

Zabolotnyi (Appellant) v The Mateszalka District Court, Hungary (Respondent)

Appellant Oleksandr Zabolotnyi (aka Zoltan Dani)

Respondent The Mateszalka District Court, Hungary

Issues This case concerns conditions in Hungarian prisons, and the approach to be taken in assessing and relying on assurances as to prison conditions given by the Hungarian authorities. The Supreme Court is asked to decide, when a court is considering whether to make or uphold an extradition order, and is obliged to assess an assurance given to the UK regarding future detention:

- (1) Is there a special test for admitting evidence relating to assurances given to the courts or authorities of countries other than the United Kingdom?
- (2) If so, was the High Court right that the court should exercise very considerable caution before admitting such evidence and that it should only do so if satisfied that the evidence is manifestly credible, directly relevant to the issue to be decided and of real importance for the purpose of that decision?

Facts The respondent, the Mateszalka District Court, Hungary, sought the extradition of the appellant, Mr Zabolotnyi, to Hungary pursuant to a European Arrest Warrant. On 5 September 2017, the District Judge ordered Mr Zabolotnyi's extradition to Hungary. Mr Zabolotnyi appealed to the High Court.

During his extradition hearing, Mr Zabolotnyi had argued that he faced a real risk of being detained in overcrowded prison conditions in Hungary, in breach of his rights under Article 3 of the European Convention on Human Rights. The Hungarian Ministry of Justice gave an assurance guaranteeing that, if extradited, Mr Zabolotnyi would be held in conditions compliant with Article 3. However, Mr Zabolotnyi argued that this assurance was unreliable. On appeal to the High Court, he sought to rely on fresh evidence from individuals extradited to Hungary from both the UK and Germany who complained that they had been subject to comparable assurances which were not honoured.

The High Court held that there was no substantial risk that Mr Zabolotnyi's Article 3 rights would be breached if he was extradited to Hungary. It held that evidence of past breaches of assurances given to other member states would only be admissible if it was manifestly credible, directly relevant to the issue to be decided and of real importance for the purpose of that decision. Applying that test to Mr Zabolotnyi's case, the evidence relating to breaches of the German assurances was held to be inadmissible. The evidence concerning the UK assurances was considered to be limited. The appeal was dismissed. Mr Zabolotnyi now appeals against that ruling to the Supreme Court.

Chronology of proceedings

Date of hearing	Date of judgment	Court	Judge	Neutral citation	Order
1 September 2017	5 September 2017	Westminster Magistrates' Court	Michael Snow DJ	-	Extradition ordered.
21 March 2019	16 April 2019	High Court	Irwin LJ, Simler J and Sir Kenneth Parker	[2019] EWHC 934 (Admin)	Appeal dismissed.
-	9 October 2019	High Court	Irwin LJ and Simler J	-	Point of law of general public importance certified; permission to appeal to the Supreme Court refused.
-	12 March 2020	Supreme Court	Lord Hodge, Lord Sales and Lord Hamblen	-	Permission to appeal to the Supreme Court granted.

HEARING VIA VIDEO CONFERENCE

Hearing Date: 23 February 2021

Lord Lloyd-Jones, Lord Hamblen, Lord Leggatt, Lord Burrows, Lord Stephens

Counsel

Appellant

Jonathan Hall QC
Benjamin Seifert
Florence Iveson

Respondent

James Hines QC
Amanda Bostock

Timetable

10.30am-12.30pm Appellant
12.30pm-1pm & 2pm-3.30pm Respondent
3.30pm-4pm Appellant's Reply

You can watch video of today's hearing at www.supremecourt.uk, from tomorrow.
Look for the relevant case profile in our 'Current Cases' section: scroll to the bottom to see the available footage.