

THE HIGH COURT

[2021] IEHC 170
[2015 No. 177 EXT.]

BETWEEN

MINISTER FOR JUSTICE AND EQUALITY

APPLICANT

AND

MICHAŁ SKORCZYK

RESPONDENT

JUDGMENT of Mr. Justice Paul Burns delivered on the 10th day of March, 2021

1. By this application the applicant seeks an order for the surrender of the respondent to the Republic of Poland ("Poland") pursuant to a European arrest warrant dated 27th April, 2015 ("the EAW") issued by Judge Tomasz Borowczak as the issuing judicial authority. The surrender of the respondent is sought to serve a sentence of 1 year and 6 months' imprisonment imposed on the respondent on 25th June, 2010 in respect of a deception-type offence committed in 2005.
2. The EAW was endorsed by the High Court on 9th September, 2020 and the respondent was arrested and brought before this Court on 3rd 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 European Arrest Warrant Act, 2003, as amended ("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 Act of 2003 are met. The remaining sentence to be served is 1 year and 6 months' imprisonment.
6. I am satisfied that the tick-box procedure provided for at s. 38(1)(b) of the Act of 2003 has been properly relied upon by the issuing judicial authority. I am satisfied that, if necessary, correspondence can be established between the offence set out in the EAW and an offence under the law of the State, namely deception contrary to s. 6 of the Criminal Justice (Theft and Fraud Offences) Act, 2001.
7. The respondent delivered undated points of objection but at hearing, counsel for the respondent informed the Court that he was only pursuing one ground of objection, viz. that there was an unacceptable level of uncertainty as regards the sentence. He submitted that although the EAW indicated at part E that it related to one offence, at part B of the EAW the sentence was described as "*an aggregate sentence*".
8. The Court sought clarification of this from the issuing judicial authority and by reply dated 21st January, 2021, it was indicated that the reference to an aggregate sentence in the EAW was a mistake, and it was confirmed that the respondent was convicted and sentenced in respect of the single offence set out at part E of the EAW. I am satisfied on the basis of the additional information that there is no ambiguity concerning the sentence

which the respondent is required to serve or concerning the offence in respect of which the sentence was imposed. I dismiss the respondent's objection based on lack of clarity in the EAW.

9. The respondent appeared at the relevant hearing resulting in the enforceable judgment. No point was taken or arises under s. 45 of the Act of 2003.
10. I am satisfied that surrender is not precluded by part 3 of the Act of 2003 or any provision of that Act.
11. Having dismissed the respondent's objections to surrender, 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 Poland.