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Neutral Citation Number: [2021] EWHC 854 (Ch)

Claim No: BL-2021-000365

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
BUSINESS LIST (ChD)

The Rolls Building
7 Rolls Buildings
Fetter Lane
London EC4A 1NL

Date: Friday, 9 April 2021

Before:

MS. PAT TREACY
(SITTING AS A JUDGE OF THE CHANCERY DIVISION)

- -

Between:

NEBAHAT EVYAP İŞBİLEN

Applicant / Claimant

- and -
(1) SELMAN TURK
(2) SG FINANCIAL GROUP LIMITED
(3) BARTON GROUP HOLDINGS LIMITED
(a company incorporated in the British Virgin Islands)
(4) SENTINEL GLOBAL ASSET MANAGEMENT, INC
(a company incorporated in the Cayman Islands)
(5) SENTINEL GLOBAL PARTNERS LIMITED
(a company incorporated in the Cayman Islands)
(6) AET GLOBAL DMCC
(a company incorporated in Dubai)

Respondents /Defendants

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- -

DAN MCCOURT FRITZ (instructed by **Peters & Peters Solicitors LLP**) appeared for the **Applicant / Claimant** on 18 March 2021 and, together with **TIM BENHAM-MIRANDO**, on 25 March 2021.
TOM SHEPHERD (instructed by **Bivonas Law LLP)** appeared for the **First Respondent / First Defendant** on 18 March 2021; **IAIN QUIRK QC** (instructed by **Bivonas Law LLP)** appeared for the **First Respondent / First Defendant** on 25 March 2021.

Hearing dates: 18, 25 March 2021

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APPROVED JUDGMENT

DEPUTY JUDGE TREACY:

Overview

1. This judgment relates to issues arising from an order granted by Miles J on 4 March 2021 (the "**Ex Parte Order**") following the ex parte and without notice application of the Claimant ("**Mrs İşbilen**"). That application was heard on 3 March 2021. The nature and contents of the Ex Parte Order are described below. Miles J delivered a comprehensive judgment (the "**3 March Judgment**").

2. The proceedings are at an early stage. Nothing in this Judgment should be considered as anything other than an initial description of the background as it currently appears following the initial factual evidence of the parties. By the date of this Judgment the evidence relevant to the factual background was contained in one affidavit by Mrs İşbilen prepared before the Ex Parte Hearing on 3 March 2021 and one witness statement by Mr Turk served on 24 March 2021.

3. In summary, Mrs İşbilen is a 76 year old Turkish lady. She needed assistance in moving her assets out of Turkey because her husband was imprisoned in Turkey owing to his political affiliations and she had no experience of moving assets internationally. It is said that Mrs İşbilen's ability to comprehend written and oral English is limited. This is disputed, to some extent at least, by Mr Turk but nothing turns on it for the purposes of this Judgment.

4. Mr Turk is a Turkish citizen, resident in London. He is a businessman and former banker. Mr Turk agreed to help Mrs İşbilen to move her assets out of reach of the Turkish authorities. Mrs İşbilen's evidence is that he was requested only to move her assets out of Turkey and to preserve their value, that she did not specify where her assets should be transferred but understood that they would be transferred into non-Turkish banks where they would be secure. Mr Turk's evidence is that moving the assets out of Turkey was a complex task, given the political situation surrounding Mrs İşbilen and her husband.

5. The dispute arises from the way in which Mrs İşbilen's assets were dealt with by Mr Turk.

6. Mrs İşbilen states that during 2020 she became concerned about the way in which Mr Turk was dealing with her assets and asked for an explanation. She initially asked directly and then with the assistance of Professor Çiçekli (a dual qualified English and Turkish lawyer) in the autumn of 2020. In December 2020 she instructed solicitors.

7. Mrs İşbilen's primary case is that Mr Turk breached fiduciary obligations that he owed to her. Mrs İşbilen also advances claims in deceit.

8. Mrs İşbilen accepts that she signed documents which appear both to authorise the transfer of funds and to agree to fees and remuneration. Her case is that she was induced to do so by Mr Turk, that he told her that they were necessary for opening bank accounts and moving her assets, and that he did not explain their true nature.

9. Mr Turk disputes Mrs İşbilen's allegations. He disagrees with her portrayal of the facts, including as to her understanding of the various dealings with her assets. He states that much of what has happened is the result of Mrs İşbilen's status as a politically exposed person and the consequential difficulty in dealing with her assets.

Procedural history/ The Ex Parte Order

10. The initial application was issued on 1 March 2021, and was dealt with at the hearing on 3 March, as set out in the 3 March Judgment.

11. Mr Turk was served with the Ex Parte Order on the evening of Thursday 11 March 2021. Miles J had given permission for service to be delayed to enable Mrs İşbilen to progress related applications in the Cayman Islands, the British Virgin Isles, Germany and Austria.

12. The main obligations on Mr Turk under the Ex Parte Order, with the relevant deadline (all from the date of service), were in broad summary:

- Paragraphs 5-8: A World Wide Freezing Order (the "**WWFO**") – immediate;
- Paragraphs 9 and 10: A Disclosure Order relating to Mr Turk's assets and funds to support the WWFO (the "**WWFO Disclosure Order**"):
    - immediate;

- to be confirmed by affidavit within three working days;

- Paragraph 15: A Proprietary Injunction (the "**Proprietary Injunction**") relating to Mrs İşbilen's assets or the proceeds of dealings with those assets (the "**Traceable Proceeds**") – immediate;

- Paragraphs 16, 18-22: A Further Disclosure and Delivery Up Order to support the Proprietary Injunction (The "**Proprietary Injunction Disclosure Order**"):

  - immediate for whereabouts, value and nature of Traceable Proceeds (which were further described in two schedules to the Ex Parte Order);

  - within 48 hours in respect of information and documents set out in paragraphs 18-20;

  - to be supported by affidavit within 5 working days;

- Paragraphs 23-25: An Order relating to Mr Turk's travel documents (the "**Passport Order**") to:

  - identify forthwith; and to

  - deliver up within 12 hours

13. The scheme of the Ex Parte Order was therefore to impose the WWFO and Proprietary Injunction immediately, with both of those being supported by obligations to provide some information immediately and to provide further specified information or documents within 48 hours. In addition affidavits were required to verify the information within three (WWFO Disclosure Order) or five (Proprietary Injunction Disclosure Order) working days.

This hearing and the applications

14. The hearing was listed for one day on 18 March 2021. In the event, it was adjourned late in the afternoon of 18 March, and continued on 25 March.

15. Mrs İşbilen sought the continuation of the orders made on an ex parte basis by Miles J. She also made an application for an order that Mr Turk should attend court to be cross-examined. Finally, while making no application under CPR 81, Mrs İşbilen raised the possibility that the Court might commence contempt proceedings under CPR 81.6 against Mr Turk.

16. Mr Turk had initially sought an adjournment on the basis that it had not been possible for his legal advisers to take adequate instructions. Ultimately Mr Turk consented to the continuation of the Ex Parte Order at the 18 March hearing, subject to some adjustments to preserve his ability to challenge jurisdiction.

Submissions on application for Cross-Examination

17. At the hearing on 18 March, Mr McCourt Fritz submitted that Mr Turk's compliance with the disclosure obligations under the Ex Parte Order had been both late and incomplete to such an extent that it seemed clear that Mr Turk would not provide the information mandated by that order unless compelled to do so. These were said to be suitable circumstances for the Court to exercise its jurisdiction under section 37 of the Senior Courts Act 1981 to order Mr Turk to be cross-examined on his disclosure. The failure to comply with the Ex Parte Order was also argued to be such as to require the Court to consider whether to proceed against Mr Turk under CPR 81.6.

18. Mr Shepherd, who appeared for Mr Turk at the 18 March hearing, argued that Mrs İşbilen's application for cross-examination was premature, as the authorities established that cross-examination in aid of an asset disclosure order would not normally be ordered unless serious and significant deficiencies had been established in the existing disclosure. He relied on the comments of Vos J (as he then was) in *Jenington International Inc v Assaubayev* [2010] EWHC 2351 (Ch):

"*Against the background of those authorities and the submissions of the parties which were not much at odds as to the principles to be applied, it seems to me that the requirements for ordering cross-examination in circumstances such as these may be summarised as follows:*

(1) the statutory discretion to order cross-examination is broad and unfettered. It may be ordered whenever the court considers it just and convenient to do so.

(2) generally cross-examination in aid of an asset disclosure order will be very much the exception rather than the rule.

(3) it will normally only be ordered where it is likely to further the proper purpose of the order by, for example, revealing further assets that might otherwise be dissipated so as to prevent an eventual judgment again the defendants going unsatisfied.

(4) it must be proportionate and just in the sense that it must not be undertaken oppressively or for an ulterior purpose. Thus it will not normally be ordered unless there are significant or serious deficiencies in the existing disclosure.

(5) cross-examination can in an appropriate case be ordered when assets have already been disclosed in excess of the value of the claim against the defendants." [22]

19. Mr Shepherd argued that these conditions were not met, not least on the basis that one of the deadlines in the Ex Parte Order had not yet expired. He submitted that, taken as a whole, Mr Turk had taken reasonable steps to comply with his obligations, that those obligations were numerous, complex and onerous, and that Mr Turk had only had the benefit of legal advice for a few working days before the return date (bearing in mind that he had been served with the Ex Parte Order at 7 pm on 11 March (a Thursday), and the return date hearing had been listed for 10.30 am on 18 March.

20. The hearing was adjourned to allow Mr Turk to serve the outstanding affidavit and to make further progress in providing disclosure.

21. In correspondence before the resumed hearing, Mr Turk indicated that he would consent to cross-examination subject to safeguards relating to the scope of cross-examination and the use of the evidence obtained. These were discussed at the 25 March hearing and are reflected in the order. A list of topics will be provided to Mr Turk in advance so that he is able to prepare.

Submissions on CPR 81.6

22. During the hearing on 25 March Mr McCourt Fritz developed the points he had made on CPR 81.6 during the 18 March hearing. He submitted that, while proceedings

under CPR 81.6 are a matter for the Court, it would be hard to imagine circumstances in which such an order would be more appropriate. For the Court to order a directions hearing under CPR 81.6(3) would be an aid to compliance, and a gateway towards future contempt proceedings, rather than a 'nuclear weapon'. Listing a directions hearing would be proportionate and sensible when there is admitted non-compliance with a court order and would, he submitted, allow the Court to pause and assess compliance, providing an opportunity for the non-compliant party to reconsider its approach to compliance.

23. Mr Quirk QC, appearing for Mr Turk during the hearing on 25 March, described the approach of Mrs İşbilen to CPR 81.6 as both tactical in nature and premature as: there was no suggestion that the WWFO had been breached; further disclosure had been provided on the ancillary disclosure issues; and if questions remained they could be dealt with in the cross-examination, to which Mr Turk had consented.

24. He submitted that there had been no non-compliance amounting to contempt and that a contempt summons plus a satellite contempt hearing (even if initially only for directions) would impose pressure on Mr Turk and be a significant and unnecessary distraction from the main issues in the case. This was particularly so given the sincere regret expressed in Mr Turk's witness statement that he had not been able to comply with all the disclosure obligations within the deadlines set in the Ex Parte Order and his continuing efforts to do so.

25. Mr Quirk QC submitted that, while the adoption of CPR 81.6 in October 2020 had changed some procedural aspects of contempt proceedings, it did not alter the Court's powers or the nature of such proceedings themselves. In particular, he submitted that the steps envisaged when a court acts under CPR 81.6 are weighty, and involve much more that listing a directions hearing; proceeding under CPR 81.6 requires the issuing of a summons and moving towards the most serious sanction available to the Court. Such a sanction, and proceedings related to it, should be reserved for situations of real need and not lightly employed. In his submission, the process envisaged by CPR 81.6 will only rarely be appropriate in commercial litigation between represented parties.

CPR 81.6 – assessment

26. CPR 81 was amended in October 2020 following a consultation in the Spring of 2020. CPR 81.1 provides:

> "*(1) This Part sets out the procedure to be followed in proceedings for contempt of court ("contempt proceedings").*
>
> *(2) This Part does not alter the scope and extent of the jurisdiction of courts determining contempt proceedings, whether inherent, statutory or at common law.*
>
> *(3) This Part has effect subject to and to the extent that it is consistent with the substantive law of contempt of court.*"

27. Previous authorities relating to contempt (including the test for when such proceedings should be commenced) still apply and many existing authorities are referred to in the notes to CPR 81.

28. CPR 81.6 is headed "*Cases where no application is made*" and provides:

> *"(1) If the court considers that a contempt of court (including a contempt in the face of the court) may have been committed, the court on its own initiative shall consider whether to proceed against the defendant in contempt proceedings.*
>
> *(2) Where the court does so, any other party in the proceedings may be required by the court to give such assistance to the court as is proportionate and reasonable, having regard to the resources available to that party.*
>
> *(3) If the court proceeds of its own initiative, it shall issue a summons to the defendant which includes the matters set out in rule 81.4(2)(a)-(s) (in so far as applicable) and requires the defendant to attend court for directions to be given.*
>
> *(4) A summons issued under this rule shall be served on the defendant personally and on any other party, unless the court directs otherwise. If rule 81.5(2) applies, the procedure there set out shall be followed unless the court directs otherwise.*"

29. CPR 81.6 imports a novel requirement for the Court to consider whether to proceed in contempt if it considers that a contempt may have been committed. The Court is to do

so "*of its own volition*", although where it does so "*... any other party in the proceedings may be required by the court to give such assistance to the court as is proportionate and reasonable*". The notes to CPR 81.6(1) explain that the provision is intended to restate the power of the Court to commit of its own volition, noting that contempt in the face of the Court provides the clearest example of when this is likely. CPR 81 makes no change to the Court's substantive powers, and it appears that the procedural aspects of CPR 81.6 are primarily intended to avoid criticisms of summary disposal of contempt proceedings.

30. Only two authorities dealing with CPR 81.6 were identified: *Finch v Surrey County Council (Application against the BBC)* [2021] EWHC 170 (QB); and *Mohammad v Secretary of State for the Home Department* [2021] EWHC 240 (Admin), both of which arose in quite different circumstances. In considering the appropriate approach to CPR 81.6, it is important to consider it in its context and in the light of the pre-existing authorities. Three preliminary issues arise:

(i) Who is generally best placed to commence proceedings for contempt in civil cases?

(ii) When might the Court commence contempt proceedings of its own volition?

(iii) What other considerations are relevant?

Who is generally best placed to commence proceedings for contempt in civil cases?

31. CPR 81.6 applies where no other application has been made. This suggests that the Court is required to consider the position under CPR 81.6 only where an application might otherwise have been expected. *Bedfordshire Constabulary v RU* [2014] Fam 69 provides a convenient summary of those who may commence proceedings for contempt. It was referred to by counsel for both parties and is cited in the notes to CPR 81.3(2) in which the Court's power to bring contempt proceedings and the under CPR 81.6 is specifically mentioned. The position is clearly stated:

"*[…] In civil contempt proceedings:*

"The hierarchy of recognised applicants is as follows: (a) the party who obtained the order; (b) if he decides not to, the Attorney General, if the public interest

requires him to intervene in order to enforce the order; (c) the court will act of its own volition … in exceptional cases of clear contempts … in which it is urgent and imperative to act immediately." [32] per Holman J

32. This suggests that the Court should commence contempt proceedings of its own volition only in circumstances where the relevant party to the litigation decides not to bring an application (implying that it would have been open to that party to do so) and where the Attorney General has not intervened in the public interest (implying that it would have been open to the Attorney General to do so). In the hierarchy of applicants, the Court is least well placed to commence contempt proceedings, and this should inform its approach to CPR 81.6.

When might the Court commence contempt proceedings of its own volition?

33. The guidance from *Bedfordshire Constabulary* is of great assistance in assessing when the Court might act of its own initiative. It suggests that this is likely to be the case only in exceptional circumstances, where the contempt is clear, where there is urgency and where it is imperative to act immediately. None of this is affected by the adoption of CPR 81.6

What other considerations are relevant to that decision?

34. In addition to the considerations drawn from *Bedfordshire Constabulary*, mentioned in paragraph 33, Mr Quirk QC helpfully referred to *Public Joint Stock Company Vseukrainskyi Aktsionernyi Bank v Maksimov & Ors* [2014] EWHC 4370 (Comm) which is also mentioned in the notes to CPR 81. That judgment emphasises the importance of the overriding objective, including the proportionality requirements set out in CPR 1.1(2)(c), when considering whether contempt proceedings are appropriate. Paragraphs 21 and 22 are of particular relevance and are worth setting out in full:

"*21. In Sectorguard plc v Dienne plc [2009] EWHC 2693 (Ch) Briggs J stated as follows at [44] to [47]:*

> *"44. It is now well established, in the light of the new culture introduced by the CPR, and in particular with the requirements of proportionality referred*

to in CPR 1.1(2) as part of the overriding objective, that it is an abuse of process to pursue litigation where the value to the litigant of a successful outcome is so small as to make the exercise pointless, viewed against the expenditure of court time and the parties' time and money engaged by the undertaking: see Jameel v. Dow Jones & Co [2005] QB 946 per Lord Phillips at paragraphs 54, 69 and 70 (conveniently extracted in note 3.4.3.4 on page 73 of the 2009 White Book).

45. The concept that the disproportionate pursuit of pointless litigation is an abuse takes on added force in connection with committal applications. Such proceedings are a typical form of satellite litigation, and not infrequently give rise to a risk of the application of the parties' and the court's time and resources otherwise than for the purpose of the fair, expeditious and economic determination of the underlying dispute, and therefore contrary to the overriding objective as set out in CPR 1.1. The court's case management powers are to be exercised so as to give effect to the overriding objective and, by CPR 1.4(2)(h) the court is required to consider whether the likely benefit of taking a particular step justifies the cost of taking it. Furthermore, paragraph 5 of the Contempt Practice Direction makes express reference to the court's case management powers in the context of applications to strike out committal proceedings.

46 It has long been recognised that the pursuit of committal proceedings which leads merely to the establishment of a purely technical contempt, rather than something of sufficient gravity to justify the imposition of a serious penalty, may lead to the applicant having to pay the respondent's costs: see Adam Phones v. Goldschmidt (supra) per Jacob J at 495 to 6, applying Bhimji v. Chatwani [1991] 1 All ER 705. Jacob J concluded, by reference to that case:

> *"Since that judgment the Civil Procedure Rules have come into force. Their emphasis on proportionality and on looking at the overall conduct of the parties emphasises the point that applications for committal should not be seen as a way of causing costs when the defendant has honestly tried to obey the court's order."*

> *47. Committal proceedings are an appropriate way, albeit as a last resort, of seeking to obtain the compliance by a party with the court's order (including undertakings contained in orders), and they are also an appropriate means of bringing to the court's attention serious rather than technical, still less involuntary, breaches of them. In my judgment the court should, in the exercise of its case management powers be astute to detect cases in which contempt proceedings are not being pursued for those legitimate ends. Indications that contempt proceedings are not so being pursued include applications relating to purely technical contempt, applications not directed at the obtaining of compliance with the order in question, and applications which, on the face of the documentary evidence, have no real prospect of success. Committal proceedings of that type are properly to be regarded as an abuse of process, and the court should lose no time in putting an end to them, so that the parties may concentrate their time and resources on the resolution of the underlying dispute between them."*

22. I respectfully endorse those comments. An increasing amount of this court's time is being taken up with contempt applications. Claimants should give careful consideration to proportionality in relation to the bringing and continuance of such proceedings. In appropriate cases respondents should give consideration to applying to strike out such applications for abuse of process. The court should be astute to detect when contempt proceedings are not being pursued for legitimate aims. Adverse costs orders may follow where claimants bring disproportionate contempt applications."

35. The emphasis on proportionality and on the overriding objective make clear that the commencement of contempt proceedings are likely to require significant consideration under CPR 81.6 only where they are in relation to "*serious rather than technical*" breaches; when they are "*directed at the obtaining of compliance with the order in question*"; "*when they have a real prospect of success*"; and when they involve "*something of sufficient gravity to justify the imposition of a serious penalty*".

36. As mentioned above at paragraph 22, counsel for Mrs İşbilen suggested that the jurisdiction under CPR 81.6 was deliberately flexible, providing a new tool to enable the Court to ensure that its Orders are complied with, meaning that listing a directions

hearing was a more proportionate and less intrusive measure than those considered in *Maksimov* and *Sectorguard*. He suggested that it was a 'gateway step' rather than a decision to commence contempt proceedings, and that therefore some of the qualifications in prior cases might not have such resonance under CPR 81.6.

37. As pointed out by Mr Quirk QC, this submission is at odds with the scheme of CPR 81.6 itself which requires the Court to consider proceeding only if it "*considers that a contempt of court (including a contempt in the face of the court) may have been committed*". Having considered "*whether to proceed against the defendant in contempt proceedings*" under CPR 81.6(1), the next steps are governed by CPR 86.1(3) which states that if "*the court proceeds of its own initiative, it shall issue a summons to the defendant*". Once the Court has decided to proceed, the summons issued by the Court under CPR 81.6(3) should comply (as far as applicable) with all the usual requirements of a summons and, in addition, require the defendant to attend court for directions to be given.

38. The new procedure under CPR 81.6 imports some additional procedural steps not previously present when the Court exercised its contempt jurisdiction summarily. While these will provide protection to a party subject to such proceedings, the Court is still taking a step which is capable of giving rise to all the concerns identified in the authorities warning against an overly liberal approach to contempt proceedings. This is not a gateway step. It is the commencement of proceedings in contempt by the Court. It will have an impact on the defendant to those proceedings (as Mr McCourt Fritz acknowledged) and will require resources from the Court and both parties. The Court should take steps under CPR 81.6(2) and the succeeding parts of CPR 81.6 only if satisfied that this is in accordance with the overriding objective.

39. Two further issues arise from the submissions in this case. First, to what extent and when does CPR 81.6(1) require the Court to consider "*whether to proceed against the defendant in contempt proceedings*"; and, secondly, what is the duty of the parties (if any) under CPR 81.6.

40. CPR 81.6(1) requires the Court to consider whether to proceed in contempt proceedings only where it "*considers that a contempt of court (including a contempt in the face of the court) may have been committed*". The provision gives no guidance

as to how great a likelihood is required. However, clearly the Court must take the view that a contempt may have occurred. Mr Quirk QC drew my attention to *Buckinghamshire CC v Anglo Irish Plant Hire Ltd* [2011] EWHC 3686 (QB). The judgment of HHJ Seymour QC provides a helpful reminder that:

"*…, as a matter of principle, it must be an element in proving a contempt, where the contempt is alleged to consist in failing to comply with a mandatory order of the Court, that the alleged contemnor had the ability to comply and merely chose not to, or to use the words that appear in the notes to the White Book: "There had been a deliberate and wilful refusal to comply."*" [12]

41. Technical breaches of court orders are therefore unlikely to require the Court to spend a great deal of time in considering whether to proceed in contempt under CPR 81.6. Such breaches, if properly analysed in their context, may be unlikely to give rise to contempt at all. If the circumstances suggest that "*a deliberate and wilful refusal to comply*" might have occurred, and where an application by a party might be plausible, then the Court would be expected to consider the position more thoroughly. Even in those circumstances, however, the Court would have regard to all the considerations set out above in paragraphs 31-35 before deciding to take further steps.

42. In my view, it follows that the Court should not expect submissions on CPR 81.6 in the majority of cases. If regular and lengthy submissions relating to CPR 81.6 were expected in all cases where there was an arguable (or even an obvious) breach of a court order, or if the possibility of steps pursuant to CPR 81.6 were to become a frequent, rather than an unusual, part of litigation relating to disclosure orders, this could have the most unwelcome effect of leading to precisely the outcome cautioned against in paragraph 22 of *Sectorguard* as an increasing amount of the Court's time and the resources of litigants might be devoted to issues relating to CPR 81.6.

43. The wording of CPR 81.6(1) itself suggests that this provision is primarily a matter for the Court ("*... the court on its own initiative shall consider…*"), although of course the parties may wish to remind the Court of the provision where appropriate.

44. Once the Court has taken the view that the circumstances are such that it should consider taking steps under CPR 81.6(3) then it may under CPR 81.6(2) require any party to give it "*... such assistance ... as is proportionate and reasonable ...*". This

might include representations as to the appropriateness of taking further steps in the circumstances of the particular case or, as was mooted by Mr McCourt Fritz, assistance in preparing a summons, if that is the Court's decision.

CPR 81.6 – conclusion

45. While Mr Turk's initial failure to comply with some aspects of the Ex Parte Order was the subject of comment during the hearing on 18 March, Mr Turk has acknowledged his failure, apologised for it and has taken some steps to rectify it, including agreeing to be cross-examined on his evidence. The particular factual circumstances are also relevant to the application of CPR 81.6. These include the time at which the Ex Parte Order was served on Mr Turk (particularly in relation to the short time between service and the hearing on 18 March), the stage of the litigation, the fact that Mrs İşbilen considered any application on her part relating to contempt to be a premature step and the evidence now received from Mr Turk as further explored during the hearing.

46. In view of all of the above, issuing a summons under CPR 81.6(3) would be inappropriate. Even if there were a serious prospect that a contempt may have been committed, such a step in this case would not be in accordance with the overriding objective.