HOUSE OF LORDS SESSION 2007–08

[2008] UKHL 7

on appeal from: [2007] EWCH 2080

OPINIONS
OF THE LORDS OF APPEAL
FOR JUDGMENT IN THE CAUSE

Pilecki (Appellant) v Circuit Court of Legnica, Poland (Respondents) (Criminal Appeal from Her Majesty's High Court of Justice)

Appellate Committee

Lord Bingham of Cornhill
Lord Hope of Craighead
Lord Scott of Foscote
Lord Brown of Eaton-under-Heywood
Lord Neuberger of Abbotsbury

Counsel

Appellants:
Hugo Keith
Clair Dobbin
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Respondents:
David Perry QC
Annabel Darlow
(Instructed by Crown Prosecution Service)

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LORD BINGHAM OF CORNHILL

My Lords,

1. For the reasons given by my noble and learned friend Lord Hope of Craighead, with which I agree, I would dismiss this appeal.

LORD HOPE OF CRAIGHEAD

My Lords,

2. In April 2007 two European arrest warrants were issued by the Circuit Court of Legnica for the extradition of the appellant to Poland. The decisions on which the warrants were based were orders by Judge Bartlomiej Treter for the appellant to be arrested for the purpose of serving custodial sentences which had been imposed on him by the District Court in Lubin after his conviction for various offences and which had become final. The validity of each warrant falls to be determined under Part 1 of the Extradition Act 2003. This is the measure by which the United Kingdom has transposed into national law the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (2002/548/JHA; OJ 2002 L 190, p1). Poland was designated as a category 1 territory pursuant to section 1 of the 2003 Act by the Extradition Act 2003 (Designation of Part 1 Territories) Order 2003 (SI 2003/3333) as amended by the Extradition Act 2003 (Amendment to Designations) Order 2004 (SI 2004/1898).

3. The warrants were in the form which the Framework Decision provides for a European arrest warrant. They were signed by Judge Treter as the issuing authority. They were accompanied by translations into English. As translated, they contain statements as to the amount of the penalty of deprivation of freedom that had been adjudged against the appellant and the amount of the penalty to be served. Article 2 of the Framework Decision provides that a European arrest warrant may be issued for sentences of at least four months. Section 2(6)(e) of the 2003 Act, as modified by art 2(2) and Schedule, para 1(1) of the Extradition Act 2003 (Multiple Offences) Order 2003 (SI 2003/3150) ("the Multiple Offences Order 2003"), provides that, if it is to satisfy the requirements of a Part 1 warrant where the person in respect of whom it is issued is alleged to be unlawfully at large after conviction of offences, the arrest warrant must contain particulars of the sentence which has been imposed under the law of the category 1 territory in respect of the offences, if the person has been sentenced for the offences. In each warrant the length of the custodial sentence imposed on the appellant for the offences was said to be more than four months, as was the remaining sentence to be served by him.

4. On the face of the arrest warrants, the requirement which section 2(6)(e) of the 2003 Act sets out was satisfied. But on 22 June 2007 the Circuit Court of Legnica provided further information about the sentences which had been imposed on the appellant for the offences of which he had been convicted by the District Court in Lubin. This information showed that the situation was not as simple as it might have been thought to have been on reading the arrest warrants. The appellant had received a variety of sentences for each of the offences of which he had been convicted. Some of those sentences were for periods of less than four months and some of them were for longer periods. The court had aggregated those sentences for the purposes of its final judgment. In each case the aggregated sentence was more than four months. But the combined punishment was less than the sum of the individual sentences for each offence. It was not possible to say how much of the aggregated sentence was attributable to each offence.

5. The short but important question on this appeal is whether, for the purposes of Part 1 of the 2003 Act, it has to be shown that the sentence that was imposed in respect of each offence, taken on its own, was at least four months or whether it is sufficient, where the person has been convicted of several offences and an aggregated sentence has been imposed on him, that the aggregated sentence was for four months or a greater period.

The facts

6. The first of the two arrest warrants, referred to as European arrest warrant number 56/07, was issued on 18 April 2007. It referred to Case II K 486/05 and stated that it was based on a judgment of the District Court of Lubin of 26 July 2005. The appellant was said to have been convicted of three separate offences. First, he was said to have been concerned in the supply of marijuana to a minor on three occasions between November 2004 and December 2004. Secondly, he was said to have supplied marijuana to another minor on two occasions between October 2004 and December 2004. Thirdly he was said, acting together with the minors, to have stolen trade marks, or emblems, and other body parts from nineteen motor vehicles between October 2004 and January 2005. He had been sentenced to a total penalty of one year and two months deprivation of freedom for these offences, with a conditional stay of its execution for a period of probation of three years. On 19 April 2006, following a breach by the appellant of the conditions of his probation, the court ordered the execution of his conditionally stayed penalty, offset by two days detention which he had served when he was first taken into custody. In the result the amount of the penalty remaining to be served by him was one year, one month and twenty eight days deprivation of freedom.

7. In the further information that was provided on 22 June 2007 it was stated that the appellant had been sentenced to a penalty of three months deprivation of freedom for the first offence, to a penalty of five months for the second offence and to a penalty of one year for the third. The court had then aggregated these penalties and imposed a combined punishment of one year and two months deprivation of freedom with a conditional stay of its execution for a probation period of three years. In this case the sentences that were judged appropriate for the second and third offences were in excess of four months. But the aggregated penalty of one year and two months deprivation of liberty was less than the total of the three sentences taken individually, which amounted to one year and eight months.

8. The second arrest warrant, referred to as European arrest warrant number 60/07, was issued on 13 April 2007. It referred to Case II K 1439/05 and stated that it was based on a judgment of the District Court of Lubin of 22 February 2006. In this warrant the appellant was said to have been convicted of four separate offences. In the first case he was said, acting together with another named person, to have stolen a mobile phone on 3 September 2005 and to have demanded money from its

owner in exchange for it the next day. The second, third and fourth offences were all said to have taken place on 3 September 2005. On each of these occasions he was said to have supplied marijuana to a minor, one of whom was the person with whom he was said to have been acting when he committed the first offence.

9. In the further information that was provided on 22 June 2007 it was stated that the appellant had been sentenced to a penalty of six months deprivation of freedom for the first offence and to a penalty of three months deprivation of freedom for each of the other three offences. The court then aggregated these penalties and imposed a combined punishment of one year's deprivation of freedom with a conditional stay of execution for a probation period of three years. In this case the sentence that was judged appropriate for the first offence was in excess of four months. But the aggregated penalty of one year's deprivation of liberty was less than the total of the four sentences taken individually, which amounted to one year and three months.

10. On 9 July 2007 District Judge Purdy made an order for the appellant's extradition to Poland in respect of each of the two European arrest warrants. Each order was made with reference to the matters which he was required to determine by sections 10, 11 and 21 of the 2003 Act. It contained the following statements:

> "I am satisfied that the offence specified in the Part 1 warrant is an extradition offence.
>
> I am satisfied that the person's extradition is not barred within the meaning of the Extradition Act 2003 and that his extradition would be compatible with the Convention rights within the meaning of the Human Rights Act 1998."

11. The appellant appealed to the High Court against these orders under section 26 of the 2003 Act. Two points were taken on the appeal. The first was that neither of the arrest warrants complied with the requirement in section 2(6)(e) of the 2003 Act that particulars must be given of the sentence that was imposed for the offence under the law of the category 1 territory. The second point, which is no longer in issue, was whether the District Judge was entitled to decide that the appellant had deliberately absented himself at his trial, as he was required to do by section 20(3). On 31 July 2007 the Divisional Court (Leveson LJ and Stanley Burnton J) held that in both respects the requirements of the

2003 Act had been satisfied and dismissed the appeal. The following question was certified as involving a point of general public importance:

> "Does section 65(3)(c) of the Extradition Act 2003 require it to be shown that:
>
> (a) a final sentence of imprisonment of four months or greater was imposed in respect of each offence, taken on its own, that is referred to in the European arrest warrant, or is it sufficient to show that:
>
> (b) a sentence of four months or greater was imposed in respect of multiple offences, provided that such offences were the offences specified in the warrant and that the sentence arrived at by the court was an aggregated sentence reflecting the total criminality?"

12. The appellant lodged his petition for leave to appeal to your Lordships on 4 September 2007 while he was being held on remand at Feltham Young Offenders Institution. His petition had been served on the Crown on 3 September 2007. On 12 September 2007 his solicitor was informed that the appellant had been removed to Poland. It is plain that this should not have happened. The appellant's petition for leave was still pending. So the decision of the High Court had not yet become final for the purposes of section 36(5) of the 2003 Act. The Serious Organised Crime Agency was informed that that a point of law of general public importance had been certified and that the appellant had 14 days within which to lodge his petition. It appears however that it failed to check with the Judicial Office whether this step had been taken. The appellant would have been unable to explain to the officials that his petition for leave to appeal was pending as he does not speak English.

13. Mr Hugo Keith for the appellant explained that proceedings for declaratory relief had been commenced in the High Court and that he would not seek any consequential orders from this House if the appeal was successful. The petitioner has been contacted in prison in Poland and has confirmed that he wishes his appeal to continue. So nothing more need be said about the unfortunate state of affairs that has arisen. I would nevertheless wish to make it clear that, where a point of law of general public importance has been certified under section 32(4) of the 2003 Act with the result that an application for leave to appeal to this House becomes competent, the proper procedure is for inquiries to be made with the Judicial Office as to what progress, if any, has been made with the application before it is concluded that a decision of the High Court has become final in terms of section 36(5).

The statutory provisions

14. The appellant's argument falls into two parts. As Mr Keith explained, they are sufficiently closely related to fall within the scope of the certified question. The first is that the information the warrants contained was insufficient to satisfy the requirements of section 2(6)(e) of the 2003 Act. If this argument is sound it would follow that neither warrant was a Part 1 warrant within the meaning of that section. The contents of the warrant are crucial to the system that Part 1 of the Act lays down: see *Office of the King's Prosecutor, Brussels v Cando Armas* [2005] UKHL 67, [2006] 2 AC 1, para 27. The Part 1 warrant is the initiating document, and if its requirements are not satisfied Part 1 of the Act will not apply to it. The second part of the argument relates to the definition of "extradition offence" in section 65(3). Section 10(3) provides that if the offences specified in the warrant are not extradition offences the judge must order the person's discharge. The appellant submits that the definition is not satisfied in either case because it is not possible, when the additional information is taken into account, to determine whether the sentences that were imposed for any of the offences of which the appellant was convicted, taken on their own, were for a period of at least four months.

15. The relevant sections of the 2003 Act must be read together with the modifications specified in the Schedule to the Multiple Offences Order 2003. Only two of them need to be mentioned in this case. First, para 1(1) of the Schedule provides:

> "Unless the context otherwise requires, any reference in the Act to an offence (including a reference to an extradition offence) is to be construed as a reference to offences (or extradition offences)"

Secondly, para 2(2) provides that in subsection (2) of section 10 for the words "the offence" there are to be substituted the words "any of the offences." Consequential modifications are made to subsections (3) and (4) of section 10. The following description of the sections adopts these modifications, as this is a multiple offence case. I shall italicise the modifications that I have adopted for ease of reference.

16. Section 2(2) of the 2003 Act states that a Part 1 warrant which is issued by a judicial authority of a category 1 territory must satisfy two

requirements. These requirements differ according to whether the warrant has been issued in an "accusation" case or in a "conviction" case. The warrants in this case fall into the latter category. The first requirement is that the warrant must contain the statement referred to in subsection (5). This is a statement that the person is alleged to be unlawfully at large after conviction of offences specified in the warrant by a court in the category 1 territory and that the Part 1 warrant is issued with a view to his arrest and extradition to the category 1 territory for the purpose of being sentenced for the offences or of serving a sentence of imprisonment imposed in respect of them. Secondly, it must contain the information referred to in subsection (6). The list that is set out in that subsection, as modified, includes the following:

> "(e) particulars of the sentence which has been imposed under the law of the category 1 territory in respect of the *offences*, if the person has been sentenced for the *offences*."

17. Section 10, which deals with the initial stage of the extradition hearing, as modified provides:

> "(1) This section applies if a person in respect of whom a Part 1 warrant is issued appears or is brought before the appropriate judge for the extradition hearing.
>
> (2) The judge must decide whether *any of the offences* specified in the Part 1 warrant is an extradition offence.
>
> (3) If the judge decides the question in subsection (2) in the negative *in relation to an offence* he must order the person's discharge *in relation to that offence only*.
>
> (4) if the judge decides that question in the affirmative i*n relation to one or more offences* he must proceed under section 11."

18. To answer the question whether any of the offences specified in the Part 1 warrant is an extradition offence the judge must refer to the definitions of this expression that are set out in sections 64 and 65 of the 2003 Act. Section 64 deals with cases where the person has not been sentenced for the offence – with what are commonly referred to as "accusation" cases. Section 65 deals with cases where the person has been sentenced – with what are commonly referred to as "conviction" cases. It is common ground that, as not all the offences referred to in

either warrant fall within the European framework list, the relevant subsection for the purposes of this case is subsection (3) which, as modified, provides:

> "The conduct also constitutes *extradition offences* in relation to the category 1 territory if these conditions are satisfied –
>
> (a) the conduct occurs in the category 1 territory;
>
> (b) the conduct would constitute *offences* under the law of the relevant part of the United Kingdom if it occurred in that part of the United Kingdom;
>
> (c) a sentence of imprisonment or another form of detention for a term of 4 months or a greater punishment has been imposed in the category 1 territory in respect of the conduct."

The issue

19. The point to which Mr Keith directed attention is that section 10(2), as modified, requires the judge to decide whether "any of the offences" specified in the Part 1 warrant is an extradition offence. This, he said, made it necessary for the judge to take each of the offences which the warrant specified separately and to ask himself whether, in relation to each of them, the requirements of the definition in section 65(3) were satisfied. It was not open to him to consider as a whole the conduct which the warrant specified. The information that was available in this case showed that several of the offences of which the appellant had been convicted had been dealt with by way of penalties that failed to meet the 4 month threshold in section 65(3)(c). It also showed that the warrants themselves were defective because they did not give particulars of the sentences that had been imposed for each offence. He acknowledged that section 2(6)(e), as modified, required particulars to be given of "the sentence" imposed "in respect of the offences." But it was not to be read as assuming that there would always be, in multiple offence cases, a single sentence in respect of all the conduct. Usually there would be a series of separate individual sentences in respect of each offence, as had happened in this case. In such a case, what had to be stated was the sentence for each offence.

20. Delivering the judgment of the Divisional Court, Stanley Burnton J said in para 16 that there was nothing in the arrest warrants or in the

additional information to indicate that any part of the aggregated sentences was determined by the court in Lubin to be attributable to any particular offence. There was, as the court stated, an aggregate punishment which covered all of the offences in question. It seemed to him, in the light of this information, that the particulars of the sentence imposed in respect of the offences in question were, in respect of one arrest warrant, one year and two months deprivation of freedom and, in respect of the other, one year's deprivation of freedom. In para 17 he said that the conclusion that it was permissible to read section 2(6)(e) in this way was confirmed by the decision in *Trepac v Presiding Judge of the County Court in Trencin, Slovak Republic* [2006] EWHC 3346 (Admin). In that case the court in the category 1 territory had imposed a single sentence in respect of two offences which appeared to have been committed on the same day: attempted murder and carrying a concealed weapon. An argument that the European arrest warrant did not comply with the requirements of section 2(6)(e) because it did not contain an apportionment of the total sentence to each of the offences was rejected. Keene J said in para 16 of the court's judgment that the form of the warrant did not require the specification of a separate sentence for each separate offence.

21. Mr Keith recognised that there was a strong argument in *Trepac v Presiding Judge of the County Court in Trencin, Slovak Republic* for saying that what had been imposed in that case as a single overall sentence could not be disaggregated. But this was because it appeared that there had been a single course of conduct which made the imposition of such a sentence appropriate. He submitted that the facts in the present case were quite different. The decision in *Trepac* did not address the problem that it gave rise to. The conduct that the arrest warrants in this case referred to was made up of a series of individual offences, each of which had to satisfy the test of gravity which was built into section 65(3)(c). There was no doubt that each of the offences would have had to be considered separately had this been an accusation case. The appellant would have been entitled to speciality protection to prevent his being prosecuted for any of the offences which did not meet the twelve months gravity test in section 64(3)(c) in the event of his being extradited to face prosecution for any of them that did meet that test. This was the point of principle that was to be found in the wording of section 10(2) as modified. The approach to multiple offences in conviction cases should be informed by the same principle.

Discussion

22. Mr Keith's argument was attractively put, but I am unable to accept it. Once again, as in *Office of the King's Prosecutor, Brussels v Cando Armas* [2006] 2 AC 1, paras 26-27 and *Dabas v High Court of Justice in Madrid, Spain* [2007] UKHL 6, [2007] 2 AC 31, para 25, it has to be said that the fact that the language of Part 1 of the 2003 Act does not match the requirements of the Framework Decision has given rise to difficulty. In this case the problem has been created by the highly compressed language of section 10(2) as modified by the Multiple Offences Order 2003.

23. Part 1 of the 2003 Act was enacted to transpose the Framework Decision into national law. Article 34(2)(b) EU leaves the choice of form and methods to achieve the result at which the Framework Decision aims to Member States. The modifications to section 10 in para 2(2) of the Schedule to the Multiple Offences Order appears to have been framed on the assumption that, in order to give effect to the United Kingdom's obligations under article 34(2)(b) EU as to the result to be achieved by the Framework Decision, it would be necessary in a multiple offence case for the judge to examine each of the offences separately in order to determine whether all or any of them was an extradition offence. This approach is appropriate in accusation cases. But in my opinion an examination of the Framework Decision shows that this is not necessarily so in conviction cases when the judge is considering whether the requirements of section 65(3)(c) as to the length of the sentence are satisfied.

24. Article 1(1) of the Framework Decision makes it clear that a European arrest warrant may serve one or other of two purposes. It states:

> "The European arrest warrant is a judicial decision issued by a Member State with a view to the arrest and surrender by another Member State of a requested person, for the purposes of conducting a criminal prosecution or executing a custodial sentence or detention order."

Article 1(2) defines the obligation to execute a European arrest warrant. It states:

> "Member States shall execute any European arrest warrant on the basis of the principle of mutual recognition and in

> accordance with the provisions of this Framework Decision."

Article 2 defines the scope of the European arrest warrant. Article 2(1) states:

> "A European arrest warrant may be issued for acts punishable by the law of the issuing Member State by a custodial sentence or a detention order for a maximum period of at least 12 months or, where a sentence has been passed or a detention order has been made, for sentences of at least four months."

25. A close examination of article 2(1) shows that it provides two different tests as to whether the purpose for which the surrender of the requested person is sought is sufficiently serious to justify his arrest and surrender to the requesting state under the Framework Decision. In accusation cases the acts for which a criminal prosecution is to be conducted must be punishable by a custodial sentence or a detention order for a maximum period of at least 12 months. This requirement is directed to the level of penalty that is attached to the offence which the requesting state wishes to prosecute. It is built into the definition of what constitutes an extradition offence in section 64 of the 2003 Act. In conviction cases the test is not directed to acts but to the execution of sentences. This can be seen from a reading of article 2(1) which strips out the words that relate to accusation cases and concentrates on the remainder. So read it states: "A European arrest warrant may be issued …, where a sentence has been passed or a detention order has been made, for sentences of at least four months." It is the length of the sentence alone that determines whether or not it falls within the scope of a European arrest warrant.

26. An examination of the other provisions of the Framework Decision confirms this approach. First, there is para 5 of the Preamble. The last sentence is in these terms:

> "Traditional cooperation relations which have prevailed up till now between Member States should be replaced by a system of free movement of judicial decisions in criminal matters, covering both pre-sentence and final decisions, within an area of freedom, security and justice."

This system is based on the principle of mutual recognition: see article 1(2). As was observed in *Dabas v High Court of Justice in Madrid, Spain*, para 18, it was to be subject to sufficient controls to enable the judicial authorities of the requested state to decide whether or not surrender is in accordance with the conditions which the Framework Decision lays down. But they are not to be unnecessarily elaborate, as complexity and delay are inimical to its objectives.

27. Then there is Article 8(1) of the Framework Decision. It states that the European arrest warrant shall contain information set out in accordance with the form contained in the Annex about, among other things

> "(f) the penalty imposed, if there is a final judgment, or the prescribed scale of penalties for the offence under the law of the issuing Member State."

The relevant part of the form contained in the Annex sets out this requirement in these words:

> "(c) Indications on the length of the sentence:
>
> 1. Maximum length of the custodial sentence or detention order which may be imposed for the offence(s):…
>
> 2. Length of the custodial sentence or detention order imposed:…
>
> Remaining sentence to be served:…"

28. It is plain that para (c) 1 refers to accusation cases. In those cases, as article 8(1)(f) states, information is required about the prescribed scale of penalties for the offence that the issuing Member State wishes to prosecute so that the executing Member State can determine whether the offence falls within the scope of a European arrest warrant as defined in article 2(1). Para (c) 2, on the other hand, refers to conviction cases. As both article 8(1)(f) and this para make clear, all that the executing Member State needs to know is the length of the sentence. The words "penalty", "sentence" and "detention order" are all stated in the singular. There is no indication here or anywhere else in the Framework Decision that the sentence needs to be examined more closely to see how it was arrived at. There is no indication that it is any concern of the executing Member State to inquire as to the number of

offences to which the sentence relates, if there was more than one. It is the length of the sentence that the requested person is to be required to serve, and the length of that sentence alone, that determines whether or not it falls within the scope of a European arrest warrant.

29. The situation that presents itself in a conviction case is, after all, in essence a very simple one. The Framework Decision does not require it to be stated in a European arrest warrant that the requested person is unlawfully at large after conviction of an offence: see *Office of the King's Prosecutor, Brussels v Cando Armas*, para 43. Nevertheless the assumption on which it proceeds is that this indeed is the position. The requested person has absconded, and his return is needed so that he may serve his sentence in the Member State where he was convicted. The principle of mutual recognition dictates that effect must be given to the sentence that was passed in the issuing Member State. All the executing Member State needs to know in these circumstances is whether or not the sentence was one for at least four months. It is not for the judicial authorities in the executing Member State to question how the sentence was arrived at.

30. Furthermore it is a reasonable assumption, as this case demonstrates, that sentencing practice differs between Member States. The information that has been given in the European arrest warrants indicates that it is the practice in Poland for the sentencing court, in multiple offence cases, to aggregate the sentences that would have been appropriate for the offences if taken individually and to apply a discount from the total of the individual sentences to arrive at the overall sentence of imprisonment or detention that must be served. Mr Perry QC for the respondent said that a similar practice was followed in Slovakia and Italy. The question whether there is a case to answer on the conduct that is alleged in the European arrest warrant in an accusation case is not one that can be examined in the requested state: *In re Hilali* [2008] UKHL 3, para 16. An inquiry into that question is contrary to the principle of mutual recognition on which the Framework Decision is founded. So too is an inquiry as to how the sentence was arrived at in a conviction case. That is a matter which is exclusively for the issuing Member State.

31. An examination of sentencing practice in the United Kingdom reinforces this approach. It is open to the sentencing judge, in appropriate cases, to impose consecutive sentences. Account may be taken of the overall length of the sentence that results when decisions are made about the length of the sentence for each offence. It has not hitherto been thought to be necessary to ensure that the sentence for

each offence meets the minimum necessary for a European arrest warrant should it be necessary to seek the person's return if he absconds to another Member State. Judges in Scotland may impose an overall, or "cumulo", sentence in respect of offences arising as a course of conduct or from the same incident: *Nicholson v Lees*, 1996 SLT 760, 712G-H. Where this is done no part of the overall sentence is allocated to any of the individual offences. The form of sentence that was under consideration in *Trepac v Presiding Judge of the County Court in Trencin, Slovak Republic* [2006] EWHC 3346 (Admin) provides another example of this approach. In my opinion that case was correctly decided. It is not to be supposed that it was the purpose of the Framework Decision to require Member States to change their sentencing practices. The principle of mutual recognition indicates the contrary.

32. How then can the wording of the relevant sections of the 2003 Act be reconciled with the Framework Decision? In *Criminal Proceedings against Pupino* (Case C-105/03) [2006] QB 83, 91, para 26, Mrs Advocate General Kokott said that the object of creating an ever closer union among the people of Europe to which article 34(2)(b) EU refers will not be achieved unless the Member States and institutions of the Union co-operate sincerely and in compliance with the law. She then explained how framework decisions must be given effect in accordance with article 34(2)(b) EU:

> "36. In summary, it follows from article 34(2)(b) EU and from the principle of loyalty to the Union that every framework decision obliges national courts to bring their interpretation of national laws as far as possible into conformity with the wording and purpose of the framework decision, regardless of whether those laws were adopted before or after the framework decision, so as to achieve the result envisaged by the framework decision."

In para 43 of its judgment the Court of Justice said that the principle of interpretation in conformity with Community law is binding in relation to framework decisions adopted in the context of Title VI of the Treaty on European Union.

> "When applying national law, the national court that is called on to interpret it must do so as far as possible in the light of the wording and purpose of the framework decision in order to attain the result which it pursues and thus comply with article 34(2)(b) EU."

33. Adopting that approach to the construction of the 2003 Act, it seems to me that section 2(6)(e) does not present a problem. As modified, it requires information to be given of particulars "of the sentence which has been imposed under the law of the category 1 territory in respect of the offences." The singular use of the word "sentence", even in multiple offence cases, matches exactly the wording of the Annex to the Framework Decision. Nor does section 65(3)(c) present a problem either. It refers to "a sentence of imprisonment or another form of detention…[that] has been imposed in the category 1 territory in respect of the conduct." This wording too is consistent with the Framework Decision.

34. The problem lies only in the wording of section 10 as modified in the case of multiple offences. Section 10(2) requires the judge to decide whether "any of the offences" specified in the Part 1 warrant is an extradition offence. I would hold that it is unnecessary, in a conviction case to which section 65(3) applies, for the judge to ask himself whether the sentence that was passed for each offence satisfies the test that is set out in section 65(3)(c). If the other requirements of section 65(3) are satisfied, all he needs to do is to determine whether the sentence for the conduct taken as a whole meets the requirement that it is for a term of at least four months. If it does, he must answer the question in subsection (2) in the affirmative and proceed to section 11: section 10(4). The information on which this decision is to be based must be found within the Part 1 warrant itself: section 2(6)(e). Further information such as that which was made available in this case will be irrelevant to his decision on this issue.

Conclusion

35. For these reasons I would hold that the district judge was entitled to find that the European arrest warrants satisfied the requirements of section 2(2)(b) of the 2003 Act and were accordingly Part 1 warrants, that effect had to be given to the extradition procedure and that the offences constituted by the appellant's conduct taken as a whole fell

within the definition of an extradition offence in section 65(3). I would dismiss the appeal.

LORD SCOTT OF FOSCOTE

My Lords,

36. I have had the advantage of reading in advance the opinion prepared by my noble and learned friend Lord Hope of Craighead and agree both with his conclusions and with the reasoning by which he reached them. I agree, therefore, that this appeal should be dismissed.

LORD BROWN OF EATON-UNDER-HEYWOOD

My Lords,

37. I have had the benefit of reading in draft the opinion of my noble and learned friend, Lord Hope of Craighead. For the reasons he gives, I too would dismiss this appeal.

LORD NEUBERGER OF ABBOTSBURY

My Lords,

38. I have had the advantage of reading in draft the opinion of my noble and learned Lord Hope of Craighead and for the reasons he gives I too would dismiss this appeal.