Case No: CO/962/2017

Neutral Citation Number: [2018] EWHC 50 (Admin)
IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 22/01/2018

Before :

MR JUSTICE JULIAN KNOWLES

- -

:

	TAMAS BIRI	**Appellant**
	- and -	
	HIGH COURT IN MISKOLC, HUNGARY	**Respondent**

- -
- -

Saoirse Townshend (instructed by **Kaim Todner Solicitors Ltd**) for the **Appellant**
Alexander dos Santos (instructed by **CPS**) for the **Respondent**

Hearing date: 7 December 2017

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Judgment**Mr Justice Julian Knowles:**

Introduction

1. This is an appeal with the permission of Sir Wyn Williams sitting as a justice of the High Court by the Appellant, Tamas Biri, against the decision of District Judge Bayne dated 17 February 2017 to order his extradition to Hungary to serve two sentences of imprisonment for drugs offences that are contained in a European arrest warrant ('EAW') dated 4 April 2016.

2. The Appellant is represented by Ms Townshend and the Respondent is represented by Mr dos

Santos. Neither of them appeared at the hearing below.

3. The enforceable sentences upon which the EAW is based are, first, the sentence of the District Court of Mátészalka delivered on 1 October 2013, and the Final Sentence of the Court of Justice of Nyíregyháza, as the court of second instance, delivered on 5 September 2014; and, second, the sentence imposed by the Court of Borsod-Abaúj-Zemplén County, delivered on 24 November 2016 and which became final on 27 November 2016. The first sentence was of seven months imprisonment, of which six months and 22 days is left to serve after deducting time spent on remand. The second sentence was of eight months, of which seven months and nineteen days are left to serve. The warrant indicates that the Appellant has one year, two months and 11 days left to serve in prison. The Appellant was present when his sentences were passed but subsequently left Hungary before they could be enforced.

The EAW

4. Box (e) of the EAW specifies that the warrant relates to five offences under Hungarian law. There are two cases then set out, each containing several offences, and each of the two cases reflecting the two separate sentences passed on the Appellant at the different courts that I have already set out. I will call these Case 1 and Case 2 respectively. To understand the issues on the appeal it is necessary to set out in some detail the particulars of conduct set in Box (e).

Facts of Case 1

5. First, the EAW states under sub-paragraph (a) that on 28 July 2008 at 9.25pm in a specified street in Hungary the Appellant was stopped by police whilst driving his car. It goes on, 'The defendant drove the car under the influence of a substance that has the capacity to impair one's ability to drive (speed, ecstasy, marijuana or hashish).' I will refer to this conduct as '1(a)'.

6.

Second, under sub-paragraph (b), the warrant states that later that day, at 11.30pm on a different street, the Appellant was again stopped by police whilst a passenger in a car. It says that at 29 July 2008 at 00:15am a urine sample was taken, and then on 29 July 2008 at 9:10 a blood sample and 9:25 another urine sample, and that 'The blood and urine samples confirmed the presence of amphetamine, MDA and MDMA. The detected amphetamine derivatives sold in illegal drug trafficking under the names "speed" and "ecstasy" and are qualified as narcotic drugs.' It is also stated that Δ^9-tetrahydrocannabinol was detected in the Appellant's urine, 'which most probably referred to the consumption of cannabis' (*sic*). The warrant states that 'the mentioned narcotic drugs were consumed by the defendant in Budapest.' I will refer to this conduct as '1(b)(i)'.

7. Third, also under sub-paragraph (b), the warrant states that on 29 July 2008 the police seized 'various tablets, white powders, plant debris and 1 digital weighing scale in the defendant's flat …' (*sic*). I will refer to this conduct as '1(b)(ii)'. The next paragraph

refers to these items as 'narcotic drugs'.

8. Later in Box (e) the warrant specifies two provisions of Hungarian law which this conduct is said to have violated:

   a. a misdemeanour count of 'driving under the influence of drugs (alcohol or other psychoactive substances), contravening and qualified by section 188(1) of Chapter XIII on "Traffic Offences" of Act IV of 1978 on the Criminal Code (Hungary)' (*sic*). This offence relates to the conduct set out under sub-paragraph (a) that I have described.

   b. a misdemeanour count of 'misuse of narcotic drugs, contravening and qualified by section 282(1) and (5) a/ of Title IV on "Crime against public health" of Chapter XVI on "Crimes against Law and Order" of Act IV of 1978 on the Criminal Code (Hungary)'. This relates to the conduct under sub-paragraph (b).

Facts of Case 2

9. In this case, under sub-paragraph (a), the warrant states that in April 2004 the juvenile seventh defendant met the Appellant in a club/bar in Tiszaújváros and that the Appellant offered to obtain 'narcotic drugs in pre-portioned amounts' which the juvenile would then be able to sell for profit. It goes on to say that a couple of days later the Appellant gave the juvenile 40 small bags of marijuana, which he sold, and that they split the proceeds. I will refer to this conduct as '2(a)(i)'.

10. Next, also under sub-paragraph (a), the warrant states, 'Moreover, in the first half of the year 2004 [the Appellant] had in his possession 1 Ecstasy tablet and 2 cigarettes containing marijuana, which he consumed and/or smoked himself.' I will refer to this conduct as '2(a)(ii)'.

11. Then, under sub-paragraph (b), the warrant alleges that the Appellant gave the eighth defendant an ecstasy tablet on 31 December 2003 in Sáránd. I will refer to this conduct as '2(b)'.

12. The conduct in Case 2 is said to give rise to the following Hungarian offences. I will set out verbatim how these are set out on the warrant:

> "2.
> a/ 1 felony count of misuse of narcotic drugs committed by person over the age of eighteen by offering or supplying a small quantity of narcotic drugs to a person under the age of eighteen, contravening and qualified by section 282/B(2) a/ and (7) b/ of Title IV on "Crimes against public health" [of Chapter XIII on "Crimes against Law and Order"] of Act IV of 1978 on the Criminal Code [Hungary] and
>
> 1 misdemeanour count of misuse of narcotic drugs committed by engaging in distributing, trafficking or dealing in narcotic drugs in

respect of a small quantity, contravening and qualified by section 282/ A(1) [of the same act]

b/ 1 misdemeanour count of misuse of narcotic drugs committed by acquiring narcotic drugs without authorisation in respect of a small quantity, contravening and qualified by Section 282(1) and (5) a/ of Title IV on "Crime against public health" [of Chapter XIII on

"Crime against Law and Order"] of Act IV of 1978 on the Criminal Code [Hungary]."

13. On the EAW the Framework list offence of 'Illicit trafficking in narcotic drugs and psychotropic substances' has been highlighted.

Proceedings before the district judge

14. Before the district judge the Appellant challenged the EAW on the grounds that in relation to Case 1 it did not comply with either s 2 or s 10 of the Extradition Act 2003 ('EA 2003'). He also argued that extradition was barred under s 21 because it would be incompatible with his rights under Article 8 of the European Convention on Human Rights. The judgment records at para 32 that no issue was taken by the Appellant under ss 2 or 10 in relation to Case 2, however Ms Townshend tells me, and I accept, that in fact a challenge was made that some of the alleged conduct was insufficiently particularised the purposes of s 2 and/or that it did not disclose an extradition offence.

15. The district judge discharged the Appellant in relation to 1(a) at paras 28 and 48 of her judgment, it being conceded by the Respondent that the particulars given of driving whilst impaired through drugs did not satisfy the requirements of dual criminality, and so I need not say any more about that conduct.

16. However, the judge ordered the Appellant's extradition on the remaining conduct, holding at para 33 that the warrant 'complies with section 2 and section 10 of the Act save as set out in paragraph 28 of this judgment,' and that his extradition was not incompatible with Article 8.

Grounds of Appeal

17. On behalf of the Appellant, Ms Townshend challenges the district judge's decision on a number of grounds.

18. First, she says that the whole or parts of the EAW do not comply with s 2 because:

    a. The warrant refers to five offences, but she says that it is possible to count up to eight offences within the description in the EAW. She maintains, therefore, that the district judge fell into error when she did not consider compliance with a s 2 for each offence, as is required under the Extradition Act 2003 (Multiple Offences) Order 2003(SI 2003/3150) ('the Multiple Offences Order').

b. The conduct 1(b)(ii), referring to items seized from the Appellant's flat, is insufficiently particularised because the drugs are not specified.

c. In relation to the conduct 2(a)(ii), the EAW does not specify where this occurred. She points out that in relation to the other conduct on the warrant the place where it occurred is specified, but no location is given for this conduct.

19. Next, Ms Townshend submits that some of the conduct on the warrant does not constitute an extradition offence (as defined in s 65 of the EA 2003):

a. In relation to conduct 1(b)(i), she submits that there is clear law that the mere presence of the metabolites of controlled drugs in blood/urine does not constitute possession of those drugs (see *Hambleton v Cullinan* [1968] 2 QB 427) and so dual criminality is not satisfied in relation to this conduct (see *Spitans v Riga Regional Court* [2012] EWHC 472 (Admin)).

b. She submits that the Respondent cannot rely on s 65(5) (Framework list offences) as showing that this conduct amounts to an extradition offence because this conduct, on any view, does not amount to trafficking, and that *per Jama v Senior Public Prosecutor, Gera, Germany* [2013] EWHC 3276 (Admin) it is open to this court to decline to have regard to this certification.

c. If some or all of her submissions are correct, Ms Townshend submits that the period of imprisonment to be served by the Appellant decreases to such an extent that it would violate his rights under Article 8 of the European Convention on Human Rights to extradite him, having regard in particular to the fact that Case 2 dates back as far as 2003/2004.

Statutory provisions

20. The relevant provisions of the EA 2003 are as follows.

21. Section 2 provides that an EAW issued for a person whose extradition is sought so that they can serve a sentence of imprisonment (ie, a 'conviction' warrant') must contain the following information:

> "(a) particulars of the person's identity;
>
> (b) particulars of the conviction;
>
> (c) particulars of any other warrant issued in the category 1 territory for the person's arrest in respect of the offence;
>
> (d) particulars of the sentence which may be imposed under the law of the category 1 territory in respect of the offence, if the person has not been sentenced for the offence;

(e) particulars of the sentence which has been imposed under the law of the category 1 territory in respect of the offence, if the person has been sentenced for the offence."

22. In *King v Public Prosecutor of Villefranche Sur Saone, France* [2015] EWHC 3670 (Admin), Collins J held that s 2(6)(b) required more than simply a recital of the conviction and required particulars of the conduct akin to that which is required in an 'accusation' warrant, in respect of which s 2(4)(c) requires the warrant to contain:

> "particulars of the circumstances in which the person is alleged to have committed the offence, including the conduct alleged to constitute the offence, the time and place at which he is alleged to have committed the offence and any provision of the law of the category 1 territory under which the conduct is alleged to constitute an offence;"

23. Section 10(2) provides that at the extradition hearing:

> "(2) The judge must decide whether the offence specified in the Part 1 warrant is an extradition offence."

24. Where the EAW contains more than one offence, then s 10(2) is modified by para 2 of the Schedule to the Multiple Offences Order so that it reads:

> "(2) The judge must decide whether any of the offences specified in the Part 1 warrant is an extradition offence."

25. Section 65 provides (as amended):

> **"65 Extradition offences: person sentenced for offence**
>
> (1) This section sets out whether a person's conduct constitutes an "extradition offence" for the purposes of this Part in a case where the person—
>
> (a) has been convicted in a category 1 territory of an offence constituted by the conduct, and
> (b) has been sentenced for the offence.
>
> (2) The conduct constitutes an extradition offence in relation to the category 1 territory if the conditions in subsection (3), (4) or (5) are satisfied.
>
> (3) The conditions in this subsection are that—
> (a) the conduct occurs in the category 1 territory;
> (b) the conduct would constitute an offence under the law of the relevant part of the United Kingdom if it occurred in that part of the United Kingdom;

(c) a sentence of imprisonment or another form of detention for a term of 4 months or a greater punishment has been imposed in the category 1 territory in respect of the conduct.

(4) The conditions in this subsection are that—
(a) the conduct occurs outside the category 1 territory;
(b) in corresponding circumstances equivalent conduct would constitute an extra-territorial offence under the law of the relevant part of the United Kingdom;
(c) a sentence of imprisonment or another form of detention for a term of 4 months or a greater punishment has been imposed in the category 1 territory in respect of the conduct.

(5) The conditions in this subsection are that—
(a) the conduct occurs in the category 1 territory;
(b) no part of the conduct occurs in the United Kingdom;
(c) a certificate issued by an appropriate authority of the category 1 territory shows that the conduct falls within the European framework list;
(d) the certificate shows that a sentence of imprisonment or another form of detention for a term of 4 months or a greater punishment has been imposed in the category 1 territory in respect of the conduct.

(6) For the purposes of subsections (3)(b) and (4)(b)—
(a) if the conduct relates to a tax or duty, it does not matter whether the law of the relevant part of the United Kingdom imposes the same kind of tax or duty or contains rules of the same kind as those of the law of the category 1 territory;
(b) if the conduct relates to customs or exchange, it does not matter whether the law of the relevant part of the United Kingdom contains rules of the same kind as those of the law of the category 1 territory."

Discussion

26. I do not consider that there is any force in Ms Townshend's criticism that although the warrant said that it relates to five offences, in fact there was a lack of clarity about that, or that there were eight offences in fact specified on it. I note that the judge said at para 4 of her judgment that return was sought for four offences, which she defined by reference to conduct, eg, 'supplied a tablet of ecstasy'.

27. With respect to Ms Townshend and the judge, both of their approaches reveal a confusion of thinking. The number of offences referred to in Box (e) means the number of foreign offences specified on the warrant, not the number of episodes of conduct said to give rise to the offences. In this case the warrant unequivocally specified five offences. As I have set out, in relation to Case 1, the alleged conduct was said to give rise to two misdemeanour offences, and in relation to Case 2 it was said to give rise to one felony offence and two misdemeanour offences, making a total of five offences. Those five offences were, in turn, made up of distinct pieces of conduct and, in respect

of some of the offences, more than one episode of conduct.

28. I do consider, however, that there is force in Ms Townshend's criticism of how the judge approached her task of considering the particulars of conduct on the warrant, and also how she went about determining the issue of dual criminality. She did not, it would appear, clearly identify the individual pieces of conduct said to constitute each of the foreign offences and ask, in relation to each piece of conduct, whether it was sufficiently particularised as required by s 2, or whether it amounted to an extradition offence as required by s 10(2) as amended by the Multiple Offences Order.

29. In saying this, I do not think the judge was assisted by the way in which the case was presented before her. It is necessary for me to re-state certain core principles and to suggest a return to the practice (which used to be invariably followed) of drafting English 'charges' in extradition cases in order to assist the court in the task of determining whether or not dual criminality was satisfied (where that was a requirement). Of course, prior to the EA 2003 and the coming into force of the European arrest warrant scheme, dual criminality was always required.

30. I begin with a discussion of the process which should be followed where dual criminality needs to be satisfied, ie, where the conduct does not constitute a Framework list offence.

31.

Where a warrant contains a number of foreign offences, the judge is not concerned with the ingredients of the foreign offences: *Office of the King's Prosecutor, Brussels v Cando Armas* [2006] 2 AC 1, para 80; *Dabas v High Court of Justice in Madrid, Spain* [2007] 2 AC 31, paras 53 – 55; *Norris v Government of the United States of America* [2008] AC 920, paras 79 – 83. He is simply concerned, *per* the requirements of ss 64 and 65, to ensure that the minimum punishability threshold is satisfied for each offence or, where the person has been sentenced, that a total sentence of at least four months imprisonment has been imposed for the offences: cf *Pilecki v Circuit Court of Legnica*, *Poland* [2008] 1 WLR 325.

32. For the purposes of ss 2 and 10, the judge's focus should be, instead, on the *conduct* which is said to constitute the offence. The judge should consider the warrant and identify what the episodes of conduct are which are said to constitute the foreign offences. There may be one episode of conduct in respect of the foreign offence, or more than one. Then, the judge should consider in respect of each episode of conduct, whether the particulars required by s 2(4)(c) or s 2(6)(b) have been provided. If not, then it is open to the judge in an appropriate case to seek further information from the issuing judicial authority: *Alexander v Public Prosecutor's Office, Marseille District Court of First Instance, France* [2017] 3 WLR 1427.

33. Having done that then, as required by s 10(2), the judge should next ask whether each episode of conduct said to constitute the foreign offence (or each of them, if there is more than one foreign offence) is an extradition offence as defined in ss 64 and/or 65, as appropriate

34. Having done that, the judge must then consider whether there is a bar to extradition in relation to each episode of conduct.

35. Then, at the end of the process, the judge will either order extradition in relation to that episode of conduct, or not.

36. The judge will be assisted in this process if those representing the issuing judicial authority at the extradition hearing revert to the practice which, until recent times, was almost invariably followed of drafting English 'charges' as a means of identifying the equivalent English offences for the purposes of the dual criminality exercise.

37. The practice under the Extradition Act 1989 was for those representing the requesting state to supply a list of the English offences which it alleged would be constituted by the conduct in the extradition request if it had been committed in England in equivalent circumstances. In *R v Bow Street Magistrates' Court ex p Kline*, 30 June 1999, CO/813/99, the Court explained:

> "Although there is nothing in the statute or any subordinate legislation which requires it, it is the practice for the Government to set out in the form of what are described as charges the offences which would have been committed in England and Wales as a result of the allegations in an accusation case or the conviction in a conviction case."

38. In *R v Governor of Pentonville Prison ex p Osman* [1990 1 WLR 277, 302 Lloyd LJ observed:

> "The practice in extradition cases has been that the English 'offences' are stated in the authority to proceed in very general terms. The magistrate is not, of course, concerned with whether the offence is made out in foreign law. He is concerned solely with whether the evidence would support committal for trial in England, if the conduct complained of had taken place in England: see *In re Nielsen* [1984] AC 606. So the magistrate is furnished at the commencement of the hearing with a schedule of charges based on the alleged conduct and formulated in accordance with English law. The schedule of charges is frequently amended in the course of the hearing."

39. In *R v Bow Street Metropolitan Magistrate ex parte Pinochet (No 3)* [2000] AC 147, 226, Lord Hope of Craighead said:

> "Draft charges have been prepared, of the kind which are submitted in extradition proceedings as a case is presented to the magistrate at the beginning of the main hearing under section 9(8) of the Act. This has been done to demonstrate how the charges which are being brought by the Spanish judicial authorities may be expressed in terms of English criminal law, to show the offences which he would have committed by

his conduct against the law of this country."

40. The form of such an English charge is akin to a count on an English indictment, but with an amalgam of the statement of the offence and the particulars of the offence.

41.

When the EA 2003 came into force on 1 January 2004 the practice of drafting English charges continued, initially at least, in extradition hearings under the new Act in cases where the issuing judicial authority was required to demonstrate dual criminality: *Boudhiba v Central Examining Court No 5 of the National Court of Justice, Madrid* [2006] EWHC 167 (Admin), paras 31–32 (English charges provided to assist the appropriate judge in the event the Government was required to demonstrate dual criminality); *Fofana v Deputy Prosecutor Th ubin Tribunal de Grande Instance de Meaux, France* [2006] EWHC 744 (Admin), para 5. However, my experience (and this was confirmed by counsel) is that the practice has substantially fallen out of use in recent times.

42. In my judgment it is time that the practice of drafting English charges was revived. Except in the most straightforward of cases, where the issuing judicial authority needs to demonstrate dual criminality for the purposes of ss 64 or 65 I consider that it is essential for the proper presentation of the prosecution's case for charges to be drafted so as to specifically identify for the benefit of the district judge and the defendant the conduct in the EAW that is being relied upon, and what is said to be the equivalent English offence which would, in corresponding circumstances, be constituted by that offence. The use of English charges, whilst not having any formal status, results in precision as to the conduct for which extradition is, or is not, being requested, and produces certainty as to what conduct extradition is being ordered for.

43. Turning back to the case at hand, looking at each episode of conduct individually and applying the correct method of analysis that I have set out, produces the following results.

Case 1

44. The conduct 1(a) was conceded below not to be an extradition offence. The conduct is in my view sufficiently particularised as required by s 2(6)(b). But in order to satisfy the dual criminality requirement in s 65(3)(b) (an offence in the relevant part of the UK), the conduct had to be an offence in England and Wales at the date it was committed: *R v Bow Street Metropolitan Magistrate ex parte Pinochet (No 3)* [2000] AC 147, 193 - 196. Driving having taken controlled drugs only became an offence on 2 March 2015 when s 5A of the Road Traffic Act 1988, inserted by the Crime and Courts Act 2013, came into force. Hence, this conduct (which took place in 2008) does not constitute an extradition crime. Although not specified in the judge's judgment, I assume that it was conceded that the alleged conduct ('The defendant drove the car under the influence of a substance that has the capacity to impair one's ability to drive (speed, Ecstasy, marijuana or hashish')) would not have constituted, in equivalent circumstances, the offence under s 4 of the Road Traffic Act 1988 because of the absence of an allegation that the Appellant's

driving was, as a matter of fact, impaired.

45. The conduct 1(b)(i) is adequately described for the purposes of s 2(6)(b). The problem, however, as Mr dos Santos conceded, is that *Hambleton v Cullinan* [1968] 2 QB 427) and *Spitans v Riga Regional Court* [2012] EWHC 472 (Admin) demonstrate that evidence of the presence of metabolites of controlled drugs in blood or urine is insufficient of itself to prove the offence of possession of controlled drugs contrary to the Misuse of Drugs Act 1971 ('the 1971 Act'), and hence the condition in s 65(3)(b) is not satisfied. It follows that this conduct does not constitute an extradition offence.

46.

After some hesitation, I also consider in the conduct 1(b)(ii), too, does not constitute an extradition offence because of the failure to identify what the drugs in question are. Sufficient particulars are given for the purposes of s 2(6)(b). But the generic descriptions of them as 'narcotic drugs' is, in my judgment, too unspecific to show that they were controlled drugs for the purposes of the 1971 Act so as to make possession of them an offence in the UK in equivalent circumstances. Mr dos Santos pointed out that that is the phrase used in the Framework list, but the reliance on the list cannot apply in relation to this conduct because simple possession cannot, on any view, be regarded as 'trafficking', which is the activity covered by the Framework list. It would have been open to the CPS or the district judge (had she been alive to the point) to obtain further information about what these drugs are, in accordance with the principles in *Alexander*, supra. But that was not done, and in my view the phrase 'narcotic drugs' does not impel the inference that they are controlled drugs under the 1971 Act.

47. It follows that Case 1 does not disclose any extradition offences, and the Appellant's appeal is allowed in relation to the offences alleged as part of Case 1.

Case 2

48.

So far as Case 2 is concerned, the conduct 2(a)(i) is sufficiently particularised as required by s 2(6)(b). Had this conduct (ie, the supply of bags of marijuana) been carried out in England and Wales it would have constituted *inter alia* the offence of supplying a controlled drug to another, contrary to s 4(2)(b) of the Misuse of Drugs Act 1971. Hence this conduct is an extradition offence under s 65(3). In any event, it constitutes conduct caught by the Framework list offence 'Illicit trafficking in narcotic drugs and psychotropic substances' which has been highlighted on the EAW, and the conduct is therefore an extradition offence by virtue of s 65(5).

49. In relation to the conduct 2(a)(ii), again after some hesitation, I have concluded that the EAW is deficient because the place where the Appellant possessed the ecstasy tablet and the marijuana cigarettes is not specified. Section 2(6)(b), as interpreted in *King*, supra, requires the place of the offence to be specified, the reason in part being that the relevant definition of extradition offence in s 65 depends on where the offence was committed

(ie, either inside or outside the Category 1 territory). The averment of place is a necessity in relation to alleged conduct, and although I recognise the force of Mr Dos Santos' submission that there is no suggestion on the warrant that the Appellant was anywhere other than in Hungary when he committed the alleged offences (and that having stood trial, he knows where this conduct took place), I consider that the specification of the place of the alleged offending ought to be strictly required because much can turn upon it. Again, it was open for the place where this offending took place to have been ascertained in accordance with *Alexander*, supra.

50. Finally, in relation to the conduct 2(b), this is sufficiently particularised and would, had it been committed in England and Wales, have constituted the offence of supplying a controlled drug to another, contrary to s 4(1)(b) of the 1971 Act. Hence, as with conduct 2(a)(i) this conduct is an extradition offence under s 65(3), (5) of the EA 2003.

51. It follows that subject to the Article 8 argument, the Appellant is liable to extradited only in relation to the conduct 2(a)(i) and 2(b).

52. I turn, then, to Article 8. Ms Townshend submits that having regard to the reduced scope of the extraditable conduct and hence what she submits will inevitably have to be a shorter period of imprisonment in Hungary than that which he originally faced, having regard to the fact that the extraditable conduct dates back to 2003, it would violate the Appellant's Article 8 rights and be disproportionate to extradite him.

53. I do not agree. The offence in 2(a)(i) of involving an underage person in the supply of illegal drugs was very serious and there is a clear public interest that the Appellant, having stood trial and been sentenced and then fled, be returned to serve whatever sentence remains in respect of that, and the other offence. There is nothing in the evidence to show that extradition would cause the sort of severe hardship which is necessary to establish disproportionality.

54. Hence, the appeal is allowed and that the order for extradition is quashed in relation to the conduct which I have called 1(b)(i), 1(b)(ii) and 2(a)(ii). The appeal is dismissed in respect of the conduct 2(a)(i) and 2(b), and the Appellant will be extradited to serve a sentence of imprisonment in relation to that conduct alone.