



THEMIS Grand Final Competition (08 – 11 October 2019)

TEAM ROMANIA I

v.s.

TEAM GERMANY

Sue Smith is a national of Country A. Country A is one of the EU Member States. Ms. Smith was born in 1972.

In 2014 the courts of Country B (one of the EU Member States) sentenced Ms. Smith to 15 years' imprisonment and ordered her to pay a fine of 100,000 euros (EUR) for drug trafficking. The judgment was issued in her absence, as Ms. Smith had been unable to appear for medical reasons. The courts of Country B, in response to an appeal, subsequently reduced the sentence by one year. In 2016 the Public Prosecutor's Office of Country B issued an EAW with a view to enforcing the sentence still to be served. Ms. Smith, who was tracked down in Country C (one of the EU Member States), was arrested by the Country C police in August 2017. The day after her arrest she was presented to an investigating judge of Country C, who ordered that she be placed in detention. The investigating judge of Country C eventually decided that the EAW was enforceable and Ms. Smith should be handed over to the authorities of country B. Ms. Smith has appealed against the decision of the investigating judge to surrender her but her appeal was unsuccessful, Ms. Smith approached the European Court claiming that if surrendered, she would risk suffering a flagrant denial of a fair trial.

The following is the additional information which both teams should consider when preparing their argumentation:

- Ms. Smith is the sole carer of her child (8 years old) with whom she has been living in Country A since child's birth.
- Ms. Smith only speaks language of country A. She has no other language competences.
- It is not clear whether Ms. Smith was assigned a lawyer to represent her in the *in absentia* proceedings in Country B. She did have a lawyer in the appellate proceedings though.
- Ms. Smith originally provided her consent to surrender believing that her sentence would be shortened as a result of her consent.
- According to the existing domestic rules, Public Prosecutor's Office of Country B may be provided with instructions in a specific case from the executive (Minister for Justice), in connection with the adoption of a decision to issue a EAW. Such instructions though are issued very rarely in practice.

- Country B has a long standing record of the systemic discrimination against Roma people in the their criminal justice system. Mrs. Smith is of a Roma origin.

In order to convince the judges of the European Court (represented by the Themis jury) about your case, please, make sure to base your arguments as much as possible on the existing standards as stemming from the case-law of both European Court of Human Rights and the Court of Justice of the European Union as well as the existing secondary EU law instruments that may have relevance in this case. You should also feel free to refer to other international / European standards applicable to EU Member States that may support your position in this case.

Team ROMANIA I: please, present the arguments of representatives of Ms. Smith

Team GERMANY: please, present the position of the authorities of Country C