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Case No: CO/2758/2018
CO/2959/2017

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

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 23 January 2019

Before:

SIR WYN WILLIAMS
(Sitting as a judge of the High Court)

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Between:

PETR DEMETER	**Appellant**
- and -	
THE DISTRICT COURT IN ČESKÉ BUDĚJOVICE (CZECH REPUBLIC)	**Respondent**

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Hannah Hinton (instructed by **McMillan Williams Solicitors Limited**)
appeared for the Appellant
Richard Evans (instructed by **the CPS Extradition Unit**)
appeared for the Respondent

Hearing date: 11 December 2018

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Approved Judgment

Sir Wyn Williams:

Introduction

1. On 17 January 2017 the Respondent issued a European Arrest Warrant ("EAW1") specifying that the Appellant's extradition was requested in order that he should serve a sentence of 8 months' imprisonment imposed on 2 April 2016 for offences of dishonesty committed between 6 November 2015 and 29 February 2016. On 19 June 2017, following a contested hearing, Deputy Chief Magistrate Ikram directed that the Appellant should be extradited pursuant to the warrant.

2. On 9 August 2017 the Respondent issued a second European Arrest Warrant ("EAW2"). This warrant sought the extradition of the Appellant to serve a sentence of 12 months' imprisonment in respect of an offence of dishonesty committed on 9 November 2013. Initially, the sentence had been suspended; it had been imposed by virtue of a Penal Order dated 6 May 2015. However, on 17 August 2016 the sentence was activated. The circumstances in which the Penal Order came to be imposed and the circumstances leading to the activation of the suspended sentence are described more fully below. Following a contested hearing before District Judge Zani, an order directing the Appellant's extradition was made on 10 July 2018.

3. Permission to appeal in respect of the decision of DCM Ikram was granted by Ouseley J at an oral hearing on 17 January 2018. At that hearing the learned judge was made aware of the extradition proceedings which were, by then, in being relating to EAW2. Accordingly, he directed that in the event that there was an appeal in respect of any order made in those proceedings there should be a "rolled up" hearing in respect of that appeal which was to be listed at the same time as the appeal against the decision of DCM Ikram.

4. The appeal against the decision of DCM Ikram and the rolled up hearing in respect of the decision of DJ Zani were listed before me on 11 December 2018. At that hearing, I heard full arguments from both Ms Hinton and Mr Evans upon the merits of both appeals.

5. It is worth noting at this early stage of my judgment that no evidence was adduced before DCM Ikram relating to any of the matters which formed the basis of EAW2. DCM Ikram was unaware of the possibility that a second warrant would be issued at the time he delivered his judgment. However, in the proceedings before DJ Zani, in respect of EAW2, evidence was adduced relating to the earlier warrant. It is clear that the fact that DCM Ikram had directed that the Appellant should be extradited pursuant to EAW1 was taken into account as a material factor when DJ Zani made his decision.

The relevant facts

6. The Appellant was born on 16 January 1984. He is a citizen of the Czech Republic. He has a partner, Ms Jarolimova, who is also a Czech citizen.

7. The Appellant and his partner have three children. They are a son, born 23 February 2015 and twin daughters, born 26 October 2017. Evidence adduced before me shows that the Appellant's partner is expecting a fourth child.

8. The Appellant has a number of convictions in the Czech Republic. On 9 November 2013 the Appellant committed the offence which is the subject of EAW2 and which resulted in the Penal Order to which I referred. On 16 December 2014 the Appellant was convicted of an offence of failing to pay maintenance in respect of a child or children. On the same date he was sentenced to a term of 10 months' imprisonment suspended for a period of two years. Between 6 December 2014 and 5 October 2015 the Appellant again failed to make appropriate maintenance payments. On 3 November 2015 he was convicted of that offence and sentenced to perform 300 hours community service. On 4 April 2016 the Appellant was convicted of the offences which are the subject of EAW1 and sentenced, on that date, to a term of 8 months' imprisonment.

9. The Appellant and his partner left the Czech Republic for the UK on 17 August 2016. At the time, their young son was recuperating from heart surgery and he was left in the care of his maternal grandmother. In due course, she brought the young child to the UK so that he could resume living with his parents.

10. Since their arrival in the UK the Appellant and his family have lived in Newcastle. That city is also the place of residence of three brothers of the Appellant's partner. They all have their own families although they have frequent contact with the Appellant and his family.

11. Ms Jarolimova is significantly younger than the Appellant. She is now 22 years and 10 months old. She suffers from a number of health problems which are set out in some detail in paragraph 33 of Ms Hinton's skeleton argument. It suffices that I say that her condition may be related to the onset of multiple sclerosis and she is at risk of losing her vision. There was no dispute in the hearings before the District Judges about her evidence that her disability was sufficiently serious to prevent her from working.

12. Throughout his stay in the UK the Appellant has worked regularly. He is the sole means of support for his family. He has committed no criminal offences since his arrival in the UK.

13. During the course of the appeal process in relation to EAW1, Sir Stephen Silber directed that a report should be obtained from the Social Services Department of Newcastle City Council. That report is dated 5 December 2017 and it was written by a social worker, Ms Rachel Gabel. Ms Gabel interviewed the Appellant and his partner on two occasions. She elicited from them information about their living and working arrangements (as described above). She also sought to establish what assistance might be available to Ms Jarolimova and the children in the event that the Appellant's extradition took place. Essentially, she concluded that it was unlikely that significant assistance would be afforded to Ms Jarolimova and the children by either central or local government in this country. No financial or housing assistance would be made available. She further concluded that such assistance as could be provided by Ms Jarolimova's brothers and their families was limited. Ms Gabel inquired of the Appellant and Ms Jarolimova whether any assistance could be afforded to Ms Jarolimova and the children should they return to the Czech Republic. The response was not conclusive. Although Ms Jarolimova's mother was residing in that country, it was unclear as at December 2017 what assistance, if any, she was in a

position to provide. In spite of the lack of detailed information about what might happen if mother and children returned to the Czech Republic if the Appellant was returned to serve his sentences, Ms Gabel expressed the opinion that the best interests of the Appellant's children would be served if they returned as well.

14. At the hearing before DJ Zani, i.e. some 6 months after the report of Ms Gabel was prepared, the issue of what would happen to Ms Jarolimova and the children in the event of the Appellant's extradition was considered in some detail. Paragraphs 34 and 35 of the judgment of the District Judge read as follows:-

> "34. Diana Jarolimova produced an uncontroversial signed statement in support of PD's Article 8 challenge. She confirmed the domestic arrangements as provided to this court by PD. She would clearly be in a difficult position were extradition to be ordered as she would appear not to have access to funds to be able to support herself and their three young children if she were to remain in the UK. She says that she has never previously worked and that she relies on PD for financial as well as emotional support.
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> 35. Albeit that Diana's mother resides in the Czech Republic, her accommodation is said to be small and she only receives a modest pension income from the Czech state. It does appear, however, that there is a system in place in the Czech Republic whereby Diana would be eligible for certain Czech state benefits by reason of her acknowledged disabilities. This court has been informed that if PD is to be extradited, Diana and the children will return to the Czech Republic to live initially with her mother while they seek alternative accommodation."

15. Before me there was some debate between Ms Hinton and Mr Evans about the source of the information recorded by the District Judge, in particular, at paragraph 35. Ms Hinton submitted that there was no evidence to justify what the District Judge had written. Mr Evans, on the other hand, submitted that the information recorded by the District Judge was elicited during cross-examination.

16. I have no means of determining what evidence was given before the District Judge so far as it relates to paragraphs 34 and 35 of his judgment. I have not been provided with any notes of evidence. It is, of course, improbable that the District Judge made findings of fact which were unsupported by any evidence provided to him. Ultimately, the onus is upon the Appellant to demonstrate that the facts recorded by the District Judge at paragraph 35 of his judgment were not supported by any evidence adduced before him. That he has failed to do. It seems to me that I must proceed on the basis that the District Judge was told during the course of the Appellant's cross-examination that, in the event of an order for the Appellant's extradition, his partner and children would return to the Czech Republic and avail themselves of such assistance as would be provided by Ms Jarolimova's mother and the state.

The EAWs

17. Box E of EAW1 specifies the offences of which the Appellant was convicted and sentenced on 4 April 2016. They are accurately set out at paragraph 9 of the skeleton argument of Mr Evans. The offences consist of a number of offences of dishonesty. They took place during the period 6 November 2015 to 29 February 2016 and they resulted in an approximate total loss of £400.

18. The Appellant acknowledged before the District Judge that he was present at his trial and he acknowledges that he was aware of his conviction and sentence from the date of their pronouncement.

19. EAW2 relates to one offence of attempted theft of a sum of £100 approximately. It occurred on 9 November 2013 when the Appellant used a bank card belonging to another to attempt to withdraw money from an ATM.

20. The Appellant was convicted of this offence on 6 May 2015. However, this conviction did not result from a trial process. Rather, it derived from what is, in translation, called "the Simplified Procedure" permitted under section 314 of the Czech Penal Code. The nature of this process is accurately described by reference to the further information provided by the Respondent, dated 26 October 2017, and the decision in *B v The District Court in Trutnov, The District Court in Liberec (Two Czech Judicial Authorities)* [2011] EWHC 963 (Admin) § 4 and 5. The relevant paragraphs in that judgment are set out at paragraph 20 of Ms Hinton's skeleton argument and are as follows:-

> "… if during the pre-trial investigation the suspect admits guilt to the prosecutor and the case may possibly be disposed of by one of a range of 'minor' penalties, the papers can be put before a judge who, if s/he feels s/he can fix an appropriate punishment within the limited range, can then make a penal order. Such an order has the nature of a guilty verdict even though there has been no 'trial' see section 314e(5).
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> 5. By section 314f(d) it is a requirement that the penal order shall be delivered to the accused person. Unless and until that happens it has no effect. By section 314g the accused person has the right to raise an objection against the penal order, and if any such objection is made the penal order is cancelled and the case is returned to the ordinary criminal process and would then result in a criminal trial . . . . That means a Defendant has a choice either to accept the guilty verdict and the punishment imposed i.e. accept the penal order, or ask for the standard procedure to apply which would then include a hearing at court."

21. It is not disputed that the Appellant was made the subject of a Penal Order pursuant to the Simplified Procedure and that the sanction imposed upon him was a term of 12 months' imprisonment suspended for 3 years. It is also common ground that the suspended sentence of 12 months' imprisonment was activated as a consequence of the offences which the Appellant committed in 2015 and 2016 and which are the

subject of EAW1. However, before me and at the hearing before DJ Zani there was a debate about the circumstances which prevailed when the Penal Order was made. It was the case for the Appellant that he was not aware that he had been made the subject of a suspended sentence at the time that the Penal Order was issued. I deal with the factual conflicts relating to this issue below.

The grounds of appeal

22. In respect of the decision upon EAW 1 there is one ground of appeal, namely that DCM Ikram was wrong to conclude that extradition would not constitute a disproportionate interference with the family and private life of the Appellant and his family. As originally advanced, there were a number of grounds of appeal in respect of the decision upon EAW2. Before me, however, two grounds were advanced. One was that DJ Zani was wrong to conclude that the Appellant could not avail himself of section 14 of the Extradition Act 2003 because he was a fugitive from justice. The other ground advanced was the contention that District Judge Zani was wrong to conclude that extradition would not constitute a disproportionate interference with the private and family rights of the Appellant and his family. I propose to consider first the contention that DJ Zani was wrong to find as he did in relation to the challenge to EAW2 pursuant to section 14 of the Act.

Discussion

23. The Appellant does not dispute that he is a fugitive from justice in respect the sentence of 8 months' imprisonment imposed in respect of the offences specified in EAW1. Before DCM Ikram he accepted that he had come to the United Kingdom, at least in part, in order to avoid serving that sentence of imprisonment. Ms Hinton does not seek to go behind that admission on this appeal. Before DJ Zani, however, the Appellant did not accept that he came to the UK in order to avoid serving the sentence of 12 months imprisonment. Indeed, his evidence before the DJ was that he did not know that he had been made the subject of a suspended sentence of imprisonment when the Penal Order was imposed upon him. In his evidence he claimed that he had not become aware that he had been made the subject of a suspended sentence until he was informed of that fact in November 2017 by his English solicitors, by which time, of course, the sentence had been activated.

24. DJ Zani set out his reasons for concluding that the Appellant was a fugitive from justice in respect of EAW2 in paragraphs 90 to 93 of his judgment. They read as follows:-

> "90. I am satisfied that, contrary to what he asserts, PD was aware of the suspended sentence having been imposed. He had been interviewed by the Czech police and admitted his guilt. This meant that the case could proceed via the Simplified Procedure.
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> 91. I am further satisfied that, as is asserted by the Judicial Authority, the Penal Order was "*served (delivered) to (at the time) Demeter's hands*". The reasonable inference is that he was personally served (i.e. not by post) and there can be no

> reasonable excuse for him not to then have been aware of the terms of that Order.
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> 92. I find that PD was aware of the original suspended sentence and that any later criminal actions by him might well result in its activation. I was not convinced by his evidence to the contrary. It should also perhaps be borne in mind that PD is not a stranger to the Czech Penal system, as his list of criminal convictions demonstrates ……..
>
> 93. I am entirely satisfied that PD chose to leave the jurisdiction of the Czech Republic, in part, so as not to surrender to prison authorities not only in relation to the 8 months' term separately imposed, but also for this 12 months' term for which his return is currently sought."

25. Ms Hinton argues that the District Judge was wrong to conclude that the Appellant was a fugitive from justice in respect of EAW2. She points out that the Penal Order which specified the terms upon which the sentence was suspended was not adduced in evidence before the District Judge. Therefore, the precise terms of the Penal Order were not proved. Further, submits Ms Hinton, there was no proper evidential basis for the finding by DJ Zani that he was sure that the Appellant was aware that the commission of an offence during the operational period of a suspended sentence would or might lead to its activation. As at the date when the Appellant left the Czech Republic for the UK he was not prohibited from so doing by reason of the suspended sentence and he was not in breach of any obligation imposed upon him to remain in contact with the authorities within the Czech Republic.

26. Despite Ms Hinton's persuasive submissions, I find it impossible to hold that the District Judge was wrong to categorise the Appellant as a fugitive in respect of EAW2. It is clear from the passages from his judgment set out at paragraph 24 above that the Appellant must have been questioned closely about the circumstances in which he decided to leave the Czech Republic and his motive for so doing. The District Judge, having had the benefit of hearing evidence, was entitled to find as he did. He was entitled to find that the Appellant was familiar with the concept of a suspended sentence having been made the subject of such a sentence on 16 December 2014. The District Judge found, expressly, that he did not believe the Appellant's protestations to the effect that he was unaware that the commission of an offence during the operational period of a suspended sentence might lead to its activation. Having had the benefit of hearing the Appellant give evidence and seeing his evidence tested by pertinent cross-examination, the conclusion of the District Judge was one which was clearly open to him. For completeness, I add that although the Penal Order itself was not adduced in evidence the District Judge was fully entitled to proceed on the basis that its terms were accurately set out in EAW2 and the Further Information dated 26 October 2017.

27. Having concluded that the Appellant was aware that the commission of a further offence might lead to the activation of the suspended sentence, the District Judge was entitled to infer that the Appellant left the Czech Republic, in part, to avoid the possibility of having to serve a sentence of 12 months' imprisonment should it be

activated. As Mr Evans puts it, succinctly, in his skeleton argument, the Appellant put himself beyond the reach of enforcement proceedings by leaving the jurisdiction of the Czech Republic.

28. Given that the District Judge was entitled to find that the Appellant was a fugitive in respect of EAW2, it was not open to the Appellant to rely upon section 14 of the 2003 Act. That said, if contrary to my view it was open to the Appellant to argue that his extradition on this EAW was oppressive or unjust those contentions would not have succeeded for the reasons given by DJ Zani.

29. Before me, the Appellant sought to rely upon the evidence of Ms Lenka Kotulkovà, an attorney practising in the Czech Republic. She had been asked to answer a number questions relating to the service of the Penal Order upon the Appellant and its contents. Ms Hinton correctly submits that on the basis of the contents of the Order there is no reason to suppose that the Appellant was specifically advised that the commission of further offences during the operational period of the suspended sentence would or might lead to its activation. In my judgment, however, that of itself does not undermine the conclusion reached by DJ Zani that the Appellant knew that the activation was a possible outcome if he re-offended within the operational period of the sentence. Further, if Ms Kotulkovà's evidence had been before the DJ it would have reinforced him in his view that the Appellant knew at all material times that he had been made the subject of a suspended sentence. The terms of the Penal Order are unequivocal on that point. Applying the well-known principles by which this court makes a judgment about whether to permit "fresh evidence" to be adduced at an appeal I refuse the Appellant permission to rely upon Ms Kotukovà's evidence

30. I turn, therefore, to the ground of appeal which is common to both appeals, namely that extradition would constitute a disproportionate interference with the private and family life of the Appellant, his partner and their children.

31. My first task is to consider the approach I should adopt given that there are two separate appeals. I raised this issue with Counsel during the course of their oral submissions and I was told, correctly, that there was a decision in point, namely a decision of Irwin J (as he then was) in *Zakrzewski v Regional Court In Warsaw, (Poland)* [2015] EWHC 3393 (Admin).

32. In *Zakrzewski* Irwin J had to determine two appeals pursuant to two separate decisions of different District Judges in respect of two European Arrest Warrants. One of the arrest warrants was accusatory; i.e. the appellant was wanted to be tried for alleged criminal offences. The other warrant was a request that the appellant should be returned to Poland to serve a sentence of imprisonment following conviction on a number of offences.

33. The relevant paragraphs in the judgment of Irwin J are paragraphs 14-25. I do not propose to cite all those paragraphs; in this case it is sufficient to cite the arguments presented to the learned judge and his conclusion upon those arguments:-

> "14. There are potential bars to extradition which must be considered separately, even when two appeals are heard together. Mr Gledhill's submission, both orally and in written submissions made at my request following the hearing, is that

separate consideration should be the approach in all cases and in respect of all issues. Each appeal is discrete, and consideration of the case of the matters in hand should be discrete, since the decision in the given appeal, absent fresh evidence, is whether the decision by the district judge was "wrong".

15. A difficulty I perceive with that rather straightforward approach is that there will often be matters common to multiple appeals. That is the case here. Although matters are framed slightly differently in relation to the accusation warrant EAW2, because framed both under Article 8 and under Section 21A, in this case the substance of the matter under both heads and in both appeals is in fact identical. The Appellant's submissions at the extradition hearings and on appeal are based on almost exactly the same factual material and with the exactly the same point of substance: it would be disproportionate to extradite, given the impact on the Appellant's private and family life.

…..

20. Ms Farrant for the IJA relies upon [dicta of Cranston J in *Kalemba v Regional Court in Gdansk, Poland* [2015] EWHC 1880 (Admin)], and submits that the appellate Court must take into account the reality of the Appellant's current situation in assessing the merits for Article 8 and proportionality. Section 27(1) of the Extradition Act 2003 permits the Court to take into account changed facts which materially affect the case and conduct the balancing exercise afresh.

21. Ms Farrant also relies on the guidance from the Lord Chief Justice contained in the Criminal Practice Directions Amendment No 2 [2014] EWCA Crim 1569, as to how to proceed under section 21A of the Act. The guidance is clear that multiple charges and multiple extradition requests are matters which may make it proportionate, and thus lawful, to extradite in relation to an offence which might otherwise be regarded as too trivial, and an insufficient foundation for extradition: see Rule 17A.4.

22. Thus Ms Farrant submits that the appeals here must be considered with all matters in mind. No question of proportionality can properly be decided without reference to everything which underpins the public interest in extradition being weighed in the balance. For example, if hypothetically, EAW1 was in respect of a relatively minor offence, committed or allegedly committed a long time ago, whereas EAW2 arose in respect of a very serious offence committed recently, it would be wholly artificial to refuse extradition on the former by

> reference to an Article 8 impact rendered quite academic by the latter.
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> 23. I agree with the submissions of Ms Farrant. The essence of any consideration of proportionality is to take all relevant matters into account, and balance the competing factors and interests. DJ Bayne was not in a position to do that. DJ Goldspring might have been in that position if all matters had been fully before him. Given the history here, it is appropriate that I should do so. If it is necessary, I invoke Section 27(A) to permit all matters to be considered together.
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> 24. It is important to emphasise that this approach is consistent with the guidance from the Lord Chief Justice, and is not inconsistent with the emphasis laid by the Divisional Court in *Polish Judicial Authorities v Celinski* [2015] EWHC 1274 (Admin), on the threshold for successful appeal being a finding that the decision at first instance was "wrong". *Celinski* was intended to restate and emphasise that an extradition appeal is not a re-hearing. In my view, that approach in no way precludes looking at matters in the round, when considering proportionality on facts as they are here. The alternative would be absurd. A trivial offence could properly lead to extradition if listed in the same warrant as a serious offence (following the Guidance) but a different outcome would be reached if the serious offence was in a separate warrant before the Court on the same day.
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> 25. I should also stress that this approach only arises where the proportionality of extradition is in question. Where formal defects are, or may be, in question, each warrant will of course be the subject of separate and discrete consideration."

34. I have no doubt that I should adopt the same approach in my consideration of these two appeals as was adopted by Irwin J in *Zakrzewski*. I appreciate that Ms Hinton attempts to deflect me from that course in detailed written submissions dated 12 December 2018. In substance, she seeks to persuade me that I should consider each ground of appeal in respect of each extradition request quite distinctly. I do not regard that as a permissible approach when, as in the instant case, a particular ground of appeal under consideration in each appeal is the same, i.e. that extradition would constitute a disproportionate impact upon the private and family life of the Appellant and his family and, further, when that issue must be judged not at the date when each of the district judges made their orders for extradition but as at the present time given that, to a degree, at least, the circumstances are different now compared with the circumstances which prevailed at the time when each District Judge made his decision. I propose to determine this ground of appeal by assessing for myself whether extradition in respect of both EAW1 and EAW2 would be a disproportionate interference with the private and family life of the Appellant and his family taking into account all facts and matters as they currently stand.

35. However, let me stress now that this approach does not mean that it is permissible for me to make different findings of fact from those made by either District Judge simply because time has moved on. If the evidence before me is identical upon a particular issue to the evidence considered below I can depart from such findings of fact only if I am satisfied that it can be demonstrated that such findings of fact were wrong.

36. Whether or not extradition constitutes a disproportionate interference with the rights of the Appellant and his family under Article 8 ECHR is to be judged in accordance with a trilogy of cases, namely *Norris v United States of America (No. 2)* [2010] UKSC 9, *HH v Deputy Prosecutor of the Italian Republic, Genoa* [2012] UKSC 25 and *Celinski and Others v Polish Judicial Authority* [2015] EWHC 1274 (Admin). No useful purpose would be served by citation from these authorities. The principles and guidance laid down in the cases are extremely well known to everyone concerned with this area of law and the principles and guidance which are particularly relevant to this case are referred to sufficiently in the skeleton arguments of the parties and in the judgments below.

37. I am satisfied that the following factors weigh heavily in favour of extradition. There is an enduring weighty public interest in the UK honouring its international extradition obligations. That is particularly so when, as here, the person sought is a fugitive from justice. The UK must not be seen to be a safe haven for fugitives feeing their country of origin in order to avoid prison sentences. The Appellant has committed a number of offences which, cumulatively, cannot be regarded as trivial. I accept that the offence which is the subject of EAW2 might properly be regarded as trivial if looked at in isolation but, as a matter of fact, it was the first of a number of offences of dishonesty beginning in late 2013 and ending in early 2016. I understand that a sentence of 12 months' imprisonment for one minor offence of dishonesty might appear unduly harsh, but the Appellant would never have been called upon to serve that sentence had he not committed a series of offences of dishonesty in late 2015 and early 2016. In my judgment it is necessary to assess the weight to be attached to the Appellant's offending as specified in the EAWs as a whole. On that basis, the nature and extent of the Appellant's offending is properly to be regarded as a factor which support orders for extradition. The Appellant and his family have been in the UK for a comparatively short period of time. This is relevant not just to the length of time over which ties to this country have been developed – no more than some months elapsed between their arrival in the UK and the issue and execution of EAW1. The short period of time in which the Appellant was in this country before the execution of EAW1 also limits the weight to be attached to the point made on behalf of the Appellant that he has committed no offences whilst resident in this country.

38. The factor which weighs most heavily against extradition in respect of each warrant is that, without doubt, there will be a significant adverse impact upon the Appellant's family should he be returned to serve a sentence of 20 months imprisonment. All the evidence suggests that it will not be practicable for the Appellant's family to remain in the UK and I proceed on the basis that they will return to the Czech Republic as DJ Zani found in his judgment of 10 July 2018. That, undoubtedly, will cause significant disruption for Ms Jarolimova and her young children (including the child soon to be born), although such are the ages of the children that it is unlikely to have a significant impact upon their education. I appreciate the comparatively poor state of health of Ms Jarolimova; however, I must proceed on the basis that the Czech

Republic, as a member state of the EU, can provide appropriate medical care for her needs.

39. Ms Hinton seeks to argue that it would be very difficult for the Appellant's family to find appropriate accommodation and financial support upon their return to the Czech Republic. The difficulty with that submission is the findings made by DJ Zani which are set out at paragraph 14 above. The reality is that those findings are unimpeachable for reasons which I have explained and, in truth, no evidence has been adduced before me which begins to demonstrate that the findings were wrong or that the circumstances found by DJ Zani as to the availability of accommodation in the short time and financial aid from the State have likely changed. Accordingly, the disruption caused by the Appellant's family returning to the Czech Republic will be mitigated by the fact that Ms Jarolimova's mother will provide some assistance in the short-term and financial assistance appropriate to the state of her health will available to her.

40. On the basis of the evidence provided to DJ Zani by the Czech attorney, Mgr. David Zahumenský, it seems unlikely that the Judicial Authority in the Czech Republic will reduce the sentences of 8 months and 12 months by aggregating them to a lesser total, although there is at least a chance that early release provisions may apply to the Appellant. In my judgment, neither of these considerations add substantial weight to the contention that extradition on these EAWs would be a disproportionate interference with the right to private and family life of the Appellant and his family. These are matters for the Czech Republic to consider upon the Appellant's return.

41. Not without some hesitation, given the quality of the submissions made in support of these appeals, I have reached the conclusion that extradition on both warrants would not be a disproportionate interference with the private and family life of the Appellant, Ms Jarolimova and their children.

42. In relation to EAW2 I grant permission to appeal. However, for the reasons set out above, I have reached the conclusion that both these appeals must be dismissed.