IN THE WESTMINSTER MAGISTRATES' COURT

BETWEEN :

THE PROSECUTOR-GENERAL`S OFFICE OF LITHUANIA

Requesting Judicial Authority

V

(1) VLADIMIR ANTONOV

(2) RAIMONDAS BARANAUSCAS

Requested Persons

OPEN RULING

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……..

INTRODUCTION

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ii. s.13(a) political opinions
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v. s.21 :

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This is a request by **The Prosecutor General`s Office of Lithuania (**A Lithuanian Judicial Authority**)** for the extradition of **Vladimir Antonov** and **Raimondas Baranauscas (**the Requested Person(s) / **VA / Mr Antonov** and **RB / Mr Baranauscas)** to face criminal prosecution in respect of the allegations set out in the European Arrest Warrants **(`EAWs`)** issued on **1st June 2012**. These EAWs were certified by the Serious Organised Crime Agency on **5th July 2012**.

Mr Antonov was born on **20th June 1975** and **Mr Baranauscas** was born on **19th January 1958**. Neither Requested Person consents to extradition.

I wish to express my thanks to all counsel for their courtesy, not only to the court but also to all witnesses as well as to each other. My gratitude also to the solicitors for VA for the very helpful and comprehensive preparation of the voluminous case papers, which made the analysis of the documents and the necessary cross-referencing a much easier task than otherwise would have been the case.

For the sake of good order, I bear in mind that it is no part of my function to decide, or to knowingly express any opinion as to the guilt or innocence of either of the requested persons. Furthermore, I wish to make clear that I have considered the request for extradition of Mr Antonov and Mr Baranauscas separately from each other.

This case has unusually necessitated the court receiving a limited body of evidence in chambers in respect of certain sensitive issues raised. This was initially at the behest of VA and supported by RB with no objection thereto being raised by those representing the IJA. Having considered the relevant jurisprudence in relation thereto, I remain satisfied that this was appropriate and necessary. Reference to such evidence has necessarily been redacted from this Open Ruling, but appears in the Closed Ruling only to be released to the parties.

FACTUAL BACKGROUND

1. The background to the allegations can be summarised as follows :
VA was, at all material times, Chairman of the Board of Observers at the Lithuanian-based **Snoras Bank** (`Snoras`). He was also a substantial shareholder in that bank. He, along with others, (including RB) is said to have been responsible for the management of Snoras`s assets.

2. It is alleged that from **August 2008** through to **June 2011,** so as to unlawfully dissipate the bank`s assets, VA and RB instructed others involved in the management of Snoras (namely **Naglis Stancikas** and **Remigijus Bartaska**) to transfer substantial cash and securities in order to misappropriate them. The amounts said to have been transferred totalled (approximately) **1,655 million Lithuanian Litas** (over **478 million Euros**) as well as over **10 million US dollars,** out of accounts at Snoras and into accounts under the control of VA and RB.

3. Furthermore it is asserted that, in an attempt to conceal their criminal conduct, the Requested Persons created false accounts as well as other documents including forged SWIFT system messages within the Snoras accounting records.

4. It is also claimed that in **July 2011** VA arranged for false information to be provided to the Credit Institutions Supervision Dept. of the **Bank of Lithuania** so as to also conceal his criminal conduct. This misinformation took the form of submissions emanating from 2 Swiss banks (**Bank SYZ and Co** and **Julius Baer**) which is said to have inaccurately confirmed that securities to the value of **1.3 billion Lithuanian Litas (`LTL`s)** (approx **£ 314 million**) were on deposit with them whereas VA well knew this not to have been the case.

5. **Bank Snoras : Background** :
RB joined the board of Snoras in **1993** when he was installed as its Deputy Chairman. He was elevated to the post of Chief Executive Officer and Chairman of the Board in **1994**. RB remained in that position until the bank was nationalised by the Lithuanian Government on **16th November 2011**.

6. By early **2003** Snoras`s assets were said to have been worth **1.2 million LTLs** (approximately **350 million Euros**). At that time 49.9% of the bank`s shares were then acquired by a Russian commercial bank called Conversbank, then owned by VA. This was at a time when RB held 0.2% of Snoras` shares, which meant that VA and RB then held 50.1% of Snoras` shares between them. During the course of **2006** the Lithuanian Central Bank authorised a further re-structuring which resulted in VA holding 68.1% of the Snoras shares and RB 25.31%.

7. I am told that Snoras expanded consistently throughout its history, opening branches not only within Lithuania but also in the Czech Republic, Latvia, Estonia and Belgium. It also held good ratings with the International ratings agency Standard and Poor. As time went on, so Snoras`s assets grew and by **2006/7** the bank`s expansion continued and offices were opened outside the EU, specifically in Moscow, Kiev and Minsk. Snoras was considered by many to be the leading private bank in Lithuania.

8. Ernst and Young were the auditors of Snoras. On **10th March 2011** they completed their final audit before nationalisation. These accounts revealed assets with a value of **7.6 billion LTL** (approximately **2.2 billion Euros**) and a pre-tax profit of **9.9 million LTL** (approximately **2.8 million Euros**). The 1st quarter accounts for **2011** showed pre-tax profits of **24 million LTL** (approximately **6.9 million Euros**). I am told that the Central Bank of Lithuania also carried out regular inspections and that as a result of one conducted in **2010** Snoras was required to take action in a number of ways so as to satisfy the resolution of the Central Bank passed in **January 2011**.

9. On **16th November 2011** the Central Bank considered it necessary to severely restrict Snoras`s operations and to appoint Simon Freakley as its Temporary Administrator. There is considerable criticism from VA and RB of the conduct of the Central Bank and others during the days and hours preceding the appointment of Mr Freakley. His actions are also the subject of their scorn. VA and RB are highly critical of the decision to switch off the bank`s SWIFT payment system which they maintain, in effect, resulted in the bank no longer being able to operate. VA and RB assert that the unnecessary and inappropriate actions of the Central Bank and Mr Freakley caused considerable financial losses

to the bank shareholders and customers as well as to VA and RB as individuals.

10. The Central Bank had prepared a report for the Lithuanian Prosecutor`s Office wherein certain concerns were expressed. Apparently, according to a number of Snoras employees, orders relating to the purchase and sale of securities were given to the SYZ Co AG Swiss Bank by telephone which were not recorded…..…. " *decisions formulated by the Bank (**Snoras)** are not submitted to the bank SYZ Co AG either by fax or email, the Bank has not submitted extracts from/ copies of SWIFT system or another system used by the Bank in proof of the execution of transactions with securities.…… Since the relationship between the Bank and Swiss Banks (SYZ, Julius Bar and HSBC had been named) are not recorded in documents , the inspection commission has no grounds to consider that the securities kept in the aforementioned Swiss banks are owned by the Bank*."

11. The said report went on to consider the implications of what they believe they had uncovered … *"Although on **1 September 2011** the Bank`s assets amounted to **LTL 8.2 billion** and the Bank`s liabilities totalled **LTL 7.4 billion**, if the doubts as to the absence of the aforementioned assets of **LTL 1.3 billion** (those referred to in the Swiss accounts) proved to be true, the Bank`s liabilities would by **LTL 0.5 billion** exceed the Bank`s assets…"*. The report referred to the possibility that serious criminal offences had been committed and that, as a result … " **thus possibly causing serious consequences of the financial system of the Republic of Lithuania".**

12. DOMESTIC LITHUANIAN CRIMINAL OFFENCES :

Extradition is sought in respect of both Requested Persons in relation to the following alleged offences, contrary to Lithuanian Criminal Law :

(i) "**Misappropriation of Property**" pursuant to Article **183(2)** of the Lithuanian Penal Code (`the Code`) :
maximum punishment : **10 years** imprisonment.

(ii) "**Forgery of a Document or Disposal of a Document**" pursuant to Article **300** of the Code :
maximum punishment : **6 years** imprisonment

(iii) "**Fraudulent Accounting**" pursuant to **Article 222(1**) of the Code :
maximum punishment : **4 years** imprisonment.

(iv) " **Abuse of Office**" pursuant to **Article 228(2)** of the Code :
maximum punishment : **6 years** imprisonment.

13. EUROPEAN ARREST WARRANTS ISSUED

Both VA and RB deny **all** allegations of criminal conduct levelled against them. For reasons which form part of their challenges to extradition, they maintain that the allegations are wholly without merit and are politically motivated such that they amount to an abuse of process.

14. It is necessary for me to give some brief further detail relating to the history of proceedings before this court as this may have some relevance to one or more of the submissions made by the requested persons in these proceedings.

15. An EAW relating to each of the Requested Persons had originally been issued on **22nd November 2011** and certified by the Serious Organised Crime Agency (**SOCA)** on **25th November 2011**. Both requested persons were arrested in relation to those warrants and then appeared in this court. The **s.4** (preliminary issues relating to the warrant) and **s.7 (identity)** of the **Extradition Act 2003** (the 2003 Act**)** requirements were dealt with satisfactorily, the proceedings were then opened, the hearing was then adjourned and directions were given. Both Requested Persons were released on conditional bail. Those EAWs were subsequently withdrawn and replaced by a 2nd set of EAWs (one in respect of each of the requested persons).

16. That 2nd set of EAWs were issued on **4th May 2012** and certified by **SOCA** on **9th May 2012**. Both Requested Persons were arrested and appeared in this court on **11th May 2012** in relation thereto when the initial decisions relating to **s.4** and **s.7** were again dealt with satisfactorily. Those proceedings were formally opened and adjourned with directions given. Once again both Requested Persons were released on conditional bail.

17. The 3rd set of EAWs, being those in respect of which extradition is now sought for each of the Requested Persons, were issued on **1st June 2012** and certified by **SOCA** on **5th July 2012**. With reference to these current EAWs, (again one for each of Mr Antonov and Mr Baranauskas). This resulted in both men being arrested on **6th July 2012.** They appeared before this court that same day.

18. At that first hearing of these current EAWs, matters relating to **s. 4** and **s. 7** of the **Extradition Act 2003** were dealt with

satisfactorily and the proceedings were formally opened. Both Requested Persons were again released on conditional bail and have remained on bail throughout. The full hearing had been due to commence on **21st January 2013** with an estimated time estimate of **10** days but there were valid reasons as to why that hearing date had to be vacated. The full hearing finally commenced on **26th September 2013**.

19. Mr Baranauscas has been assisted by an interpreter during the course of the proceedings. Mr Antonov`s command of English was such that he did not require the services of an interpreter. Both of the requested persons have been legally represented throughout and I am satisfied that both have had sufficient opportunity to prepare for and deal with all issues relevant to these proceedings.

20. All parties have been very capably represented. **John Hardy QC**, leading **Ben Watson** of counsel acted for the Requesting Judicial Authority.
James Lewis QC leading **Rachel Scott** appeared for **Mr Antonov** while **John Jones QC** leading **Aaron Watkins** were instructed by **Mr Baranauscas.**

21. At intervals this court gave various directions for service of Skeleton Arguments, signed proofs of evidence and experts reports/ other evidence relied upon by both parties. These Directions were not always fully complied with but I am most grateful to all counsel for the admirable Skeleton Arguments and like documents provided to the court.

22. During the course of the full hearing, neither Requested Person gave evidence but a considerable amount of evidence (oral and written) was called on their behalf. Live testimony was also called by the Judicial Authority.

23. CHALLENGES TO EXTRADITION : THE LAW

The Requested Persons have raised the following challenges to extradition :

i. **s.2(2) Issuing Judicial Authority :**
ii. **s.2(4)(b) particulars of warrant :**
iii. **s.13 (a) political opinions : (VA`s nationality) :**
iv. **s.13 (b) prejudice : (VA`s nationality)**
v. **Abuse of Process :**
vi. **s.21:**

Article 2. (right to life) (VA only).
Article 3 : (risk of serious injury from non-state agents). .
Article 6 (right to a fair trial).

24. s.2(2) Issuing Judicial Authority :

The 2003 Act does not provide a definition of the expression "**Judicial Authority**" and in **Enander v Governor of HMP Brixton v The Swedish National Police Board (2005) EWHC (Admin)** the Divisional Court expressed the view that it was a matter to be left to the member states to use their own discretion as to what will or will not be designated the appropriate judicial authority. Lord Justice Gage added …… " *any other interpretation of the term judicial authority would, as is submitted on behalf of the respondent, undermine the whole purpose of mutual trust and co-operation between member states, which is expressed in the Framework Decision"*.

25. This issue was further analysed in the Divisional Court decision of **Assange v Swedish Prosecution Authority (2011) EWHC (Admin).** That case proceeded by way of further appeal to the Supreme Court whose decision (**Assange v Swedish Public Prosecution Authority 2012) UKSC 22** in short, was that an EAW issued by a Public Prosecutor (in that case Swedish) is a valid Part 1 warrant issued by a judicial authority within the meaning of **s.2(2)** and **s.66** of the **2003 Act**.

26. The issue raised for consideration by this court in relation to s.2 of the 2003 Act is whether the authority which chose to issue the EAW is competent to do so. This issue was further debated at length in **Bucnys v Lithuania (2012) EWHC 2771(Admin)** where, put shortly, the court was asked to decide whether the words `***arrest warrant*** ` referred to a `***domestic warrant***` in the relevant Category 1 territory, per the provisions of s.2(7) of the 2003 Act.

27. Their Lordships in **Bucnys** stated (paragraphs 72 and 73)…
" There are 2 sub-issues to consider about the construction of s2(7) and (i). The 1st question is whether `arrest warrants` in both these sub-sections means domestic arrests only, or EAWs or both. The 2nd question concerns the scope of the words ` has the function of issuing…` in both sub-sections".

28. On the 1st issue, the Supreme Court in **Louca v Germany (2009) 1 WLR 2550** held that *`any other warrant` in s.2(4)(b) and s.2(6)(c) means any other domestic warrant. We are satisfied that Mr Lewis` submission that `arrest warrants` means only a domestic warrant in s.2(7) and (8) is not correct."*
See also **Artola v Spain (2013) EWHC (Admin).**

29. I was helpfully informed by counsel for the Requested Persons that neither required a ruling from this court on this challenge in view of what had been the eagerly-awaited Supreme Court decision in **Bucnys v Lithuania** (aforesaid) directly on point. Coincidentally, the Judgment of the Supreme Court in **Bucnys** was released on the very morning of the final oral submissions before this court (**20th November 2013**). The petition launched by Mr **Bucnys** was dismissed by the Supreme Court and in view of that decision, the parties before me agreed that ruling on the issue was no longer required from this court.

30. **s.13 (a) political opinions (re Mr Antonov : nationality)**
A person`s extradition to a category 1 territory is barred by reason of extraneous considerations if (and only if) it appears that – (a) the Part 1 warrant issued in respect of him (though purporting to be issued on account of the extradition offence) is, in fact, issued for the purpose of prosecuting or punishing him on account of his race, religion, nationality, gender, sexual orientation or political opinions,

31. The test to be applied was succinctly set out by Scott-Baker LJ in **Hilali v Spain (2006) EWHC 1239 (Admin)** …" *The burden is on the Appellant to show a causal link between the issue of the warrant, his detention, prosecution, punishment or the prejudice which he asserts he will suffer and the fact of his race or religion. He does not have to prove on the balance of probabilities that the events (in s.13(b) will take place, but he must show that there is a*

`reasonable chance` *or* ***`reasonable grounds for thinking`*** *or a serious possibility that such events will occur".*

32. This court has to consider the state of mind of the Lithuanian Judicial Authority, as at the time it issued the EAW so as to be able to make a determination as to whether there were reasonable grounds for thinking that, for example, the purpose was to punish one or other (or both) of the requested persons for one or more of the identified discriminatory reasons.

33. **s.13(b) prejudice :**

A person`s extradition to a Category 1 territory is barred by reason of extraneous considerations if (and only if) it appears that -
(b) if extradited he might be prejudice at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality, gender, sexual orientation or political opinions.

34. A challenge under this limb requires this court to try to predict the potential prejudice that either or both of the requested persons in this request might suffer by reason of one or more of the identified discriminatory reasons provided for.

35. **Abuse of Process :**

The starting point in domestic Abuse of Process challenges would be **Connelly v DPP (1964) (AC)1254** where one of the issues considered on appeal was whether the trial judge was wrong to hold that he had no discretion to stay proceedings even if he thought that they were unfair.

36. One of the first post-Connolly decisions was re **Riebold (1965) 1 All ER 653** where the House of Lords showed their concern that there was a real danger that Connolly would be interpreted as tantamount to a near unbridled discretion by the lower courts to halt prosecutions that were perceived to be unfair or oppressive. Their Lordships sought to rein in the interpretation of Connolly by stating that the court should only intervene to stay proceedings where there was **clearly** an abuse.

37. Lord Salmon stated in **Riebold** that …`*.a judge has no power to refuse to allow a prosecution to proceed merely because he considers that, as a matter of policy , it ought not have been brought. It is only if a prosecution amounts to an abuse of process*

of the Court and is oppressive and vexatious that the judge should hves the power to intervene.` In the same case, Viscount Dilhorne echoed similar sentiments in a concurring judgment when he said that a prosecution should only be halted…. *" in the most exceptional circumstances".`*

38. It is established law that an Appropriate Judge dealing with an extradition request under the provisions of the **2003 Act** retains residual Abuse of Process jurisdiction.
In **R (Government of United states of America) v Bow Street Magistrates Court and Tollman (2006) EWHC (Admin)** Lord Phillips CJ identified the steps that are to followed in an Abuse of Process challenge :
(i) The Judge should initially insist that the conduct alleged to constitute the abuse is identified with particularity.
(ii) The Judge must then consider whether the conduct, if established, is capable of amounting to an abuse of process.
(iii) If it is, then the Judge must next consider whether there are reasonable grounds for believing that such conduct may have occurred.
(iv) If there are, then the Judge should not accede to the request for extradition unless he has satisfied himself that such abuse has not occurred.

39. This issue was further visited in **Symeou v Greece (2009)EWHC (para 33).**
"*….. The focus of this implied jurisdiction is the abuse of the requested state`s duty to extradite those who are properly requested, and who are unable to raise any of the statutory bars to extradition. The residual abuse jurisdiction identified in* ***Bermingham*** *and* ***Tollman*** *concerns abuse of the extradition process by the* ***prosecuting authority****. We emphasise those latter two words. That is the language of those two cases. It is the good faith of the requesting authorities which is at issue because it is their request coupled with their perverted intent and purpose which constitutes the abuse. If the authorities of the requesting state seek the extradition of someone for a collateral purpose, or when they know that the trial cannot succeed, they abuse the extradition processes of the requested state."*

40. Article 2 : right to life
The relevant part of **Article 2** states :
" Everyone`s right to life shall be protected by law. No one shall

be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law".

41. The approach of the UK courts has been to exercise great care once an allegation under this provision is raised : (see **R (On the Application of Al Sweady) v Secretary of State for Defence (2010) H.R.L.R. 2 para 26)**. This is because the right to life `*must rank among the highest priorities of modern democratic state governed by the rule of law*`. see **(R (On the Applcation of Middleton v HM Coroner for Western Somerset (2004) A.C. 182).**
The test for successfully establishing a violation of Article 2 is necessarily a very high one.

42. With regard to the court`s approach in applying a State`s positive obligation to take preventative operational measures to protect an individual whose life is at risk from the criminal acts of others, in **McLean v Ireland (2008) EWHC (Admin),** the Divisional Court moved somewhat away from the "***near certainty***" test previously espoused in **Miklis v Lithuania (2006) EWHC (Admin)** preferring instead the "***real risk***" test commonly recognised under Article 3 challenges.

43. This issue was also further considered in **Georgiev v Bulgaria (2012) EWHC 3979 (Admin)** where Mr Justice Wilkie stated at paragraph 18 *" The question whether Article 2 requires a higher level of test to be satisfied than Article 3, remains undecided as a matter of binding authority on this court, although in **McLean v Ireland (2008)** this court indicated that on the facts of that case, the same test of **real risk** should be applied in relation to Article 2 as in relation to Article 3."*

44. In **Osman v UK Reports 1998-VIII, p 3159**, the European Court of Human Rights acknowledged the positive obligations under the Convention (see also paragraph 85 of the judgment in **Mahmut Kaya v Turkey) 28th March 2000**, where the court held that the the State is not only obligated to `refrain` from the intentional and unlawful taking of life, but that it is also required to take appropriate steps to ensure the safeguarding of the lives of those within its jurisdiction.

45. Indeed in **Mahmut Kaya**, the court stated that in some circumstances the obligation extends to taking preventative measures that will be considered necessary to protect an individual. The duty to secure the rights and freedoms in the Convention, in particular the Right to Life, also imposes a legal obligation on the State to take preventative action between private individuals i.e. non-State actors.

46. In making out a successful Article 2 argument the defence are required to establish, **to a high degree**, not only that there is a ***`real and imminent risk`*** to the defendant`s life if extradited but of equal or greater importance is that the authorities are ***unable or unwilling*** to take preventative measures to adequately reduce such risk. It is also to be noted that the Strasbourg Court has adopted the **`real risk`** test in a number of cases post **McLean v Ireland** aforesaid**.**

47. Article 3 Challenge

Article 3 states ***:***

"No one shall be subjected to torture or to inhuman or degrading treatment or punishment".

It is necessary for the requested person to demonstrate that there are strong grounds for believing that, if returned, he will face a **real risk** of being subjected to torture or to inhuman or degrading treatment or punishment. (see **R v Special Adjudicator ex parte Ullah (2004) AC** : Albeit that decision related to an Immigration Appeal, it is acknowledged that it has equal relevance to extradition cases. This does not mean proof `on the balance of probabilities` but there needs to be a risk that is substantial and not merely fanciful.

48. In **Saadi v Italy (Application 37201/06**) the European Court of Human Rights in its judgment dated **28th February 2008** (paragraph 124) stated that in order to determine whether there is a real risk of ill-treatment, it is necessary to examine the foreseeable consequences of sending the person to the receiving country, bearing in mind the general situation and his personal circumstances.

49. In **Miklis v Lithuania (2006) EWHC (Admin)** Lord Justice Latham stated, in dismissing Mr Miklis` appeal,

" The fact that human rights violations take place is not of itself evidence that a particular individual would be at risk of being

subjected to those human rights violations in the country in question. That depends upon the extent to which the particular individual could be said to be specifically vulnerable by reason of a characteristic which would expose him to human rights abuse".

50. The core of this challenge comes down to whether the prison conditions that await the requested persons in Lithuania are such that an Article 3 challenge can succeed.
In **Richards v Ghana (2013) All ER (D) 254 (May),** in dismissing Mr Richards` appeal against the decision to send the case to the Secretary of State, the Divisional Court stated that albeit the requirements of Article 3 were absolute, in the sense that they were not to be weighed against other interests such as public interest in facilitating extradition, there was nevertheless an element of relativity involved in the application of those requirements. In deciding whether treatment or punishment was inhuman or degrading, it was appropriate to take account of local circumstances and conditions, such as climate and living conditions.

51. Whilst I bear in mind that **Richards** was a Part 2 case, it is to be noted that the Divisional Court stated that although there were aspects of the conditions in the anticipated prison that would have been considered unacceptable in a prison in the UK, those conditions did not attain, or come close to attaining, the level of severity which would have been necessary to constitute a violation of Article 3.

52. **Article 6 (Right to a Fair Trial)** .
1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
2. Everyone charged with a criminal offence shall be presumed innocent until proven guilty according to law.
3. Everyone charged with a criminal offence has the following minimum rights : …..
(c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require.

53. A requested person would need to demonstrate that he risks suffering a `**flagrant denial**` of a fair trial in the event of his extradition being ordered.
In the case of the **Government of USA v Montgomery (No 2) (2004) 1 WLR 2241** the House of Lords emphasized the `**exceptional** ` nature of this jurisdiction.
In order to satisfy the court of this, **Lord Carswell** at paragraph **26** of his judgment in **Montgomery** said that the requested person would need to show `***an extreme degree of unfairness`,*** amounting to a ***`virtually complete denial or nullification of his Article 6 rights, which might be expressed in terms familiar to lawyers in this jurisdiction as a fundamental breach of the obligations contained in the article`.***

54. This issue was also considered during the course of the more recent unsuccessful appeals in **Rexha v Italy (2012) EWHC 1274 (Admin)** and **Drew v Poland (2012) EWHC 3073 (Admin**) when the Divisional Court considered whether the systems separately operating in Italy and Poland represented a **`flagrant denial of justice`** in either a general or systemic sense, that were capable of having an adverse effect on the ability of the respective appellants to have a fair trial.
In both of those cases the appellants submissions were rejected and extradition was confirmed.

55. In **Othman v U. K. (2012) ECHR 56**, the Strasbourg Court stated that a flagrant denial of justice challenge goes beyond mere irregularities or lack of safeguards in the trial process. Such a denial only exists where the breach of the principles of a fair trial guaranteed by Article 6 is so fundamental as to amount to a nullification of the very essence of that right.
see also **RB (Algeria v) v Secretary of State (2010) 2 AC 110.**

56. LIVE EVIDENCE CALLED

57. **AUSRA IZICKIENE (`A I`) (s.13)** was the first of **19** witnesses called to give live evidence before this court. She adopted her 3 witness statements (one dated **1st March 2012** and two dated **26th September 2013).** Albeit she was called by RB, I was informed that, in respect of all of the witnesses called by one or other of the Requested Persons, each witness was relied upon by both of them, unless the court was told to the contrary.

58. AI is a Lithuanian-qualified and had been Head of Snoras` Legal Department from **1999** until the bank was placed into administration in **November 2011**. She was made redundant in **January 2012** and after a period of unemployment, she joined Baltic Legal Services, the firm of lawyers acting for RB and VA in collateral proceedings currently ongoing in Lithuania relating to Snoras.

59. AI expressed the firm view that Snoras was, at all times, a solvent and liquid bank that was also successful and profitable. She remained resolute in her belief that the bank was unnecessarily nationalised for what she states were purely political rather than economic reasons which she described as being :

i. The desire to prevent or curtail Russian influence in the operation of the bank;

ii. The fact that the other major banks in Lithuania are all owned by Scandinavians who viewed Snoras as presenting an increasing threat and thus they applied inappropriate pressure to the Government to intervene ;

iii. The desire to prevent criticism of the Government by the Lietuvos Rytas (Lithuanian Morning daily newspaper) owned by Snoras ;

iv. The Government deciding to take over the assets of Snoras without paying for them.

60. AI told me that the **2010** annual accounts of Snoras were signed off by the bank`s auditors, Ernst and Young (who, she added, were also the auditors to the Central Bank of Lithuania : (`the Central Bank`). Those accounts showed that, as of **10th March 2011,** both the Snoras Bank and the Snoras Group were said to have been solvent.

61. On **18th January 2011** the Board of the Central Bank passed a resolution which AI said severely impacted upon Snoras` ability to continue to operate. Notwithstanding these strictures, AI told me that Snoras did its best to comply with these requirements, one of which was to increase its share capital substantially. This it did by offering shares to existing shareholders as well as to members of the public, resulting in 380,000,000 Lithuanian Litas being raised. These funds were held on Snoras` behalf in an account at Bank Finasta.

62. In evidence, AI complained that the Central Bank then proceeded to deliberately frustrate attempts to register the new shareholders thereby preventing the release of the additional capital that Snoras had raised. AI believes that the Central Bank had hoped that Snoras would not have been able to raise the additional capital as their intention was to close Snoras. Had Snoras not raised those funds, the Central Bank could have shut the bank down without difficulty. Upon nationalisation, the said sum of 380,000,000 was said to have been appropriated by the Lithuanian Government without compensation having been paid to the investors.

63. AI told the court that she had met with Simon Freakley, the Temporary Administrator, in the days after his appointment in early **November 2011** and she recalls that he stated that the bank was both liquid and solvent, comments which- according to AI- were also confirmed by members of Mr Freakley`s team. AI maintains that at no time prior to the meeting with the Central Bank on **22nd November 2011** did Mr Freakley ever suggest that Snoras was insolvent.

64. AI`s evidence is that on **22nd November 2011** Mr Freakley and his team met with representatives of the Central Bank with a view to registering a new bank and re-commencing operations. When they returned from that meeting, they stated that the Central Bank officials had told them that they did not want Snoras to continue in operation and that bankruptcy procedures had to be launched. She added that two days after his meeting with the Central bank, Mr Freakley stated that Snoras was insolvent.

65. According to AI, the Scandinavian-owned Lithuanian banks were losing considerable business to Snoras and they took any and every opportunity to complain about Snoras`s operating strategy and performance.

66. AI states (paragraph 41 of her 1st witness statement)…. *" To suggest there are missing assets is extraordinary and not credible, given the high level of monitoring undertaken by the Central Bank throughout 2011."*

67. I note that reference has been made to a number of bank accounts in Switzerland, the focus of much attention in these proceedings. Clearly if, as the Judicial Authority assert, those funds have been unlawfully placed outside the control of Snoras then that is bound to have seriously affected its ability to function and is likely to have adversely impacted upon its solvency.

68. AI stated that her understanding of the situation regarding the Swiss accounts, said to have been placed under the control of RB and VA, is that they were fiduciary accounts and that unless or until the criminal allegations made against RB and VA in relation thereto are proved in the course of Lithuanian court proceedings, those funds remain at the disposal of Snoras. She added that it would be wrong to make the assumption that these funds (approximately 10% of the bank`s total assets) had been stolen by RB and / or VA.

69. Another reason given by AI for the improper nationalisation of Snoras was the desire of the Government to ensure that Snoras divested itself of ownership of the media group incorporating the Lithuanian Morning newspaper, a publication said to have been critical of the then Government. At paragraph 49 of her witness statement of **1st March 2012** AI says that, since nationalisation of Snoras, the Lithuanian Morning newspaper has become much less `political` and is now not as critical of the Government as it had been previously.

70. AI is also critical of the appointment of Mr V Vasilauskas (`**VV**`) to the post of Chairman of the Central Bank. She maintains that this was a purely political decision. She points out that VV had apparently previously been chairman of the successful election campaign team for the President of the Republic when she was elected to office in **2009**. AI believes that VV is poorly qualified for the job of Chairman of the Central Bank. He is said to be a young man who had come from a small town and had very little prior banking experience. According to AI, VV and the current

President of the Republic had previously also worked together in the Finance Ministry.

71. According to AI, the anti-Russian policy adopted by the Central Bank, was demonstrated by its resolution dated **18th January 2011** whereby Snoras was, in effect, precluded from continuing to provide Russian residents with comprehensive banking services. Snoras was obliged to call in loans and other facilities previously made available to a large number of its existing Russian customers, thereby adversely affecting the bank`s profitability and reputation.

72. AI was also very critical of the conduct of Mr Freakley in his position as Temporary Administrator of Snoras. She wished to point out that he had charged excessive fees (a total of **4,834,396 Euros** for what amounted to only a few days work carried out in **November 2011**) and that he was disingenuous to the point of being dishonest in some of his dealings regarding Snoras. According to AI, Mr Freakley was very keen to do the bidding of the Central Bank even though, as an example, she maintains that there was no good reason for Snoras to have been nationalised.

73. AI told me that after she was made redundant, she found it very difficult to find alternative employment by reason of her association with Snoras. She appeared very bitter at the way she says that she had been treated by Mr Freakley. He had chosen to recall her from holiday at very short notice, a decision that she had found upsetting. Furthermore, she added that SF wasted no time in summarily dismissing her in **January 2012**, when it suited him, albeit she maintains that he had no good reason for dispensing with her services.

74. ***MY COMMENT :***

Rightly or wrongly, AI appeared to continue to harbour somewhat antagonistic feelings against SF to date, and I also note that she currently represents both requested persons in respect of the ongoing proceedings in Lithuania.

I therefore have some concern that, in view of all of this, her evidence, taken as a whole, may suffer from a lack of a certain degree of necessary objectivity.

75. **ANDREI DANILOV (`A D`) (s.13)** gave evidence by way of video-link from Russia. He was called by RB.
He adopted his witness statements dated **9th March 2012** and **23rd September 2013**.

76. **AD** had businesses had held accounts with Snoras until nationalisation. The combined credit balances were approximately **$3,000,000** at that point in time. He met with the administrators on **21st November 2011**. He says that he was assured that the bank did not have liquidity difficulties such as would prevent it continuing in business.

77. To date, **AD** states that he has only received **200,000 Euros** of the monies the bank had held in respect of his businesses and that he therefore felt compelled to launch legal proceedings to seek to recover the balance outstanding. He added that he has subsequently assigned these claims against Snoras to an undisclosed third party.

78. ***## Detective Chief Inspector RUSSELL TAYLOR (DCI Taylor) (Article 2 + Article 3)*** *: evidence redacted.*

79. **ROMASIS VAITEKUNAS (`RV`) (s.13)** was the next witness to give evidence. He did so by way of video-link from Lithuania. He was called by RB.
He adopted his statement dated **1st March 2012**.
From **December 1992** to **January 1996** he had worked as a Minister of Internal Affairs in Lithuania and was a member of the Cabinet. He had been appointed by the President of Lithuania.

80. RV joined Snoras in **September 1998** as Director of the Bank`s Security Department, responsible for all of the Bank`s security issues. In **1999** he was elected to the Bank`s Management Board and was in charge of personnel, security, premises management and loss-making assets departments. From **2001** he was a Senior Complaints Officer supervising the Money Laundering Prevention Units. From **2010** he remained responsible for the separate Security and Money Laundering Prevention Units.

81. He stated categorically that at no time prior to nationalisation had any complaint been received regarding the solvency or liquidity of Snoras nor that the bank had engaged in any unlawful conduct. He added that until **2011** Snoras had enjoyed a normal

working relationship with the Central Bank. Supervision and inspections were carried out in the normal way, as directed by the Governors of the Board of Central Bank, and as provided for by Lithuanian law.

82. RV added that the Central Bank was always represented at the Snoras` shareholders meetings where the international audit findings carried out by Ernst and Young were considered. RV said that no concerns had been expressed by the Central Bank at those meetings regarding Snoras` liquidity or solvency.

83. RV added that he had enjoyed a `working relationship` with RB and VA, who were the main shareholders of Snoras. He told the court that RB was the longest serving commercial bank manager in Lithuania. He added that VA`s role involved dealing with the bank`s transparency and introduction of high professional standards.

84. RVs evidence was that on **14th November 2011** Snoras held **44 million LTLs**. On **15th November 2011** the balance had escalated to a sum of over **230 million** Litas. According to RV this type of fluctuation in bank operations are not uncommon and, indeed, the bank`s capital had increased rather than decreased immediately prior to nationalisation. He expressed his surprise at the fact that the head of the Central Bank as well as certain government officials made reference only to the balance of **44,000,000** Litas with no mention being made of the receipt of nearly **200,000,000** Litas on **15th November 2011**, thus giving a completely misleading impression of the bank`s financial position at that time. RV`s view was that this demonstrated that the decision to nationalise Snoras had been purely political.

85. RV recalled that Simon Freakley (`SF`) had called a press conference on **17th November 2011** during the course of which - according to RV - SF had stated that Snoras was not insolvent. RV added that whilst he had not been present at that press conference he has seen a recording of it which confirmed his recollection. I merely place on record that no such recording has been put into evidence.

86. RVs evidence was that Snoras was entirely capable of paying its debts as and when they fell due. Upon the arrival of SF and his team at the bank`s headquarters late on **16th November 2011**, RV

and other Snoras board members were unceremoniously relieved of their duties. RV had just given a television interview, stating that the bank`s position had been misrepresented by SF and his colleagues, but when RV returned to the bank immediately thereafter, he was removed from the bank`s premises. RV found this to have been an `*extraordinary event and a very odd way for an administrator to behave*` (paragraph 19 of RV`s witness statement).

87. RV reiterated the details of the measures imposed on Snoras as a result of the resolution of the board of the Central Bank of **18th January 2011.** His view was that the requirement of the Central Bank for Snoras to raise substantial additional funds had been made in the hope that Snoras would **not** have been able to comply, so as then to enable the Central Bank to intervene and nationalise Snoras.

88. RV was also critical of the way that the Central Bank had carried out its inspection of Snoras in **2011** in that, according to him they had :
(a) chosen not to engage with management or staff members :
(b) needlessly requested copies of documents previously provided to them
(c) caused unnecessary interference with the bank`s day to day operations.

89. RV also pointed out that the Parliamentary Commission did not provide Snoras with a copy of its findings. RV further added that he had presented one of the Central Bank`s auditors, Mrs Jasulaitiene, with a copy of all money-laundering systems and regulations, all of which she found to be in order, but that she had told him that she `*had to find something wrong*`.

90. RV said that at approximately **4.30pm** on **16th November 2011** he had been informed that the electronic bank management system had been disconnected and that all monetary transactions cancelled, the effect of which meant that the bank had effectively ceased trading.

91. RV added that, with regard to the Lithuanian Morning newspaper, a law had been passed in 2006 preventing banks from acquiring means of mass media but this did not affect subsidiary

companies of banking corporations. The Lithuanian Morning had, indeed, been purchased by a subsidiary of Snoras.

92. ***MY COMMENT :***

In my view, RV not unlike Ms Izikiene previously mentioned, appears to harbour certain feelings of animosity at the unfair way that he believes that he was treated by the Temporoary Administrator, and this appears to me to have coloured his interpretation and / or recollection of certain events (particularly those of mid to late November 2011). It would not be appropriate for this court to express a view, one way or the other, in respect of how SF had acted with regard to the termination of RV`s employment at Snoras. However, having had the opportunity to hear SF (see later) I have come to prefer Mr Freakley`s recollection of events to those provided by RV where there is a conflict of evidence between them.

93. **RAIMUNDAS JURKA (s.13)** then gave live evidence by way of video-link from Lithuania. He was called by RB.
He adopted his witness statement dated **20th January 2012**.
He is a professor of Law at the Department of Criminal Procedure within the faculty of law at the Mykolas Romeris University in Vilnius, Lithuania. Much of his evidence related to the question of whether the requested persons are wanted merely as part of an on-going investigation or are to be put on trial in respect of the alleged criminal conduct set out in the current EAWs.
As evidence this relates to a challenge no longer actively pursued before this court by the requested persons I need not dwell further on his evidence. It is to be noted, however, that Professor Jurka does also state that ` *it should be borne in mind that complex pre-trial investigations can last for several years before the trial begins*` (paragraph 20 of his statement).

94. **MALCOLM COHEN** (`**MC**`) and **ANDREW CALDWELL** (`**AC**`) (**s.13**) were then called by VA to give evidence.
They each confirmed the contents of the joint reports that they had prepared for these proceedings dated **19th March 2012** and **7th January 2013** respectively.

95. MC was unable to recollect how he had obtained the copy of the Seimas Commission`s report, a document that this court had previously been told remains restricted. MC believes that it may have been supplied to him by Mishcon de Reya, solicitors acting for VA.

96. The Executive Summary of the Cohen/Caldwell joint report dated **19th March 2012** highlights a number of areas where**,** according to MC and AC, the actions of the Central Bank appear inconsistent with its public pronouncements as follows :

A. The stated reasons for appointing a Temporary Administrator without prior notice are said to be inconsistent with:

i. The statement that the appointment was made in order to have access to information otherwise unavailable;

ii. The prior agreement to a self reporting regime at Snoras regarding compliance with the Central Bank`s instructions

iii. Subsequent allegations of prior suspicion of criminal activity at the bank.

B. Statements which do not acknowledge that SF had conducted work in some capacity for the Central Bank for at least a week, if not considerably longer, before his appointment. The level of his firm`s drawings of 4.8million Euros also suggests prior involvement.

C. The ongoing dialogue between the Central Bank and Snoras.

D. Inconsistent reasons given for the appointment of a Temporary Administrator for Snoras, with alleged solvency and liquidity concerns.

E. The apparent conflict between the Central Bank`s stated intention to stabilise and re-structure Snoras on the one hand, with the attempt to nationalise it on the same day as SF was appointed Temporary Administrator.

F. The refusal by the Central Bank to register the amendment to Snoras` Articles of Association so as to increase its authorised capital by 380 million Litas.

G. The nationalisation of Snoras so soon after the appointment of the Temporary Administrator.

H. The fact that the Lithuanian authorities could have assisted Snoras without nationalisation but did not do so.

I. The nationalisation of Snoras at the same time (in effect) as the appointment of SF as Temporary Administrator implies that the Lithuanian authorities had probably determined that no other

measures were appropriate or that the measures applied were insufficient.

97. **DR PATRICIA STREETER (`Dr PS`)**
(s.13 + Article 6) was then called by VA.
She adopted her Expert Reports dated **5th March 2012** and **7th January 2013.**
Dr PS is a US-qualified Attorney licensed to practice law in the States of Michigan and Illinois. She describes herself as a Lithuanian-American. She has now been in private practice for over 33 years. The focus of her practice is criminal defence and civil rights cases. She has been engaged in detailed academic research on the legal system in Lithuania for some considerable time. The dissertation that she had chosen for her doctorate at Leicester University was the topic of the Right to a Fair Trial as enshrined in Article 6 ECHR. She has also travelled frequently to Lithuania in recent years.

98. She explained the methods adopted for the appointment and disciplining of Judges in Lithuania, including their removal from office. There are no juries involved in the criminal justice system in Lithuania. She stated that there have been certain instances of politicians, often in a subtle way, seeking to put pressure on Judges to reach a decision and / or to impact on the prospects of a fair trial, so as to offend the protection afforded by Article 6 of the European Convention.

99. Dr PS describes Lithuania as an insular society. Her view is that the fact that Lithuania held the Presidency of the European Council of Ministers for 6 months from July 2013 has had little effect in changing long-held attitudes in a country that was under Russian domination until relatively recently. Dr PS`s opinion is that Lithuania`s ability to provide a fair trial in criminal cases, is significantly hampered by the lack of a legal tradition of independent Judges and *`lingering attitudes and behaviour that prevailed under communism`* (see the final main paragraph of page 15 her report dated **5th March 2012**).

100. Dr PS is critical of the power granted to the President of the Lithuanian Republic which she says allows for inappropriate influence being applied to the judicial branch in the selection of Judges. She refers to *`at least one reliable report of direct interference with the judiciary by the executive`* (1st sentence page

16 of her report of **5th March 2012**) wherein Dr PS states that the then President of the Republic, in effect,`**compelled**` the President of the District Court in Vilnius and head of the Supreme Court to alter a judicial decision.

101. In her report of **5th March 2012**, Dr PS concludes with further disparaging remarks that are worthy of note : ` *Other factors contributing to this threat is pervasive social corruption, the ability of authorities to use arrest and detention as an investigative and interrogative technique, poorly conducted criminal investigations, disregard of the presumption of innocence by public figures and the media, corruption in the media, and lack of enforcement of journalistic ethics. Significant to this case is the impact these threats can have on the pre-trial investigation process that could result in the denial of a fair trial , especially in a high visibility cases (sic) such as this*`.

102. Dr PS had the opportunity to consider the report of **December 2012** prepared for the Lithuanian authorities by Professor Nekrosius (and his 2 University colleagues). Her view remains altered, that is to say that although she acknowledges that it is possible to receive a fair trial in Lithuania, that right is in jeopardy in high-profile and politically sensitive cases where, in her opinion, the potential for judicial interference is high. She is of the view that the prosecution of VA and RB falls into that category of cases.

103. ***MY COMMENT :***

In my opinion, Dr PS has given insufficient credit to the Lithuanian authorities for the changes that they have brought about since independence was pronounced nearly 24 years ago. I have in mind particularly the independence of the judiciary and the right to a fair trial. As I later explain, I found Professor Nekrosius (who was called by the Judicial Authority) to have been a very compelling witness) and whose evidence I preferred on these topics.

ALEXANDER ANTONOV ***(`AA`)(Article 2 + Article 3)*** *evidence redacted.*

104. ***## KAZRA NOUROOZI*** ***(`KN`)***

(s.13 + Article 2 + Article 3) *evidence redacted.*

105. ***## M K (full name provided) (`MK`)***
(Article 2 + Article 3) *evidence redacted.*

106. **RIMVYDAS VALATKA (`R Val`)**
(s.13) was then called by RB to give evidence.
He adopted his statements dated **3rd March 2012** and **7th October 2013**. He had been employed initially as Deputy Editor, and later Editor in Chief, of the Lithuanian Morning (`the LM`) newspaper. In total he had worked there for just under 20 years. He had also been a Member of Parliament for an unspecified period of time. He is now the Editor in Chief of an online newspaper in Lithuania which boasts over 1 million readers.

107. RVal says that, when necessary, the LM had been critical of successive Lithuanian governments. He became aware of (unsuccessful) attempts by the government that had been in power in the mid 2000`s to amend the law so as to prevent Snoras from owning shares in the newspaper. He says that the fact that investment from Snoras in 2009 enabled the LM to stave off bankruptcy may have influenced the decision by the then government to nationalise Snoras.

108. RVal acknowledged that there had been a substantial change (he describes this as`**100% change**`) in the political scene as a result of the **2012** Lithuanian parliamentary elections. He confirmed that the nationalisation of Snoras had taken place under the previous Government administration albeit the President of the Republic remains in post.

109. **ROLANDAS TILINDIS (`RT`)**
(s.13 + Article 6) was then called by VA.
He adopted his 3 statements dated **20th January 2012, 7th January 2013** and **7th June 2013**.
He is a partner in the law firm Baltic Legal Solutions who represent both RB and VA in Lithuania in relation to these criminal as well as other linked civil proceedings. Prior to working for Baltic Legal Solutions, RT had extensive experience working for the Prosecutor General`s Department in Lithuania.

110. While having been employed as a prosecutor, RT had gathered considerable experience in dealing with pre-trial investigations. He said that such investigations can be carried out

by either the prosecutor or by the police, or both. During such pre-trial investigations `*no decision to put someone on trial is taken until sufficient evidence is found.*`

111. RT gave evidence about a number of constitutional issues, including the powers available to remove a judge from office and the powers in force to dismiss prosecutors. He confirmed that prosecutors in Lithuania do not form part of the judiciary. He told the court that albeit they do not have the power to issue a warrant for detention, prosecutors can issue an order for temporary arrest (for up to 48 hours) but an order for detention, as has been made against RB and VA in this case, would have to have been made by a Judge.

112. RT refuted the assertions made by Mr Stankevicius,the chief prosecutor in this case, that in November 2011 RB and VA were `*in hiding*` from the authorities, or that ``*all possible measures*` had been employed to locate either or both of them. At that particular time VA was in the UK. RT said that it was a well known fact in Lithuania - and presumably therefore also known to the prosecuting authorities - that VA spent a great deal of his time here.

113. RT stated that for the Lithuanian prosecuting authorities to seek to formally interview a suspect, the correct procedure is for them to either to send a summons to the residential address or addresses of the person in question, or to arrange personal service of same by a police officer. RT said that he had not seen any evidence of attempts to arrange such service upon either RB or VA by the prosecutor. The suggestion was made to RT, in cross-examination, that VA must have been aware that he was being sought by the Lithuanian authorities as the Snoras situation was such a hot topic in the media at that time and that he could, perhaps have voluntarily returned to the country. RT said that he was in the process of trying to make the necessary arrangements for any such interview in relation to both VA and RB but he reiterated that the criminal procedure requires service of any summons as mentioned heretofore, and not via press or other media reports.

114. RT also explained that, at an early stage, freezing orders had been obtained against RB in relation not only to his assets but also to those of his wife, as a result of which - save for a very

limited sum (20,000 litas released to his wife) - RB had been left without access to funds.

115. RT was critical of the decision of the Lithuanian prosecutor in these proceedings to proceed with, and to then obtain, an order from the Judge in the Vilnius District Court for the detention of RB and VA on **22nd November 2011**. RT explained that he had been in telephone communication with the prosecutor (Mr Stankevicius) on the morning of that same day informing the latter that RTs firm had been consulted by both RB and VA and that his firm was in the process of obtaining the necessary documentation confirming the appointment of his firm so as to then place this formally on the record. He added that he anticipated that the necessary documentation would have been lodged at some point during the course of the following day. RT said that he was trying to make arrangements for a suitable venue, date and time for RB and VA to be interviewed by the prosecuting authorities. It appears, however, that RTs requests were merely ignored by Mr Stankevicius.

116. RT went on to explain that, in Lithuania, in the event that a criminal case is considered by the prosecutor to be serious enough to warrant legal representation, but the person involved does not have the means to instruct a lawyer privately, the prosecutor will contact the co-ordinator of the Lithuanian Legal Aid Services Authority for a lawyer to be nominated to represent the person concerned.

117. RT was not best pleased when he came to learn that the prosecutor had apparently chosen to make arrangements via the Lithuanian Legal Aid Authority for both RB and VA to be represented by another solicitor at the hearing on **22nd November 2011** rather than deciding to notify RT`s firm of the hearing. The result was that it appears that RB and VA were represented by a lawyer not of their choosing and it is not clear what instructions (if any) that lawyer had received from them prior to the court appearance. It is right to add, however, that the said detention order in respect of both RB and VA was subsequently appealed unsuccessfully by RTs firm, at a time that Baltic Legal Services were on record as acting for both men.

118. RT then went on to express his opinion on the current limitations to the right to a fair trial in Lithuania, and more specifically in respect of his clients. In his opinion, the

presumption of innocence for VA and RB has been adversely and irreparably affected by some prejudicial, inaccurate and unfair pre-trial comments made by the President of Lithuania, the then Prime Minister as well as by other members of the Lithuanian Parliament.

119. RT did, however, acknowledge that there had been some improvements to the system of appointing judges : (for example, since 2003 a Judge has to have been in practice for at least 5 years prior to appointment, as either a prosecutor, lawyer or Judge`s legal assistant.)

120. RT was also very critical of the decision of the Central Bank to nationalise Snoras. He says that, so far as he had been made aware, as of **22nd November 2011,** there was no expert report available that evidenced any particular concerns regarding the solvency of Snoras. He also believes that the coercive measures that had been made to order the arrest and detention for VA and RB were excessive, unnecessary and hasty.

121. **Dr GINTAUTAS SULIJA** (**`Dr GS`)** :
s.13 + Article 2, Article 3 + Article 6) was then called by VA to give evidence.
He adopted his 3 reports dated **5th March 2012**, **1st November 2012** and **7th January 2013.**
Dr GS is currently the head of Sulija and Partners, a law firm based in Vilnius, Lithuania. He had been awarded an MA from Vilnius University, an LL.M from the JW Goethe University in Frankfurt, Germany, a Ph.D in Social Sciences from the University of Vilnius and an LL.M from Corpus Christi College, Cambridge. He has carried out a number of important research studies and he is the author of a series of publications on a variety of wide-ranging legal topics.

122. Dr GS stated that the *`Lithuanian executive is under pressure to justify nationalisation of Snoras `* (folder B page 125 (paragraph 5). In his opinion the outcome of this case is of critical importance not only to members of the Board of the Central Bank but also to the current President of Lithuania as well as the current Prime Minister and his Government, the last of these notwithstanding the fact that the nationalisation took place under the previous Government which was of a quite different political complexion.

123. I have some difficulty in seeing how the outcome of this case and or investigation into the affairs of Snoras could adversely impact on the current Government as they were not the party in Government in **November 2011** and were not involved in the decision to nationalise Snoras.
Dr GS stated that the current the President of the Republic may well decide to stand again for a second term (in **2014**) and, according to several sources, she is may well be successful.

124. Dr GS is critical of certain public statements made by members of the executive in respect of the nationalisation of Snoras as he asserts that they were made with a view to improperly influence the prosecutor`s investigation into the Snoras case.

125. Dr GS added that he has reservations as to whether the way the bank was nationalised complied with certain aspects of Lithuanian law. He makes the point that other measures were available, short of nationalisation, which could have been implemented so as to keep Snoras afloat and safeguard the stability of the Lithuanian banking system.

126. Dr GS also criticises the retroactive legislation, passed by the Lithuanian Parliament on **17th November 2011**, which was directed exclusively to Snoras and was not a law designed for general application. These reservations and criticisms lend support to the assertions made that the prosecution of AV and RB is politically motivated and an Abuse of Process.

127. ***MY COMMENT :***
I have had the opportunity to reflect upon the evidence of Dr GS, particularly in the light of the later evidence of Professor Nekrosius, and I am able to state that I have preferred that given by Professor Nekrosius, where there is a difference of opinion between these highly-qualified academics.

128. **Dr SILVIA CASALE (Dr Casale**)
(**Article 2** + **Article 3**) was next called by VA to give evidence. She adopted her report dated **2nd November 2012**.
Dr Casale is an eminent specialist in European Criminal Justice matters and Human Rights. She has specialised in criminal justice matters for over 20 years. Until **July 2012** she was a Sentence Review Commissioner for Northern Ireland, having held that post for 14 years. She graduated from Oxford University with a First

Class honours Degree in **1968**, was awarded a Masters degree in International law and Organisations from the University of Pennsylvania in **1970**, has an MPhil in Political Science from Yale University in **1973** and a PhD in Criminology from Yale University in **1978**.

129. In **1997** Dr Casale was elected as the UK member of the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment ("the CPT"). From **2000** through to **2007** she was elected that Committee`s President. In **2007** she was elected the first President of the United Nations Sub-Committee on the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, serving as its President from February **2007** to February **2009**.

130. Dr Casale expressed her serious concerns regarding the prospects of the requested persons being held in police custody after their return. The current legislation in Lithuania allows for such detention for the purposes of pre-trial investigation for periods of up to 15 days at a time. She said that some cases have revealed such pre-trial detention periods to have lasted for *`up to several months`* (paragraph 45 of her report). During such detention, there are also problems with the detainees having appropriate access to lawyers and doctors. This situation contrasts with most other countries visited by the CPT, almost all of them having a 48 to 72 hour maximum period of such pre-trial detention.

131. At paragraph 56 of her report, Dr Casale highlighted examples of alleged mistreatment meted out by the police during periods of detention. She has seen the letter dated **15th May 2013** provided by the Lithuanian Ministry of Justice to the Prosecutor General`s Office (as forwarded to the Crown Prosecution Service) wherein the Lithuanian Vice-Minister of Justice, Saulius Stripeika, set out details of the conditions that would apply in the event that return of RB and VA resulted in them being held in custody.

132. The assurances given by the Lithuanian Ministry of Justice confirm the name of the establishment where RB and VA will be held as well as details of the conditions of their detention, down to the smallest minutia (such as a hanger for `outerwear`). Whilst Dr Casale has no particular difficulty in respect of the contents of these assurances, she raises the following concerns:
(i) She queries the value that can be attached to the assurances

given in this document, that is to say whether the person giving them has the necessary authority so to do.
(**ii**) The document makes no reference to the possibility of RB and VA being taken into police custody for periods of pre-trial investigation detention.

133. Dr Casale also expressed concerns that if high profile and / or vulnerable inmates (such as she considers RB and VA to be) are to be kept in solitary confinement for their own protection, lengthy periods of isolation could adversely affect their mental health.

134. **PROFESSOR VYTAUTAS NEKROSIUS (`Prof VN`) (s.13 + Article 6)** was called by the issuing Judicial Authority. He adopted the **63** page joint report prepared with 2 other experienced academic colleagues : **Dr Haroldas Sinkunas** and **Dr Tomas Davilus.** All 3 work at Vilnius University. Their respective backgrounds and qualifications are as follows :

135. **i**. **Prof VN** is now the Professor of the Faculty of Law at Vilnius University having previously been Dean at that establishment. In 1992 he attained a Masters degree in law at Vilnius University. In 1993-1994 he was awarded a Masters degree (LL.M) at the JW Goethe University in Germany. He was awarded a PhD by Vilnius University in 1996. In 1995 he was appointed to work as an advisor to the Legal Affairs Committee of the Lithuanian Parliament and between 1996 and 1998 he was employed at the Lithuanian Ministry of Justice. He has remained at Vilnius University since 1993.

136. **ii. Dr Sincunas** is employed as a Vice-Dean at Vilnius University. He had also studied at the JW Goethe University and received an LL.M degree. He later prepared a dissertation on the independence of the Judiciary in the Lithuanian legal system. He has worked at Vilnius University since 1995. He had previously been employed as a consultant to the Lithuanian Government , as assistant to a Judge of the Supreme Court, as a Chief lawyer of Credit Institutions Supervision Dept. of the Central Bank and as adviser (as Chief of the Legal Affairs Dept.) to the President of the Republic.

137. **iii**. **Dr Davilus** is employed as a lecturer at the Dept. of Labour law at Vilnius University. He graduated in 1998 whereafter he studied at the University of Freiburg, Germany where he was

awarded his LL.M. He is currently President of the Lithuanian Society of Jurists and a Member of the European Commission`s Network of independent experts in the field of Employment, Social Affairs and Equality.

138. Prof VN was unwavering in his firm view that Judges in Lithuania act independently and that they do not allow themselves to be put under any form of inappropriate political pressure. He acknowledges that there have been occasions where certain politicians have made comments to the media which could be interpreted as endeavouring to put the Judiciary under pressure but those judges have not succumbed.

139. Reference has been made in these proceedings to a well-publicised case in **December 2011** at the District Court of Kedainiai involving a sensitive foster care dispute. There were said to have been attempts by some politicians to try to persuade the President of the Republic to exercise her powers to intervene in that particular case and / or take some action (the President being invested with certain powers to appoint and dismiss judges) but Prof VN underlined (paragraph 119 of his report) that the President did not `*react to such political attempts and declared, after enforcement of the judgement, that she would not make any statements in order not to interfere with the work of law enforcement institutions*`.

140. Indeed with particular reference to the said foster care case, the President of the Republic was quoted as having said :
`*I try to hold back from commenting on the story so that (sic) not to exert influence over the work of law enforcement institutions. I am very happy that Lithuania is following the direction towards impartiality of law enforcement, and we got over the times when the President or any other politician would show a prosecutor or judge what to do. When I filled this post, I told all law enforcement institutions that there will be no directions for them- they have to do their job; corruption fighting institutions should see everyone in the same light without exceptions. I would rather not comment on the situation of judge Venckiene, as the process is in progress at the Seimas and her future is to be determined by the collective wisdom so I don't want to exert any influence over the decision*`.

141. What was also considered to have been an improper attempt to influence the judiciary provoked a reaction from the Lithuanian

Association of Judges, which issued a clear and unequivocal public statement reiterating the importance of judges and courts to remain protected from inappropriate outside influence or pressure. This was further underscored by a statement from the General Meeting of the Association of Judges on **23rd March 2012** which approved a statement whereby representatives of the state authorities were invited ` *not to resort to cheap populism, focus on constructive work in favour of the society and abstain from involving judicial institutions into pre-election fights*` . All of this reinforces the opinion of Prof VN and his report co-authors that the judiciary in Lithuania are robust and show the necessary determination to resist any attempt by politicians to influence their decision-making processes.

142. Prof VN and his co-authors, in their joint report, refute the assertion made by Dr Sulija that lower-ranked prosecutors are not independent and/ or that where attempts are made to influence their superiors such purported influence is transmitted down the line. Prof VN points out that the principle of procedural independence of prosecutors is entrenched both in the Lithuanian Constitution as well as in the separate legislation that governs the Public Prosecutor`s office.

143. So as to lend support to his conclusions Prof VN prays in aid a recent paedophilia case which, according to him and his colleagues, demonstrates that political utterances have no adverse effect upon workings of the judiciary and that inappropriate comments by politicians are regarded by the public as nothing more than `*cheap popularism*`. Prof VN is adamant that the fact that the court system and structure in Lithuania is independent of outside influences, was an important factor that was taken into account when Lithuania was granted admission to the European Union on **1st May 2004**.

144. Prof VN further points out that during the years that Lithuania was part of the Soviet Union, Article 6 violations found by the ECHR were based on impartiality and/ or lack of proper independence. However, he adds that since 2000, such cases where Article 6 findings have been made against Lithuania have been based on `*improper application or imperfection of procedural laws*`, as opposed to any lack of impartiality or independence of its judiciary.

145. ***MY COMMENT :***

Prof VN is a highly experienced academic who gave persuasive and authoritative evidence. Where there has been a difference of opinion or interpretation on matters relevant to these proceedings, as given by the professor an the one hand, and by witnesses called by the requested persons on the other, I have preferred that given by the professor.

146. **TOMAS KRUSNA** (`**TK**`)

(s.13 + Article 2+ Article 3 + Article 6) was then called by the requesting Judicial Authority.

He is the Deputy Chief Prosecutor of the Criminal Prosecutions Department in the Republic of Lithuania. He described himself as having a supervisory role in relation to this case while Darius Stankevicius, working for the Organised Crime and Corruption Department, acts as the prosecutor in general overall charge ; TK describes having a specifice role which `*relates to judicial co-operation* `. He continues to act as the conduit with the Crown Prosecution Service in relation to these proceedings. His oral evidence has to be considered in the light of correspondence written by both the Ministry of Justice and by TK as is set out below.

147. TK was the signatory to a letter dated **24th April 2012** wherein certain specific assurances were set out in relation to VA and RB in the event of their extradition taking place. The letter begins by rehearsing the presumption of innocence and the right to the protection of human rights. Further legal rights are set out in some detail including the right to an interpreter free of charge, to have counsel, to be present during proceedings, to be able to submit evidence etc. It provides details of the appeal rights available both within Lithuania and thereafter to the European Court of Human Rights and / or the United Nations Human Rights Committee.

148. TK was then referred to the letter dated **20th March 2013** which was sent from the Lithuanian Ministry of Justice to the Prosecutor General`s Office headed "**Re : Provision of Information"** and signed by the Vice Minister of Justice, Mr Saulius Stripeika. This is an important document in the context of these proceedings. The following passage thereof requires particular consideration.

Point 3 *"Regarding confinement of detainees transferred from the*

United Kingdom in Kaunas Remand Prison"… ` It should be noted that according to the presently effective procedure for allocation of detainees to the custodial establishments, Director or Deputy Director of Prisons Department has a right to allocate the detainee to concrete custodial establishment disregarding the territorial principle as established by 5 May order No V-1212 of Director of Prisons Department. ***Considering the abovementioned, we hereby inform that Director of Prisons Department shall ensure that all detainees transferred from the United Kingdom will be held in Kaunas Remand Prison during the entire period of pre-trial investigation and case hearing in the court…….*** *Besides , we kindly ask you to ensure that information and arguments provided by the Ministry of Justice are forwarded to the lawyers representing the interests of the Republic of Lithuania in the proceedings concerning surrender of persons under the European arrest warrant that take place in the United Kingdom.`* **(my highlighting above).**

On the face of it, this appears to be an unequivocal assurance given by the Ministry of Justice of Lithuania to the relevant authorities in respect of unconvicted persons to be extradited from the UK to Lithuania.

149. There was a follow-up letter dated **12th June 2013** from the Ministry of Justice of Lithuania to the Prosecutor General`s Office, copied to the Prison Department, and to Kaunas Remand and Juvenile Prisons. This letter clarified certain points but does not modify the assurances previously given in the said letter of **20th March 2013** relating to the establishments (Kaunas Remand and Kaunas Juvenile Centre) where extraditees from the UK would be held after their arrival in Lithuania.

150. A further letter dated **5th July 2013** was sent by the Ministry of Justice of Lithuania to the Prosecutor General`s Office (copied to the Prison Departments attached to the same Ministry *`…… the Ministry of Justice hereby assures that the below stated conditions will be applied to all persons surrendered to the Republic of Lithuania on the grounds of the EAW for the purpose of criminal prosecution during their detention :*

1) ***The Director of Prisons Department*** *under the Ministry of Justice of the Republic of Lithuania in accordance with s.1.2 of the* ***Order guarantees that these persons will be held at Kaunas Remand Prison, or at Kaunas Juvenile Remand Prison-correctional facility*** *(wherein adult detainees could be held, too):*

2) The persons will be held in the facilities stated in Clause I ***until the end of the detention time or until they are transferred to correctional facilities to serve a sentence of imprisonment*** *(after the judgement of conviction has come into force) i.e. until the detention will be applied during the pre-trial or trial process….`* *(*my highlighting). Once again the assurance given appears to be unequivocal.

151. During the course of separate ongoing extradition proceedings involving another Lithuanian National (**Jaroslav Atraskevic) (`JA`)** this court became aware of a letter dated **26th August 2013** from another prosecutor of the Organised Crime and Corruption Investigation Department, Mr Remigijus Matevicius sent to the Lithuanian lawyer representing JA to the effect that JA would **not** be remanded to Kaunas Prison but would go to the Lukiskes Remand Prison (the prison found not to have been Article 3 compliant by courts in Northern Ireland and Eire). This letter was later brought to the attention of Mr Krusna and he wrote on **11th September 2013** (in reply to a missive from Miss Kate Leonard of the C.P.S. dated **2nd September 2013**).

152. In his said letter of **11th September 2013** Mr Krusna stated that the Lithuanian prosecutor, Mr Matevicius, had no authority to write in the manner that he did, with reference to where JA would be kept in the event of being extradited, adding that he (Mr Matevicius) had not been made aware of the assurances given by the Lithuanian Authorities.

153. In evidence TK explained the system currently in place whereby the police in the UK and Lithuania liaise when an extradition to Lithuania is about to take place. It is at this point that a member of TKs department would notify the Ministry of Justice, the Governor of Kaunas Prison and the Lithuanian Prison Directorate of the expected arrival. TK added that a member of his team would ensure that the prosecutor specifically assigned to the case of that particular extraditee would also – **at that point**- be informed of the arrangements (with regard to the ` Kaunas prison location assurance`) and the wheels would then be set in motion to effect detention into Kaunas (Remand Prison or Juvenile Remand Centre). TK said that this explains why Mr Matevicius would not have been made aware of the assurances given because as JA has not as yet been extradited, the notification from TK`s office would not have been released to Mr Matevicius.

154. *I pause here to state that it is not entirely clear to me why such a cumbersome system is in place. On the face of it, surely it would be more effective and efficient if all prosecutors were told of the assurances given by the Lithuanian authorities rather than this being done on a case by case basis.*

155. There then followed a further letter from Mr Krusna dated **8th October 2013** to Kate Leonard of the C.P.S. with reference to another extraditee (Aleksandras Misaniukas) who had been surrendered by the UK to Lithuania on **8th August 2013** and who apparently had not been sent straight to Kaunas Prison (notwithstanding the assurances previously given). TK states that the UK authorities had failed to notify the Lithuanian authorities whether Mr Misaniukas had (a) consented to his extradition and (b) raised any specific challenges, as such decisions could affect the implementation of the assurances previously given.

156. It appears that the stance taken by the Lithuanian authorities had been that unless the extraditee **(1)** did not consent to extradition and **(2)** based his challenge (at least in part) on Article 3 prison conditions, then the Lithuanian authorities had not felt bound by the assurances given, and that any such extraditee could be detained in any Lithuanian prison. The fact that the Lithuanian authorities appear not to have thought to notify the UK authorities of these conditions applicable to the assurances set out above is, to say the least, disappointing and could be said to be totally unacceptable.

157. A hypothetical situation was put to TK during the course of his evidence : a prospective extraditee might have wanted to challenge his extradition from the UK to Lithuania on the basis of Article 3 prison conditions, only to be informed by his UK lawyer of the unfettered assurances set out in the letter of **20th March 2013**, (i.e. he will be sent to Kaunas and not to any other prison), as a result of which, the requested person might have decided to abandon such challenge and then agree to his return, only to find – upon arrival- that the assurances were not to be implemented as he had failed to raise an Article 3 challenge based on prison conditions. I did not find TK`s response to have been particularly illuminating.

158. As might have been anticipated, TK was cross-examined in detail about the arrangements made in relation to the return of extraditees in the light of the assurances given and the caveats unilaterally put in place thereafter by the Lithuanian authorities. He explained that the Lithuanian authorities found that some returning extraditees who had been taken to Kaunas, had asked to be transferred and others had asked not to go to Kaunas. This appeared to be particularly the case where the families of such inmates lived a considerable distance from Kaunas and would struggle to find the funds necessary to visit that establishment.

159. TK was asked whether VA and RB would be held in Kaunas in the event of them being convicted and then facing a prison sentence. TK said that he felt unable to comment. He reiterated that in Lithuania there is a presumption of innocence and he was not prepared to speculate as to what might happen in the event of VA and / or RB being convicted. He pointed out that they had not even been extradited. He considered that it would be inappropriate professionally for him to make any comment that could be adversely interpreted, bearing in mind his role in these proceedings.

160. During the course of cross-examination, there was the following critical exchange (my note) :
Question (from John Hardy QC for Lithuania : ` **….**
" At page 277 we have your most recent communication and again in the first paragraph, the Ministry of Justice being the competent institution to do so submitted its assurance and then you go on to say: ` We confirm the above assurance indeed is respected. However, as we have indicated in our previous letter for the purpose of its successful implementation it is essential that the competent institutions of the UK inform us in advance about the decision to surrender on persons who did not consent.`
Mr Hardy continues ***` Correct me if I am wrong , but if I have understood this correctly, what you are effectively saying is the Lithuanian authorities want or need to know whether an Article 3 objection is raised by the person who is extradited before the assurance will apply ?`***
Answer : ***`Yes, this is how we understand it.`***
Question ***: ` Yes, this is how you understood it. Do you accept, bearing in mind that you are representative of your office, that the view of this country is that that interpretation is wrong ?`***
Answer ***` Yes, I understand that`.***

Question ` ***And that the … (***Intervention by James Lewis QC for VA ` ***Sorry did the witness say "yes", or "yes I understand that ",*** Mr Hardy ` ***Well, I will -- And the global unqualified nature of the assurances to English eyes means that those assurances apply uniformly to every person returned from the UK to Lithuania? Do you understand that ? `***

Answer ` ***I understand`.***

Question ` ***Are you able to say to this court as a representative of the Prosecutor General`s office that henceforth that undertaking, those assurances in the letters of 20th March and 5th July will so far as your best efforts are concerned be applied in the way in which we understand it? `***

Answer ***`I can* confirm this and of course — `***

Question ` ***A little louder please`***

Answer ` ***I can * confirm this and of course when I come back I have to have a discussion on the basis of what exchange we had today`***

Question ` ***And that`s a discussion with your seniors?`***

Answer ` ***Both seniors as well as with colleagues from the Ministry of Justice`***

Question ` ***And with the Ministry of Justice. And can you, and I am asking this question carefully, Mr Krusna, because we all accept your professional responsibilities and obligations, but can you yourself personally say to this court that you will be explaining to your colleagues that the English view of those undertakings is that they are global and unqualified and that anything less will not do ? I accept—`***

Answer ` ***I understand this so I am in a position to inform my colleagues, superiors, of the question.***

Question ` ***And again, what I am asking is this: can you say to this court in so many words: I will inform my colleagues that the English view of these assurances is that they are global and unqualified and unless they are so implemented, the English courts will regard them as worthless?`***

Answer ***`Yes, I must do it`.***

161. **(* please note that the contemporaneous shorthand transcript taken by the firm of stenographers engaged by those representing VA, inaccurately transcribed the word ` can`t ` whereas the parties and I are quite satisfied that - critically - the word used by the witness was `can`).**

162. **This is probably an opportune time for me to point out the limited value of such transcripts in proceedings before this court. It is prudent to bear in mind that the Magistrates` court is not a court of record and that such transcripts ought be considered nothing more than an aide memoire.**

163. The Lithuanian Authorities subsequently served 2 important letters :
(i) from the Lithuanian Ministry of Justice to the CPS dated **25th October 2013** and
(ii) from the Lithuanian Prosecutor General`s Office to the CPS dated **31st October 2013**.
I shall take these letters in turn :

164. **(i) Ministry of Justice letter : 25th October 2013 :**
This letter begins with confirmation that the earlier assurances in respect of the detention of all extraditees from the UK to Lithuania pursuant to an EAW at Kaunas Prison or Kaunas Juvenile Remand Prison " ***are applied to all extradited persons from the UK without exception"*** .

165. It confirms that as of the date of that letter, all those that have been returned from the UK to Lithuania, were in Kaunas remand prison, where they would remain until released / the end of their trial. It adds that there had been a recent meeting between representatives from the Lithuanian Ministry of Justice, their Prosecutor General`s Office and the Lithuanian Prison Dept, where a decision was taken that in future persons surrendered further to an EAW will be directly transferred to Kaunas Remand Prison 2 without any temporary detention in other institutions providing detention.

166. The letter states that, furthermore, the Lithuanian Director of Prison Dept had repeated his instructions given to the `*administrations of the institutions subordinated to him concerning the detention procedure of persons surrendered from the UK to Lithuania pursuant to an EAW at Kaunas Prison or Kaunas Juvenile Remand Prison* `.

167. **(ii) Prosecutor General`s Letter : 31st October 2013 :**
This letter commences by confirming that all extraditees currently in custody in Lithuania, as of the date of the letter, were being held at Kaunas Remand Prison (including Aleksandras Misaniukas and

Andrius Bajoras). A detailed explanation is then given in respect of the history of events relating to Mr Misaniukas`s detention since his arrival in Lithuania.

168. This letter ends by providing further information by stating that *"**the Prosecutor General`s Office closely observes and commissions the competent institutions to ensure that all detainees extradited from the UK for the purpose of the criminal prosecution were held at Kaunas Remand Prison. Today, i.e. 31 October a meeting with the representatives of these institutions has taken place, during which all actions have been arranged in order to achieve an immaculate working of the assurance implementation mechanism."*** The letter is signed by Darius Valys, Prosecutor General.

169. ***MY COMMENT :***

When re-examined, TK appears to have reflected and to have acknowledged unconditionally that assurances given by the Lithuanian authorities with any caveats attached would not be acceptable to the courts in the UK. Upon return to Lithuania after he had given his evidence, he appreciated the necessity to discuss matters with his superiors and other interested parties, with a view to resolving issues that have arisen in relation to the assurances previously given.

*He appears to have been instrumental in arranging for meetings between the relevant Lithuanian authorities, as a result of which, the important letters dated **25th October 2013** and **31st October 2013** aforesaid were sent to the C.P.S.*

170. **SIMON VINCENT FREAKLEY (`SF`)**

(**Abuse of Process : Article 6**)

was the next witness called by the issuing Judicial Authority. He adopted his witness statement, made during the course of these proceedings, dated **12th November 2012.**

171. SF is the Chief Executive Officer (`CEO`) of **Zolfo Cooper Europe LLP**. He qualified as an accountant in 1986 and is a Licenced Insolvency Practitioner. He has 29 years experience specialising in the development and implementation of business recovery strategies. He has had very considerable experience in dealing with high profile business restructuring cases throughout his career. Prior to joining Zolfo Cooper, he had been the CEO of

Kroll Inc, a leading international corporate investigation and risk consultancy organisation.

172. On **16th November 2011** SF was appointed by the Central Bank as the Temporary Administrator of Snoras. He remained in post until his partner, Neil Cooper, was appointed as the Bankruptcy Administrator of Snoras on 7th **December 2011** whereupon SF`s role as Temporary Administrator ceased.

173. Both VA and RB make a number of criticisms of the conduct of SF, which can be highlighted as follows :
(i) SF is alleged to have been involved in discussions with the Central Bank **prior** to his appointment as Temporary Administrator and the suggestion has been made that his role had, in reality, been planned for some time in advance.
(ii) SF is said to have stated on **17th November 2011** that Snoras was solvent, although he later chose to backtrack on that statement.
(iii) SF`s decision to switch off the SWIFT system, in effect, killed off any chances of Snoras` survival and was inconsistent with the confirmation of the bank`s solvency, which SF is said to have made.
(iv) It is asserted that SF planned to split Snoras so as to create a **`good bank / bad bank`** situation which formed the basis of his recommendation to the Central Bank, such recommendation subsequently being rejected.
(v) SF is said to have improperly destroyed notes of important meetings relating to his appointment and later discussions that were held with the Central Bank and others. Furthermore he and other members of his team are said to have covertly and improperly shredded documents at the bank`s premises. SF was also said to have been instrumental in wrongful dismissal of Ms Izickiene and Mr Vaitekunas from Snoras .
(vi) SF had allegedly charged exorbitant fees (approximately 4,800,000 euros) for his firm`s services for only a few days work, and furthermore, that payment of those fees had been unlawful as the bank`s operating licence had been revoked by the time payment had been effected.

174. SF dealt with each of the above criticisms as follows :

175. **(i)** ***The purported prior discussions with Central Bank***) : SF explained that he was first contacted by Sean Cory of Oliver Wyman who enquired whether SF was in a position to take on the

assignment in relation to Snoras. SF received a further telephone call that evening from Mr Ereira of Linklaters, solicitors, to discuss the Snoras situation in more detail as well as certain other important aspects of Lithuanian legislation. Further telephone calls took place in the following 2 days whereafter SF, with other members of his team flew to Vilnius. SF said that the first meeting with Central Bank members took place on the morning of **16th November 2011.** This meeting ran through to the afternoon and after lengthy discussions, the appointment of SF as Temporary Administrator of Snoras was confirmed.

176. (**ii**) (***The statement said to have been made by SF that Snoras was `solvent`***) :

SF said that he had learned from the Central Bank that it had apparently uncovered evidence that a very large volume of Snoras` assets had been misappropriated for the benefit of VA and RB. This had been widely reported in the Lithuanian press. VA and RB had apparently left Lithuania on **15th November 2011**. SF added that the early investigations carried out by himself and his team confirmed the earlier suspicions of the Central Bank that Snoras was not functioning properly as a bank. SF insisted, in evidence, that at no time did he state that Snoras was solvent. At the Press Conference on **17th November 2011,** in answer to the question as to whether the bank was solvent or not, he replied that the bank had liquidity but that he was assessing the extent of such liquidity and that the bank`s activities had been paused with a view to re-opening the bank the following Monday. He was categorical in saying that the subsequent Press Release that purported to quote him as stating that the bank was solvent, was released in error and most certainly not with his approval.

177. **(iii) (*Effect of the decision to switch off the SWIFT system*)**

According to SF, the moratorium in place on his appointment as Temporary Administrator required urgent steps to be taken to protect Snoras. The decision to turn off the SWIFT system by SF was with a view to establishing control of the flow of funds into and out of the bank. He was very concerned that the continued operation of the SWIFT system would have facilitated the wrongful transfer of funds from Snoras to external accounts without SF`s approval or authorisation. By acting as he did, SF said that he had been able to prevent a proposed inappropriate transfer from Snoras of **1,969,439 Euros** into a personal account of RB at Conversbank (a bank connected with VA).

178. **(iv)** (***The proposed plan to set up `good bank/ bad bank`)*** *:*
SF put together proposals to the Central Bank in the hope and expectation that they would be adopted. He put forward 5 different scenarios and the Central Bank Governors chose the option which involved nationalisation and, thereafter bankruptcy. SF was disappointed at that decision as his preferred option was that which would have enabled the bank to re-open and operate but he had to respect the decision taken by the Governors of the Central Bank who chose the nationalisation option.

179. **(v) (*The alleged wrongful destruction of notes*) :**
SF made clear that the only notes that were destroyed were aide memoires or drafts subsequently superseded by updated documents, and that his actions in so doing were standard practice and not in breach of any policy or guidance either of his firm or those of his professional body. SF stated that such were his concerns that he had felt the need to hastily arrange for **all** of the bank`s shredders to be collected and placed in a secure room accessible only by members of his team. He told this court – and I accept – that he took this step so as to prevent unauthorised actions by certain bank employees, who he clearly thought were acting inappropriately and not in the best interests of the bank.

180. **(vi) (*Excessive fees said to have been charged*) :**
SF made clear that the sums paid by the Central Bank to Zolfo Cooper (over 4,800,000 Euros) were not for payment of their fees alone, but included those of other professionals engaged in the work necessary to comply with the instructions of the Central Bank. These included fees generated by **Kroll Inc, Linklaters, Eversheds** and **Oliver Wyman.** I am told that the sum agreed to and paid by the Central Bank in fact represented a discount of approximately **900.000 Euros**. Furthermore SF said that he had taken legal advice on the issue, and so far as he was aware,it was entirely proper for his firm to have received the said fees from the Central Bank.

181. ***MY COMMENT :***
In my opinion, SF was a very impressive, confident and credible witness. I find that where there has been a difference of opinion, or recollection of events, between SF on the one hand and witnesses called by the requested persons on the other, I have no hesitation in stating that I preferred the evidence given by SF.

182. **DARIUS STANKEVICIUS (`DS`)**
(s.13 : Article 6 : Abuse of Process)
was the final live witness called. He gave evidence on behalf of the issuing Judicial Authority. He adopted his witness statement dated **17th May 2013.** He began by clarifying that there had been some typographical and translation issues in respect of the original statement made in his native Lithuanian language and the English translation that flowed from it. No point in relation thereto was taken by any of the parties.

183. DS is the lead Prosecutor in charge of the investigation into the demise of Snoras and the ongoing prosecution of VA and RB in respect of these proceedings. I wish to state straightaway that, notwithstanding the criticisms made of him during the course of robust cross-examination, I found DS to be a credible witness.

184. DS is a qualified Lithuanian lawyer. He graduated from Vilnius University in **1993** gaining a Master`s degree in law. After beginning his career as a lawyer, he became a State Prosecutor and has been so employed for over 20 years. He currently works in their Organised Crime and Corruption Investigation department. He has achieved the status of Chief Justice Adviser which is the highest rank available for a prosecutor of his level. He says that he has had considerable experience in dealing with crimes relating to financial matters including the misappropriation of funds.

185. There came a point in time when the Central Bank informed DS of their concerns regarding the running of Snoras. On **9th November 2011** the Central Bank submitted a report to the prosecutor`s office asking them to assess the information supplied and for a decision as to whether there was a basis to launch a criminal investigation. After considering further information submitted to him by the Central Bank, DS stated that he decided to commence an investigation into serious crimes said to have been committed, including money-laundering and misappropriation of assets.

186. According to DS, the initial investigations that he and his team carried out indicated to him that VA and RB could *`be related with serious organised crime`* (paragraph 13 of his statement translated into English on **22nd October 2013.)**

187. EarIier in this document I have made reference to the displeasure of RT, of Baltic Legal Services, that he had not been notified by DS of the initial court hearing that took place during the course of **22nd November 2011**, DS, having chosen instead to arrange for VA and RB to be represented via the Lithuanian Legal Aid Services. However, DS was less than complimentary about the conduct of RT in relation to this issue. DS said that during the course of the morning of **22nd November 2011** RT had called him on DS`s private mobile telephone number, which was quite improper of him in view of the official nature of his call.This was not challenged during cross-examination.

188. Furthermore, DS pointed out that, at that particular time, RT was contractually not personally allowed to represent any person as this was during the course of the 12 month period after he had ceased his employment with the Prosecutor`s Office. Again, this was not challenged in cross-examination.

189. Additionally and importantly, DS added that RT`s firm were not yet formally on record as acting for RB and VA, as a result of which DS felt that, for professional reasons, he was precluded from discussing the case with RT. DS pointed out that this had caused him extra work as he then had to arrange for their legal representation via the Legal Aid Services.

190. DS was keen to point out to this court that professionally he was prohibited from disclosing any facts that might prejudice the ongoing pre-trial investigation and, try as they might, neither Mr Jones for RB nor Mr Lewis for VA was able to persuade DS to reveal facts and / or answer questions that DS believed might fall foul of that professional obligation. It is clear to me that this is a standpoint that DS has properly maintained throughout this investigation.

191. DS went on to confirm that he had been asked to provide the Parliamentary Commission with any incriminating documents that were in his possession but he was not prepared to do so as he felt that such action by him might prejudice the pre-trial investigation. Furthermore, during the course of his oral testimony, DS was not prepared to enter into any hypothetical debate as to what might or might not happen in the event that VA and / or RB might be found guilty after trial in Lithuania.

192. DS was keen to underline that it is very important in Lithuania to safeguard the presumption of innocence and he would not wish to do or say anything which could be adversely construed either during the pre-trial investigation process itself or during any subsequent trial process. DS was not the first live witness to make reference to the importance of the presumption of innocence in the Lithuanian criminal process. DS made clear that he was anxious not to say anything during the course of his evidence that might be interpreted as expressing any opinion as to the guilt or innocence of either RB or VA.

193. With regard to the prospect of interviewing the requested persons in police detention, serious concerns have been expressed by other witnesses in respect of the Lithuanian law which allows a detainee to be kept in police detention for repeated periods of up to 15 days, thereby thwarting the assurance that VA and RB would be housed at Kaunas Prison or Kaunas Juvenile Centre.

194. DS was categorical in stating that this was **not** a case where either RB or VA would be brought to or kept in police detention for the purposes of questioning. He said that there were no grounds to do so and that as the paperwork was so voluminous it would be totally impracticable to question them in a police station. The likely venue for any such questioning would either be DS`s office, or that of the Prosecutor General.

195. DS stated categorically that he would ensure that, if they were subject to a custodial remand order, he would ensure that RB and VA would be returned to Kaunas Prison (or Kaunas Juvenile Centre) from court each night.

196. ***MY COMMENT.***

I found DS to have been an impressive and credible witness who appears committed not only to act thoroughly professionally but also to seek to ensure that he will do all that is in his power so that both VA and RB, if returned, will have a fair trial and that they will not suffer Human Rights abuses.

197. **WRITTEN STATEMENTS RECEIVED IN EVIDENCE**. A large number of witness statements were also put into evidence by the requested persons. Albeit these were, in effect, not challenged, counsel representing the requesting Judicial Authority reserved their right to comment, as they are entitled to do, in respect of the value and / or relevance of some of those statements.

These statements are as follows :

198. **i. Kasra Nouroozi** :(**s 13**).

As set out heretofore, he is the solicitor acting for VA in these proceedings. These statements are dated **20th January 2012** and **9th March 2012** and they exhibit a number of press cuttings and other documents relied upon by the defence.

199. **ii**. **Lina Andriuskeviciene (`LA`) : (s.13)**

Her statement dated **23rd January 2012** states that she is a `Major in the Financial Crime Investigation Service under the Lithuanian Ministry of the Interior.` She is a chief Investigator. She has 15 years experience conducting investigations into alleged financial irregularities/fraud within the banking system.

200. In her opinion the issuing of request for the extradition of the requested persons in this case `is unheard of at this early stage`. She is familiar with the process of obtaining evidence from overseas via mutual assistance requests. She expresses the view that the pre-trial investigations would take at least 2 years to conclude and that VA and RB could well be held in pre-trial detention for over 18 months.

201. **iii. Philip Barden : (s.13).**

He is a solicitor with Devonshires, solicitors previously engaged by RB in these proceedings. His statement is dated **19th March 2012**. His enquiries reveal that a number of potential witnesses have apparently refused to give assistance to RB for fear that they might face reprisals and / or prosecution. An application made on **10th January 2012** to the Prosecutor General`s Office to examine a number of witnesses (SF, AI, Neil Cooper and V Monkus) was apparently refused.

202. Mr Barden refers to the fact that both the former Head and Deputy Head of the Lithuanian Financial Crime Investigation Service were dismissed and put under pre-trial investigation, it

being alleged that they or their colleagues had leaked information to the media that a bank was to be raided. However, they were subsequently re-instated, it having been reported that their dismissal was politically motivated, inextricably linked to the nationalisation of Snoras and to the institution of pre-trial investigation.

203. Mr Barden comments that (paragraph 12) `*it is no surprise that when the Prosecutor general was then asked to investigate he issued an arrest warrant as his first step, rather than seeking to interview the suspects, as the politicians wanted a political statement to be made*` : he continues (paragraph13 `*this is akin to a politician dismissing the Director of the Serious Fraud Office because the politician does not agree with a decision taken….this demonstrates the complete control being exercised by the politicians*`.

204. Mr Barden confirms the evidence of Vidmantas Ziemelis (hereafter detailed) regarding the petitioning of the Lithuanian Constitutional Court in respect of the legality of the nationalisation laws passed on **16th November 2011**.

205. **iv. Sir Graham Watson MEP (`Sir Graham`) : (s.13).** He was elected President of the European Liberal Democrat and Reform Party (`**ELDR**`) on **25th November 2011**. The ELDR comprises 55 Liberal parties across Europe. In **March 2006** he chaired a debate concerning Lithuania`s financial stability and its proposed entry into the Eurozone.

206. Sir Graham gave details of the extradition request made by the Lithuanian authorities for Viktor Uspaskich (`**VU**`), the former leader of the Lithuanian Labour Party in respect of allegations of dishonesty. Sir Graham worked with VU as a colleague in the Alliance of Liberals and Democrats (`**ALDE**`). VU was forced to leave Lithuania by reason of the fraud allegations (which he denied) albeit VU maintains that these (false) allegations against him were a mere cover for other unsubstantiated allegations made by the Lithuanian Government that VA had connections with the Russian Secret Service.

207. Sir Graham asserted that there are a number of similarities between the allegations against VU and Vladimir Antonov :
(a) both were accused of fleeing Lithuania and going into hiding ;

(b) both are Russian ;
(c) both face allegations of fraud ;
(d) both are said to be linked to the main opposition party and are said to have had allegations made against them purely for political reasons ;
(e) both are said to have uncovered some of the truth behind the allegations in Wikileak cables.
(f) both feared for their personal safety in Lithuania.
(albeit I note that UV subsequently returned to Lithuania voluntarily.)

208. Sir Graham expressed no surprise that VA believes he faces `trumped up` allegations against him made for political reasons and on account of his Russian ethnicity.

209. **v. Virginja Lukosiene : (`VL`) : (s.13).**
VL prepared a report dated **8th February 2012** which was entered in evidence on behalf of the requested persons. She is a Lithuanian-qualified accountant / auditor, authorised to act as a bankruptcy administrator. She is a Lithuanian-court approved expert. She was engaged by Baltic Legal Solutions (the law firm instructed by VA and RB in Lithuania) to carry out certain investigations and express a professional view in relation toa number of matters relevant to the ongoing proceedings both in Lithuania and in the UK.

210. The opinion expressed by VL is that as of **1st November 2011**, Snoras was solvent, thereby casting doubt on the official reason(s) given by the Lithuanian Authorities for nationalising Snoras and thereafter placing it into bankruptcy.

211. **vi. Vidmantas Ziemelis (`VZ`) : (s.13).**
He made a statement dated **24th September 2013**. He had been a Member of the Lithuanian Parliament from **1990** to **2000** and **2004** to **2012**.VZ confirmed that a resolution was passed by the Lithuanian parliament on **16th November 2011** authorising the take over of the shares in Snoras, this being the same day that the Central Bank adopted the resolution to announce restrictions on the activity (moratorium) of Snoras.

212. He states that on **17th November 2011** Bills were laid before parliament in respect of a number of matters particularly referable to banking business with practically no time for proper parliamentary debate. According to VZ, parliamentary questioning

and debate were kept short in view of what was said to be an urgent situation necessitating an early vote . On **18th November 2011** the bills were signed by the President and then Gazetted the following day**.**

213. VZ, with others, took the view that the adoption of the said Bills into law was unconstitutional, as a result of which the matter was reported to the Lithuanian Constitutional Court for it to carry out an investigation. This court not been told the outcome of any such investigation.

214. VZ stated that on **30th January 2012** a Parliamentary Commission had been set up to investigate *`the efficiency of supervision of commercial banks`* in Lithuania as well as the situation regarding Snoras which was going through the process of bankruptcy. VZ was elected as a member of that Commission. Preliminary findings of the Commission were that
(a) the bankruptcy of Snoras was premature.
(b) it had not received *`numbers in the alleged decline in assets `* as per the reports of Messrs Cooper and Freakley and
(c) the Chairman of the Central Bank, VV, may have exceeded his powers in discussing the proposed restructuring of Snoras and setting the date of the appointment of the Temporary Administrator (SF). (paragraph 9 of his statement).

215. A disagreement ensued resulting in a number of members of the Commission (from the then ruling Parliamentary majority) leaving the meeting before the findings were voted upon, thereby resulting in the Commissions conclusions remaining unapproved. Later on members of the ruling majority sought to justify their walkout, stating, inter alia *`The Commission conclusion project was formulated as a life-raft for VA and RB and `there are obvious references to politicisation of the process in the conclusions. This could be, and without doubt would be, used as an argument for the defence in the extradition case`* (paragraph 12 of his statement).

216. **vii. Kazimieras Ramonas (`KR`).(s.13).**
His witness statement is dated **25th September 2013**. He was the former head of the Credit Institutions Supervision Department of the Central Bank of Lithuania (`the Central bank`).

217. KR states that he worked at Snoras for almost 19 years. He managed a staff of approximately 70 specialists in his

department. In his capacity as Bank Regulator he came to know RB. He says that they were not personal friends, although KR did attend the wedding of RB`s son. In **2006** the Central Bank authorised the purchase by RB and VA of 94% of Snoras` shares on the understanding that they would introduce an institutional investor of good standing within 3 years. This time frame was later said to have been extended to **November 2011** by reason of the global economic crisis.

218. KR recalls a meeting in late **2010** when he says that he became aware of a political dimension to the Snoras situation**.** 2 senior politicians were present at the meeting to discuss not only Snoras but also another bank (Ukios). One of those present was the former Chair of the parliamentary committee on Budget and Finance, Mr K Glaveckas and his deputy, Mr V Matuzas. Whilst these politicians did not give any express instructions to those present KR had the impression that something was to happen to the banks. Mention was made of the fact that parliamentary elections were due in 2012 and ` *they warned us that action was going to be taken in the banking sector to influence the outcome of these elections*` (paragraph 9 of his statement).

219. A further meeting took place with Mr Glaveckas in early **2011**. According to KR the conversation was mysterious and very similar to the one that had earlier taken place at the Central Bank`s premises. *"He appeared to have obtained some information from another source and wanted me to provide him with additional information about the banks (Snoras and Ukios).* Mr Glaveckas apparently hinted to KR that some form of action would be taken against these banks.

220. After the annual inspection by the Central Bank of Snoras in the autumn of **2010** a resolution was passed on **18th January 2011** after certain shortcomings had been identified in respect of Snoras` performance. KR described this as not being either unusual or surprising. The bank provided responses throughout the period from **January 2011** to **November 2011** including a draft agreement and an offer of undertakings in **August 2011** to help resolve concerns about the bank`s capital adequacy ratio and its loan portfolio.

221. A proposed solution was presented by Snoras as the restrictions imposed by the Central Bank (**18th January 2011**

aforesaid) were causing difficulties for the bank which was in the process of trying to attract an investor. However the proposal was rejected by the Chairman of the Central Bank, Mr Vasilauskas who ` *was intent on forcing the bank out of business by imposing severe restrictions and obligations on the bank*`.(paragraph 12 of KR`s statement).

222. The next annual inspection of Snoras began on **19th September 2011**. Albeit KR was head of the department and his staff were obliged to report any `*material violations*` to him, on this occasion the inspection was led by the Chairman of the Central Bank Mr Vasilauscas (`VV`). This inspection lasted almost twice the length of time of previous inspections. It concluded on **11th November 2011**. KR says that he was not told of any material violations by his staff, either because none were found, or because VV had prohibited the staff from reporting them to KR.

223. **On 15th November 2011**, the shareholders were invited – by letter- to a meeting of the Board of the Central Bank on **18th November 2011**, yet KR points out that on **16th November 2011** a Temporary Administrator had already been installed by the Central bank.

224. KR says that he had not seen any document that enabled him to state that Snoras was insolvent. On **22nd November 2011** the Central Bank declared that the shareholders were not fit and proper persons, and it refused to register the amendment to the bank`s Articles of Association to increase its authorised capital. On **24th November 2011** the Central Bank issued a statement saying that Snoras was insolvent and that bankruptcy proceedings would follow.

225. On **28th November 2011**, KR was dismissed by VV. The reason given was that his performance had been `inappropriate` and that he was guilty of " excessive bureaucracy while performing official duties". On **12th December 2011** the Special Investigation Service in Lithuania began a pre-trial investigation in relation to the alleged failure by him to perform his duties. He adds that he suspects that the decision to close down Snoras was `political`.

226. **viii. Danny McAllister CBE (Articles 2 + Article 3) (`DMc`).** His statement is dated **31st October 2012**.
He is a specialist in prison security, having been Director of High Security Prisons for the HM Prison Service until his retirement in **November 2011**. He worked in the prison service for 27 years, taking up a position as Director of High Security Prisons in **April 2009**. As such Director, he was in charge of the security policy in all UK prisons and the management of all High Security Prisons throughout the UK.

227. Albeit there is a policy of zero tolerance of violence in the UK, DMc has prepared a schedule that shows a consistent level of assaults on or involving inmates for the 12 months ending **June 2008** through to **June 2012** as follows :
(i) to **June 2008** : number of inmates 83,667 : assault incidents 15,877:
(ii) to **June 2009** : number of inmates 83,900 : assault incidents 15,434 :
(iii) to **June 2010** : number of inmates 85,400: assault incidents 14,713.
(iv) to **June 2011** : number of inmates 85,266 : assault incidents 14,739.
(v) to **June 2012** : number of inmates 86,352 : assault incidents 15,213. These figures demonstrate a high level of assaults within the UK prison system, notwithstanding efforts and measures designed to prevent or reduce such incidents.

228. DMc`s unchallenged evidence (paragraph 23) is that the UK prison service ` *has an international reputation for safeguarding prisoners and offering an exceptionally high and effective level of security for prisoners at risk.*` It is also to be noted that the International Criminal Court in the Hague has asked that those convicted in that court be accepted into the UK prison system to serve their sentence, acknowledging that they include some who are at very high risk of harm from other inmates.

229. **ix. Karolis Liutkevicius. (`KL`) (Article 2 + Article 3)**
His statement is dated **1st November 2012**.
He is employed as a lawyer with the Human Rights Monitoring Institute, a non-governmental organisation based in Lithuania.

230. KL`s main area of work involves legal research and dealing with individual complaints by persons who consider themselves

to be victims of Human Rights abuse. He points out that neither he nor the Human Rights Institute has any first-hand knowledge of the following :
(i) conditions in Lithuanian detention centres and prisons,
(ii) prisoner and staff interaction or
(iii) possible abuses of the authorities in carrying out pre-trial investigations.
His knowledge is as a result of information provided to him by the complainants and / or their lawyers, as well as his analysis of court and other press reports.

231. KL gives information regarding the difference between facilities available in certain Lithuanian prisons. Part of his evidence appears to be based on the premise that the requested persons will be going to a prison outside the ambit of the assurances given by the Lithuanian authorities.

232. KL confirms that the law provides for the possibility of pre-trial police detention for one or more periods of up to 15 days at a time. He says that he has concerns about the fact that, in his opinion, pre-trial detention is regularly used in Lithuania to pressurise detainees into *`giving evidence, usually to testify and/ or to plead guilty`* (paragraph 31).

233. He expresses the view (paragraph 45) that the authorities in Lithuania do not concern themselves with Human Rights to the extent that they should be, and furthermore that some officials are dismissive of such Rights. He points out that, albeit the law in Lithuania establishes *`rather high standards of human rights protection`* (paragraph 46), they are often disregarded in practice, perhaps being merely aspirational.

234. ***## x. Tarique Ghaffur CBE, QPM (`TG`) (Article 2+ Article 3).*** *Evidence redacted.*

235. **xi. Katy Smart. (`Ms Smart`) (Articles 2 + Article 3).** Ms Smart is a solicitor in the employ of Dalton Holmes Gray, solicitors currently retained by RB in these proceedings. Her statements are dated **25th September 2013** and **23rd October 2013**.The main focus of her evidence related to the apparent failure by the Lithuanian authorities to abide by the terms of the assurances given earlier in 2013 regarding the destination of

unconvicted extraditees from the UK to the Lithuanian prison estate.

236. **The fourth witness statement of Rolandas Tilindas** (`RT`) dated **25th October 2013** was also admitted into evidence. He confirmed much of the evidence contained in the said 2nd statement of Ms Smart set out above in respect of the returning extraditees.

237. The substantial **Reports** dated **1st March 2013** and **31st July 2013** prepared by **Professor Rod Morgan (`Prof RM`)** setting out his findings relating to the conditions within the Lithuanian prison estate, were then admitted into evidence.

238. Prof RM is a highly-respected expert in mattewrs relating to prison conditions in various countries. His background is that of a criminologist and he is currently Professor Emeritus of Criminal Justice in the Department of Law, at the University of Bristol. He has provided reports and given live evidence to UK courts in several cases in recent years.

239. Prof RM has first hand knowledge of the conditions in Litrhuanian prisons, having visited them in the past, as well in **June 2013** on which final visit he attended the Kaunas Remand Prison and the Kaunas Juvenile Remand Prison. He points out that he was received `*with utmost courtesy*` by the Governors of both institutions accompanied by their respective heads of security. He was allowed full access to both institutions and was allowed to speak unhindered to such prisoners as he chose.

240. His supplementary report dated **31st July 2013** is based on the assumption that the `*assurances given by the Lithuanian authorities are legally binding under Lithuanian law and will in practice be given effect by the prosecutorial and prison authorities. If the assurances are found not to be binding or reliable then practically everything that follows will be undermined*`,

241. The assurances to which Prof RM refers are that;
(i) VA and RB will not be held in Lukiskes remand prison ;
(ii) VA and RB will be kept in Kaunas Remand or Kaunas Juvenile Remand prison for the entire period of their pre-trial investigation and subsequent court hearings ;

(iii) Each of them will be kept in a single cell ;
(iv) Each of them will be isolated or protected from other inmates when out of their cells.

242. Prof RM points out that reference to the `Juvenile Remand Centre` is something of a misnomer insofar as the criminal justice regulations were altered in the **Autumn** of **2012** so as to allow non-juveniles to be housed there. His opinion is that if VA and RB are to be kept in Kaunas Remand or Kaunas Juvenile Remand prison, the conditions therein are not such as would be considered inhuman or degrading (so that, in effect, those conditions can be said to be Article 3 compliant). He does, however, express some reservations regarding the effect upon the health of inmates who are subjected to extended periods of isolation.
……

243. **A GENERAL COMMENT :**

The full hearing in this case has occupied **14** full days of court time, including the necessity to sit outside normal sitting hours, as well as – on one occasion- a Saturday. The majority of the time has been taken up by the witnesses giving live evidence and being cross-examined extensively. The parties are to be commended for arranging that very little time was wasted in waiting for witnesses to arrive, thereby enabling the proceedings to flow without any delays.

244. I have found that each of the challenges raised by VA and RB have been complex in their nature and extent. It has been necessary for this court to receive and reflect upon a vast amount of detail by way of evidence, law, submission documents and case precedents in considerable detail.

245. This court has also been very much assisted by the opening skeleton arguments and the substantial closing submission documents (totalling approximately 300 pages) from counsel for the parties, as were then supplemented by a full day of closing oral arguments on **20th November 2013**.
I reserved the delivery of my ruling to today.

246. It has not been possible to distil the law / evidence / submissions and conclusions into a few short pages. Apologies are proffered for the inevitable length of this ruling document, rendered necessary so as to properly cover all challenges raised and responded to.

247. LITHUANIA : RELEVANT RECENT HISTORY / BACKGROUND

Lithuania is the largest of the 3 Baltic states (the others being **Estonia** and **Latvia**). It has a population of approximately 3 million people. The major ethnic groups are as follows ;
Lithuanians **: 84%** :
Poles : **6.6%** :
Russians : **5.8%** :
Belarussians **1.2%.**

248. Lithuania`s First Act of Independence from the Russian Empire was signed on **18th February 1918**, at a time when World War I was coming to an end. Moving on to **1940**, the country was occupied initially by the Soviet Union and then by Nazi Germany. As World War II drew to a conclusion, the Germans retreated and, once again, the Soviets re-occupied the territory. Lithuania later became the first Soviet Republic to break away and declare the restoration of its independent State on **11th March 1990**.

249. Lithuania is a member of the EU, the Council of Europe, NATO as well as the Schengen Agreement Group of Nations. As previously mentioned, it held the rotating 6 monthly Presidency of the Council of the European Union from **1st July 2013**.

250. Since its declaration of Independence on **11th March 1990**, Lithuania has endeavoured to demonstrate its democratic traditions. The head of state is a President who is elected for a 5 year term, eligible to serve for a maximum of 2 successive terms. The role of the President is said to be mainly ceremonial. With the approval of parliament, the President appoints the Prime Minister and on the latter`s nomination, the rest of the cabinet as well as the country`s Judges.

251. The current President of Lithuania is **Dalia Grybauskaite**. She began her political career in 1991 when she was employed at the Lithuanian Ministry of Economic Relations. She later transferred to the Foreign Ministry and then held the title of plenipotentiary Minister initially at the EU and thereafter (from 1996 to 1999) in the USA.

252. Ms Grybauskaite then returned to Lithuania to be appointed Deputy Minister of Finance. In 2001 she was appointed Finance Minister. Subsequently she was named European Commissioner for Financial Programming. She ran as an Independent candidate for the Presidency in 2009 and she was returned with **68%** of the vote in her favour. She is the first female to hold the Lithuanian Presidency.

253. **SOME GENERAL OBSERVATIONS,**

In recent years there have been a number of cases where Central Banks in several countries have either had to intervene to support struggling private banks, or have felt the need to close down the institutions in question.

Whilst I do not wish to add to the reading material in this case, some interesting information regarding a number of high profile bank failures in the 1970`s can be found in a book written in **1977** by Robert Heller and Noriss Willatt entitled ` Can You Trust Your Bank`.

254. In the current case, reference has been made to the demise, in the UK, of Northern Rock and the necessary and somewhat dramatic intervention that took place in relation thereto. There have been many situations in the UK where the Bank of England has had to step in and we are all too familiar with the economic crisis from 2007 onwards which involved, in part, the unexpected closure of Lehman Brothers.

255. On some occasions in the past, the conduct complained of has led to police investigation and thereafter to criminal prosecutions both in the UK and elsewhere : an example of this is the reported case of **R v Landy and others 1981 (1 All ER 1172)** where the Chairman, the Managing Director and other officials of the Israel- British Bank (London) Ltd (`IBBL`) were charged with and convicted of very serious allegations of conspiracy to defraud (which convictions were subsequently overturned by the Court of Appeal). In that case it was alleged, in part, that the defendants had dishonestly siphoned very substantial funds to the parent bank based in Israel, whereupon the funds were said to have been dishonestly dissipated into accounts and transactions in Liechtenstein.

256. An example of the polarised stances taken by the parties to this case, can perhaps be illustrated by the initial remarks of Mr Hardy and Mr Lewis in their closing submissions (which I shall attempt to paraphrase accurately).

257. **John Hardy, Q.C.** for Lithuania, says that notwithstanding the plethora of evidence received, this remains a simple and straightforward case of substantial fraud that has been the subject

of a proper criminal investigation and appropriate requests for extradition.

258. **James Lewis, Q.C.** for VA as supported by **John Jones Q.C.** for RB, says that these requests derive from a wholly unjustified and irrational decision to nationalise a solvent and fully functioning bank (Snoras) by the Lithuanian authorities and that the requests for extradition are politically motivated to justify these entirely unwarranted actions.

259. **I shall now turn to deal with the specific challenges raised by the requested persons in these proceedings :**

260. **ABUSE OF PROCESS and EXTRANEOUS CONSIDERATIONS s.13(a) & s. 13(b).**

There is an inevitable degree of overlap between the submissions made in relation to the following challenges :

(i) Abuse of Process

(ii) s.13 (a) and (b)

(iii) Article 6 ECHR.

I shall try not to be overly repetitive in giving my rulings in respect of each of these challenges.

261. **Abuse of Process challenge :**

The starting point for this court is that the request for extradition for each of the requested persons is made in good faith by the Lithuanian Judicial Authority. It is important to add that this is a rebuttable presumption. However, there has to be strong evidence produced by the requested person(s) to demonstrate – the onus being on him / them – that this is a request made in bad faith which amounts to an abuse of this court`s process.

262. As mentioned earlier, it is submitted by VA and RB that these proceedings are an abuse of process because the requests for their extradition have been made to seek to justify the decision of the Lithuanian government to nationalise Snoras**.** It is further asserted by the defence that as the President of the Republic, the then Prime Minister and other members of his government, had made allegations of serious dishonesty against RB and VA such claims (and the decision to nationalise Snoras) must be vindicated by successful prosecutions of VA and RB, and pressure will be brought to bear on the trial judge to achieve this result. The President remains in post and, so I am told, is likely to run for a 2nd term later this year.

263. **s.13(a) Challenge** :

It is strongly suggested by RB and VA that these extradition requests have been made for purely political reasons, highlighting the Lithuanian government`s anti-Russian attitude as well as its intention to destroy Snoras` ownership of the Lithuanian Morning newspaper, which had consistently taken up a position that was

said to have been hostile to the government. It is to be noted that at the relevant time Snoras held 34% of the shares in the newspaper group.

264. RB and VA are also critical and suspicious of the events that led up to the appointment of the Temporary Administrator of Snoras. For the purposes of this challenge they again highlight what they maintain were unfair and inaccurate pronouncements made by members of the government and by the President of the Republic. They also strongly criticise the decision to pass hurried retrospective legislation designed to prevent proper challenges to the proposed nationalisation of Snoras.

265. **s.13 (b) Challenge :**

It is further submitted that there is a real risk that VA and RB will be prejudiced at their trial and / or punished and / or suffer other treatment by reason of their political opinions and VA`s Russian ethnicity. RB links himself onto this last aspect of this challenge by reason of his close association with VA.

……

266. **RULING :**

My Rulings in respect of the **Abuse of Process** and the linked **s.13(a)** and **s.13(b)** Challenges are as follows :
Adopting the guidance in **Tollman v USA** previously set out, the jurisdiction of this court requires it to focus on the conduct of the **issuing Lithuanian Judicial Authority**, that is to say, the General Prosecutor`s Office, as opposed to allegations of misconduct by others, such as police officers conducting investigations into the alleged crime : see **Symeou v Greece** aforesaid.

267. If the purpose of this extradition were to be merely to justify the nationalisation of Snoras - a decision itself also said by the defence to have been made in bad faith - then I accept that such actions could potentially amount to an abuse of this court`s process.

268. It is asserted by RB and VA that for political and historical reasons it has proved necessary for the Lithuanian authorities to be seen to be combating increasing Russian influence within Lithuania. Support for this approach is said to come from

Scandinavian-based banks which otherwise dominate the banking sector in Lithuiania.

269. RB and VA rely, inter alia, on the evidence of **Romanis Vaitekunas.** He stated that prior to nationalisation there was no suggestion that Snoras was insolvent. He challenged the necessity to nationalise it so as to protect the banks` assets. His evidence in relation thereto was supported by **Ausra Izikiene** as previously detailed.

270. The requested persons also refer to the alleged displeasure of the Lithuanian authorities by what they regarded as unwarranted and unrelenting criticisms made by the Lithuanian Morning newspaper (see the evidence of **Rimvydas Valatka)**

271. Further reliance in support of this challenge is placed on the evidence of a number of the following witnesses :
Malcolm Cohen, Andrew Caldwell, Dr Gintautas Sulija and **Virginija Lukosiene**

272. However, having analysed the evidence relied upon in support of this challenge I am not satisfied that the decision taken by the Lithuanian Judicial Authority to seek extradition was so as to justify the alleged improper decision to nationalise the bank. In my opinion, the requesting Judicial Authority seeks extradition because it is satisfied that a very substantial fraud has been committed by VA and RB as set out in the body of the respective EAWs, and that consequently both requested persons are wanted in norder to stand trial.

273. The considerable body of evidence relied upon by the requested persons has failed to persuade me that these requests amount to an abuse of process, per the **Tollman** test, and accordingly this challenge must fail.

274. Moving on to consider the linked **s.13 (a)** and **s. 13 (b)** challenges, there is a considerable divergence of opinion as to whether Snoras was solvent or insolvent at the time of nationalisation. In considering this issue I have been greatly assisted by the evidence of **Simon Freakley (`SF`).** As previously indicated, in my view he was a compelling witness. He came across as an accomplished and very experienced expert who, for many years, has specialised in effecting complex re-structuring

arrangements for high- profile companies and other organisations throughout the world.

275. I am entirely satisfied that SF gave truthful evidence. Understandably he was subjected to extensive cross-examination and, in my opinion, he gave a detailed and honest account of events as he was able to recall them. He expressed the firm view that the bank appeared to be in a very precarious financial position when he was appointed as Temporary Administrator of Snoras. It appeared to be haemorrhaging funds and its assets were dwindling very dramatically.

276. SF told me, and I accept, that he and his team worked tirelessly, often throughout the night, so as to
(i) take proper urgent control of the bank`s assets**,**
(ii) try to obtain a clear and accurate picture of the bank`s true financial position, and
(iii) make detailed proposals to the Central Bank.

277. SF was genuinely disappointed that his re-structuring proposal was rejected by the Governors of the Central Bank. Criticism has also been made of the fees his firm are said to have charged. SF clarified the situation by explaining that the substantial amount paid to Zolfo Cooper was a sum negotiated with and agreed to by the Central Bank and included the considerable fees of a number of other professional firms necessarily engaged during the course of the operation.

278. It is also separately asserted that extradition is sought for political reasons arising from the Lithuanian government`s anti-Russian attitudes prevailing within Lithuania as well as the unwarranted / unacceptable criticisms made of the government by the Lithuanian Morning newspaper, as previously alluded to. Having considered all of the evidence received by this court as well as detailed submissions made, I conclude that there is no convincing evidence that this request has been or is being pursued for any political purpose, contrary to the provisions of s.13(a) of the 2003 Act. This challenge fails.

279. So far as the **s.13(b)** is concerned, i.e. that the warrant is said to have been issued for the purpose of prosecuting or punishing the Requested Persons on account of their …nationality(VA) and / or

political opinions (VA and RB) I come to the same conclusions as I have regarding the s.13(a) challenge.

280. The `nationality` aspect of this challenge is predicated on the basis of the fact that VA is a Russian national and that RB is closely associated with him. So far as `political opinions` is concerned, neither of the requested persons gave evidence and there has only been fleeting reference to the political leanings of either RB or VA.

281. Even allowing for the broad interpretation that needs to be given to such opinions (see **Re Asliturk (2002) EWHC (Admin),** whether based on VA`s nationality or on the stated political affiliations of either / both requested persons. The evidence relied upon falls very far short of having convinced me that there is any merit in this challenge and therefore it must fail.

282. **ARTICLE 6 : RIGHT TO A FAIR TRIAL**

The basis of this challenge is that neither requested person will be able to receive a fair trial by reason of the following :

(a) VA and RB`s known political opinions ;

(b) Prejudicial comments previously made by the President of the Republic and by the then Prime Minister in respect of the crimes said to have been committed by both RB and VA ;

(c) The risk of influence by the executive on any Lithuanian judge tasked with trying the requested persons ;

(d) The inability of RB to either appoint a lawyer of his choice or to be able to have legal aid ;

……

283. **RULING** :

My ruling in respect of the **Article 6** Challenge is as follows :

284. **(a) : (VA and RB`s Political Views)**

VA is apparently said to have known political affiliations to the Social Democratic party of Lithuania . This party came to power as a result of the parliamentary elections in **2012**, when it became the largest party in parliament. There has only been fleeting reference made to RBs political views during the course of these proceedings.

285. I note that at paragraph 42 of Mr Lewis and Miss Scott`s detailed Closing submissions document (dated **15th November 2013)** they state as follows :
" *There is also a tangible anti-Russian sentiment in Lithuania. The Social Democrat Party, in power until 2008, took legislative steps to protect equal rights of ethnic Russians. By contrast, the Conservative Party was elected on the back of a campaign which capitalised on such national rhetoric. The President of the Republic, Dalia Grybauskaite has as a theme of her presidency the explicit desire to rid Lithuania of the perceived influence of Russian oligarchs"*

286. The type of evidence needed to rebut the presumption of a fair trial is akin to an international consensus as would be laid out in Council of Europe Reports and / or UNHCW and NGOs. (see **Twarkowski v Poland (2011) EWHC (Admin) .**

287. In view of the fact that the Social Democratic Party are now back in power, this challenge is severely weakened and I am not persuaded that VA`s political views would work against him during the course of any trial process. I come to the same conclusion so far as RB is concerned.

288. It has also been separately submitted that as the President of the Republic remains in post, and is expected to stand again for office this year, there will be pressure applied to the trial judge so as to protect the President`s position. The evidence produced has failed to convince me that any decision by the President to run for office again would preclude VA or RB from having a fair trial and/ or that this would result in any inappropriate pressure being applied to the trial judge.

289. I refer to the evidence of Professor Nekrosius and am entirely satisfied that the Lithuanian Judges have demonstrated their ability and willingness to act independently and to have successfully broken free from the shackles previously in place during the years of Russian domination. The Professor concludes that `***there are Judicial Procedures which are fair and in accordance with international standards***`

290. (b) : (Prejudicial Comments said to have been made by the President, the Prime Minister and others)
Such adverse comments as may have been uttered, were at a time

when the Snoras situation was very topical : those comments were said to have been made over 2 years ago. The then Prime Minister is now no longer in post. Furthermore, it has not claimed that in recent months the President of the Republic has made any adverse comments regarding this case or either of the requested persons in recent months.

291. I am told that the trial will be heard by a Judge alone (i.e. sitting without a jury). Having had the opportunity to consider the entirety of the evidence relied upon . as well as the submissions made in support, I am not satisfied that any comments that may have been previously made, will impact adversely on the requested persons` future trial.

292. (c) : (Inappropriate Influence on the Trial Judge)

So far as inappropriate influence by the executive on the trial judge is concerned, I repeat that the party in power is the one to whom VA is said to have known links. As previously mentioned, I heard considerable evidence about the independence of the Judiciary. I found Professor Nekrosius to have been a very credible and authoritative witness. Whilst he acknowledged that there were some issues that need to be (and are still in the process of being) addressed, having heard his evidence, as well as the contrary evidence given by Dr Sulija and others on behalf of the requested persons, I prefer that given by Prof VN and I am entirely satisfied that there is no merit in this challenge. I remain confident that the trial judge will deal appropriately with any member of the executive that might have the temerity to try to impose their influence on him or her.

293. (d) : (RBs Legal Representation at a future trial)

When Mr R Tilindis gave evidence he confirmed that he is the lawyer retained by both RB and VA in respect of these proceedings in Lithuania. He (and his firm Baltic Legal Services) have been retained by both men for over 2 years. Albeit this court has not been made privy to the fee paying arrangements, RT gave no indication of not being able to continue to act for RB in the future.

294. However, in the event that, by reason of lack of funds or for any other reason, Mr Tilindis and his firm are no longer able to act for RB, I am satisfied that the Lithuanian authorities are well aware of their obligation to provide legal assistancein accordance with the requirements of Article 6. Indeed it is to be noted that, as

is provided for by the Lithuanian legislation, the Prosecutor, Mr Stankevicius (`DS`), arranged representation via the legal aid system for both men at the initial hearing in Lithuania.

295. During the course of his evidence, DS clarified that he did not actually choose the particular lawyer who represented RB and VA at the initial 2011 court hearing. He contacted the Legal Aid Association, gave them details of the case and they then nominated a lawyer from their approved list. As I have previously mentioned the actions of Mr Stankevicius in arranging such representation were criticised by Mr Tilindis (as RT would have wanted his firm to have been informed of such hearing). I am told, however, that RT had not lodged the paperwork confirming his firm`s instructions. Having considered the arguments on that point, I am satisfied that DS acted appropriately in making those arrangements.

296. In the circumstances that obtained, I consider that the said actions of the prosecutor demonstrated a willingness by the authorities to arrange legal representation if circumstances so require. It cannot be suggested that this case is not serious enough to warrant representation (a pre-requisite for the authorities to make the necessary arrangements with the Lithuanian Legal Aid Association). I am satisfied that similar arrangements would be put in place, should the need arise, if RB finds himself in a position whereby he is unable to pay a lawyer privately or if his chosen lawyer is not willing to act on a pro bono or other basis.

297. Criticism has also been made of the fact that RB does have the funds available to pay for the lawyer of his choice but the prosecutor has prevented this from happening as he has arranged for RB`s total assts (and those of his wife) to be frozen. As has been pointed out during the course of submissions, a similar obligation is available for the UK prosecuting authorities to apply for freezing orders under our domestic Money Laundering legislation.

298. **ARTICLE 2 : RIGHT TO LIFE**.

This challenge is based in a number of facts and factors *: details of evidence redacted.*

……

299. ***RULING*** *:*

My Ruling in respect of the ***Article 2*** *Challenge is as follows*

300. I am satisfied that the Lithuanian authorities are well aware of their obligations so far as Article 2 is concerned. Albeit not an ideal prospect, it may well be considered necessary and / or appropriate that VA will have to be housed in solitary confinement within the Lithuanian prison estate, so as to ensure his safety.

301. Furthermore I have not been made aware of any case where the UK courts have refused to extradite someone to a Part 1 territory by reason of an Article 2 challenge.

302. Having given very careful consideration to the very capable submissions made on VA`s behalf as well as the live evidence and written statements lodged in support thereof, I am not satisfied that VA has overcome the very high hurdle necessary to succeed in this challenge and, accordingly it must fail.

303. **ARTICLE 3 : TORTURE/PUNISHMENT**

The basis of this challenge for both RB and VA relates to the following :

(i) Prison conditions within the Lithuanian prison estate generally ;

(ii) The risk of interprisoner violence ;

(iii) The failure of the Lithuanian authorities to abide by assurances given to this court earlier in 2013 ;

…….

304. **RULING** :

My Ruling in respect of the **Article 3** Challenge is as follows : This court has spent much of its time considering the assurances given by the Lithuanian authorities regarding the prison(s) where the requested persons will be detained in the event that they will be denied bail. It is clear that the assurances that had been given by the Lithuanian authorities earlier in 2003 to the Senior District Judge in relation to cases that he was then dealing with, were not carried into effect in the way that had been expected by this court.

305. Explanations have been given (see in particular the evidence of Mr Kruzna heretofore) but I do not consider them to have been completely satisfactory. There had been no caveat to the assurances

given in **March 2013** that **all** extraditees from the UK to Lithuania would be kept in Kaunas Prison or Kaunas Juvenile Centre.

306. I am satisfied that the Lithuanian authorities have taken the criticisms and concerns raised in respect of the assurances very seriously. They have provided important clarification by way of letters to the CPS dated **31st October 2013** and **6th November 2013** from the Prosecutor General`s Office (signed by the Prosecutor General) and the Ministry of Justice (signed by the Vice Minister of Justice) respectively. These letters confirm unequivocally that all extraditees from the UK to Lithuania are currently being detained at the Kaunas Remand Prison and that future extraditees awaiting trail will also be kept in the Kaunas Remand Prison or Kaunas Juvenile Remand Prison.

307. It needs to be borne in mind that the Kaunas prisons are the prisons which Professor Rod Morgan has found to be currently Article 3 compliant for remand prisoners. No information has been provided to this court that prison conditions post-conviction are not Article 3 compliant.

308. **Police Station Detention for Questioning :**

As previously mentioned, the Prosecutor in charge of this investigation, Mr Stankevicius gave a clear assurance to this court during the course of his evidence that neither RB and VA would be brought to or detained in a police station for questioning . I accept this assurance.

In the light of the assurances given, the other evidence received as well as the lengthy submissions made, in my view the requested persons have failed to overcome the high hurdle necessary to succeed in this challenge and accordingly the Article 3 challenge fails.

……..

309. **CONCLUSIONS**

I have carefully analysed the various submissions made on behalf of all parties and I have also had the opportunity to consider the live evidence given as well as all documents placed before me.

310. I am entirely satisfied to the necessary standard that there are no bars to this extradition request, as provided for by the 2003 Act as would stand in the way of this extradition request in relation to either or both of the Requested Persons. I am also entirely satisfied that it would not be incompatible with the Human Rights of either or both of the requested persons for extradition to take place.

311. It is therefore proportionate and necessary for me to **Order** the Extradition of the Requested Persons **Vladimir Antonov** and **Raimondas Baranauscas** to return to Lithuania to face the criminal prosecution in respect of the matters set out in the EAWs previously referred to herein.

Extradition is ordered in accordance with the provisions of **s.21(3)** of the **2003 Act**. They will each be notified of their Appeal rights.

District Judge (MC)

John Zani

APPROPRIATE JUDGE

20th January 2014