Neutral Citation Number [2026] EWHC 956 (Admin)

Case Nos. AC-2024-LON-003645, AC-2024-LON-003491, AC-2024-LON-003648, AC-2024-LON-003614, and AC-2025-LON-000817

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 24/04/2026

Before

MR JUSTICE SWIFT

- -

Between

EDMOND HAXHIA **THOMAS MITHAN** **HARRY SIMPSON** **HARRIET BRIDGEMAN** **STEVEN HUNT**	**Applicants**
- and –	
REPUBLIC OF ALBANIA	**Respondent**

Case Nos. AC-2025-LON-003366, AC-2025-LON-003365, AC-2025-LON-003378, AC-2025-LON-003370, and AC-2025-LON-003398

And Between

THE KING
on the application of

(1) THOMAS MITHAN
(2) HARRIET BRIDGEMAN
(3) HARRY SIMPSON
(4) EDMOND HAXHIA
(5) STEVEN HUNT

Claimants

-and-

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Defendant

-and –

REPUBLIC OF ALBANIA **Interested Party**

Ben Watson KC & Rebecca Hadgett (instructed by Hickman and Rose) for **Mr Haxhia**,
James Stansfeld (instructed by Sonn MacMillan Walker) for **Mr Mithan**,
Saoirse Townshend (instructed by CJS Defence Ltd) for **Ms Bridgeman**,
Kathryn Howarth (instructed by Hodge Jones and Allen LLP) for **Mr Simpson**
David Williams (instructed by Lartey and Co.) for **Mr Hunt**

Peter Caldwell KC and David Ball (instructed by CPS) for the **Government of the Republic of Albania**

John Hardy KC and Mark Smith (instructed by GLD) for the **Secretary of State for the Home Department**

Hearing dates, 7 – 9 October 2025, 11 – 12 December 2025, post-hearing written submissions 19 December 2025 and 2 February 2026

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Approved Judgment

MR JUSTICE SWIFT

A. Introduction

1. The five appellants, Edmond Haxhia, Steven Hunt, Thomas Mithan, Harry Simpson and Harriet Bridgeman are the subjects of extradition requests made by the government of the Republic of Albania. The requests fall under Part 2 of the Extradition Act 2003 ("the 2003 Act"). The factual premise for each request is that each Appellant took part in a plan that led to the death of Ardian Nikulaj. Mr Nikulaj was killed in Shengjin, Lezha on 19 April 2023. A further person, Ruben Saraiva, is said to have been part of the plan and is said to have killed Mr Nikulaj. He is on trial in Albania charged with the murder.

(1) The extradition requests, the hearing, and the orders.

2. Extradition requests for each Appellant were received by the Home Secretary (for all save for Mr Simpson on 30 May 2023, for Mr Simpson on 20 July 2023). The extradition requests were not in identical terms, but each was materially similar. Taking the request for Mr Haxhia as an example, the matter was put in this way:

> "The Ministry of Justice of the Republic of Albania, based on the European Convention on Extradition, of 1957 and its Additional Protocols, of the "Agreement between the Republic of Albania and the United Kingdom of Great Britain and Northern Ireland, supplementing the European Convention for Extradition, of 1957", of 2017, sends the request for the extradition from the United Kingdom to the Republic of Albania of the citizen Edmond Haxhia, born on 20.09.1985.
>
> The request for the extradition of the aforementioned citizen is based on Decision No. 97, dated 26.04.2023, of the Judicial District Court of Lezha, on assigning against him the security measure "arrest in prison", for the commission of the criminal offenses "Murder due to blood feud", committed in collaboration, and "Manufacture and illegal possession of firearms and ammunition", provided by articles 78/a. 25 and 278/1 of the Criminal Code of the Republic of Albania"

The same provisions of the Albanian Criminal Code ("the Albanian Code") were cited in each request.

3. Article 25 appears in Part 1 of the Albanian Code, the "General Part" and provides as follows:

> "**Article 25 Meaning of complicity**
> Complicity shall be the commission of the criminal offence by two or more persons in agreement with each other."

Articles 78/a and 278 are in Part 2 of the Albanian Code, the "Special Part". Article 78/a is one of a series of provisions, set out from article 76 to article 83, concerning murder. Those articles are as follows:

> "**CRIMES AGAINST LIFE COMMITTED INTENTIONALLY**
>
> **Article 76. Murder with intent**
> Murder committed with intent shall be punishable to a term of ten to twenty years imprisonment.
>
> **Article 77. Murder with intent connected to another crime**
> (*Amended by law no 8733, dated 24/01/2001, Article 9)*
> The offence of murder, preceding, concurring or ensuring another crime, shall be punishable by imprisonment for not less than twenty years.
>
> **Article 78. Premeditated murder**
> *(Amended by law no 8733, dated 24/01/2001, Article 10; addendum to second paragraph by law no 9686, dated 26/02/2007, Article 7; amended second paragraph by law no 144, 02/05/2013, Article 14)*
> Pre-meditated murder is punished to imprisonment from fifteen to twenty-five years. Murder committed for interests or revenge shall be punished to not less than 20 years or life imprisonment.
>
> **Article 78/a. Murder due to blood feud**
> *(Added by law no.144, dated 02/05/2013, Article 15)*
> Murder committed due to blood feud shall be punishable to not less than 30 years or life imprisonment.
>
> **Article 79. Murder committed under other qualifying circumstances**
> *(Amended by law no 8733, dated 24/01/2001, Article 11; amended letter 'c' by law no 9275, dated 16/09/2004, Article9; added up Articles 79/a, 79/b, 79/c, by law no 144, dated 02/05/2013, Article 16; repealed letter 'c', by law no 144, dated 02/05/2013, Article 48)*
> Murder committed:
>
> a) against minors;
> b) against physical or mental disabled persons, seriously ill or pregnant persons, as long as the situation of the victim is evident or known;
> c) *(Abrogated by law no.144/2013)*
> c) against the denouncer, witnesses, impaired persons or other judicial parties;
> d) more than once;
> dh) against two or more persons;
> e) in such a manner that causes particular suffering to the

victim;
e) in a dangerous way regarding the life of many persons,

shall be punished to not less than twenty years or life imprisonment.

Article 79/a. Murder of public officials
(Added by law no.144/2013)
Murder of a member of parliament, judge, prosecutor, lawyer, military, or other public officials inline of their duty or because of their duty, when the capacities of the victim are evident or known, shall be punished to not less than 30 years or life imprisonment.

Article 79/b. Murder of the state police officers
(Added by law no.144/2013)
Murder of state police officers in line of duty or because of duty, when the capacities of the victim are evident or known, shall be punished to not less than 30 years or life imprisonment.

Article 79/c. Murder because of family relations
(Added by law no.144/2013)
Murder of the person who is the spouse, former spouse, cohabitant, or former cohabitant, close kin or close kin of the spouse of the offender, shall be punished to less than twenty years or life imprisonment.

Article 80.
Providing for the material conditions and means for committing the murder shall be punished up to five years imprisonment.

Article 81. Infanticide
(Wording changed by law no.144, dated 02/05/2013, article 17)
The infanticide committed voluntarily by the mother immediately after birth shall be punished up to five years imprisonment.

Article 82. Homicide committed in profound psychiatric distress
Murder committed in a sudden state of profound psychiatric distress caused by violence or serious insult of the victim shall be sentenced up to eight years imprisonment.

Article 83. Homicide committed in excess of the necessary self-defence limits
Murder committed under the circumstances of exceeding self-defence limits shall be sentenced up to seven years imprisonment."

It is material to note that the punishment on conviction of the offence under article 78/a is imprisonment for "not less than 30 years or life imprisonment". Article 278/1 of the Albanian Code states the following offence:

> "**Article 278. Manufacture and illegal possession of firearms and ammunition**
> 1. Illegal possession and production of weapons, explosives and ammunition.
> Possession of weapons, explosive weapons or substances in vehicles or in any other self-propelling means in public premises or premises accessible to the public without the leave of the competent state authorities shall be sentenced to imprisonment from three to seven years."

4. Extradition requests governed by Part 2 of the 2003 Act must meet requirements for validity and must be certified by the Secretary of State. The material provisions in the 2003 Act are at section 70:

> "7**0 Extradition request and certificate**
> (1) The Secretary of State must (subject to subsection (2)) issue a certificate under this section if he receives a valid request for the extradition of a person to a category 2 territory.
> ...
>
> (3) A request for a person's extradition is valid if—
>
> (a) it contains the statement referred to in subsection (4) or the statement referred to in subsection (4A), and
>
> (b) it is made in the approved way.
>
> (4) The statement is one that–
>
> (a) the person is accused in the category 2 territory of the commission of an offence specified in the request, and
>
> (b) the request is made with a view to his arrest and extradition to the category 2 territory for the purpose of being prosecuted for the offence.
>
> (4A) The statement is one that–
>
> (a) the person has been convicted of an offence specified in the request by a court in the category 2 territory, and
>
> (b) the request is made with a view to his arrest and extradition to the category 2 territory for the purpose of being sentenced for the offence or of serving a sentence of

> imprisonment or another form of detention imposed in respect of the offence.
>
> ...
>
> (9) If a certificate is issued under this section the Secretary of State must send the request and the certificate to the appropriate judge."

5. On various dates in June and August 2023 the Home Secretary certified the requests for extradition for each Appellant in the following terms:

> "**CERTIFICATE ISSUED PURSUANT TO SECTION 70 OF THE EXTRADITION ACT 2003**
>
> Under Section 70 of the Extradition Act 2003, the Secretary of State hereby certifies that the request from the Republic of Albania, received via diplomatic channels by email on 30 May 2023 with reference No. 1634/Prot./ O.SH, being a territory a designated by the Extradition Act 2003 (Designation of Part 2 Territories) Order 2003 (SI 3334/2003 as amended) for the purposes of Part 2 of that Act, for the extradition of [name of Appellant] is valid and has been made in the approved way."

6. The extradition hearing started on 27 November 2023 and continued on various dates thereafter until the end of 2024. In requests falling under Part 2 of the 2003 Act the functions of the district judge are set out at sections 78 – 91 of the Act. Those functions fall into two parts. The first is in section 78:

> "**78 Initial stages of extradition hearing**
> (1) This section applies if a person alleged to be the person whose extradition is requested appears or is brought before the appropriate judge for the extradition hearing.
>
> (2) The judge must decide whether the documents sent to him by the Secretary of State consist of (or include)—
>
> > (a) the documents referred to in section 70(9);
> > (b) particulars of the person whose extradition is requested;
> > (c) particulars of the offence specified in the request;
> > (d) in the case of a person accused of an offence, a warrant for his arrest issued in the category 2 territory;
> > (e) in the case of a person alleged to be unlawfully at large after conviction of an offence, a certificate issued in the category 2 territory of the conviction and (if he has been sentenced) of the sentence.
>
> (3) If the judge decides the question in subsection (2) in the negative he must order the person's discharge.

> (4) If the judge decides that question in the affirmative he must decide whether—
>
> > (a) the person appearing or brought before him is the person whose extradition is requested;
> > (b) the offence specified in the request is an extradition offence;
> > (c) copies of the documents sent to the judge by the Secretary of State have been served on the person.
>
> (5) The judge must decide the question in subsection (4)(a) on a balance of probabilities.
>
> (6) If the judge decides any of the questions in subsection (4) in the negative he must order the person's discharge.
>
> (7) If the judge decides those questions in the affirmative he must proceed under section 79.
>
> (8) The reference in subsection (2)(d) to a warrant for a person's arrest includes a reference to a judicial document authorising his arrest."

If the district judge is required to proceed by section 78(7), the second part of the process is that he must then consider whether extradition is prevented by any of the bars at sections 79 – 91 of the 2003 Act. If none of the bars to extradition applies, the district judge must send the requests to the Secretary of State for consideration.

7. In each of the present cases the district judge concluded that the extradition requests should be sent for consideration by the Secretary of State. The district judge's order for each of the Appellants save for Mr Hunt was made on 27 August 2024; his order in Mr Hunt's case was made on 23 January 2025.

8. The Secretary of State's consideration of each case was governed by section 93 of the 2003 Act. So far as material that provides as follows:

> "**93 Secretary of State's consideration of case**
> (1) This section applies if the appropriate judge sends a case to the Secretary of State under this Part for his decision whether a person is to be extradited.
>
> (2) The Secretary of State must decide whether he is prohibited from ordering the person's extradition under any of these sections—
>
> > (a) section 94 (death penalty);
> > (b) section 95 (speciality);
> > (c) section 96 (earlier extradition to United Kingdom from other territory);

> (d) section 96A (earlier transfer to United Kingdom by International Criminal Court).
>
> (3) If the Secretary of State decides any of the questions in subsection (2) in the affirmative he must order the person's discharge.
>
> (4) If the Secretary of State decides those questions in the negative he must order the person to be extradited to the territory to which his extradition is requested unless—
>
> (a) he is informed that the request has been withdrawn,
> (b) he makes an order under section 126(2) or 179(2) for further proceedings on the request to be deferred and the person is discharged under section 180, or
> (c) he orders the person's discharge under subsection (6A) or under section 208.
>
> (5) In deciding the questions in subsection (2), the Secretary of State is not required to consider any representations received by him after the end of the permitted period.
>
> (6) The permitted period is the period of 4 weeks starting with the appropriate day."

9. In these cases, extradition orders were made. The orders in respect of Mr Haxhia, Mr Mithan, Ms Bridgeman and Mr Simpson were all made on 20 October 2024; the order for Mr Hunt's extradition was made on 5 March 2025. The first four orders for extradition were in materially the same terms. Again, taking Mr Haxhia's case as the example, the extradition order was as follows:

> "**ORDER FOR EXTRADITION PURSUANT TO SECTION 93 OF THE EXTRADITION ACT 2003**
>
> Whereas Edmond Haxhia ("the Person") is accused in the jurisdiction of the Republic of Albania, being a territory designated for the purpose of Part 2 of the Extradition Act 2003 ("the 2003 Act"), of the commission of offences;
>
> Whereas on 29 April 2023, the Person was provisionally arrested pursuant to the request for his extradition made by the Republic of Albania;
>
> Whereas on 27 August 2024, the District Judge at Westminster Magistrates' Court, sent the case to the Secretary of State to consider whether to order the extradition of the Person under the 2003 Act;
>
> And whereas the extradition of the Person to the Republic of Albania is not prohibited by the 2003 Act;

> Accordingly, under section 93 of the 2003 Act, the Secretary of State hereby orders the Person to be extradited to the Republic of Albania for the charges within the extradition request from the Republic of Albania dated 30 May 2023, under cover of diplomatic note number 18."

The order for Mr Hunt's extradition was formulated a little differently:

> "**ORDER FOR EXTRADITION PURSUANT TO SECTION 93 OF THE EXTRADITION ACT 2003**
>
> Whereas Steven Hunt ("the Person") is accused in the jurisdiction of the Republic of Albania, being a territory designated for the purpose of Part 2 of the Extradition Act 2003 ("the 2003 Act"), of the commission of offences.
>
> Whereas on 29 April 2023, the Person was provisionally arrested pursuant to the request for his extradition made by the Republic of Albania.
>
> Whereas on 23 January 2025, the District Judge at Westminster Magistrates' Court, sent the case to the Secretary of State to consider whether to order the extradition of the Person under the 2003 Act;
>
> And whereas the extradition of the Person to the Republic of Albania is not prohibited by the 2003 Act;
>
> Accordingly, under section 93 of the 2003 Act, the Secretary of State hereby orders the Person to be extradited to the Republic of Albania for the charges within the extradition request from the Republic of Albania received on the 30 May 2023 with reference number 1634/Prot./A.H, to the extent that these charges were sent to the Secretary of State for consideration by the appropriate judge and have not been withdrawn or abandoned by the time of making the order."

(2) The claims before this court.

10. Each Appellant, pursuant to section 103 of the 2003 Act, appeals against the district judge's decisions to send the cases to Secretary of State. The grounds of appeal relied on vary between the Appellants.

    (1) All Appellants, relying on sections 70(4) and 78(2) of the 2003 Act, contend that by the time of the extradition hearing the extradition request had ceased to be a valid request so that the district judge was wrong to proceed pursuant to section 78(7) of the 2003 Act and should instead have discharged each Appellant.

(2) All Appellants, save for Ms Bridgeman, contend that extradition would give rise to a real risk of article 3 ill-treatment because if convicted they could be sentenced to life imprisonment without the opportunity to apply for release on licence. Each contends that this risk arises because of the possibility they will be charged for the offence under article 78/a of the Albanian code of "… murder committed due to blood feud …".

(3) All Appellants, save for Ms Bridgeman, contend that extradition would result in a flagrant breach of their article 6 rights. Each relies on matters that have occurred in Albania in the proceedings that have already commenced against Mr Saraiva. They concern the conduct of the judge conducting those proceedings and who will also be the judge with conduct of the proceedings against the Appellants should extradition take place.

(4) Mr Haxhia, Mr Mithan and Mr Simpson contend that extradition would give rise to a real risk of article 3 ill-treatment because of prison conditions in Albania. They contend that assurances given by the Albanian government as to where they will be detained ought not to be relied on.

(5) Mr Haxhia and Mr Simpson contend that extradition would give rise to real risk of article 3 ill-treatment because of the risk of inter-prisoner violence in Albanian prisons. Each submits that he would be at risk of serious injury or death from other prisoners because Mr Nikulaj's murder was identified as a blood feud murder.

(6) Mr Mithan, Mr Simpson and Mr Hunt contend that extradition will give rise to a real risk of article 3 ill-treatment because in the event each is convicted, each could face a sentence of life imprisonment (even if the conviction was not for the offence under article 78/a of the Albanian Code), and the provisions in the Albanian Code that permit for the possibility of release on licence do not meet the standards set in the case law of the European Court of Human Rights.

(7) Mr Simpson, Ms Bridgeman and Mr Hunt contend they face a real risk of article 3 ill-treatment if imprisoned in Albania because there would be no sufficient provision for the psychiatric treatment that each requires.

(8) Mr Simpson contends that extradition would give rise to an unjustified interference with his article 8 rights and those of his partner.

(9) Mr Hunt and Ms Bridgeman contend that extradition would be oppressive by reason of their health and for that reason would be contrary to section 91 of the 2003 Act.

(10) Mr Hunt and Mr Mithan contend that the conduct relied on in the extradition request is such that there is no extradition offence (by reference to the provisions of section 78(4)(b) and 137 of the 2003 Act) and that each must be discharged for that reason.

11. In addition to the appeals, each Appellant applies for judicial review of the Home Secretary's extradition orders. Each application is made on the same ground, that each order purports to be an order for extradition "… for the charges within the requests from the Republic of Albania", i.e., in respect of charges under article 78/a and 278 of the Albanian Code, whereas by the end of the extradition hearing the Albanian government did not seek the surrender of any of the Appellants on those charges. By that time, the only charge the Albanian government wished to pursue under each Appellant was a charge under article 78 under Albanian Code. In the premises, each extradition order was made in error.

12. The hearings before me were rolled-up hearings of renewed applications for permission to appeal and appeals, and a rolled-up hearing for the application for judicial review. Having heard full arguments on all aspects of all the claims, I grant each Appellant permission to appeal on all grounds and grant each of the applications for permission to apply for judicial review. In the appeals there were several applications to admit fresh evidence.

    (1) Three applications made by Ms Bridgeman, on 20 February 2025, 6 June 2025 and 24 September 2025, for permission to rely on: (a) her own witness statements; (b) statements by Chloe Booth; (c) a report by Professor Forrester; and (d) and a report by Dr Jake Hard.

    (2) An application made by Mr Hunt, made on 22 September 2025, to rely on a further witness statement by Mollie Jones-Burnnitt, and copies of his own medical records.

    (3) Three applications made by Mr Haxhia, made on 20 December 2024, 5 June 2025 and 22 September 2025, for permission to rely on: (a) further expert reports by Professor Bianku; (b) witness statements of Rose Commander exhibiting statements made by Albania lawyer Kujtim Cakrani; (c) a witness statement by Andrew Katzen; and (d) a witness statement by Brunilda Jaho, the lawyer who represents Mr Haxhia in Albania.

    (4) An application made by the Albanian government, made on 25 September 2025, for permission to rely on correspondence between it and the Home Office

    I have considered all this evidence, *de bene esse*.

B. Decision

(1) The validity of the extradition requests

13. Each extradition request rested on the premise that each Appellant had been involved in the commission of offences under article 78/a and article 278/1 of the Albanian Code read with the provisions in article 25 of that Code which concern agreement to commit a criminal offence. When the requests were certified as valid by the Home Secretary, on various dates in June and August 2023, each section 70 certificate was made by reference to the offences referred to in each extradition request. It is relevant for present purposes that the effect of section 70(3) and (4) of the 2003 Act is that a valid extradition

request must include a statement that "… the person is accused … of the commission of an offence specified in the request".

14. In August 2023 after the proceedings at Westminster Magistrates' Court had commenced, but before the start of the extradition hearing, further information was requested from the Albanian government:

> "Please can you provide further information which sets out separately for each of the five individual requested persons: which offence(s) they are accused of, their specific involvement in the commission of each of the alleged offences, the specific acts each is alleged to have carried out in committing the offences, and their respective states of knowledge / state of mind in doing so."

The response was provided on 4 September 2023 in the form of an "Additional Report" on the extradition requests. That report set out in detail the factual case against each Appellant. However, it also indicated a change in approach by the Albanian government to the charges against each Appellant. Although not said in as many words, it was clear that the charges concerning possession of weapons under article 278/1 of the Albanian Code were no longer pursued against any of the Appellants. Mr Haxhia was still wanted in respect of a charge under article 78/a of the Code read with article 25. The position with respect to each other Appellant had changed: in each case it was stated that the charge to be pursued was under article 78 of the Code read with article 25. None was now sought in respect of "… murder committed due [to] blood feud …"; each was sought instead in respect of "premeditated murder" under article 78 of Albanian Code.

15. This remained the position throughout the extradition hearing. During that hearing Mr Haxhia submitted that extradition for the article 78/a offence would give rise to a real risk he would be subjected to article 3 ill-treatment because, if convicted of that offence he faced the possibility of a life sentence without the opportunity to apply for parole. That submission relied on articles 64 and 65 of the Albanian Code (set out below, so far as material, at paragraph 59). The district judge accepted this submission, concluding that there was a real risk that a life sentence would be passed were Mr Haxhia to be convicted for the article 78/a offence and that both article 64 and article 65 of the Albanian Code excluded persons convicted under article 78/a from applying for parole. There was, therefore, a real risk that any life sentence passed would be irreducible and, for that reason, a real risk of article 3 ill-treatment: see his judgment at paragraphs 108 to 110.

16. This conclusion caused the district judge to seek two assurances from the Albanian government, as follows:

> "Please confirm or provide an assurance that Mr. Haxhia will not be charged with murder by blood feud under Article 78/a of the Albanian Criminal Code or complicity to commit that offence.
>
> Please confirm or provide an assurance that others charged with an offence contrary to Article 78 of the Albanian Criminal Code

> will not have that charge amended to murder by blood feud under Article 78/a or complicity to commit that offence."

The Albanian government's response, dated 1 July 2024, was as follows:

> "Regarding the guarantee … thereby requesting guarantee that Mr. Edmond Haxhia will not be accused for the criminal offence provided for in Article 78/a, case prosecutors state that with a view of carrying out the process of extradition and bringing the case before British courts, also in conformity with the British legislation, they afford guarantee/consent that if his extradition is ruled, the charge to be formulated or filed against him, will be different from the one of "murder due to blood feud", a criminal offence provided for in Article 78/a of Criminal Code. The charges if criminal prosecution will be exercised against him, will be for a different criminal offence and which under the Albanian legislation, enables the early release on parole (although we have explained before that there are impediments for the early release on parole to be applicable for every criminal offence). This guarantee applies only with regard to the competence of the Prosecutor's body. Referring to the domestic legislation, the court (judge of preliminary hearing) who exerts controlling function/powers about the quality of investigation or within his field of competence, may invite the Prosecutor to change the charge, including also the criminal offence of "murder due to blood feud". In the event that court requests from the prosecutor to change the charge against the citizen Edmond Haxhia, in view of the guarantee afforded for that citizen, the prosecutor's office will file an appeal to the Appeal Court, asking from the latter that charge against Mr. Haxhia be different from the one of murder due to blood feud. As prognosis, if the Appeal Court decides to confirm the charge suggested by the First Instance Court (Judge of Preliminary Hearing), the one of "murder due to blood feud", the prosecutor has the legal obligation to bring the defendant for trial with that charge, notwithstanding the guarantee afforded.
>
> However, during the trial in merits, again the Prosecutor's Office may decide to change the charge for that citizen and for this purpose, affords the guarantee that will turn back to the initial charge for an offence other than the one of murder due to blood feud. In theory, the court trying the charge against the defendants, including Mr. Haxhia, pursuant to Article 375 of the Criminal Procedure Code, may find the defendant guilty for an offence other than the one accused by the Prosecutor's Office and theoretically to find him guilty for the murder due to blood feud. If this scenario is completed, again in view of the guarantee afforded, the prosecutor's office will appeal the case and will request from the Appeal Court to find Mr. Haxhia guilty for a

> criminal offence being different from the murder due to blood feud.
>
> Regarding the guarantee requested for other citizens other than Mr. Haxhia, we afford guarantee and consent that charges against them will be different from the one of murder due to blood feud and will not be subject of change of the charges (in the aggravating aspect and in the meaning of murder due to blood feud). Eventually, the same as for Mr. Haxhia, as explained above, if the court deems that these citizens are responsible for murder due to blood feud, the prosecutor's office will appeal the case, so that the latter are tried or sentenced for offences other than murder due to blood feud, provided for in Article 78/a of Criminal Code. The above guarantees will not be subject of review by the District Prosecutor's Office of Lezha, unless requested by the British courts in the framework of reciprocity and respect of the due legal process from the perspective of Article 6 of the European Convention on Human Rights."

Thus, the assurance provided was that prosecutors would not charge Mr Haxhia under article 78/a of the Albanian Code and, were the court to decide that the article 78/a offence should be charged the prosecution would appeal and would exercise other powers available to it at trial to ensure that Mr Haxhia was tried only for the offence under article 78 and not for the offence under article 78/a of the Albanian Code.

17. The district judge accepted the assurance:

> "114. Having received the further information on 8 July 2024, summarised at [32] above I conclude that this challenge fails. I set out my reasoning for that conclusion briefly:
>
> i. The prosecutor's office with conduct of Mr. Haxhia's case has given a guarantee to this jurisdiction that Mr. Haxhia will not be charged with murder due to blood feud under article 78/a of the Albanian Criminal code. He will be charged with an offence which means he will be eligible for release on parole as a matter of Albanian law. That assurance is endorsed by the Albanian Minister of Justice.
>
> ii. Whilst it is theoretically possible that a Judge at a preliminary hearing or at trial could alter the charge against Mr. Haxhia to be one contrary to article 78/a, the prosecutor's office have confirmed that this event they will challenge such a decision by an appeal, premised on the guarantees and assurances given to this Court.
>
> iii. In any event, were the charge against the requested person to be amended to one under section 78/a by the Court, the prosecutor's office has the power to re-amend it to a charge other than one of murder by blood feud during the trial. Were the trial

> Court nonetheless to convict the requested person under section 78/a, again the prosecutor's office would appeal on the basis of inconsistency with the assurance.
>
> …
>
> vi. Whilst I accept that the Albanian authorities have had some difficulty in stating the position as explained in the written submissions on behalf of Haxhia of 15 August, I do not consider that the criticisms of the reliability of the assurance contained in those submissions have any real merit. It is correct that an independent Albanian Judge has the power to amend the charge at the preliminary investigation stage and at trial. However, I do not accept that there is any evidence that shows that this would happen. I consider the guarantee of compliance with the assurances given, the ECHR and appeal by the prosecutor if the charge is amended under section 78/a are sufficient to negate any real risk of a breach of article 3 ECHR under this head. No question of a risk of a disproportionate sentence being imposed arises in the circumstances."

18. Drawing these matters together, by the time the district judge handed down his judgment on 27 August 2024, the Albanian government did not seek the extradition of any of the Appellants in respect of offences under either article 78/a or article 278/1 of the Albanian Code; the extraditions proposed only concerned charges under article 78 of the Albanian Code read with article 25.

19. The Appellants submit that this state of affairs affects the validity of the extradition requests and in consequence the district judge's ability, consistently with section 78 of the 2003 Act, to proceed with the extradition hearing. The focus of the submission is what is said to be a mis-match between the extradition requests, which had referred only to offences under article 78/a and 278/1 of the Albanian Code read with article 25 of the Code, and the circumstances that prevailed by the time of the district judge's judgments following the extradition hearing, which were that extradition was sought only in respect of offences under article 78 of the Albanian Code (again, read with article 25).

20. The Appellants' submission relies on the judgment of the Divisional Court in *Birbeck v Principality of Andorra* [2023] EWHC 1740 (Admin). *Birbeck* also concerned a request for extradition falling under Part 2 of the 2003 Act. The request had been certified by the Home Secretary under section 70(1) of the Act. The submission was that the extradition request had not contained information that met the requirements of section 17(4) of the 2003 Act, i.e., that the person requested was accused of the offence specified in the request, and the request was made with a view to that person being prosecuted for the offence. The submission continued that that failure went to the court's jurisdiction to consider the extradition request. A Divisional Court accepted the submission in principle but rejected its application on the facts of the case. The court rejected the submission that the Home Secretary's section 70(1) certificate was conclusive for that purpose. Rather, the court considered the statement required either by section 70(4) or section 70(4A) of the 2003 Act as the functional equivalent in a Part

2 case to the statement required by section 2 of the 2003 Act in a Part 1 case. Thus, and notwithstanding the certificate issued by the Home Secretary under section 70(1) of the 2003 Act, the district judge at the extradition hearing had to be satisfied that the statement was accurate, i.e., taking the subsection (4) statement as an example, that the person was "… accused … of an offence specified in the request", and the request was made with a view to extradition "… for the purpose of being prosecuted for the offence". The court concluded that unless the district judge was so satisfied, there was no jurisdiction to conduct the extradition hearing. The court distinguished the roles of the Secretary of State and the district judge as the extradition hearing:

> "33. ... Part 1 of the Act does not make any provision for judicial consideration of the adequacy of the warrant or compliance with the provisions of section 2 of the Act. However, the validity of the warrant is what founds the jurisdiction of the court to continue with the extradition proceedings. Therefore, the judge is obliged to investigate whether there had been compliance with section 2 of the Act notwithstanding the fact that the warrant will have been certified by the designated authority.
>
> 34. In my view the same analysis must apply to the issue of whether the extradition of the requested person is requested for the purpose of being prosecuted for the offence as set out in section 70(4)(b) of the Act. The fact that the SSHD has certified that the request is valid does no more than confirm that a statement to that effect has been made. A judge would not be entitled to investigate whether the statement had been made. That is the limit of the restriction on the powers of the judge. It is to be noted that all that is certified by the certificate is that the request has been made in the approved way as defined in section 70(7) of the Act. That definition refers to the belief of the SSHD. It would not be appropriate for the District Judge to investigate the SSHD's belief and whether it was properly held. That would be a matter for judicial review. However, the purpose of the extradition request is a purely factual issue to be determined from the content of the request and any relevant extraneous material. Judicial review would not be an appropriate route to determine that issue. Whilst abuse of process notionally would be an alternative route to a challenge to the purpose of the extradition request, I do not consider that its existence provides any bar to a challenge at the initial stage of the extradition hearing in a Part 2 case."

Thus, the role of the district judge is to decide if the required statements made when the request was submitted are consistent with the information provided by the requesting state. In *Birbeck*, the Divisional Court addressed this issue by considering both what had been said in the request when it was made and what had been said in further information provided at the request of the district judge. There does not seem to have been any dispute that further information could be considered for that purpose.

21. The point in these appeals is an extension of the point decided in *Birbeck*. In that case the Divisional Court concluded that the judge at the extradition hearing should satisfy himself that the case before the court concerned an extradition request that met the requirements of section 70(4) of the 2003 Act. The issue in this case is whether the extradition request that is before the judge at the extradition hearing must be the same request as certified by the Secretary of State (again, by reference to the matters at section 70(4) or (4A) of the 2003 Act). In the present case the request made by the Albanian government changed. When the Home Secretary issued the section 70 certificates the requests were for extradition for the purpose of prosecuting each Appellant under articles 78/a and 278/1 of the Albanian Code. The by the time the extradition started the extradition requests so far as concerned Mr Mithan, Mr Simpson, Mr Hunt and Ms Bridgeman had changed. The requests were for extradition for the purpose of prosecution under article 78.

22. The submission for the Albanian government is *first*, that the validity of an extradition request is determined by the Secretary of State pursuant to section 70 of the 2003 Act and that later occurring events cannot affect the validity of the request and, *second* that in any event, the changes made in this case were immaterial.

23. I do not consider that the first part of the submission addresses the issue to be decided. In *Birbeck*, the Divisional Court accepted that the legality of the certificate made by the Secretary of State under section 70 of the 2003 Act could not be undermined by events occurring after the certificate had been made. Under the scheme of Part 2 of the 2003 Act that must be correct; certification is the gateway to the extradition process that comprises consideration of the request at an extradition hearing followed by consideration by the Secretary of State pursuant to section 93 of the 2003 Act. However, the court also concluded that under Part 2 of the 2003 Act the district judge had to satisfy himself that the request before the court met the requirements of section 70(4) of the Act and that unless the court was so satisfied an extradition hearing could not take place. The question in the present case is whether the extradition request before the court must be the same extradition request as certified by the Secretary of State and whether if that is not the case that also goes to the court's ability to continue with the extradition hearing. Addressing that question does not entail questioning the legality of the Secretary of State's certificate. Rather, the premise for the question is that the certificate is valid; the enquiry only considers whether the court is dealing with the same extradition request. Logically, the answer to that question must be that the court must and can only consider the extradition request that the Secretary of State has certified. Any other conclusion would render section 70 redundant. Moreover, it is, implicitly, the premise for each provision in Part 2 of the 2003 Act concerning the extradition hearing that the hearing concerns the request received and certified by the Secretary of State.

24. I also reject the second part of the Albanian government's submission. The extradition requests for the Appellants, save for Mr Haxhia, as they stood at the beginning of the extradition hearing were entirely different from the ones received and certified by the Secretary of State. The requests no longer concerned either offences under article 78/a or under article 278/1 of the Albanian Code. The requests for extradition in respect of the latter offence had been dropped; the requests for extradition for the article 78/a offence had been abandoned in favour of requests for extradition in respect of offences under article 78 of the Albanian Code. Contrary to the submission for the Albanian

government this change cannot be disregarded because it occurred in consequence of the further information provided in August 2023. The purpose of further information is to supplement an existing extradition request and/or better explain that request. Further information cannot serve the purpose of withdrawing one extradition request and putting a different one in its place.

25. I do not consider it is sufficient to say that the offences under article 78/a and article 78 of the Albanian Code are both offences of murder and that for these Appellants the particulars of the alleged offending remained the same. Under the Albanian Code each of these articles comprises a separate criminal offence. In this regard the approach to classification of offences under the Albanian Code is different, for example, from the approach in English law where there is a single offence of murder and a sentencing code (in schedule 21 to the Sentencing Act 2020) that prescribes various features that may aggravate the commission of that offence and affect the starting point for the minimum term. However, when it comes to the application of Part 2 of the 2003 Act a difference of classification such as this is significant; it is a matter of substance not merely a difference of form. Extradition requests under Part 2 must specify the offence or offences with which the person requested is accused and must state that extradition is requested for the purpose of "the offence" (section 70(4)(b)) which, in context, must be a reference to the offence or offences identified in the request. Thus, extradition requests are defined by reference to identified offences. In the present cases therefore, it is not sufficient either that the *actus reus* of the offences under article 78/a and article 78 may be the same or that in these cases the requests in respect of the article 78 offences rely on the same particulars of offending as the initial requests for the article 78/a offences. None of this can affect the way in which extradition requests under Part 2 of the 2003 Act are intended to operate.

26. The further matter to consider is the relevance of the assurances provided by the Albanian government on 1 July 2024 to the effect that Mr Mithan, Mr Simpson, Mr Hunt and Ms Bridgeman would not be subject to charges under article 78/a, see above at paragraph 16. In many situations potential bars to extradition can be addressed through assurances given by the requesting state. One common instance is prison conditions, when assurances that conditions will comply with the requirements of the ECHR article 3 may be given. Such assurances are, in appropriate cases, accepted by English courts and extradition orders are made in reliance on them. However, I do not consider the situation now under consideration is one where there is any place for an assurance. In the present cases the assurances offered and relied on substituted different extradition requests for the ones originally presented to the Secretary of State. That consequence is beyond any legitimate objective that any assurance could pursue or achieve. Assurances are offered and accepted in order to facilitate compliance with extradition requests not as vehicles to change one request into a different request.

27. The reasoning that applies to the other Appellants applies equally to Mr Haxhia's position. The extradition request presented to the Secretary of State and certified under section 70 of the 2003 Act concerned prosecution under article 78/a. In his judgment, the district judge concluded that extradition for prosecution for that offence gave rise to a real risk of article 3 ill-treatment: see the judgment at paragraphs 106 – 112. This led the district judge to seek the assurance that he was given by the Albanian government that Mr Haxhia would not be prosecuted under article 78/a but only under article 78 of the Albanian Code. Thus, the case as sent by the district judge to the Secretary of State

so far as it concerned Mr Haxhia equally rested on an extradition request that had not been made to the Secretary of State.

28. Drawing these matters together it follows that this ground of appeal succeeds and with it, the appeals of each Appellant also succeed. It was not open to the district judge to send a case to the Secretary of State for extradition that was in no part the request certified by the Secretary of State under section 70 of the 2003 Act.

(2) The applications for judicial review

29. Since the Appellants' appeals against the district judge's decision to send the cases to the Secretary of State will succeed, the purpose of the application for judicial review substantially falls away. The need for any relief arising from a free-standing challenge to the form of the extradition orders made by the Secretary of State under section 93 of the 2003 Act falls away because when an appeal against the district judge's decision in a Part 2 case succeeds, the court must, among other matters, quash the extradition order: see section 104(5) of the 2003 Act. That being so, I will deal with the issues in the application for judicial review more briefly.

30. For sake of simplicity, I shall continue to refer to Mr Haxhia, Mr Mithan, Mr Simpson, Mr Hunt and Ms Bridgeman as "the Appellants" even though they are more accurately described as "claimants" for the purposes of the application for judicial review.

31. The substantive issue in the application for judicial review is whether the extradition orders made by the Secretary of State were legally flawed because each was formulated by reference to "… the charges within the extradition request from the Republic of Albania …" in circumstances where the Albanian government no longer sought extradition for the purpose of prosecuting any of the Appellants on those charges, and the cases sent to the Secretary of State by the district judge only concerned extradition for the purpose of prosecution under article 78 of the Albanian Code, an offence not referred to in the extradition request by reference to which the extradition orders were formulated.

32. The reference in the 2003 Act to the making of an extradition order is laconic. Section 93(4) provides that where she decides that none of the bars to extradition at section 93(2) apply, the Secretary of State "… must order the person to be extradited to the territory to which his extradition is requested …" unless any of the three conditions later stated in that section applies. None of those conditions is relevant for present purposes. The Appellants' submission is that the extradition must, expressly or implicitly, refer to the offence or offences for which extradition is ordered and, in any event, the order must not refer to offences for which extradition is either not sought or not ordered. The submission is supported by reference to modification made to the 2003 Act by the Extradition Act 2003 (Multiple Offences) Order 2003 ("the 2003 Order") when a request for extradition is made in respect for more than one offence. When such a request is made section 93(4) is modified to read as follows:

> "If the Secretary of State decides those questions [i.e. concerning the bars to extradition listed at section 93(2)] in the negative <u>in relation to the offence in question</u> he must order the person to be

> extradited to the territory to which his extradition is requested for that offence …"
>
> [words added by the 2003 Order, underlined].

The modifications made by the 2003 Order make it clear that whether an extradition order is to be made is to be considered offence by offence, and be decided accordingly. Therefore, even when a request concerns only a single offence and extradition is ordered, the order must concern that offence and no other.

33. I accept that submission as correct, both by reference to the language enacted in section 93(4) (whether with or without the modifications inserted by the 2003 Order), and in order to give effect to the purpose of the legislation which has as its premise that extradition requests are both made and considered offence by offence: see the provisions in Part 2 of the 2003 Act starting with section 70.

34. The circumstances of the present cases were atypical in that, for reasons already stated, the district judge ought not to have sent the cases to the Secretary of State on the premise there had been extradition requests for the purpose of prosecuting the offence under article 78 of the Albanian Code. Be that as it may, the extradition orders made by the Secretary of State in respect of Mr Haxhia, Mr Simpson, Mr Mithan, and Ms Bridgeman were in error in referring, and referring only to the offences stated in the extradition requests. Those offences were not the offences for which extradition was then sought. The extradition order made in respect of Mr Hunt is no better. Although it contains a proviso in this form,

> "… to the extent that [the charges in the extradition request] were sent to the Secretary of State for consideration … and have not been withdrawn or abandoned …"

that proviso serves only to lead to the conclusion that the order fails to identify any charge at all.

35. The Secretary of State's submissions to the contrary are not convincing. The first submission is that it is for the court at the extradition hearing to identify the extradition offences, not the Secretary of State. It is correct that it is the court that identifies the offences in respect of which a case is sent to the Secretary of State. But those offences must be some or all of the offences in the extradition request and the Secretary of State may not order extradition for any offence that is out-with the case sent to her by the district judge.

36. The second submission is that there is no requirement in Part 2 of the 2003 Act to specify the extradition offence in the extradition order. I disagree. The necessary inference from section 93(4) of the 2003 Act is that the order should identify the offences in respect of which extradition is ordered. There is no prescribed formula, but the offences should be identified, whether expressly, through incorporation by reference, or otherwise. In any event, it is beyond argument that an extradition order

should not, as four of these orders do, specify offences not within the case sent by the district judge.

37. Third, it is submitted that what is in the Secretary of State's orders matters either little or not at all, because the extradition order is not intended to serve any substantive purpose, such as specialty protection. This is a somewhat dismal submission. I accept that the extradition order is not intended to be the guarantee of specialty arrangements. Specialty is addressed separately at section 95 of the 2003 Act. Nevertheless, the extradition order is the culmination of the process under Part 2 of the 2003 Act, it is the formal response acceding to the extradition request. As a minimum, the extradition order must be intended to ensure some modest degree of good order and clarity. It is important for its own sake that an extradition order is clear as to the scope of the extradition ordered (whether as already stated, expressly, through incorporation by reference, or otherwise). The orders in issue in this case are not consistent with that objective.

38. For these reasons I accept the Appellants' submissions on the substantive issue in the applications for judicial review. There were further matters to consider on those applications: whether time should be extended to allow the applications for judicial review to be pursued before the court (each was filed late); and whether as a matter of discretion, relief should be granted or refused on the applications. It is not now necessary for me to decide either of these matters. Suffice it to say: (a) the Secretary of State did not contend that the claims should be refused because they had been commenced out of time; (b) extending time to permit the applications to be considered would not have caused any prejudice to the interests of good administration or any other relevant public interest; and (c) regardless of the merits of any submission that might have been made in the judicial review applications that relief should be refused as a matter of discretion, the effect of section 104(5)(b) of the 2003 Act in respect of the appeal is that the Secretary of State's extradition orders must be quashed, and for that reason alone further consideration of the exercise of the discretion on relief in the judicial review claims is irrelevant.

(3) The remaining grounds of appeal

39. Since I have decided that the appeals will be allowed, it is unnecessary to deal with the remaining grounds of appeal at any significant length. Since it is possible that fresh extradition requests may be made I do not intend to consider at all: (a) the section 91 grounds of appeal advanced by Ms Bridgeman and Mr Hunt which, in each case, depend on the current state of each Appellant's health, or (b) the ground pursued by Ms Bridgman, Mr Hunt and Mr Simpson concerning the adequacy of treatment that may be available to them were they to be detained in Albania pending trial or imprisoned following conviction. For similar reasons I will not consider Mr Simpson's ground that extradition would be an unjustified interference with article 8 rights. That ground too will depend on up to date information so any views I expressed now would be unlikely to assist in the event this ground were raised in response to any future extradition request.

40. Further, I do not intend to decide the grounds advanced by Mr Mithan and Mr Hunt that these extradition requests are not requests in respect of an extradition offence (as

defined in sections 78 and 137 of the 2003 Act). Should the same or similar point be raised in respect of any future extradition request it would need to be considered on its own terms.

41. I will, however, briefly set out my conclusions on the other remaining grounds of appeal.

(a) Article 6

42. At the extradition hearing each Appellant contended that were they to be surrendered pursuant to the extradition request and prosecuted in Albania each faced a real risk of a flagrant denial of justice. This submission rested on generic criticisms of the integrity of the Albanian judicial system and judiciary, the existence of a backlog of cases which it was said would prevent hearings taking place within a reasonable time, and a particular incident recounted by Brunilda Jaho, the lawyer instructed to act for Mr Haxhia in Albania, that the Albanian prosecutor had refused her request for access to documents held in the investigation file.

43. These matters were considered by the district judge. He rejected the article 6 submission. See the judgment at paragraphs 149 – 150 and 154 – 160. I agree with his conclusions and his reasons. These contentions were not pursued further in this appeal.

44. Instead, a different article 6 submission was made that rested on information provided by Kujtim Cakrani, the lawyer acting for Ruben Saraiva, the person accused of killing Ardian Nikulaj. Mr Saraiva was extradited to Albania in December 2023 (not from the United Kingdom) and has been remanded since then pending criminal proceedings against him. In statements made for the purposes of this appeal, Mr Cakrani refers to two matters arising during the pre-trial proceedings. Those proceedings have been conducted by Judge Perdeda who, I am told, is the judge assigned to deal with the charges arising from Ardian Nikulaj's death and who will also preside over proceedings against the Appellants were they to be surrendered. The first matter, referred to in a statement made by Mr Cakrani dated 4 June 2025, concerns a hearing about the continuation of Mr Saraiva's pre-trial detention. Mr Cakrani explains that under Albanian law, pre-trial detention is limited to 12 months unless further authorised by the court. Mr Saraiva was first remanded in Albania in December 2023 so his pre-trial detention was due to lapse by the end of December 2024. Mr Cakrani states he applied for Mr Saraiva's release on bail and the application was listed for hearing in February 2025. However, at that hearing he was told that a three-month continuation of Mr Saraiva's pre-trial detention had already been ordered at a hearing on hearing on 27 December 2024. Mr Cakrani says that the hearing took place without notice either to him or to Mr Saraiva. He stated that he had filed an appeal against the continuation of the pre-trial detention and, in April 2025, also raised a complaint against Judge Perdeda. The second matter is explained in a declaration made by Mr Cakrani dated 13 September 2025. In the declaration he states that Mr Saraiva continues to be held on remand and that his complaint against Judge Perdeda remains outstanding. He refers to a further incident at a pre-trial hearing on 30 June 2025. At that hearing the court heard evidence from Erlund Gjini who claimed that he and his father had been assaulted and threatened by the Nikulaj family. Mr Cakrani states that during the hearing the court "ordered interruption of the audio recording". The context for this appears to have

been an application by the prosecution to exclude part of the evidence. Mr Cakrani states that interrupting the audio recording of the proceedings was contrary to article 361 of the Albanian Code of Criminal Procedure.

45. The requirement that there be a real risk of a flagrant denial of justice is a demanding standard. The Appellants' submission now focuses on the conduct of Judge Perdeda and invites me to infer from the two incidents described by Mr Cakrani that the Appellants will not receive fair trials in Albania. I do not consider, on the evidence available, that any such inference can fairly be drawn. The evidence available is sparse. There is insufficient evidence to permit any robust assessment either of the circumstances in which the decision was made on 27 December 2024 to extend Mr Saraiva's pre-trial detention by 3 months or the reasons for that decision. It is apparent from Mr Cakrani's evidence that that decision could be and was the subject of an appeal. Even if the 27 December 2024 decision was made irregularly the possibility of appeal is itself a safeguard of compliance with article 6 rights. The outcome of that appeal is unknown. Likewise, the information about what happened at the hearing on 30 June 2025 is insufficient to establish a prima facie case.

46. For these reasons I would not have allowed the appeal on the article 6 ground.

(b) Article 3/article 2: prison conditions and the risk of inter-prisoner violence

47. Mr Haxhia, Mr Mithan, Mr Simpson and Mr Hunt contend they would face a real risk of article 3 ill-treatment were they to be held on remand in prison in Albania pending trial or imprisoned following conviction. This submission was rejected by the district judge.

48. Concerns about over-crowding and sanitary conditions in Albanian prisons are well-known. In November 2023 the Albanian government gave an assurance as to where each male Appellant would be detained or imprisoned as follows: (a) on surrender each would be held initially at Jordan Misja prison; then (b) pending trial each would be transferred to Skhoder prison; if convicted (c) each would be held either at Peqin prison (a maximum-security prison) or, if high security accommodation was not ordered by the court, at Malesie Madhe prison. The Albanian government also provided an assurance that at each of these prisons each Appellant would be guaranteed the $3m^2$ space that is one benchmark for article 3-compliant detention arrangements. The Appellants accepted that compliance with these assurances would be sufficient to avoid any real risk of article 3 ill-treatment. However, they contended that the assurances could not be relied on because in a previous case, which concerned Artan Muca who had been extradited from United Kingdom to Albania on 25 August 2023, assurances given had not been complied with.

49. The district judge rejected this submission:

> "136. *Third*, it is right that evidence of a breach of assurances given to Mr. Muca has been served in this case and that the Albanian government had not responded to that evidence by the close of oral submissions. Accordingly, I invited the Albanian

> government to respond to those allegations. They provided their response in the letter from the Director of the General Directorate of Prisons of 5 June 2024. That document explains that Mr. Muca was provided with a guarantee of being held at Rec or Fier prisons, which are standard security prisons, but following his extradition, the Albanian Court ordered that he should serve his sentence in a high security prison which led to his placement in Burrel prison. Accordingly, it appears that the assurance given was not carried out. However, an explanation for this has been provided. More importantly in my judgment, what happened in Mr. Muca's case amounts at its highest to a single violation of an assurance given in an extradition case. Professor Bianku accepted in his evidence that he was unaware of any other allegations of breaches and no evidence of such violations has been adduced by any of the requested persons. Further, as set out above, there are a number of previous instances of the Courts in this jurisdiction accepting the compatibility of extradition to Albania with article 3 ECHR based on assurances provided and there is no suggestion that there was any violation of the assurances provided in any of those other cases. Accordingly, I reject the submission made by Mr. Watson KC and adopted by the other defence teams that the evidence of a breach of assurances in Mr. Muca's case means that the assurances provided in this case cannot be relied upon."

50. The Appellants submit this conclusion was wrong. I do not accept that submission. I agree with the district judge's assessment. What happened in Mr Muca's case was the consequence of a decision on the type of prison where he should serve his sentence – a high security prison. It appears that possibility had not been anticipated at the time the assurance was given. In this case, that possibility has been anticipated by the assurances provided. I also agree with the district judge's assessment of whether breach of the assurance in Mr Muca's case is any likely indicator of the breach of the assurances given in these cases. What happened in Mr Muca's case was very unfortunate. When it became apparent that Mr Muca needed to be held in a high security prison that matter (which had not been anticipated when the assurance was given) ought to have been brought to the attention of the United Kingdom authorities. There is no explanation why that did not happen. However, it would be disproportionate and wrong to infer from those circumstances that the assurance given in this case will not be honoured. The Albanian authorities have given assurances on prison conditions in several cases; the only report of any lack of compliance is Mr Muca's case. The reason why he was at a prison other than the one stated in the assurance is sufficiently clear. For these reasons I would have dismissed this ground of appeal.

51. The further submission on article 3 and prison conditions is that inter-prisoner violence gives rise to a risk of article 3 ill treatment, or even death. This ground of appeal is advanced by Mr Haxhia and Mr Simpson. This submission was considered and rejected by the district judge: see his judgment at paragraphs 139 to 141.

52. I am satisfied that the district judge's conclusion was correct. The primary evidence relied on in support of this submission concerns events at Peqin prison on 15 December 2023 when one prisoner killed another. The submission is that the prisoner who was killed had been convicted of a blood feud or revenge murder and it was this that had led to the attack in prison and his death. The district judge obtained information from the Albanian government on the incident, which was provided on 12 April 2024. The information described the attack as an isolated incident that had been investigated. It explained that measures had been put in place at Peqin prison to guard against any such further event. The Albanian government further stated, generally, measures were in place in the prison system to protect all prisoners including those either charged with or convicted on charges of murder for revenge.

53. I agree with the district judge's evaluation of the significance of these matters:

> "139. *Fifth*, Mr. Haxhia, supported by the other requested persons submits that he faces a real risk of a breach of article 3 ECHR due to inter-prisoner violence and the blood feud which he is accused of perpetuating. I accept the further information provided by the Albanian Ministry of Justice contained of 12 April 2024 explaining that it has taken institutional measures to invest in the prison system to ensure the protection of detainees' lives and providing an assurance that the requested persons will be provided with necessary protection in the event of their extradition to Albania. Whilst it is correct that there was an instance of one prisoner murdering another at Pequin prison that has been the subject of an investigation, as has another incident in 2022 where a handgun was found during the search of a prison. The duty of the Albanian state is not to provide absolute protection at all times. The positive duty is to provide reasonable protection against criminal acts (see *Bagdanavicius* at [24]). I do not consider that the examples of one serious incident of inter-prisoner violence and one gun being found in a prison relied on by the defence, together with the other matters they cite, rebut the presumption of compliance with the ECHR to which Albania is entitled. I am fortified in that conclusion by the contents of the further information of 12 April 2024. I reject this argument.
>
> ...
>
> <u>Haxhia – Article 2 Challenge</u>
>
> 141. In light of my conclusions at [139] immediately above, I also reject the article 2 challenge advanced by Mr. Haxhia which is essentially parasitic on the article 3 challenge. It is apparent from the evidence cited above that the Albanian authorities take instances of inter-prisoner violence seriously. I am not satisfied based on the evidence and submissions relied on by Mr. Haxhia (and adopted by others) that there is a real risk of a loss of life to Mr. Haxhia from non-state agents in the event of his surrender to Albania. As explained above, I accept the evidence of the

> Albanian authorities that they would provide reasonable protection in the event of his extradition to Albania. This challenge accordingly fails."

54. Mr Simpson relied on further matters in support of this ground of appeal. Pending the decision on his extradition he has been held on remand at HMP Wandsworth. In a witness statement dated 15 November 2023 he says that he has twice been attacked by another prisoner. He describes the prisoner as "Irish" and refers to him having "serious mental health issues". The two attacks occurred within two days of each other. Both attacks involved use of a home-made knife. Mr Simpson says there are many Albanian prisoners at HMP Wandsworth and that he thinks they paid the Irishman to attack him.

55. This evidence was available at the extradition hearing but was not referred to in the district judge's reasons. I do not consider this evidence provides any significant support for the submission on the inter-prisoner violence issue. It is disturbing that Mr Simpson was twice attacked in prison but his suggestion that Albanian prisoners paid for these attacks is no more than speculation. This ground of appeal would also therefore have failed.

(c) Article 3: the opportunity to make applications for release on licence.

56. By this ground of appeal, the Appellants contend that sufficient parole arrangements do not attach to any sentence of life imprisonment passed by the Albanian courts with the consequence that any such sentence of life imprisonment would amount to article 3 ill-treatment.

57. The provision within Albanian law for release on parole is at articles 64, 65 and 65a of the Albanian Code. So far as material to the present appeals article 64 provides for the possibility of release on parole:

> "**Article 64 Release on parole**
> The convict may be released from serving the sentence earlier on parole only for specific reasons, if his behaviour and work demonstrate that, referring to the time served, the purpose of his education has been fulfilled, and he has served:
>
> - no less than half of punishment time imposed for criminal contraventions;
> - no less than two third of the punishment given for crimes punishable to imprisonment up to five years;
> - no less than three fourth of the sentence imposed for crimes punished by over 5 years up to the maximum foreseen by the law, with the exemption of provisions of paragraph 3 of this article.
> ...
>
> It shall not be allowed to release on parole a recidivist for a crime committed with intent as well as a convict due to the commission

> of criminal offences provided for in Articles 78/a, 79/a, 79/b, 79/c or the third paragraph of Article 100.
>
> Release on parole shall be revoked by the court, when the convict sentenced for an intentionally committed criminal offence, commits another intentional criminal offence during the parole period, applying the provisions on joining the punishments.
>
> ... "

Article 65 modifies these arrangements for prisoners serving sentences of life imprisonment:

> "**Article 65**
> A convict serving life imprisonment shall not be allowed to be released on parole.
>
> Only under extraordinary circumstances may the convict serving life imprisonment be released on parole, if:
>
> He has served no less than thirty-five years imprisonment and during the period serving his sentence has shown excellent behaviour and it is deemed that the educational aim of the sentence has been achieved.
>
> Persons sentenced for criminal offences foreseen in articles 78/a, 79/a, 79/b, 79/c and article 100 paragraph 3 shall be exempt from this rule."

58. At the extradition hearing Mr Mithan, Mr Simpson and Mr Hunt contended that the possibility they would be sentenced to life imprisonment governed so far as concerned the possibility of parole by article 65 of the Albanian Code gave rise to a real risk of article 3 ill treatment. The district judge rejected that submission:

> "117. I am prepared to assume that each of these three requested persons faces a real risk of a sentence of life imprisonment. It is an available sentence for the offence charged and factors including dangerousness, having fled the scene in Mr. Simpson and Mr. Mithan's cases, being part of a conspiracy or an organised criminal group and the context of a murder committed in the course of a blood feud all increase the risk of a sentence of life imprisonment being imposed.
>
> ...
>
> 119. *Third*, these three requested persons submitted that a review of sentence that could not take place until after 35 years had been served would amount to a breach of article 3 ECHR. I reject that contention. *Vinter* at [120] explains that there is a margin of appreciation accorded to contracting states and it is not for the

European Court to determine when the review should take place. Whilst the materials the ECtHR reviewed showed clear support for a review no later than 25 years after the imposition of a life sentence, the Court did not lay down any bright line rule that a review after 35 years would give rise to a real risk of a breach of article 3 in either the domestic or extradition context. No authority was cited by the defence to support the submission that a review after 35 years would breach article 3. I do not consider that Vinter so holds. Nor did Professor Bianku give evidence that in his experience as a former judge of the ECtHR that a review after 35 years would violate article 3. I accept the Government's submission that the CPT have not reached any similar conclusion.

120. *Fourth*, these three requested persons sought to argue that the fact that each of them has been convicted of an offence in this jurisdiction which includes the phrase 'intent' such as possession with intent to supply drugs, that they would not be eligible for parole under article 65 of the Albanian Criminal Code. That submission was not supported by Professor Bianku's evidence. Whilst he could not exclude the possibility that an Albanian court might find an offence as minor as shoplifting as being a crime of intent, he did so explicitly in the context of the Albanian Court reviewing convictions for other offences in Albania. The only comparative example he could give of that approach being taken by the Albanian Courts was in the context of the transfer of a sentence from Italy to Albania. He did not opine that a conviction by a UK court for an offence which included the word 'intent' in the title would exclude a person from the opportunity to apply for parole. I do not consider this argument has any merit.

121. *Fifth*, Mr. Williams submitted on behalf of Mr. Hunt that it was uncertain as to whether he would be able to show that he had met the educational aims of a sentence after 35 years. Both he and Ms. Howarth submitted that the age of their client meant that a sentence of 35 years might be the rest of their natural life. I do not consider that these matters expose either Mr. Hunt or Mr. Simpson to a real risk of a breach of article 3 ECHR. As to these points, *Vinter* and *Sanchez-Sanchez* makes clear that there is a margin of appreciation provided to contracting states as to how they give effect to convention rights. Further, as *Sanchez-Sanchez* makes clear, in the extradition context, the Court is concerned only with the substantive aspect of the remedy, rather than the procedural aspect. Further, my task is not to assess whether any of the requested persons would, in fact, be released on parole on making an application after 35 years, but simply that they would have the opportunity to make such an application. The fact that they may have to serve a sentence until they are each of advanced years does not render a life sentence

> irreducible so as to give rise to a real risk of treatment in breach of article 3 ECHR."

59. On appeal, all Appellants, save for Ms Bridgeman, contend that the requirement to serve 35 years imprisonment before consideration for parole would amount to article 3 ill-treatment. This submission rests on a line of authority in the Strasbourg Court starting with the decision of Grand Chamber in *Vinter v United Kingdom* (2016) 63 EHRR 1 (judgment 9 July 2013) and comprising *Bodein v France* (Application 40014/10, judgment 13 February 2015), *TP v Hungary* (Application 37871/14, judgment 6 March 2017), and *Bancsok v Hungary* (Application 52374/15, judgment 28 January 2022). In *Vinter* the court stated as follows:

> "119. For the foregoing reasons, the Court considers that, in the context of a life sentence, art. 3 must be interpreted as requiring reducibility of the sentence, in the sense of a review which allows the domestic authorities to consider whether any changes in the life prisoner are so significant, and such progress towards rehabilitation has been made in the course of the sentence, as to mean that continued detention can no longer be justified on legitimate penological grounds.
>
> 120. However, the Court would emphasise that, having regard to the margin of appreciation which must be accorded to Contracting States in the matters of criminal justice and sentencing, it is not its task to prescribe the form (executive or judicial) which that review should take. For the same reason, it is not for the Court to determine when that review should take place. This being said, the Court would also observe that the comparative and international law materials before it show clear support for the institution of a dedicated mechanism guaranteeing a review no later than 25 years after the imposition of a life sentence, with further periodic reviews thereafter."

In the present appeals the focus of submission is on the observation at paragraph 120 that comparative and international law materials "show clear support" that the opportunity for review leading to the possibility of release on parole should be no later than 25 years from the date the life imprisonment was imposed. By reference to this it is submitted that the 35-year waiting period in article 65 of the Albanian Code is too long.

60. In *Bodein,* the case before the court concerned an applicant sentenced to life imprisonment following conviction for three murders. Two of his victims were minors, the applicant had raped all three before killing them. French law provided for the possibility for parole after 30 years imprisonment. The court rejected the applicant's complaint under article 3 noting that pre-conviction detention counted towards the 30-year waiting period, and noting also the "margin of appreciation enjoyed by states in matters of criminal justice and sentencing". In *TP* and in *Bancsok* the court considered provisions in Hungarian law. When the sentence imposed was one of life without the possibility of parole, "mandatory pardon proceedings" had to be commenced after 40 years in prison had been served. In each case the court repeated the reference in *Vinter*

to the "comparative and international law materials" showing "clear support" for a review within 25 years of the imposition of the sentence. In *TP* at paragraph 45 the court concluded as follows:

> "45. In that connection, the Court notes that forty years during which a prisoner must wait before he can for the first time expect to be considered for clemency is a period significantly longer than the maximum recommended time frame after which the review of a life sentence should be guaranteed, established on the basis of a consensus in comparative and international law … The Court cannot but conclude that such a protracted waiting period thus falls outside any acceptable margin of appreciation enjoyed by the State, however wide that margin might be."

The first part of this passage was repeated verbatim in *Bancsok* (at paragraph 45 of the judgment in that case). In *Bancsok* the court reached the same conclusion, that the 40-year waiting period was a breach of article 3.

61. The Appellants' submission also relies on article 604(a) of the EU Trade and Co-Operation Agreement:

> "*Article 604*
> **Guarantees to be given by the issuing State in particular cases**
> The execution of the arrest warrant by the executing judicial authority may be subject to the following guarantees:
>
> (a) if the offence on which the arrest warrant is based is punishable by a custodial life sentence or a lifetime detention order in the issuing State, the executing State may make the execution of the arrest warrant subject to the condition that the issuing State gives a guarantee deemed sufficient by the executing State that the issuing State will review the penalty or measure imposed, on request or at the latest after 20 years, or will encourage the application of measures of clemency for which the person is entitled to apply under the law or practice of the issuing State, aiming at the non-execution of such penalty or measure
>
> ..."

It is contended that this too points to a conclusion that a waiting period as long as 35 years will comprise a breach of article 3.

62. I am satisfied that the district judge's conclusion on this issue was correct. It is significant that in its judgment in *Vinter,* the Grand Chamber of the Strasbourg Court went no further than to note the existence of "clear support" for the proposition that the opportunity for review with a view to the possibility of parole should be no later than 25 years after imposition of the sentence. The Grand Chamber did not suggest there was any form of international law consensus. What was said in *Vinter* did not purport

and did not set any hard-edge standard. The subsequent decisions of the court, which are not Grand Chamber decisions, should be handled with care. To the extent it might be suggested that they begin to treat 25 years in the manner of a benchmark or as the starting point for a margin of discretion, that is a significant over-reading of the Grand Chamber's judgment in *Vinter*. Any such approach tends, effectively, to remove the states' margin of appreciation. It is entirely legitimate on matters of criminal justice and penal policy for a margin to be permitted to contracting states and for that margin to be substantial.

63. In this case, it is also material that the Republic of Albania is a contracting state, and that articles 504 and 57 of the Albanian Code, taken together, have the effect that any pre-trial detention (including time served on remand pending extradition) counts towards calculation of time served under sentence with one day of pre-trial detention being treated as one and a half days' imprisonment.

64. Taking all these matters in the round I agree with the conclusion reached by district judge that the possibility that the Appellants might be sentenced to life imprisonment subject to the provisions on parole at article 64 and 65 of the Albanian Code does not give rise to a real risk of article 3 ill treatment. This ground of appeal would also, therefore, have failed.

65. For sake of completeness, I add that I also agree with the conclusion reached by the district judge at paragraph 120 of his judgment (set out above) on the further matter relied on by Mr Simpson that previous convictions in England bring him within the recidivist exception within article 64 of the Albanian Code. Any such suggestion is no more than speculation and is not a proper premise for any submission of a real risk of article 3 ill-treatment.

(d) Article 3: the assurance that Mr Haxhia would be charged under article 78 of the Albanian Code and not under article 78/a.

66. Mr Haxhia's primary submission at the extradition hearing was that extradition would give rise to a real risk of article 3 ill-treatment because he would be charged under article 78/a and, if convicted, would face life imprisonment without an opportunity to make an application for release on parole. The district judge accepted that submission. As stated above, this caused the district judge to seek an assurance that Mr Haxhia would only be charged under article 78, and assurances that none of the other Appellants would be charged under article 78/a: see above at paragraph 16. The assurances requested were given; see above also at paragraph 16. The district judge accepted those assurances and sent the cases to the Secretary of State on that basis.

67. Mr Haxhia's primary ground of appeal was that the district judge had been wrong to accept the assurances. In the context of the first ground of appeal I have decided that the decision to seek an assurance that Mr Haxhia would be charged only with an offence that had not been the subject of the extradition request was erroneous. Nevertheless, I will briefly consider the merits of the submission that the assurance that Mr Haxhia would not be charged under article 78/a ought not to be relied on.

68. The submission for Mr Haxhia comprised two parts. The first was that the assurance had been given by prosecutors in circumstances where the prosecutor did not have power *de iure* to guarantee which charge would be pursued. The assurance was that the prosecutor would not advance a case based on a charge under article 78/a. However, it was apparent that the Albanian court could require a prosecutor to amend the charge. The assurance given in this case recognised that possibility. The submission was that it was not sufficient for the prosecutor to promise that in the event the court wished to amend the charges to include a charge under article 78/a that decision would be appealed since the outcome of such an appeal could not be guaranteed. The second part of the submission was that the prosecutors who had given the assurance, Mr Shehaj and Mr Ganaj, were no longer in post. The submission for Mr Haxhia was that Mr Shehaj had been removed from office on grounds of misconduct.

69. Little weight can attach to the second part of the submission. The assurances were given by the prosecutors' office, institutionally. There is nothing to suggest the assurances were personal to the prosecutors then in post. So far as concerns the suggestion that Mr Shehaj was later removed from office on grounds of conduct, and assuming for the sake of argument that was true, there is nothing to suggest that there is any connection between that event and the giving of these assurances.

70. The weight attaching to the first part of the submission is a matter of practical assessment. In *Othman v United Kingdom* (2012) 55 EHRR 1, the European Court of Human Rights emphasised the requirement to examine whether "in their practical application" assurances given provide "a sufficient guarantee" of the matters concerned: see the judgment at paragraph 187. In the present case there is nothing to suggest that the *de iure* possibility that the judge at the preliminary hearing could decide that the charge should be under article 78/a (or that a charge under article 78/a should be one of the charges pursued) is anything more than a possibility. Notwithstanding that the charges stated in May 2023 against all the Appellants included a charge under article 78/a, that position changed. By September 2023 the charge proposed against each of Mr Mithan, Mr Simpson, Mr Hunt and Ms Bridgeman was a charge under article 78. I am told that the charge being pursued under Mr Saraiva in the proceedings in progress in Albania is a charge under article 78. In these circumstances the possibility that a different approach will be taken in Mr Haxhia's case is slim. I am satisfied that the assurance given meets the *Othman* requirement for a sufficient practical guarantee. This ground of appeal would also, therefore, have failed.

C. Disposal

71. I grant each Appellant leave to appeal. For the reasons given above, each appeal is allowed on the ground concerning the validity of each extradition request: see above at paragraphs 13 – 28. On this basis I will order each Appellant be discharged.

72. The applications for permission to apply for judicial review are also granted, as are the applications for judicial review themselves. Since the appeals will be allowed the extradition orders must, by virtue of section 104(5)(b) of the 2003 Act, be quashed. In those circumstances no further relief is necessary on the judicial review claim.