

THE HIGH COURT

[2022] IEHC 119
[2021 No. 245 EXT.]

BETWEEN

MINISTER FOR JUSTICE AND EQUALITY

APPLICANT

AND

JOHN JOSEPH MYLES CONNORS

RESPONDENT

JUDGMENT of Ms. Justice Caroline Biggs delivered on the 11th day of January, 2022

Background

1. On the 8th of July 2021, in proceedings bearing record number 2021/193 EXT, the respondent consented to surrender in respect of a Trade and Cooperation Agreement arrest warrant issued on the 2nd of July 2021. District Judge Conner sitting at Laganside Magistrate's Court, Belfast was the judicial authority who issued the TCA warrant. The respondent was sought to serve the balance of a custodial sentence imposed on him in 2020 for an attempted burglary offence. The respondent was serving a sentence in Castlereagh prison which was due to expire on the 9th of July 2021 when he consented to surrender. He was surrendered to the Northern Ireland authorities within 10 days, on the 17th of July 2021. His sentence there was due to expire in February 2022, or sooner if he applied for early release.

Section 22(7) application

2. The proceedings before the court today, bearing record number 2021/245 EXT, concern an application pursuant to s. 22(7) of the European Arrest Warrant Act 2003, as amended, ("the Act of 2003"), which seeks the consent of the High Court to proceedings being brought against the respondent in the United Kingdom for offences of theft, burglary and attempted burglary. The application is brought on foot of the receipt of a request in writing, dated the 10th of August 2021, from the issuing state attaching what is described by the issuing state as a consent request in the form of a Trade and Cooperation Agreement warrant. That UK TCA warrant was issued on the 7th of July 2021, by District Judge Goozée sitting at Reading Magistrates' Court.

Points of objections:

3. The respondent puts the applicant on full proof of all relevant matters and objects to surrender on the following grounds:
 - The respondent has not been arrested under the warrant that was issued by District Judge Sam Goozée at Reading Magistrates Court, Reading, UK on the 7th of June 2021. He is not present in the state and/or the necessary pre-conditions for the making of an order under, pursuant to or on the basis of the relevant warrant are not satisfied such that it would be *contra legem*, *ultra vires* and otherwise unjust and unfair to make an order against the respondent in the within proceedings.
 - Without prejudice to the contention that the respondent has not been adequately identified for the purposes of the within application, the relevant warrant was in existence when, on the 8th of July 2021, without renouncing specialty, the

respondent consented to his surrender to Northern Ireland. It is unfair to pursue him in such a piecemeal fashion and/or to now seek to prosecute him for these matters.

- Without prejudice to the foregoing, the within application should be refused in circumstances where acts in respect of which the arrest warrant is based do not constitute an offence under the law of the state.
4. The matter therefore comes before the court on foot of a request seeking the High Court's consent to proceedings being brought against the respondent in the issuing state for an offence which was not covered by the Northern Ireland TCA warrant dated the 2nd of July 2021. In this jurisdiction, such an application is, in effect, an application by the issuing state for a waiver of specialty in circumstances where Ireland has chosen not to opt out of the specialty provisions contained in the 2002/584/JHA Council Framework Decision of 13th June 2002 on the European arrest warrant and the surrender procedures between Member States as amended by Council Framework Decision 2009/299/JHA of 26th February 2009 ("the Framework Decision"). The rule of specialty applies unless, in response to a request in writing from the issuing state, it is waived by the High Court pursuant to the provisions of ss. 22(7) and (8) of the Act of 2003. Sections 22(7) and (8) of the 2003 Act provide respectively:

"(7) The High Court may, in relation to a person who has been surrendered to an issuing state under this Act, consent to —

- (a) proceedings being brought against the person in the issuing state for an offence,
- (b) the imposition in the issuing state of a penalty, including a penalty consisting of a restriction of the person's liberty, in respect of an offence, or
- (c) proceedings being brought against, or the detention of, the person in the issuing state for the purpose of executing a sentence or order of detention in respect of an offence,

upon receiving a request in writing from the issuing state in that behalf.

(8) The High Court shall not give its consent under subsection (7) if the offence concerned is an offence for which a person could not by virtue of Part 3 be surrendered under this Act."

The corresponding relevant provisions of the underlying Framework Decision are contained in Article 27 thereof, and in particular in Article 27(4). Article 27 (to the extent relevant) is in the following terms:

- "1. Each Member State may notify the General Secretariat of the Council that, in its relations with other Member States that have given the same notification, consent is presumed to have been given for the prosecution, sentencing or detention with a view to the carrying out of a custodial sentence or detention order for an offence

committed prior to his or her surrender, other than that for which he or she was surrendered, unless in a particular case the executing judicial authority states otherwise in its decision on surrender.

2. Except in the cases referred to in paragraphs 1 and 3, a person surrendered may not be prosecuted, sentenced or otherwise deprived of his or her liberty for an offence committed prior to his or her surrender other than that for which he or she was surrendered.
3. Paragraph 2 does not apply in the following cases:
 - (g) where the executing judicial authority which surrendered the person gives its consent in accordance with paragraph 4.
4. A request for consent shall be submitted to the executing judicial authority, accompanied by the information mentioned in Article 8(1) and a translation as referred to in Article 8(2). Consent shall be given when the offence for which it is requested is itself subject to surrender in accordance with the provisions of this Framework Decision. Consent shall be refused on the grounds referred to in Article 3 and otherwise may be refused only on the grounds referred to in Article 4. The decision shall be taken no later than 30 days after receipt of the request.”
5. Article 3 of the Framework Decision sets out the grounds for mandatory non-execution of the European arrest warrant and all of these are incorporated in Part 3 of the Act of 2003. Article 4 of the Framework Decision sets out the grounds for optional non-execution of the European arrest warrant, some of which, but not all of which, the Oireachtas has opted to also include within Part 3 of the Act of 2003. Article 8(1) of the Framework Decision provides:
 - “1. The European arrest warrant shall contain the following information set out in accordance with the form contained in the Annex:
 - (a) the identity and nationality of the requested person;
 - (b) the name, address, telephone and fax numbers and e-mail address of the issuing judicial authority;
 - (c) evidence of an enforceable judgment, an arrest warrant or any other enforceable judicial decision having the same effect, coming within the scope of Articles 1 and 2;
 - (d) the nature and legal classification of the offence, particularly in respect of Article 2;
 - (e) a description of the circumstances in which the offence was committed, including the time, place and degree of participation in the offence by the requested person;

- (f) the penalty imposed, if there is a final judgment, or the prescribed scale of penalties for the offence under the law of the issuing Member State;
 - (g) if possible, other consequences of the offence.”
6. It is clear from a reading of ss. 22(7) and (8) of the Act of 2003 and Article 27(4) of the Framework Decision that at a minimum a request:
- a) must be in writing,
 - b) must be made on behalf of the issuing state,
 - c) must be submitted to the executing judicial authority, and
 - d) must be accompanied by the information mentioned in Article 8(1) of the Framework Decision and a translation as referred to in Article 8(2).
7. I am satisfied that the person before the court, the respondent, is the person in respect of whom the letter of request was issued. An issue was raised in relation to this matter by way of point of objection but it was formally indicated by counsel for the respondent at the s.20 hearing on the 9th of December 2021 that this issue was not being pursued and identity was not at issue.
8. I am satisfied that the minimum gravity requirements of the Act of 2003 have been met. The offences in respect of which surrender of the respondent is sought carry a maximum penalty in excess of twelve months’ imprisonment.
9. I am satisfied that correspondence can be established between the offences referred to in the s. 22(7) request and offences under the law of this state, i.e. theft, burglary and attempted burglary. Theft is provided for under s. 4 of the Criminal Justice (Theft And Fraud Offences) Act 2001, as amended and burglary is provided for under s. 12 of the same Act. The offence of attempted burglary is an offence contrary to common law.
10. The respondent indicated by way of points of objection that the application should be refused in circumstances where the acts in respect of which the arrest warrant is based do not constitute offences under the law of the state. The respondent, at the s. 20 oral hearing on the 9th of December 2021, formally indicated that this point was not at issue and correspondence had been established.

Form of the warrant

11. The respondent objects to the use of the letter of request dated the 10th of August 2021 accompanied by the UK TCA warrant as a basis for seeking the waiver of the rule of speciality. He submits that extradition and surrender are statutory based methods of rendition and are predicated on the presence in the executing state of the person whose surrender is sought. Under the Act of 2003, he submits that a mandatory statutory sequence is readily apparent. He submits that the process commences with the issue of a relevant warrant by an issuing judicial authority in a requesting state, the legislation then requires the transmission of the relevant warrant in a prescribed manner, its endorsement

for execution, the arrest of the subject and a surrender hearing. Where that process is not followed, he submits, the process will be flawed and surrender ultra vires.

12. The respondent refers to the case of *Mícheál Ó Fallúin v The Governor of Cloverhill Prison* [2007] IESC 20, [2007] 3 IR 414 (hereinafter "*Ó Fallúin*"), in which Fennelly J. stated at para 17 that:

"Arrest and detention are essential steps in any form of extradition or surrender, but they depend for their validity on clear legal rules.."

The respondent's objection to the application as outlined in his submissions is "predicated upon the contention that it is impermissible to make an order in respect of the TCA warrant, in circumstances where he is not now in the jurisdiction and where he has not been arrested under that warrant."

13. The Court of Appeal in *The Minister for Justice & Equality -v- Fassih* [2021] IECA 159 (hereinafter "*Fassih*") examined a request for consent under s. 22 of the Act of 2003 in which the information had been provided in the format of an EAW. The case involved an appeal against the judgment and order of Binchy J. in the High Court of the 27th of July, 2020, granting the requested waiver and consent pursuant to s. 22(7) of the Act of 2003. Edwards J. stated therein at paragraphs 6 and 7:

"6. *The document described as a "new additional European arrest warrant", and dated the 18th of July, 2019, was not an actual European arrest warrant ("EAW"), but rather was the presentation of information concerning the further offence in respect of which consent was sought in the form of a European arrest warrant. The Points Of Objection filed on behalf of the respondent at first instance (i.e., the present appellant) had included an objection to the form of the s. 22(7) request on the basis that it had been characterised as being a "European arrest warrant" when it was no such thing.*

7. *The High Court had previously ruled in two other cases, i.e., Minister for Justice and Equality v Trepjak [2011] IEHC 287 and Minister for Justice and Equality v Zymslowski [2011] IEHC 286, respectively, in which the same expedient had been employed, that to use the form of an EAW for making a s. 22(7) request was unobjectionable. In circumstances where it was recognised that the High Court in this case was prima facie bound to follow the decisions in those earlier cases, the objection was given what might be colloquially described as "a light rub" and was not pressed in submissions, although it was made clear it was not being abandoned."*

Edwards J. continued ;-

"22. *The written submissions complain about what is characterized as "patent ambiguity on the face of the documentation", in which it is said that on the one hand the documents request surrender and purport to be an arrest warrant whilst on the*

other hand they suggest that their purpose is to seek consent to further prosecution or execution of a custodial sentence or detention order. It is contended that these are manifestly inconsistent purposes and it is not possible to actually resolve the ambiguity.

23. *Moreover, it is suggested that the rulings in Trepiaak and Zymslowski, respectively, to the effect that the expedient of presenting relevant information in the same format as is used for an actual EAW was unobjectionable, must be regarded as wrong in the light of dicta of the Supreme Court in a number of subsequent cases which have sought to emphasise that in European arrest warrant matters there can simply be no room for ambiguity. The cases of Minister for Justice and Equality v Herman [2015] IESC 49 and Minister for Justice and Equality v Connolly [2014] IESC 34 were relied upon as providing support for this submission. It was suggested that given the rights that are engaged pursuant to the rule of speciality it is imperative that there be absolute clarity in relation to any purported request, and it was submitted that the request in this case lacked the necessary clarity.*

[...]

25. *I have not been impressed by the arguments advanced on behalf of the appellant in respect of the form of the s. 22(7) request, and in particular with the criticisms made concerning the presentation of relevant information in the same format as that prescribed for use in the issuance of an actual European arrest warrant. I regard the suggestion that the use of this expedient created an ambiguity in the circumstances of this case as being fanciful.*
26. *To suggest this is not to gainsay the importance of clarity, and absence of ambiguity, in EAW matters as emphasised by the Supreme Court. However, whether documentation is or is not ambiguous as to its purpose is a question of fact and interpretation.*
27. *In my view the documentation comprising the request, read as a whole, is entirely clear as to what its purpose is. There were three relevant documents in all. First there was a letter to the Irish Central Authority dated the 30th of July, 2019, from a public prosecutor at the Dutch National Prosecutor's Office which says (inter alia):*

"We refer to the enclosed additional EAW and request for the consent (under article 27 of the Framework Decision on the European Arrest Warrant) of the Irish High Court to prosecute Naoufal Fassih for the offences set out in the EAW".

14. *Edwards J. further outlined that accompanying this letter "were two further documents, i.e., the document which had been referred to as "the enclosed additional EAW" (and which is referred to elsewhere in the letter as the "new additional European arrest warrant" to distinguish it from an earlier version forwarded before the amendment to Dutch law alluded to at paragraph 15 above, and which it was replacing), and another*

document entitled "National Public Prosecutor's Department, Request for issuing an (additional) European Arrest Warrant (EAW)", and dated the 17th of July, 2019. This latter document recites the fact of the appellant's surrender to the Netherlands pursuant to the earlier (2016) EAWs (specifically referencing the judgment of the Irish High Court of the 2nd of February 2017), proffers a draft document referred to as a "concept additional EAW", and then presents a request from the public prosecutor at the National Public Prosecution's Department to the investigating judge, in the following terms:-

"The Public Prosecutor at the National Public Prosecutions Department ... Requests that the investigating judge issues an (additional) EAW against the individual as referred to above, in order to obtain the additional permission as laid down in article 27 paragraph 4 of the Framework Decision to prosecute and bring to trial with sentencing in the Netherlands pursuant to the allegations as described in the concept additional EAW."

28. *This request elucidates precisely the purpose for which the document which became "the enclosed additional EAW", otherwise the "new additional European arrest warrant", was intended. It was requested, and issued by the investigating judge, for the purpose of obtaining the consent required from the Irish High Court by the Dutch authorities under article 27(4) of the Framework Decision to validate further criminal proceedings against the appellant in the Netherlands. I am completely satisfied that the document which the investigating judge was being asked to issue and which, he having done so, was variously referred to in the request subsequently forwarded to the Irish High Court as "the enclosed additional EAW" and as a "new additional European arrest warrant", was intended to do no more than present relevant information in the same format as that prescribed for use in the issuance of an actual European arrest warrant, in circumstances where Article 27(4) of the Framework Decision specifies that a request for such consent "shall be submitted to the executing judicial authority accompanied by the information mentioned in Article 8(1)", and where Article 8(1) of the Framework Decision prescribes the information that must be contained in a European arrest warrant. Moreover, the adoption of this expedient also served to pellucidly demonstrate that the s. 22(7) request was being made with the knowledge, imprimatur and authority of the investigating judge concerned in his capacity as an issuing judicial authority within the meaning of Article 6(1) of the Framework Decision.*

29. *It is manifest from the documentation read as a whole that the requested person was already in the Netherlands; that he had previously been surrendered to the Netherlands on foot of earlier EAWs by order of the Irish High Court; and that, by virtue of the express reference to the consent required under Article 27(4) of the Framework Decision, the Dutch authorities were asking the Irish High Court to waive of the rule of specialty and consent to the further criminal prosecution or execution of a custodial sentence or detention order in respect of the appellant in the kingdom of the Netherlands for the offence described and particularised in the*

document variously described as the "the enclosed additional EAW" and the "new additional European arrest warrant."

In light of the judgment of Mr Justice Edwards, this court is of the view that the objection raised by the respondent to the form of the request is without substance and will be dismissed.

Lack of clarity

15. In the present case, the court requested that the applicant provide all relevant correspondence between the Irish central authority and the UK central authority in relation to this request that might assist the court in understanding the chronology of events that led to the s. 22(7) request. The court was provided with and considered the following:
 - a. Emails from the Irish central authority to the UK central authority dated the 16th of July 2021;
 - b. The UK TCA warrant dated the 7th of July 2021;
 - c. Email from the UK central authority to the Irish central authority dated the 6th of July 2021;
 - d. The court had already in its possession an email dated the 10th of August 2021 from the UK central authority to the Irish central authority.
16. It is clear from this correspondence that the UK central authority believed that two TCA warrants had been furnished to the Irish central authority on the 5th of July 2021:
 - (i) the Northern Ireland TCA warrant issued on the 2nd of July 2021 by District Judge, Conner sitting at Laganside Court, Belfast Magistrates' Court, as the issuing judicial authority, and
 - (ii) the UK TCA warrant issued on the 7th of July 2021 by District Judge, Goozée sitting at Reading Magistrates' Court, as the issuing judicial authority.
17. The Irish central authority believed that they only received one warrant on the 5th of July relating to the respondent, that is the Northern Ireland TCA warrant. This warrant was endorsed on the 8th of July 2021 before the High Court in proceedings bearing record number 2021/193 EXT and, subsequently, the respondent was arrested on the same day. On the 8th of July 2021, the respondent consented to his surrender under s. 15 of the Act of 2003 and the statutory period of ten days was abridged. Mr Connors was to be surrendered on or before the 17th of July 2021 to serve a sentence in Northern Ireland. The information is furnished to the UK central authority on the 16th of July 2021. The UK central authority are also told that only one warrant was received that related to the sentence to be served in Northern Ireland.
18. On the 10th of August 2021, the UK central authority sent an email to the central authority in Ireland, which stated "further to the surrender of the above subject back to

the UK and to our email of 16th of July please see attached consent request in the form of a Trade and Co-operation Agreement warrant which is sent for consideration by your judicial authorities." The warrant that was attached is the UK TCA warrant that was issued on the 7th of July 2021 and it notes at para (f) that "a separate arrest warrant was issued by a District Judge (Magistrates' Courts) in Northern Ireland on the 2nd of July 2021 [the Northern Ireland TCA warrant] because Myles Connors is also required to serve a sentence of imprisonment in Northern Ireland." The warrant further states that the respondent is serving a sentence in Castlerea prison. Of course, this information was valid and accurate at the time the UK TCA warrant issued on the 7th of July 2021, but it was not valid or accurate at the time of the purported s. 22(7) request dated the 10th of August 2021. The point being that the warrant was not changed, amended or altered in any way to reflect the change in the respondent's circumstances since the date of the 7th of July 2021 and, in fact, was a prosecution TCA warrant.

19. The question that arises is whether the email dated the 10th of August 2021 is enough to provide the clarity required to make it clear that the request for consent was pursuant to s. 22(7) of the Act of 2003, i.e. for the rule of specialty to be disapplied.
20. Counsel for the applicant accepts that request could be better. However, he submits that the purpose is clear, it is in writing, he submits that it complies with s. 22(7) of the Act of 2003 and because it has the information required in s. 11 of the same Act, it is in order. Thus, he claims that the clarity is present and that this can only be a s. 22(7) request. Counsel for the applicant concedes that nowhere does the request refer to Article 27 of the Framework Decision or the fact that consent was being required for the rule of specialty to be disapplied. Counsel for the respondent says and accepts that he "assumed" the request must have been a s. 22(7) request, but only because of his involvement in the earlier stages of these proceedings.
21. In light of the foregoing, this court makes the following observations:
 - (i) The use of the TCA warrant for the purposes of a s. 22(7) request is unobjectionable.
 - (ii) It is only unobjectionable if there is sufficient clarity in relation to the request, that is the documentation comprising the request, read as a whole must, be entirely clear as to what its purpose is.
22. The importance of clarity in EAW matters has been emphasised in a number of cases. In *Minister for Justice Equality & Law Reform -v- Ostrowski* [2010] IEHC 200, Peart J. stated as follows:

"[...] When a person is arrested on foot of a European arrest warrant it is not to be presumed that he knows anything about the matters set forth in the warrant. In a prosecution case, in particular, a respondent clearly enjoys a presumption of innocence, and may very well be completely unaware of the basis for his surrender or the offence to which it relates. It is a requirement that he be furnished with a

copy of the warrant and be shown the original endorsed warrant. It may be only from reading the warrant that he learns for the first time what the matter consists of. One of the matters which he will learn from reading the warrant is that on a certain date and in relation to a certain file reference, an order was made for his arrest in the issuing state. He will be entitled to make his own enquiries about that. It is important that the information given to him in the document is correct in relation to such important information. In the present case the warrant contained wrong information."

23. In light of the foregoing, and having carefully considered the documents provided by the UK central authority, this court does not find that the request/email dated the 10th of August 2021 with the UK TCA warrant dated the 7th of July 2021 elucidated precisely the purpose for which the document was intended.
24. In addition, and of concern to the court, is the fact that there is no evidence before the court that it was the issuing judicial authority that made the request for consent to further prosecute the respondent. The request dated the 10th of August 2021 is made by way of email from Lesley Culley, attached to the National Crime Agency ("the NCA"), Manchester. The NCA is described in the warrant as the central authority. There is no information or documentation that allows this court to determine that the conversion of the original UK TCA prosecution warrant to a request for consent to further prosecute was done at the request of the issuing judicial authority. It seems from the documentation received that the conversion was done by those responsible for the transmission and administrative reception of the warrant. There is no evidence whatsoever to suggest that the s.22(7) request was considered or authorised by an issuing judicial authority. In fact, there is no evidence to suggest that the issuing judicial authority was even aware of the respondent's change of circumstances since the date of the original Northern Ireland warrant, dated the 2nd of July 2021, that led to his surrender on the 17th July 2021. In the court's view, this is a fatal flaw as a fundamental requirement of a request is that it be issued by named issuing judicial authority.
25. In *Minister for Justice -v- Gotszlik* [2009] IESC 13, [2009] 3 IR 390, the Supreme Court set out the roles of the central authority and issuing judicial authority by reference to the Framework Decision as follows:

"[44] 1. Recital (6) of the Framework Decision states that the European arrest warrant is the first concrete measure in the field of criminal law implementing the principle of mutual recognition, which the European Council referred to as the "cornerstone of judicial cooperation", from which it is clear that the basis of the engagement is that of judicial cooperation, and not merely cooperation between member states or between member state central authorities.

[45] According to the structure of the Framework Decision, there is provision for the designation in each member state of "judicial authorities" and of a "central authority". By recital (9) of the Framework Decision the role of a central authority is circumscribed by the following terms:-

"The role of central authorities in the execution of a European arrest warrant must be limited to practical and administrative assistance."

[46] Article 6 of the Framework Decision defines the "issuing judicial authority" and the "executing judicial authority" as being the "judicial authority of the member state competent to issue or to execute a European arrest warrant, by virtue of the law of the member state". Article 7 on the other hand permits, but does not oblige, a member state to designate a central authority, under article 7(1) to "assist the judicial authority" or under article 7(2) and if necessary by reason of the organisation of its judicial system, to be "responsible for the administrative transmission and reception of European arrest warrants and for other official correspondence relating thereto".

[47] Next, the Framework Decision itself provides for certain content to be included in the European arrest warrant, in accordance with the annex to the Decision itself. The model warrant as provided for in the annex states in its title that it has been issued by a "competent judicial authority" but it is unnecessary to consider the detail of the model warrant further for the purposes of this judgment.

[48] Each of the provisions referred to above is mirrored in Irish law by, and indeed the Framework Decision itself is annexed to, the Act of 2003, which has been amended or substituted in some respects by the Criminal Justice (Terrorist Offences) Act 2005. Section 6 of the Act of 2003 designates the Minister as the "central authority". An "issuing state" is defined by s. 2 in the following terms:-

"... means, in relation to a European arrest warrant, a Member State, designated under section 3, a judicial authority of which has issued that European arrest warrant."

[49] A "judicial authority" is defined by s. 2 as follows:-

"means the judge, magistrate or other person authorised under the law of the Member State concerned to perform functions the same as or similar to those performed under section 33 by a court in the State."

26. The basic requirement of the Framework Decision is that any request for surrender must be on foot of a decision made by a judicial authority in the issuing state. The UK TCA warrant satisfied this requirement on the 7th of July 2021 when the respondent was sought for the purposes of conducting a criminal prosecution. It seems, however, from an administration perspective that there was either a failure to send the warrant of the 7th of July 2021 to Ireland or that there was an administration failure on the part of the executing state to receive it safely. There appears to be a decision made by those charged with the administrative management of the warrant in the issuing state to determine that the matter should be reconfigured and become a request for a further prosecution under Article 27(2) of the Framework Decision. There is no evidence whatsoever that this decision to reconfigure was a judicial one.

27. In *Fassih*, judgment of the Court of Appeal referred to hereinabove at para. 13, Edwards J. stated that:

"Moreover, the adoption of this expedient also served to pellucidly demonstrate that the s. 22(7) request was being made with the knowledge, imprimatur and authority of the investigating judge concerned in his capacity as an issuing judicial authority within the meaning of Article 6(1) of the Framework Decision."

No such information is available in the present case. This court is not satisfied that the issuing judicial authority was aware of and authorised the s. 22(7) request.

28. It therefore follows that this court will not make an order pursuant to s. 22(7) of the Act of 2003.