



**COURT OF MAGISTRATES (MALTA)  
AS A COURT OF CRIMINAL INQUIRY**

[IN THE ACTS OF THE EXTRADITION CALLED AS THE COURT OF COMMITTAL]

**Magistrate Dr. Leonard Caruana LL.D., M.A. (Fin. Serv)**

**The Police**  
(Inspector Roderick Spiteri)

**Vs**

**Thomas Zaugg**

Today, the 24<sup>th</sup> July 2024

The Court,

Having seen that Thomas Zaugg, of 31 years, born in Jijiga, Ethiopia on the 15<sup>th</sup> March 1993, holder of Swiss Passport number X7414163 was arraigned under arrest as he is wanted by the Competent Judicial Authorities of the Belgian Authorities in terms of Article 5 of Subsidiary Legislation 276.05 in order to serve several sentences of imprisonment;

Having seen the following European Arrest Warrants:

- The European Arrest Warrant of the 27 January 2023, issued by the Public Prosecution Office Antwerp - division Court for the enforcement of custodial sentences, and

- The European Arrest Warrant of the 2 April 2024, issued by the Public Prosecution Office Antwerp – division Turnhout”;

Having seen the Certificate dated the 11<sup>th</sup> June 2024 issued by the Attorney General in terms of Regulation 6A of the Extradition (Designated Foreign Countries) Order (S.L. 276.05) hereinafter referred to as the “Order”;

Having seen that during the sitting of the 29<sup>th</sup> June 2024, the Court ascertained that the person arraigned is, in fact, the person wanted by the mentioned foreign authorities;

Having seen the evidence submitted;

Having heard the submission of the parties;

Considers;

That the European Arrest Warrant is regulated within the Member States of the European Union by means of the Council Framework Decision of 13 June 2002 on the European Arrest Warrant and the surrender procedures between the Member States (2002/584/JHA), as amended by Council Framework Decision 2009/299/JHA of the 26 February 2009, which Framework Decision forms the inspiration of our law in this regard.

That Article 1(1) and (2) of the Framework Decision stipulate that:

*1. The European arrest warrant is a judicial decision issued by a Member State with a view to the arrest and surrender by another Member State of a requested person, for the purposes of conducting a criminal prosecution or executing a custodial sentence or detention order.*

*2. Member States shall execute any European arrest warrant on the basis of the principle of mutual recognition and in accordance with the provisions of this Framework Decision.*

That the general principle which forms the basis of the Framework Decision is explained in the Commission Notice – Handbook on how to issue and execute a European Arrest Warrant<sup>1</sup> which states: -

*“The Framework Decision on EAW reflects a philosophy of integration in a common judicial area. It is the first legal instrument involving cooperation between the Member States on criminal matters based on the principle of mutual recognition. The issuing Member State’s decision must be recognised without further formalities and solely on the basis of judicial criteria.*

*The surrender of nationals is a principle and a general rule, with few exceptions. These exceptions concern the enforcement of custodial sentences in one’s home country and apply equally to residents. In practice, about one fifth of all surrenders in the Union concern a country’s own nationals.”*

Our courts also had the opportunity to underline this principle. In fact, in the judgement **Carmelo Borg et vs Ministru Responsabbli mill-Ġustizzja u l-Intern et**<sup>2</sup> it was held that:

*“Fil-fehma kunsidrata ta’ din il-Qorti, l-Ordni dwar Pajjizi Barranin Appuntati dwar l-Estradizzjoni jagħmel restrizzjonijiet fuq il-verifika gudizzjarja li huma permissibbli, ma humiex irragjonevoli, ma jikkozzawx ma’ xi principji ta’ gustizzja naturali, u li jinkwadraw fl-iskop tal-ligi principali, cioe` dak li tigi regolata l-estraddizzjoni ta’ persuna minn Malta għal pajjiz barrani – f’dan il-kaz*

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<sup>1</sup> **Commission Notice – Handbook on how to issue and execute a European Arrest Warrant** (C/2023/1270), dated 15 December 2023, p. 10/166.

<sup>2</sup> **Carmelo Borg et vs Ministru Responsabbli mill-Ġustizzja u l-Intern et**, Constitutional Court, 15th May 2006 (App. Ċiv Nru 1080/2005/1)

*pajjizi ta' l-Unjoni Ewropea fejn prinċipju bazilari huwa dak tal-fiducja reciproka li dawn il-pajjizi ghandhom fis-sistema tal-gustizzja ta' xulxin."*

Furthermore, the Court of Justice of the European Union, in the **Radu** case<sup>3</sup> held that:

- "34. *Framework Decision 2002/584 thus seeks, by the establishment of a new simplified and more effective system for the surrender of persons convicted or suspected of having infringed criminal law, to facilitate and accelerate judicial cooperation with a view to contributing to the objective set for the European Union to become an area of freedom, security and justice by basing itself on the high degree of confidence which should exist between the Member States (see, to that effect, judgment of 28 June 2012 in Case C-192/12 PPU West, paragraph 53 and the case-law cited).*
35. *Under Article 1(2) of Framework Decision 2002/584, the Member States are in principle obliged to act upon a European arrest warrant."*

Moreover, in the joined cases in the names **Aranyosi and Căldăraru**<sup>4</sup> the Court of Justice of the European Union held that:

- "79 *In the area governed by the Framework Decision, the principle of mutual recognition, which constitutes, as is stated notably in recital (6) of that Framework Decision, the 'cornerstone' of judicial cooperation in criminal matters, is given effect in Article 1(2) of the Framework Decision, pursuant to which Member States are in principle obliged to give effect to a European arrest warrant (see, to that effect, judgment in Lanigan, C-237/15 PPU, EU:C:2015:474, paragraph 36 and the case-law cited).*

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<sup>3</sup> Case C-396/11, **Ciprian Vasile Radu**, judgment of 29 January 2013, (para 34 -35).

<sup>4</sup> Joined Cases C-404/15 and C-659/15 PPU, **Aranyosi and Căldăraru**, Judgment of 5 April 2016 (para 79 -80).

80 *It follows that the executing judicial authority may refuse to execute such a warrant only in the cases, exhaustively listed, of obligatory non-execution, laid down in Article 3 of the Framework Decision, or of optional non-execution, laid down in Articles 4 and 4a of the Framework Decision. Moreover, the execution of the European arrest warrant may be made subject only to one of the conditions exhaustively laid down in Article 5 of that Framework Decision (see, to that effect, judgment in Lanigan, C-237/15 PPU, EU:C:2015:474, paragraph 36 and the case-law cited)."*

Therefore, from the above it results that the general underlying principle is that the executing State is bound to execute a European Arrest Warrant on the basis of mutual trust and mutual recognition and may only refuse to do so on the specific grounds listed in Articles 3, 4 and 4a of the Framework Decision or in exceptional circumstances<sup>5</sup>, on reasons as specified by the Court of Justice of the European Union. Our Order and legislative framework regulating these proceedings follows the same general principles as outlined above.

Therefore, this Court, in its examination of these proceedings is precluded from focussing on matters which do not fall strictly within the grounds listed in Articles 3, 4 and 4a of the Framework Decision or matters which are found in the caselaw of the Court of Justice of the European Union.

Considered

By way of background, it results that the requested person is wanted by the Public Prosecution Office, Antwerp, in connection with the following judgements:

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<sup>5</sup> To this end, vide C-216/18 PPU judgments of 25 July 2018, **Minister for Justice and Equality** para 43 and the case-law cited, and also C-220/18 PPU Judgement of 25 July 2018, **Generalstaatsanwaltschaft**, para 56

1. The European Arrest Warrant dated the 27 January 2023, for the judgements delivered by the following Courts:

a. *Turnhout Criminal Court on 17.09.2014 – Reference: 1996;*

*Theft with violence or threat, by two or more persons, having used a vehicle to facilitate escape and with the circumstance that weapons or objects resembling weapons were used or displayed;*

*Having been part of an association with the aim of committing an attack on persons or property, consisting in the mere fact of setting up a gang, with the association as its objective;*

*This sentence has been rendered in a defendant action and is final*

***Punishment: Imprisonment of 30 months, suspended for a period of 5 years for a part of 10 months' prison sentence***

b. *Antwerp Court of Appeal on 29.06.2016 - Reference C/386/216*

*Theft with violence or threat, having used a vehicle to facilitate flight, at night and with the circumstance that weapons or objects resembling weapons were used or displayed;*

*Theft with violence or threat, having used a vehicle to facilitate flight, and with the circumstance that weapons or objects resembling weapons were used or displayed;*

*This judgement has been rendered in a defendant action and is final;*

*The person concerned is a repeated offender;*

***Punishment: Imprisonment for 50 months***

c. *Antwerp Court of Appeal on 23.03.2016 - Reference: C/386/2016*

*Revocation of suspended sentence of 10 months' imprisonment granted by the Antwerp Criminal Court on 17.09.2014 (Title A). This suspended sentence was revoked by the Antwerp Criminal Court on 08.12.2015 and confirmed by the Court of Appeals:*

*This judgement has been rendered in a defendant action and is final;*

**Punishment: Revocation of suspended sentence for 10 months' imprisonment (Title A);**

- d. Antwerp Criminal Court on 02.05.2017 - Reference 2172

*Revocation of suspended sentence of 10 months' imprisonment granted by the Antwerp Criminal Court on 30.06.2014 (Title A). This suspended sentence was revoked by the Antwerp Criminal Court on 02.05.2017;*

*This judgement has been rendered in a defendant action and is final;*

**Punishment: Revocation of suspended sentence for 10 months' imprisonment**

- e. Antwerp Criminal Court on 10.10.2018 - Reference 2018/4011

*Theft with violence or threat by two or more persons and with the circumstance that weapons or objects resembling weapons were used or displayed;*

*As a repeated offender following the conviction by the Turnhout Criminal Court on 17.09.2014 (title A);*

*This judgement was rendered in a defended action and is final;*

**Punishment: Imprisonment of 1 year.**

**Remaining sentence to be served: The judgement of the Court for the enforcement of custodial sentences of 15.11.2022 revoked Thomas ZAUGG's conditional release and set the remaining sentence at 721 days' imprisonment;**

- f. Court for the enforcement of custodial sentences of Antwerp on 25.11.2022 - Reference SR 22/2660

*The person concerned was given the chance of a conditional release by the Court for the enforcement of custodial sentences during the execution of his sentences (titles above) judgement 20.09.2019). The follow-up by the judicial assistant was suddenly interrupted, she had no contact with the person concerned since 12.04.2022.*

*The person concerned has since been without a trace, the police suspect that the person concerned is with his grandparents in Switzerland. He also did not appear at the Court for the enforcement of custodial sentences on 18.11.2022. As the person concerned makes it impossible to comply with the conditions attached to the early*

*release, the court revokes the conditional release by judgement dated 25. 1 1.2022.*

***Punishment: Revocation of conditional release with a remaining sentence of 721 days;***

2. The European Arrest Warrant dated the 2 April 2024, for the following judgement:

- a. *Sentence of the Criminal Court of Antwerp – division Antwerp dd. 17/01/2024.  
Sentence number: 2024/332 – File number: 21CO1935 – AN47.LB.3712/2021.*

*Length of the custodial sentence or detention order imposed: 50 months of imprisonment with immediate arrest. Remaining sentence to be served: 50 months of imprisonment to be reduced by the preventive custody already served from 07/02/2021 to 09/02/2021.*

In terms of Article 13 of the Order, the Court requested the Belgian Authorities to provide the following information:

- Information on the penitentiaries, including the prison conditions, wherein Thomas Zaugg will be held if the Court proceeds to order his surrender;
- Copies of the judgements which form the basis of the present European Arrest Warrants;

By a note dated the 12 July 2024, the Prosecution submitted the Belgian Authorities' reply in regard to the Prison Conditions, whilst by a note dated the 16 July 2024, the prosecution submitted a translated copy of the seven judgements listed above;

By a note dated the 10 July 2024, the prosecution informed the Court that the requested person is currently facing criminal proceedings in Malta before the Court of Magistrates.



Considered;

That Regulation 5(6) of the Order lists the elements necessary for a valid arrest warrant after conviction; that is: (i) the contents as listed in Regulation 5(7) and (ii) that it contains the information required in Regulation 5(8) of the Order.

That from an examination of the present EAW and supporting documentation, it results that the present EAW satisfies the formalities required by Reg 5(7) and 5(8) of the Order and has also been written in the format as required by Reg 5A(2) of the Order. Furthermore, the Issuing State is a Scheduled Country in terms of Annex 2 of the Order. From the certificate issued by the Attorney General on the 11 June 2024 in accordance with Reg. 6A of the Order, it results that the authority which issued the present warrant has the function of issuing arrest warrants in Belgium, being the requesting country in these proceedings.

Therefore, on the basis of the above, the Court finds that the present EAW is formally correct and satisfies all the requirements of the above mentioned regulations.

Considered;

Having established the above formalities, the Court will now examine whether there are any Bars to extradition as listed in Regulation 13 of the Order.

During these proceedings, the requested person did not raise any of the grounds listed in Regulation 13(1) of the Order, that is, the *ne bis in idem*; the person's age; or an amnesty in respect of these proceedings. Indeed from the documentation submitted the Court finds that there are no Bars to extradition in terms of Reg. 13(1) of the Order and therefore decides that there are no prohibitions to extradition by reason of these grounds.

Regulation 13(2) of the Order further stipulates four more grounds, namely (i) prescription by lapse of time; (ii) the rule of speciality; (iii) the requested person's

earlier extradition to Malta from another scheduled country or (iv) the requested person's earlier extradition to Malta from a country other than a scheduled country upon which the Court may refuse to execute the requested person's return. That from the acts of the proceedings, it does not result that any of these reasons exist in this case and, therefore, the Court does not find any reason in terms of Regulation 13(2) upon which to refuse the execution of the present warrant.

Considered;

The requested person, however, raised before this Court the defence that the prison conditions in Belgium, if the warrant is executed, will violate the requested person's human rights:

With regard to this defence, it is settled case-law of the Court of Justice of the European Union that a European Arrest Warrant should, in principle, be only refused on the grounds listed in Articles 3, 4 and 4a of the Framework Directive or in 'exceptional circumstances'<sup>6</sup> which, owing to their gravity, require that limitations be placed on the principles of mutual recognition and mutual trust between Member States, on which judicial cooperation in criminal matters is based. In the case **Aranyosi and Căldăraru** the Court of Justice of the European Union held that the right guaranteed by Article 4 of the Charter of Fundamental Rights of the European Union is unalterable and must be upheld in an absolute manner. In this judgment, the CJEU developed a two-step examination process by which the Court may determine whether a defence is grave enough to justify the refusal to execute a European Arrest Warrant on the basis of a breach of fundamental human rights:

1. in the first step, the executing judicial authority must assess whether there is a real risk that fundamental rights will be breached, in the light of the general situation in the issuing Member State;

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<sup>6</sup> Joined Cases C-404/15 and C-659/15 PPU, *Aranyosi and Căldăraru*, Judgment of 5 April 2016.

2. in the second step, that judicial authority must assess, specifically and precisely, whether there is a real risk that a fundamental right of the requested person will be breached, having regard to the circumstances of the case.

The Court of Justice of the European Union held that both steps from the above examination need to be satisfied so as to merit a refusal to execute an EAW.<sup>7</sup> In the case of **Dumitru-Tudor Dorobantu**<sup>8</sup> the Court of Justice of the European Union further solidified the principles established in the *Aranyosi and Căldăraru* and the *Generalstaatsanwaltschaft*<sup>9</sup> cases and held that in order to ensure the observance of Article 4 of the Charter in the procedure of a European arrest warrant, the executing judicial authority, when faced with evidence of the existence of such deficiencies that is objective, reliable, specific and properly updated, is then bound to determine, specifically and precisely, whether, in the particular circumstances of the case, there are substantial grounds for believing that, following the surrender of that person to the issuing Member State, he will run a real risk of being subject to inhuman or degrading treatment in that Member State, within the meaning of Article 4 of the Charter.

In support of this defence, the Requested Person submitted the Report to the Belgian Government relating to the Visit to Belgium by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT),<sup>10</sup> together with the executive summary of the Report,<sup>11</sup> a press release reporting the case of *Vasilescu vs Belgium*<sup>12</sup> two articles from “The Brussels Times”<sup>13</sup> and an article from “Prison Insider”.<sup>14</sup>

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<sup>7</sup> Case C- 158/21, *Puig Gordi and Others*, Judgment of the 31 January 2023.

<sup>8</sup> Case C-128/18, *Dorobantu*, Judgment of 15 October 2019.

<sup>9</sup> C-220/18 PPU, *Generalstaatsanwaltschaft*, Judgment of 25 July 2018.

<sup>10</sup> **Report to the Belgian Government relating to the Visit to Belgium by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), from 2 to 9 November 2021**, The European Committee for the Prevention of Torture, Council of Europe, (CPT/Inf (2022) 23), Strasbourg, 29 November 2022. (Dok “CM1”).

<sup>11</sup> Dok “CM2”.

<sup>12</sup> Application No. 64682/12 (Dok “CM3”).

<sup>13</sup> Vide dok “CM4” and “CM5” respectively.

<sup>14</sup> Vide dok “CM6”.

The Court finds that although the submitted literature sheds a generic light on the general prison conditions of Belgium, it provides no specific and updated information on the actual prison conditions where the requested person will be detained. To this end, the Court makes reference to the note submitted by the Belgian Authorities dated the 8 July 2024 wherein it is stated that the Requested person will be held in the prison of Dendermonde. Moreover, from the details provided by the Belgian Authorities, the Court is satisfied that all the conditions as stipulated in the **Aranyosi and Căldăraru**<sup>15</sup> judgement have been satisfied. Moreover, the Belgian Authorities have provided this Court also with a written guarantee that the requested person will not be subject to inhuman or degrading punishment or treatment. The Court considers that this guarantee satisfies the conditions established by the Court of Justice of the European Union in the **Dorobantu** case.<sup>16</sup>

#### Considers

That the requested person also raises the defence that the judgement of the judgement awarded by the Court of First Instance Antwerp dated the 25 November 2022 is not final and that the Belgian authorities have not provided any guarantees in terms of Article 4a of the Framework Decision. Furthermore, in regard to the judgement delivered by the Criminal Court of Antwerp – division Antwerp of the 17 January 2024 the requested person states that the Belgian authorities did notify him with his trial. Moreover the requested person states that this judgement was also delivered in absentia where the police had knowledge of his whereabouts. He refers to the EAW dated the 27 January 2023 wherein it is stated that the police “*suspect that this person is with his grandparents in Switzerland*” and to the EAW of the 2 April 2024 wherein it is stated that “*the person concerned has no known domicile, residence or elected domicile in Belgium or abroad.*” He states that the Belgian authorities did not provide any evidence of attempting to notify the applicant with those proceedings and that therefore those proceedings breach the requested person’s fundamental rights.

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<sup>15</sup> Joined Cases C-404/15 and C-659/15 PPU, *Aranyosi and Căldăraru*, Judgment of 5 April 2016, para. 90

<sup>16</sup> Case C-128/18, *Dumitru-Tudor Dorobantu*, Judgment of 15 October 2019, para 68 and 69.

Considered,

That in regard to the assertion that the requested person was never summoned for the proceedings which led to the the Court of First Instance Antwerp dated the 25 November 2022, this Court makes reference to the following excerpt from the same judgement, where it is stated:

*“You did not attend the hearing of this sentence enforcement court, **although validly summoned.**”* (emphasis of this Court)

Therefore, from the above extract, is it clear to this Court that the requested person was validly summoned for those proceedings and, for reasons known to him, he did not attend.

At this juncture, the Court reiterates that the execution of a European Arrest Warrant is subject to mutual trust and mutual recognition and is based on the assumption that all the other Member States are complying with EU law and particularly with the fundamental rights recognised by EU law.<sup>17</sup> Therefore the Court sees no reason why to doubt the declaration made by the Court of First Instance Antwerp in its judgement as above cited and therefore considers that the Requested Person was duly notified for those proceedings.

Moreover, the Court also notes that the 25 November 2022 judgement to which the Requested Person refers to is a judgement which revokes a conditional release given by previous judgements. In this judgment, the Court did not find guilt in the requested

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<sup>17</sup> Vide Case C-216/18 PPU, **Minister for Justice and Equality (Deficiencies in the System of Justice)**, Judgment of 25 July 2018 § 36.

person nor did it impose any additional or different punishment than the one previously imposed. On this point, this Court refers to the judgement of the Court of Justice of the European Union in the name of **Ardic**<sup>18</sup> wherein it is stated that:

*“81 In those circumstances, and in the light of what was stated in paragraph 77 of the present judgment, suspension revocation decisions, such as those at issue in the main proceedings, are not covered by Article 4a(1) of Framework Decision 2002/584, since those decisions leave unchanged the sentences imposed by the final conviction decisions with regard to both their nature and level.”*

Therefore, basing on the above, the Court finds that Article 4a(1) of the Framework Decision does not find any application to the 25 November 2022 judgement.

Furthermore, the Requested Person also argues that there is no evidence showing that this judgment is final. The Court, however, notes that the requested person did not substantiate his assertions with any evidence. Indeed, the only proof to which the requested person attaches this submission is that the judgement is delivered by the “Court of First Instance Antwerp”. This Court finds that this argument is puerile. Although the judgement has been delivered by the Court of First Instance Antwerp, it does not in any way mean that the judgement is not a final one, especially if there is no evidence to the contrary.

Considered,

That in regard to the judgement delivered by the Criminal Court of Antwerp – division Antwerp on the 17 January 2024, the requested person suggests that the Belgian Police knew about his whereabouts and did not attempt to notify him.

In his submissions, the requested person states the following:

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<sup>18</sup> Case C-571/17 PPU, **Ardic**, Judgment of 22 December 2017.

“17. Moreover, the crimes which the applicant was found guilty of allegedly took place between 1.11.2020 and 11.2.2021. In the A Form sent by the Belgian authorities for the EAW dated 27.1.2023, at the bottom of the third page entitled *Description of the Circumstances 044*. There is clearly written that the police *suspect that the person is with his grandparent in Switzerland* (see third sentence from end).

18. Therefore, the statement on page 4 of EAW dated 2 April 2024 that *the person concerned has no known domicile, residence or elected domicile in Belgium or abroad is not correct.*”

That this Court has examined the “Form A – Supplementary information relating to an extradition” and in particular box number “044”, “Description of the Circumstances” attached to the 27 January 2023 EAW and it results that such box has been left empty. Notwithstanding the above, the “Information regarding the identity of the requested person” in the actual EAW document contains the following insertion:

*“Residence and/or known address: Could reside with his grandparents in Switzerland”*

Whilst on the fourth page of the 2 April 2024 EAW document, penultimate paragraph, it is found that:

*“The person concerned has no known domicile or elected domicile in Belgium and abroad.”*

The Court does not find that the above declarations are contradictory as domicile and residence are different concepts. Moreover the above statements do not provide any any evidence that the Belgian authorities knew of his whereabouts and failed to do

their duty in terms of Article 8 of Directive (EU) 2016/343<sup>19</sup> but only that there was a possibility that he could be residing with his grandparents in Switzerland.

Moreover, para 3.4 of section (d) of the 2 April 2024 EAW has been highlighted by the Belgian Authorities and this Court sees no reason why it should doubt such a declaration. The Court finds that this declaration is in full conformity with Article 4a(d) of the Framework Decision. Therefore, the Court finds that there is no need for any further guarantee by the Belgian authorities.

Considered,

That the requested person also referred to the case that he is currently undergoing separate legal proceedings in Malta and that in accordance with Article 28A of the Order, the Court should wait for those proceedings to be dispensed with, prior to ordering his surrender. The Court also makes reference to a note submitted by the prosecution on the 10 July 2024 wherein it is confirmed that the requested person is undergoing separate legal proceedings in Malta.

That regulation 28A of the Order authorises this court to postpone the surrender of the person until the conditions laid down in that same regulation are met.

The Court finds no reason why it should not apply the provisions of this regulation.

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<sup>19</sup> Directive (EU) 2016/343 of The European Parliament and of The Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings



**Decide:**

Therefore, on the basis of the above, the Court, in accordance with the Extradition (Designated Foreign Countries) Order (S.L. 276.05), is hereby deciding that the return of **Thomas Zaugg** to the Belgian Authorities on the Basis of the European Arrest Warrant dated the 27 January 2023 and the European Arrest Warrant dated the 2 April 2024 **is not barred** and therefore, in accordance with Regulations 24 of the Order:

1. is ordering Thomas Zaugg to custody to await his return to Belgium, being the scheduled country which issued both present warrants.

In accordance with Regulation 25 of the mentioned Order, read in conjunction with Article 16 of the Extradition Act, (Cap. 276 of the Laws of Malta) the Court is informing the person requested that: -

- (a) He will not be returned to Belgium until after the expiration of seven days from the date in which this order of committal comes into effect and that,
- (b) He may appeal this decision to the Court of Criminal Appeal, and
- (c) If he thinks that any of the provisions of article 10(1) and (2) of the Extradition Act, Chapter 276 of the Laws of Malta has been contravened or that any provision of the Constitution of Malta or of the European Convention Act is, has been or is likely to be contravened in relation to his person as to justify a reversal, annulment or modification of the court's order of committal, he has the right to apply for redress in accordance with the provisions of article 46 of the said Constitution or of the European Convention Act, as the case may be.

SOHOWEVER, the Court, in accordance with Article 28A(1) and (2) of the Order is hereby **postponing** the surrender of Thomas Zaugg to the Belgian Authorities until any of the following occurs:

- (i) the charge is disposed of;
- (ii) the charge is withdrawn;
- (iii) proceedings in respect of the charge are discontinued; or
- (iv) the proceedings are put off *sine die*;

and this in regard to the pending proceedings which the Requested Person is presently facing before these Courts in Malta.

**Ft.Dr Leonard Caruana**  
**Magistrate**

**Sharonne Borg**  
**Deputy Registrar**