



Neutral Citation Number: [2021] EWHC 1078 (Admin)

Case No: CO/179/2021

**IN THE HIGH COURT OF JUSTICE**  
**QUEEN'S BENCH DIVISION**  
**ADMINISTRATIVE COURT**

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 27<sup>th</sup> April 2021

**Before :**

**MR JUSTICE FORDHAM**

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**Between :**

**KRISTAPS BAJARS**  
**- and -**  
**LATVIAN JUDICIAL AUTHORITY**

**Appellant**

**Respondent**

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**George Hepburne Scott** (instructed by Bark & Co Solicitors) for the **Appellant**  
The **Respondent** did not appear and was not represented  
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Hearing date: 27.4.21

Judgment as delivered in open court at the hearing  
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**Approved Judgment**

I direct that no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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**THE HON. MR JUSTICE FORDHAM**

Note: This judgment was produced for the parties, approved by the Judge, after using voice-recognition software during an ex tempore judgment in a Coronavirus remote hearing.

**MR JUSTICE FORDHAM :**

1. This is a renewed application for permission to appeal in an extradition case. The Appellant is aged 32 and is wanted for extradition to Latvia. That is in conjunction with two accusation European Arrest Warrants issued (and certified) in May 2018 and January 2020. They relate to alleged drugs offences committed in July 2014 and February 2016. The Appellant and his wife (now aged 27) were married in Latvia in August 2015 and came to the United Kingdom together in July 2017. The Appellant was arrested in conjunction with these extradition proceedings on 6 May 2020. He is on remand. Extradition was ordered by DJ Callaway on 18 January 2021 after an oral hearing on 15 December 2020 at which the Appellant and his wife both gave evidence. Permission to appeal was refused on the papers by Swift J on 26 March 2021. The sole issue raised before me is Article 8 ECHR: private and family life, by reference both to the Appellant and his wife.
2. The mode of hearing was by BT conference call, which Mr Hepburne-Scott and I were both satisfied involved no prejudice to the interests of the Appellant or any person. We eliminated, by having a remote hearing, any risk to any person from having to travel to a court room or be present in one. I am satisfied that the mode of BT conference was satisfactory and appropriate. As always, the open justice principle was secured: the case and its start time being published, together with an email address usable by any member of the press or public wishing to observe the hearing, in the cause list. The hearing was recorded and this ruling will be released in the public domain.
3. As always, Mr Hepburne-Scott's written submissions were clear and comprehensive, and his amplificatory oral submissions achieved their intended purpose of being concise but enabling the court to focus clearly on the legal merits of this case and the prognosis. The essence, as I see it, of the Article 8 argument articulated by Mr Hepburne-Scott in writing and developed orally is as follows. Although the District Judge conducted the familiar Celinski Article 8 balance sheet exercise, he did not put into the balance sheet as factors against extradition the following: the two-year period of remand served by the Appellant in Latvia; the then additional 7 months qualifying remand in the United Kingdom (as at today, nearly 12 months); the fact that the alleged index offences were then 4/5 years old (as at today, 5/6 years old); and the subjective and objective impact of Brexit with its uncertainties. Although it is accepted that the District Judge was aware of all of these features, not least because of some express references in other parts in the judgment, it cannot be known that they featured – or how they featured – in the balancing exercise, and there is a risk that they were as Mr Hepburne-Scott puts it today – compartmentalised elsewhere, when they should have been “at the heart”. In any event, this Court on an appeal can, and should, ‘stand back’ and revisit the overall outcome, including having regard to all these matters. Alongside them are the following features of the case. Although the index offences are serious, within that category (of serious offence) they can be said to be towards the bottom of the range, given the relatively small amount of drugs involved, particularly when the levels of purity are considered. The remand time served in Latvia and the United Kingdom combined (to which I have already referred) would have the equivalent, for United Kingdom sentencing, of the Appellant having already served a 5 year custodial term, which is a point worthy of considerable prominence. The Appellant and his wife have built up a life in the United Kingdom in

the nearly 4 years since July 2017. They have both been in employment here, and neither of them has criminal convictions here. The passage of time, from the alleged offending in July 2014 and in February 2016, both tends to weaken the public interest in extradition and tends to strengthen the private and family life ties, as does the passage of time since coming here in July 2017. The impact of extradition can properly be recognised as being very serious, and indeed “devastating” so far as the wife and relationship are concerned. As the Appellant’s wife puts it, extraditing him “would break our family apart”, would mean “we would lose everything that we have built here together”; she says “I cannot find words to describe the pain that the potential extradition and separation would cause to me”. Mr Hepburne-Scott rightly emphasises in his submissions today that the applicable threshold is whether the Article 8 argument is “reasonably arguable”. That is the essence of the argument.

4. In my judgment, beyond reasonable argument, this is a case – even if the Article 8 balance is revisited and even if it were conducted afresh in the light of the District Judge’s findings of fact and in light of the updated position as to qualifying remand – in which the strong public interest considerations in favour of extradition decisively outweigh those capable of weighing on the balance against it. The Article 8 argument is not in my judgment one which has a realistic prospect of success. The impact of extradition on the Appellant and his wife, and the implications for what they have built in the United Kingdom, are serious and significant. But the circumstances, including the passage of time, have to be seen in the context where the Appellant has unassailably been found to have left Latvia in July 2017 as a fugitive, at a time when reporting restrictions applied to him and he did not notify the authorities. As Mr Hepburne-Scott acknowledges, there are no children in the present case. Both alleged index offences are properly characterised as serious, notwithstanding the point made about percentage purity. The July 2014 offence is imprisonable in Latvia for between 2 to 8 years. It is an offence of the alleged purchase, storage and supply of heroin (2.7g: 0.04g at 100% purity, assessed in light of the level of purity having been 2%) and methamphetamine (1.065kg: 351g at 100% purity, given the level of purity being 33%). The February 2016 offence is a further offence, imprisonable for between 5 to 15 years in Latvia. It is an offence of the alleged possession with intent to supply of methamphetamine (16.232g: equivalent to 1.948g at 100% purity in light of the level of purity having been 12%), including an act of supply to a buyer. The strong public interest considerations in support of extradition, in my judgment beyond argument, decisively prevail in this case over all the factors that weigh against it. Permission to appeal is refused.