



JUDICIARY OF
ENGLAND AND WALES

THE HON. MR JUSTICE GARNHAM

At the London Central Criminal court

R v Draghici

11 July 2023

Introduction

1. Marius DRAGHICI you have pleaded guilty to the manslaughter of 39 people and to a charge of conspiracy to facilitate a breach of immigration law. It now falls to me to sentence you.
2. In December 2020, at this Court, Mr Justice Sweeney sentenced nine other individuals who had been implicated in these offences. It had always been the prosecution's case that you were involved in this offending, but your whereabouts were unknown until your arrest in Romania in August 2022.
3. You were extradited here in October 2022, and on 23 June 2023 you pleaded guilty, on a basis of plea, to all the counts you faced. I sentence you on that basis of plea which has been accepted by the Prosecution and which appears to me appropriate.

The Facts

4. On 11 October 2019 you became involved in a conspiracy to smuggle migrants to the UK in the back of lorries, that was plainly a deliberate and intentional breach of UK border control. You were recruited by a man called Nica and became part of an organised crime group which was making astonishing profits out of the exploitation of people desperate to get to the UK. I was told in the week or two you were involved the fees charged to these migrants would probably have totalled in excess of £600,000.
5. In short summary, the arrangements to which this conspiracy operated were as followed. Migrants would assemble in a safe house in a city in France. From there they would be taken by taxis to a remote location where they were loaded into the trailers of lorries. Those trailers were then transported, normally unaccompanied, on ferries to the United Kingdom. The trailers were collected and driven to Collingwood Farm; a remote location in Orsett, Essex. I will refer to Collingwood Farm hereafter as "the Farm". There, the migrants were

- unloaded, transferred to smaller vehicles and driven to a safe house elsewhere in the UK where they would be held until the fee for their transportation was paid. The fee was around £10,000 per person, rising to as much as £13,000 for what was astonishingly called “a VIP ticket” in which case the driver would be aware of the smuggled migrants.
6. You were involved in three incidents of people smuggling. These occurred on 11th, 18th and 23rd October 2019. On the 11th you were amongst a group of conspirators who met a cab and trailer that had travelled from Zeebrugge to the Farm carrying 15-20 migrants. On the 18th you were in a convoy of cars that met a trailer which had been driven from Purfleet docks at the Farm. That vehicle was carrying an unknown number of migrants.
 7. And most importantly, on the 22-23 October 2019 you were involved in smuggling 39 Vietnamese migrants into the UK in a sealed trailer. By arrangement, the 39 would-be migrants travelled to a remote location in Bierne Northern France, where a man named Harrison and his lorry were waiting for them. By 10.00 a.m. on the 23rd they had been loaded and Harrison began his journey to Zeebrugge.
 8. From that time on, and throughout the course of 22 October the temperature inside the trailer steadily rose. At 11:30am, when the vehicle was driven from France into Belgium, the temperature was already 21°C. On arriving at the Zeebrugge port at about 1pm it was 25.2°C. At 1:58pm when the trailer was being reversed into an allocated bay, the temperature inside the lorry was now 27°C (compared to an outside temperature of 14°C). By 6:25pm the temperature inside the trailer had risen to almost 35°C. Conditions inside the trailer by then must have been unspeakable. They were trapped inside a container, with no ventilation and no way of getting out. No-one outside the conspiracy knew they were there. There was no phone signal. They tried to use a metal pole to bash a hole through the skin of the container without success.
 9. I had played to me in court the pitiful audio recordings from phones of the migrants inside reporting an inability to breathe, and recognition that they were going to die there. The temperature inside the trailer continued to rise. By 9:02pm it had reached 38°C.
 10. I was told that the scientific evidence established that the length of time that 39 adults could spend in the confined and airtight trailer before the atmosphere became toxic would be between 8.5 and 9 hours from the time the doors being sealed shut. Deaths would have resulted shortly thereafter. That would have been between about 10 and 10:30pm that night. This fits with the evidence in relation to the temperature inside the trailer; that temperature peaked at 38.5°C between

9:42 and 10:42pm. Thereafter, the temperature began to fall. The obvious inference being that it began to fall as people trapped inside began to die.

11. In Essex at that time plans were being put into effect for the arrival of the trailer. The man who was to drive the trailer from the port, Robinson, was parked up on Eastern Avenue; close to Purfleet. You and Nica were nearby. You two then drove Robinson to the Farm to show him where the migrants were to be taken. You all then returned to Purfleet before you went once more to the Farm to await the arrival of the vehicle. At 1:09am, Robinson the driver left the port, with the trailer. Six minutes later, he was back in Eastern Avenue. He had received a messages from the ringleader of the operation, a man named Hughes. It said '*Give them air quickly but don't let them out*'.
12. CCTV captured Robinson opening the rear doors of the trailer slightly. He stepped back; shut the doors again before walking slowly back to his cab. He drove off again. He drove around for seven minutes before returning to the same location. Again, he opened the rear doors. Robinson then called the ring leader Hughes, and rapidly thereafter those who had attended the Farm in order to collect the migrants, including you, abandoned the plan and left the area. It was only at 1.36 a.m. that Robinson telephoned 999 to ask for an ambulance.
13. Police officers arrived and looked into the back of that vehicle. They saw numerous half-naked bodies on the floor, lying motionless. They could find no pulse on anyone. The bodies were frothing at the nose. Their limbs were stiff, consistent with rigor mortis having set in. Paramedics and doctors found a total of thirty-nine bodies in the back of that trailer. All confirmed dead. They had died from asphyxia and carbon dioxide poisoning, with associated hyperthermia.
14. You like the other conspirators abandoned the mobile telephones you had been using to communicate with and later that day, you flew from the UK back to Romania.
15. The effects of your conduct on those in the lorry was obvious. But your conduct also had enormous consequences for the friends and family of those killed. I have read and considered the Victim Impact Statements from the family members. They are heart wrenching.

The Basis for Sentencing

16. In order to avoid double counting the approach I propose taking is to impose the principal sentence concurrently on the counts of manslaughter and then to impose a further concurrent sentence for the underlying conspiracy.

17. I sentence you on the agreed basis. Where I find facts on other aspects of the case against you I do so only where I am sure of them.
18. The Unlawful Act Manslaughter Sentencing Council Definitive Guidelines apply to counts 1-39. I have also had regard to the sentencing council's guidelines on Reduction in sentence for a guilty plea and totality.
19. There is no Sentencing Guideline for count 40, the offence of assisting unlawful immigration, but the following aggravating factors, which have been identified by the Court of Appeal in previous cases, are present in your case. This was a conspiracy which took place over a period of time; there was a high degree of planning, organisation and sophistication, although I note that you were a late comer to that; the offending involved a large number of illegal immigrants; and the offending involved strangers rather than a spouse or family member. This was an organised criminal enterprise run for profit which served to undermine the UK's efforts to manage and control immigration and which put many would-be migrants at risk of death. In my view the conspiracy charge is one that calls for deterrent sentencing.
20. Your role in this conspiracy was, in my view, limited but nonetheless significant. It began on 11 October 2019 and lasted for a little less than two weeks. I accept you that were not involved in making the arrangements for the migrants to come to the UK and that you had no managerial role in the enterprise. However, you rapidly came to realise the scale of the operation and the extent of what it involved. Despite that knowledge you continued to be involved in this criminality.
21. You acted as a driver on the instruction of Nica on 11 October 2019 driving three migrants to London, you lent your car to Nica on 16/17 October 2019, you travelled with Nica on 18 and 19 October, further you drove Nica to a meeting with Robinson on 22 October. On the following day you agreed to collect migrants in your car from the drop off point at the Farm and drive them to a house in London. You were in my view, Nica's right hand man for that period, a small but essential cog in the wheels of this criminal conspiracy.
22. I accept that you did not know the exact number of migrants involved. But I find as a fact that you must have had a pretty good idea that the number was substantial given the nature of the organisation, the number of conspirators involved and the fact that the fees earned were directly related to the number of migrants conveyed into the UK.
23. In my judgment, yours was more than a minor role; it was an operational role, effectively as a support driver and assistant to Nica. I accept that you became

involved as a means of repaying Mr Nica for assistance you had received from him in the past.

24. I deal first with the manslaughter charges. You pleaded guilty to 39 counts of unlawful act manslaughter. On 23 October 2019 28 men, eight women, and three children died agonising deaths from asphyxia, carbon dioxide poisoning and hyperthermia in the back of that lorry as a result of the conspiracy of which you were a part.
25. I make it clear now that in my view your case does not meet the statutory definition for dangerous offenders. And, as serious as these offences are they do not meet the relevant criteria for the imposition of a life sentence.
26. In my view this case falls into category B of the Guidelines - Death was caused in the course of committing a serious offence in which you played more than a minor role. A single offence of this type has a starting point of 12 years and a range of 8-16. In my view your case falls squarely within Category B. I will consider the points made on your behalf about your role, when I consider your mitigation but I adopt a Starting Point of 12.
27. I have then to consider the aggravating and mitigating factors.
28. The aggravating factors are as follows:
 - (i) First, as already described very significant mental and physical suffering was caused to the deceased. In my view this was suffering of the most serious kind and was suffered by 39 people - men, women and children
 - (ii) These deaths occurred in the context of an offence which was planned and premeditated; although I note that there is a degree of overlap with the matters relevant to fixing the category of offending under the Guidelines and I take that into account
 - (iii) You took steps after the event to dispose of your phone and flee the country.
29. You have one previous conviction, albeit for an offence of a different character. That does not seem to me to justify an alteration one way or the other.
30. As to mitigating factors I note and take account of the following:
 - (i) First, As discussed above, your role was acting as a support driver on instruction and you were only involved for a limited period of time, although importantly you were involved at the time the 39 migrants died.
 - (ii) I accept that you feel genuine remorse about what you have been part of.
 - (iii) I accept that you did not intend to cause harm to the migrants but I take the view that in the circumstance of this case that is not of great relevance.
 - (iv) I note that you are in a settled relationship, with a woman who has no connections to criminality. You have a young child from your previous

marriage and an elderly mother, for whom you used to care in Romania prior to his arrest.

(v) I note that prior to your extradition you were undergoing tests for cancer although those tests have not been completed. You also suffers from kidney stones and high blood pressure.

(vi) You are a foreign national. I understand you will in time be sent back to Romania. But I accept that whilst here you will be serving a sentence in a foreign prison.

(vii) Since your remand in custody you have used your time in prison constructively.

31. Having identified the notional sentence after trial for an individual offence of manslaughter, I must balance and take into account those aggravating and mitigating features. I must then go on to consider the impact of all 39 offences and to impose concurrent sentences on each which reflect them all. It is incumbent on me to avoid a mechanistic approach, and to apply the principles of totality.
32. From the starting point of 12 years a balancing of the aggravating and mitigating factors (and in particular your limited role) would lead to a sentence after trial of 10 years' imprisonment for a single offence. The combination of all 39 offences takes me to a final sentence of 18 years' imprisonment concurrent on Counts 1-39, before credit for plea.
33. The aggravating and mitigating features already referred to apply equally to the conspiracy count. In my judgment the appropriate sentence on count 40 is one of 6 years imprisonment concurrent less credit for plea.
34. I turn then to consider credit for plea. It is argued on your behalf that you received no advice as to credit for guilty plea in the Magistrates' Court, and that given your lack of understanding of the Court process, and your limited English, you were in no position to make any indication as to plea.
35. Once in the Crown Court, it is said your relationship with your then legal team broke down. Once you had new counsel and solicitors on board the question arose as to the lawfulness of your extradition. That necessitated the instruction of specialist counsel. Thereafter a basis of plea was drafted, and your guilty pleas were entered. It is submitted that, for those reasons, your case falls within the exceptions as set out at F1 of the Definitive Guideline for Reduction in sentence for a guilty plea. There are here, in my judgment, particular circumstances which do significantly reduced your ability to understand what was alleged, and made it unreasonable to expect you to indicate a guilty plea sooner than was done. In those circumstances, it is submitted that a reduction of 1/3, or alternatively at least 25%, should be made.

36. There is some force in those submissions and I will allow you credit of 30% reducing the sentence on count 40 from 6 years to 4 years 2 months and the sentence on each manslaughter charge to 12 year 7 months.

SENTENCING

37. STAND UP

38. On the first count of manslaughter there will be a sentence of 12 years 7 months. On each counts 2 to 39 there will be concurrent sentences of 12y 7m. On count 40 there will be a concurrent sentence of 4 years 2 months. 79 days spent in custody in Romania will count towards that sentence.

39. There will be an order under s14 of the Proceeds of Crime Act 2002 in the terms of the draft put before me.

- Section 18 Declaration of Assets to be served by Defence on the Court and Prosecution by 22 August 2023 (six weeks)
- Prosecution to serve statement of information on Court and Defence (Section 16 POCA 2002) by 3 October 2023 (six weeks)
- Defence to reply to statement of information by 31 October 2023 (four weeks)
- Prosecution to respond to Defence if necessary within 14 days.
- Confiscation hearing to be set from w/c 27 November 2023 on a matter to be heard before the recorder of London.

40. Take him down