

Neutral Citation No: [2020] NIQB 36

*Judgment: approved by the Court for handing down
(subject to editorial corrections)**

Ref: STE11256

Delivered: 20/04/2020

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

BEFORE A DIVISIONAL COURT

IN THE MATTER OF THE EXTRADITION ACT 2003

BETWEEN:

REPUBLIC OF POLAND

Requesting State/Respondent

v

PIOTR KAIM

Requested Person/Appellant

Before: Stephens LJ, Treacy LJ and Sir Paul Girvan

STEPHENS LJ (delivering the judgment of the court)

[1] This court under citation [2020] NIQB 19 dismissed the requested persons appeal against the extradition order dated 22 November 2019 made by HHJ McFarland, Recorder of Belfast, pursuant to a conviction warrant. This court also declined to make a preliminary reference to the Court of Justice of the European Union (“CJEU”). On 15 March 2020 the requested person applied to this court to certify a point of law of general public importance and to give leave to appeal to the Supreme Court. The question which this court was requested to certify was whether:

“having regard to the provisions of Article 267 of the Treaty on the Functioning of the European Union (TFEU), was it open to the Divisional Court, a question having been posed to it for referral to the European Court of Justice (sic), to decline to refer that question to that Court?”

That is a procedural question asked against the background that in our judgment we considered that “the position does not require clarification.” It is only if the substantive question is considered that this court could be incorrect about the procedural question as to whether we should have made a preliminary reference to the CJEU.

[2] We were not asked to certify a substantive question but we invited submissions as to the following question:

“Is the United Kingdom in breach of any duty to transpose into domestic law Art 4(6) of the Council Framework Decision of 13 June 2002?”

[3] The requesting State made submissions in relation to that question which included the following:

“14. In our submission there is no basis for certification of the question proposed in this case. The jurisprudence on this issue has been settled in both domestic and European law. There are no conflicting domestic law decisions which would require resolution by the Supreme Court and the domestic and CJEU jurisprudence are fully aligned. In those circumstances there can be no question of law of general public importance arising.”

[4] We accept that submission and agree that in the context of this case if it is settled law then it cannot be a point of law of general public importance. We refuse to certify either the question posed by the requested person or the substantive question which this court formulated.

[5] The application for leave to appeal to the Supreme Court is refused.