

# AG Opinion on Speciality Rule in TCA

**eucrim**

European Law Forum: Prevention • Investigation • Prosecution

**Thomas Wahl**

**News**

On 4 December 2025, Advocate General *Laila Medina* delivered her [Opinion](#) in Case [C-528/24 \("Boothnesse"\)](#). In this case, the ECJ is required to interpret the rule of speciality, a basic safeguard in extradition law, as laid down in Article 625(2) of the TCA (the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part). According to this provision, "a person surrendered may not be prosecuted, sentenced or otherwise deprived of liberty for an offence committed prior to that person's surrender other than that for which the person was surrendered."

## Background of the case and questions referred

The reference for a preliminary ruling was made by the Irish Supreme Court. Before that court, three defendants objected to their extradition from Ireland to the United Kingdom (UK) on the ground that the arrest warrant issued for the prosecution of fraud did not include their possible prosecution for contempt of court, as the defendants had failed to comply with restraint orders; the UK court had imposed an imprisonment of six months on each defendant for this act. However, according to the UK authorities, "contempt of court" is classified as a civil matter and not as a criminal offence, therefore, the arrest warrant could not include this act.

Essentially, the Irish Supreme Court is seeking guidance from Luxembourg as to whether the term "offence" has an autonomous meaning in EU law and, if so, whether a surrender could be refused on the basis of Art. 625(2) TCA.

## The AG's Opinion

According to AG *Medina*, the term "offence" in Art. 625(2) TCA requires an autonomous interpretation, independent of the issuing State's formal classification. The decisive factor is whether a conduct or sanction is criminal in nature, as developed by the ECJ's judgment in *Bonda*. In this judgment, the ECJ established a three-step test (in line with the *Engel* criteria developed by the ECtHR): (i) the legal classification under national law; (ii) the intrinsic nature of the offence; and (iii) the severity of the penalty.

If, on the basis of the *Bonda* criteria, the requested judicial authority concludes that the sanction in question is criminal in nature, it must determine whether a real risk persists that the person concerned would, after surrender, be detained in breach of the rule of speciality. Refusal of surrender can be averted if the issuing State provides adequate guarantees that no such detention will occur.

### AUTHOR

**Thomas Wahl**

Senior Researcher  
Max Planck Institute for the  
Study of Crime, Security and  
Law

---

Published in  
2025, Vol. 20(4) [eucrim](#) pp 282  
– 283

ISSN: 1862-6947

<https://eucrim.eu>

---



## About eucrim

eucrim is the leading journal which regularly informs about current developments in European criminal and “criministrative” law.

All news items are freely accessible at: <https://eucrim.eu/news/>

Stay informed by emailing to [eucrim-subscribe@csl.mpg.de](mailto:eucrim-subscribe@csl.mpg.de) to receive alerts for new releases of issues.

The project is co-financed by the [Union Anti-Fraud Programme \(UAFP\)](#), managed by the [European Anti-Fraud Office \(OLAF\)](#).



**Co-funded by  
the European Union**