Neutral Citation Number: [2024] EWHC 1768 (Admin)

Case No: AC-2023-LON-001733

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT
SITTING IN LONDON

Tuesday, 9th July 2024

Before:
FORDHAM J

- -

Between:

MARIO BAKAI	**Appellant**
- and -	
DISTRICT COURT IN DUNAJSKA STREDA (A SLOVAKIAN JUDICIAL AUTHORITY)	**Respondent**

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- -

Saoirse Townshend (instructed by Lansbury Worthington) for the **Appellant**
Laura Herbert (instructed by CPS) for the **Respondent**

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Hearing date: 11.6.24
Draft judgment: 28.6.24

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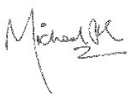
Approved Judgment



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FORDHAM J

FORDHAM J:

Introduction

1. The Appellant is aged 40 and is wanted for extradition to Slovakia. That is in conjunction with a conviction Extradition Arrest Warrant ("ExAW") issued on 5.8.21 and certified on 1.3.22. He was arrested on it on 5.8.22. He was released on 12.8.22, on conditional bail with a 9-hour electronically-monitored curfew (8pm-5am). His extradition was ordered by District Judge Law ("the Judge") at Westminster Magistrates' Court ("WMC") on 31.5.23. That was after an oral hearing on 4.5.23 at which the Appellant gave oral evidence and was cross-examined. The materials relied on by the Appellant before the Judge included his own proof of evidence which he adopted; a witness statement from his wife (Mrs Bakaiova); and the following three reports. First, a psychological report by Dr Jessica Crumpton (15.12.22). Secondly, an occupational therapy report by Redz Lenfield (15.12.22). Thirdly, a Section 7 Children Act 1989 Report (15.3.23), by the local authority's advanced social worker practitioner Heather Sweeney. The Sweeney Report had been ordered by District Judge Cieciora at WMC. At the time of the Judge's decision the time on electronically-monitored curfew was 9½ months. It is now nearly 23 months.

2. Permission to appeal was granted by Bourne J at an oral hearing on 17.1.24. The sole issue concerns whether extraditing the Appellant would be a proportionate interference with the Article 8 rights, to respect for private and family life, of any or all of the following: the Appellant; Mrs Bakaiova; and their now 9 year old son (the Son). The Son was born in Slovakia in August 2014. The family came to the UK in December 2014, aged 30 (the Appellant), 36 (Mrs Bakaiova) and 4 months (the Son). There have been three rounds of putative fresh evidence, in the form of statements accompanied by various documents. There is a witness statement of the Appellant (12.1.24). There are three further witness statements from Mrs Bakaiova (14.1.24, 28.5.24 and 10.6.24). There is a witness statement (6.6.24) from Erik, Mrs Bakaiova's son from a previous marriage. Erik had featured in the Crumpton and Sweeney Reports, and featured in the Judge's judgment. Bourne J granted permission to adduce the January 2024 statements. It was common ground that I should receive and consider all of the evidence, to see where it leads ('de bene esse'). In considering it, I stand on the platform of the Judge's assessment of the evidence, as it stood in May 2023, where that assessment – and any findings – are relevant and not undermined by error or fresh evidence. As always in Article 8 extradition cases, there were and are a number of topics which need to be considered and evaluated, informing an overall balance.

Nature and Seriousness of the Offending

3. As the Judge rightly recorded, the public interest in favour of extradition will always carry "great weight", but "the weight to be attached to it in the particular case does vary according to the nature and seriousness of the crime or crimes involved" (see HH v Italy [2012] UKSC 25 [2013] 1 AC 338 at §8(5)). Here, the index offence is a credit fraud which related to electrical goods, which the Appellant committed aged 29 in Slovakia (16.5.13). In the Article 8 balance-sheet, in listing features in favour of extradition, the Judge included the offending which he said was "not inconsequential", noting that it is regarded in Slovakia as so serious as to attract a minimum sentence of 12 months imprisonment. Ms Townshend raises points about this. As to "not inconsequential", she says the correct characterisation was "not particularly serious".

She draws a comparison with the dishonest offending in HH (§36), described in the Supreme Court as being of "no great gravity" and "relatively minor" (§§45, 81). She also says, instead of being a factor listed in support of extradition, the relative seriousness of the offending should have been listed as weighing against extradition. I cannot accept these submissions. There was no error in putting the crime in the balance-sheet in favour of extradition, giving it appropriate weight. As to language, what matters is substance rather than label. The Judge used "not inconsequential" and recognised the substance. This was a credit fraud. It was, by nature, a planned offence. It involved the use of false details regarding employment and income. It caused a loss of €775. It attracted, in Slovakia, a 12 month sentence of immediate custody.

The Previous Offending Context

4. That sentence – and the public interest considerations in favour of the Appellant being required to return to serve it – need to be seen in context. The Appellant had previous convictions in Slovakia. He had committed a credit fraud in 2004 (aged 24), for which he had received a custodial sentence of 2 years 4 months. He then had various further convictions in 2009 and 2010 (aged 25 and 26) for various offences, one of which was a further credit fraud. Others were various thefts; illegal entry into a dwelling; and forcible entry into a building. Each of these attracted a custodial sentence, the longest of which was 2 years 10 months. The consequence of all this was that the Appellant had been in prison until he was released on parole with probation (25.3.13). This was relevant, as aggravating context, as to the 12 month sentence of immediate imprisonment imposed, for what was a further credit fraud, committed aged 29 (16.5.13), within two months of that release on parole.

Fugitivity and Precariousness

5. There are further aspects of the case which link to the public interest in support of extradition. At the hearing before the Judge, the Appellant's story was that when he had come to the UK on 18.12.14, with Mrs Bakaiova and the Son. He said this was in ignorance of the position in the Slovakian criminal proceedings. He said the timing was coincidental. Having considered all the evidence, including oral evidence and cross-examination of the Appellant, the Judge roundly rejected that story. This was one of many aspects of the Appellant' evidence which the Judge found was unreliable. The Judge was sure that the Appellant had come to the UK, knowing full well what had taken place under the Slovakian criminal justice system, and specifically to avoid serving his 12 month sentence in Slovakia. The Appellant had been tried, convicted and sentenced (27.5.14), in his presence. He had personally been served (1.10.14) with a notice to serve the 12 month custodial sentence. He had then, successfully, applied for a postponement (to 24.12.14) of the sentence commencement date. Having done so, and 6 days before being due to attend prison, he left Slovakia for the UK with Mrs Bakaiova (who he had met in 2013 and married in 2014) and the Son (4 months old). The Judge, unassailably, found that the Appellant came here as a fugitive. The Judge also, unassailably, found that the private and family life in the UK had been built on that precarious position.

Passage of Time: Strength of the Public Interest

6. The Judge correctly recorded that the passage of time ("delay") since the crime was committed "may … diminish the weight to be attached to the public interest" in

extradition (see HH at §8(6)). He described the Slovakian authorities as having issued a December 2016 extradition arrest warrant, which they had replaced (post-Brexit) with the ExAW. The Judge recognised, in the circumstances and on the evidence in the present case, that the passage of time arose in the context of the Appellant's fugitivity. He also noted, as do I, that when the Appellant was ultimately arrested (5.8.22) it was because he came to the attention of the authorities, despite trying to mislead them. This was at a "traffic stop", because of the condition of his vehicle. He gave a false name to the police. But the police found within his car an identity document revealing his true identity. Checks then revealed that he was wanted for extradition. In considering the passage of time, the Judge said it was not clear what "more" the Slovakian authorities "could have done" in their pursuit of the Appellant. Ms Townshend raises a point on this. She says the Judge should have included within the Article 8 balance-sheet the 11 year passage of time, and especially the 5 years between December 2016 and August 2021. She says this materially diminishes the weight attached to the public interest in extradition. It shows a lack of any great urgency in pursuing the Appellant (cf. HH §46). But even if there was nothing "more" the authorities "could have done", the older the offending the greater the 'cooling' of the public interest. I cannot accept these submissions. It was not wrong for the Judge – for the reasons he gave – to conclude that the weight attributed to the public interest was not materially diminished by the passage of time. The Appellant was a fugitive, evading pursuit; building on a precarious position (with no false sense of security); and no more could reasonably have been expected.

Passage of Time: Impact on Private and Family Life

7. As the Judge also correctly recorded, delay since the crime was committed "may … increase the impact upon private and family life", which can weigh against extradition (HH §8(6)). The Judge recognised the features of the private and family's life in the UK, weighing against extradition, which are a function of the passage of time. The Appellant, Mrs Bakaiova and the Son had been in the UK since December 2014. For the Son, who came aged 4 months, the UK is the only country which has featured in his growing up. The family have an established private and family life. They have lived in their current home – a small 2-bedroomed terraced house – since 2020. The Son goes to school here (1.5 miles away). All three family members have their links and ties to the UK. Mrs Bakaiova and the Son have settled status. The Appellant had applied for settled status in October 2021, having previous the obtained pre-settled status. He has been working in this country and supporting his family. He has no criminal convictions here, in the now nearly 10 years here. That is a significantly contrasting position from the string of 9 criminal convictions and previous custodial sentences served in Slovakia. All of these factors weigh against extradition and are the weightier as a function of the passage of time. All of this is correct, and relevant. The Judge recognised it and so do I.

Impact: Length of Separation

8. In considering the impacts and implications of extradition, the Judge recognised that – if extradited – the Appellant would be away for 12 months while serving his sentence in Slovakia, after which the family would then be reunited in the UK. That position was recognised in the Crumpton and Sweeney Reports. No point is raised on this. It is common ground that the impacts and implications of extradition for the Appellant, Mrs Bakaiova and the Son arise from those 12 months of separation. The Judge considered

those impacts and implications, on the evidence before him. I am revising it, on all the evidence now before this Court.

The Son

9. In a section of his judgment discussing the evidence, the Judge said this about the Son ("the RP" means the Appellant, as the 'requested person'):

> ***19. In terms of [the Son], he has a potential diagnosis of dyspraxia and the impact on him if the RP was extradited is addressed in the expert report of Dr Crumpton. She concludes that [the Son] has a close and loving relationship with both parents who have been a source of support throughout his life. The likely effect on him if the RP was extradited is assessed as "severe, if not devastating harm", based on attachment theory, the effects of parental imprisonment on children, the role of fathers in child development and the impact on parental mental health. Her clinical assessment is that [the Son] will suffer harm of at least a severe intensity and worse if the separation was for over three months. Dr Crumpton does acknowledge that in that event [the Son] would have access to support services including his school, local authority and healthcare services who may be able to offer appropriate interventions. He would still be vulnerable to harm and his clinical prognosis would still be poor. If [the Son] were to be placed into the care of social services she is of the opinion he would suffer harm of at least a severe, and most likely a devastating, intensity. There is no assessment of the likelihood of this latter eventuality. 20. A section 7 report [the Sweeney Report] has been obtained from Darwen Social Services. It addresses the fact [the Son] would take on the role of a young carer and his needs might be neglected even with aids and adaptations to address Mrs Bakaiova's physical difficulties. Their opinion is that she would struggle to care for [the Son] on her own and there is a risk of neglect if she were to have her operation. A referral for a child in need plan would need to be made if the RP is extradited.***

10. Ms Townshend raises a point about "thriving at school", within this later description of the Son's position, in the course of the Judge's Article 8 evaluation:

> ***The [Son] is 8 years old and generally in good physical and mental health (albeit with an outstanding assessment for dyspraxia) and is thriving at school …***

Ms Townshend refers to the Crumpton Report. It says the Son's school reported that they think he could have dyspraxia, as the Judge recorded. The school also reported: that he does not appear to process or retain things; that he is two years behind age expectations in maths and writing and 18 months behind in reading; and that he has language and gross motor skills support. Ms Townshend says "thriving at school" was wrong and shows that the Judge overlooked these aspects of the evidence. I do not accept that submission. The Judge appreciated and had regard to all of the evidence. So must I. There were the points emphasised from Ms Townshend from the Crumpton Report. There was the Sweeney Report, which recorded that: academically, the Son was working below age related expectations in reading, writing and mathematics; that he was placed in the low ability category and making slow progress; that there is a language barrier that he is having to overcome; but also that he was "not being considered for having special educational needs". The sense of "thriving" can be seen from other features. The Sweeney Report recorded that he was "being supported with intervention groups in the school to support his learning"; that he "is seen to work well in smaller groups with adult support"; that he has a positive attitude to school; that he enjoyed coming to learn and see his friends; and that he had interactions with teaching staff which were "wholly positive". These, and the reference in the Crumpton Report that he loves going to school.

11. I have set out the Judge's description of the relevant contents of the Crumpton and Sweeney Reports (§9 above). In my judgment, that description involved no material omission or misappreciation. Key points emphasised on this appeal are these. The Crumpton Report says that the Son has a close relationship with the Appellant, who plays a significant role in his life; that the harm which the Son would suffer from extradition of the Appellant would be of "severe intensity", and "devastating", given Mrs Bakaiova's physical health needs and ability to care for the Son; that, if the Son is taken into social services care, this would likely have a "severe" to "devastating" impact on the Son's psychological health, wellbeing and development. The Sweeney Report says that the Son is currently well cared for with no unmet needs; that he will be extremely upset if the Appellant is extradited and will miss his father immensely; that, if left in the care of Mrs Bakaiova, it is likely that the Son will take on a "young carer's role" for his mother, that he will miss significant periods of education when his mother is "unable to get him to school", and that his basic care needs and home conditions would be likely become a concern; that he would be at risk of emotional difficulties and "neglect"; that the emotional impact would be "significant"; that there is a risk of the Son having "nobody to care for him" when Mrs Bakaiova eventually goes for her operation (§§12-14 below); that loss of the Appellant for a year, alongside his mother's health difficulties, would be a trauma for the Son; that trauma in youth means higher risk of mental health difficulties which can span many years; and that, if the Son spent any amount of time in local authority care, this could impact on his ability to build trusting relationships. I need to have close regard to all of this evidence.

Mrs Bakaiova

12. In relation to Mrs Bakaiova, the Judge said this when discussing the evidence:

> ***17… [Mrs Bakaiova] has disability and mobility issues from a congenital dislocated hip and advanced osteoarthritis in both hips. She is unable to work and has difficulties in climbing the stairs, standing and carrying out household chores. She has applied for Personal Independence Payment (PIP), and he believes is still awaiting a decision. The family had been successful in obtaining Universal Credit of £300 per month. Mrs Bakaiova has been referred to a specialist and is awaiting an operation on her hip although there is no date set for the surgery. Surgery would carry a high risk of complications and she has been advised to stop smoking to reduce some of the risks but it is not clear whether surgery is a realistic possibility. Even if successful she would be limited in her functioning for a number of months. The provision of aids would still require her to be given additional assistance, which is currently provided by the RP.***
>
> ***18. There has been an occupational therapist assessment of Mrs Bakaiova's needs by Mr Lenfield dated 15 December 2022 which comments on the activities she requires assistance with. It describes the house as small with steep stairs and an upstairs toilet. It recommends that she is referred for an assessment for aids and adaptations to the house which would improve her mobility and transfers and thereby her independence, although she would still require support in everyday tasks and childcare. The report also suggests that Mrs Bakaiova should have a medication review of pain and sleep issues. However, the report stresses that even with the benefit of aids and adaptations and a medication review she would still need support in everyday tasks and caring for [the Son]. The prospects and timing of rehousing by the council if the RP is extradited is not addressed in the report. Mr Lenfield concludes that if the RP is extradited Mrs Bakaiova would be unable to care for [the Son], who might be placed in foster care. Mrs Bakaiova and [the Son] would be at risk of homelessness as the RP is the sole income earner.***

13. Ms Townshend emphasises the following evidence, which was before the Judge:

i) First, a consultant orthopaedic surgeon's letter (6.9.22). It records diagnoses of a right hip high-riding congenital dislocation with underlying osteoarthritis; and a left hip abnormality. It says that the only real option is to consider surgery, to give Mrs Bakaiova "some quality of life back" with regards to her right hip; that she is already on maximal analgesia; that surgery would be very complex and needs a lot of planning; and that there would be a very high risk of infection.

ii) Secondly, the Lenfield Report. It says that Mrs Bakaiova describes a high level of pain (7-8/10) on a daily basis; that she reports needing full support from the Appellant to get dressed; that he supports her in and out of the bath and has to help her wash the lower half of her body; that she finds the steep stairs difficult, and gets upstairs on her hands and knees and downstairs one step at a time sitting down; that toilet transfers are difficult, especially when the Appellant is at work; that she requires a high level of support from him for her own daily self-care tasks; that the Appellant takes the Son to and from school and Mrs Bakaiova can only do this by taking a taxi door to door; that she would not be able to care for the Son alone, if the Appellant were extradited and absent for a year; and that, even if provided with aids and adaptations, she would still require the Appellant's support in everyday tasks and for caring for the Son.

iii) Thirdly, the Crumpton Report. It says that it is unclear whether Mrs Bakaiova would be able solely to care for the Son; that when the Appellant was remanded in custody it was very difficult for her to manage, that she was unable to go outside with the Son, got a taxi to the shop, and bought food from a restaurant; that she describes herself as completely reliant on the Appellant, who does the shopping and school run.

iv) Fourthly, the Sweeney Report. It says the emotional impact for Mrs Bakaiova of the Appellant being extradited; that the stairs in the home are steep and Mrs Bakaiova struggles getting up and down them; that she would struggle to parent the Son independently; that a local authority Child in Need plan, if implemented in the context of the Appellant's extradition, would have limitations and would not include school runs, cooking or cleaning in the home; that aids and adaptations would not extend to supporting with the complexities of parenting a child solely with no support.

14. In my judgment, the Judge's description of the picture arising from the evidence before him involved no material omission or misappreciation, whether as to the medical evidence, or Mrs Bakaiova's evidence, or the Lenfield, Crumpton and Sweeney Reports. In addition, there is the fresh evidence. Mrs Bakaiova says that PIP payments to which the Judge referred have been secured (an extra £290 per month); that her condition has continued to deteriorate; that she has been prescribed stronger painkillers; that the Appellant has now obtained for her a wheelchair that she uses to go to the park and spend time outdoors; that arrangements continue to be made for the operation; and that they are now looking for accommodation which is all on one level or a downstairs toilet but have not found anywhere affordable. Again, Ms Townshend is right to bring all of the evidence to my attention. Again, I need to have close regard to all of the points found in the evidence, including the fresh evidence.

Help and Support from the Wider Family: May 2023

15. The Judge thought it was significant that extradition would bring help and support from the wider family. This is what he said on that topic. First, in describing the Appellant's written and oral evidence:

> ***14… One of his brothers lives in England while the remaining siblings live in Slovakia. 15. His mother suffers from diabetes and was recently diagnosed with a brain tumour. His father recently underwent heart surgery. His parents had recently (in April 2023) visited London and he had asked them for support if he was extradited but they would not be coming to live in the UK to assist their daughter-in-law and grandson while he served his sentence. He said that his parents live in the countryside and could not cope with city life. His wife's family were impecunious and would not be able to send financial support. Although his brother lives in the UK he could not help with personal care for the RP's wife… 17. He is married to Anita Bakaiova, with whom he has an eight-year-old son called Mario. Ms Bakaiova did not give evidence to me as there was a late application for CVP but it was not possible to establish a stable link. The RP relied upon her statement and was able to clarify some parts of her written evidence. She was born in Slovakia and is half Roma Gypsy and half Hungarian. Her sister lives in the UK and supported the RP and Ms Bakaiova when they came to the UK. Ms Bakaiova states that she and the RP went to Slovakia in February 2022 in order to renew their passports but were only there for two days… 26. The RP said he has not returned to Slovakia – I note his wife says in her statement that he did in February 2022 for two days to renew passports but this was not put to him when he gave evidence.***

Secondly, in making findings about this. The Judge said:

> ***32. The RP is understandably concerned about the impact his extradition would have on his wife and son. I find that he has either not properly investigated – or deliberately minimised – the support that might be available to his wife and son if he were extradited. He dismissed the possibility of his brother, who lives in the UK, offering support. He did not address whether his sister-in-law who lives in the UK could assist. He ruled out his own parents as being able to assist, despite their recent visit to the UK in April 2023. I bear in mind that an RP may choose to minimise the support available from family members to bolster the prospects of success on an Article 8 challenge. I found that his evidence on this issue – as with much else – was unreliable.***

Thirdly, in the Article 8 evaluation. The Judge said this:

> ***51. The [Son] … will continue to have the love and support of his mother during the RP's absence and may potentially enjoy further support from a close-knit family in the UK which includes his adult half-brother, his aunt and uncle. While his grandparents live abroad, they visited the UK as recently as April and would no doubt wish to return to visit in a time of crisis. There are also no less than [f]ive adult siblings of the RP in Slovakia and it is reasonable to suppose that one or more of them would offer support to their nephew. I have already concluded above that the RP has either not fully explored the support that might in fact be available or has sought to minimise it. I am confident that if facing extradition he would work hard to come up with a plan in combination with some or all of the above. While that may not be an ideal solution it is one which, on my findings, he may need to find consequent upon his own offending and fugitive status. In any event [the Son] will be given the protection of a local authority child in need plan to ensure his needs are considered and met.***

16. The Appellant's proof of evidence and Mrs Bakaiova's witness statement were undated. But they must have predated December 2022 because they were listed as sources in the Crumpton Report. The Appellant's proof of evidence had said that he had five brothers and one sister growing up, and one brother (Jozsef) died in 2014; that "one of my brothers lives in England and the rest of my siblings live in Slovakia"; that his parents lived in Slovakia but were "unwell" with "health issues"; that "if I were extradited, there would be no one to look after" Mrs Bakaiova or the Son, as "we do not have any other family in the UK"; that "there is no one who would be able to support

my family if I am extradited" and "no one else who could look after either of them". Mrs Bakaiova's witness statement had said that her father had died when she was 14; that she had one older sister, who had lived in the UK when the family came here in 2014, who "supported us and was able to get my husband a job straightaway", but who had passed away "two years ago"; and that "we do not have any other family in the UK that would be able to support us". The Crumpton Report (15.12.22) had recorded Mrs Bakaiova describing Erik, aged 21 (elsewhere there is a reference to 24 which appears to be a typo); that Erik was her son from Mrs Bakaiova's 17 year marriage to her first husband; that she had a good relationship with Erik; that Erik now lived on his own in Slovakia in rented accommodation; that Erik last visited the UK in the summer aged 17 (ie. 2018); and that she last saw Erik in February 2023 in Slovakia when she and the Appellant returned to renew their passports. The Sweeney Report recorded Erik as a significant family member, and recorded the Son's description of his "kind" brother who "recently" visited the UK and then went back to Slovakia. Neither the Crumpton Report nor the Sweeney Report identified any wider family members to provide help and support. The views expressed were premised on an absence of any such help and support. The Crumpton Report said it was unclear what care support, including family and friends, Mrs Bakaiova would have available to her. The Sweeney Report said there were no alternative carers identified for the Son; and that a family network was not available in this instance. Alongside these documents, the Appellant addressed this topic in oral evidence, and under cross-examination, and the Judge recorded what his evidence was.

17. Ms Townshend raises points about the Judge misappreciating the evidence, in referring to the Son's close-knit family "in the UK", which included "his adult half-brother" (Erik), "his aunt" (Mrs Bakaiova's sister) and "uncle" (the Appellant's UK-based brother); and given that the Judge held against the Appellant that his oral evidence "did not address whether his sister-in-law who lives in the UK could assist". Ms Townshend points out, correctly, that Mrs Bakaiova's witness statement recorded that her sister had died, as did the Crumpton Report. That explained why the Appellant did not "address" assistance from her. The Sweeney Report recorded that the "adult half-brother" – Erik – according to what the Son told Ms Sweeney (on 9.2.23), had "recently visited the UK and has now returned to Slovakia". In my judgment, Ms Townshend's points on this aspect are well made. On the evidence, Mrs Bakaiova's sister had died and Erik had returned to Slovakia. No reason was identified for contrary findings. The Judge fell into error in saying that the Son's close-knit family "in the UK" included "his adult half-brother" (Erik) and "his aunt" (Mrs Bakaiova's sister); and in holding against the Appellant that his oral evidence "did not address whether his sister-in-law who lives in the UK could assist". For this reason alone, I need to revisit the issue of help and support from the wider family.

Help and Support from the Wider Family: June 2024

18. In light of the Judge's adverse observations about help and support from wider family, and the misappreciation to which I have referred, this topic has been addressed in the rounds of fresh evidence. The Appellant's 13.1.24 witness statement says "I confirm" that "my brother moved back to Slovakia. He is living and working in Slovakia. I exhibit the confirmation his employment". The "confirmation of employment" is a document dated 1.3.23 which confirms a Covid "exemption for travel to and from place of work" with a work address in Bratislava, in respect of Dusan Bakai (dob 29.7.86).

"Dusan Bakai" is the false name given on the traffic stop (5.8.22), which the Appellant had told the Judge was his "brother's name". The proof of evidence also says:

> ***I confirm that I do not have any other family members in the UK. I confirm that my wife's son does not, and never has lived in the UK. He visited us and was in the UK briefly for a month and then returned to Slovakia. I want to emphasise that my son and my wife's son argued a lot during this period. I confirm that my father died in December 2023. I exhibit his death certificate. I confirm that my wife's sister died on 10/03/2021. I exhibit her death certificate. I confirm my mother has serious health issues, she is not able to move to the UK. I exhibit her medical correspondence. I confirm none of our family members would be able to move to the UK.***

These exhibits are a copy of a death certificate of Jozsef Bakai (dob 21.10.53) who died at Sokolce on 5.11.23; a copy of a death certificate of Iveta Kovacikova (dob 26.5.70) who died at Dunajska Streda on 10.3.21; and a copy of medical correspondence (relating to Helena Bakaiova) dated 26.4.22 and 7.10.22, referring to: arterial hypertension; chronic smoking bronchitis; diabetes type II; diabetic polyneuropathy; focal ischemia of the brain; dizziness and back pain.

19. Mrs Bakaiova's 12.1.24 and 28.5.24 statements both say "we do not have any other family in the UK that would be able to support us". Her 6.6.24 statement says "my son Erik and my mother are unable to come to help me". As to Erik, she says: (i) he is engaged, busy planning a wedding and planning to start a family; (ii) Erik "was here for about a month once"; (iii) Erik and the Son do not get along well and there was "quite a lot of arguing and tension"; (iv) Erik "visits my mother every day, helps her with every day tasks, and does the shopping for her", and "takes care of the necessary tasks for her"; (v) Erik "cannot leave his fiancée and my mother at home"; (vi) Erik does not speak English; and (vii) the house is small and "does not have beds for 5 people". As to her mother, she says: (a) the mother is 73 years old, has high blood pressure and diabetes, needs insulin four times a day and has deteriorating eyesight; (b) she has never visited the family in the UK and does not like to leave the house; and (c) Erik visits her every day, taking care of necessary tasks for her. Erik's 6.6.24 witness statement says this:

> ***1. I am Erik, 21 years old. My mother is Anita Bakaiova. Mario Bakai is my stepfather. Their child is my half-brother. I do not have a close relationship with my half-brother. I like him as a half-sibling, but we never lived together, and we do not really know each other well. This lack of familiarity might lead to conflict between us. 2. After my parents' divorce, I stayed with my father, who was not home at much, so I moved to my grandmother. 3. My grandmother raised me. I have a strong bond with her. We have a close relationship. 4. I visit her every day and help her with everything. I take her to the doctor, do her shopping, feed the dogs, pick up the trash around the house – anything she needs help with. She is currently undergoing medical examination because her eyesight is deteriorating, probably related to diabetes and high blood pressure. 5. My grandmother is 73 years old. I can see time taking its toll over her, and she needs more and more help. She has no one besides me. Her husband and one of her daughters passed away early, and her other daughter is in England with her family. She has me and I would a like to be able to help her. She is not able to move to the UK, and she cannot help my mother. My grandmother needs me to help her. I cannot move to the UK. 6. My grandmother lives in a small village near the city where I live. I moved away from her when I got a job and started a relationship. I got engaged to my girlfriend, and we want to get married and start a family. 7. Currently, my fiancée and I live in a rented apartment. I have a stable job; I work at a car wash. My partner does occasional work as a cleaner, mainly doing deep cleaning in office buildings and stairwells. 8. We manage our income together, but most of it comes from my salary. This covers the utilities, rent, and our monthly living expenses. Without me, she wouldn't be able to support herself alone. 9. We live in a one-bedroom apartment, and we***

> ***would like to set up the small bedroom as a nursery. We currently have no savings, as it has been very difficult to get started, but we hope that, slowly but surely, we will be able to improve our situation. 10. Unfortunately, I cannot move to England. My grandmother definitely won't go there, and I won't leave her alone. She raised me, and I won't let her down when she needs me. I wouldn't want to leave my fiancée either. She doesn't want to move, and we want to have a baby. I also wouldn't want to give up my job. I love working here very much, and I want to stay here. I feel that it's not reasonable to expect me to leave everything in this situation. 11. I can't imagine bathing my mother and helping her with toileting. It would be very, very uncomfortable, I can't do that.***

Help and Support from the Wider Family: My Assessment

20. I need to consider afresh this aspect of the case, on all the evidence, including the fresh evidence. There were the Judge's misappreciations that the aunt was alive and in the UK and that Erik were in the UK. I have the original documentary evidence, and the Judge's summary of the evidence, from which I can see what key points were elicited from the Appellant in oral evidence. I am able to have in mind the Judge's finding that the Appellant's evidence was unreliable, but with considerable caution given the misappreciations. The Appellant has put forward all the fresh evidence, which I am able to consider, as to its apparent strength and any apparent weaknesses. Permission to appeal has been granted, as has permission to rely on the January 2024 witness statements and documents. At the heart of the case is the Son, a young child, whose best interests are a primary consideration.

21. Counsel agreed that my approach should be to make findings of fact, on all the documents, including assessing – as to impacts and implications and the future – the questions of (a) likelihood and (b) real risk. Neither Counsel took the course of inviting me, exceptionally, to hear oral evidence on this appeal. I am confident that Counsel are right. Indeed, their approach was in line with the analysis in a judgment I have since handed down: Grigorie v Romania [2024] EWHC 1436 (Admin) at §4 (assessing likelihood and real risk), §8 (evaluation afresh) and §18 (oral evidence). Counsel were inviting the same approach that I encountered in these 'working illustration' cases in Grigorie (at §17, citations added). Each of these cases involved fresh evidence, assertions about help and support from wider family, and High Court evaluation without oral evidence:

> ***… in HH, … family members were saying they could not look after the children. That was addressed, with the benefit of inquiries by the Official Solicitor, which enabled Lady Hale to say that these assertions appeared to be "genuine" (see §69). In M v Poland [2019] EWHC 1342 (Admin), grandparents had written a letter saying they were not willing or able to care for the children (§26). That evidence was accepted (§29). In Hungary v Horvath [2022] EWHC 3484 (Admin), a psychologist's report recorded family members in Hungary saying they were now no longer able to help (§56). That was an assertion which the High Court rejected, finding it likely in the event of extradition that the child would be cared for by those relatives (§79). Evidence of a similar change of position by family members had also been rejected in a first High Court case in Stumbre v Lithuania [2024] EWHC 406 (Admin) (see §5). But it was later found to be reliable in WMC after oral evidence and cross-examination (see §51). In Parlinska v Poland [2014] EWHC 3251 (Admin), the district judge at WMC had recorded the father's specific confirmation that he would look after the children (§8), but the High Court accepted from a social services report and requested person's witness statement (§§12-14) that this had now changed (§16). In Deb v Greece [2024] EWHC 1131 (Admin) the mother had returned to Bangladesh, was said to have no present contact and to be unable to care for the children. The High Court rejected that evidence, finding she was deliberately lying low, and was likely to make arrangements if the father were extradited (§§140, 147, 152-154).***

22. Having considered all the material before the Court, including all of the fresh evidence and all of the evidence 'in the round', with the benefit of the helpful written and oral submissions that have been made by Ms Townshend and Ms Herbert, I have arrived at the following conclusions and make these findings:

    i) The evidence, that there is nobody in the wider family who would be able to provide any support for Mrs Bakaiova or the Son during the year that the Appellant would be returned to Slovakia to serve his sentence, is unreliable. The Appellant and Mrs Bakaiova, and also Erik, have sought to minimise the support that would in fact be available.

    ii) The following are all wider family members who would be able to come for periods of time, to give help and support: the Appellant's mother; one or more of the Appellant's adult siblings; and the Son. If the Appellant is extradited, it is likely that they would do so. The evidence that the Appellant's brother who was in the UK, had returned to and is now in Slovakia, is not reliable. The UK-based brother had not returned to Slovakia as at May 2023. He had not returned to Slovakia as at June 2024. Even if he had returned to Slovakia, he could and would be likely to return to the UK, to give help and support. It is likely that what would happen – if the Appellant were extradited – is that several extended family members would take it in turns, each to come for a period of time. It is likely that they would be able to stay in the family home. Mrs Bakaiova and the Son would not be left to fend for themselves, unsupported and alone, for the entirety of the year. However, it remains likely that there would be significant gaps (periods of weeks and months) during the year when they would not have an extended family member with them.

23. Those are my findings. These are the reasons which have led me to arrive at them. The starting point is this. Where the Court is being asked to make findings about help and support available from wider family, putting forward fresh evidence, there is a full and fair opportunity to assist the Court fully. That includes giving full and proper details and providing documents in support. Close scrutiny can be expected. That is particularly in a case adverse findings and observations have previously been made at WMC; and where oral evidence has been disbelieved after cross-examination.

    i) I turn first to the Appellant's mother and father. I accept that the Appellant's father passed away at the end of 2023. I am prepared – in the Appellant's favour – to set to one side the striking fact that his witness statement (13.1.24) clearly says "December 2023" and he has exhibited a copy death certificate clearly giving a date of death of 5.11.23. On the evidence, the Appellant's – now widowed – mother is aged 60 or 61 (the documents describe her as aged 59 in October 2022). There are April and October 2022 documents recording her medical conditions, which I accept. But no evidence substantiates any incapacity or immobility. And she was able to come to the UK, with her late husband, to visit the family in April 2023. That is just over a year ago. There were the resources for that. I have been given no details at all as to the nature of that visit in April 2023, where they stayed, or for how long. It may have been with the Appellant, Mrs Bakaiova and the Son (then aged 8), using the second bedroom. It could have been with the Appellant's brother (to whom I will return). It could have been in accommodation for which financial resources were needed, and found. There is no evidence that the family was in particular need; still less that it

was a greater need than would arise on the Appellant being extradited. The Judgment records the Appellant's oral evidence as being that his parents would not be able to come to the UK and help because they would not be able to "cope with city life". The Judge rejected that as a good reason and so do I. The Judge found that the Appellant's parents would no doubt return in a crisis to help. Although the father has since passed away, I make the same finding about the Appellant's mother.

ii) I turn next to the Appellant's wider family in Slovakia. The evidence before the Judge recorded the Appellant as having been brought up with 5 brothers and a sister in Slovakia. There are several references to one sibling (Jozsef) having died in Slovakia in 2013. I accept that evidence. There is a reference to Jozsef, the deceased brother, having had two sons. There has been no description, still less a full and candid one, of the position of the siblings (the Son's uncles and aunt) and their circumstances; nor of their children (the cousins). That is a striking and obvious gap in the evidence. Especially given that the Judge expressly placed weight on what he described as the "no less than five adult siblings in Slovakia" and on the reasonableness of supposing that "one or more of them would offer support to their nephew". I have been given no convincing evidential picture as to why that finding was unjustified. It does not turn on tight-knit family "in the UK". I have reached the same finding, that one or more of the wider family in Slovakia would offer support to their nephew.

iii) Next, I turn specifically to the Appellant's brother, who was described by the Judge as living in the UK. The Appellant's witness statement (13.1.24) says "my brother moved back to Slovakia" and "is living and working in Slovakia", referring to "confirmation" of "his employment". The document is a travel exemption (1.3.23), in the name of "Dusan Bakia", in the context of Covid to allow travel to and from work with a recorded work address in Bratislava, Slovakia. There is no clarity or candour here at all. I can see from the arrest statement that the Appellant gave "Dusan Bakai" as his false name when encountered at the traffic stop on 5.8.22. There is no evidence about the UK-based brother; when he was in the UK; where he lived in the UK and with whom; when he left the UK and why; or where he is now in 2024. I have an assertion with a single document, with a name and a place of work. This evidence falls very far short of what would be needed to provide a convincing picture that I would be able, in the circumstances, to accept. The UK-based brother of the Appellant is a person of obvious relevance. He has disappeared from this case, supposedly without trace, without any explanation and without anything remotely approaching proper evidence.

iv) My concerns about the assertions relating to the Appellant's UK-based brother are reinforced by another point. The Judgment includes this, in the description of the Appellant's evidence:

> ***He said that his parents live in the countryside and could not cope with city life. His wife's family were impecunious and would not be able to send financial support. Although his brother lives in the UK he could not help with personal care for the RP's wife.***

This must have been the Judge's description of the Appellant's oral evidence. These points ("countryside", "city life", "impecunious" and "personal care") are not in the Appellant's proof of evidence. The oral hearing was on 4.5.23. This means the Appellant was not saying to the Judge, at an oral hearing in May 2023, that the UK-based brother had now gone back to Slovakia and – since at least March 2023 – was now working there. He was making a different point. It involved the brother – who "lives in the UK" – being someone who could not help with "personal" care for Mrs Bakaiova. Not because he is not in the UK. Not because he is in a different part of the UK. Not because he cannot come to the family house and help out. But because he would not be able to do the "personal care" – including toileting and washing – for his brother's wife. Now, the Appellant asks me to accept that the UK-based brother had already left the UK. That is unexplained. There is no proper evidence. It does not stack up and I reject it.

v) In all these circumstances, and for these reasons, I do not accept that the UK-based brother did or has returned to Slovakia. I find that the UK-based brother was still here when the parents visited in April 2023. I find he was still here when the Appellant gave his oral evidence in May 2023. And I find he is still here now. The employment document, in the context of the evidence as a whole, is not reliable evidence to the contrary. There is nothing approaching the properly evidenced position that I would need, especially given the clearest reasons for the greatest suspicion. I add this. Even if the brother had – or has – at some point returned to Slovakia, I find he could return, for a period of time, to give help and support. There is no reliable evidence to the contrary.

vi) Next, I turn to Mrs Bakaiova's sister, father and mother. I accept that the sister had lived in the UK but died in in 2021. I accept that her father died when Mrs Bakaiova was a teenager. That is what her original witness statement told WMC and what she told Dr Crumpton in December 2022, as is recorded in the Crumpton Report. I accept that Mrs Bakaiova's mother is aged 73, has diabetes and lives alone. There is no evidence that she has ever been in the UK. I accept – as did the Judge – that she cannot be relied on to come to the UK and provide support.

vii) That leaves Erik's position. The assertions made in the evidence about, and by, Erik are not evidence on which I find I am able to rely. Although Erik had made no appearance in the proofs of evidence of Mrs Bakaiova and the Appellant, he was volunteered in Mrs Bakaiova's description to Dr Crumpton, knowing that the Crumpton Report was being put forward to WMC. What Mrs Bakaiova clearly told Dr Crumpton in December 2022 was that Erik "last visited the UK", aged 17, in the summer. That would have been 2018. The Son would have been 4. The Sweeney Report records what the Son clearly told Ms Sweeney (9.2.23), aged 8½. It was that Erik had visited "recently". Mrs Bakaiova's latest witness statement (6.6.24) asserts that "Erik was here for about a month once". She does not say when. She does say it was "once". I am quite satisfied that Erik had visited "recently" in February 2023. Either Erik has been "once" only, in which case Mrs Bakaiova was minimising his connection by putting his sole visit back in 2018 aged 17. If Erik came aged 17, and has been here "recently", then Mrs

Bakaiova is minimising his connection in her evidence to me, by denying multiple visits.

viii) I reject as unreliable the assertion that there was only one visit by Erik, aged 17 in the summer of 2018. I find that Erik came then, and has been back since at least once, "recently" (as at 9.2.23). This is consistent with Mrs Bakaiova's description to Dr Crumpton of the good relationship between the two of them (she says she has only been back to Slovakia once since coming here in 2014). I find that Erik stayed for "a month", "recently". Both the Appellant and Mrs Bakaiova refer to a "month". I do not accept the evidence of the Appellant and Mrs Bakaiova that Erik (aged 21/22) and the Son (aged 9) "argued". The Son told Dr Crumpton that Erik was "kind". Arguing has been introduced belatedly, by the Appellant and Mrs Bakaiova, as one of a string of reasons why Erik would not be coming to the UK in the year when the Appellant, if extradited, is in Slovakia. Finally, the evidence of Erik's visits – including for a "month" – shows that there was room in the two-bedroom family home for an extended family member to stay, even with the Appellant there.

ix) The description that Erik gives me in his statement (6.6.24) is about visiting, every day, his grandmother – Mrs Bakaiova's mother – who brought him up when his parents separated and his mother came to the UK in 2014; about doing everything for her; and how she cannot manage without him, and he would not leave her. I reject that evidence as unreliable. It is inconsistent with the fact that Erik was able, "recently" (as at 9.2.23) to visit the family in the UK, and stayed with them for "a month". I also reject the evidence of circumstances – work and a cohabitee fiancée and planning a wedding – all of which would make it supposedly impossible to come to the UK. In my assessment, these are further unconvincing and unreliable reasons. I note that Erik's statement (6.6.24) says he "moved away from [the grandmother] when I got a job and started a relationship". A job that required moving out is striking, when it is said that daily care visits remained necessary. Moving out because of a cohabiting relationship would conflict with what Mrs Bakaiova told Dr Crompton (15.12.22), that Erik "lived on his own in rented accommodation".

x) In all the circumstances and for all these reasons, I do not accept the picture that is painted of Mrs Bakaiova as being totally without any support at any time during the one-year period in which the Appellant would be away having been extradited. For my own reasons, but like the Judge, I am left in no real doubt that this would not be the reality.

Impact and Implications: My Assessment

24. I must now return to the broader question of impacts and implications. I start with the evidence about how Mrs Bakaiova struggles with her mobility around the house, including with the steep stairs. That evidence was given in 2022. The question of adaptations was clearly raised in the evidence, including in the Lenfield Report (15.12.22). The Sweeney Report (15.3.23) records that Mrs Bakaiova was interviewed on 9.2.23. It says that:

> ***some support could be offered such as aids and adaptations for supporting mobility around the home, a referral was made to the adults social care team however the mother declined an***

> ***assessment reporting that she is managing at present with the support of her husband. Should the father be extradited, a further referral will be made …***

Ms Townshend emphasises that the Sweeney Report goes on to say that the further referral "would not resolve the difficulties in their entirety". But the fact is that an assessment, for aids and adaptations to be provided, was refused by Mrs Bakaiova. Her statement (28.5.24) records that "our home has not been fitted with aids and adaptations to help me as was recommended by Mr Lenfield". But she does not mention her own refusal of the referral. The fact is that she has continued – in the house with its stairs and upstairs bathroom – including during the day if the Appellant is at work, for all this time, without even the aids and adaptations. Then there is the assertion (28.5.24) that "we have been looking for accommodation which is all on one level or that has a toilet downstairs but have not found anywhere affordable". I am unable to accept to place weight on that evidence. It relates to an obvious topic, came extremely late in the day, and has no documentary support. I cannot accept that accommodation on one level or with a downstairs toilet is unaffordable, while the small house remains affordable.

25. The Judge described the evidence relating to Mrs Bakaiova (§12 above). In the Article 8 evaluation, the Judge referred to Mrs Bakaiova "significant physical disability which requires considerable assistance", recognising that the operation would not "necessarily be an entire solution" and would bring "concomitant difficulties during recovery". The Judge also referred to the loss of the Appellant's income which would plainly be difficult. I accept that Mrs Bakaiova has a significant disability. I accept that, when the Appellant was remanded in custody in August 2022, for a week, that was a real struggle for Mrs Bakaiova. I accept that adaptations or more suitable accommodation are part only of the answer. I also accept that help and support from the wider family will only go some of the way in helping. I find, on the evidence, that Mrs Bakaiova will really struggle in bringing up the Son, in the absence of the Appellant. There are the clear risks identified in the Reports – albeit where the asserted absence of help and support from the wider family had been taken at face value – of what that struggle will mean as to potential "neglect" for the Son including absenteeism if Mrs Bakaiova cannot get the Son to and from school. On the other hand, the Son turns 10 next month and the school is 1½ miles away. I do not accept that a solution for getting the Son to school is likely to be out of reach.

26. I have already explained how the Judge described the evidence relating to the Son (§9 above). In the Article 8 evaluation, the Judge said:

> ***His eight-year-old son … is assessed as likely to suffer very serious harm if he is left as a young carer and without the RP's support such that he is likely to be referred for a child in need plan by the local authority.***

Ms Townshend raises points about this. She says the Judge – in not saying more than this – lost sight of the evidence. I cannot accept that submission. The Judge had set it all out earlier in the Judgment, which has to be read as a whole. She says the Judge nowhere recognised the "best interests" of the Son, as "a primary consideration", and discussed the Article 8 case-law without recognising that key point. Again, I cannot agree. The Judge recognised that the Article 8 rights were those of all three family members, including the Son. He explicitly recognised the need to "examine carefully the way in which [extradition] will interfere with family life", and recognised that HH was a case which "involved the interests of children". The Son's position was at the forefront of the evidence and the Judge's description of the evidence. WMC had

ordered the Sweeney Report, because of the importance of the Son's best interests. In any event, I am revisiting the Article 8 evaluation afresh, and I have very clearly in mind all the evidence; and the Son's best interests, as a primary consideration. The Judge's description was, in my judgment, an accurate encapsulation. The Judge recognised the "very serious harm" which was "likely" to be suffered. But the Judge also, rightly in my judgment, recognised that the Son "would continue to have the love and support of his mother during the RPs absence".

27. The Judge said the undoubted hardship would be mitigated by various factors, as follows:

> ***The hardship which his wife and son will undoubtedly suffer is mitigated by a number of factors. Mrs Bakaiova's health situation might be substantially improved by the grant of PIP which would lead to substantial additional funds, a medication review and an assessment for aids and appliances. While these factors alone or in combination may not entirely resolve her difficulties she would be able to access local authority and NHS support to address any shortfalls in her care or condition. There is a realistic prospect – not addressed in the reports provided – that if unable to fund her current and unsuitable accommodation Mrs Bakaiova would be able to access emergency rehousing much more suitable to her condition. While I do not have an assessment before me of how likely this prospect would be it would be wrong to ignore it as a further possible safety net.***

Ms Townshend raises a point about this description. She says that the mitigation is "not there"; that PIP is only £68 per week; that the Reports explain that aids and appliances are not a solution; that there are clear limitations to local authority support; and that the family has not secured affordable alternative housing. In my judgment, the Judge's description was balanced and fair. These were not complete answers, but they were relevant factors, including the existence of relevant public authority safety nets. I have already made observations as to adaptations and accommodation (§24 above).

28. The Judge had regard to the length of separation; as do I (see §8 above). He said this:

> ***The sentence due to be served is not very short but nor is it very substantial. The reality is that the difficulties that the family left behind will suffer are not insurmountable and of relatively short duration. It is not correct in my judgment to characterise them as "exceptionally severe" (per Baroness Hale in HH).***

29. In his conclusion, the Judge explained his conclusion that the public interest considerations in favour of extradition decisively outweighed those – including the impacts and implications for Mrs Bakaiova and the Son – capable of weighing against it. This is how the Judge expressed it:

> ***There is an overwhelming public interest in ensuring that those convicted of serious offences and who have become fugitives to avoid the penalties should be required to serve their sentence and the UK should not become known as a safe haven for them. Having anxiously considered and weighed the factors in favour and against extradition, I have reached the conclusion that the balance falls decisively in favour of the RP's extradition.***

I have had to think carefully about whether that outcome is or has become wrong, in light of all the facts and circumstances. But there is one final topic which feeds in to the evaluation.

Electronically-Monitored Curfew

30. I mentioned at the outset that, since being released on conditional bail (12.8.22) the Appellant has now been on electronically-monitored curfew for 9 hours a day (8pm-5am). I explained that this was 9 months as at the time of the hearing before the Judge. It was 22 months at the time of the hearing before me, and is approaching 23 months when this judgment is handed down. Ms Townshend relies on Brindusa v Romania [2023] EWHC 3372 (Admin) (Holgate J, 23.11.23) and a line of three previous cases identified in that judgment (at §9). They are: Einikis v Lithuania [2014] EWHC 2325 (Admin) (Ouseley J, 2.7.14); Prusianu v Romania [2022] EWHC 1929 (Admin) [2023] 1 WLR 495 (Fordham J, 22.7.22) and Muizarajs v Latvia [2022] EWHC 2751 (Admin) (Lane J, 12.10.22).

31. Unlike qualifying remand which – by operation of applicable extradition law – is deducted from a requesting state's custodial sentence, there is no such function for a tagged-curfew, even where and to the extent that such a curfew would reduce a sentence in the UK. States have different arrangements for credit, just as they have different arrangements for early release. In domestic sentencing law in England and Wales, the line is drawn at 9 hours per day as a qualifying curfew, where every 2 days on qualifying curfew count as 1 day's credit against the prison sentence. In extradition, the strong starting point is to respect the requesting state's rules and autonomy in making decisions about them. It is not said that the Slovakian authorities, applying Slovakian law and practice of sentencing, would reduce the 12 month sentence.

32. Having said all that, in considering the Article 8 balancing of interests, the extradition judge can properly have in mind as a factor that there has been a tagged-curfew. In Einikis, an 8-hour tagged-curfew (9pm-5am) for 19 months was described as "a degree of deprivation of liberty", which had been "a reminder" to the requested person of the "problems created by his failure to comply" with the Lithuanian court's requirements (§§14-15). In Prusianu, a 4-hour tagged-curfew (midnight to 4am) for 15 months was described as "a real restriction on freedom of movement and autonomy" and one of the "nuances" of the case (§49). In Muizarajs, a 7-hour tagged-curfew (10pm-5am) for 26 months was a factor which "goes to answering the impunity question" (§22), meaning that the criminality was not without its consequences. In Brindusa, a 10-hour qualifying curfew (8pm-6am) for 26½ months could "properly" be "treated as a significant deprivation of liberty, equivalent to spending 13 months in prison" and "at least the 11 months" sentence and served, "exceptionally", to "reduce the weight to be given in this case to the public interest in upholding extradition requests and the principles of mutual confidence and respect for the decisions of the judicial authority" (§21).

33. Einikias contains (at §16) the usual invaluable health-warning about the limitations of working illustration cases which turn on their individual facts. Einikis was an 18 month activated suspended sentence for burglaries committed aged 19, after the requested person came to the UK with the permission of the requesting state authorities and now had a wife and 2 year old child. Prusianu was a private life case involving fugitivity, where there were special features including a protection gap in the context of an unrecognised gender identity, in the context of a 12-month sentence for shoplifting offences (less than £100). Muizarajs was an activated 5 year suspended sentence for supplying cannabis, aged 17, to other pupils at school. Brindusa was a non-fugitive private life case, with periods of delay for which the requested person was blameless, involving an 11 month sentence, originally a fine, for an assault and unlicensed driving.

34. In the present case, I accept that the curfew is a factor properly to be borne in mind in the Article 8 balancing exercise. I accept that it is substantially longer than it was before the Judge and so calls for evaluation afresh (cf. Brindusa §14). I accept that it is a real (cf. Prusianu), and a substantial, restriction on freedom of movement and autonomy (though I avoid the phrase "deprivation of liberty" which has Article 5 connotations). I accept that it has served as a "reminder" and that it can be relied on to say that "impunity" would be incomplete. However, I have been unable to accept that – exceptionally, in this case – it does serve, substantially, to reduce the weight to be given to the public interest considerations in favour of extradition. I have in mind the autonomy of the requesting state sentence, the nature and seriousness of the offending, but also the context in which the offending took place. This was yet another, not insubstantial, credit fraud just a few months after release on parole. There are the circumstances of the fugitivity and fragility, including having gone on the run – with the family – on the eve of serving the postponed sentence, and the fragility of the private and family life built in those circumstances. I think, in the present case, the public interest considerations in favour of extradition remain very strong.

Conclusion

35. I have been through each of the key topics in this case. I have made and explained my findings. I have reflected on the impacts and implications of extradition for the Appellant, Mrs Bakaiova with her significant disability and the Son, whose interests I have put at the centre of my thinking. He, and his mother, are blameless victims of the interference which extradition would constitute. The Appellant has brought the whole situation on himself, and on them all, by running away as a fugitive from the 12 month sentence whose start-date he had got postponed. The family has a substantial ten-year private and family life in the UK. The Appellant is of good character here. Mrs Bakaiova will struggle, and for the Son the impacts are serious, with the very real prospect of becoming a young carer and a risk of suffering neglect. This will be a one-year separation. The local authority is on standby, for example as a safety net for temporary accommodating the Son as and when Mrs Bakaiova has her operation. The wider family is also on standby, and I have rejected as unreliable the claims that they will not step in to help. The crime is a single credit fraud, the sentence is 12 months, and the Appellant has been on 23 months tagged-curfew. But my assessment, on all the evidence and in all the circumstances, is that the strong and legitimate public interest considerations in favour of extradition do ultimately outweigh the combination of factors which weigh against extradition. It is not a disproportionate interference with private or family life rights, for this family now to endure the impacts and implications of this one-year separation, by reason of the extradition by which the Appellant will now face his responsibilities arising in conjunction with internationally legitimate interests of Slovakian criminal process. I will dismiss the appeal.