

**Order of the Court (Eighth Chamber) of 12 July 2022 (request for a preliminary ruling from the Supreme Court — Ireland) — Execution of European arrest warrants issued against W O, J L**

(Case C-480/21) <sup>(1)</sup>

*(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court of Justice — Judicial cooperation in criminal matters — European arrest warrant — Framework Decision 2002/584/JHA — Article 1(3) — Surrender procedure between Member States — Conditions for execution — Charter of Fundamental Rights of the European Union — Second paragraph of Article 47 — Fundamental right to a fair trial before an independent and impartial tribunal previously established by law — Systemic or generalised deficiencies — Two-step examination — Criteria for application — Obligation of the executing judicial authority to determine, specifically and precisely, whether there are substantial grounds for believing that the person in respect of whom a European arrest warrant has been issued, if surrendered, runs a real risk of breach of his or her fundamental right to a fair trial before an independent and impartial tribunal previously established by law)*

(2022/C 368/10)

Language of the case: English

**Referring court**

Supreme Court

**Parties to the main proceedings**

Applicants: W O, J L,

Intervening party: The Minister for Justice and Equality

**Operative part of the order**

Article 1(2) and (3) 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, where the executing judicial authority called upon to decide on the surrender of a person in respect of whom a European arrest warrant has been issued has evidence of systemic or generalised deficiencies concerning the independence of the judiciary in the issuing Member State, in particular as regards the procedure for the appointment of the members of the judiciary, that authority may refuse to surrender that person:

in the context of a European arrest warrant issued for the purposes of executing a custodial sentence or detention order, only if that authority finds that, in the particular circumstances of the case, there are substantial grounds for believing that, having regard inter alia to the information provided by that person relating to the composition of the panel of judges who heard his or her criminal case or to any other circumstance relevant to the assessment of the independence and impartiality of that panel, there has been a breach of that person's fundamental right to a fair trial before an independent and impartial tribunal previously established by law, enshrined in the second paragraph of Article 47 of the Charter of Fundamental Rights of the European Union, and

in the context of a European arrest warrant issued for the purposes of conducting a criminal prosecution, only if that authority finds that, in the particular circumstances of the case, there are substantial grounds for believing that, having regard inter alia to the information provided by the person concerned relating to his or her personal situation, the nature of the offence for which that person is prosecuted, the factual context surrounding that European arrest warrant or any other circumstance relevant to the assessment of the independence and impartiality of the panel of judges likely to be called upon to hear the proceedings in respect of that person, the latter, if surrendered, runs a real risk of breach of that fundamental right.

<sup>(1)</sup> OJ C 391, 27.9.2021.