



Neutral Citation Number: [2021] EWHC 3366 (Admin)

Case No: CO/1337/2021, CO/1350/2021  
CO/1358/2021, CO/1518/2021, CO/1479/2021

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

Royal Courts of Justice  
Strand, London, WC2A 2LL

9<sup>th</sup> December 2021

**Before :**

**MR JUSTICE FORDHAM**

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**Between:**

**(1) CSABA NEMETH (2) MARIA LAKATOS**

**(3) MARIA HORVATH (4) MARINA HORVATH**

**- and -**

**HUNGARIAN JUDICIAL AUTHORITIES**

**Requesting**

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**Mary Westcott** (instructed by Lawrence & Co) for **Csaba Nemeth**

**Amelia Nice** (instructed by Lawrence & Co) for **Maria Lakatos**

**Graeme Hall** (instructed by Dalton Holmes Gray) for **Marina Horvath**

**Louisa Collins** (instructed by Hodge Jones & Allen) for **Maria Horvath**


**Amanda Bostock** (instructed by CPS) for the **Requesting State**

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Hearing date: 9/12/21

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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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.

**MR JUSTICE FORDHAM :**

A short ruling

1.

In circumstances where this morning's half-day time-slot has needed to be used up with oral representations, I am going to need to keep this ruling short. I am satisfied that I will still be able to give a sufficient explanation of what I have decided and why. Also, I have this in mind. As was common ground at the Bar, and I agree, other matters that have been canvassed today and identified as being on the 'agenda' in these informally linked cases will need to be the subject of a subsequent hearing, with a one-day time estimate, and that hearing should be before me. I will call that the 'reconvened hearing'. Were it to prove necessary and appropriate to give any further reasons to explain anything, I will have an opportunity at a later stage to do that, if invited so to do.

The context

2.

These are linked cases, as a group of cases, but not yet formally the subject of a direction that they be heard together. Now is not the time for such a direction although it is appropriate that they continue to be listed together, as they have been today. This is a series of extradition cases involving accusation EAWs, where extraditions are being sought to Hungary. The cases relate to what the Hungarian prosecutors say is a very serious telephone scam which took place in Hungary but run from the United Kingdom, whereby some 220 elderly victims (between the ages of 70 and 96) at the hands of some 22 perpetrators were scammed into handing over large sums of money which in aggregate amounted to the equivalent of more than £500,000. The cases have been the subject of three judgments in Westminster magistrates' court. There are various applications to appeal and cross-appeal. That is why this judgment, and its title, avoids the words "appellant" and "respondent". At the reconvened hearing it will be necessary to go into some more detail.

Stay of the Bogdan (s.2/Art 6) issue

3.

My first decision today is that I will stay, on the same terms as I described in the case of Ekwoje v Hungary[2021] EWHC 3163 (Admin) at §2 the section 2/Article 6 ECHR argument raised in the case of Bogdan CO/3601/2021 pending the determination in the High Court of that case. I will need Counsel to liaise please and provide a composite draft Order relating to that stay.

Applications to stay other matters, said to be linked to Bogdan

4.

Next, there are four points which are said to be interrelated with, or whose substance is said to be such as to justify awaiting the determination of, the issue in Bogdan. At the reconvened hearing, I will hear applications for a stay of those four matters, or any of them, until after the determination of Bogdan. If those applications for those stays are refused, there will need then to be directions for those matters to move forward and be determined. Ms Bostock – who opposes the stays – recognises, as do I, that there needs to be a fair opportunity for the requested persons’ Counsel to advance their submissions as to why those matters should be stayed. I will hear those submissions next time, at the reconvened hearing. I make clear therefore that the following four points are not currently included within the stay that I have just directed: (1) a point concerning Articles 5 and 6 ECHR and endemic delays; (2) a point concerning the specific position of Roma requested persons; (3) an Article 3 point relating to prison conditions and overcrowding; (4) an Article 3 point relating to prison conditions and monitoring.

#### No stay of section 12A and Article 8 grounds

5.

I have heard today applications to stay, on the grounds of efficiency, the applications for permission to appeal on grounds relating to section 12A (advanced by Csaba Nemeth and Maria Lakatos) and grounds relating to Article 8 ECHR (advanced by Maria Lakatos and Maria Horvath). What was said by their Counsel, in essence, was that it would make better sense and be a more efficient use of the court time if all of those matters were to await Bogdan and be stayed alongside the Bogdan point (and any other points that are stayed pending the determination of that case). I am quite satisfied that that is not appropriate or justified. This Court should grasp the nettle and will be able to do so at the reconvened hearing, to resolve all of those applications for permission to appeal, without any further delay.

#### A Covid-related problem

6.

One of the circumstances that had arisen in relation to today’s hearing was that one of the key players in the Counsel teams – who was going to be dealing with certain matters – had tested positive for Covid and is unwell. In those circumstances, the remaining Counsel were able to identify progress that could be made in what has been a half-day hearing, rather than the one day that it had originally been envisaged. It has been possible to make some real progress in relation to some of the matters.

#### ERO (Maria Horvath)

7.

In the case of Maria Horvath I have heard applications today for an extension of the representation order (i) to obtain an updating report from the consultant psychologist who reported in February 2021 and (ii) to obtain a report from a Hungarian lawyer to deal with the ‘likely sentence’ were that requested person to be surrendered, tried and convicted. I refuse those applications. I am satisfied that the application for permission to appeal in Maria Horvath’s case can properly be, and should be, heard on the basis of the materials that the Court has, and that it is not justified to commission those further requested reports. The application on Article 8 ECHR will proceed on the basis that it is known that it is said on behalf of Maria Horvath that there are material gaps and if permission to appeal is granted in that case the topic can be revisited at that stage.

#### ERO (QC)

8.

I have also heard application today for an extension of the representation order, for the requested persons as a whole to enlist the services of Queen's Counsel for the reconvened hearing. I refuse that application. I am quite satisfied that that is not a justified expense in these cases and at this stage. All junior counsel are right on top of the arguments and will be able to provide the Court with the assistance it needs to resolve the various matters at the reconvened hearing.

Article 8 ECHR (Requesting State: re Marina Horvath)

9.

A substantial part of this morning's hearing involved the Court hearing Ms Bostock and Mr Hall's submissions in relation to the requesting state's application for permission to appeal against the decision of DJ Fanning ("the Judge") discharging Marina Horvath on grounds of the Article 8-incompatibility of extradition. Very helpful and detailed submissions were made on both sides in relation to that matter. It had not been the subject of a ruling by a Judge on the papers but was referred into open court by Chamberlain J.

10.

I am satisfied that the threshold of reasonable arguability is crossed in relation to that appeal. Applying the 'stand back' approach identified in §26 of Love v United States[2018] EWHC 172 (Admin)[2018] 1 WLR 2889 in my judgment it is reasonably arguable that this Court at a substantive hearing would conclude that the "outcome", based on the way in which relevant factors were evaluated and weighed, was the "wrong" one.

11.

The case is a difficult one and the starting point is that the appeal court does not simply substitute its own evaluation for that of the front-line district judge. This was an extremely careful clear and comprehensive judgment. The Judge explained that he regarded the matter as finely balanced. Ultimately, his finding of incompatibility with Article 8 rested on the welfare and best interests of a child who has now just turned three years of age.

12.

The Judge spelled out in his judgment his expectation and hope that the circumstances would lead, in say 3 years' time, to Marina Horvath's extradition to face trial. The Judge recognised the public interest considerations in favour of extradition. In my judgment, the unusual feature of this case which of itself warrants evaluation by this Court on this appeal is this feature relating to 'extradition: yes, in principle justified, but not yet'. That approach chimes with observations made by Lady Hale at §79 of HH[2012] UKSC 25[2013] 1 AC 338. I was not impressed by some of the language by which the requesting state has sought to characterise the Judge's logic. However, the Judge's approach is one which, as a matter of principle, in my judgment, is worthy of consideration; and particularly so against the context and circumstances of the present case. It is, in my judgment, reasonably arguable that by adopting that position the Judge has failed sufficiently to afford the mutual trust and recognition which arises in the context of a prosecution of a multitude of defendants, in relation to serious criminality, and victims who were aged 70 to 96 at the time of the alleged crimes. The implications of the outcome, as it seems to me, at least arguably, would be that the Hungarian prosecutors would either have to (i) wait until Marina Horvath's three year old child becomes a four year old child or possibly a five year old child in order to be able to try defendants including Marina Horvath (whose former partner Erno Horvath, I am told, has now consented to extradition and gone back to Hungary to face trial); or (ii) pursue a trial of some defendants in relation to the overall scam, with the prospect

of a second trial a couple of years down the line. The balancing exercise that arises out of this special feature, in my judgment, amply justifies consideration by this Court, and the threshold of arguability is met in relation to that aspect.

13.

In addition, there are other features of the case which also warrant consideration, particularly given that this Court may need to look again at the balancing exercise, in the round. Those matters concern, for example: the position regarding bail on which the Judge made a finding that bail was 'unlikely'; the position regarding the impact on the young child, involving an impact which the Judge described as a 'certainty', and as to which the Judge described a period in care in the UK as apparently 'inevitable'. There is also the exercise on which the Judge (understandably) embarked relating to what a likely sentence would be, on the face of it, in this jurisdiction, as to which Ms Bostock points out with some force in my judgment that the Judge's analysis did not reflect the entirety of role in the scamming operation said to have been played by Marina Horvath in the EAW, where she is said to have been one of the individuals who set up the criminal organisation and controlled others from the United Kingdom.

14.

Notwithstanding the clear (and succinct) submissions in opposition of Mr Hall, I am satisfied that the threshold is crossed and I grant permission to appeal on this Article 8 appeal.

#### Section 2 (particularisation) (requesting state: re Csaba Nemeth)

15.

There was one further issue arising, in the case of Csaba Nemeth. He was discharged on one of the alleged crimes identified in one of the EAWs. That application for permission to appeal by the requesting state will also be deferred to the reconvened hearing at which I will address it with the assistance of the two Counsel involved.

#### Order

16.

I will ask Counsel to collaborate to provide me later (but not too much later) today with a draft order which reflects what I have determined this morning and said in this ruling. I recognise that, in relation to the Article 8 issue on which I have just granted permission to appeal, I will need to make some directions. But those can be the subject of liaison between Counsel and I can deal with that matter on the papers when I hear from Counsel. I am also conscious that effectively these cases are now adjourned part-heard by me to the reconvened hearing before me and it may be that, if there are loose ends, some at least of them can properly be left to be picked up on that occasion.

#### Finally

17.

I am grateful to all Counsel, in particular: for the way in which they rallied round in circumstances where it was obvious that one Counsel team member needed to be promptly reassured that she could focus on her health; and for the way in which they sought to identify an agenda of matters for this Court today. It has not been possible to deal with everything, but that hasn't been for want of trying.

9.12.21