

ECJ: No Obligation for Mutual Recognition of Decision Taken in Favour of a Person Requested for Extradition to a Third Country



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News

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On 19 June 2025, the [ECJ ruled](#) that an authority of an EU Member State is not obliged to mutually recognise a decision taken in another EU Member State that refused extradition of an individual to a third state. However, it must take due account of the reasons of this previous decision in its own assessment of a possible refusal on the ground of fundamental rights.

Background of the case and question referred

The request for preliminary ruling ([Case C-219/25, *Kamekris*](#)) was submitted by the Montpellier court of appeal (France), which is faced with an extradition request from Georgia against KN. KN, a Greek and Georgian national, was convicted *in absentia* by a court in Georgia to life imprisonment for international trafficking of particularly large quantities of cocaine by an organised criminal group, the preparation of a group murder and the illegal possession of firearms. However, the extradition of KN for the execution of this sentence was already refused by a court in Belgium where KN lives. The Belgian court found that there were serious grounds for believing that KN's extradition to Georgia would expose him to a denial of justice and a real risk of inhuman or degrading treatment.

The Montpellier court of appeal wonders whether it can be deduced from Art. 67(3) and Art. 82(1) TFEU that an EU Member State is required to refuse to extradite a national of another Member State to a third country where the authorities of a third EU Member State have previously refused to execute an extradition request from that third country for the enforcement of the same sentence imposed on that national of another Member State on the ground that there is a serious risk of a breach of the fundamental rights guaranteed by Art. 19(2) and the second paragraph of Art. 47 of the Charter.

Ruling of the ECJ

The judges in Luxembourg first clarified that the context of the preliminary ruling question must be seen in its "Petruhhin" case law, i.e. that nationals of other EU Member States (here: Greece) must enjoy their rights of free movement and non-discrimination (Arts. 18 and 21 TFEU) as Union citizens and that the authorities and courts of the EU Member States must refuse extradition to third countries if the Union citizen would be exposed to an infringement of his/her fundamental rights guaranteed by the Charter, in particular Art. 19 (→ [euclid 3/2016, 131](#)). It is therefore in the latter context to determine which concrete obligations the

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authorities of the requested EU Member States have if they examine a possible non-extradition due to fundamental rights grounds.

The judges in Luxembourg subsequently conclude that the principle of mutual recognition does not apply to decisions refusing extradition requests adopted by EU Member States. They mainly put forward the following arguments:

- It is clear from the wording of Arts. 67(3) and 82(1) TFEU that they do not, as such, establish an obligation of mutual recognition of judgments and judicial decisions in criminal matters adopted in the Member States, but merely provide that judicial cooperation in criminal matters in the Union is based on the principle of such recognition;
- The mutual recognition instruments in place, such as the Framework Decision on the European Arrest Warrant and the Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union, do not provide for an obligation of mutual recognition in the context of extradition requests from third countries either.

However, the requested authority must take due account of the reasons underlying the decision refusing extradition to a third country by another EU Member State in its own examination of the existence of a ground for non-execution. In this regard, the ECJ refers to its judgment in *Breian* (Case C-318/24 PPU), taken for the examination of the fundamental rights refusal ground by authorities from several EU Member States within the European Arrest Warrant scheme.

Put in focus

In its 2022 statement on mutual recognition of extradition decisions, the European Criminal Bar Association (ECBA) called *inter alia* that a decision by a judicial authority of a Member State is binding upon the authorities of another Member State and as such prevents arrest and extradition or surrender if the denial is based on a risk of a violation of fundamental rights (e.g. risk of ill-treatment, flagrant denial of a fair trial), as long as it has not been established that the requesting state has taken steps to remediate this risk (→ [eucrim 2/2022, 122](#)). The ECJ's judgments in *Kamekris* (present case) and *Breian* (decided in 2024) take the wind out of the sails of this demand. The ECJ clarified that current positive Union law does not provide for a mutual recognition of extradition decisions taken in favour of a requested person within the EU. It is now for the courts of different EU Member States to find a uniform way since the ECJ established at least a Union principle of "mutual considerations of the reasons" of previous extradition decisions taken for the same or nearly same extradition request.

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