



Neutral Citation Number: [2024] EWHC 258 (Admin)

Case No: AC-2023-LON-002485

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

Royal Courts of Justice  
Strand, London, WC2A 2LL

Thursday, 8<sup>th</sup> February 2024

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

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**Between:**  
**SANDOR ATILLA RUMPLER** **Appellant**  
**- and -**  
**THE REGIONAL COURT IN BUDAPEST,** **Respondent**  
**HUNGARY**

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**Jonathan Swain** (instructed by Sonn Macmillan Walker) for the Appellant  
**Hannah Burton** (instructed by CPS) for the Respondent  
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Hearing date: 8.2.24

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

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

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FORDHAM J

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

## **FORDHAM J:**

### Introduction

1. The Appellant is aged 38 and is wanted for extradition to Hungary. That is in conjunction with a conviction Extradition Arrest Warrant issued on 3 February 2021 and certified on 30 October 2021. He was arrested on it on 11 November 2021 and was promptly released on conditional bail including a tagged curfew. The index offending had taken place years earlier, on 17 December 2013, in an H&M store in Budapest. The Appellant and his two accomplices stole clothes worth the UK equivalent of £230, using an aluminium-lined bag. The security guard apprehended him and the clothes were recovered. The Appellant has a number of other convictions of dishonest acquisitive offending in Hungary, Italy and the Netherlands. Extradition was ordered by DJ Sternberg (“the Judge”) on 6 September 2022 after an oral hearing on 3 August 2022 at which the Appellant gave oral evidence. The Judge made unimpeachable findings of fact, discussed the evidence in detail, and made an unassailable finding of fugitivity. The Judge found, as an evaluative balancing exercise, that the public interest considerations in favour of extradition outweighed those capable of counting against extradition. Permission to appeal was granted at an oral hearing on 16 June 2023.
2. The sole issue is Article 8 ECHR and whether extradition would be a disproportionate interference with the private and/or family life rights of any person or persons. That question turns on the familiar Article 8 evaluative balancing exercise. It would engage the principle in Love v USA [2018] EWHC 172 (Admin) [2018] 1WLR 2889 at §26: asking whether ‘crucial factors should have weighed so significantly differently as to make the decision wrong’. But, as is accepted by Ms Burton in light of the qualifying remand position, it now requires a rebalancing “afresh” on the updated picture (cf. Vidak v Hungary [2023] EWHC 1108 (Admin) at §36). It requires looking at each key feature and, perhaps most of all, considering their combined effect. I am grateful to both Counsel for their focused assistance as I undertake this task.

### In Hungary

3. What happened in Hungary was this. The Appellant was convicted of the December 2013 theft, at a trial in May 2014 at which he was present. He was then sentenced to a 10 month custodial sentence for that offence, which was suspended. The sentence did not come into effect until 17 October 2014. Meanwhile, on 7 June 2014, he committed another theft (which in due course led to a July 2017 conviction and a distinct 10 month suspended sentence). Then, on 12 May 2016, he committed a theft with violence (which in due course led to a March 2017 conviction and a distinct 7 month custodial sentence). This reoffending was the context for a decision, on 14 October 2016, to activate the 10 month suspended sentence for the December 2013 theft. That activation took place, at a hearing on that date, which the Appellant attended. On that same day, notification obligations were imposed on him and communicated to him. The activated sentence did not come into force until 20 March 2017. In the meantime, the Appellant had committed a November 2016 aggravated theft in the Netherlands (which in due course led to a February 2017 conviction and 7 day custodial sentence there); and then a December 2016 offence of receiving stolen goods in Italy (which in due course led to a February 2019 conviction and 6 month suspended sentence there). The Appellant was back in Hungary by February 2017. His activated 10 month sentence was due to come into force on 20 March 2017.

4. On 22 February 2017, the Appellant left Hungary for the UK. He did not comply with the notification obligations, failing to tell the authorities that he was leaving and failing to notify an address. He left Hungary, as the Judge found, to avoid the consequences of his offending. He left Hungary, and came to the UK, as a fugitive. The Hungarian authorities did not know where he was, or have an address for him, because of his breach of those notification requirements. On 6 June 2017, acting with the Appellant's knowledge, a Hungarian lawyer made an application to the Hungarian court to postpone serving the activated 10 month custodial sentence. That application was rejected on 19 June 2017. On 27 June 2017 the Appellant was required to surrender to the Hungarian Prison Service to serve the 10 month custodial sentence. His ten months custody would have lasted until the end of April 2018. He failed to surrender to serve the sentence. He remained here in the UK, at a location unknown to the Hungarian authorities. A domestic warrant was issued in Hungary on 1 September 2017. He could not be found. An international arrest warrant was subsequently issued on 4 January 2021 and the Extradition Arrest Warrant followed, the following month. The Judge unassailably found an absence of any significant delay attributable to the Hungarian authorities and the absence of any culpable delay on their part.

#### In the UK

5. What has happened in the UK is this. The Appellant has lived and worked, openly as the Judge found, in the UK since February 2017. He has no convictions for any offending since February 2017. He has had ongoing contact, remotely, with his now 12 year old daughter. He had parental responsibility for the daughter, and had left her in Hungary living with his mother, her grandmother. He has not returned to see her in Hungary. He has, however, provided ongoing financial support to his mother and his daughter. He began a personal relationship with his partner in December 2021 and they cohabited from April 2022. The Judge accepted that theirs is a genuine relationship, and that they plan to marry and start a family. The partner's evidence records that she began the relationship with the Appellant in full knowledge of the matters for which extradition is sought. He had been arrested, in these extradition proceedings and tagged, the previous month (November 2021). As the Judge found, the Appellant had made an application for settled status as an EU citizen based on his presence in the UK which had not yet been granted. That remains the position.
6. I have referred to the couple cohabiting from April 2022. That was the case until 25 May 2023. I am told by Mr Swain, and I accept, that on that date the Appellant took the following action. He flagged down a police car. He told the police that he had no intention of returning to the address required by his bail conditions. He was arrested and has been on remand ever since. As to that, Counsel agree about three things. First, that it is right to treat this as having been deliberate action by the Appellant. Secondly, that I do not have evidence as to what may have caused or motivated him to take that action. Thirdly, that it has had the effect of giving rise to qualifying remand which serves to reduce the time to be served in Hungary. Up to 25 May 2023, the Appellant had served one year 6 months and 15 days (560 days) on his tagged curfew. Since then, until today, he has now served 8 months and 15 days (246 days) of qualifying remand. This has the consequence that, as at today, he has some 6 weeks to serve in Hungary.

#### The Appeal

7. Mr Swain for the Appellant relies on a number of features, individually and cumulatively. Of particular prominence, alongside all the circumstances of the case, are these. First, there is the overall passage of time since the index offending in December 2013 which is now more than a decade old, and which has Lady Hale’s familiar dual tendency to reduce the public interest in extradition and strengthen the factors capable of weighing against extradition (HH v Italy [2012] UKSC 25 at §8). Mr Swain says the Judge focused on the passage of time in terms of whether there was any delay of any significance ‘on the part of the Hungarian authorities’, and whether any delay was ‘culpable’ on their part. He urges focus on a broader question which is simply a function of the overall passage of time and the “age” of the index offending. Linked to all that, there are the impacts and implications of that overall passage of time. There is the Appellant’s living and working openly here, and the genuine relationship with the partner, together with the other ties to the UK.
8. Next, and connected to all this, there are the impacts of extradition on a settled private and family life, in the context of those ties to the UK. Mr Swain emphasises the implications for the partner, including in terms of visiting the Appellant if he is in custody in Hungary, by contrast with the position of visiting during the remand here. Mr Swain accepts that, in light of there being 6 weeks to serve in Hungary, there is no longer any point about uncertainty of the Appellant’s immigration position or the possibility of a barrier to his re-entry to the UK. The point says Mr Swain is, rather, that the Appellant would face the financial cost of returning to the UK.
9. Then there is the comparative lack of gravity of the index offending, described as “not particularly serious” by the Judge, and by Mr Swain as “minor” offending. Only the index offence is directly relevant, says Mr Swain, not the other offending with its distinct sentences which are no part of these extradition proceedings. In any event, the Appellant has not offended since 2017 and – in that sense and from that date – has ‘turned his life around’.
10. Mr Swain emphasises, next, the 560 days on tagged curfew (a 6 hour curfew between 10pm and 4am each day) and the 246 days (8 months 15 days) on qualifying remand. The Appellant has been at Wandsworth, in overcrowded conditions. In this country, he would have been released after 5 months. Time served, and time on tagged curfew, are relevant to the Article 8 proportionality balance: see Vidak §§23-24. Here, the Appellant has been punished, and punished substantially, in relation to this minor offence, by the very real restriction on liberty during the 560 days of curfew; and then by the 8 months 15 days in prison. Linked to this is the fact that there are only the 6 weeks now left to be served. And added to all this, there is the very real prospect of early release under Hungarian law, which the Court can properly take into account. That would mean that the Appellant were being extradited to Hungary only then immediately to be released.
11. In the light of all these features cumulatively, and on the particular facts of the present case, there is no strong public interest in support of extradition, to face a few weeks custody at most from a sentence for a minor offence. Extradition would disproportionately interfere with the Article 8 rights of the Appellant, or his blameless partner, or both of them. The appeal should be allowed and the Appellant discharged. That is the argument.

## Discussion

12. I have not been persuaded by these submissions. I agree with Ms Burton the Respondent that the Appellant's extradition was, and importantly remains, proportionate in Article 8 private and family life terms. I will explain why.
13. Certainly, the reduced 6 weeks which would be left to be served in Hungary justify conducting the Article 8 evaluation afresh, as I am doing. The Appellant is able to say that he would now only be being extradited to serve this short final period of his Hungarian sentence. This is not the extradition to serve 10 months, as it was before the Judge. That is true. But other consequences of the qualifying remand 'cut the other way'. The impacts for the daughter and mother in Hungary of the loss of ongoing financial support, and the impacts for the partner, are much reduced compared to the picture before the Judge. The extradition would bring a further short period of rupture. Eight months interruption in his employment and his ability to provide financial support – for his family including his partner – were the consequence of the arrest and remand in May 2023, following the Appellant's own actions. The remaining impacts, from the extradition itself, have drastically been reduced.
14. Also 'cutting the other way' is the position as to the previous reliance on post-Brexit immigration uncertainty. A point had been made on behalf of the Appellant, and had been maintained, that there could be an interruption of his settled status "qualifying period", if his absence from the UK were to exceed 6 months. That point has evaporated, given the realities as they now are. Nor will the Appellant face the lapse of his undecided application for settled status (see Gurskis v Latvia [2022] EWHC 1305 (Admin) at §§20-21). Mr Swain accepts that any post-Brexit immigration control complication points have disappeared from the case. Yes, the Appellant will face the cost of coming back to the UK; but – as Ms Burton points out – so would any extradited EU citizen pre-Brexit.
15. It is right to have in mind – and the Judge plainly did have in mind – the "age" of the offending. It is right to say that the offence is "a decade old". But it is impossible, as Ms Burton submits, to focus on that feature in isolation from the other features of the case. The passage of time cannot be seen in the abstract. It needs to be seen in the light of what was actually happening, in real-world terms, including in the Appellant's life and including by reference to the Hungarian criminal process.
16. Yes, the theft was committed in December 2013. But the criminal process needed to run its course. That went through to the 2014 conviction. The Appellant knew all about that and was present at his trial. He then received his suspended sentence, and he knew about that too. He then reoffended, breached the conditions on the suspended sentence, and triggered the prospect of activation. The activation proceedings followed. He was present at the activation hearing. All of which takes the sequence of events through to 2017, the Appellant's failed application for postponement, and the requirement to surrender to custody in June 2017. That sequence of events occupied the first 4 years. It culminated in the Appellant being required to serve the ten month custodial sentence. It was then after his act of fugitivity in February 2017 that the Appellant had built his life in the UK. His relationship with his partner was ultimately built after December 2021, in the full knowledge on the part of them both of the extradition proceedings, of his having been arrested on those proceedings and released on tagged bail the previous month.

17. All of this is illustrative of why the questions whether there was any passage of time for which the Hungarian authorities could realistically be criticised, or which was culpable, were and remained an important feature of the case and of the passage of time. The Judge made unassailable findings that there was no passage of time in respect of which the Hungarian authorities could realistically be criticised, or which was culpable. The impacts of extradition, for the Appellant, the partner, the mother and the daughter all arise in this context. All of this needs to be remembered, when recognising “age” of the index offence.
18. There has been a lengthy period on tagged curfew, which can be relevant notwithstanding that it is not a “qualifying curfew” in UK terms (Vidak at §24). On the other hand, as Ms Burton points out, the Court does not in this case have “evidence that [the] curfew has had a material effect on [the Appellant’s] ability to work or study or to maintain a family life” (Hojden v Poland [2022] EWHC 2725 (Admin) at §50).
19. As to early release, I am quite unable to form any positive view, or even provisional assessment in the Appellant’s favour. There is no evidence of an ‘early-release tariff’ identified when the sentence was imposed or activated. The focus for Hungarian early release is on conduct and behaviour (see Vidak at §13). The Appellant failed to start his sentence on the due date (see Vidak §16). He is a fugitive from justice (see Vidak §42). And then there is his other offending. Indeed, that offending would appear to fit with the wording of an exclusion, based on prison sentences for subsequent intentional criminal offences (s.38(4)(d) of the Hungarian Criminal Code, supplied by Mr Swain). The Judge emphasised, rightly, that string of other criminal offending committed by the Appellant, in Hungary, the Netherlands and Italy. This is a series of criminal offences which, alongside the action of choosing to leave Hungary as a fugitive rather than serve the 10 month activated sentence, make it impossible to predict that there would be likely to be any early release.
20. This was not a particularly serious offence compared with the spectrum of criminal offending. But it was a group offence involving a degree of planning. It is an offence which properly attracts the extradition mechanism. Respect is properly called for in relation to the 10 month custodial sentence, and its activation in light of the subsequent offending, all of which the Appellant has evaded. There remain strong and legitimate interests in the Appellant being called upon to face the Hungarian justice which he fled. This matters. It is not to be brushed aside.
21. There are 6 weeks to serve. That is a relevant factor in these cases (see Vidak at §23). But extradition does not become disproportionate in Article 8 terms because there are 6 weeks to serve, and the extradition court must not be sucked into acting to “evaluate whether sufficient time has been served” (see Molik v Poland [2020] EWHC 2836 (Admin) at §11). Public interest considerations are, of course, a key part of the Article 8 proportionality balance. It is tempting to think in terms of whether ‘extradition is proportionate’. But there are pitfalls in over-simplification. The prism, through which the proportionality question has to be asked, is important. The Court is looking at the justification for ‘the interference with private and family life’, where the act of extradition will bring that ‘interference’. Here, the term to serve (6 weeks) is now relatively modest. But the ‘interference’ with private and family life, if the Appellant is returned to Hungary to complete his sentence there, is equally relatively modest. Especially now that the points about any problem in his being permitted to return to the UK have disappeared from the case. It also has to be remembered in all this that I am

not ‘second-guessing’, but rather am respecting, public interest choices made by the criminal and penal processes of a foreign state and the actions of its state authorities.

22. I have paused to reflect on the cumulative effect of all the points made in the Appellant’s favour. They weigh collectively. I have included the genuine relationship with the partner and the real-life impacts for everyone. I have had regard to the delay in being able to get back to normal life, and resume employment and cohabitation, and financial support for daughter, mother and partner. I also have well in mind the absence of UK convictions, and no offending anywhere since 2017. In my judgment, however, the powerful public interest considerations in favour of extradition, respecting the full discharge of Hungarian justice – importantly, in the case of a fugitive – do decisively outweigh that cumulative effect of those factors weighing against extradition. I find no lack of proportionality, in private or family life terms, in the Appellant being extradited to Hungary to serve the remaining 6 weeks. Put another way, Article 8 principles of proportionality of an interference with private and family life, applicable in this extradition context, do not drive the conclusion that the Appellant should be discharged. The extradition court does not, for good reason, have the function of directing that a requested person ‘serve the sentence here instead’. Rightly, nobody suggests that this Court should today seek to concoct a position involving the Appellant serving the remainder of the Hungarian prison sentence here at Wandsworth. The legal logic, in this case, produces a binary choice: extradition, or discharge. The answer is extradition. For all those reasons, the appeal is dismissed.

8.2.24