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# JUDICIAL CONTROL OF DETENTION IN THE GENERAL CONTEXT OF EU LAW

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# QUESTION

- Article 15 RD requires “speedy judicial review of lawfulness” of detention
- Which control has to be exercised by “national” judge for implementation of EU law



# CONTROL BY CJEU

- Normally full control
- But restricted to “manifest error” when “complex assessment” for instance in competition law (discretion)
- Not the case about restrictions of freedom of movement of EU citizens
- What about return of TCN?





# CONTROL OF LEGALITY

- Conceptual problems
- In principle full control on facts
- Also on legal elements but of far when discretion?
- RD aims at limiting discretion with notions like “due diligence”, “reasonable prospect of removal”: so what?



# DEBATE BETWEEN EUROPEAN AND NATIONAL LAW

- Parallel between control by CJEU and by Member States

OR

- Procedural autonomy of Member States (subject to equivalence and effectiveness)
- Autonomous notion of review of lawfulness?