Fair Trial Violation: Amsterdam Court Refuses Surrender to Poland

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News

On 5 October 2018, the Internet news channel "DutchNews.nl" reported that the Amsterdam District Court stopped surrender of a Polish national to Poland (for the time being) because of "major doubts about the independence of the Polish judiciary." For the full text of the decision in Dutch, see ECLI:NL:RBAMS:2018:7032).

In consideration of the recent reforms of the Polish judiciary, the judges in the Amsterdam court (centrally responsible for executing European Arrest Warrants) found that the suspect's constitutional right to a fair trial was endangered.

The judges reportedly posed a number of questions to the Polish authorities and indicated that they will refuse surrender if the answers are unsatisfactory.

The decision comes after the European Court of Justice ruled in the "*LM*" case in July 2018. It concluded that the judicial reforms in Poland may allow the executing authority to refrain from giving effect to EAWs. However, this legal consequence was posed on very narrow conditions (see eucrim 2/2018, pp. 104-105).

The judicial reforms in Poland are also subject to the "Article 7-procedure" of the European Union according to which Poland is to be forced to maintain the European values of the rule of law (see eucrim 2/2018, p. 80).

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