

# Rule of Law and the European Arrest Warrant- A dialogue between national courts and the European Court of Justice

Jacob Öberg<sup>1)</sup>, Valsamis Mitsilegas<sup>2)</sup>, Jannemieke Ouwerkerk<sup>3)</sup>

1) Associate Professor in EU Law, Örebro University

2) Professor of European Criminal Law and Global Security, Queen Mary University of London

3) Professor of European Criminal Law, Leiden University

## Abstract

In light of the political turmoil and deteriorating human rights standards in Poland and Hungary, national and the EU courts are increasingly faced with pressing questions concerning the application of EU law. The choices that those courts make and should make, as matter of law and principle, in respect of the balance between the protection of rule of law standards and the effective and uniform application of EU law are in no way self-evident. Recently in December 2020, the Court of Justice clarified, in respect of questions asked by a Dutch District Court on the possibility to refuse surrender of European arrest warrants issued by Polish authorities, that the existence of evidence of systemic or generalised deficiencies concerning judicial independence in Poland or of an increase in those deficiencies 'does not in itself' justify the judicial authorities of the other Member States refusing to execute any European arrest warrant issued by a Polish judicial authority (Joined Cases C-354/20 PPU and C-412/20 PPU). The Dutch District Court

nonetheless in a ruling of 10 February 2021 refrained from surrendering a 33-year-old Polish citizen suspected of i.a. drug smuggling in his home country (ECLI:NL:RBAMS:2021:420 - Rechtbank Amsterdam). The Dutch Court considered that there was a real risk that his fundamental right to a fair trial would be violated if he was brought to justice in Poland. By analysing, digesting and putting into context the recent judgment by the EU Courts and Dutch courts in respect of the European Arrest Warrant we wish to stimulate debate on the perennial question of the balance between rule of law and effective crime enforcement, particularly within the EU context. On behalf of Örebro University, you are very welcome to participate in this digital roundtable discussions with us.

To register and receive a link to the seminar please email us at [Anna.Carlberg@oru.se](mailto:Anna.Carlberg@oru.se) or [Jacob.Oberg@oru.se](mailto:Jacob.Oberg@oru.se)



## CONTACT

**Anna Carlberg**  
Study and Research Administrator  
[Anna.Carlberg@oru.se](mailto:Anna.Carlberg@oru.se)  
[www.oru.se](http://www.oru.se)



Universiteit  
Leiden

