

# AG Opinion: Refusal of EAW in Case of Disproportionate Sentence



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**Thomas Wahl**

**News**

In his Opinion in [Case C-583/24 \(Tagu\)](#) released on 22 January 2026, Advocate General (AG) *Richard de la Tour* addressed the question of whether the threat of enforcement of a manifestly disproportionate custodial sentence can prevent surrender on the basis of a European arrest warrant (EAW).

The reference for a preliminary ruling to the ECJ was prompted by the *Rechtbank Amsterdam* (District Court of Amsterdam, Netherlands). The court has to decide on the enforcement of an EAW from Romania. The person concerned had been sentenced there to seven years' imprisonment for importing three grams of cannabis and four ecstasy pills, which is the minimum sentence provided for by law. According to the findings of the Amsterdam court, the drugs were intended for personal use and there was no intention to trade.

*AG de la Tour* emphasises that the mutual recognition of judicial decisions is a fundamental principle of the European arrest warrant and that the determination of the sentence remains, in principle, a matter for the issuing state. Nevertheless, surrender may not take place if the authority has objective, reliable and up-to-date information indicating systemic or generalised deficiencies in the issuing state's compliance with the principle of proportionality of penalties, with the result that the courts have no possibility of individualising the penalty for certain categories of criminal offences. In addition, in the specific individual case, there must be a real risk, based on serious and substantiated grounds, that the person concerned would be exposed to a manifestly and extremely disproportionate penalty after surrender.

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