Neutral Citation Number: [2026] EWHC 256 (Admin)

Case No: AC-2025-LON-000488

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT
In the matter of an appeal under section 103 of the Extradition Act 2003

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: Tuesday 10 February 2026

Before :

MRS JUSTICE EADY DBE

- -

Between :

GRT	**Appellant**
- and –	
MINISTRY OF JUSTICE, REPUBLIC OF ALBANIA	**Respondent**

- -
- -

Ben Joyes (instructed by **Hodge Jones & Allen**) for the **Appellant**
Amanda Bostock (instructed by **Crown Prosecution Service**) for the **Respondent**

Hearing date: Tuesday 3 February 2026

- -

JUDGMENT

This judgment was handed down remotely at 2pm on Tuesday 10 February 2026 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

.....

MRS JUSTICE EADY DBE

Mrs Justice Eady DBE:

Introduction

1. The provisions of the Sexual Offences (Amendment) Act 1992 apply to this case. Under those provisions, where a sexual offence has been committed against a person, no matter relating to that person shall during that person's lifetime be included in any publication if it is likely to lead members of the public to identify that person as the complainant of that offence. This prohibition applies unless waived or lifted in accordance with section 3 of the Act.

2. This is my judgment on the appellant's appeal, pursuant to section 103 of the Extradition Act 2003 ("the 2003 Act"), against the decision of the District Judge ("DJ") to send his case to the Secretary of State to determine whether he was to be extradited.

3. The hearing before the DJ took place on 15 November 2024, when representation was as it has been before me. The DJ reserved his decision, which was subsequently handed down on 6 December 2024. Satisfied that the appellant's extradition to Albania was not prohibited by the 2003 Act, on 2 February 2025, the Secretary of State made an order for the appellant's extradition.

4. Considering this matter on the papers, by order seal dated 15 April 2025, McGowan J initially refused the appellant's application for permission to appeal. Following an oral renewal hearing before Morris J on 24 July 2025, the appellant was permitted to pursue an appeal, limited to the Fier and Pequin prisons in Albania, on the basis that the DJ erred in failing to find his extradition (1) would entail a real risk of a violation of article 3 of the European Convention on Human Rights ("ECHR"), and was thus prohibited by section 87 of the 2003 Act, and/or (2) would be oppressive by reason of the appellant's mental condition, and was thus prohibited by section 91.

5. On 2 February 2026, those acting for the appellant made an application to adduce fresh evidence, namely medical records from the prison in which the appellant is being held, that are said to update the position in respect of the appellant's mental health. Although objecting to the short notice, the respondent did not seek an adjournment, and I considered this additional evidence *de bene esse* at the hearing. I return to the application to admit the fresh evidence below.

The request

6. The appellant's extradition is sought pursuant to a request dated 23 April 2024, which was certified as valid on 16 May 2024.

7. The appellant was convicted in Albania on 9 March 2017, of offences described in the following terms:

> "'sexual relationships with minors' and 'driving vehicles inappropriately' as provided for by articles 100/1 and 291 of the Criminal Code."

8. The facts of the offences are set out in the prosecution report, summarised at paragraph 11 of the DJ's decision. Essentially, on 29 February 2016, the appellant, then aged 29,

persuaded a 13 year old school girl, who he had met two weeks earlier, to get into his car, and he had then driven her to a dead-end street, where he had sex with her. The child had been walking to school with her brother before being picked up by the appellant, and her brother had called the police, and they had detained the appellant shortly after the incident, finding that he had also been driving without a licence.

9. The appellant was initially remanded in custody between 29 February and 27 June 2016, but was then released under "house arrest". He was present and represented at trial, when he was convicted and sentenced to a term of five years four months' imprisonment; a period of two years, 10 months and eight days of that sentence remains to be served.

10. The appellant appealed against his conviction but was unsuccessful, and it was upheld by the Tirana Court of Appeal on 6 June 2018. He was represented at the appeal hearing, albeit he did not himself attend.

11. The extradition request was issued after the respondent had been advised by Interpol that the appellant was in UK immigration detention, awaiting deportation to Albania.

The evidence before the DJ, and the DJ's findings, reasoning and decision

12. As the DJ recorded, at the date of the hearing below, the appellant was 37. He had previous convictions in the UK: first, for supplying class A drugs in 2015, for which he was sentenced to 18 months' imprisonment, following which he appears to have been deported; secondly, after he had again left Albania to come to the UK (notwithstanding his awareness of the fact that he still had time to serve after his 9 March 2017 conviction), he was convicted on 13 April 2023 of assaulting an emergency worker, for which he was sentenced to six months' imprisonment. In relation to both convictions in the UK, the appellant had used an alias; in the Albanian prosecutor's report he was also referred to as using an alias (albeit using a different alias to that he had used in the UK).

13. The DJ found the appellant was a fugitive; that conclusion was based on the undisputed fact that the appellant had been present at his trial and sentence and had then left Albania knowing he had part of his sentence still to serve.

14. For the purpose of the hearing before the DJ, the appellant had filed an unsigned and undated proof of evidence; he did not give evidence to adopt that statement as true, or face cross-examination. In those circumstances, the DJ gave "*virtually no weight*" to that evidence.

15. The appellant did, however, adduce an undated report from Dr Juliet Cohen, a forensic physician who had interviewed him for 1 ½ hours on 22 August 2024. The respondent did not require that Dr Cohen give live evidence, on the basis that her report was based largely on the appellant's own account (as given to Dr Cohen and in his proof of evidence), together with his medical records in custody in the UK (there were, and are, no available medical records from Albania).

16. Dr Cohen recorded that the appellant had reported to her that he had been the victim of rape and torture. His account (as thus reported) was that, in an altercation in Albania in 2019, he had been the victim of an assault by his then business partner, during which

his cousin was shot and killed, and he had left Albania about two weeks later, as he remained in fear of his assailant. He reported having travelled to France, where he agreed to be trafficked to the UK for a fee. On arrival, the appellant said he had run away from the trafficker and travelled to London, but that men, who he thought were connected with the trafficker, had attacked him, tied him up and abducted him, driving him to a building where he was further beaten and raped. The appellant said he had then been made to work for a month in a cannabis factory before he escaped and travelled to London, where he was effectively homeless and living on the streets or the charity of friends (albeit the medical records recorded his saying he had gone to live with his brother). The appellant told Dr Cohen that he did not report the assault to the police because he was in the UK illegally. Acknowledging that he had been arrested in April 2023 (when he had assaulted police officers who were trying to take him to a hospital), and had then been remanded awaiting deportation but had still not disclosed this account, the appellant said he had not had access to an interpreter and had not been able to speak about the sexual assault to anyone (although, as the DJ noted, the prison medical records recorded that the use of an interpreter was not necessary for the appellant).

17. The DJ recorded Dr Cohen's principal observations and conclusions, as follows:

> "92. [The appellant] has re-experiencing symptoms, avoidance and numbing symptoms and hyper-arousal symptoms. He has re-experiencing symptoms with nightmares, intrusive recall and flashbacks of the murder of his cousin and the kidnap and assault he suffered in the UK. He identifies triggers to these including groups of men near him, people touching him, being restrained and handcuffed by officers, and noises outside his cell. He has physiological reactivity associated with the re-experiencing symptoms with panic attacks and difficulty breathing.
> 93. He has avoidance and numbing symptoms with avoidance of people and activities, avoidance of talking about his traumatic experiences, and a restricted range of affect.
> 94. He has hyper-arousal symptoms with difficulty falling asleep and staying asleep, jumpiness, angry outbursts and poor concentration.
> 95. The symptoms have been present for more than one month, impair his social functioning and cause significant subjective distress. He meets the diagnostic criteria for post-traumatic stress disorder (ICD 11 criteria appended).
> 96. He has symptoms of co-existing depression with low mood, no interest or enjoyment in life, low energy, low self-esteem, feeling bad about himself, past acts of self-harm, and disturbed appetite.
> 97. His symptom of hearing voices can occur in severe PTSD or severe depression.
> 98. I make these diagnoses not based solely on the history related but on my observations throughout the examination, the responses made to specific clinical questions and my objective findings on examination of his mental state, as well as from the medical records provided."

18. Dr Cohen had recorded the appellant as suffering severe depression but with a relatively low suicide risk. Having carried out a partial physical examination of the appellant

(limited through lack of privacy and inadequate lighting), Dr Cohen stated that she had observed a number of lesions and scars on his body consistent with his account of ill-treatment. She said she had considered but dismissed the possibility that the appellant had fabricated his psychological condition. Dr Cohen considered the medical records indicated that the appellant's mental health symptoms had escalated over the preceding year, with some incidents of self-harm (banging his head, and two occasions when the appellant had thrown himself off a landing on to the safety netting), leading to his being placed on assessment, care in custody and teamwork monitoring ("ACCT") for a period, but there had been disruption to the continuity of care, and no offer of treatment other than information leaflets and antidepressant medication (he had been prescribed Mirtazapine and another antidepressant), and minimal review of medication dosage and efficacy. Dr Cohen referred to NICE guidance that recommended treatment for PTSD would be cognitive behaviour therapy; noting, however, that, in order for this to be effective, it would need to take place in the context of a safe and supported environment and (referencing a 2021 Royal College of Psychiatrists Position Statement) that "*the recovery model cannot be implemented effectively in a detention centre setting*".

19. The DJ did not accept the appellant's account, as set out in his proof of evidence and reported to Dr Cohen, explaining his reasoning as follows:

> "34. ... [the appellant] declined to give evidence to adopt his (unsigned and undated) document and face cross-examination. It carried virtually no weight and in turn Dr Cohen's uncritical acceptance of the truth of all that the [appellant] told her – even supported by her own observations – reduces the weight I can attach to her conclusions. While she considers fabrication she does not address or analyse the powerful motivation that pending deportation and extradition might have or offer alternative explanations for the injuries she noted, which were in any event far from a clinical survey."

20. The appellant further relied on a January 2024 report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment ("CPT"), based on the findings of a delegation of experts who visited four Albanian prisons during the course of May 2023. In particular, the appellant pointed to the report's findings in respect of the lack of improvement in mental health provision in particular prisons since an earlier visit in 2018, submitting that the respondent's response had failed to address the inadequacies identified, and that the first stage of *Aranyosi* (*Criminal proceedings against Aranyosi and Căldăraru (Joined Cases C-404/15 and C-659/15PPU)* [2016] QB 921 ECJ) was met.

21. For its part, the respondent placed reliance on its response to the CPT report, in which it was confirmed: (1) that Fier prison had three part-time doctors on its staff (two general practitioners and one psychiatrist), and that, whilst there were (at that time) two part-time doctors at Pequin, specialist doctors (including psychiatrists) were periodically sent there to perform medical consultations; (2) all newly arrived prisoners were received by health staff at the moment of admission, with a detailed medical history being taken; (3) that although most prisoners with "*mental disabilities*" were kept in prisons, they would be accommodated in the Special Care Sector ("SKV"), where they would receive special health and "*psycho-social*" care; (4) in Fier prison, working with the Council of Europe, a pilot project had been implemented for the treatment and management of prisoners with mental health problems, focusing on

multidisciplinary teamwork, which was intended to be replicated elsewhere, with "*priority to the operation of SKV (special care sectors) in prisons where there are SKV and psychiatrists*".

22. The DJ did not consider that the material relied on by the appellant amounted to the powerful evidence or international consensus required to rebut the presumption of compliance with article 3 ECHR; on the material before him, he did not find the first stage of *Aranyosi* had been made out and did not consider it necessary to request a prison assurance or further information.

23. As for the appellant's case under section 91 of the 2003 Act, the DJ concluded:

> "47. ... even if I am wrong to be sceptical about the reported account the simple fact is that the only recommended treatment cannot be delivered unless [the appellant] is in a position where he is not in a custodial setting awaiting his removal to Albania and is not returned there. That is a fanciful outcome even if he were to be discharged given his inevitable deportation. The [appellant] did not access any treatment prior to being remanded. He is not receiving any treatment now beyond medication which the [respondent] can be presumed to be able to provide along with appropriate health care generally."

24. Given his findings, the DJ was satisfied that the appellant's extradition to Albania was compatible with his article 3 ECHR rights and that it would not be oppressive by reason of his mental health condition for the purposes of section 91 of the 2003 Act.

New evidence

25. By his application dated 2 February 2026, the appellant seeks to rely on fresh evidence, namely his updated prison medical records. It is the appellant's case that these evidence the fact that, since May 2025, he has regularly had sessions with medical health professionals, and has been diagnosed as suffering from a mixed anxiety and depressive disorder. From the information thus provided, the appellant says that this evidence shows that he has continued to experience symptoms of PTSD (including bed wetting, shouting in his sleep, and hearing voices), that he is on an ACCT, and that, since 1 October 2025, he has been receiving 1:1 treatment for trauma.

26. The appellant relies on these further medical records as updating evidence, which was (inevitably) unavailable at the time of the extradition hearing. The question for me is whether I can be satisfied that this material would have resulted in the DJ reaching a different decision on the questions before him (*Szombathely City Court v Fenyvesi* [2009] EWHC 231 (Admin)).

The parties' submissions

The appellant's case

27. For the appellant it is contended that the grounds of challenge are to be viewed as being interlinked. Seeing Dr Cohen's diagnosis of PTSD in the context of the CPT report, this went beyond the *Aranyosi* stage 1 test (see *Aranyosi* paragraph 95, and *Magiera* at

paragraphs 32-35), and the DJ ought to have sought further information as to the precise conditions in which the appellant was to be detained (as this court ought now to do).

28. The appellant contends the DJ erred in rejecting Dr Cohen's evidence in circumstances in which she had not been required to attend for cross-examination, and in which the respondent had not countered her report with evidence of its own. Acknowledging that the respondent was entitled to make submissions as to the extent of Dr Cohen's expertise (based on her CV), and as to any inconsistencies in the materials before her, the appellant says that such criticisms must carry less weight given that the respondent had not required her to attend to be cross-examined (and, to the extent the respondent relied on *Badie v Kuwait* [2025] EWHC 2783 (Admin) as relevant to the assessment of Dr Cohen's evidence, that case was (a) confined to its own facts, and (b) countered by the observations made in *R oao C (Gambia)* [2026] EWHC 2016 (Admin)). As for the updating evidence, the more recent medical records suggested the appellant was continuing to experience symptoms consistent with the definition of PTSD exhibited to Dr Cohen's report.

29. Turning to the CPT report, the appellant points to the finding that the services at Fier were understaffed (employing one GP and nine nurses for 823 prisoners, as compared to what the CPT considered would be the minimum requirement for that population, of at least three full-time doctors and around 20 nurses), and to the concern as to the inadequate nature of psychiatric care for prisoners and the absence of systematic medical screening by healthcare staff. The appellant further draws my attention to the sections within the report relating to SKVs, which were intended to accommodate prisoners with mental disorders. The CPT had, however, found the mental health care provision at the SKVs was inadequate, with conditions at both units being deficient: patients at Fier were locked in their cells for most of the day and there was only a half-time psychiatrist for the entire prison; while at Pequin, it was noted there were visits by a psychiatrist only every two months; and at both prisons, it was considered the absence of other qualified professionals (clinical psychologists, occupational therapists, etc.) and appropriate facilities, meant almost no therapeutic or occupational activities were organised. It is the appellant's case that, on the evidence before the court, it was likely that someone with a mental disorder would be detained in a SKV, and there was no assurance provided by the respondent to the contrary in the appellant's case.

30. The appellant further places reliance on article 57 of the Albanian Criminal Code, which provides, in relation to the calculation of pre-trial detention that this will be:

> "... calculated into the sentence of imprisonment ... as follows:
> One day of pretrial detention equals to one day and a half of imprisonment…"

It is the appellant's case that (as at the date of the appeal hearing) he will have spent 649 days in detention and is thus to be treated as having served 973 days of his total remaining sentence of 1042 days, leaving him with only 68 days left to serve.

The respondent's position

31. On the available evidence, the respondent contended the DJ had been entitled not to accept the conclusions reached by Dr Cohen, who was (as her CV made clear) a general practitioner, not a psychiatrist or psychologist. The appellant had been seen by

psychiatrists in prison, over a longer time period than Dr Cohen's assessment and (unlike her) in a clinical setting; they had made no diagnosis of PTSD, nor prescribed treatment other than medication and, more recently and on the request of the appellant's solicitors, some form of counselling. The respondent had not been required to insist on Dr Cohen being called: these were submissions that could be made on the basis of her report and on the face of the available records. As Dr Cohen had acknowledged, in May 2023, the appellant had reported no mental health symptoms, and in March 2024 a consultant psychiatrist had closed his file as there was "*no clear evidence of mental illness*". Although the appellant had reported feeling anxious and depressed, particularly when his removal became imminent, he had several mental health reviews while in custody but was not offered treatment "*other than information leaflets and antidepressant medication*" (per Dr Cohen).

32. Addressing the fresh evidence, the respondent submits that the updated records take matters no further, in particular as there was no expert report to explain what these implied. It could not be said that the entries showed any worsening of PTSD; indeed, the records did not contain any diagnosis of PTSD, only of mixed anxiety and depressive disorder. As for what seemed to be the therapeutic treatment more recently provided to the appellant, that resulted from the request made by his solicitors in May 2025, and the nature of what was then put in place was unclear (it did not appear to be CBT). The appellant had continued to receive medication for anxiety and depression, and had again been put on ACCT monitoring, but these were matters already referenced in the records considered by the DJ. What was clear was that the appellant had remained in the general prison environment; his anxiety and depression had not been deemed to require treatment in a health care setting and there was no reason to consider he would be assigned to a SKV on extradition to Albania.

33. As for article 3 ECHR, the respondent submits that the CPT report fell short of "*something approaching an international consensus*" and came nowhere near establishing any concerns of inhuman or degrading treatment. In respect of Pequin and Fier prisons, the CPT found that "*material conditions of detention remained generally satisfactory in regular units*" and "*both prisons benefitted from the presence of a psychosocial team which organised out of cell activities for inmates, visited the detention areas on a regular basis and, when requested, held private consultations with prisoners*". The CPT indicated no concerns in relation to the general treatment of prisoners' mental health but noted in-house understaffing, albeit confirming prisoners generally see a prison doctor "*without undue delay"*, that at Pequin "*a psychiatrist attended on average once every two months"*, and Fier "*...employed a half-time psychiatrist, who also remained on call outside her working hours"*. In respect of the SKV units, the indication was of a lack of psychiatric staff, with care being provided by a team of nurses instead; while there was criticism of a lack of "*therapeutic or occupational activities"*, the report confirmed that: "*the nursing teams ensured a round-the-clock presence"*. The respondent further relied on its response to the CPT report (summarised at paragraph 20 above). On the evidence, the respondent contends the presumption cannot be rebutted: on a "*specific and precise*" (*Aranyosi*) assessment of the conditions which might apply, no concerns arise.

34. Finally in relation to the suggestion of 'time served' as a relevant factor, the respondent observes that there is no evidence as to how time spent serving the sentence/on immigration detention in the UK is treated; the appellant is not on remand and any

conclusion that his sentence will be treated as served in the way contended would be unsafe.

My approach

The jurisdiction of the court on appeal

35. With the leave of the High Court, an appeal against an order for extradition may be brought on a question of fact or law. On such an appeal, section 103 of the 2003 Act provides that the court may allow the appeal if:

> "(3) ... (a) the [DJ] appropriate judge ought to have decided a question before him at the extradition hearing differently; (b) if he had decided the question in the way he ought to have done, he would have been required to order the person's discharge.
> (4) ... (a) an issue is raised that was not raised at the extradition hearing or evidence is available that was not available at the extradition hearing; (b) the issue or evidence would have resulted in the [DJ] deciding a question before him at the extradition hearing differently; (c) if he had decided the question in that way, he would have been required to order the person's discharge."

If the court allows the appeal it must quash the extradition order, and order the appellant's discharge (section 103(5)).

Section 87 2003 Act/article 3 ECHR

36. Before a case is sent to the Secretary of State under Part 2 of the 2003 Act, section 87 of the 2003 Act requires that it must first be determined whether extradition would be compatible with the individual's rights under the ECHR; if extradition is found to be incompatible with ECHR rights, the individual must be discharged.

37. Article 3 ECHR provides that no-one shall be subjected to torture or to inhuman or degrading treatment or punishment; an obligation that extends to conditions of imprisonment in which a person may be held if extradited (*Soering v UK* [1989] 11 EHRR 439, paragraph 91). As a member state of the Council of Europe, the respondent is a signatory to the ECHR and there is, accordingly, a presumption that it will be capable of affording adequate protection to an extradited person's rights under the ECHR (*Gomes and Goodyer v Trinidad and Tobago* [2009] UKHL 21 at paragraph 35).

38. In determining whether the DJ erred in his approach to article 3 ECHR, I am guided by the decision of the Divisional Court in *ElAshmawy v Italy* [2015] EWHC 28 (Admin), where (relevantly) the following propositions were drawn from domestic and ECtHR case-law:

> "49. ... (2) If it is shown that there are substantial grounds for believing that the requested person would face a "real risk" of being subjected to torture or to inhuman or degrading treatment or punishment in the receiving country then Article 3 implies an obligation on the Contracting state not to extradite the requested person. (3) Article 3 imposes

> "absolute rights", but in order to fall within the scope of Article 3 the ill-treatment must attain a minimum level of severity. In general, a very strong case is required to make good a violation of Article 3. The test is a stringent one and it is not easy to satisfy. (4) Whether the minimum level is attained in a particular case depends on all the circumstances, such as the nature of the treatment, its duration, its physical and mental effects and, possibly, the age, sex, and health of the person concerned. In that sense, the test of whether there has been a breach of Article 3 in a particular case is "relative". (5) The detention of a person in a prison as a punishment lawfully imposed inevitably involves a deprivation of liberty and brings with it certain disadvantages and a level of suffering that is unavoidable because that is inherent in detention. But lawful detention does not deprive a person of his Article 3 rights. Indeed, Article 3 imposes on the relevant authorities a positive obligation to ensure that all prisoners are held under conditions compatible with respect for human dignity, that they are not subjected to distress or testing of an intensity that exceeds the level of unavoidable suffering concomitant to detention. ..."

39. As for the type of evidence required to discharge the burden of rebutting the presumption of compliance by a signatory to the ECHR, in *Krolik v Poland* [2012] EWHC 2357 (Admin), the Divisional Court explained that this would need to amount to "*something approaching an international consensus*" (see paragraph 7), such as:

> "6. ... a significant volume of reports from the Council of Europe, the UNHCR and NGOs ...

(see also *ElAshmawy* at paragraph 104)

40. In this regard, the appellant further draws my attention to *Muršić v Croatia* [2017] 65 EHRR 1, where the Grand Chamber of the ECtHR emphasised the importance of the CPT's:

> "141. ... preventive role in monitoring conditions of detention and of the standards which it develops in that connection. The Court reiterates that when deciding cases concerning conditions of detention it remains attentive to those standards and to the Contracting States' observance of them."

41. In *Aranyosi*, it was made clear that, if the existence of a real risk of inhuman or degrading treatment is identified:

> "92. ... it is then necessary that the executing judicial authority make a further assessment, specific and precise, of whether there are substantial grounds to believe the individual concerned will be exposed to that risk because of the conditions for his detention envisaged in the issuing member state."

Further making clear that, where there is objective, reliable, specific and properly updated evidence of a real risk of inhuman or degrading treatment, the court is required to request:

> "95. ... that there be provided as a matter of urgency all necessary supplementary information on the conditions in which it is envisaged that the individual concerned will be detained ...."

Section 91 2003 Act

42. By section 91 of the 2003 Act it is provided that, if satisfied that the physical or mental condition of the individual in issue is such that their extradition would be unjust or oppressive, the DJ must order their discharge, or adjourn the extradition hearing until that would no longer be the case. As is common ground before me, the burden in establishing that extradition would be unjust or oppressive for these purposes rests on the individual asserting that would be the case. While an assessment must be made by reference to the particular facts of the case, in practice a high threshold has to be reached in order to satisfy the court that the individual's physical or mental condition is such that their extradition would be unjust or oppressive (see *Syed Talha Ahsan v DPP and the Government of the USA* [2008] EWHC 666 (Admin), paragraph 108; *Jaoud Shar v The Court of Bologna* [2010] EWHC 1184 (Admin), paragraph 53).

43. Specifically addressing cases in which there were questions relating to mental health concerns and suicide risk, the Divisional Court in *Polish Judicial Authority v Wolkowicz* [2013] 1 WLR 2402 (Admin), paragraph 10, emphasised that it will ordinarily be presumed that, in the absence of strong evidence to the contrary, the receiving state will discharge its responsibilities to prevent the extradited individual committing suicide, and that it:

> "10. ... is therefore only in a very rare case that a requested person will be likely to establish that measures to prevent a substantial risk of suicide will not be effective."

44. For the appellant it is said that the court is not entitled to rely solely upon the bare presumption of adequate treatment in circumstances where the treatment or management of an illness or condition is more complex, such that more detail from the receiving state might be required before it can be satisfied that concerns arising from the individual's medical condition have been met such that there are no bars to extradition: see the observations of Julian Knowles J in *Magiera v Poland* [2017] EWHC 2757 (Admin), paragraphs 34-35.

Analysis and conclusions

45. As the appellant has submitted, the grounds of challenge in this case are interlinked. For article 3 purposes, in assessing whether the appellant's extradition to Albania would give rise to a "*real risk*" of his being subjected to torture or to inhuman or degrading treatment, account must be had to the effect given his mental health (*ElAshmawy* paragraph 49(4)), considering, specifically and precisely, whether he will be exposed to such risk because of the conditions for his detention that are envisaged (*Aranyosi* paragraph 92). Equally, when considering whether the appellant's extradition would be unjust or oppressive for section 91 purposes, the presumption of adequate treatment must be viewed in the context of the relevant health condition, which may (depending on the complexity of the treatment required) necessitate further detail from the receiving state (*Magiera*).

46. In the present case, the DJ – the first instance fact-finding tribunal in this process – did not accept the appellant's account of the relevant history and was sceptical about the symptoms he had reported. Given that the appellant chose not to give evidence below, the DJ was plainly entitled to give "*virtually no weight*" to his unsigned and undated proof of evidence, and the appellant (who has previously lied to courts in this jurisdiction by assuming a false identity) does not suggest otherwise. The appellant does, however, criticise the DJ for failing to give greater weight to the opinion evidence of Dr Cohen, particularly in circumstances in which she had not been required to give live evidence and the respondent had not sought to adduce any alternative expert report. That said, as Mr Joyes acknowledged in oral argument, the criticisms the respondent made of Dr Cohen's report were matters that could legitimately be the subject of submission on the face of the documents before the DJ: (i) the appellant's medical records did not fully corroborate what he had said and revealed inconsistencies with the account he had provided to Dr Cohen; (ii) to the extent the records showed that the appellant had previously reported witnessing the shooting of his cousin, that had been in the context of his immigration interview; (iii) there was no prior diagnosis of PTSD; (iv) Dr Cohen is a general practitioner, specialising in examination of victims of torture, domestic violence and trafficking, she is not a psychiatrist or psychologist; and (v) Dr Cohen's assessment of the appellant was carried out over a one and a half hour meeting, in a non-clinical setting, which limited her ability to carry out a proper examination.

47. The fact that the respondent had not required Dr Cohen to attend the hearing to be cross-examined was a relevant consideration, but the weight to be given to her evidence, and to the medical evidence more generally, was ultimately a matter for the DJ. Dr Cohen had largely based her report on the account given to her by the appellant and on the medical records. To the extent that there were inconsistencies between the appellant's account and the contemporaneous records, the appellant might have been able to assist by providing an explanation as to why that was the case but he chose not to give evidence at the extradition hearing. Having regard to all the evidence before him, I cannot say the DJ erred in concluding that this did not demonstrate that extradition would be unjust or oppressive by virtue of the appellant's mental health.

48. In any event, in determining the issues raised under section 91 of the 2003 Act, the DJ went on to consider whether the position would be different if he accepted the conclusions expressed in Dr Cohen's report. Considering that alternative position, the DJ noted that, as Dr Cohen had acknowledged, the recommended treatment (CBT) was not something that could be delivered in a custodial setting, whether that was in this country or in Albania (the limitations of treatment in a custodial setting can be seen to be an inevitable disadvantage of detention, per *ElAshmawy*). More specifically, having regard to the treatment that the appellant had accessed to address his mental health issues in the UK (essentially medication), the DJ concluded that there was no basis to consider that the same provision would not be made by the respondent.

49. For the appellant, it is submitted that the DJ thereby fell into further error, in failing to fully engage with the evidence contained within the CPT report, which demonstrated inadequacies in the mental health provision in custodial settings – in particular, in Fier and Pequin prisons – in Albania. The appellant criticises the DJ's reasoning for simply adopting the submissions made on behalf of the respondent, finding that the first stage of *Aranyosi* was not made out such as to require a prison assurance or further information.

50. I am unable to accept the appellant's case in this regard. Although the CPT report provided evidence that was relevant to the DJ's assessment (albeit the report was based on an inspection in May 2023 and there was some evidence, in the respondent's response to the report, that there had been improvements since that time), it simply did not establish the "*very strong case*" (per *ElAshmawy)* required. The concerns expressed in the CPT report largely related to in-house staffing issues, and the DJ was entitled to conclude that these did not suggest that any resulting inadequacies amounted to inhuman or degrading treatment.

51. The appellant says that the DJ ought to have found that the *Aranyosi* first stage was made out in respect of the SKV units within Fier and Pequin prisons: given the evidence as to the likely placement of those with mental disorder in SKVs, there were (it is said) substantial grounds to believe that the appellant would be exposed to the risks identified in the CPT report in relation to accommodation in such units. I am, however, unable to see that the DJ erred in not finding such a risk existed in this instance. As I have already observed, the DJ was entitled to determine what weight to give to the evidence before him as to the nature of any mental ill health suffered by the appellant. That evidence did not support a finding that the appellant would be likely to be placed in a SKV unit: it is apparent that SKVs serve a similar purpose in Albania to secure hospital units in this jurisdiction and the appellant has at no stage been detained in a hospital setting during any of the years he has been in custody in the UK. Moreover, and more generally, it is clear that, on his assessment of the evidence, the DJ did not find this was a case of such complexity that the presumption of adequate treatment necessitated further investigation (per *Magiera*). Given the evidence that the appellant's mental health had been managed within a general custodial setting for a number of years with medication, that was a permissible conclusion; there was no reason to consider that would not continue upon his extradition or to proceed on the basis that the presumption of adequate treatment would not apply.

52. Although finding that the DJ was entitled to reach the conclusions that he did on the evidence available at the extradition hearing, I have also had regard to the additional material adduced before me, comprising the appellant's updated medical records. As the respondent has observed, absent expert assistance, there is a limit to the findings I can make relating to that material: I do not know the precise nature of the counselling that has apparently been arranged for the appellant, and I am unable to say whether behaviours he has at times displayed should be taken to evidence worsening symptoms of PTSD. To the extent that I am able to reach any conclusions in respect of this additional material, I find as follows:

    (1) Although the appellant has continued to be reviewed by his treating healthcare professionals in a clinical setting, the updated records disclose no diagnosis of PTSD; at most the appellant has been diagnosed as suffering from a mixed anxiety and depressive disorder.

    (2) The updated records do include reference to the assault the appellant says he suffered at the hands of traffickers on his return to the UK in 2019, but I cannot ignore the fact that this was information disclosed after the adverse findings made by the DJ at the extradition hearing; it was not information the appellant had volunteered prior to these proceedings.

(3) The appellant has again been placed on ACCT monitoring and has now been referred for some form of counselling, albeit this seems to have been at the instigation of his solicitors and the precise nature of the treatment is unclear. In any event, the appellant has continued to receive such treatment in a general custodial setting.

53. Having regard to the additional updating evidence available to me, I do not find that this material would have led the DJ to reach a different conclusion on the questions before him. First, because much of the information provided was already before the DJ (the absence of a diagnosis of PTSD by the appellant's treating physicians; his account of having been assaulted by traffickers on his return to the UK; his placement on ACCT monitoring and on-going medication for anxiety and depression); second, because the new information (the provision of counselling treatment for the appellant) does not support a conclusion other than that the appellant suffers from anxiety and depression – there is no suggestion that this amounts to the CBT treatment recommended by Dr Cohen for PTSD.

54. Even if it can properly be said that the additional updating evidence goes further than I have found, I am satisfied that it is not such as ought to have led the DJ to reach a different conclusion on either of the questions in issue. First, the updated medical records provide no basis for considering that the appellant has a mental disorder such as would require treatment in a secure hospital setting or SKV: he has a diagnosis of mixed anxiety and depression, with a treatment plan that can be managed within the general prison estate. Second, because, on a specific and precise assessment of the conditions which might apply to the appellant – and even allowing for some in-house staffing issues in Fier and Pequin prisons - there is no basis for considering there is a real risk of inhuman or degrading treatment; the evidence does not demonstrate the existence of complex health needs that would warrant going behind the presumption that adequate treatment will be provided. Third, even assuming a greater need for mental health treatment upon extradition than is presently disclosed on the evidence, the CPT report confirms round the clock nursing care, in-prison general practitioners, and visits by independent psychiatrists and other health professionals – it does not amount to "*something approaching an international consensus*" (*Krolik*) such as to establish the "*very strong case*" (*ElAshmawy*) required.

55. For the purposes of sections 87 and 91 of the 2003 Act, a judgement necessarily has to be made by reference to the particular facts. There must , however, be a minimum level of severity to establish that there are substantial grounds for believing the individual would face a real risk of being subjected to inhuman or degrading treatment and there is a high threshold to be reached in order to satisfy the court that the individual's mental ill health means their extradition would be unjust or oppressive. Accepting that the appellant suffers from anxiety and depression (no doubt exacerbated by the extradition proceedings), the evidence – including the additional updating evidence - does not disclose any error on the part of the DJ.

56. Finally, on the question of how the appellant's detention in this jurisdiction will be treated by the Albanian authorities, I can make no finding: this is not a matter that has been properly addressed in the evidence and I cannot see that it is a point on which the appellant has been given permission to appeal. In any event, even if the remaining time due to be served on the appellant's sentence is now relatively short, I do not consider

that detracts from the seriousness of the offending in issue and the strong public interest in extradition in this case.

57. For all the reasons provided, I therefore dismiss this appeal.