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*Judgment: approved by the court for handing down (subject to editorial corrections)**	*Delivered:* **19/06/2025**

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

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KING'S BENCH DIVISION

BEFORE A DIVISIONAL COURT

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IN THE MATTER OF THE EXTRADITION ACT 2003

Between:

CATALIN-MARIAN NECHIFOR

Applicant/Requested Person

v

JUDECĂTORIEI BRAŞOV, ROMANIA

Respondent/Requesting State

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Sean Devine (instructed by O'Neill Solicitors) for the Applicant/Requested Person
Stephen Ritchie (instructed by the Crown Solicitor's Office) for the Respondent/Requesting State

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Before: HORNER LJ and SIR PAUL MAGUIRE

_____

HORNER LJ (*delivering the judgment of the court*)

Introduction

[1] The applicant/requested person ("hereinafter referred to as the applicant") is Catalin-Marian Nechifor. His extradition was sought on foot of a conviction extradition warrant. This warrant was issued on 26 February 2019. It was certified by the National Crime Agency ("NCA") on 6 October 2019 and then executed on 27 November 2019.

[2] The warrant arises out of the applicant's convictions in Romania for various offences of dishonesty. The applicant's extradition is sought from Northern Ireland to enable him to serve out the remaining part of a six year four month prison

sentence. This was calculated by the learned trial judge ("LTJ") as being 33 months, the applicant at that stage having already served 43 months in prison in Romania before his release on a conditional basis.

[3] The LTJ had delivered an admirably extensive and carefully considered judgment on 15 March 2024, dealing with the various issues raised on behalf of the applicant. As a consequence, we felt able to inform the parties after hearing their arguments that we were going to affirm the decision of the LTJ to extradite the applicant largely for the reasons he had so carefully and comprehensively set out in his judgment. We promised to provide a short written judgment briefly setting out our reasons in due course. It is important to stress that these written reasons relate only to the grounds of breach of Article 8 of the European Convention of Human Rights, the other grounds of appeal not having been pursued. Finally, we note that the application for leave to appeal had been refused by McFarland J, who commented at para [10]:

> "The judge has addressed all matters raised in a very thorough manner. He has analysed the evidence before him and has applied the law in the correct manner. On that basis and in the absence of any skeleton argument to raise any other matters, I consider that given the obligation on the applicant to show a real risk of breach of Articles 3 and 8 ECHR, it is not arguable that he has done so."

Cases made by the applicant and respondent

[4] The case made by the applicant is that the LTJ erred in ordering the extradition of the applicant because he did not strike the correct balance under Article 8. The court, it is claimed, misdirected itself as the amount of time the applicant had left to serve despite the plain reading of the responses to the Requests for Further Information ("RFFIs"). It is now claimed that the court did not give adequate weight to the fact that the applicant was eligible for release in a further five months. The applicant had lived in Northern Ireland since October 2017. He had a partner and lived with her and her daughter in Northern Ireland and was building a new life for himself. He had not come to the attention of the Northern Ireland authorities and that it would be cruel to send him back to Romania and the harsh prison regime that awaited him there.

[5] The case made by the respondent is:

(a) Each of these cases is fact specific.

(b) It is important to follow the approach set out in *Poland v Celinski* [2016] 1 WLR 551 at [15]-[17] and produce a balance sheet of factors for and against extradition.

(c) The fact that there is a relatively short period of five months before the applicant is eligible for release, is not a "get out of jail free card." There is no guarantee that the applicant will be so released, and he remains liable to serve a further period of two years nine months. Certainly, his conduct in fleeing Romania and, on any account, failing to serve even the minimum period in custody, is unlikely to commend itself to the authorities when it comes to deciding whether or not to grant early release.

(d) If one does carry out a balance sheet exercise, then it comes down very heavily in favour of requiring the applicant to serve the remainder of his prison sentence in Romania and, accordingly, to extradite him.

Discussion

[6] The Court of Appeal judgment in *Celinski* (see supra) given by Lord Thomas and, in particular, paras [5]-[17], can be summarised briefly as follows:

(i) The general principles in relation to the application of Article 8 in the context of extradition proceedings are set out in two decisions of the Supreme Court in *Norris v Government of the United States of America* (No.2) [2010] 2 AC 487 ("Norris") and *HH* [2013] 1 AC 338.

(ii) The decision of the requesting judicial authority of the Member State should be accorded the proper degree of mutual confidence and respect.

(iii) In relation to the conviction and warrant, it will rarely be appropriate for the court to consider whether the sentence imposed was very significantly different from that which a court in the United Kingdom was likely to pass.

(iv) The judge should prepare a balance sheet setting out in clear terms the factors which favour extradition and those which militate against extradition, and having balanced those factors, set out a reasoned conclusion as to why extradition should be granted or refused.

[7] The approach of this court to the decision of the LTJ in determining whether he was wrong to decide that extradition was not a proportionate interference with the requested person's rights under Article 8, "has to focus on the outcome, namely whether the decision on proportionality itself is wrong, rather than any errors or omissions in his reasoning."

[8] Other cases are inevitably fact specific, and each case must be decided on its own facts.

Decision

[9] The LTJ set out the balance sheet as follows (inter alia):

> "(i) The offending for which Romania seek to extradite the applicant is of a serious nature.
>
> (ii) The sentence imposed by the Court of Appeal in *Bravsov* on 19 November 2018 was of a serious nature.
>
> (iii) The sentence imposed by the Court of Appeal in *Bravsov* is a lengthy sentence.
>
> (iv) The applicant has to serve 76 months in custody according to the Requesting State. The applicant argues that he has served 43 months to date, and as a prisoner is usually only required to serve two-thirds of his sentence, objectively he only has a further five months to serve.
>
> (v) The matter for the calculation of the sentence is a matter for the local court: eg see *Netherlands v Kat* [2003] NICA 54 at paras [12]-[14](vi) There is a public interest in the United Kingdom honouring its international obligations re extradition."

On the other side of the balance sheet:

> "(a) The applicant has served a significant portion of his sentence, and may only have five months to serve;
>
> (b) He has lived in Northern Ireland since 2017, a significant period of time;
>
> (c) He has a partner who has a daughter and with whom he lives in Northern Ireland;
>
> (d) He came to Northern Ireland to build a new life;
>
> (e) The prison regime in Romania is harsh; and
>
> (f) He has kept out of trouble while in Northern Ireland."

[10] We are in no doubt that the LTJ weighed the factors in the balance and came down firmly in favour of the requesting state. We do not see that he has in any way erred and, indeed, accept that he has to be given a wide margin of error.

[11] We are satisfied that he took into account the correct factors, weighed them in the balance and decided the applicant should be extradited. We can see no basis for concluding that such a decision was plainly wrong. Our decision, looking at all the facts and taking into account the short period of time that has elapsed from when the LTJ dismissed the application and refused leave to when we had to reconsider the matter, a period of some two to three months, remains exactly the same. This is an application without real merit and the LTJ's decision is unassailable. We can see no basis for concluding that such a decision was plainly wrong.

[12] We also want to make it clear that even if, as was contended, the applicant had only five months to serve, we do not consider that this in itself would entitle the court to refuse to extradite the applicant. We are satisfied that the decision of the LTJ was correct in each and every respect.

Conclusion

[13] We have no hesitation in confirming the LTJ's decision to extradite the applicant to Romania. A careful consideration of the factors for and against extradition made it clear that the decision to extradite the applicant is not one that should cause this court any concern. The applicant has not served his sentence of imprisonment in Romania. There is no merit in the proposed appeal and the LTJ's decision is unassailable.

[14] So we are satisfied the LTJ was entirely correct in his conclusion that the circumstances "do not come close to allowing the court to conclude that the requested person can successfully rely upon his Article 8 rights in resisting extradition": see para [112] of the LTJ's judgment. We find this to be the position, even if we are wrong, and the applicant had only five months of his sentence to serve.

[15] For the avoidance of doubt we will make it clear that we do not consider that the short time between the LTJ's decision and our decision given orally at the end of the proceedings has the effect of materially altering the overall outcome. We affirm the decision of McFarland J in refusing leave to appeal in the circumstances.