

(English version)

**Question for written answer E-001970/24
to the Commission
Ilaria Salis (The Left), Martin Schirdewan (The Left)
(7 October 2024)**

Subject: German authorities' extradition of Maja T. to Hungary

On 28 June 2024, German authorities extradited Maja T. to Hungary, despite the German Federal Constitutional Court's decision to halt the extradition. On 2 August 2024, the court raised 'considerable concerns' regarding the compatibility of this extradition with requirements for effective legal protection, and expressed doubts as to whether Maja T.'s rights would be adequately protected in Hungarian custody.

1. Is the Commission aware of the case of Maja T., and engaging, or planning to engage, with the German and/or Hungarian authorities regarding this matter and in relation to the implementation of the European Arrest Warrant (EAW)?
2. How does the Commission evaluate the extradition of Maja T. by the German authorities, particularly in relation to Article 15(2) of the EAW Framework Decision ⁽¹⁾, given Maja T.'s right to a fair trial under the Charter, given that Maja T. is non-binary, and the concerns of systemic and generalised deficiencies in the rule of law in Hungary raised in the Commission's July 2024 Rule of Law Report?
3. Hungary is facing challenges with overcrowding in prisons (ECtHR pilot judgment *Varga and Others v Hungary* and NGO reports ⁽²⁾). Is the Commission aware of this situation, and what steps does it plan to take, also in light of the Commission Recommendation of 8 December 2022 on procedural rights of suspects and accused persons subject to pre-trial detention and on material detention conditions ⁽³⁾?

Submitted: 7.10.2024

**Answer given by Mr Reynders on behalf of the European Commission
(26 November 2024)**

1. The Commission is aware of the case of Maja T. However, the European arrest warrant (EAW) is an entirely judicial procedure between judicial authorities in the Member States based on the particular circumstances of each individual case where surrender is requested. Neither the Commission nor the Member States' governments can interfere or influence decisions taken by the judicial authorities.
2. The Member States' authorities are under the obligation to comply with the comprehensive case law on the EAW regarding detention conditions and fair trial rights ⁽¹⁾, including on the provision of assurances ⁽²⁾.

The Commission is closely monitoring the transposition into national law of the framework Decision on EAW, including in Hungary and Germany for which it has launched infringement proceedings pursuant to Article 258 Treaty on the Functioning of the EU. Since 2020, the Commission has issued 26 letters of formal notice concerning the incomplete and incorrect transposition of the framework Decision on EAW and has taken further steps by way of additional letters of formal notice and reasoned opinions in 2023 and 2024.

3. Indeed, on 8 December 2022, the Commission adopted a recommendation on the procedural rights of suspects and accused in pre-trial detention and on material detention conditions ⁽³⁾. It should be noted that the minimum standards, as laid down in the recommendation, are not legally binding on Member States ⁽⁴⁾. Member States should have informed the Commission on their follow-up to this recommendation by 1 October 2024 ⁽⁵⁾. Based on this information, the Commission will monitor and assess the measures taken by Member States and aims to submit a report in the course of 2025.

¹ OJ L 190, 18.7.2002, p. 1, ELI: http://data.europa.eu/eli/dec_framw/2002/584/oj.

² Hungarian Helsinki Committee, 'Hungarian prison population reaches a 33-year high', 3 March 2023, <https://helsinki.hu/en/hungarian-prison-population-reaches-a-33-year-high/#:~:text=Hungarian%20prisons%20are%20overcrowded%20again,at%20a%20107%25%20occupancy%20rate>.

³ OJ L 86, 24.3.2023, p. 44, ELI: <http://data.europa.eu/eli/reco/2023/681/oj>.

⁽¹⁾ Judgment of the Court of Justice of 5 April 2016, *Aranyosi and Căldăraru*, C-404/15 and C-659/15 PPU, ECLI:EU:C:2016:198 Judgment of the Court of Justice of 25 July 2018, *ML*, C-220/18 PPU, ECLI:EU:C:2018:589 Judgment of the Court of Justice of 15 October 2019, *Dumitru-Tudor Dorobantu*, C-128/18, ECLI:EU:C:2018:589, Judgment of the Court of Justice of 25 July 2018, *LM*, C-216/18 PPU, ECLI:EU:C:2018:586. Judgment of the Court of Justice of 31 January 2023, *Puig Gordi and Others*, C-158/21, ECLI:EU:C:2023:5 and Judgment of the Court of Justice of 29 July 2024, *Breian*, Case C-318/24 PPU ECLI:EU:C:2024:658, For a summary of the case law, see also Commission Notice — Handbook on how to issue and execute a European Arrest Warrant (C/2023/1270), para. 5.7.

⁽²⁾ As regards assurances, the CJEU has clarified in Case C-220/18 PPU, *ML*, that an assurance provided by the issuing Member State — in accordance with Article 15(2) and (3) of the framework Decision on EAW — that the person concerned, irrespective of the prison he is detained in in the issuing Member State, will not suffer inhuman or degrading treatment on account of the actual and precise conditions of his detention is a factor which the executing judicial authority cannot disregard.

⁽³⁾ https://ec.europa.eu/commission/presscorner/detail/en/ip_22_7570

⁽⁴⁾ Detention conditions are primarily a responsibility of Member States. All Member States have, however, committed themselves to respect the standards on this matter drafted by the Council of Europe, such as the 2006 European Prison Rules, <https://rm.coe.int/european-prison-rules-978-92-871-5982-3/16806ab9ae>

⁽⁵⁾ To date, the Commission has not yet received information from eight Member States.