



Neutral Citation Number: [2024] EWHC 2002 (Admin)

Case No: AC-2023-LON-000969
Former Case No: CO/868/2023

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

IN THE MATTER OF AN APPEAL UNDER
SECTION 26 OF THE EXTRADITION ACT 2003

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 20 August 2024

Before :

THE HONOURABLE MR JUSTICE MURRAY

Between :

BZQ

Appellant

- and -

OVERIJSEL DISTRICT COURT, ZWOLLE,
KINGDOM OF THE NETHERLANDS

Respondent

Amelia Nice (instructed by **Birds Solicitors**) for the **Appellant**
Georgia Beatty (instructed by the **CPS Extradition Unit**) for the **Respondent**

Hearing date: 25 April 2024

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This judgment was handed down remotely at 10.30am on 20 August 2024 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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Approved Judgment**Mr Justice Murray:**

1. The appellant, BZQ, appeals against the order made on 2 March 2023 by DJ Zani at the Westminster Magistrates' Court to extradite her to the Netherlands ("the Order").
2. BZQ's sole ground of appeal is that the district judge erred in his decision in relation to section 21 of the Extradition Act 2003 and Article 8 of the European Convention on Human Rights.
3. On 18 October 2023, Swift J ordered that BZQ's application for permission to appeal the Order should be considered and decided at an oral hearing.
4. At a hearing on 1 February 2024, Hill J granted permission to appeal on the single ground that is advanced by the appellant, namely, that the district judge erred in concluding that the extradition of the appellant was compatible with her and her family's rights under Article 8 of the European Convention on Human Rights (ECHR).
5. On the same occasion, Hill J made an anonymity order in relation to the appellant, who is to be referred to in these proceedings as "BZQ" and in relation to BZQ's daughter, her son, and her son's partner, who are to be referred to in these proceedings as "A", "B", and "C", respectively.
6. Hill J also gave the appellant permission to rely on new evidence in the form of two further statements from BZQ, together with appended photographs, and a report concerning A dated 11 December 2023 of Dr Sharon Pettle, a consultant clinical psychologist.

Background

7. The respondent seeks BZQ's extradition to the Netherlands in respect of her conviction in July 2019 for providing the "facilitation of unauthorised entry and residence", for which she was sentenced to 18 months' imprisonment, of which 4 months were suspended for an operational period of two years. According to the respondent, 317 days (approximately 10 months) of BZQ's sentence remain to be served.
8. Following an appeal hearing on 5 March 2020, BZQ's conviction was upheld by the Court of Appeal in the Hague in its decision dated 19 March 2020.
9. A domestic warrant was issued on 27 July 2021 by the Examining Magistrate of the Overijssel District Court in Zwolle. It was certified by the National Crime Agency on 2 August 2021. BZQ was arrested on the warrant on 23 August 2021.
10. On 24 August 2021, following the initial hearing, BZQ was released on bail subject to conditions. During the months that followed, concerns began to arise regarding the mental health of BZQ's daughter, A, and the impact of the extradition proceedings on her.
11. Aside from the conviction for which extradition is sought, BZQ has no previous convictions or cautions in this jurisdiction, Latvia, or elsewhere.

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12. The respondent has provided two sets of further information, one dated 11 January 2022 and one dated 29 July 2022.
13. The extradition hearing was originally listed for 23 May 2022, then for a combination of reasons that were not the fault of BZQ, it was adjourned to 2 September 2022.
14. On 2 September 2022, DJ Snow adjourned the extradition hearing and made an order under section 7 of the Children Act 1989 that a report on A's welfare be prepared. Subsequently, a report dated 2 December 2022 ("the Section 7 Report") was prepared and was part of the materials before DJ Zani at the extradition hearing.

The extradition hearing and DJ Zani's judgment

15. On 12 January 2023, the extradition hearing took place before DJ Zani, during which he heard evidence and at the end of which he reserved his decision.
16. At the time of the extradition hearing, BZQ was 51 years old, and her daughter, A, was 12 years old. B, who is A's half-brother, was 24 years old.
17. BZQ is a Latvian national. A's father lives in Latvia, and neither BZQ nor A is in touch with him. BZQ's case is that she is the sole carer for A, who has special needs due to her mental health difficulties and on whom, due to her vulnerabilities, extradition would have a disproportionate impact. After BZQ's arrest, A started self-harming. According to BZQ, A's self-harming escalated after the extradition hearing.
18. On 27 February 2023, solicitors for the appellant sent the district judge photographs of A's self-harming to her arms and stomach and invited him to adjourn the giving of judgment so that there could be further investigation of her condition. The district judge declined to do so.
19. On 2 March 2023, the district judge handed down his judgment ("the Judgment") in which he set out his reasons for ordering BZQ's extradition to the Netherlands. The sole objection raised by BZQ to her extradition was that it would not be compatible with her and A's rights under Article 8 of the ECHR. The salient points of the Judgment are as follows:
 - i) At paragraph 5, the district judge referred to BZQ's offence as "Human Trafficking". BZQ submits that this is an error and that this error was at least partly responsible for the district judge reaching the wrong decision on the Article 8 ground. I will return to this point in due course.
 - ii) After setting out relevant background, including relevant points from the two further information statements from the respondent, the district judge summarised the salient parts of the evidence of BZQ, B, and BZQ's sister (who has been living in the UK since 2010), including their oral evidence at the hearing.
 - iii) The district judge summarised the law relevant to challenges to extradition relying on Article 8. No complaint is made about his summary.
 - iv) The district judge noted that the following factors favoured granting extradition:

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- a) there is a strong and continuing important public interest in the UK abiding by its international extradition obligations; and
 - b) the seriousness of the criminal conduct in respect of which BZQ was convicted and sentenced, with a sentence about 10 months still to be served.
- v) The district judge noted that the following factors favoured refusing extradition:
- a) BZQ arrived in the UK in 2011, and she feels settled here.
 - b) BZQ is in full-time employment and has fixed accommodation where she resides with A, B and C (with C helping to defray expenses).
 - c) She has led a law-abiding life since settling in the UK.
 - d) She is not a fugitive from justice.
 - e) A's worrying and ongoing self-harming episodes are a serious concern for the family, and her family believes that extradition "may well have a profound adverse effect on her". A has only one effective parent, notwithstanding there being other close family members.
 - f) Family finances will be very tight if BZQ is extradited.
 - g) Visitation, "although likely", will be distressing for BZQ and A.
 - h) BZQ maintains that:
 - i) she was coerced into committing her offence, and the man who arranged it has not been punished;
 - ii) she has her own vulnerabilities; and
 - iii) she expects to lose her job if she is extradited.
- vi) The district judge concluded that extradition would not be a disproportionate interference with BZQ's Article 8 rights for the following reasons:
- a) It is very important that the UK be seen to uphold its international extradition obligations and that the UK not be considered a "safe haven" for those fleeing trial or sentence.
 - b) The criminal conduct set out in the warrant is "very serious" and, in the event of a conviction in the UK for comparable conduct, "may very well" attract an immediate prison sentence.
 - c) The district judge appreciates that there will be hardship for BZQ and A, but that is not a bar to extradition.

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- d) The district judge was very impressed by the “positive and persuasive” evidence of both B and BZQ’s sister, who each had a close bond with A. C (B’s fiancée) also had a close bond with A. They had recently held a family meeting to discuss and agree a care plan for A in the event that BZQ’s extradition was ordered. Arrangements would be made for A to continue to live in her current house, where she was comfortable and where she would not be left alone. This would help ease some of her concerns.
- e) The Section 7 Report showed that B was a “positive and protective factor” for A and that, with support from health professionals, it was hoped that the risk of harm for A resulting from BZQ’s extradition could be managed and reduced. The Section 7 Report concluded that:
 - i) A’s needs were currently being met;
 - ii) B had demonstrated his ability to meet A’s basic care needs, he had a “close, loving sibling relationship” with A and was committed to her safe care, and there was support for him in doing so from maternal family members, mental health professionals, A’s school, B’s “understanding” employer, and C, who was a constant figure in A’s life;
 - iii) a Child Arrangement Order was recommended so that B could exercise parental responsibility for A;
 - iv) the extradition of BZQ would likely to impact on A’s emotional wellbeing and education and it was therefore vital that she should be offered as much support as possible from her family and relevant professionals.
- f) The district judge bore in mind that 10 months of BZQ’s sentence remained to be served.
- g) The district judge considered “the Brexit uncertainty” point raised by the case, and he had regard to recent relevant High Court cases. Given the length of BZQ’s sentence, it was likely that she would need to apply to be allowed to return to the UK. It was not clear that her application would succeed, although factors in favour of her application included her productive life over a period of 11 years in the UK during which time she had not been accused of any criminal conduct and her role as a single parent in respect of her dependent child, A. If BZQ’s application to return to the UK were to fail, this would have adverse consequences for her and her family. This uncertainty, however, was not sufficient to tip the Article 8 balance in favour of not ordering BZQ’s extradition.
- vii) The district judge acknowledged that this was a “difficult decision to arrive at”, but he considered that it was the correct one.

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20. In the final paragraph of the Judgment, the district judge noted that he had refused an “11th hour request” by BZQ’s legal team to consider additional evidence (in the form of the First Additional Statement and photographs of A’s self-harming) and to postpone release of the Judgment so as to enable BZQ’s legal team to seek further information regarding A’s self-harming episodes. The district judge stated that he had given the request careful consideration, but he did not consider it to be in the interests of justice to grant it. He gave no reasons, however, as to why he had reached that conclusion.
21. In July 2023, A took a small overdose (4 pills) of paracetamol, having said to someone at her school that she did not want to be alive. She was taken to the accident and emergency department of a local hospital, where it was determined that she was not in danger given the amount of paracetamol taken.
22. Swift J in his order of 18 October 2023 granted an extension of funding for a report about A to be prepared by Dr Pettle. Dr Pettle was instructed by BZQ’s solicitors to prepare a report addressing the impact that the extradition of BZQ would likely have on A, including the impact on other family dynamics in the short and longer term. Dr Pettle’s report dated 11 December 2023 was served on the respondent on 19 December 2023.

Legal principles

23. The court’s powers on an extradition appeal are set out in section 27 of the Extradition Act 2003, which provides that the court may allow the appeal if the court is satisfied that either (i) or (ii) is true, namely:
 - i) the district judge ought to have decided a question before him differently, and had he done so, he would have been required to order the requested person’s discharge; or
 - ii) an issue is raised that was not raised at the extradition hearing, or evidence is available that was not available at the extradition hearing, and that issue or evidence, had it been before the district judge, would have resulted in the district judge answering a question before him differently such that he would have been required to order the requested person’s discharge.
24. The test on appeal is whether the district judge’s decision was wrong, namely, whether the district judge erred in such a way that he ought to have answered the statutory question differently: *Surico v Italy* [2018] EWHC 401 (Admin) at [30]-[31].
25. In *Love v United States of America* [2018] EWHC 172 (Admin), [2018] 1 WLR 2889 (DC), which concerned an appeal under section 103 of the Extradition Act 2003 against a decision of the Secretary of State for the Home Department to order a requested person’s extradition, the Divisional Court (Lord Burnett of Maldon CJ and Ouseley J) stated at [26] that the task of the appellate court is:

“... to decide whether the decision of the district judge was wrong. What was said in the *Celinski* case and *In re B (A Child)* are apposite, even if decided in the context of article 8. In effect, the test is the same here. The appellate court is

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entitled to stand back and say that a question ought to have been decided differently because the overall evaluation was wrong: crucial factors should have been weighed so significantly differently as to make the decision wrong, such that the appeal in consequence should be allowed.”

26. As noted by the district judge, the key principles regarding the application of Article 8 in extradition proceedings were set down in *Norris v United States of America (No 2)* [2010] UKSC 9, [2010] 2 AC 487 (SC), *H(H) v Deputy Prosecutor of the Italian Republic, Genoa* [2012] UKSC 25, [2013] 1 AC 338 (SC) and *Polish Judicial Authority v Celinski* [2015] EWHC 1274 (Admin), [2016] 1 WLR 551 (DC).
27. The Supreme Court in *H(H)* gave important guidance on the proper approach of the court when considering the impact of extradition on dependent children of a requested person. Baroness Hale in *H(H)* at [8] and [11] summarised various principles that are relevant to this case, including the following:
- i) The court needs to consider whether the interference with the private and family lives of the requested person and members of the requested person’s family, including children, is outweighed by the constant and strong public interest in extradition.
 - ii) The weight to be attached to the public interest in extradition varies according to the nature and the seriousness of the crime or crimes involved.
 - iii) The delay since the crimes were committed may both diminish the weight to be attached to the public interest and increase the impact upon private and family life.
 - iv) It is likely that the public interest in extradition will outweigh the Article 8 rights of the family unless the consequences of the interference with family life will be exceptionally severe.
 - v) In considering Article 8 where a child’s rights are involved, the child’s best interests are a primary consideration. This is not the same, however, as saying that they are the primary consideration or a paramount consideration. A child’s best interests in a particular case might be outweighed by countervailing considerations.
28. In *Belbin v France* [2015] EWHC 149 (Admin), a case decided a few months before *Celinski*, the Divisional Court (Aikens LJ and Edis J) gave the following helpful guidance at [66] on the correct approach of the appellate court to an extradition appeal:
- “66. ... If, as we believe, the correct approach on appeal is one of review, then we think this court should not interfere simply because it takes a different view overall of the value-judgment that the District Judge has made or even the weight that he has attached to one or more individual factors which he took into account in reaching that overall value-judgment. In our

judgment, generally speaking and in cases where no question of ‘fresh evidence’ arises on an appeal on ‘proportionality’, a successful challenge can only be mounted if it is demonstrated, on review, that the judge below: (i) misapplied the well established legal principles, or (ii) made a relevant finding of fact that no reasonable judge could have reached on the evidence, which had a material effect on the value-judgment, or (iii) failed to take into account a relevant fact or factor, or took into account an irrelevant fact or factor, or (iv) reached a conclusion overall that was irrational or perverse.”

29. In *Celinski*, the Divisional Court (Lord Thomas of Cwmgiedd CJ giving the judgment of the court) summarised the general principles arising out of *Norris* and *H(H)* at [5]-[13]. At [15]-[17], the Divisional Court indicated that the judge hearing a case where reliance is placed by a requested person on his or her Article 8 rights should adopt a “balance sheet” approach, setting out the factors for and against extradition together with his reasoned conclusions.
30. The Divisional Court in *Celinski* then considered at [18]-[24] the proper approach of the appellate court to an appeal against a district judge’s decision on an Article 8 ground of opposition to extradition. During the course of that discussion, it quoted at [21] the following passage from the judgment of Lord Neuberger PSC in *Re B (A Child) (Care Proceedings: Threshold Criteria)* [2013] 1 WLR 1911 (SC) at [93]-[94] regarding how an appellate judge might approach the appellate review of the trial judge’s conclusion on proportionality:
- “93. There is a danger in over-analysis, but I would add this. An appellate judge may conclude that the trial judge’s conclusion on proportionality was (i) the only possible view, (ii) a view which she considers was right, (iii) a view on which she has doubts, but on balance considers was right, (iv) a view which she cannot say was right or wrong, (v) a view on which she has doubts, but on balance considers was wrong, (vi) a view which she considers was wrong, or (vii) a view which is unsupportable. The appeal must be dismissed if the appellate judge’s view is in category (i) to (iv) and allowed if it is in category (vi) or (vii).
94. As to category (iv), there will be a number of cases where an appellate court may think that there is no right answer, in the sense that reasonable judges could differ in their conclusions. As with many evaluative assessments, cases raising an issue on proportionality will include those where the answer is in a grey area, as well as those where the answer is in a black or a white area. An appellate court is much less likely to conclude that category (iv) applies in cases where the trial judge’s decision was not based on his assessment

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of the witnesses' reliability or likely future conduct. So far as category (v) is concerned, the appellate judge should think very carefully about the benefit the trial judge had in seeing the witnesses and hearing the evidence, which are factors whose significance depends on the particular case. However, if, after such anxious consideration, an appellate judge adheres to her view that the trial judge's decision was wrong, then I think that she should allow the appeal."

31. After considering, among other things, the above passage from *Re B*, the Divisional Court in *Celinski* at [24] summarised the approach the appellate court should take when considering a ground of appeal alleging error by a district judge in determining the Article 8 issue:

"24. The single question therefore for the appellate court is whether or not the district judge made the wrong decision. It is only if the court concludes that the decision was wrong, applying what Lord Neuberger PSC said, as set out above [in *Re B* at [93]-[94]], that the appeal can be allowed. Findings of fact, especially if evidence has been heard, must ordinarily be respected. In answering the question whether the district judge, in light of those findings of fact, was wrong to decide that extradition was or was not proportionate, the focus must be on the outcome, that is on the decision itself. Although the district judge's reasons for the proportionality decision must be considered with care, errors and omissions do not of themselves necessarily show that the decision on proportionality itself was wrong."

The fresh evidence

32. As noted above, on 5 February 2024, Hill J gave BZQ permission to rely for this appeal on the following additional evidence:
- i) an undated statement of BZQ appended to her Application Notice (EX244) dated 6 October 2023 seeking an order to rely on additional evidence, including attached photographs of A that had been sent to the district judge after the extradition hearing on 12 January 2023 but before he handed down the Judgment ("the First Additional Statement");
 - ii) a statement dated 3 October 2023 of BZQ ("the Second Additional Statement"); and
 - iii) Dr Pettle's report dated 11 December 2023.

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33. In support of BZQ's appeal, Ms Amelia Nice submitted that the district judge made relevant errors in his assessment of the key factors for and against extradition. The cumulative effect of those errors, she submitted, caused him to reach the wrong decision.
34. Ms Nice submitted that, in any event, having regard to all of the new evidence, the court should look at the matter afresh and conclude that the consequences of the extradition of BZQ would be exceptionally severe for A and therefore, having regard to all of the relevant factors, would not be compatible with the Article 8 rights of A, such that BZQ's discharge should be ordered under section 21(2) of the Extradition Act 2003.
35. Ms Nice submitted the district judge's errors in his analysis of the Article 8 question included the following:
 - i) The district judge was wrong to rely, as part of his reasoning at paragraph 54(i) of the Judgment, on the importance of the UK not being a "safe haven" for criminals, given that BZQ was not a fugitive.
 - ii) It was accepted that BZQ was not a fugitive. Therefore, this is not a case where the risk of the UK being seen as a "safe haven" for criminals arises, contrary to the district judge's assertion at paragraph 54(i) of the Judgment.
 - iii) The district judge incorrectly categorised BZQ's offence as human trafficking when it was the less serious offence of facilitating unauthorised entry: see *Botos v Italy* [2018] EWHC 2809 (Admin) at [18] and [24]. The effect of this was that the district judge gave disproportionate weight to the seriousness of the offence in his overall assessment.
 - iv) The district judge's assessment at paragraph 54(ii) of the Judgment that conviction in the UK of like criminal conduct might "very well" have resulted in an immediate prison sentence appears to have been premised on his incorrect assessment that the offence was human trafficking and also failed properly to take account of a number of significant mitigating factors, including the fact that BZQ made no financial gain from the offence, her unchallenged account of the coercive and abusive background leading to the offence, her guilty plea, her good character, her status as a sole carer for a dependent child, her having already served three and a half months in custody in connection with the offence, and the subsequent restrictions on her liberty by virtue of being on bail (for a period of which she was on electronically-monitored curfew) for over two and a half years.
 - v) The district judge erred in characterising the impact of extradition on A as being merely one of "hardship", which was an inadequate assessment on the evidence before him, including the Section 7 Report, particularly given A's self-harming behaviour, which is widely accepted to be a strong risk factor for future suicide.

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- vi) The district judge erred in not considering the evidence that BZQ asked him to consider after the extradition hearing before he handed down the Judgment and erred in not agreeing to postpone hand-down of the Judgment so that there could be further investigation of A's self-harming. Had the district judge considered the additional evidence and/or allowed time for further investigation before hand-down of the Judgment, he would have had evidence that required him to reach a different decision.
 - vii) The district judge erred in his analysis of BZQ's immigration status and failed to give adequate weight to the uncertainty caused by the objective post-Brexit difficulties that BZQ will face in returning to the UK and the subjective anguish this will cause the appellant and her family: see, for example, *Antochi v Germany* [2020] EWHC 3092 (Admin) at [50]-[52].
 - viii) The district judge failed to have sufficient regard to the impact of extradition on BZQ given her own vulnerability and background of dysfunctional and abusive relationships.
 - ix) The district judge failed to give adequate weight to the time that has elapsed since this offending, over five years ago.
36. Ms Nice submitted that, in any event, the court now had the additional evidence of the First Additional Statement, the Second Additional Statement, and Dr Pettle's report. There is more than adequate evidence on which the court can and should conclude that the impact of BZQ's extradition will have exceptionally serious consequences for A. BZQ's offence, while serious, is not as serious as the district judge apparently thought. BZQ has faced a protracted period of uncertainty over her immigration status, which has had a "profoundly" negative effect on A, according to Dr Pettle. For all these reasons, she submitted, the court should grant the appeal and discharge the extradition order.
37. For the respondent, Ms Georgia Beatty submitted that the district judge correctly identified the relevant legal principles and the factors weighing for and against extradition, carried out an orthodox balancing exercise, and reached a decision that was open to him on the Article 8 question. Many of BZQ's criticisms of the district judge's consideration of various factors amount to no more than a disagreement with the weight given by the district judge to matters that were for him to assess. Ms Beatty submitted that the court should be slow to interfere with the district judge's assessment of the various factors for and against extradition, following his consideration of the evidence, including the oral evidence that he heard.
38. Ms Beatty submitted that the district judge was entitled to refer to BZQ's offence as "human trafficking", given that it is referred to as such in the warrant itself in section e) (on page 5 of the English translation). The district judge had the full particulars of BZQ's offence, and there is no reason to suppose he did not properly understand the scope of the offending conduct and give it its proper weight in the overall assessment. The district judge's reference to the safe haven point was part of his description of the general public interest in extradition. He did not give it undue weight.

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39. Ms Beatty submitted that the district judge considered all the evidence he had concerning A and took it carefully into account. He was entitled on that evidence to find that the impact on A would be significant but manageable. The district judge was entitled to conclude that the factor of uncertainty about the appellant's immigration status did not carry great weight. As to the impact of extradition on BZQ herself, the district judge took that into account as part of the balancing exercise that he properly carried out.
40. In relation to the First Additional Statement, including the photographs, which BZQ had tried to get the district judge to consider following the extradition hearing but before he handed down judgment, Ms Beatty submitted that he was entitled to conclude, as a case management decision, that the interests of justice did not require that he consider that post-hearing evidence or that he postpone release of the Judgment so that further investigation of A's self-harming could be undertaken.
41. In relation to the new evidence more generally, including Dr Pettle's report, Ms Beatty submitted that if it had all been before the district judge he would not have been required to reach a different decision. The new evidence simply provides more detail on factors already known to the district judge, together with some updating. It would not have required him to reach a different decision. Ms Beatty therefore invited the court to dismiss the appeal and uphold the district judge's extradition order.

Discussion and conclusion

42. While there is some force in some of Ms Nice's specific criticisms of the district judge's approach to the Article 8 question, I am not persuaded that the judge reached the wrong decision on the information before him. As to the district judge's decision not to consider the additional evidence sent to him post-hearing or to postpone release of the Judgment to allow further of A's self-harming, the district judge was already aware of A's self-harming episodes and had taken them into account in reaching his decision. It was not unreasonable for the judge to conclude that no point would be served by his postponing release of the Judgment on that basis.
43. Hill J ordered that the new evidence be admitted, and it is now before me. On the basis of everything I have read, including the new evidence, and taking into account the oral submissions at the appeal hearing on behalf of each party, I am persuaded that the district judge did not have an accurate picture of the extent of the likely impact on A of BZQ's extradition to the Netherlands.
44. I am persuaded that the assessment of the district judge as to the ability of B, with C's help, and/or BZQ's sister to provide adequate care for A in light of her particular mental health difficulties and self-harming conduct was too optimistic, although understandably so given the information before him at the extradition hearing.
45. I accept, based on the evidence of Dr Pettle, that the impact on A of BZQ's extradition would be exceptionally severe.
46. The true position appears to be that this is, indeed, a sole carer case and that neither B nor BZQ's sister is effectively in a position to provide proper care to A. B has a number of challenges of his own, including caring for his own child, the turbulence of his relationship with C, the demands of B's and C's respective jobs, and B's own

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vulnerabilities, including depression and anxiety, all of which would raise a considerable doubt about his ability to provide effective care to A. There is good reason to doubt whether he would be able to obtain a Child Arrangement Order in respect of the care of A as recommended by the Section 7 Report. I understand that given the expense, difficulty, and time that it would take to obtain such an order, no effort has yet been made in that regard.

47. Similarly, BZQ's sister has three children of her own, and, whatever may have been the position at the time of the hearing before the district judge in January 2023, BZQ's sister can no longer be counted on to provide the care that A needs.
48. Looking, therefore, once again at the balance of factors in favour of and against extradition (taking into account the factors found by the district judge, having regard to the new evidence and updates at the appeal hearing of BZQ's and A's current position):
 - i) in relation to the factors in favour of granting extradition:
 - a) there is a strong and continuing important public interest in the UK abiding by its international extradition obligations; and
 - b) BZQ's offence, in respect of which she was convicted and sentenced and has a sentence of 10 months outstanding to serve, was a serious one, facilitating unauthorised entry, although less serious than human trafficking as that term is understood under our criminal law (*Botos* at [18]), and further mitigated by the fact that her role was limited, was committed in the context of a coercive and abusive relationship with her former partner who got her involved in the offending conduct, and led to no personal financial gain for her;
 - ii) in relation to factors against granting extradition:
 - a) the impact on A of BZQ's extradition would be exceptionally severe;
 - b) BZQ is effectively A's sole carer, given that, although A has an adult half-brother, B, in the UK and an aunt, BZQ's sister, neither is in a position to provide proper care for A during the period BZQ would be out of the UK were she to be extradited, this being so for a combination of their personal circumstances/challenges and A's vulnerability and special needs in light of her mental health difficulties;
 - c) BZQ arrived in the UK in 2011 and states that she feels settled here;
 - d) BZQ has been in full-time employment and has fixed accommodation where she resides with A;
 - e) BZQ has committed no offences in the UK and has committed no offences elsewhere other than the one for which extradition is sought;
 - f) BZQ is not a fugitive;

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- g) if BZQ is extradited, visitation between BZQ and A would likely be very difficult and very distressing for A;
 - h) BZQ has her own vulnerabilities in light of her history of dysfunctional personal relationships;
 - i) BZQ would lose her job if she is extradited, and family finances would consequently be very tight;
 - j) BZQ will face protracted uncertainty given her uncertain immigration position in the UK, and this will have a profoundly negative effect on A according to Dr Pettle;
 - k) the delays since the offence, which have not been the fault of BZQ, have reduced the public interest in favour of extradition; and
 - l) BZQ will not have entirely escaped punishment for the offences given her initial imprisonment for three and a half months and, since then, the restrictions on her liberty by way of bail (including for a period tagged curfew) for nearly three years.
49. Having considered all of this, in light of the information now before the court, in particular, the exceptional severity of the impact of extradition of BZQ on A, whose best interests are a primary consideration, I conclude that had the new evidence and updated information that was available at the appeal hearing been before the district judge, this would have resulted in his answering the Article 8 question differently such that he would have been required to order BZQ's discharge.
50. Accordingly, the appeal is allowed. BZQ will be discharged.