

THE HIGH COURT

[2021] IEHC 137
[2020 No. 402 EXT.]

BETWEEN

MINISTER FOR JUSTICE AND EQUALITY

APPLICANT

AND

CARLOS MICHAEL MASON

RESPONDENT

JUDGMENT of Mr. Justice Paul Burns delivered on the 1st day of March, 2021

1. By this application the applicant seeks an order for the surrender of the respondent to the United Kingdom of Great Britain and Northern Ireland ("the UK") pursuant to a European Arrest Warrant dated 3rd December, 2020 ("the EAW") issued by District Judge Sam Goozée, Westminster Magistrates' Court, as the issuing judicial authority. The surrender of the respondent is sought in order to prosecute him in respect of two offences, viz. conspiracy to commit fraud and acquisition/use/possession of criminal property.
2. The EAW was endorsed by the High Court on 16th December, 2020 and the respondent was arrested and brought before the High Court on 22nd December, 2020.
3. I am satisfied that the person before the Court is the person in respect of whom the EAW was issued. This was not put in issue by the respondent.
4. I am satisfied that none of the matters referred to in ss. 21A, 22, 23 and 24 of the Act of 2003 arise and that the surrender of the respondent is not prohibited for the reasons set forth therein.
5. I am satisfied that the minimum gravity requirements of the European Arrest Warrant Act, 2003, as amended ("the Act of 2003"), are met. The maximum penalty in respect of the conspiracy offence is 14 years' imprisonment and in respect of the criminal property offence is 10 years' imprisonment.
6. As regards correspondence, by virtue of s. 38(1)(b) of the Act of 2003, it is not necessary for the applicant to show correspondence between an offence in the EAW and an offence under Irish law where the offence in the EAW is an offence to which article 2(2) of the Council Framework Decision dated 13th June, 2002 on the European Arrest Warrant and the Surrender Procedures Between Member States, as amended ("the Framework Decision"), applies and, under the law of the issuing state, the offence is punishable with a maximum term of not less than 3 years' imprisonment. In this instance, the issuing judicial authority has certified that the offences are offences to which article 2(2) of the Framework Decision applies, are punishable by imprisonment for a maximum period of not less than 3 years and has indicated the relevant boxes at part E of the EAW for "*fraud including that affecting the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on the protection of the European Communities' financial interests*", "*participation in a criminal organisation*" and "*laundering of the proceeds of crime*". The Court sought additional information on the criminal property offence in order to be satisfied that the tick-box procedure had been

properly invoked in respect of same. By reply dated 17th February, 2021, it is indicated that the respondent is the head of an organised crime group which fraudulently acquired the banking details of members of the public which were then used to make fraudulent purchases or sold on. The money received from such sales constituted criminal property acquired, used and/or possessed by the respondent. On the basis of the information contained in the EAW and the aforesaid reply, I am satisfied that the tick-box procedure is properly relied upon by the issuing judicial authority. Furthermore, I am satisfied that, if required to do so, correspondence could be established between the offences in the EAW and offences under the law of the State

7. I am satisfied that surrender of the respondent is not precluded by of part 3 of the Act of 2003 or any of the provisions of the said Act.
8. It follows that this Court will make an order pursuant to s. 16(1) of the Act of 2003 for the surrender of the respondent to the UK.