



Neutral Citation Number: [2021] EWHC 1072 (Admin)

Case No: CO/4589/2020

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

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 27th April 2021

Before :

MR JUSTICE FORDHAM

Between :

JOLANTA UKSHINI
- and -
DISTRICT COURT IN MUNICH (GERMANY)

Appellant

Respondent

The **Appellant** in person
The **Respondent** did not appear and was not represented

Hearing date: 27.4.21

Judgment as delivered in open court at the hearing

Approved Judgment

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

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THE HON. MR JUSTICE FORDHAM

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

MR JUSTICE FORDHAM :

1. At this telephone hearing I heard from the Appellant in person, through a Polish interpreter. I will now explain what this case is about. I will explain what the Appellant has asked me to do. I will then explain what decision I have reached, giving my reasons. This is a renewed application for permission to appeal in an extradition case. The Appellant is aged 46 and was born in Poland. She is wanted for extradition to Germany. She lived in Germany between 1992 and February 2019. Her 22 year old daughter still lives there. Her extradition is sought in connection with an accusation European Arrest Warrant (EAW). It was issued on 23 April 2020 and certified on 4 June 2020. It relates to 28 alleged offences between 2016 and 2019 of fraud or swindling. They include alleged offences relating to loans, hire purchase and the purchase of goods online. DJ Clews ordered the Appellant's extradition on 28 November 2020. That was after a hearing on 6 November 2020 at which the Appellant gave evidence. The issues included statutory proportionality and Article 8 ECHR. Only Article 8 is advanced in Counsel's perfected grounds of appeal (20 January 2021). New evidence is put forward. Swift J refused permission to appeal on the papers on 26 March 2021. The Appellant's lawyers issued a notice of renewal but have then come off the record. They confirmed that the Appellant would be representing herself today, at a remote hearing.
2. The mode of hearing was BT Conference call. That was organised between the Court and the Appellant. I could hear and understand the Appellant, through the interpreter, clearly. I am satisfied that the mode of hearing was justified and appropriate. It involved no prejudice to anybody's interests. Open justice was secured. The case and its start time were published in the cause list. So was an email address usable by any member of the press or public who wished to observe the hearing. The hearing was recorded and this ruling will be released publicly.
3. In addressing me today the Appellant has emphasised the following. First, she has told me about the context in relation to the accused offending. She tells me that after she and her daughter left her ex-husband, he continued to abuse her including emotionally. She tells me that basically she had no money for living and had to borrow money from acquaintances. She tells me that she had no means of paying those people back. She says that she left Germany before people started accusing her. Secondly, she has told me about her position in the UK. She tells me that she works here; that she has never been stopped or had any problem here; and that she will lose everything if she is extradited. Thirdly, she has told me what she wants to happen now. She tells me she has already started paying the money back. She tells me that in another two weeks her partner will be able to get together the rest of the money. She asks for a period of delay. She wants four or five weeks. That is so that she and her partner can get the money together to pay off compensation for the loss. Having done so, it is so that she can contact her solicitors in Germany, so that they can try and get the German authorities to withdraw the warrant.
4. I cannot grant permission to appeal in this case. And I am not prepared to grant an adjournment of this case today. In my judgment, the Article 8 ground – including any support given by the new evidence – is not reasonably arguable. In my judgment, it is far too late to be saying now that there are steps that can and should be being taken which will avoid extradition and involve the EAW being withdrawn. There was a long period of time for the Appellant, and her legal representatives, to try to take any steps which were a basis for persuading the German authorities not to maintain the EAW.

The German authorities do maintain the EAW. They are entitled to maintain the EAW. If the Appellant wishes to take steps so that the German authorities will not penalise her, and if she wishes her German lawyers to take such steps on her behalf, then all of those things can happen in connection with the extradition. The consequences of paying back the loss, if the appellant is able to do that, as well as all the circumstances relating to the offending, are matters which all belong to the consideration which the German authorities will need to give this case. But they are not a reason for resisting extradition, and they are not a reason for giving an adjournment today. Having decided that I would not adjourn today's hearing, I have needed to consider whether there is any arguable Article 8 ground today.

5. There is no realistic prospect that this Court at a substantive hearing would allow this appeal on Article 8 grounds. There is no realistic prospect that the Court would find that extradition would breach the Article 8 private or family lives of the Appellant or her partner. There was no arguable error of approach or outcome by the District Judge. The alleged offending involves 28 separate offences, with a total loss of over €8,000. There are strong public interest considerations in favour of extradition. That is so, even though the Appellant did not come to the United Kingdom as a fugitive: as she said today "I had left Germany before they accused me". She has been here since February 2019. But that is not a long time. She was arrested for the extradition in June 2020. She said in her written evidence: if she had known about the allegations against her, she would not have left Germany; she would have made contact with the German authorities. The alleged offending extended to January 2019. As I have said, the German authorities will need to consider what she says about the background to the alleged offending. Points relating to that have been raised in the documents which I have read and, as I have recorded, have also been explained to me this morning. The Appellant points to a very bad financial position. She says there was domestic violence during her marriage to her ex-husband. Their daughter was born back in 1998. They divorced in 2013. She has told me that the violence was the reason why she and the daughter had to leave the family home. She says the violence continued after 2013. For example, in her documents – which I have read – she has evidence of injuries from an assault in March 2015. As I have explained, poverty and domestic violence would be things for the German authorities to consider, insofar as relevant, within a criminal process in Germany. That would have been the position if the Appellant had stayed in Germany in February 2019. The Appellant has been prosecuted before. She was convicted in Germany in August 2007 of various frauds: they attracted a fine. In October 2008 she was convicted of frauds with forgery: she received a six-month suspended sentence. There is the new evidence. But it relates to matters raised in evidence at the 6 November 2020 hearing, on which she was cross-examined. There are the matters that the Appellant has told me today, about steps to pay people back the loss. There is the period of time which she has spent in the UK (since February 2019); there is the period of time which her partner has spent here (since January 2019); and there is the impact on each of them and their relationship (which started in 2018). There are other facts and circumstances relied on. But the factors capable of weighing against extradition are decisively outweighed by the public interest considerations in favour of extradition.
6. Even making allowance for the new evidence, Swift J decided that it was not arguable that the District Judge had reached the wrong conclusion. Even making allowance for

the new evidence and for everything I have been told this morning, I have reached the same conclusion. Permission to appeal is refused.

27.4.21