

ECJ: VAT Fraudster Must Be Surrendered to Spain

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On 10 April 2025, the ECJ ruled in [Case C-481/23 \(Sangas\)](#) that the execution of a European arrest warrant (EAW) cannot be refused if it is intended solely to ensure that the requested person is present at resumed criminal proceedings in the issuing State, nor if there is no jurisdiction for the acts constituting the offence under the criminal law of the executing State.

In the main proceedings, the Audiencia Nacional (National High Court, Spain) is challenging the non-execution by the Romanian courts of an EAW issued against JMTB. In 2022, the Audiencia Nacional sentenced JMTB, a Spanish national residing in Romania, to a number of prison terms and heavy fines as co-perpetrator of a huge value added tax (VAT) fraud on the sale of hydrocarbons. The accused lodged an appeal on point of law but, at the same time, fled to Romania, his country of residence. The Spanish court issued an EAW and sought surrender to Spain in order to be present in the appeal proceedings. However, the Curtea de Apel Alba Iulia (Court of Appeal, Alba Iulia, Romania) refused execution of the EAW arguing that, first, the accused was residing in Romania and, secondly, criminal proceedings were statute-barred under Romanian law. The Audiencia Nacional referred the case to the ECJ asking, in essence, whether the Romanian appeal court could invoke the optional refusal grounds of Art. 4(6) and Art. 4(4) of [Framework Decision 2002/584/JHA](#) on the European arrest warrant (FD EAW).

The ECJ replied that the Spanish EAW at issue was adopted not "for the purposes of execution of a custodial sentence or detention order", within the meaning of Art. 4(6) FD EAW, but for the purposes of the other situation envisaged in Art. 1(1) FD EAW, namely that of criminal prosecution. Thus, there is no ground for refusing surrender solely on the basis of the requested person's residence.

With regard to the argument of statute limitations, the ECJ recalled that Art. 4(4) FD EAW permits the executing judicial authority to refuse to execute an EAW where the criminal prosecution of the requested person is statute-barred according to the law of the executing Member State and the acts fall within the jurisdiction of that State under its own criminal law. This wording means that the two conditions of Art. 4(4) FD EAW must be met cumulatively. It is, however, apparent in the case at issue that all the acts had been committed in Spain and constituted tax evasion offences affecting the economic interests of that Member State, so that Romania lacks jurisdiction.

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