



19 November 2009

PRESS SUMMARY

Louca (Appellant) v A German Judicial Authority (Respondents) [2009] UKSC 4; on appeal from [2008] EWHC 2907 (Admin)

JUSTICES: Lord Hope (Deputy President), Lord Rodger, Lord Mance, Lord Collins and Lord Kerr

BACKGROUND TO THE APPEAL

Mr Louca is a Cypriot national resident in the UK. His extradition is sought by the Office of the Public Prosecutor of Bielefeld, Germany, for six offences of tax evasion under a European Arrest Warrant (“EAW”) dated 14 July 2008. Two previous EAWs had been issued by the German Prosecutor, each resulting in the arrest of Mr Louca in April 2008, but were successively withdrawn because of minor technicalities. The current EAW refers to the domestic German arrest warrant but not to the previous, withdrawn, EAWs. Mr Louca argued that it was unlawful to extradite him under an EAW which did not refer to all the previous EAWs.

JUDGMENT

The Supreme Court holds that, when a European Arrest Warrant is issued by the authorities of one Member State for execution in another, it must include a reference to the domestic warrant upon which the European Arrest Warrant is based, but need not include references to any other European Arrest Warrant which may have been issued on the basis of the domestic warrant. The appeal is therefore dismissed. (Paragraph [15])

REASONS FOR THE JUDGMENT

- Lord Mance gave the judgment of the Court, upholding the reasoning of the Divisional Court. The words “any other warrant” in section 2(4)(c) of the Extradition Act 2003 must be construed in the light of the European Council Framework Decision of 13 June 2002 on the European Arrest Warrant and the surrender procedures between Member States of the European Union. (Paragraph [3]).
- The Framework Decision does not require “any other warrant” to include previous EAWs. The relevant part of the Decision – article 8(1)(c) – does not use the phrase “European arrest warrant” as it does elsewhere. The reference to “an enforceable judgment, an arrest warrant or any other enforceable judicial decision” (article 8(1)(c)) cannot sensibly be limited to an EAW. One EAW is most unlikely to be based upon another. (Paragraphs [9]-[10])
- There was no other reason to require the EAW to include information about prior EAWs upon which no reliance was being placed. Not doing so would not prevent Mr Louca arguing that extradition was an abuse of process, and other due process factors were comprehensively covered by the Extradition Act. (Paragraphs [13]-[15])

NOTE

This summary is provided to assist in understanding the Court's decision. It does not form part of the reasons for that decision. The full opinion of the Court is the only authoritative document. Judgments are public documents and are available at: www.supremecourt.gov.uk/decided-cases/index.html