2003 on the ground that the conditions of detention in Romania would expose AR to the risk of the breach of his fundamental rights referred to in Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950 (ECHR).

14 The ministère public (Public Prosecutor's Office) appealed against that order before the chambre de mises en accusation de la cour d'appel de Bruxelles (Indictment Chamber of the Court of Appeal, Brussels, Belgium). By a judgment of 30 October 2023, the Indictment Chamber confirmed that order, but also decided that the four-year custodial sentence '[could] be served in Belgium' pursuant to Article 6, 4°, of the Law of 19 December 2003, since the risk of a breach of AR's fundamental rights concerns the arrangements for the serving of the sentence imposed in Romania and not the procedure that led, in that Member State, to the conviction of the person concerned or the conviction itself.

15 AR brought an appeal on a point of law against that judgment before the Cour de cassation (Court of Cassation, Belgium), which is the referring court. Before that court, AR submits that, having found that a ground for mandatory non-execution of the European arrest warrant applied, since there were valid grounds for believing that the warrant's execution would have the effect of infringing the applicant's fundamental rights, it was not open to the appeal judges to apply the effects of a ground for optional non-execution and order the enforcement, in Belgium, of the custodial sentence that had been imposed on him in Romania.

16 In that regard, the referring court states that Article 4, 5°, of the Law of 19 December 2003, which transposed Framework Decision 2002/584 into Belgian law, provides that the execution of a European arrest warrant must necessarily be refused if there are valid grounds for believing that its execution would have the effect of infringing the fundamental rights of the requested person, as enshrined in Article 6 TEU.

17 The referring court cites the judgment of 17 December 2020, *Openbaar Ministerie (Independence of the issuing judicial authority)* (C354/20 PPU and C412/20 PPU, EU:C:2020:1033), in support of the observation that the objective of the mechanism of the European arrest warrant is in particular to combat the impunity of the requested person who is present in a territory other than that in which he or she has allegedly committed an offence.

18 According to that court, it is clear from the judgment 29 June 2017, *Popławski* (C579/15, EU:C:2017:503), that it is obliged, by taking the whole body of domestic law into consideration and applying the interpretative methods recognised by it, to interpret the provisions of national law at issue, so far as is possible, in the light of the wording and the purpose of Framework Decision 2002/584. In the case that gave rise to that judgment, that obligation meant that, in the event of a refusal to execute a European arrest warrant issued for the purposes of enforcing a final judgment sentencing the requested person to a custodial penalty, the judicial authorities of the executing Member State were themselves required to ensure that the sentence pronounced against that person was actually enforced.

19 The referring court observes that, in accordance with Article 6, 4°, of the Law of 19 December 2003, which transposes into Belgian law the ground for optional non-execution provided for in Article 4(6) of Framework Decision 2002/584, the execution of a European arrest warrant may be refused if it has been issued for the purposes of enforcing a sentence, where the requested person is Belgian, is staying or residing in Belgium and the competent Belgian authorities undertake to enforce the sentence in accordance with Belgian law.

20 Therefore, it wonders whether, in the event of a refusal to execute a European arrest warrant in application of the ground for mandatory non-execution referred to in paragraph 16 of the present judgment, Article 4(6) of Framework Decision 2002/584 must be interpreted as meaning that the judicial authorities of the executing Member State, in order to prevent impunity on the part of a requested person who resides there, may order the enforcement, in that Member State, of the custodial sentence imposed on that person in the issuing Member State, which is the object of that European arrest warrant.

21 In those circumstances, the Cour de cassation (Court of Cassation) decided to stay the proceedings and to refer the following question to the Court of Justice for a preliminary ruling:

‘Where the courts of the Member State executing a European arrest warrant have found that, in the event of the surrender of the requested person to the issuing Member State, there is a risk of that person’s fundamental rights being infringed in connection with the [enforcement] of the foreign sentence, with the consequence that there are grounds for refusing to execute the European arrest warrant, does Article 4(6) of [Framework Decision 2002/584] authorise courts of the executing Member State that find that the requested person resides in the executing State to decide subsequently that, in accordance with the provision transposing Article 4(6) of the framework decision into national law, the custodial sentence imposed in the Member State that issued the European arrest warrant, which is referred to in that warrant, is to be served in the executing Member State?’

Case C91/24

22 On 9 March 2016, the Greek authorities issued a European arrest warrant against HL, a Belgian national residing in Belgium, for the purposes of enforcing, in Greece, a five-year custodial sentence.

23 By judgment of 18 January 2024, the chambre de mises en accusation de la cour d'appel de Mons (Indictment Chamber of the Court of Appeal, Mons, Belgium) refused to execute that European arrest warrant on the ground that the mental deficiencies affecting HL, combined with the detention conditions in the issuing Member State, would expose him to the risk of a breach of his fundamental rights guaranteed by Articles 3 and 5 ECHR.

24 The Public Prosecutor's Office brought an appeal on a point of law against that decision before the Cour de cassation (Court of Cassation), which is the referring court. It submits that, after refusing to execute that European arrest warrant on account of the conditions of enforcement of the custodial sentence in the issuing Member State, that indictment chamber should have considered applying the ground for optional non-execution referred to in Article 4(6) of Framework Decision 2002/584, since that provision was intended to prevent the person whose surrender is refused from going unpunished.

25 In essence, the referring court has doubts, for the same reasons as those in Case C722/23, as to how Article 4(6) of Framework Decision 2002/584 must be interpreted.

26 However, in the present case, it wonders whether, in the event of a refusal to execute a European arrest warrant in application of a ground for mandatory non-execution referred to in paragraph 16 of the present judgment, that provision must be interpreted as meaning that the judicial authorities of the executing Member State, in order to prevent impunity on the part of a requested person who has the nationality of that Member State and resides there, not only may, but must, order the enforcement in that Member State of the custodial sentence imposed on that person in the issuing Member State, which is the object of that European arrest warrant.

27 In those circumstances, the Cour de cassation (Court of Cassation) decided to stay the proceedings and to refer the following question to the Court of Justice for a preliminary ruling:

'Where the courts of a Member State executing a European arrest warrant have found that, in the event of the surrender of the requested person to the issuing Member State, there is a risk of that person's fundamental rights being infringed in connection with the [enforcement] of the foreign sentence, with the consequence that there are grounds for refusing to execute the European arrest warrant, must Article 4(6) of [Framework Decision 2002/584] be interpreted as requiring those courts of the executing State to examine – in order to avoid a situation where the requested person who is a national of or resides in that State might remain unpunished – whether it is appropriate to order, in accordance with the provision transposing the abovementioned Article 4(6) into national law, that the custodial sentence imposed on the person concerned in the Member State that issued the European arrest warrant, which is referred to in that warrant, be served in the executing Member State?'

28 By decision of the Court of 21 January 2025, Cases C722/23 and C91/24 were joined for the purposes of the oral procedure and judgment.

Consideration of the questions referred

Preliminary observations

29 It is clear from the requests for a preliminary ruling that, in the cases in the main proceedings, the competent Belgian judicial authorities refused to execute the European arrest warrants at issue on the basis of Article 4, 5°, of the Law of 19 December 2003, which transposes Article 1(3) of Framework Decision 2002/584 into Belgian law. The referring court considers that it follows from those provisions that the execution of a European arrest warrant must be refused if there are valid grounds for believing that its enforcement would have the effect of infringing the fundamental rights of the requested person.

30 In that regard, it should be recalled that the existence of a risk of a breach of the fundamental rights set out in Article 4 of the Charter of Fundamental Rights of the European Union ('the Charter') is capable of permitting the executing judicial authority, exceptionally and following an appropriate examination, to refrain from giving effect to a European arrest warrant on the basis of Article 1(3) of that framework decision (see, to that effect, judgments of 5 April 2016, *Aranyosi and Căldăraru*, C404/15 and C659/15 PPU, EU:C:2016:198, paragraph 104, and of 31 January 2023, *Puig Gordi and Others*, C158/21, EU:C:2023:57, paragraph 72 and the case-law cited).

31 Accordingly, an executing judicial authority, which is presented with objective, reliable, specific and properly updated evidence of the systemic and generalised deficiencies in conditions of detention in the issuing Member State, is bound to determine, specifically and precisely, whether, in the particular circumstances of the case, there are substantial grounds for believing that, following the surrender of that person to that Member State, the requested person will run a real risk of being subject, in that Member State, to inhuman or degrading treatment, prohibited by Article 4 of the Charter, because of the conditions under which he or she will be detained in that Member State (see, to that effect, judgments of 5 April 2016, *Aranyosi and Căldăraru*, C404/15 and C659/15 PPU, EU:C:2016:198, paragraphs 92 and 94, and of 15 October 2019, *Dorobantu*, C128/18, EU:C:2019:857, paragraph 55 and the case-law cited).

32 An executing judicial authority which finds, under the conditions recalled in the preceding paragraph of the present judgment, that the surrender of the requested person risks leading to inhuman or degrading treatment, prohibited by Article 4 of the Charter, has an obligation to bring the surrender procedure established by Framework Decision 2002/584 to an end (see, to that effect, judgment of 15 October 2019, *Dorobantu*, C128/18, EU:C:2019:857, paragraph 50 and the case-law cited).

33 In the cases in the main proceedings, the competent Belgian judicial authorities, in the capacity of the executing judicial authorities of the European arrest warrants at issue, found that there was a risk of the requested persons' fundamental rights being infringed if those persons were surrendered to the authorities of the issuing Member State, and they concluded that the conditions for refusing to execute those European arrest warrants, as they result from the case-law recalled in paragraph 31 of the present judgment, were therefore met.

34 In their observations before the Court, the French, Netherlands and Romanian Governments disputed that conclusion. According to the French Government, there is doubt as to whether the questions referred are necessary for the resolution of the disputes in the main proceedings.

35 In that regard, it should however be noted that, according to settled case-law, questions on the interpretation of EU law referred by a national court in the factual and legislative context which that court is responsible for defining, and the accuracy of which is not a matter for the Court to determine, enjoy a presumption of relevance (judgments of 15 May 2003, *Salzmann*, C300/01, EU:C:2003:283, paragraph 31, and of 19 May 2022, *Spetsializirana prokuratura (Trial of an absconded accused person)*, C569/20, EU:C:2022:401, paragraph 20 and the case-law cited).

36 In the present case, it is clear from the requests for a preliminary ruling that the question whether the conditions are met for refusing the execution of the European arrest warrants on the basis of Article 1(3) of Framework Decision 2002/584 is not at issue in the context of the disputes before the referring court.

37 It is also clear from those requests, and from the very wording of the questions referred, that those disputes concern, in essence, solely the question whether, where the executing judicial authorities have refused, on the basis of that provision, to execute European arrest warrants and have accordingly decided not to surrender the requested persons to the issuing Member States for the purpose of the enforcement of the penalties which are the origin of those arrest warrants, those authorities may or must, in order to prevent the impunity of those persons, apply, in addition, the ground for optional non-execution provided

for in Article 4(6) of Framework Decision 2002/584, by ordering those penalties to be enforced on the territory covered by those authorities.

38 In those circumstances, it must be held that the decisions to refuse to execute the European arrest warrants at issue fall within the legal and factual framework as it has been defined by the referring court and that it is not for the Court to call that matter into question, as is clear from the case-law recalled in paragraph 35 of the present judgment.

Substance

39 By its questions, which it is appropriate to examine together, the referring court asks, in essence, whether Article 4(6) of Framework Decision 2002/584 must be interpreted as meaning that an executing judicial authority, where it has refused on the basis of Article 1(3) of that framework decision to execute a European arrest warrant issued for the purposes of enforcing a custodial sentence, may or must apply, in addition, the ground for optional non-execution provided for in that Article 4(6) in order to prevent the impunity of the requested person.

40 In order to answer that question, it is necessary to determine, as a preliminary point, whether the ground for optional non-execution of a European arrest warrant set out in Article 4(6) of Framework Decision 2002/584 is intended to be applied, in addition, where an executing judicial authority has refused to execute that European arrest warrant, on the basis of Article 1(3) of that framework decision, on the ground that the surrender of the requested person to the issuing Member State would expose him or her to a risk of inhuman or degrading treatment prohibited by Article 4 of the Charter.

41 In that regard, first, as has been recalled in paragraphs 30 to 32 of the present judgment, the ground for non-execution of a European arrest warrant under Article 1(3) of Framework Decision 2002/584 is mandatory.

42 That ground, which applies irrespective of the conditions of residence of the requested person, seeks to protect that person's fundamental rights by providing, exceptionally, for the execution of a European arrest warrant to be refused in a situation where, in particular in the event of systemic and generalised deficiencies in detention conditions in the issuing Member State, there are substantial grounds for believing that, following his or her surrender to that Member State, that person will run a real risk of being subjected, in that Member State, to inhuman or degrading treatment prohibited by Article 4 of the Charter on account of the conditions under which he or she will be detained in that Member State.

43 Thus, where an executing judicial authority, which is seised of a European arrest warrant issued for the purposes of enforcing a custodial sentence, decides, as in the present case, to apply a ground for non-execution based on Article 1(3) of Framework Decision 2002/584, such a decision necessarily puts an end to the surrender procedure established by that framework decision.

44 A refusal based on that ground therefore has the consequence that the requested person will not be surrendered to the judicial authorities of the issuing Member State for reasons connected with the protection of his or her fundamental rights. For those reasons, that person will thus not serve, in that Member State, the custodial sentence imposed on him or her there, at least for so long as the conditions which justified the refusal based on that ground persist. However, there is no provision of Framework Decision 2002/584 that determines the consequences of such a refusal for the enforcement of that sentence in the executing Member State where the requested person is in the territory of that State.

45 Secondly, the ground for non-execution set out in Article 4(6) of Framework Decision 2002/584 is optional, and the conditions for its application and its objective are specific to it.

46 Pursuant to that provision, an executing judicial authority may refuse to execute the European arrest warrant if that warrant has been issued for the purposes of enforcing a custodial sentence or detention order, where the requested person is staying in, or is a national or resident of, the executing Member State and that State undertakes to enforce the sentence or detention order in accordance with its domestic law.

47 Thus, the application of that provision is subject to two conditions being met, namely, first, that the requested person is staying in the executing Member State, is a national of or resident in that Member State and, secondly, that that State undertakes to enforce, in accordance with its domestic law, the sentence or detention order in respect of which the European arrest warrant has been issued (see, to that effect, judgment of 4 September 2025, *C.J. (Enforcement of a sentence further to an EAW)*, C305/22, EU:C:2025:665, paragraph 43 and the case-law cited).

48 Where the executing judicial authority finds that both of the conditions have been satisfied, it must then ascertain whether there is a legitimate interest to justify the sentence imposed in the issuing Member State being enforced on the territory of the executing Member State. That assessment allows that authority to take account of the objective pursued by that provision, which consists, according to well-established case-law, in increasing the requested person's chances of reintegrating into society when the sentence imposed on him or her expires (judgment of 4 September 2025, *C.J. (Enforcement of a sentence further to an EAW)*, C305/22, EU:C:2025:665, paragraph 44 and the case-law cited).

49 As regards the grounds for optional non-execution provided for in Article 4 of Framework Decision 2002/584, it should be noted that Member States which have opted to transpose one or more of those grounds cannot provide that judicial authorities are required to refuse to execute any European arrest warrant formally falling within the scope of those grounds, without those authorities having the opportunity to take into account the circumstances specific to each case (see, to that effect, judgment of 29 April 2021, *X (European arrest warrant – Ne bis in idem)*, C665/20 PPU, EU:C:2021:339, paragraph 44).

50 Thus, unlike the finding made in paragraph 43 of the present judgment with regard to Article 1(3) of that framework decision, Article 4(6) of that framework decision establishes an option for the requested person not to be surrendered in execution of the European arrest warrant where the conditions referred to in paragraph 47 of the present judgment are satisfied.

51 It follows from the foregoing that the ground for optional non-execution provided for in Article 4(6) of Framework Decision 2002/584 is an autonomous ground for non-execution which is not intended to apply, in addition, where the execution of a European arrest warrant has already been refused by the executing Member State on the basis of Article 1(3) of that framework decision, even if that application is intended to prevent the requested person from benefiting, as a result of that refusal, from impunity as regards the sentence that justified that European arrest warrant being issued.

52 To apply the ground for optional non-execution provided for in Article 4(6) of Framework Decision 2002/584 as a complement to the ground for mandatory non-execution resulting from Article 1(3) of that framework decision would result in disregarding the objectives pursued by each of those grounds as well as their respective nature.

53 Consequently, where the executing judicial authority has refused, on the basis of Article 1(3) of Framework Decision 2002/584, to execute a European arrest warrant issued for the purposes of enforcing a custodial sentence, that authority cannot, in order to avoid the impunity of the requested person, apply, in addition, the ground for optional non-execution provided for in Article 4(6) of that framework decision.

54 However, in so far as the refusal to execute a European arrest warrant on the basis of Article 1(3) of Framework Decision 2002/584 means, as has been noted in paragraphs 43 and 44 of the present judgment, that that sentence will not be enforced in the issuing Member State, it must be borne in mind that that

framework decision, read in the light of the provisions of the Charter, cannot be interpreted in such a way as to call into question the effectiveness of the system of judicial cooperation between the Member States, of which the European arrest warrant, as provided for by the EU legislature, constitutes one of the essential elements (judgment of 22 February 2022, *Openbaar Ministerie (Tribunal established by law in the issuing Member State)*, C562/21 PPU and C563/21 PPU, EU:C:2022:100, paragraph 47 and the case-law cited).

55 That is necessarily all the more so since the mechanism of the European arrest warrant seeks to combat the impunity of a requested person who is present in a territory other than that in which he or she has committed an offence (see, to that effect, judgments of 18 April 2023, *E.D.L. (Ground for refusal based on illness)*, C699/21, EU:C:2023:295, paragraph 44 and the case-law cited, and of 4 September 2025, *C.J. (Enforcement of a sentence further to an EAW)*, C305/22, EU:C:2025:665, paragraph 80).

56 The impunity of the requested person would be incompatible with the objective pursued both by Framework Decision 2002/584 and by Article 3(2) TEU, under which the European Union offers its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures, in particular with respect to external border controls and the prevention and combating of crime (judgment of 24 June 2019, *Popławski*, C573/17, EU:C:2019:530, paragraph 82 and the case-law cited).

57 It follows that, where an executing judicial authority has refused to execute, on the basis of Article 1(3) of that framework decision, a European arrest warrant which has been issued for the purposes of enforcing a custodial sentence, that authority is required actively to seek to ensure that the requested person does not go unpunished as a result of that refusal.

58 As regards the steps to be taken to that end, it should be borne in mind that the obligation of sincere cooperation, laid down in the first subparagraph of Article 4(3) TEU, must inform the dialogue between the executing and issuing judicial authorities in order to ensure that the operation of the European arrest warrant is not brought to a standstill. It follows from the principle of sincere cooperation, in particular, that the Member States are, in full mutual respect, to assist each other in carrying out tasks which flow from the Treaties (judgments of 18 April 2023, *E.D.L. (Ground for refusal based on illness)*, C699/21, EU:C:2023:295, paragraph 45, and of 29 July 2024, *Breian*, C318/24 PPU, EU:C:2024:658, paragraph 93 and the case-law cited).

59 With that in mind, the issuing and executing judicial authorities must, in order to ensure effective cooperation in criminal matters, make full use of the instruments adopted by the European Union in that area in order to foster mutual trust on the basis of that cooperation (see, to that effect, judgments of 18 April 2023, *E.D.L. (Ground for refusal based on illness)*, C699/21, EU:C:2023:295, paragraph 46; of 29 July 2024, *Breian*, C318/24 PPU, EU:C:2024:658, paragraph 94; and of 4 September 2025, *C.J. (Enforcement of a sentence further to an EAW)*, C305/22, EU:C:2025:665, paragraph 69 and the case-law cited).

60 In that regard, it must be borne in mind that, like Framework Decision 2002/584, Framework Decision 2008/909 gives concrete expression, in the criminal field, to the principles of mutual trust and mutual recognition which require, particularly as regards the area of freedom, security and justice, that each Member State, save in exceptional circumstances, consider the other Member States to be complying with EU law and particularly with the fundamental rights recognised by EU law. The latter framework decision thus further develops judicial cooperation concerning the recognition and enforcement of criminal judgments where persons have been sentenced to a custodial sentence or a measure involving deprivation of liberty in another Member State, with a view to facilitating their social rehabilitation (judgment of 4 September 2025, *C.J. (Enforcement of a sentence further to an EAW)*, C305/22, EU:C:2025:665, paragraph 45 and the case-law cited).

61 According to Article 3(1), the purpose of Framework Decision 2008/909 is to establish the rules under which a Member State, with a view to facilitating that social rehabilitation, is to recognise a judgment and enforce the sentence issued by a court in another Member State. As is apparent from Article 26(1), that framework decision replaces the provisions of the conventions on the transfer of sentenced persons, referred to in that article, applicable in relations between the Member States (judgment of 4 September 2025, *C.J. (Enforcement of a sentence further to an EAW)*, C305/22, EU:C:2025:665, paragraph 46 and the case-law cited).

62 In that context, the refusal to execute, on the basis of Article 1(3) of Framework Decision 2002/584, a European arrest warrant issued for the purpose of enforcing, in the issuing Member State, a custodial sentence, on the ground that the surrender of the requested person to the latter Member State would expose him or her to the risk of inhuman or degrading treatment prohibited by Article 4 of the Charter, does not prevent the executing judicial authority, which makes use of that ground, from applying the provisions of Framework Decision 2008/909 in order to recognise the judgment delivered in the issuing Member State, which led to that sentence being imposed on that person, and from taking over the enforcement of that sentence in its territory.

63 As the Belgian and Romanian Governments pointed out in their observations to the Court, the application of that ground, which relates only to the conditions of detention of the sentenced person in the issuing Member State, does not affect the principle of mutual trust and mutual recognition with regard to the procedure which was lawfully conducted in the latter Member State and which led to that judgment.

64 Furthermore, even if, as has been recalled in paragraph 61 of the present judgment, the rules laid down by Framework Decision 2008/909 are essentially intended to facilitate the social rehabilitation of the sentenced person, the fact remains that those rules are relevant in a situation, such as that at issue in the cases in the main proceedings, where the executing judicial authority refrains, exceptionally and following an appropriate examination meeting the requirements recalled in paragraphs 31 and 32 of the present judgment, from executing a European arrest warrant on the basis of Article 1(3) of Framework Decision 2002/584.

65 In that regard, it is apparent from the Court's case-law that the objective of increasing the requested person's chances of reintegrating into society when the sentence imposed on that person expires, however important it may be, is not absolute, since that objective must be reconciled with the essential objectives of Framework Decision 2002/584 and, in particular, the objective recalled in paragraphs 55 and 56 of the present judgment, which is to combat the impunity from which that person could thus benefit (see, to that effect, judgment of 4 September 2025, *C.J. (Enforcement of a sentence further to an EAW)*, C305/22, EU:C:2025:665, paragraph 62 and the case-law cited).

66 In view of the consequences regarding the enforcement of the sentence, referred to in paragraph 44 of the present judgment, which arise from the refusal to execute a European arrest warrant on the basis of Article 1(3) of Framework Decision 2002/584, it is in the public interest for that sentence to be enforced in the executing Member State so that the requested person does not go unpunished as a result of that refusal.

67 In such a situation, having regard to the objectives of the sentence, a complementary approach must be taken to social rehabilitation and combating impunity, in so far as the reintegration into society of a person upon whom a custodial sentence has been imposed requires that sentence actually to be enforced in the executing Member State.

68 Accordingly, an executing Member State which has refused, on the basis of Article 1(3) of Framework Decision 2002/584, to execute a European arrest warrant issued for the purposes of enforcing a custodial sentence is required to apply the rules laid down by Framework Decision 2008/909 in order to obtain

recognition, in its territory, of the judgment imposing the sentence, delivered in the issuing Member State, which justified the issue of the European arrest warrant and, on the basis of that recognition, to ensure the enforcement of that sentence in that territory.

69 In that regard, it is apparent from Article 4(1) of that framework decision that it is, in principle, for the issuing Member State to take the initiative to forward that judgment to the executing Member State, together with the standard certificate set out in Annex I to that framework decision, with a view to the recognition and enforcement of that judgment in the executing Member State.

70 However, under Article 4(5) of that framework decision, the executing Member State may, on its own initiative, request the issuing Member State to forward that judgment to it, together with that certificate.

71 It follows that, where the executing Member State has exceptionally refused, on the basis of Article 1(3) of Framework Decision 2002/584, to execute a European arrest warrant issued for the purposes of enforcing a custodial sentence in the issuing Member State, the executing Member State must ensure that that sentence is enforced on its territory by requesting, on its own initiative, on the basis of Article 4(5) of Framework Decision 2008/909, the issuing Member State to forward to it the judgment and the certificate referred to in paragraph 69 of the present judgment.

72 It is true that Article 4(5) of Framework Decision 2008/909 states that a request made under that provision does not create an obligation on the part of the issuing Member State to forward that judgment.

73 It should nevertheless be pointed out that it is for the latter Member State to ensure that the prerogative conferred on it by that framework decision not to forward to the executing Member State the sentencing judgment imposed by one of its courts and the certificate referred to in paragraph 69 of the present judgment is exercised in a manner that enables effective cooperation between the competent authorities of the Member States in criminal matters. It must thus ensure that the operation of the European arrest warrant and the mutual recognition of judgments in criminal matters for the purposes of their enforcement in another Member State are not brought to a standstill (see, to that effect, judgment of 4 September 2025, *C.J. (Enforcement of a sentence further to an EAW)*, C305/22, EU:C:2025:665, paragraph 71) and, consequently, that the objectives accompanying the establishment of the area of freedom, security and justice, reflected in Article 3(2) TEU, are not compromised.

74 Consequently, the issuing Member State, when considering refusing such a request from an executing Member State, must take due account of the fact that, as a result of that refusal, the sentenced person would remain unpunished, which would also be liable to compromise his or her social rehabilitation.

75 Lastly, it should be noted that, under Article 6(1) of Framework Decision 2008/909, the judgment together with the certificate referred to in paragraph 69 of the present judgment may, in principle, be forwarded to the executing Member State for the purposes of the recognition of that judgment and enforcement of the sentence only with the consent of the sentenced person, in accordance with the law of the issuing Member State.

76 However, it is apparent from Article 6(2)(a) and (c) of that framework decision that that consent is not required either where the sentenced person is a national of the executing Member State and also lives in its territory, or where he or she has fled or returned to the latter Member State, in particular following his or her conviction in the issuing Member State.

77 In the present case, it is apparent, first, from the case file before the Court in Case C91/24 that, under Article 6(2)(a) of Framework Decision 2008/909, HL's consent might not be required, in so far as he is a Belgian national residing in Belgium, which it is for the referring court to ascertain.

78 Secondly, as regards the case file before the Court in Case C722/23, it is apparent that AR is a Romanian national residing in Belgium. It is therefore also for that court to ascertain, in the light of the information available to it, whether the exception provided for in Article 6(2)(c) of that framework decision applies to AR's situation and whether, in particular, AR travelled to Belgium after having been sentenced in Romania to four years' imprisonment for trafficking in human beings, which was the ground for the European arrest warrant being issued against him.

79 In the light of all the foregoing considerations, the answer to the questions referred is that Article 4(6) of Framework Decision 2002/584 must be interpreted as meaning that an executing judicial authority, where it has refused to execute, on the basis of Article 1(3) of that framework decision, a European arrest warrant issued for the purposes of enforcing a custodial sentence, cannot, in order to prevent the impunity of the requested person, apply, in addition, the ground for optional non-execution provided for in Article 4(6). However, in the event of such a refusal, the executing Member State is required, in order to avoid such an impunity, to invoke the provisions of Article 4(5) of Framework Decision 2008/909 by requesting, on its own initiative, that the issuing Member State forward to it the judgment imposing that sentence, together with the certificate, the standard form of which is set out in Annex I to that framework decision, with a view to that sentence being enforced in its territory.

Costs

80 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Grand Chamber) hereby rules:

Article 4(6) of Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, as amended by Council Framework Decision 2009/299/JHA of 26 February 2009,

must be interpreted as meaning that an executing judicial authority, where it has refused to execute, on the basis of Article 1(3) of Framework Decision 2002/584, as amended, a European arrest warrant issued for the purposes of enforcing a custodial sentence, cannot, in order to avoid the impunity of the requested person, apply, in addition, the ground for optional non-execution provided for in Article 4(6) of that framework decision. However, in the event of such a refusal, the executing Member State is required, in order to avoid such an impunity, to invoke the provisions of Article 4(5) of Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union, by requesting, on its own initiative, that the issuing Member State forward to it the judgment imposing that sentence, together with the certificate, the standard form of which is set out in Annex I to that framework decision, with a view to that sentence being enforced in its territory.

[Signatures]

* Language of the case: French.

ⁱ The name of the present case is a fictitious name. It does not correspond to the real name of any party to the proceedings.

