

# Higher Regional Court of Bremen Submits “Aranyosi III”



Thomas Wahl

## News

On 27 March 2018, the Higher Regional Court of Bremen/Germany, submitted a request to the CJEU seeking clarification of the CJEU’s case law on detention conditions as set out in the *Aranyosi/Căldăraru* case ([eucrim 1/2016, 16](#)). The case is referred to at the CJEU as *C-220/18 (“Generalstaatsanwaltschaft (Detention Conditions in Hungary)”)*. The underlying decision of the Higher Regional Court of Bremen can be retrieved [here](#) (in German only). A press release is available [here](#) (in German only).

This is the third request to the CJEU by the Bremen court after having lodged the landmark *Aranyosi/Căldăraru* case and the so-called Aranyosi II case. The CJEU had declared the latter inadmissible in its decision of 15 November 2017, since no valid EAW was currently in place.

However, another EAW case in relation to Hungary triggered further questions as to the extent to which surrender to Hungary is possible despite questionable detention conditions there that may infringe the person’s rights under Art. 4 CFR. These questions were not solved by the CJEU’s first judgment in *Aranyosi/Căldăraru* and are treated differently by German courts in daily extradition practice. They include the following:

- The impact of possible legal remedies on the surrender decision, which can be brought up by the detained person in the issuing country;
- The scope of assurances on detention conditions by the authorities in the issuing state;
- The possible extent to which the executing authorities can examine detention conditions in the issuing country, i.e., whether examination is restricted to the first detention centre the person sought is likely to be held in or whether it can be expanded to other jails to which the person may be transferred.

The reference by the Bremen court is the second one within a short time period. In February 2018, the Higher Regional Court of Hamburg lodged a reference for a preliminary ruling, posing a number of similar questions on detention conditions that were triggered by the CJEU’s judgment in *Aranyosi/Căldăraru*. See also the Federal Constitutional Court’s decision of 19 December 2017 that called upon the Hamburg court to file this reference.

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