

**THE HIGH COURT
AN ARD-CHÚIRT**

[2024] IEHC 435

[2023 No. 225 EXT]

**IN THE MATTER OF AN APPLICATION UNDER S. 16 OF THE EUROPEAN ARREST
WARRANT ACT 2003, AS AMENDED.**

BETWEEN

THE MINISTER FOR JUSTICE

APPLICANT

AND

MARK ANDREW ADAMS

RESPONDENT

JUDGMENT of Mr Justice David Keane delivered on the 12th of July 2024

Introduction

1. The Minister for Justice ('the Minister') applies under s. 16(1) of the European Arrest Warrant Act 2003, as amended ('the Act of 2003'), for an order directing the surrender of Mark Andrew Adams to the United Kingdom ('UK'), pursuant to a Trade and Cooperation Agreement arrest warrant ('the TCA warrant') issued by District Judge George Conner in Belfast Magistrates' Court in Northern Ireland ('N.I.'), as the issuing judicial authority, on 10 November 2023.

The TCA arrest warrant

2. The warrant seeks the surrender of Mr Adams to serve a custodial sentence of 10 months imprisonment (to be followed by 10 months on licence) imposed on him by the Crown Court in N.I. on 5 May 2022 for two offences: one of attempting to remove criminal property from N.I. and one of arranging to remove criminal property from N.I. The warrant recites that the entire duration of that ten-month sentence remains to be served.
3. On 27 November 2023, the warrant was endorsed for execution by the High Court (P. Burns J). The warrant was executed on 20 February 2024. Mr Adams was brought before the High Court on that date. Being satisfied that the person before the court was the person in respect of whom the warrant issued, the High Court fixed a date for the surrender application.
4. Undated Points of Objection to surrender were filed on Mr Adam's behalf (or, at least, the copy of those points of objection provided to the court for the purpose of the surrender

application hearing is undated). Mr Adams swore an affidavit on 11 April 2024 to ground his opposition to the application.

5. I heard the surrender application on 23 April 2024.

The background

6. From the contents of the warrant, from Mr Adams' averments, and from the undisputed assertions in the Minister's written submissions, the following background emerges.
7. On 9 May 2018, UK Border Force officers stopped Mr Adams at Belfast International Airport. Mr Adams, who was travelling with hand luggage only, was due to take an outbound flight to Alicante in Spain. On being stopped, Mr Adams acknowledged that he was carrying €180,000 in cash and, indeed, a total of €180,550 was found in two brown envelopes in his hand luggage. An investigation disclosed that Mr Adams booked 497 international flights in or out of the U.K. between 14 May 2014 and 9 May 2018. On sixty-four occasions, the outbound and inbound flights occurred within hours of each other. Perhaps unsurprisingly, a police officer with money-laundering expertise expressed the view that the available evidence demonstrated elements of a money-laundering system with Mr Adams acting as a cash courier within that system.
8. On 11 April 2019, a decision was taken to prosecute Mr Adams on indictment in N.I. A European Arrest Warrant ('the EAW') issued on 8 January 2020. Mr Adams was arrested within the State on 6 March 2020.
9. However, on 29 October 2020, Mr Adams was sentenced to a term of 5 years imprisonment by His Honour Judge Martin Nolan in the Circuit Criminal Court for money-laundering offences committed within the jurisdiction of the State.
10. On 29 July 2021, while serving that sentence, Mr Adams successfully applied to the High Court (P. Burns J) for an Order under s. 19(1) of the Act of 2003 that he be surrendered to the U.K. for the purpose of being tried for the offences that were the subject of the EAW. Although I have not been provided with a copy of that Order, it is common case that it was made a condition of Mr Adams' surrender that he was to be returned to the State at the conclusion of the relevant criminal proceedings in N.I. (and, evidently, before serving any sentence imposed in the event of conviction). Mr Adams was surrendered to the relevant authority in the U.K. on 18 August 2021.
11. On 4 January 2022, Mr Adams entered a guilty plea to each of the two charges preferred against him in N.I. and was, thus, convicted of those offences. On 5 May 2022, Mr Adams was sentenced to 10 months imprisonment followed by 10 months on licence. However, just over a month later on 7 June 2022, in accordance with a condition attached to his surrender to the U.K., Mr Adams was returned to the State to continue serving the five-year sentence that had been imposed on him by the Circuit Criminal Court.
12. It would appear that Mr Adams' five-year sentence expired on or about 4 December 2023.

13. It is against that background that, as already described, the present warrant issued on 10 November 2023; was endorsed for execution on 27 November 2023; and was executed on 20 February 2024.

The issues

14. In his points of objection, Mr Adams puts the Minister on strict proof of the matters that it is necessary to establish to obtain an order for surrender under s. 16(1) of the Act of 2003, before going on to raise four specific objections to surrender. Only three of those four objections were pursued at the surrender application hearing.
15. The first objection – no longer being pursued – is that Mr Adams has already served the ten-month custodial sentence imposed on him in N.I. on 5 May 2022. The abandonment of that objection seems wise, given that s. 19(2) of the Act of 2003 expressly provides that time spent in custody in the issuing state is to be deducted from the term of imprisonment that the person surrendered under s. 19(1) is already required to serve in the State. Thus, there is no reason to believe that the period of approximately ten months (between 18 August 2021 and 7 June 2022) that Mr Adams spent in custody in Northern Ireland was not deducted from (or, differently put, counted towards) the five-year sentence of imprisonment that he was required to serve in the State. In those circumstances, I have no reason to doubt that, as the warrant recites, a ten-month custodial sentence remains to be served by Mr Adams in the U.K.
16. Mr Adams' second objection is that the warrant wrongly invokes a jurisdiction to make the ten-month sentence of imprisonment imposed in Northern Ireland 'consecutive' to the sentence previously imposed in the State, so that the surrender application is an abuse of process or one brought in breach of the principle of legal certainty concerning the commencement date of the ten-month sentence yet to be served, or both ('the lack of certainty objection').
17. Mr Adams' third objection is simply stated. It is that Minister bears the burden of establishing that the offences for which Mr Adams was sentenced in N.I. each correspond to an offence under the laws of the State and that the Minister cannot discharge that burden ('the lack of correspondence objection').
18. And, finally, Mr Adams' fourth objection is that his surrender is prohibited under s. 37 of the Act of 2003 because it would expose him to a real risk of imprisonment in Northern Ireland in conditions that would amount to a breach of his right not to be subjected to inhuman or degrading treatment or punishment under Article 3 of the European Convention on Human Rights ('the Convention') and a breach of his personal rights under the Constitution of Ireland ('the prison conditions objection')
19. I propose to deal with each of Mr Adams' three remaining objections in turn.

The lack of certainty objection

20. This objection is based on the contents of paragraph (e) of the TCA warrant. Under the form of warrant prescribed in Annex 43 of the Trade and Co-operation Agreement ('TCA'), that paragraph includes a 'description of the circumstance in which the offence(s) was (were) committed, including the time, place and degree of participation in the offence(s) by the requested person.'
21. In the particular circumstances of this case, as one in which the temporary surrender of Mr Adams to N.I. had earlier been effected under s. 19 of the Act of 2003 (reflecting the procedure recognised under Article 24(2) of the Framework Decision on the European Arrest Warrant, since replaced by the materially identical procedure under Article 622(2) of the TCA for the surrender of persons between an EU Member State and the United Kingdom), the narrative provided under that heading is extensive. It describes Mr Adams arrest in N.I. in May 2018; the decision made there in April 2019 to prosecute him; the issue there in January 2020 of an EAW for him; his arrest here in March 2021 on foot of that warrant; the order made here in July 2021 for his temporary surrender to N.I.; his surrender to N.I. in August 2021 on foot of that Order; his plea of guilty there in January 2022 to each of the two offences with which he was charged; the sentence imposed on him there in May 2022 of 10 months imprisonment followed by 10 months on licence; and his re-surrender to the authorities in this State on 7 June 2022 to continue serving a separate sentence for other offences that had already been imposed on him here before the 10-month sentence in N.I. could take effect.
22. For the purpose of his argument on this point, Mr Adams relies on the following passage from that narrative:
- 'On 4th January 2022 Adams entered guilty pleas and was convicted of the offences detailed below. On 5th May 2022 Adams was sentenced to a period of 10 months imprisonment followed by 10 months on licence. This sentence is consecutive to the sentence previously imposed in the Republic of Ireland. Adams was returned to the ROI on 7th June 2022. It is understood that Adams' sentence in the Republic of Ireland expires on 4th December 2023. At the expiry of that sentence Adams is required to serve a sentence in Northern Ireland of 10 months imprisonment followed by 10 months on licence.'
23. In his points of objection, Mr Adams asserts that the courts in N.I. have no jurisdiction to impose a sentence consecutive to a sentence imposed in another jurisdiction, before going on to assert that such a sentence constitutes an abuse of process and is in breach of the Convention.

24. In written legal submissions, Mr Adams argues that the passage just quoted from paragraph (e) of the TCA warrant creates ambiguity or confusion about whether the sentence imposed in N.I. was to commence upon the expiration of his sentence here in December of last year or is to commence upon his proposed surrender, such that his surrender would breach the right to know in advance the commencement date and duration of his term of imprisonment inherent in his constitutional right to liberty (see *State (Flynn and McCormick) v Governor of Mountjoy Prison*, unreported, High Court (Barron J), 6 May 1997) and the principle of no punishment without law (*nulla poena sine lege*) enshrined in Article 7 of the Convention.
25. In particular, Mr Adams relies on the following dictum of Peart J in *Carroll v Governor of Mountjoy Prison*, [2005] 3 IR 292 (at 303):
- ‘A fundamental requirement for any authority to detain a person in custody is that that the person detaining and the person detained should know precisely the duration of such detention. There should be no room for ambiguity in that regard. The proposition that a person shall know the length of the period for which he must be deprived of his liberty and that his detainer shall also know the same with certainty, seems so obvious as to require no authority for its statement.’
26. In considering this argument, it is first necessary to consider a number of other pertinent aspects of the TCA warrant. At paragraph (b)(2), it identifies the decision on which the warrant is based as an enforceable judgment, specifically a decision of the Crown Court in N.I., dated 5 May 2022, sentencing Mr Adams to a custodial sentence of 10 months imprisonment followed by 10 months on licence for one offence of attempting to remove criminal property and one offence of arranging the removal of criminal property. At paragraph (c)(2), it confirms that the custodial sentence imposed was one of 10 months before recording that the full 10 months of that sentence remains to be served.
27. The references in paragraph (e) of the TCA warrant to the N.I. sentence being ‘consecutive’ to the sentence Mr Adams was then serving in the State and to Mr Adams being required to serve the N.I. sentence ‘at the expiry of that sentence’ are provided as part of the description of the circumstances in which the offences were committed, which is information that the TCA warrant must contain as prescribed by both Article 606 of the TCA and s. 11(1A)(f) of the Act of 2003. Those references in the context of that narrative are quite different, in form and function, from the clear and unambiguous language that it is necessary to use in the operative part of a committal warrant (or equivalent document) to comply with the requirement of legal certainty concerning, among other things, the date on which a sentence is to begin (whether that language does so directly or by necessary implication).
28. Second, it must be acknowledged that, in the event of Mr Adams’ surrender to the UK, it is plainly the committal warrant (or equivalent document) issued on foot of that decision that will authorise Mr Adams detention and that must, accordingly, specify without ambiguity the date of commencement and duration of that detention. At risk of repetition, that is not the function of the narrative portion of paragraph (e) of the TCA

warrant, which is intended only to describe the circumstances in which the offences were committed as part of the information necessary to ground the arrest and, if necessary, detention of Mr Adams in the State for the purpose of the surrender application process (if the TCA warrant is endorsed for execution by the High Court under s. 13(2) of the Act of 2003, as it was in this case). In that context, I would make two further observations. The first is that I have not been provided with any evidence concerning the nature and terms of the committal warrant (or equivalent document) that issued in N.I. on foot of Mr Adams' conviction and sentence there, much less any evidence that it is in any way ambiguous in its terms about either the commencement date or duration of that sentence. The second is that I am given to understand that Mr Adams is currently on bail here pending the conclusion of the surrender application process, which serves to emphasise that no issue arises on the lawfulness of the arrest and detention of Mr Adams on foot of the TCA warrant. The issue that Mr Adams seeks to raise by reference to a portion of the narrative in paragraph (e) of the TCA warrant is a quite separate one on the lawfulness of his proposed detention in N.I. in the event of his surrender there. The TCA warrant does not purport to authorise that detention.

29. Third, it is necessary to recall the parameters of the jurisdiction to surrender persons to the United Kingdom under the Act of 2003, which implements the surrender provisions of Title VII of Part 3 of the TCA by operation of the European Arrest Warrant (Application to Third Countries) (United Kingdom) Order 2020 (S.I. 720 of 2020) made under s. 2(2) of the European Arrest Warrant (Application to Third Countries and Amendment) and Extradition (Amendment) Act 2012. From those various instruments it is clear that the UK is to be treated as if it were a Member State for the purposes of the operation of the EAW regime such that a request to surrender under a warrant from that jurisdiction is to be dealt with under the Act of 2003 and the Framework Decision (Minister for Justice and Equality v Walsh [2024] IESC 9 ('Walsh') (at para. 28).
30. This means that the principles of mutual trust and confidence, the reciprocal recognition of legal systems, and the requirement for judicial cooperation between the contracting states are central to the TCA surrender process, just as they remain central to the surrender process under the Framework Decision. Thus, the requesting state is the correct forum for arguing any apprehension of the breach of a Convention right; see Walsh (at para. 62).
31. Similarly, in order to successfully resist surrender on the grounds of an apprehended denial of fundamental human rights, a person must show that there are 'egregious circumstances such as a clearly established and fundamental defect in the system of justice of a requesting State where a refusal of an application for surrender may be necessary to protect such rights'; see Walsh (at paragraph 71). An invitation to speculate about the existence of ambiguity or uncertainty in the committal warrant (or equivalent document) that underpins the 10-month sentence imposed on Mr Adams in N.I. on the basis of a strict construction of the narrative contained in paragraph (e) of the TCA warrant that seeks his surrender to the U.K. to serve that sentence, falls far short of establishing any such fundamental defect in the system of justice there.

32. For those reasons, this objection fails.

The lack of correspondence objection

33. No specific arguments in support of this objection are set out in the written legal submissions filed on behalf of Mr Adams, nor was it pressed at the hearing before me beyond the observation that the establishment of correspondence is a necessary condition precedent to an order for surrender. Given the inquisitorial nature of this proceeding and the obligation upon the court under s. 16(1)(e) to be satisfied that surrender is not liable to be refused under s. 38(1)(a) in Part 3 of the Act of 2003, it is indeed necessary to determine whether each of the two offences specified in the TCA warrant corresponds to an offence under the law of the State. Under s. 5 of the Act of 2003, such correspondence exists where the act or omission that constitutes the offence so specified would, if committed in the State on the date on which the relevant arrest warrant was issued, constitute an offence under the law of the State.

34. The nature and legal classification of the first offence is described in the following way in paragraph (e) of the TCA warrant:

'That he [Mr Adams], on the 9th May 2018, attempted to remove cash in the sum of €180,550 from Northern Ireland, knowing or suspecting it to be criminal property, contrary to Article 3 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 and Section 327(1)(e) of the Proceeds of Crime Act 2002.'

35. The accompanying description of the circumstances in which the offence was committed states (in material part):

'On 9th May 2018, Border Force officers stopped Mark Adams (Adams) at Belfast International Airport. Adams was due to take an outbound flight to Alicante. Adams was travelling with only hand luggage and confirmed to Border Force officers that he had packed the bag himself. When asked whether he was carrying any large sums of cash, Adams replied "Yes, €180,000". Two brown envelopes in Adams' hand luggage were found to contain a total of €180,550 cash.'

36. The Minister submits, and I accept, that, under the laws of the State, the acts specified would, if committed in the State on the date on which the relevant TCA warrant issued, constitute the offence of the possession of the proceeds of crime (money laundering), contrary to s. 7(1) of the Criminal Justice (Money Laundering and Terrorist Financing Act) 2010, or the offence of an attempt to remove the proceeds of crime from the State (attempted money laundering), contrary to s. 7(2) of that Act, or both.

37. The TCA warrant describes the nature and legal classification of the second offence as follows:

'That he [Mr Adams], between 13th May 2013 and the 10th May 2018, entered into or became concerned in an arrangement, namely the removal of criminal property from Northern Ireland, knowing or suspecting that this arrangement would facilitate the retention, use or control of such criminal property by persons unknown, contrary to section 328(1) of the Proceeds of Crime Act 2002'

38. The accompanying description of the circumstances in which that offence was committed states (in material part):

'Investigators have confirmed that Adams booked 497 international flights into or out of the UK between 14th May 2014 and 9th May 2018. On sixty-four occasions the outward and inward return flights were within a matter of hours. A money laundering expert...opined that "...this was consistent with the act of someone transporting or delivering something between one place and another" and that there were "elements of a money laundering system identified within the evidence consistent with Mr Adams acting as part of that system, attempting to smuggle cash, as a cash courier..."

39. The Minister submits, and I accept, that, under the laws of the State, the acts specified would, if committed in the State on the date on which the relevant TCA warrant issued, constitute the offence of handling the proceeds of crime (money laundering), contrary to s. 7(1) of the Criminal Justice (Money Laundering and Terrorist Financing Act) 2010, given that, under s. 7(6)(b) of that Act, a person handles property if the person receives or arranges to receive the property, or if the person retains, removes, disposes of or realises the property, or arranges to do any of those things, for the benefit of another person.
40. For those reasons, I conclude that the surrender of Mr Adams may not be refused for either of the offences for which it is sought on the ground of lack of correspondence under s. 38(1)(a) of the Act of 2003.

The prison conditions objection

41. There are two limbs to Mr Adams objection to surrender on this ground.
42. The first is that, if surrendered to serve the sentence imposed on him in Northern Ireland, he believes that he will be subjected to threats, intimidation and, perhaps also, physical violence that would breach his fundamental personal rights under the Constitution or his right to freedom from inhuman or degrading treatment or punishment under Article 3 of the Convention, or both. The second is that, if surrendered to serve that sentence, he will be exposed to a real risk of imprisonment in conditions that would breach the same rights, due specifically to his medical condition. I will deal with each of those limbs to that objection in turn.

43. In support of the first limb of this objection, Mr Adams principally relies upon his own averments to the following effect. He has concerns for his health and safety if returned to serve a term of imprisonment in N.I. based on his previous experiences while imprisoned there. In N.I., he spent approximately 6 months in custody in Maghaberry Prison, initially without incident, until his status as an ex-officer of the Airport Police Service at Dublin Airport became known through media reports on his case. He exhibits a print-out of the headline from an article on the Belfast Telegraph website, which he avers was published on 23 January 2022 and identified him wrongly as a former member of An Garda Síochána. After these media reports appeared, he was subjected to threats, intimidation, and abuse from fellow prisoners. He was then moved to Magilligan Prison, but the threats and intimidation continued there for the remainder of his time in custody in N.I. During his period in custody (in which prison is not clear), a letter was slipped under the door of his cell purporting to come from paramilitaries and stating that he had 24 hours to leave the landing, or he would be harmed. Despite the threats to his safety, he was not put into any form of protective custody. He continued to share a cell with another person and to share the landing with persons he describes as paramilitaries and criminal gang members. On the evidence, before me there is no suggestion of any assault upon Mr Adams at any time during the period of approximately 10 months that he spent in custody in N.I.
44. In support of the second limb of his objection, Mr Adams avers that he has struggled with his mental health for which he has attended mental health services, although he has not produced any supporting evidence in that regard and does not suggest that he has been diagnosed with any recognised mental disorder. He further avers that he has undergone medical treatment for a necrotising granulomatous inflammation of a lesion on his left thigh, concerning which he exhibits a consultant physician hospital appointment letter, dated 22 February 2024 and one page of a two-page undated histopathology report from the same Dublin hospital, confirming that diagnosis.
45. In the submissions filed on his behalf, Mr Adams relied upon certain parts of the contents of: the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment ('CPT') report of 6 December 2018 on its periodic visit to Northern Ireland between 29 August and 6 September 2017 (CPT/Inf (2018) 48) ('the CPT report'); the Response from the United Kingdom to that Report, dated 11 October 2018, and also published by the CPT on 6 December 2018 under the same reference ('the UK response'); and the Criminal Justice Inspection Northern Ireland report on an unannounced inspection of Maghaberry Prison between 20 September and 6 October 2022, published in June 2023 ('the Maghaberry report'), to submit that he has discharged the heavy onus of establishing reasonable or substantial grounds for believing that he would be exposed to a real risk of imprisonment in conditions of inhuman or degrading treatment or punishment if surrendered to Northern Ireland against the background of his medical condition.
46. Invoking first the CPT report, Mr Adams concedes that it records in an executive summary (at p. 4) that inter-prisoner violence had greatly decreased since 2008 and that, at the

time of the visit, most prisoners in Maghaberry stated that they felt safe. However, he points to the statements later in the same passage that a number of prisoners in Bann, Erne and Lagan Houses stated that they felt unsafe and did not leave their cells and that this was particularly the case in Bann House where several inmates alleged that they had been attacked by other prisoners, apparently because they were sex offenders.

47. In the main portion of the text, the CPT report states in material part:

'31. As regards inter-prisoner violence and intimidation, the number of incidents recorded has also decreased since 2008. Most prisoners stated that they felt safe and whenever incidents of violence were detected by staff, the perpetrators were subject to the disciplinary process and the police were systematically informed. The CPT supports such an approach as it considers that every instance of inter-prisoner violence resulting in an injury should be communicated to the PSNI as it is essential that prisons do not become places of impunity.'

48. In the next paragraph the report describes the issue already flagged concerning a number of prisoners in Bann, Erne and Lagan Houses, and in particular several prisoners in Bann House who felt threatened and bullied by other prisoners because they were sex-offenders and whose vulnerability was increased because they had mental health concerns that had not been addressed during the one or two months of the placement of each there.

49. The relevant portion of the CPT report concludes (at p. 19) with a number of recommendations, including one that the prison may need to develop the capacity to ensure that potentially incompatible categories of prisoners are not accommodated together.

50. Mr Adams also refers to that part of the CPT report that deals with prison health care. The executive summary notes (at p. 5), that prison health care had made significant progress since 2008 but that several concerns were being raised about the inadequate provision of psychiatric care and the long waiting times for persons to be transferred to an appropriate psychiatric facility for treatment, as well as the desirability of enhancing the Supporting Prisoners at Risk process by the establishment of a psycho-social team. The body of the report expands on this (at p. 25).

51. As Mr Adams acknowledges, the UK response sets out the measures that were being taken in response to the issues raised concerning inter-prisoner violence (at p. 14) and prisoners with mental disorders (at pp. 22-23), although Mr Adams is critical of what he perceives to be the inadequacy of those measures and, in particular, the failure of the UK response to deal specifically or directly with the concern expressed about housing incompatible prisoners together.

52. Finally, Mr Adams relies on aspects of the Maghaberry report in support of his prison conditions complaints. He points to a key concern (at para. 8 on page 7) that access to

psychologically informed treatments was insufficient to meet the needs of the prison population and that there was no specialist personality disorder provision. He also cites a portion of the executive summary (at p. 16) that deals with the seven self-inflicted deaths recording in the prison since 2018, noting that there was no clear plan to deal with rising incidents of self-harm, poor oversight of the management of prisoners in crisis, and inadequate safeguarding processes that did not comply with the applicable N.I. Prison Service policy.

53. Mr Adams submits that the information in these reports, combined with the evidence he has presented of his own personal circumstances, raises a real and specific risk that he will be subjected to inhuman or degrading treatment or punishment if surrendered to N.I. to serve a term of imprisonment there, although he appears to acknowledge that he cannot establish systemic or generalised deficiencies in detention conditions in N.I. capable of establishing a real risk of such treatment or punishment.
54. The principles that I must consider in adjudicating upon an objection to surrender based on an asserted risk of breach of fundamental rights and, in particular, of subjection to inhuman or degrading treatment or punishment in that event, are by now well-settled and can be readily distilled. Those material to the facts and circumstances of the present application are as follows:
 - (a) The cornerstone of the Framework Decision is that member states, save in exceptional circumstances, are required to execute any European arrest warrant (or TCA warrant) on the basis of the principles of mutual recognition and mutual trust;
 - (b) a refusal to execute a European arrest warrant (or TCA warrant) is intended to be an exception;
 - (c) one of the exceptions arises when there is a real or substantial risk of inhuman or degrading treatment contrary to article 3 of the Convention;
 - (d) the prohibition of surrender where there is a real or substantial risk of inhuman or degrading treatment or punishment is mandatory. The objectives of the Framework Decision (or of the TCA) cannot defeat an established risk of ill-treatment;
 - (e) the burden rests upon a respondent to adduce evidence capable of proving that there are substantial/reasonable grounds for believing that if he or she were returned to the requesting country, he or she will be exposed to a real risk of being subjected to treatment contrary to article 3 of the Convention;
 - (f) the threshold which a respondent must meet in order to prevent extradition [or surrender] is not a low one. There is a default presumption that the requesting country will act in good faith and will respect the requested person's fundamental rights. Whilst the presumption can be rebutted, such a conclusion will not be reached lightly;

- (g) in conducting the rigorous examination required of whether there is a real risk, the court should consider all of the material before it and if necessary, material obtained of its own motion;
 - (h) the court may attach importance to reports of independent international human rights organisations or reports from government sources;
 - (i) the court should examine the foreseeable consequences of sending a person to the requesting state;
 - (j) the mere possibility of ill-treatment is not sufficient to establish a real risk of ill-treatment;
 - (k) and the relevant time to consider the conditions in the requesting state is at the time of the hearing.
55. In the circumstances I have described and given the test I must apply, I am not persuaded that Mr Adams has discharged the burden of adducing evidence capable of establishing that there are substantial or reasonable grounds for believing that, if returned to N.I., he will be detained in conditions that will expose him to a real risk of being subject to inhuman or degrading treatment or punishment.
56. In his own evidence on the issue of inter-prisoner violence, Mr Adams implicitly accepts that he was not subjected to any physical ill-treatment, referring only to the threats from other inmates that he received during the period of approximately 10-months that he spent in Maghaberry Prison and, later, Magilligan Prison between August 2021 and June 2022. The duty upon a state to take positive steps to ensure that an individual is protected from inhuman or degrading treatment by non-state actors does not mean that a state must prevent all possible ill-treatment by those actors, but rather that it must provide effective deterrence; *Minister for Justice and Equality v M.V.* [2015] IEHC 524 (Unreported, Donnelly J, 28 July 2015) (at para. 71). The possibility of such ill-treatment is not enough; *Minister for Justice v Rettinger* [2010] 3 IR 783 (at 802).
57. In his evidence on prison health care, Mr Adams provides limited information and no supporting evidence concerning his own state of mental and physical health and, in that context, the information that he relies on about perceived deficiencies in the psychological and psychiatric services in Maghaberry Prison falls a long way short of establishing substantial or reasonable grounds to believe that if returned to N.I., he will be exposed to a real risk of being subjected to treatment contrary to article 3 of the Convention. The existence of sub-optimal conditions of detention is not enough; *Minister for Justice and Equality v T.N.* [2015] IEHC 661, (Unreported, Donnelly J, 6 October 2015) (at para. 34).
58. Section 4A of the Act of 2003 creates a presumption that an issuing state will comply with the requirements of the relevant agreement unless the contrary is shown. Article 524 of the TCA makes clear that the cooperation it provides for in the surrender procedure it creates is based on the contracting parties' long-standing respect for democracy, the rule

of law and the protection of fundamental rights and freedoms of individuals, including as set out in the Universal Declaration of Human Rights and the Convention, and on the importance of giving effect to the rights and freedoms in the Convention domestically. On the limited evidence that he has placed before the court, having due regard to the nature of the information contained in the reports upon which he relies, and given the statutory presumption that I must apply, Mr Adams has failed to adduce evidence capable of satisfying me that there are substantial or reasonable grounds for believing that if he is returned to N.I., he will be exposed to a real risk of being subjected to treatment contrary to article 3 of the Convention.

59. For those reasons, I reject this ground of objection.

The TCA warrant - necessary proofs under s. 16(1) of the Act of 2003

60. On the information and evidence before me, I am duly satisfied that:

- (a) the person before the court is the person in respect of whom the TCA warrant issued (upon which issue no dispute has been raised),
- (b) the TCA warrant, or a true copy thereof, has been endorsed in accordance with s. 13 for the execution of that warrant,
- (c) the TCA warrant makes clear that the matters required by s. 45 of the Act of 2003 do not arise as Mr Adams appeared in person at the proceedings that resulted in the sentence in respect of which it issued,
- (d) I am not required under s. 21A, 22, 23 or 24 of the Act of 2003 to refuse to surrender Mr Adams under that Act (as none of the matters referred to in those sections arise), and,
- (e) the surrender of Mr Adams is not prohibited under any of the provisions of Part 3 of the Act of 2003. For the reasons stated, I have rejected both of Mr Adam's separate arguments that his surrender is prohibited under s. 37 of the Act and I am satisfied that each of the offences for which his surrender is sought corresponds to an offence under the law of the State and that a term of imprisonment of not less than four months (more specifically, 10 months) has been imposed on him for those offences, the whole of which remains to be served, so that his surrender is not prohibited under s. 38 of the Act. None of the other matters referred to in Part 3 of the Act of 2003 arises.

Conclusion

61. It follows that, having due regard to the obligation to surrender under s. 10 of the Act of 2003, I will make an order under s. 16(1) of that Act directing the surrender of Mr Adams to such person as is duly authorised by the United Kingdom to receive him.