

Extradition District Judges Conference
Monday 19th October 2026

THE JUDGMENT OF THE EXTRADITION DISTRICT JUDGE

by Mr Justice Fordham
High Court Judge

Introduction

1. I am going to make six points about “the Judgment of the Extradition District Judge” (EDJ). I am conscious that I am doing so as an outsider. I have never been an EDJ. I have never had to write a Judgment of an EDJ (though I have read a few). My observations, from an external perspective, relate to an important part of your craft. These external observations are offered in a spirit of openness and transparency. This speech is delivered on the basis that it can be released into the public domain. I am not here to try and tell you how to do your job. I am not going to speak about particular methods or techniques, like the “balance-sheet” exercise famously commended to EDJs by the Divisional Court in Celinski v Polish Judicial Authority [2015] EWHC 1274 (Admin) [2016] 1 WLR 551, on the basis that “such an approach is of the greatest assistance for an appellate court” (see Celinski at §§16-17). My six points are not “six things which would be of the greatest assistance for an appellate court”. I recognise that this external perspective could be reversed. I feel sure that each of you as EDJs would have at least six points to make if you or they were speaking, at a training conference for High Court judges, under a topic “the Judgment of the Extradition High Court Judge”.
2. Extradition High Court Judges inhabit the Administrative Court. The Administrative Court deals with a whole range of public law proceedings. For example, there are judicial review claims. There are disciplinary appeals. There are confiscation proceedings. There are appeals by way of case stated. And there are extradition cases. There were 145 judgments of the Administrative Court delivered in 2025, which were considered sufficiently noteworthy to be reported in the Administrative Court Digest. Of those 145 judgments, 14% (21 judgments) were extradition cases. The Administrative Court inherits its extradition cases from EDJs. Every case that comes to us as an extradition appeal has first been the case of an EDJ. EDJs inhabit the Westminster Magistrates’ Court. That is the Court which produces the Judgment of the EDJ.

Product for the parties

3. My **first** point is this: the Judgment of the EDJ is the conscientious official product, provided by the judge for the parties. It tells the parties who has won and lost, on what points, and why. It is a well-recognised that a professional judge has a duty to give reasons for their decision: see eg. KG (Turkey) v SSHD [2022] EWCA Civ 1578 at §43. Doing a professional job means giving legally adequate reasons. The requested person facing extradition, and the requesting state authority seeking extradition, will find in the EDJ's official professional product the reasoned analysis which explains things like these: how the statutory scheme was applied; how the evidence was evaluated; what the key findings of fact were; what the applicable legal principles were; what the court made of the key arguments; what the key conclusions were; and what the key reasons for those conclusions were. If you could only say one thing about the Judgment of the EDJ, this would be it. It is the product of the case, for the parties.

Focus for any appeal

4. This is my **second** point: the Judgment of the EDJ is the essential focus for any appeal to the High Court. It is the essential focus in principle, and in practice. In principle, it is the key prism for the analysis. Because the appeal court has to ask whether it thinks the EDJ went wrong. This is not an appeal afresh, like some appeals from magistrates courts to crown courts. It is not a fresh start, with fresh evidence. The necessary focus is on what the EDJ made of the case. In practice, the Judgment of the EDJ will always be a key reference point for the appeal. Because the Judgment of the EDJ will gather together the relevant features of the case in one helpful place. The starting point will always be to ask what the EDJ said about any particular feature of the case, in the Judgment.
5. For these reasons – of principle and practice – the EDJ's Judgment is the High Court's focus when dealing with an application for permission to appeal. It is the focus when determining any substantive appeal. But that does not mean that the EDJ was writing the Judgment for the High Court. They were writing the official product for the parties. In writing the product for the parties, and discharging the professional judge's duty, the parties in any appeal and the court dealing with the appeal can see those features: the relevant statutory scheme and how it was applied; the relevant evidence and how it was evaluated; what the key findings of fact were; what the applicable legal principles were; what the EDJ made of the key arguments; what the EDJ's key conclusions were; and key reasons for those conclusions.
6. Let me put you in the place of the Extradition High Court Judge. Here are the appeal papers in a new extradition case. There will be a bundle. There will be perfected grounds of appeal. There will be a respondent's notice incorporating submissions. In the run up to a hearing, there will be skeleton arguments. There may be putative fresh evidence. There will be all the primary materials in the case. There will be the extradition request or warrant, perhaps supplementary information or further information. Statements and

documents and reports and medical records and assurances and all the rest. Our hypothetical appeal Judge can see all of that. But their quest is for something else. Our High Court Judge is scanning the index to the bundle. There is one document which any High Court judge dealing with any extradition appeal will search for, will start with, will put at the front of a printing queue, will extract it from a hardcopy bundle. It is the golden document. It is the Judgment of the EDJ. That, in principle, is the prism for considering the appeal. That, in practice, is the reference-point for the features of the case.

7. In my experience, whenever any party to any appeal wants to make a point about a feature of the case, it is always helpful to know the answer to this question: what did the EDJ say about this point in the Judgment? My own practice, whenever I am preparing an extradition appeal ahead of a hearing, is to make notes on a single piece of A4 paper. I will try to note the key features of the case, as relevant to the issues in the appeal. They may be documents with dates, or relevant events. They may be people or the key evidence they gave. They will include facts as found by the EDJ. They will include the relevant law, with the key statutory provisions, and key passages from key authorities. In noting the key features of the case, I will annotate my notes using red numbering, to identify where in the Judgment of the EDJ this feature is to be found. To do this is to use the Judgment of the EDJ as a reference-point for the appeal. Sometimes, an appeal will involve issues or materials which were not addressed in the Judgment of the EDJ. There may be putative fresh evidence, including any relevant updating evidence. Or it may be said that there has been some change in circumstances which warrants the introduction of a fresh issue. But in those situations it is important to recognise that a point was not argued before the EDJ, or certain evidence was not relied on before the EDJ.
8. Sometimes, in extradition appeals to the High Court, advocates are unable to resist the temptation to try and put the Judgment of the EDJ to one side, and argue the facts and law “from scratch”. It is as though the appeal starts with a blank sheet, like an appeal afresh (“de novo”). Perhaps they cannot resist blocking and pasting written submissions which they used below, or perhaps some stock submissions on the Article 8 caselaw. Questions on an appeal, which relate to evidence and fact, will always need to be addressed having regard to what the EDJ said about the evidence, and found as to the facts. For questions of law, there is no need to reinvent the wheel. The Judgment of the EDJ will be the reference-point. It is the focus for the parties to pinpoint any error or omission of law which they say has occurred, if that is what they are saying. The position is illustrated by something I said about the Judgment of the EDJ in a recent case (Hojka v Polish Judicial Authority [2026] EWHC 2400 (Admin) at §2):

The Judge set out the law ... in great detail and with great care. 16 principles were identified by the Judge over the course of 3 pages in the Judgment, citing 20 authorities. As [Counsel] rightly recognises, the clear focus and reference-point for the appeal can and should be the Judge’s analysis of the law. Nowhere is it said on behalf of the Appellant that the Judge was wrong in his description of the law. No misdescription or omission is identified. Rather, this case concerns the application of the established principles from the leading authorities.

9. So – in principle because it is the relevant prism, and in practice because it is the key reference point – the Judgment of the EDJ is the essential focus for an appeal.

End of the legitimate interest

10. Which brings me to my **third** point: the Judgment of the EDJ ends the legitimate interest which the EDJ has in the case. By delivering the Judgment, the EDJ has provided the official product for the parties, and the essential focus for any appeal. Therein lies the discharge of the function of the EDJ. That is the end of the legitimate interest of the EDJ in that case.
11. I make this point for two reasons. The first is because the Judgment of the EDJ stands as the full and complete communication between the appealed court and the appeal court about the individual case. There is something of a contrast with appeals by case stated, where a recognised and transparent process may mean that the judge whose decision is going to be appealed provides further input for the appeal court. Many courts who have made decisions which are appealable have functions relevant to facilitating the just disposal of a viable appeal. An example is where a court has the function of deciding whether to grant permission to appeal against the decision it has just made. Another is where a precondition to an appeal to the Supreme Court is that the Court who would be challenged on appeal must have certified a point of law of general public importance. None of this applies when the Judgment of the EDJ is under appeal to the High Court.
12. The second reason is because the “letting go” of the case by one court, upon making a judicial decision whose correctness becomes a question for another court, has a constitutional ethos. This is a helpful dimension for any court which is appealable to any other court. The entire structure of our system of tribunals and courts is one in which disagreement is enabled to thrive.
13. This constitutional ethos has come to the fore in the world of judicial review. It is an unusual feature of judicial review that the decisions of some courts come to be challenged, by a process in which the court becomes the “defendant” to the claim. The opposing party in the proceedings before the court whose decision is impugned on judicial review, becomes the “interested party” in judicial review. This is striking, especially when we remember that judicial review and an appeal on a point of law are essentially in substance the same sort of judicial scrutiny. Where there is a right of appeal on a point of law, the impugned court drops out of the picture. Where there is a right of judicial review on a point of law, the impugned court is the defendant. The relevance of this has continued to subside. Defendant courts now play a principled, passive, role even in judicial review claims. But we can say this. If there were no statutory appeal to the High Court in extradition cases, challenges would be by judicial review. The extradition judge would be the defendant. There are some extradition cases outside the scope of the appeals structure, where judicial review is needed.

14. In Special Tribunal v Estate Police Association [2024] UKPC 13 [2024] 1 WLR 4252 the Privy Council addressed the position of judicial bodies who are defendants to judicial review claims, and how they should conduct themselves. Lord Leggatt said this at §57: “A court or tribunal has no interest of its own ... in trying to prevent a successful challenge to its decision. Its sole function is that of an independent and impartial adjudicator of disputes that come before it. [It] acts inconsistently with that function and compromises its independence and impartiality if ... [it] seeks to defend its decision by adding to the reasons that it gave when the decision was made rather than leaving those reasons to speak for themselves”. I think there are two strands to this. One is about not acting to inhibit a successful challenge. But the other is about the adjudication of the dispute – the definitive official product for the parties – as being the end of the impugned court’s legitimate interest in the case.
15. In fact, this constitutional ethos also links to something which has been recognised in the world of case stated appeals. It has been explained that, when the appealed court is stating a case for the appeal, “some amplification or reformulation of reasons given in a judgment is unlikely to be objectionable”, but “the addition of new reasoning to support the outcome is not permissible”: Ferko v Ealing Magistrates Court [2024] EWHC 2592 (Admin) [2025] 1 WLR 564 at §46. I expect there are points which could also be made about the adoption by any judge of alternative reasons, which may be said to make a judgment the more “appeal-proof”, something about which all judges need to be scrupulously principled. Whenever, as judges, a judgment is challenged, that means something is happening in a case in which our legitimate interest has ended. It is no longer anything to do with us. This constitutional ethos supports all appealed judges saying this to ourselves. Yes, I am being appealed, or yes I have been appealed, but that has nothing to do with me: my legitimate interest in the case ended when I gave my Judgment and made my order. That seems a very healthy mind-set. So, the Judgment of the EDJ is the end of the legitimate interest which the EDJ has in the case.

Virtues of publication

16. On 6 February 2026, the “Judgments” section of the judiciary.uk website published a Judgment from Westminster Magistrates’ Court in the case Government of the United States of America v Daniel Andreas San Diego - Courts and Tribunals Judiciary. What appeared was a 45-page Judgment of an EDJ (DJ Sam Goozee). Then, a month later on 4 March 2026, the 65-page Judgment of the EDJ (SDJ Goldspring) in Government of Ukraine -v- Artem Dmytruk - Courts and Tribunals Judiciary was published. Both Judgments remain accessible in the public domain on that website. So far, I have been unable to find them on the National Archives or on Bailii. And neither of them carried a neutral citation.
17. My **fourth** point is this: the Judgment of the EDJ could be published in the National Archives and in Bailii, for several virtuous reasons. Publication would accompany the end of the legitimate interest which the EDJ has in the case. When courts publish their

judgments they are promoting open justice. Not because a judge has assessed that a particular judgment is particularly important. Not because a judge is proud of the industry that has gone into this particular official product, for these particular parties. But rather, because judges embrace scrutiny of what we do. Every judgment is important in open justice terms. It makes the work of the justice system accessible to everyone. It means the judgment can be scrutinised and commented upon by everyone. Also, the greater and more uniform the transparency, the less the potential distortion in the application of any ad hoc criteria about worthiness for publication.

18. To consider the implications of this further, suppose that a member of the press or public or an academic wanted to consider the prevalence of a particular basis for seeking extradition. Suppose they wanted an informed impression as to the incidence rates, and success rates. Take Article 8 as an example. Here is a familiar passage from the judgment of Lord Lloyd-Jones and Lord Stephens in Andrzejewicz v Circuit Court in Lodz, Poland [2025] UKSC 23 [2025] 1 WLR 2733 at §42:

Contrary to Lord Brown JSCs prediction in Norris, the incidence of extradition cases in which article 8 is invoked has shown no sign of declining. On the contrary, it appears that it is continuing unabated. We were told by Mr Louis Mably KC that a random and unscientific sample of contested extradition hearings before the Westminster Magistrates Court between 10 and 21 March 2025 showed that article 8 was invoked in 22 out of 23 cases examined. It seems that an article 8 defence is raised almost as a matter of course in virtually every extradition case.

If Judgments of EDJs were published, two things would follow. One is that there would be something to put alongside “random” and “unscientific” sampling. The other is that there would be an objective measure of how frequently Article 8 arguments succeed, and how often they fail. Not just how often Article 8 is raised or considered. Success rates would, in turn, show something about EDJs’ appreciation and application of the Article 8 “hurdle which must be surpassed” (see Andrzejewicz at §81).

19. Publication of judgments is not a function of the rules of precedent. Even to another court, a judgment can be of interest, or may be helpfully illustrative, without being binding. A parallel court may have considered the same body of evidence. A parallel judge may helpfully have extracted key points from a line of authority. These could be proper reference points. They could be time-saving. There is also the prospect that something which one judge has said, for example, about a named expert, might become of relevance to another judge in another case.
20. Returning to my external viewpoint from the High Court dealing with appeals, here are some other practical virtues which publication could bring. Any appeal judge who is dealing with any application for permission to appeal, or a substantive appeal, would be able to identify the Judgment of the EDJ which is under appeal, especially if it had a neutral citation. This could be done at the hearing. It could be done in an ex tempore judgment. And it could be done in a reserved judgment. Any interested member of the press or public would be able the better to follow the appeal, or understand the High Court’s judgment, the better to see the case in the round. They would be able to examine

the Judgment under appeal, as well as the appeal court's response to it. Appropriate reference could be made. High Court extradition judgments might be shortened. Publication would be achieved independently, and not solely through the decision of the High Court judge as to what chunks of text to "block and paste" from your appealed Judgment into our judgment on the appeal. So, from my external perspective, I would say that publication of Judgments of EDJs is something which – using that Celinski language – could be "of the greatest assistance for an appellate court".

21. Two swallows do not make a spring. But the publication initiative that was seen in February and March 2026, with Daniel Andreas San Diego and Artem Dmytruk, is an initiative which presents an interesting focal point. I limit myself to this modest observation: publication of the Judgment of the EDJ is capable of bringing significant virtues.

Individualisation and consistency

22. In making my six points about the Judgment of the EDJ, I have already digressed several times into the wider world of public law. I am going to do that one more time. In a case in the mid-1990s, Sedley J described what he called "two conflicting imperatives". One imperative was consistency. The other was flexibility. The case was R v Ministry for Agriculture Fisheries & Food, ex p Hamble Fisheries (Offshore) Ltd [1995] 2 All ER 714, 722a-c. The same point was made by Lord Walker in R (Alvi) v SSHD [2012] UKSC 33 [2012] 1 WLR 2208 at §111. He described the "tension" in public law decision-making, between "flexibility" in the decision-making process on the one hand, and "predictability" in its outcome on the other. Both of those cases were about decision-making of public authorities generally, not by courts. They were about the executive; not the judiciary.
23. I have reached for these ideas from a different context and setting, because consistency and predictability are familiar features within the application of extradition law. Governing statutory provisions and applicable legal principles exist to secure appropriate levels of consistency and predictability. All judges are required to get the law right. All EDJs have a legitimate interest in judgments of the High Court and Supreme Court, identifying relevant legal principles and legally correct and incorrect approaches. However, in the application of the rules and principles, the judicial process is necessarily individualised. The context, circumstances and facts of the individual case are likely to be paramount. Whatever the rules and principles are – on fugitivity or oppression or proportionality and so on – each individual requested person and each individual requesting state authority has the right to a case-specific application of the law to the particular facts. In this way, consistency and individualisation are dual "imperatives" to be achieved. I am not sure we would say, in the extradition context of judicial decision-making, that they are "conflicting", or that they are in "tension". My fifth point is about, at the same time, delivering appropriate consistency with appropriate individualisation. Whatever the shape of the statutory or common law safeguard against legally unjustified

extradition, the EDJ will always be locating the justice of the case in the particular facts and features. That is what the frontline EDJ will bring, the conscientiousness of the official product. My **fifth** point is this: the Judgment of the EDJ is a judicial act to achieve appropriate consistency, but always with appropriate individualisation.

24. By way of a footnote to this, I did the following experiment. I put into Westlaw the keyword “extradition”. I then searched for the phrase “intensely fact-specific”. I got 40 judgments, going back to 2017. They were extradition judgments of the High Court about Article 8 proportionality, s.25 oppression, Article 3 and health conditions, suicide risk, prison staff shortages, abuse of process, fitness to fly, and so on. But what they have in common is that in each of these 40 judgments, addressing each of these topics, it was emphasised that judgments in extradition law are “intensely fact-specific”.

Evaluative judgement

25. I have arrived at my sixth and final point. To make it, I will take the Judgment of the EDJ and add a vowel – an “e” – into the middle, to make “judgement” spelt with an “e”. That takes us away from the document which is the product of the EDJ’s industry, whether it is 45 pages 65 pages or something much shorter, and whether it is published or not. My sixth point is about the EDJ making evaluative assessments, in the exercise of “judgement”. Many of these will legitimately attract a frontline primacy, within the justice system. This is linked to the individualisation which I have described. My **sixth** point is this: the Judgment of the EDJ contains matters of evaluative “judgement” where the EDJ is afforded the appropriate degree of latitude as a primary decision.
26. An obvious example is in the finding of primary facts. The EDJ may hear live evidence with cross-examination. There may be issues of credibility, reliability, evasiveness. Where the EDJ makes findings of primary fact, there are likely to be two questions which arise for the appeal Court. One is about whether those findings of fact can properly be impugned. The other is whether the conclusions which are consequential on, or informed by, those findings of primary fact can properly be impugned. These are different questions. They can attract different approaches in the appeal.
27. A less obvious example is the evaluation of whether extradition would be a disproportionate interference with Article 8 rights to respect for private and family life. This is a balancing evaluation. Relevant factors need to be identified, which are capable of weighing in favour of extradition or weighing against extradition. Each of these need to be given an appropriate weight, then the cumulative weight of the factors in favour is balanced against the cumulative weight of the factors against. That provides the evaluative answer. The principles which govern the role of appeal courts in our justice system have been designed to afford a latitude to the proportionality evaluation of a professional judge deciding an immigration case in a tribunal, or a housing case in a county court, or an extradition case in the magistrates court, or a public law claim in the Administrative Court. When those proportionality evaluative decisions are appealed, to

whatever is the appeal court, there is room for “a review approach on appeal”, being applied to a “one-off decision of a judge ... which depends entirely on the application of well-established law and principles to the facts of the individual case” (Shvidler v Secretary of State for Foreign, Commonwealth and Development Affairs [2025] UKSC 30 [2026] AC 607 at §160), where a case “turns essentially on a factual assessment of the circumstances which the lower court was particularly well placed to make” (In re JR 123 [2025] UKSC 8 [2025] AC 1256 at §36). This philosophy is what has led to the idea that there is room between disagreement, and finding the evaluative conclusion to have been “wrong”: see Celinski at §§20-24.

28. But wait. Why is this of any concern to the EDJ? It is not. Evaluations within the Judgment of the EDJ may or may not be evaluations to which an appeal court would choose to afford latitude to the EDJ, as a primary decision-maker. So what? That is the concern of the appeal court, for whom the Judgment of the EDJ is the essential focus. It does not matter to the EDJ. The job of the EDJ is the same. The EDJ works to provide the conscientious official product for the parties in the case. The Judgment of the EDJ is the judicial act achieving appropriate consistency, and always with appropriate individualisation. Whether it has the virtues of publication, or not. That is the job of the EDJ. Delivering it ends the legitimate interest which the EDJ has in the case. It would be the same job, whatever would or may happen with any appeal. It would be the same job, even if there were no right of appeal, or judicial review. The High Court may be looking at past official products. The EDJ will always have moved on, writing the next Judgment of the EDJ.

Fordham J

19.10.26