



JUDICIARY OF
ENGLAND AND WALES

Judge Howard Riddle, Senior District Judge (Chief Magistrate)

In the Westminster Magistrates' Court

A Judicial Authority in Estonia

v

Anna-Maria GALOJAN

Findings of Fact and Reasons

This is an application by the head of the IJCU at the Ministry of Justice in Tallinn, Estonia for the extradition of *Anna-Maria GALOJAN*. It is resisted by Mr Henley on the defendant's behalf on the grounds that the Ministry of Justice in Estonia is not a 'judicial authority' for the purposes of Section 2(2) of the Extradition Act 2003

I have been taken directly to the judgment of the Administrative Court in the case of *Dimitri LAVROV* and others on 12th October 2012, just over a fortnight ago. In particular my attention has been drawn to Para 106 where that court concluded that on a conviction warrant issued by the MOJE, looking the position overall in Estonia, "*we are not satisfied that the decision to issue a conviction EAW can be regarded as a 'judicial decision' or that this unit and its personnel have sufficient functional independence from the Executive to enable the MOJE to be characterised as a 'judicial authority' for the purposes of section 2(2)*".

Miss Scott, in a very clear and persuasive way, has taken me to various other paragraphs in the judgment. I will not refer to those here, as she can take them on appeal if she wants. It is sufficient to say that she has satisfied me that there is a strong argument that the underlying ratio of the case is dependant on a number of factors and that she can distinguish this case from the facts that apparently lay behind the case of *LAVROV*. In short, and she will forgive me for paraphrasing her argument, she will say that applying the ratio of the case as a whole and looking at the facts provided in the further information dated 24th October 2012 then in fact, in this case, the MOJE does satisfy the proper test to be regarded as a judicial authority.

For the following reasons I did not require Mr Henley to make any representations. He made it clear that he did not agree with the representations I heard.

I have expressed concern about the great difficulty there will be for this court if, in each and every case, we were required to conduct an exercise looking at the specific features behind an application for extradition. It would not only be time consuming; it would cause considerable delay; and it would run the risk of inconsistent decisions. I start therefore from a strong preference that a clear decision is taken as to whether the Ministry of Justice (or indeed the prosecuting authorities in some other countries) can properly be characterised as a judicial authority. Here we have a very recent decision from a superior court that the MOJE is not a judicial authority for the purposes of Section 2(2).

Miss Scott cast doubt on some of the assumptions that lay behind the Administrative Court's decision. For example, in the current case it cannot be said that the court did not initiate the procedure for issuing a conviction warrant. On the contrary, the information I have is that in all conviction EAW cases in Estonia it is the court that submits the decision to the MOJE requesting that it issue an EAW. However at least some of the other points made in Para 106 of the judgment have not been shown to be based on inaccurate information: in particular I do not believe I have the information that would entitle me to conclude that the IJCU and its personnel do have sufficient functional independence from the executive to enable the MOJE to be characterised as a judicial authority.

Looked at another way, the very recent decision of the Administrative Court was undoubtedly based to some extent on information that I do not have. I believe that the decision in Para 106 is binding on me, in its conclusion that MOJE is not a judicial authority. For these reasons I must discharge *Anna-Maria GALOJAN*.

Howard Riddle
Senior District Judge (Magistrates' Courts)

29th October 2012