Neutral Citation Number: [2022] EWHC 1308 (Admin)

Case No: CO/2042/2019

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

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 27/05/2022

Before :

THE HONOURABLE MR JUSTICE DOVE

- -

Between :

Sandor Jakab	**Appellant**
- and -	
Regional Court of Zalaegerszeg, Hungary	**Respondent**

- -
- -

James Stansfeld (instructed by **Lawrence & Co**) for the **Appellant**
Benjamin Joyes (instructed by **CPS**) for the **Respondent**

Hearing dates: Tuesday 1st March 2022

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Approved Judgment

Mr Justice Dove :

1. This is an appeal under section 26 of the Extradition Act 2003. It has a somewhat lengthy history as an appeal, following the ordering of the Appellant's extradition by the District Judge on 17th May 2019. Permission to appeal was refused on the papers by Sir Wyn Williams on 27th September 2019. The Appellant renewed his application orally, and permission to appeal was granted by Holman J on 23rd January 2020. Permission was granted on two grounds, the first based upon section 10 of the 2003 Act relating to what is referred to below as offence 4, and the second in relation to article 8.

2. The Appellant then made an application to amend his grounds of appeal and stay the appeal proceedings on the basis of an argument under article 3 and prison conditions in Hungary. On 13th October 2020 Swift J granted permission to amend the grounds of appeal to include the article 3 ground, and stayed the proceedings until the Supreme Court handed down judgment in the case of *Zaboltnyi v Mateszalka District Court, Hungary.* He made directions as to the requirement for further written submissions once the outcome of that case was known. In the event, following the handing down of its judgment by the Supreme Court in *Zabolotnye,* the Appellant decided not to pursue the article 3 ground. The matter then came on for hearing on the two grounds for which the Appellant had permission on 14th October 2021.

3. At the hearing on 14th October 2021, it became clear that there was an important issue in relation to offence 4 which the parties had not addressed in their submissions either before the District Judge or before this court. That issue is investigated in greater detail below, but it relates to the question of whether or not the requirements of section 10 of the 2003 Act are satisfied in respect of offence 4 on the basis of an offence of transporting or transferring controlled waste without a permit to do so. The hearing therefore adjourned part heard in order to enable the parties to address this issue. Directions were given in relation to further submissions on this issue which were to be concluded by the end of 2021.

4. In the event the matter was again listed for hearing on 1st March 2022. In addition to addressing the further point in respect of offence 4, the Appellant addressed further submissions which had been raised since the commencement of the appeal in respect of suggested article 8 implications of the UK leaving the EU as a further basis for advancing the Appellant's article 8 claim. Again, this was not a matter which had been fully addressed in the parties' submissions at the hearing, and so further time was afforded until 21st March 2021 for further written material and submissions to be received in connection with this issue. In the event the exchange of these submissions concluded on 22nd March 2022, thereby enabling the court to proceed to preparing its judgment in this matter.

5. I wish to place on record my thanks to counsel in relation to the written and oral submissions which were prepared to assist the court, and which have been of considerable value in enabling me to reach my decision.

The EAW.

6. The EAW in the present case seeks the extradition of the Appellant in respect of two separate judgments and convictions. It was issued on 7th March 2017 and was certified

on 9th June 2017. Conviction 1 arises from a judgment of the Municipal Court of Sopron dated 12th June 2007 in respect of an offence committed on 2nd February 2006 at the Sopron Border when the Appellant wished to enter Hungary using the passport of another thereby avoiding revealing his true identity since he was aware there was a search warrant in existence for him. The EAW records that the Appellant accepted he had taken the passport without the knowledge of its true holder when interviewed, and that he was present when he was later sentenced to 8 months imprisonment, all of which remains outstanding. This was a suspended sentence which was activated according to the Respondent because the Appellant had committed criminal offences during the currency of the term of suspension.

7. Conviction 2 relates to a judgment issued on 12th May 2014, which became final on 3rd November 2015. In respect of this judgment the Appellant's return is sought to serve the entirety of a cumulative sentence of 3 years 6 months for a total of six offences. It is unnecessary to dwell on four of these offences which were not committed in Hungary, and therefore the District Judge concluded did not amount to extradition offences and the Appellant was discharged in respect of them. The two offences for which extradition was ordered were, firstly, an allegation of fraud by false representation committed on 1st August 2010, when along with another the Appellant obtained a quantity of Swiss francs and US dollars together with gold jewellery from a vulnerable individual for the purported treatment of a sick child when, in truth, no such child existed. The second offence is the contentious offence 4. It is necessary for the purposes of this judgment to set out the description of offence 4 in greater detail. Within the EAW it is described as follows:

> "The Ford Transit car with the number plate HZJ-782 was pulled over on 22 May 2012 at 3:30pm in Zalaegerszeg in front of the building located at 11 Egervari Street by an officer of the Criminal Investigations Department of Zalaegerszeg Police Department, in which vehicle defendants Zoltan Lakatos and Sandor Milan Jakab were transporting 17 various types of lead-acid batteries, 2 used radiator grilles and approximately 230 kg of multi-core aluminium wires without holding any official permit for waste management."

8. Further Information was sought from the Respondent in relation to whether or not the Appellant was treating, keeping, or disposing of the material being transported in a manner likely to cause pollution of the environment or harm to human health. The response to that request was provided by the Respondent in the following terms:

> "(ii)(a) After obtaining the inoperative lead-batteries, Sandor Milan Jakab and his co-actor did not comply with environmental regulations; they improperly handled and transported the batteries. Lead batteries – due to their components – were capable of endangering the physical integrity and health of humans, the soil, the water, the air, and the components thereof, as well as the living organisms.
>
> (b) According to the "List of hazardous waste" in Article 1 (4) of Council Directive 91/689/EEC on hazardous waste, lead battery shall be considered as hazardous waste.

> In accordance with annex 1.B, wastes consisting of batteries and other electrical cells which contain lead or lead components listed in Annex II, points H6 and H7 respectively."

9. The District Judge set out the provisions of section 64 and 65 of the 2003 Act to provide the context for the challenge under section 10 of the 2003 Act. In essence the District Judge noted that pursuant to those provisions "conduct" was part of the definition of an extradition offence, and that it was necessary for the Respondent to demonstrate that the conduct amounted to an offence punishable under the law of the relevant part of the UK if that conduct had occurred in the relevant part of the UK. The District Judge set out his ruling on these issues in the following terms:

> "45.s.10 Ruling:
>
> The Judicial Authority submits that the criminal conduct therein constitutes an offence under s.33(i)(c) and 33(6) of the Environmental Protection Act 1990 ("EPA").
>
> 46. s.75(4) of the EPA defines controlled waste as being household, industrial or commercial waste "or any such waste". The further information states that SJ "improperly handled and transported the batteries" in question.
>
> 47. Mr Joyes, having carried out admirable researches, has directed the court to a passage in Wolf and Stanley on Environmental Law (6th edition) 2014, Routledge, p.222 which describes "keeping" as referring to "storing waste whether permanently or temporarily" and he submits that the carriage of said batteries in his vehicle during transportation is equivalent of temporary storage.
>
> 48. The further information provided by the Judicial Authority states that SJ "improperly handled and transported the batteries and that the lead batteries – due to their components – were capable of endangering the physical integrity and health of humans, the soil, the water, the air… as well as… living organisms and that the said batteries were… "hazardous waste" within the meaning of Article 1(4) of the Council Directive 91/689/EEC.
>
> 49. The defence submit that there is no (or insufficient) evidence that SJ had "kept", "treated" or "disposed of" the items in question. Mr Stansfeld adds that transporting such waste, if indeed that was what SJ was doing, is clearly quite different from keeping it.
>
> Counsel asserts that this provision of law is specifically designed to prevent waste from being kept on a particular site and does not cover its transportation.

> 50. Further and in the alternative the defence take issue with the suggestion that the materials set out in charge (iv) of Conviction 2 can properly be considered to fall within the accepted definition of "controlled waste" per s.75 (4) of the 1990 Act.
>
> 51. Having considered the able submissions made by the parties, I am entirely satisfied that, had the alleged conduct (in respect of charge (iv) of Conviction 2) taken place in the UK, if proved, it would have amounted to an offence contrary to s.33 (i)(c) and 33(6) of the EPA and I accept Mr Joyes' interpretation of the law in respect thereof as it relates to this case.
>
> 52. I am satisfied that the act of transporting the batteries in question on 22 May 2012, the requested person's conduct constituted storing them temporarily, thereby contravening the EPA, by keeping the batteries – controlled waste – in a manner likely cause pollution of the environment or harm to human health.
>
> Accordingly, this challenge must fail."

10. The District Judge went on to consider objections to extradition, firstly based on section 14 of the Extradition Act 2003. The District Judge concluded that the Appellant was properly to be regarded as a fugitive in respect of both of the judgments or convictions for which he was wanted. The District Judge further rejected the article 8 challenge to extradition, setting out his reasoning, and in particular the balancing exercise required by the authorities and in particular *Polish Judicial Authorities v Celinski & others* [2015] EWHC 1274, in the following terms:

> "93. Article 8 Balancing Exercise:
>
> (a)Factors said to be in favour of Granting Extradition:
>
> (i) There is a strong and continuing important public interest in the UK abiding by its international extradition obligations.
>
> (ii) The seriousness of the offences in respect of which he has been convicted and sentenced. There remains a global sentence of 4 years 2 months outstanding (less the period of circa 3 months spent in the UK on remand).
>
> (iii) The assertion by the Judicial Authority and the finding by this court that the requested person is a fugitive from Justice in respect of both convictions.
>
> (iv) SJ is not a man of good character. Apart from the matters for which his return is sought he has the following matters recorded against him in the UK:

(a)27 January 2009 Conviction:

(i) Making off without payment (ii) Driving without a license (iii) No insurance: offences all committed on 24th September 2008 – Fined and Penalty points imposed.

(b) 31 January 2009: Caution for theft (Shoplifting)

It is also to be noted that these offence dates do not sit comfortably with SJ's recollection of events, as according to him, he was in Hungary from 2007 through to 2013 and he made no mention of being in the UK when the above crimes were committed.

(v) I have found him to be a fugitive in respect of both Convictions.

94.b Factors said to be in favour of refusing extradition.

(i) SJ says that he has been settled in the UK since 2013.

(ii) He states that he has been in regular employment and has fixed accommodation where he resides with his long-term partner, their children and his father.

(iii) SJ says that, in the main, he has led a law-abiding life since settling in the UK.

(v) He asserts that he is not a fugitive from justice in relation to either conviction.

95. Article 8 Findings and Ruling

I find that it will not be a disproportionate interference with the Article 8 rights of the requested person for extradition to be ordered.

My reasons and findings are as follows:

It is very important for the UK to be seen to be upholding its international extradition obligations. The UK is not to be considered a "safe haven" for those sought by other Convention countries either to stand trial or to serve a prison sentence.

(ii) In my opinion, the offences set out in the EAW are serious and, in the event of a conviction in the UK for like criminal conduct, a prison sentence may well be imposed.

(iii) This court finds that the requested person is unlawfully at large and has acquired fugitive status in respect of both convictions for which his return is sought. The reasons for this finding are set out heretofore.

> (iv) It is appreciated that there will be hardship caused to SJ and to his partner, their children and to his father. However, that of itself is not sufficient to prevent an order for extradition from being made. The 2 older children were born in Hungary and, until 2016, the father lived in Hungary.
>
> (V) As this court has found as a fact that SJ is a fugitive from justice, this finding brings paragraph 39 of the decision in Celinksi above into consideration. I do not find that there are such strong counter balancing factors as would render extradition Article 8 disproportionate in this case."

11. It is convenient to consider the relevant submissions under each ground upon which this appeal is brought separately.

Ground 1: section 10 and offence 4.

12. On behalf of the Appellant Mr Stansfeld submits that the District Judge was wrong to conclude that the conduct described in the EAW and Further Information would have amounted to an offence contrary to section 33(1)(c) and section 33(6) of the Environmental Protection Act 1990. In particular, the District Judge's conclusion that such an offence could be made out by the temporary storage of the material whilst being transported and that such temporary storage could amount to an offence under these provisions was misconceived. In detail Mr Stansfeld submits as follows. Firstly, section 33 of the 1990 Act appears within Part II of the 1990 Act which is entitled "Waste on Land". The relevant parts of section 33 of the 1990 Act are as follows:

> "33. Prohibition on unauthorised or harmful deposit, treatment, or disposal of waste.
>
> 1.Subject to [subsections (1A), (1B), (2) and (3) below] and, in relation to Scotland, to subsection 54 below, a person shall not –
>
> (a) deposit controlled waste or extractive waste, or knowingly cause or knowingly permit controlled waste or extractive waste to be deposited in or on any land unless an environmental permit authorising the deposit is in force and the deposit is in accordance with the permit;
>
> (b) submit controlled waste, or knowingly cause or knowingly permit controlled waste to be submitted, to any listed operation (other than an operation within subsection (1A) that –
>
> (i) is carried out in or on any land, or by means of any mobile plant, and
>
> (ii) is not carried out under and in accordance with an environmental permit;

> (c) treat, keep, or dispose of controlled waste or extractive waste in a manner likely to cause pollution of the environment or harm to human health.
>
> …
>
> 5. Where controlled waste is carried in and deposited from a motor vehicle, the person who controls or is in a position to control the use of the vehicle shall, for the purposes of subsection (1A) above, be treated as knowingly causing them to be deposited whether or not he gave any instructions for this to be done.
>
> 6. A person who contravenes subsection 1 above commits an offence."

13. The context for section 33(1)(c) is provided by section 29(3) of the 1990 Act which provides as follows:

> "(3) "Pollution of the environment" means the pollution of the environment due to release or escape (into any environmental medium) from –
>
> (a) the land on which controlled waste or extractive waste is treated,
>
> (b) the land on which controlled waste or extractive waste is kept,
>
> (c) the land in or on which controlled waste or extractive waste is deposited,
>
> (d) fixed plant by means of which controlled waste or extractive waste is treated, kept or disposed of."

14. Mr Stansfeld points out that the phrase in section 33(1)(c) of the 1990 Act "likely to cause pollution of the environment" needs to be understood in the context of section 29(3)(a) to (c), which expressly refers to land upon which controlled or extracted waste is treated, kept, or deposited. Mr Stansfeld submits that there is no information in the EAW or the Further Information which could justify the conclusion reached by the District Judge that the conduct upon which the Appellant was engaged amounted to treating or disposing of the waste in a manner likely to cause pollution of the environment or harm to human health. Firstly, there was no information before the court that the way in which the material was being handled would give rise to the likelihood of pollution or harm to human health. Secondly, Mr Stansfeld submits that transporting is to be regarded as distinct from keeping for the purpose of section 33(1)(c) of the 1990 Act.

15. In addition to these submissions Mr Stansfeld submits that the District Judge could not have been satisfied to the criminal standard that the waste was "controlled waste".

The definition of controlled waste is to be found in section 75 of the 1990 Act. The relevant provision of section 75 provide as follows:

> "75. Meaning of "waste" and household, commercial and industrial waste and hazardous waste…
>
> (2) "waste" means anything that is waste within the meaning of Article 3(1) of Directive 2008/98/EC of the European Parliament and of the Council on waste
>
> …
>
> (4) "controlled waste" means household, industrial and commercial waste or any such waste.
>
> …
>
> (8) Regulations made by the Secretary of State made provide that waste of a description prescribed in the regulation shall be treated for the purposes of provisions of this Part prescribed in the regulations as being or not being household waste or industrial waste or commercial waste; and reference to waste in subsection (7) above and this subsection do not include sewage (including matter in or from a privy) except so far as the regulations provide otherwise."

16. The regulations produced in this connection are the Controlled Waste (England and Wales) Regulations 2012 which provide by regulation 4 that schedule 1 of the Regulations has effect in relation to the definition of waste. In particular, under paragraph 3 of schedule 1 of the Regulations it is provided that waste is to be treated as household waste, commercial waste or industrial waste because of the nature or the activity which produces it notwithstanding the place where it is produced. Classification number 8 relates to "waste oil, waste solvent or scrap metal" and classifies this as industrial waste. Mr Stansfeld submits that the lead acid batteries could not come within the definition of waste oil, waste solvent or scrap metal. He draws attention to the reliance of the 2012 Regulations on the definition of "scrap metal" under the Scrap Metal Dealers Act 1964 as being as follows:

> "scrap metal" includes any old metal, and any broken, worn out, defaced or partly manufactured articles made wholly or partly of metal, and any metallic waste, and also includes old, broken, worn out or defaced tool tips or dies made of any of the materials commonly known as hard metal or cemented or sintered metallic carbides".

17. Thus, it is submitted on behalf of the Appellant that the offence under section 33(1)(c) of the 1990 Act could not be made out on the conduct described in the EAW and the Further Information.

18. The first alternative basis relied upon by the Respondent to contend that the conduct identified amounts to an offence depends upon reliance on the offence created by

section 1 of the Control of Pollution (Amendment) Act 1989 which makes it an offence "for any person who is not a registered carrier of controlled waste, in the course of any business of his or otherwise with a view to profit to transport any controlled waste to or from any place in Great Britain". In respect of this alternative basis Mr Stansfeld accepts that the "two used radiator grills and approximately 230kg of multi-core aluminium wires" would fall within the definition of scrap metal, and therefore amount to controlled waste for the purposes of this offence. However, he continues to submit that the absence of information as to the origin of the lead acid batteries precludes them being included within the definition of controlled waste. Furthermore, it appears that they originated from outside Hungary, and the offence could only be committed if they were being taken to somewhere in Hungary, as to which there was no evidence. Finally, he submits that there is no evidence to support the contention that the Appellant was acting in the course of a business in connection with this or with a view to profit. Thus, he submits that this alternative basis does not satisfy the requirements to support extradition either.

19. The final alternative basis advanced by the Respondent is that the conduct specified in the EAW and the Further Information amounted to a breach of the Hazardous Waste Regulations 2005. Regulations 35 and 36 of the 2005 Regulations set out legal requirements for a consignment note to be completed when hazardous waste is removed from any premises (see regulation 35), and set out formal requirements in relation to the consignment note including ensuring that a copy of the consignment note travels with the consignment when it is in transit. Regulation 65 of the 2005 Regulations creates an offence of failure to comply with these requirements. By virtue of the provisions of the List of Wastes (England) Regulations 2005 it is accepted that lead acid batteries fall within the definition of hazardous waste. Thus, it is submitted on behalf of the Respondent that the offence created by section 65 of the 2005 Regulations was committed as a consequence of the conduct specified for reasons set out below.

20. In response to this submission Mr Stansfeld on behalf of the Appellant places reliance on regulations 1(2) and (3) of the Hazardous Waste Regulations as extending only to England and Wales. Furthermore regulation 12 of the Hazardous Waste Regulations provides as follows:

> "12(4) These Regulations apply to hazardous waste in England notwithstanding that the waste –
>
> (a) was produced on or removed from premises in Scotland, Wales, Northern Ireland or Gibraltar; or
>
> (b) is, or is to be, transported from premises in England to premises located in one of those places.
>
> (5) For the avoidance of doubt, in their application to –
>
> (a) ships' waste, these Regulations apply to any ship;
>
> (b) the internal waters and the territorial sea of the United Kingdom adjacent to England, these Regulations apply, without

> prejudice to paragraph (3), to a consignment of waste transported in any ship,
>
> in each case (whether the ship is a United Kingdom ship or otherwise and if a United Kingdom ship, whether registered in England or otherwise)."

21. In the light of this Mr Stansfeld submits that, for the regulations to apply, the premises from which hazardous waste is removed must be in England and not outside it, and as it is the Respondent's case that the lead-acid batteries were removed from premises in Austria outside the territory of Hungary there could not, by analogy or transposition, be an offence under the Hazardous Waste Regulations on the basis of the conduct contained in the EAW and the Further Information.

22. In response to these submissions Mr Joyes on behalf of the Respondent sustains the contention that the District Judge was correct to conclude the conduct could amount to an offence under section 33(1)(c) of the 1990 Act. He submits that the materials were being kept by the Appellant inside his van and keeping materials amounting to waste is the equivalent of temporary storage for the purposes of the legislation, an interpretation which sustains the findings of the District Judge. The contention that section 33(1)(c) of the 1990 Act includes both permanent and temporary storing of waste is, Mr Joyes submits supported by a passage from Wolf and Stanley on Environmental Law (sixth edition).

23. Mr Joyes submits that all of the materials were controlled waste. It is not disputed that the radiator grills and aluminium wires were within the definition of industrial waste set out above. Additionally, Mr Joyes submits that the lead-acid batteries were also scrap metal since they amount to "broken…articles made wholly or partly of metal". Thus, the offence under section 33(1)(c) of the 1990 Act is made out.

24. Mr Joyes' alternative submission in relation to transporting controlled waste without registration as a carrier, Mr Joyes for the reasons already given, submits that the materials comprised in the conduct were controlled waste. The information contained within the EAW and Further Information makes plain that the basis of the Appellant's conviction was that he did not hold any official permit for the purposes of this activity. Finally, bearing in mind the extensive quantity and nature of the waste materials being transmitted, Mr Joyes contends that it is a clear inference that this was an activity where the Appellant was acting either in the course of his business or otherwise with a view to profit. Mr Joyes notes that offence 5 within conviction 2 within the EAW (which is not an extradition offence because it was committed in Austria) is an offence related to the Appellant profiting from the theft of used batteries.

25. Turning finally to the further alternative of the conduct amounting to offences under the Hazardous Waste Regulations, Mr Joyes responds to the Appellant's submissions resisting this contention by drawing attention to the detailed provisions of regulation 12, which clearly apply to waste transiting into the UK, for instance by way of consignments transported by sea, as a consequence of regulation 12(5). Thus, the provisions of the regulations apply to consignments of waste being transported or transferred within the UK even if they have come from abroad by sea, that being the most likely means of waste being brought to the UK. Thus, Mr Joyes submits that the

Appellant's objection to the Hazardous Waste Regulations applying to the conduct in this case by analogy is incorrect.

26. My conclusions in relation to the submissions under ground 1 are as follows. It appears a point which is in common to each of the three ways in which the Respondent puts its case that the Appellant contends the materials described in the EAW and the Further Information could not properly amount to controlled waste, and in particular that the used lead-acid batteries could not amount to controlled waste. I am unable to accept that submission. I note that it was not a matter which was addressed directly by the District Judge, however it is clear to me that the following can be recorded. Firstly, there is no dispute but that the two used radiator grills and 230 kilos of multi-core aluminium wires are, it is agreed, controlled waste. The question of whether or not the used lead-acid batteries are controlled waste depends upon the application of section 9(2) of the Scrap Metal Dealers Act 1964 which has been set out above. In my view the definition under section 9(2) of the 1964 Act is broad in its reach, and I have no difficulty in accepting the submission made by Mr Joyes that it includes the used lead-acid batteries. These items are manufactured articles made at least partly out of metal and are broken or worn out. They therefore fall within the definition of scrap metal and as such are properly to be regarded as controlled waste for the purposes of the 1990 Act.

27. The next question is whether or not the facts contained in the EAW and the Further Information relating to the conduct of the Appellant are capable of satisfying the provisions of section 33(1)(c). The conduct describes the Appellant being pulled over in his car by the police, and them discovering that which he was "transporting" in his car, namely the materials which have been set out above. I am unable to accept that transporting these materials in a car amounts to keeping the controlled waste for the purposes of section 33(1)(c). As Mr Stansfeld points out, the context for understanding the parameters of this section are to be found in section 29(3) of the 1990 Act which, in connection with pollution of the environment, deals exclusively in section 29(3)(a) to (c) with waste being treated, kept, or deposited on land, as is appropriate bearing in mind that these sections appear within a part entitled "Waste on Land". It follows that the conduct identified does not in my judgment fulfil the definition of section 33(1)(c), and had the Appellant been charged with an offence under this section for the conduct described in the UK he would be entitled to be acquitted. The District Judge therefore fell into error in concluding that section 10 of the 2003 Act could be satisfied on the basis that there was an offence under section 33 of the 1990 Act.

28. I turn to the second basis upon which the Respondent puts its case under section 10, namely reliance upon an offence under section 1 of the Control of Pollution (Amendment) Act 1989 in respect of transporting controlled waste without being a registered carrier. Firstly, my conclusions set out above deal with the question of whether or not all the materials described in the conduct amount to controlled waste: they did. Secondly, the terms of the EAW itself specify that the Appellant did not hold an official permit for the waste management operation upon which he was engaged, and therefore this element of the offence is made out. The final area of dispute is the question of whether or not there was evidence to suggest that the Appellant was acting in the course of any business or was acting otherwise with a view to profit.

29. In my judgement this question is one which can be answered on the basis of the very clear inference that given the quantity and nature of the materials that were being transported it is clear, and I have no difficulty in finding that I am sure, that they were being transported at the very least with a view to profiting from their disposal in due course. My confidence in this conclusion is reinforced by the point made by the Respondent in relation offence 5, which albeit not an extradition offence is nevertheless part of the evidential framework, and which relates to another offence involving the unlawful appropriation of used batteries, and the Appellant, along with others, profiting from that theft. It follows that albeit the District Judge's reasons cannot be sustained there is a further basis upon which the conclusion that section 10 is satisfied, namely the fact that the conduct described would substantiate an offence under section 1 of the 1989 Act.

30. The final element of ground 1 relates to the contentions in respect of the Hazardous Waste Regulations 2005. This submission is confined to the element of the materials which were lead-acid batteries and therefore, it is conceded, within the definition of hazardous waste. The Appellant's objection to reliance upon the Hazardous Waste Regulations relates to regulation 12 which has been set out above. I am unable to accept that there is merit in the suggestion that because the hazardous waste described in the conduct originated in Austria the transposition exercise would fail as a result of the provisions of regulation 12. It is clear in my view when regulation 12 is read as a whole that such a narrow interpretation is not justified. I am unable to accept the inference of Mr Stansfeld's submission that a consignment of waste being transported through England which had arrived by sea at the UK border could be exempt from these regulations. Once a practical and purposive approach is taken to the transposition exercise it becomes clear that the Hazardous Waste Regulations would apply for the purposes of the section 10 exercise and that this is a further basis upon which the requirements of section 10 are satisfied. In any event, my conclusions in relation to the offence under the 1989 Act is sufficient to dispense with ground 1.

31. It needs to be borne in mind that in relation to the offences relied upon in the alternative to the offence under section 33(1)(c) of the 1990 Act the sentencing powers are more limited, albeit the possibility of imprisonment exists in relation to the offence under the Hazardous Waste Regulations. Whilst this point does not assist the Appellant in relation to the section 10 arguments, it is relevant to the article 8 arguments on the basis that this conclusion supports the suggestion that less weight should attach to the seriousness of the offending in relation to Conviction 2 in assessing the arguments under article 8. I have taken this into account in assessing Ground 2 below.

Ground 2: Article 8.

32. On behalf of the Appellant Mr Stansfeld submits that there are 5 points which demonstrate that the conclusions of the District Judge in relation to article 8 are wrong. The first point is that the District Judge fails to make any reference at all to delay in the case and, secondly, makes no mention of the conduct of the Respondent in seeking to take proceedings for the extradition of the Appellant.

33. The Appellant submits that in relation to the first judgment, which was handed down in 2007, there was a very substantial period of time which elapsed prior to proceedings being brought in connection with those proceedings. Whilst the sentence

was activated in 2012, extradition was not sought until 2017. Indeed, on the 27th November 2012 an earlier EAW was issued against the Appellant under which he was arrested on 30th June 2014 and discharged on 11th September 2014. It is submitted that not only is the period up to 2017 not explained, but also that it is of note that having been arrested in the UK in 2014 it is not explained why it was not until 2017 that the present EAW was issued. This significant passage of time is unexplained.

34. Further, the District Judge failed to give consideration to how the public interest in the extradition of the Appellant had reduced as a consequence of the Respondent's conduct. When the Appellant was arrested in June 2014 the Appellant was arrested pursuant to an accusation warrant in respect of one of the six offences for which he is currently wanted following conviction. The Appellant submits that it is unexplained as to why the Respondent continued to pursue that request for which the Appellant was arrested, rather than withdrawing that warrant and seeking an accusation warrant in respect of all six of these offences. Instead of seeking an accusation warrant for all six offences the Respondent proceeded to confirm the convictions as final and binding in November 2015 in the continued absence of the Appellant. This conduct has led, it is submitted, to further inexplicable delay consequently lessening the weight to be attached to the public interest in this case.

35. Thirdly, it is submitted on behalf of the Appellant that the District Judge placed weight on the global outstanding sentence for which he was wanted of 4 years 2 months in total, rather than recognising the more limited number of offences for which he fell to be extradited as a result of the District Judge's decision and the impact that his discharge from four of the offences would have upon the length of his sentence.

36. Fourthly, the District Judge was in error when he concluded that the offences were serious, and a prison sentence would be imposed if the matter had been tried in this jurisdiction. The value involved was the equivalent of £10,675, which should have led to an assessment that a custodial sentence was not inevitable.

37. Finally, the District Judge failed to take any account of the impact of the UK leaving the European Union. This submission relates to the difficulties which the Appellant would have were he to be extradited and then, having served his sentence, seek to return to the UK as a consequence of the change in immigration regulation that has arisen resulting from the UK withdrawing from the European Union.

38. In response to these submissions Mr Joyes on behalf of the Respondent submits that the starting point in relation to the Appellant's contentions in relation to delay is the clear and robust finding made by the District Judge that the Appellant is a fugitive. This finding was made in respect of both convictions on the basis, firstly, that the Appellant accepted he was aware of the obligation not to reoffend during the suspended sentence term, but he did nonetheless offend as recorded by the Respondent. This led to the conclusion of the District Judge that "it could have come thus as no real surprise to [the Appellant] when they came looking for him in relation there to".

39. The District Judge also accepted the Respondent's assertion that the Appellant had an ongoing obligation to notify the Respondent of any change of address, but he failed to do so. Indeed, within the Further Information provided by the Respondent it is noted

that notwithstanding the instruction which the Appellant had been given to notify of any change of his place of residence the Appellant changed his registered addresses, and subpoenas and requests sent to him were all returned with an indication that he was unknown at that address. In particular, the Further Information observes as follows as to why the nature of the proceedings and the evasiveness of the Appellant lead to the passage of time:

> "(15) In the procedure No B.491.2006 a European arrest warrant was issued indeed against Sandor Milan Jakab but the procedure aimed at adjudicating on the charge therefore after the court had adopted a verdict i.e had taken a position regarding guilt, the European arrest warrant was withdrawn since it was issued for the purpose of ensuring the attendance of the defendant in the procedure so it was no longer relevant after the adoption of the verdict. Then in 2016 Sandor Milan Jakab submitted a motion for review to the Curia which obviously shows that this time he stayed in Hungary. After the motion for review had been adjudicated the BVOP began to carry out such measures which aimed to ensure that the defendant enlisted in the penal institution to serve his sentence. For this purpose, the BVOP sent a request to the defendant which he did not receive due to his stay at an unknown location – despite the fact that pursuant to the Criminal Procedures Act he shall report any change in his place of residency or stay, then the competent authority carried out several measures in order to deliver the request to the defendant. Since no measure yielded any positive result, the BVOP sent several requests to the police for finding the defendant and once it established that all measures taken to find the defendant were unsuccessful, pursuant to the provisions of law it sent a request to the court for issuing a European arrest warrant to ensure the execution of the sentence which was later issued by the court.
>
> In the procedure No. 14.B.861.2012 no arrest warrant could be requested due to the sentence No. B.491.2006 until the final decision because the procedure in 2006 concluded with the imposition of a suspended imprisonment the execution of which was ordered by a later verdict in 2012. The procedure in 2012 is more complicated which was conducted by consolidating several cases initiated separately therefore the court could not modify the European arrest warrant in accordance with the current state of the case every time when a case was consolidated. However, regarding that Sandor Milan Jakab was interrogated in the course of the investigation when he was advised of his obligation to immediately notify the acting authority of any change in his place of residence or stay in accordance with the provisions of the Criminal Procedures Act. Therefore, he did not exercise his right of defence on his own initiative though he was aware of the procedure, the court attempted to summon him to every procedural action, and after

> the conclusion of the appellate procedure he filed in person a motion for review. The statutory provisions of the procedure in the absence of the defendant did not allow that the procedure be suspended."

40. The fact that the Appellant gave a Hungarian address as his place of residence in a review request is recorded in additional Further Information. The review request was dated 27th March 2016. Thus, Mr Joyes submits that a significant amount of the delay in the present case is attributable to the Appellant.

41. Mr Joyes submits that, even following disaggregation, the remaining offences for which the Appellant falls to be extradited clearly pass the custody threshold. The use of a false passport is a serious offence which would attract a custodial sentence. The fraud, on any proper analysis, would attract a custodial sentence in the light of the fact that it involved a vulnerable victim. Under the relevant guideline the starting point would be 26 weeks imprisonment. Thus, the District Judge was correct to conclude that a significant prison sentence would remain to be served.

42. In relation to the impact of the UK leaving the European Union it is submitted by Mr Joyes that in truth any adverse consequence arises from the Appellant being convicted of criminal offences rather than any other factor. Finally, Mr Joyes observes that the District Judge was entitled to note that the Appellant's wife has been, and is capable of continuing to, provide care for both their children and the Appellant's father. Mr Joyes also notes the Appellant's convictions for offences in the UK which were recorded by the District Judge along with the caution.

43. My conclusions in relation to the submissions made under ground 2 are as follows. Firstly, whilst it is correct to observe that the District Judge did not deal in detail with the questions of delay which are raised by the submissions in the current appeal, the judge did set out, in the context of his conclusions as to whether or not the Appellant was a fugitive, the factual background which led to the conclusion that the Appellant had been evading the criminal justice system in Hungary and seeking to put himself beyond the reach of the Respondent authorities. The Further Information which has been set out above provides further detail of the complexities of the processes facing the Respondent in the light of the need to adjust and perfect the extradition process, and also the Appellant giving them reason to believe that he was residing in Hungary leading to unanswered correspondence and a failure to progress the litigation. Taking the matter overall, and bearing in mind the District Judge's unassailable finding that the Appellant was a fugitive, I am unconvinced that there was significant material delay which was caused by the actions of the Respondent in this case. In reality the need for extradition proceedings arose in 2012, and given the explanations provided in the Further Information as to the procedural complexities and the difficulties caused by the Appellant not, as he was required to, advising directly of any change in his address, I do not consider that the Appellant's criticisms of the Respondent are warranted. Indeed, on the basis that the Appellant positively suggested at one point that he remained in Hungary, it is clear that the Appellant made a significant contribution to any delay in this case. I am unable to accept the Appellant's arguments in connection with delay, or accept that the Respondent was dilatory in taking the procedural steps required to bring the Appellant before the court.

44. In relation to the point taken about a global sentence, I accept that it appears that the District Judge included as a factor favouring the grant of extradition the fact that there was a sentence of 4 years 2 months still to serve. It appears that no adjustment was made on the basis that he had concluded that four out of the six offences for which extradition was sought in relation to the second judgment had been dismissed by him as a basis upon which extradition could be ordered. Some adjustment ought to have been made to the weight attaching to this factor to recognise that the whole of that term could not be attributed to those offences for which the Appellant was legitimately wanted. In addition to this is the allied point that the offences relied upon in respect of the Respondent's successful argument under section 10 are less serious and with lesser sentencing powers than the offence under section 33(1)(c). This further lessens the weight that can attach to the nature of the offences in striking the article 8 balance. Thus, the District Judge was wrong in relation to paragraph 93(ii) of the judgment and there are grounds for restriking the balance in that respect.

45. Having said that, and made the necessary adjustments arising from the reduction in sentence from that which was imposed, in my judgment the offences for which the Appellant is to be extradited are serious offences which still give rise to a significant term of imprisonment will need to be served. I accept the submissions made on behalf of the Respondent that both the offence of use of a false passport and also the offence of fraud in the particular circumstance in which it was committed will give rise to a significant term of imprisonment. The outstanding sentence to be served is therefore still a matter to which significant weight attaches, albeit less than that attached by the District Judge.

46. The final point to be addressed is the one related to the impact on the Appellant's prospect of returning to the UK, following serving his sentence, as a consequence of the changes which have occurred as a result of the UK leaving the European Union. The former provisions in relation to free movement when the UK was part of the European Union no longer apply. As indicated above, at the time of the hearing there was limited material before the court engaging directly with the current position in relation to the Immigration Rules, and the position of the Appellant were he to be seeking to return to the UK having served his sentence of imprisonment on the basis of the Immigration Rules as they currently stand.

47. An agreed note on these issues was provided to the court after the hearing. Prior to dealing with those provisions, it is necessary to say a little about other cases which have considered this point thus far. In the case of *Antochi v Richterin am Amstergericht of the Amstergericht Munchen (Munich), Germany* [2020] EWHC 3092 Fordham J concluded in paragraphs 50 – 52 of his judgment that what he described as "Brexit uncertainty" should appropriately be factored into the article 8 analysis, and taken account of both as a subjective matter in relation to the anguish which would be caused to the Appellant and the Appellant's family, as well as an objective factor founded upon the risk that the Appellant would not be able to return to the UK and the family home after serving the sentence for which the Appellant was wanted. It is to be noted that Fordham J had already concluded that the Appellant would succeed even if all of the issues relating to the UK leaving the EU were left to one side.

48. In *Rybak v District Court in Lublin, Poland* [2021] EWHC 712 (Admin); [2021] 1 WLR 3993 Sir Ross Cranston followed the decision of Fordham J in *Antochi*. He concluded that the District Judge in that case ought to have taken account of the

potential difficulties for the Appellant returning to the UK as an express factor in the article 8 balancing exercise which weighed against the ordering of extradition.

49. By contrast with these decisions, Chamberlin J in the case of *Pink v Regional Court in Elblag (Poland)* [2021] EWHC 1238 (Admin) concluded, at paragraph 52, that whilst there was a prospect that if extradited the Appellant may not be readmitted to the UK after completing his sentence, and that this would put his current partner who had settled status in a difficult position, this position was not properly to be regarded as a consequence of extradition. He concluded the situation was rather a consequence of the Appellant's criminal convictions in Poland, coupled with changes to the Immigration Rules as a result of the UK leaving the European Union. There was no evidence to support the submission made to him that if the Appellant were discharged from extradition, he could be expected to acquire settled status.

50. Finally, in further additional submissions, Mr Stansfeld has drawn attention to an unreported decision of Choudhury J in *Gorak v Poland* in which Choudhury J observed that the District Judge should have taken account of the potential difficulties and uncertainties which the Appellant would face in returning to the UK after serving his sentence as a consequence of the UK leaving the European Union.

51. As set out above, it was agreed at the hearing that further time should be afforded to the parties to investigate in greater detail the position in relation to the impact on the prospect of the Appellant returning to the UK in the absence of a right to free movement as a result of the UK leaving the European Union. A detailed note has been agreed between the parties in relation to the assessment of the Appellant's case measured against the Immigration Rules, since at the end of his sentence in Hungary the Appellant would have to make an application for leave to enter and remain in the UK. Clearly, the agreed note proceeds, and can only proceed, to evaluate such an application on the basis of an understanding of the Immigration Rules as they currently stand, and an assessment of the Appellant and his family's current circumstances. It appears that this level of detail in relation to the provisions of the Immigration Rules and the merits of a future application by the Appellant for leave to enter were not available to the court in the earlier decisions set out above.

52. The agreed note sets out in extensive and helpful detail the particular provisions of the Immigration Rules and how they would govern the Appellant's application. For the purposes of this judgment, it suffices to summarise the effect of the agreed note and its principal points before analysing the impact which it has upon this appeal.

53. The first point to note is that any application made by the Appellant to re-join his family in the UK would be governed solely by Appendix FM of the Immigration Rules. The agreed note points out that as a consequence of the provisions of Appendix FM the Appellant would not meet the requirements for leave to enter as a parent of a child in the UK on the basis that he does not have sole parental responsibility for his three children. The provisions of Appendix FM would however enable him to make an application for entry clearance as a partner however, one of the requirements for entry clearance as a partner is that the application must not fall for refusal under any of the grounds specified in section S-EC, the section of the Immigration Rules which deal with suitability criteria.

54. Paragraph S-EC provides that an applicant will be refused entry clearance on the grounds of suitability if certain criteria apply. Under paragraph S-EC 1.4 it is provided that exclusion of an applicant from the UK will be conducive to the public good if they have:

> "(b) been convicted of an offence for which they have been sentenced to a period of imprisonment of at least 12 months but less than 4 years, unless a period of 10 years has passed since the end of the sentence."

55. It is agreed that the Appellant will have served a prison sentence in Hungary of at least 12 months but less than 4 years, and therefore his application would fall for refusal if he made it within 10 years from the end of his sentence in Hungary. In addition to this it would be necessary for the Appellant to satisfy the income requirements set out in section E-CP of Appendix FM, as well as passing an English language test which is another requirement under the Immigration Rules. It is accepted within the agreed note that as a consequence of these requirements, and in particular the suitability requirements, the Appellant's application at the end of his sentence for leave to enter and remain in the UK would be refused, and the Appellant could only be granted leave to enter the UK under Appendix FM if he could satisfy the Entry Clearance Officer that there are exceptional circumstances which would render refusal of entry clearance at breach of article 8 "because such refusal would result in unjustifiably harsh consequences for the Applicant, their partner, a relevant child or another family member whose article 8 rights it is evident from that information would be effected by the decision to refuse the application".

56. The Home Office has a published policy "Family Life (as a partner or parent), Private Life and Exceptional Circumstances version 16.0" which provides policy in relation to addressing the question of exceptional circumstances. The policy defines "unjustifiable harsh consequences" in the following terms:

> "Ones which involve a harsh outcome(s) for the Applicant or their family which is not justified by the public interest, including in maintaining effective immigration controls, preventing burdens on the taxpayer, promoting integration and protecting the public and the rights and freedoms of others."

57. The policy identifies relevant factors to consider as including the ability of the members of the family unit to lawfully remain in or enter another country. It provides that the onus is on the applicant to show that it is not feasible for the family to remain in or enter another country: a mere wish, desire or preference to live in the UK is insufficient. It explains that an example of where it might not be feasible for a family to relocate elsewhere as being when the sponsor has gained settled status in the UK as a refugee, and the Applicant's spouse is of the same nationality. Other factors to be considered are whether there are any reasons why a partner or child in the UK cannot join or re-join the Applicant overseas, on the basis that it would be unjustifiably harsh for them to do so. The policy advises that cumulative factors should be considered, weighing those in favour of the Applicant and balancing them against the public interest, in order to determine the question of whether or not it would be unjustifiably harsh for the Applicant or a relevant family member for the application to be refused. The policy concludes:

> "Where the applicant's partner is in the UK, the question of whether refusal of entry clearance could or would result in unjustifiably harsh consequences equally requires a very stringent assessment. For example, a British citizen partner who has lived in the UK all their life, has friends and family here, works here and speaks only English may not wish to uproot and relocate halfway across the world, and it may be very difficult for them to do so. However, a significant degree of hardship or inconvenience does not amount to an unjustifiably harsh consequence in this context. ECHR Article 8 does not oblige the UK to accept the choice of a couple as to which country they would prefer to reside in."

58. In assessing this issue, I have no doubt that the question of the prospects of the Appellant returning to the UK at the end of his sentence is a material consideration in relation to article 8. This is because it is related to the impact of the extradition decision upon his right to private and family life, as well as the right to private and family life of those with whom he shares those rights. Undoubtedly the best evidence of the prospects that is available is the application of the rules as they stand now in relation to the current circumstances of the Appellant and his family, albeit that both the Immigration Rules and the circumstances of the Appellant and his family may change between the time of the decision and the time when any application is to be made.

59. Applying that approach to the present case it is, in effect, an agreed position that there is in reality no "Brexit uncertainty" about the situation, but a clear and very strong likelihood that, unless something amounting to exceptional circumstances arises in the meantime, the removal of the Appellant from the UK is likely to lead to a long term separation from his wife and family unless his wife and family decide to relocate to Hungary in order to re-join him at the end of his sentence. This situation arises as a result of the application of the Immigration Rules and the Appellant being wanted under a conviction warrant. It undoubtedly presents the family with a very significant and difficult decision to face if extradition is granted affecting both the Appellant and his family in relation to the continuation of their family life.

60. This consideration has to be put into context. Firstly, it is not an uncommon situation in extradition and immigration cases for a consequence of a decision to be the separation of the person who is the subject of the decision from their family, either through the removal of an individual or the refusal to permit their permanent reunion with their family. This is evidenced by the fact that detailed Home Office policy and complex provisions of the Immigration Rules have been prepared to assist in decision making in these situations. It is important to observe that the provisions of the Immigration Rules, as amplified by the Home Office policy, are themselves designed to provide rules and guidance for the determination of applications for entry clearance and leave to remain which are compliant with the provisions of article 8, and ensure the making of proportionate decisions when those rights are affected. In other words, decisions which are made applying the Immigration Rules and the relevant policy guidance are decisions which will themselves have been intended to be made in compliance with the requirements and obligations contained within article 8. In broad terms, the provisions of the Immigration Rules in relation to suitability criteria reflect

article 8(2), and interference with article 8 rights only where it is necessary in a democratic society to do so. Thus, the circumstances in which the Appellant and his family would find themselves at the end of his sentence, and the prospects of the Appellant making a successful application for leave to enter, are reflective of the Immigration Rules' application of article 8 to cases of his kind. It is a further feature of the context that the placing of European Union citizens in the same circumstances so far as the Immigration Rules are concerned as non-European Union citizens is not accidental, but undoubtedly a deliberate consequence of the UK's decision to leave the European Union.

61. Further context is provided by the observations of Chamberlin J in *Pink*, namely that there is a strong sense in which this situation arises as a result of the Appellant's convictions for crimes in Hungary for which there are sentences to be served. I do not read Chamberlain J as suggesting that the position in which the Appellant and his family would find themselves as being irrelevant to article 8, but rather that the assessment of proportionality cannot overlook the real and obvious causes of that position, namely the Appellant's convictions for crimes in Hungary and the change in the Immigration Rules as a result of the UK leaving the European Union. This reinforces the point that the effect of him finding himself in this position in relation to the need to satisfy the Immigration Rules is not one which has arisen by accident. In short, what is material to the article 8 decision is an understanding that, as a consequence of the provisions of the Immigration Rules and the returning of the Appellant to serve the sentences outstanding in Hungary, the impact on family life were his family to remain in the UK will be of a very longstanding character and this feature, or the alternative of his family relocating to Hungary to re-join him at the end of his sentence, is a factor which should be taken into account in assessing the article 8 implications of ordering the Appellant's extradition.

62. Applying these conclusions to the present case, whilst it is clear that the District Judge did not take into account any question of "Brexit Uncertainty" I am unconvinced that that had any material impact upon the decision. As set out above, on the basis of a current understanding of the implications of the Immigration Rules for an application made by the Appellant to return to the UK at the end of this sentence there is little if any uncertainty, but rather an extremely strong likelihood, that either the Appellant will be separated from his family, or his family will have to relocate to Hungary in order to continue their family life together.

63. When the evidence in the present case and the District Judge's decision are analysed that is in effect the approach which was taken by the District Judge. The witness statements of the Appellant and his wife engaged with the impact upon the family upon either on the basis that the Appellant would be separated from his wife and daughters and his father and the impact that that would have upon them or, alternatively, that the family would have to relocate to Hungary. Indeed, at paragraphs 35 and 36 of the District Judge's decision, having noted the difficulties that the Appellant's wife and children would have had and had had when parted from the Appellant, the District Judge noted that in her proof of evidence the Appellant's wife had stated that if extradited she and the children would have to return to Hungary, with negative impacts on the children's upbringing and future, whilst in her evidence she stated that upon reflection she would remain in the UK, as her ties to Hungary had

been severed. If she was to return to Hungary the Appellant's father would have to return and enter a care home as he would be unable to stay in the UK on his own.

64. In paragraph 94 and 95 (in particular at paragraph 95(iv)) of the judgment, the question of this hardship to the Appellant and his family arising from ordering extradition was directly addressed by the District Judge, and he concluded that it would be insufficient to prevent an order for extradition being made in the present case. That is a conclusion which I am unable to find was in any way wrong in the circumstances, even as amplified by the further material now before the court in this appeal bearing upon the impact of the Immigration Rules. The substance of the decision which the District Judge made reflected the reality of the application of those Immigration Rules, namely that the Appellant and his family would be caused hardship as a consequence either of being separated from the Appellant or, alternatively, as a consequence of the decision the Appellant's wife, children and father having to relocate to Hungary to be reunited with him. No doubt relocation would have significant consequences for the Appellant's family which the judge took into account having noted that the two older children were born in Hungary and the Appellant's father had lived there prior to 2016. This was therefore no doubt a matter to be placed in the balance as a factor in favour of refusing extradition, but the approach taken to it by the District Judge was in substance appropriate.

65. For the reasons given above, with the exception of the judge's approach to the question of the length of sentence which the Appellant still has left to serve on return and the failure to account for the offences for which he had been discharged from extradition, and also the lesser weight to be given to the seriousness of the offending for the reasons already given, there was in my judgment no flaw in the balancing exercise in relation to article 8 which the District Judge undertook. Rebalancing matters to take account of these factors, I am unconvinced that the District Judge reached a conclusion which was wrong. Even adjusting the sentence downwards, and taking account of the 3 months spent in the UK on remand, I am unable to conclude that the overall balance of the factors both favouring and opposed to the grant of extradition should lead to a different conclusion. In my judgment the factors in favour of granting extradition, and in particular the public interest in the UK abiding by international extradition obligations and the factors set out in paragraph 93, with the exception of the length of sentence to be served, clearly outweigh those factors which are opposed to extradition, including, as the District Judge did, the impact upon the Appellant and his family as a consequence of the decision. I do not consider therefore that ground 2 has been made out.

Conclusion.

66. For the reasons which have been set out above I do not consider that either ground 1 or ground 2 are made out in this case and the appeal must be dismissed.