

Neutral Citation Number: [2018] EWHC 2895 (Admin)

Case No. CO/2100/2018

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

Royal Courts of Justice

Thursday, 25 October 2018

Before:

MR JUSTICE HOLMAN

B E T W E E N :

ANGELOV

Applicant

- and -

REGIONAL PROSECUTORS OFFICE OF SOFIA (BULGARIA)

Respondent

MS A. NICE (instructed by Hodge, Jones and Allen Solicitors) appeared on behalf of the applicant.

MS K. BOLTON appeared on behalf of the respondent.

J U D G M E N T (As approved by the judge) WARNING: reporting restrictions may apply to the contents transcribed in this document, particularly if the case concerned a sexual offence or involved a child. Reporting restrictions prohibit the publication of the applicable information to the public or any section of the public, in writing, in a broadcast or by means of the internet, including social media. Anyone who receives a copy of this transcript is responsible in law for making sure that applicable restrictions are not breached. A person who breaches a reporting restriction is liable to a fine and/or imprisonment. For guidance on whether reporting restrictions apply, and to what information, ask at the court office or take legal advice.

MR JUSTICE HOLMAN:

order after refusal on paper by Sir Stephen Silber on 25 September 2018.

- 2 The district judge ordered the extradition of the applicant to Bulgaria. Two separate and unrelated points are taken and relied upon. The first pertains to prison conditions in Bulgaria. In this case, the Bulgarian Ministry of Justice had given specific assurances in relation to the circumstances in which the applicant will be detained if extradited to Bulgaria. With regard to that, the district judge said, at paragraph 4 of his reasons:

“An argument under Article 3 was not pursued in view of the assurances provided. Ms Nice refers to recent authority regarding Bulgarian prison conditions and submits that the court should expressly state that extradition would not have been ordered but for the assurances given. I am unable to go that far as I have simply not considered what the situation would have been in this particular case without those assurances.”

- 3 This all stems from what was said by the Divisional Court in their “postscript” at paragraphs 74 and 75 of their judgment in the case of *Georgiev* [2018] EWHC 359 (Admin). There, Hickinbottom LJ said:

“In cases of extradition to Bulgaria, district judges should make clear in their written judgment that extradition would not have been ordered but for the assurances that have been given, which should be set out in a prominent part of the judgment...”

4 In this case, the district judge has identified an area which, at any rate to him, is one of some intellectual difficulty. He felt unable to make an express statement to that effect within his judgment because, in the light of the assurances, no argument had been pursued under Article 3. Accordingly, he felt intellectually unable to say what decision he would have reached if the assurances had not been given. With respect to the district judge, that seems to me to be an overintellectualised approach to this particular issue. It is quite clear that in the view of the Divisional Court there should be a prominent statement which can be relied upon in Bulgaria to the effect that reliance has been placed on the assurances.

5 So far as that aspect of the present application is concerned, Ms Nice has said that she would be satisfied if there were an appropriate statement to that effect on the face of the order which I make today. I am not prepared to say on the face of the order that “extradition would not have been ordered but for the assurances”. I am now dealing with this as an application for permission to appeal. The district judge said what he said at paragraph 4 and I cannot, myself, go behind that and state now that extradition would not have been ordered but for the assurances. But I am very willing to state prominently, at the outset of the formal order today, that in making the order refusing permission to appeal, as I do, I am relying upon the assurances which have been given. That disposes of the renewed application insofar as it turns on Article 3 and prison conditions in Bulgaria.

6 The second limb of the renewed application is under Article 8. This applicant faced extradition on two conviction warrants. One related to an assault as long ago as January 2005, for which he received a suspended sentence of six months’ imprisonment, which was subsequently activated. The other related to an assault in June 2010, the circumstances of which were much more serious, and in respect of which he received an actual prison

sentence of 18 months' imprisonment. So he now faces an aggregate of 24 months' or 2 years' imprisonment.

7 The central submission of Ms Nice is that the Article 8 balancing exercise justifiably came down in favour of extradition in relation to the later and much more serious offence, but that if the earlier and less serious offence is viewed in isolation, the Article 8 balance should come down the other way. I say nothing as to what the decision of the district judge might have been, or should have been, if he was concerned only with the earlier offence as a freestanding matter. That, however, is not the reality of this case. The reality is that in any event, as is accepted, this applicant will be extradited to Bulgaria. He will, in any event, have to serve a sentence of 18 months' imprisonment in relation to the second and more serious of the offences.

8 On that basis, I am afraid his established private and family life here will, in any event, be interrupted for a significant period of time, and it is, frankly, unrealistic to argue that if the earlier offence stood in isolation extradition might not have been ordered. In my view, there is nothing at all in this point and I therefore refuse the renewed application for permission to appeal.

CERTIFICATE

Opus 2 International Ltd. Hereby certifies that the above is an accurate and complete record of the judgment or part thereof.

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This transcript is subject to the Judge's approval.