



Neutral Citation Number: [2024] EWHC 1026 (Admin)

Case No: AC-2023-LON-002539

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

Royal Courts of Justice  
Strand, London, WC2A 2LL

Wednesday 1<sup>st</sup> May 2024

**Before:**  
**FORDHAM J**

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**Between:**  
**VIOREL OVIDIU SANDULESCU** **Appellant**  
**- and -**  
**RAMNICU VALCEA COURT (ROMANIA)** **Respondent**  
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**Martin Henley** (instructed by AM International) for the **Appellant**  
The **Respondent** did not appear and was not represented  
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Hearing date: 1.5.24

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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FORDHAM J

Note: This judgment was produced and approved by the Judge, after using voice-recognition software during an ex tempore judgment.

## **FORDHAM J:**

### Introduction

1. The Appellant is aged 48 and is wanted for extradition to Romania. That is in conjunction with a conviction Extradition Arrest Warrant issued on 14 February 2023, on which he was arrested (and bailed) on 16 February 2023. The index offences involve unlawfully held ammunition and the misappropriation of traffic fines (in an aggregate equivalent of £4.2k), committed in 2015/16 when the Appellant was a police officer in Romania. He was convicted and sentenced and is wanted to serve the 3 years 10 months prison sentence, which became final on 13 February 2023. Extradition was ordered by District Judge Zani on 25 August 2023 after oral hearing on 25 May 2023. There is a prison assurance dated 17 March 2023.

### New Information

2. Mr Henley informed me orally this morning of an “important” piece of “background”, as he described it. He told me that the Appellant has made applications in Romania and that the most recent of these is now scheduled for a hearing at the end of this month. He told me that this latest application relates to an invitation to the Romanian court to set aside the conviction relating to the unlawfully held ammunition. Mr Henley tells me that if that were to succeed in that application, that ammunition matter would fall away. This was entirely unheralded. It was not referenced in any of the documents, including the late skeleton argument filed for this hearing. But Mr Henley made clear that this was being communicated to the Court today only by way of “background”. He was not arguing that it was an arguable basis to resist extradition. He said that there might be cases where the Court would be invited to adjourn in light of some imminent material development. But he made clear that he was not seeking any such adjournment. I am satisfied that there is nothing in this new information which justifies adjourning today’s application for permission to appeal. I am also satisfied that I can focus properly on the arguments which were raised in the papers for the hearing.

### Article 3

3. The first point advanced is an Article 3 ECHR argument. The Judge said in the judgment that “only brief submissions” had been made in support of the Article 3 challenge. Mr Henley – who appeared before the Judge – told me, trying to remember an oral hearing nearly a year ago, that he was “not sure” whether any point was made before the Judge about non-state agents and the “reasonable protection” test which applies where a concern arises in relation to non-state agents. Article 3 was mentioned in the Perfected Grounds of Appeal, but no Article 3 submissions were there advanced at all. The Grounds of Renewal, expanded in the skeleton argument for today, argue that an assurance was needed, which needed to be specific to this individual requested person, to satisfy the test of reasonable protection of the Appellant against the risk of harm from non-state actors, given his position as a former police officer. The reasonable protection test is identified and applied in Lord Advocate v Dean [2017] UKSC 44 [2017] 1 WLR 2721.
4. The Judge specifically recorded in his judgment that he “noted and bore in mind” that the Appellant “may well be considered to be vulnerable by reason of the fact that he was previously a serving police officer ...” This observation came in the context of considering the detailed prison assurance from the Romanian authorities, which the

Judge was satisfied was adequate and sufficient in Article 3 terms. Mr Henley submits that the phrase “may well be considered to be vulnerable” was the Judge recognising an important concern, which the Judge then failed – anywhere in the judgment – to address. In my judgment, and beyond argument, it is clear that what the Judge was doing was recognising the potential vulnerability, recognising that it would be considered, and recognising that upon that consideration it may well be accepted as a relevant vulnerability. That was plainly a reference to the prison authorities assessing vulnerability, for the purposes of any relevant need, so that the need could and would then be addressed. This was in the context of the Judge saying, on the very next page of the judgment, that he was “entirely satisfied” that the assurance could be relied on and fully complied with Article 3 obligations. Either non-state agents and reasonable protection had been mentioned and the Judge was dealing with that, or they had not been mentioned but the Judge had spotted the point and was dealing with it. He had previously referred to foreseeable consequences taking into account the general situation as well as the requested person’s “personal circumstances”; and he had referred to harm which could arise from any specific vulnerability.

5. On 27 September 2023 the Respondent’s Notice was filed in this case. At that stage, as I have said, there were Perfected Grounds of Appeal which mentioned Article 3 but advanced no submissions on it at all. The Respondent’s Notice was accompanied by written submissions. These referenced the assurance and described the “assessment of vulnerability” which would be undertaken by the Romanian authorities. Mr Henley submits that a fair reading of the assurance reflects an “assessment” only of “mental, physical and psychological” needs and does not specifically reference “vulnerability”. I am entirely satisfied, beyond argument, that when read fairly the assurance is describing an “assessment” of the “needs” of the individual, and that “mental, physical and psychological” are all relevant in terms of any risk, to a person assessed as vulnerable, at the hands of other prisoners. At no stage was there any challenge, even after the Respondent’s Notice, to this part of its contents. As I have said, the point about reasonable protection and non-state agents was taken in the Grounds of Renewal. But what was there said was that there needed to be an assurance “specific to this appellant”. Mr Henley, as one of his arguments today, has maintained that position.
6. It is not, in my judgment, reasonably arguable that the Judge did not have the material that was needed, to reach the conclusion that no Article 3 bar on extradition arose in this case. As I have said, reading the assurance fairly and as a whole, it is clear that needs will be assessed, including by reference to vulnerability. There is no evidence to the contrary. There is no arguable protective gap, requiring more from the Romanian authorities. There is no need to adjourn. There is no viable basis for finding of insufficiency of protection. There is no viable basis for seeking further information or further assurance.

#### Article 8

7. That leaves the Article 8 ECHR points emphasised, in writing, in the Grounds of Renewal and the skeleton argument. These too are points that did not appear in the Perfected Grounds of Appeal. What is now said is, firstly, that the Judge was wrong to refer to a “safe haven” public interest factor in support of extradition, in a case in which the Judge had not been satisfied that the Appellant came here in May 2017 as a “fugitive”. But the Judge was careful to describe the public interest in the UK not being considered as “a safe haven for those sought by other [ECHR] countries, either to stand trial or to serve a prison sentence”. That was careful, and apt, language. The Judge was perfectly well

aware of not having found the Appellant to be a fugitive; but also the finding that the Appellant had come to the UK aware of the proceedings against him, in which he had instructed a lawyer to defend him and defend his interests.

8. What is said, secondly, is that the risk of mistreatment or a harsh regime as a former police officer is a material factor in the Article 8 balance sheet. I have already explained why there is no Article 3 protection gap. The Article 8 proportionality assessment was clear-cut and the strong public interest considerations supporting extradition to face a 46-month custodial sentence for offences of this seriousness strongly outweighed the points that Mr Henley had identified at the hearing before the Judge as being in favour of refusing extradition. The points about being in prison, as a former police officer, have no realistic prospect of tipping the balance. Nor for that matter does the new “background” information about what is said to be a prospect that the ammunition matter may be withdrawn. The Judge listed the factors relied on against extradition as: being settled in the UK with employment and fixed accommodation; family life with his wife and university-attending daughter; the absence of any convictions here; the absence of fugitivity; and the impact for the whole family. There is no realistic prospect that this Court at a substantive hearing would come to the conclusion that the overall Article 8 outcome was the wrong one, in all the circumstances of the case, including the points which were being relied on, and those now relied on.

### Conclusion

9. There is no realistic prospect of success and permission to appeal is refused.

1.5.24