



THE HIGH COURT

Record No. 2025 232 EXT

[2026] IEHC 544

BETWEEN

MINISTER FOR JUSTICE, HOME AFFAIRS AND MIGRATION

APPLICANT

AND

BERNARD JOYCE

RESPONDENT

JUDGMENT delivered by Mr. Justice Sean Gillane on 29 July 2026

Introduction

1. This is an application for the surrender of the respondent to the United Kingdom (“the issuing state”), pursuant to section 16 of the European Arrest Warrant Act 2003, as amended (“the 2003 Act”), on foot of a Trade and Cooperation Agreement Warrant issued by District Judge George Conner sitting at Laganside Court, Belfast Magistrate’s Court on the 15th of August 2025 (“the warrant”).
2. The warrant was issued by a competent judicial authority in the issuing state (“the IJA”).

3. The respondent, with a date of birth of the 29th of October 1970, was arrested on the 23rd of April 2026 on foot of the warrant, brought before this Court and remanded in custody.
4. No issue has been raised by the respondent in relation to his identity, and I am satisfied that the respondent is the person identified in the warrant.
5. On the 29th of April 2026, this Court made a number of directions in relation to the proceedings and ordered that points of objection, affidavits and submissions be filed in advance of a hearing date set for the 10th of June 2026. These directions were not complied with and no submissions or points of objection were filed at that time.
6. On the 10th of June 2026, the Court was told that new solicitors wished to come on record for the respondent. No indication had been given in advance to the Chief State Solicitor's Office.
7. Further directions were given in relation to filing papers and a new hearing date was set for the 10th of July 2026. The matter was also listed for a bail hearing on the 15th of June 2026, which was later adjourned to the 19th of June 2026 in order to allow the respondent to obtain further relevant documentation.
8. On the 19th of June 2026, I heard the contested bail application and admitted the respondent to bail on strict terms. The hearing date was also adjourned to the 17th of July 2026. Points of objection and legal submissions were served on the applicant on

the 2nd of July 2026. While affidavits were filed for the purposes of the bail application, no further affidavit was filed on behalf of the respondent.

Background

9. The warrant is based on an arrest warrant issued by the Belfast Magistrates' Court in Northern Ireland in respect of a number of offences: wounding with intent to do grievous bodily harm; two offences of attempting to cause grievous bodily harm; assault occasioning actual bodily harm; aggravated burglary and possession of an offensive weapon with intent to commit an offence.
10. It is an accusation-type warrant and therefore no trial *in absentia* issues arise.
11. Part C of the warrant sets out the maximum custodial sentence that may be imposed for each offence. Save for the offence of possession of an offensive weapon with intent to commit an offence which carries a maximum sentence of four years' imprisonment and the offence of assault occasioning actual bodily harm which carries a maximum sentence of seven years' imprisonment, each of the offences carries a maximum sentence of life imprisonment. Accordingly, the requirements of minimum gravity are met.
12. Correspondence is also clearly established with the following offences in the State:
 - assault causing harm contrary to section 3 of the Non-Fatal Offences Against the Person Act 1997, as amended or an attempt to commit same contrary to common law;

- causing serious harm contrary to section 4 of the Non-Fatal Offences Against the Person Act 1997 or an attempt to commit same contrary to common law;
- aggravated burglary contrary to section 13 of the Criminal Justice (Theft and Fraud Offences) Act 2001;
- trespassing with a weapon of offence contrary to section 10 of the Firearms and Offensive Weapons Act 1990, as amended.

13. Part E of the warrant sets out in considerable detail a description of the circumstances in which the offences were alleged to have been committed, including the degree of participation of the respondent.

14. The prosecution is brought on a joint enterprise basis with two other individuals who were also the subject of a request for surrender and in respect of whom separate judgments will issue today. These cases were heard together, and points of objection and submissions were identical in each.

15. It is indicated in Part E of the warrant that at approximately 9pm on the 16th of November 2019, three males entered an address in County Tyrone, Northern Ireland armed with machetes. Part E continues:

“Upon entering the house, the 3 males entered the living room and attacked the occupants of that room with these machetes. At least 1 of the males was recording the attack on a mobile telephone. The 3 individuals fled across the border immediately following the attack and shortly afterwards a video recording of the attack was posted on social media.”

16. The house was occupied by a named individual (A) and her family and, on the occasion of the attack, she was present with a 14 year old child (B) and an 11 month old infant.
17. B subsequently participated in an Achieving Best Evidence (“ABE”) interview with the PSNI in the children’s ward of the hospital in which she was being treated.
18. The warrant describes the injuries suffered by B as a wound approximately 6 inches in length to her chest wall, a wound approximately 2 centimetres in length to her left knee and a punctured lung. She underwent major life-saving surgery for her injuries. A sustained cuts to her neck, arms and legs and required treatment in the hospital.
19. The respondent was named as one of the perpetrators by both A and B, and A indicated that she had known all three assailants her entire life.

Discussion

20. The respondent objects to his surrender.
21. As well as putting the applicant on proof of all matters necessary for the grant of an order for surrender, the respondent objects to his surrender on two specific grounds:
- “The proposed surrender of the Respondents is prohibited by section 37 of the European Arrest Warrant Act 2003, as amended, in circumstances where:*
- (i) The delay in issuing the said warrant amounts to a breach of the Respondents’ right to a fair trial pursuant to Article 6 of the Convention; and*

(ii) *The prison conditions in Northern Ireland are such as to present a real risk that the Respondents will be exposed to inhuman and degrading conditions.”*

22. The approach to complaints such as these in a request for surrender under the Trade and Cooperation Agreement (“the TCA”) has been identified by the Court of Justice of the European Union (“the CJEU”) in *Alchaster* (Case C-202/24, ECLI:EU:C:2024:649).

23. In relation to the question of respect for fundamental human rights in the context of a request for surrender under the TCA, the CJEU said at paragraphs 48-49 that:

“Although it follows from the foregoing that an executing judicial authority is in principle required to give effect to an arrest warrant such as those at issue in the main proceedings, the fact remains that Article 524(2) of the TCA states that no provision of Part Three of that agreement alters the obligation to respect fundamental rights and legal principles as set out, in particular, in the ECHR and, in the case of the European Union and its Member States, in the Charter.

The obligation to comply with the Charter, recalled in Article 524(2), is binding on the Member States when they decide on the surrender of a person to the United Kingdom, given that a decision on such surrender constitutes an implementation Union law within the meaning of Article 51(1) of the Charter. The executing judicial authorities of the Member States are therefore required, when adopting that decision, to ensure respect for the fundamental rights afforded by the Charter to the person who is the subject of an arrest warrant issued on the basis of the TCA, without the fact that the Charter is not applicable

to the United Kingdom being relevant in that regard (see, by analogy, judgment of 6 September 2016, Petruhhin, C-182/15, EU:C:2016:630, paragraphs 52 and 53).”

24. The CJEU confirmed in principle that surrender can be refused where the existence of a risk of a breach of fundamental human rights has been established. At paragraph 51, it stated that:

“Accordingly, the existence of a risk of a breach of those rights is capable of permitting the executing judicial authority to refrain, following an appropriate examination, from giving effect to an arrest warrant on the basis of the TCA (see, by analogy, judgments of 25 July 2018, Minister for Justice and Equality (Deficiencies in the system of justice), C-216/18 PPU, EU:C:2018:586, paragraph 59; of 31 January 2023, Puig Gordi and Others, C-158/21, EU:C:2023:57, paragraph 72, and of 21 December 2023, GN (Ground for refusal based on the best interests of the child), C-261/22, EU:C:2023:1017, paragraph 43).”

25. The CJEU then went on to examine in detail the nature of the two-step process that must be conducted in the context of surrender requests under the European Council Framework Decision dated the 13th of June 2002 on the European Arrest Warrant and the Surrender Procedures Between Member States as described in well-established authorities such as *Aranyosi and Căldăraru* (Joined Cases C-404/15 and C-659/15 PPU, ECLI:EU:C:2016:198).

26. The CJEU's analysis led to the conclusion that the two-step process cannot be simply transposed into a request for surrender under the TCA.

27. The respondent's written submissions suggest that the CJEU noted that the relationship between the United Kingdom and the European Union ("the EU") post-withdrawal is not "*as special*" as it previously was. However, that reference at paragraph 70 of *Alchaster* is in fact a comparison with the "*special relationship*" between Norway and the EU, which is described as "*going beyond economic and commercial cooperation*" given that, amongst other things, Norway is a party to the Agreement on the European Economic Area and participates in the Common European Asylum System.

28. At paragraph 71, the CJEU did, in this context, acknowledge that it is clear from the terms of the TCA itself that cooperation between the United Kingdom and the EU is based on a long-standing respect for the protection of the fundamental rights and freedoms of individuals but:

"... that cooperation is not presented as being based on the preservation of mutual trust between the States concerned which existed before the United Kingdom left the European Union on 31 January 2020."

29. It is clear that CJEU's approach in *Alchaster* was that a refusal to surrender should be based on a specific and precise examination of the respondent's situation in any given case and where there were "*valid reasons*" for believing that there would be a real risk of a breach of the respondent's fundamental rights if surrendered.

30. At paragraphs 79-80, the CJEU stated that:

“Therefore, where the person who is the subject of an arrest warrant issued on the basis of the TCA claims before that executing judicial authority that there is a risk of a breach of Article 49(1) of the Charter if that person is surrendered to the United Kingdom, that executing judicial authority cannot, without disregarding the obligation to respect the fundamental rights enshrined in Article 524(2) of that agreement, order that surrender without having specifically determined, following an appropriate examination, within the meaning of paragraph 51 above, whether there are valid reasons to believe that that person is exposed to a real risk of such a breach.

... the executing judicial authority must, however, take into account the long-standing respect by the United Kingdom for the protection of the fundamental rights and freedoms of individuals, including as set out in the Universal Declaration of Human Rights and in the ECHR, which is expressly referred to in Article 524(1) of the TCA, and the provisions laid down and implemented in United Kingdom law to ensure respect for the fundamental rights set out in the ECHR (see, by analogy, judgment of 19 September 2018, RO, C-327/18 PPU, EU:C:2018:733, paragraph 52).”

31. At paragraph 82, the CJEU found that, when read in conjunction with the Charter of Fundamental Rights of the European Union, the TCA requires:

“... the executing judicial authority to examine all the relevant factors in order to assess the foreseeable situation of the requested person if he or she is surrendered to the United Kingdom, which, unlike the two-step examination referred to in paragraphs 52 to 54 above, assumes that both the rules and

practices that are generally in place in that country and, if the principles of mutual trust and mutual recognition are not applied, the specific features of that person's individual situation are to be taken into account simultaneously."

32. The CJEU concluded its analysis in saying at paragraph 85 that:

"Consequently, the executing judicial authority may refuse to give effect to an arrest warrant on the basis of Article 524(2) and Article 604(c) of the TCA, read in conjunction with Article 49(1) of the Charter, only if it has, having regard to the individual situation of the requested person, objective, reliable, specific and properly updated information establishing substantial grounds for believing that there is a real risk of a breach of Article 49(1) of the Charter (see, by analogy, judgments of 6 September 2016, Petruhhin, C-182/15, EU:C:2016:630, paragraph 59, and of 19 September 2018, RO, C-327/18 PPU, EU:C:2018:733, paragraph 61)."

33. This area of law was the subject of recent discussion by McGrath J. in *Minister for Justice v. Dumitri [AKA Cerban]* [2025] IEHC 69.

34. *Dumitri* concerned an objection to surrender to the United Kingdom based on prison conditions.

35. At paragraph 16, McGrath J. put the position in the following terms:

"Following on from the Judgment of the CJEU in Alchaster, the principles of mutual trust and confidence that underlie the operation of the Framework Decision and the consideration of applications from member states of the

European Union, do not apply to the consideration of TCAWs received from the United Kingdom under the Trade and Cooperation Agreement.”

36. Having set out the relevant parts of *Alchaster*, as quoted above, McGrath J. stated at paragraphs 19-20 that:

“The principles governing the consideration of such objections would appear largely similar to those which have been applied by the Irish Courts when considering applications for surrender from other third countries with which this State has more traditional extradition arrangements, such as by way of example the United States of America, Canada and Australia. In considering any application from a third country, and objections made to surrender thereto, a Court will proceed on the basis that the third country will act in good faith and furthermore that such a state, with whom Ireland has after all agreed to enter into an extradition arrangement or treaty, will behave in a manner which will respect and vindicate the rights of the proposed extraditee.

Furthermore, although the Court will of course consider any relevant past or historic matters which touch upon any claim that there is a substantial risk that extradition to a third country will expose an extraditee to a risk of harm if now surrendered to that state, any assessment of such a risk must be forward looking and therefore any past matters must be relevant to the assessment of any future risk.”

37. McGrath J. also followed the approach of Edwards J. in *Attorney General v. O’Gara* [2012] IEHC 179, where he held that the well-known “*Rettinger principles*” could be

applied with “*appropriate modification*” when considering objections to surrender on human/fundamental rights grounds in a United States extradition case.

38. Having reviewed the authorities, McGrath J. held at paragraph 23 that:

“... Although the principles of mutual confidence and trust do not apply when considering objections in the context of a TCAW warrant, this Court must nonetheless approach fundamental / human rights objections to surrender to the United Kingdom cognisant of it being a party to the European Convention on Human Rights, its long standing respect for the protection of fundamental rights as set out in that Convention and the provisions in place in UK law to ensure the protection of such rights and freedoms.”

39. In that case, even in the context of applying what might be called a “*weaker*” presumption in a request for surrender under the TCA, McGrath J. concluded that the evidence put before the court by the respondent did not give rise to concerns that, if surrendered, he would be exposed to inhuman and degrading treatment such as to give rise to a possible breach of Article 3 of the European Convention on Human Rights.

Delay

40. It is submitted on behalf of the respondent that the unexplained delay of nearly six years between the alleged commission of the offences on the 16th of November 2019 and the issuance of the warrants on the 15th of August 2025 “*is such as to adversely impact the Respondent’s right to a fair trial.*” It is further submitted that due to a six-month strike by criminal barristers in Northern Ireland, there is now a backlog of cases to be

processed which will lead to a further unknown delay. This latter point is made by reference to a BBC news report dated the 27th of June 2026.

41. The written submissions filed on behalf of the respondent state that:

“... the evidence offered in support of linking the Respondents to the offence is based entirely on witness accounts. No CCTV, phone evidence, ANPR data, DNA or forensic evidence has been offered by way of evidence in the warrants. The consequence of same is that the Respondents are required to advance a defence to a case from nearly 7 years ago, which may not come on for hearing for several more years. It is submitted that same amounts to a fundamental breach of their right to a fair and expedient trial.” (Emphasis added.)

42. Notwithstanding the skill with which this submission was advanced by counsel for the respondent, I am of the view that this argument is not just entirely speculative but unstateable.

43. There are a number of preliminary observations that might be made.

44. Firstly, Part E of the warrant sets out a description of the circumstances in which the offences were allegedly committed, including the time, place and degree of participation of the respondent. There is no requirement in law that the warrant set out what would in effect be the equivalent of a ‘book of evidence’, as it is known in this jurisdiction. The question of what evidence will ultimately be led in the prosecution will be a matter for the prosecuting authority in Northern Ireland, subject to any rulings of the trial judge.

45. Secondly, it is part of the respondent's own case that in November or December 2019 he was approached by a named member of the PSNI and asked to participate in an interview in relation to these allegations. The respondent says that he indicated a willingness to participate provided he could do so in this jurisdiction, an offer which was not taken up by the PSNI. It is clear, therefore, that the respondent has been aware of these allegations since 2019 and it cannot be sensibly suggested that he was taken by surprise or hampered in the preparation of a defence in relation to old matters of which he has only recently become aware.

46. As it happens, the warrant also indicates that A stated that, one week prior to the incident, the respondent and his two co-accused posted a threatening video on YouTube with the same weapons used in the attack on the 16th of November 2019. The video was recorded in this jurisdiction and the respondent pleaded guilty to offences arising out of this recording and was given a suspended sentence on the 11th of December 2020.

47. In so far as it might be suggested that delay has a deleterious effect on the potential testimony of a child witness, there is a well-established body of case law in the issuing state dealing with the question of the admissibility of ABE statements where there has been a lengthy passage of time between the interview and the trial.

48. I am of the view that the argument advanced is also misconceived as a matter of principle.

49. In *Minister for Justice, Home Affairs and Migration v. O’Kane/McNicholl* [2026] IECA 53, Owens J., in a lengthy judgment, discussed the issue of delay as a ground to refuse surrender in the context of abuse of process arguments. In that case, the delay was one of 48 years.

50. At paragraphs 173-174, Owens J. held that:

“Delay in the sense of passage or elapse of time cannot of itself be a basis for discretionary refusal by the executing judicial authority to enforce an arrest warrant. It does not come within any ground permitted by 2003 Act, which implements the Framework Decision and the TCA.

The decision of the Supreme Court in Minister for Justice Equality and Law Reform v. Stapleton ([2007] IESC 30) [2008] 1 I.R. 669 is authority for this proposition. This precluded any enquiry by the High Court, based on Irish domestic rules, as to the possibility of a fair trial in the issuing state as a result of passage of time between an alleged offence and the issue of a European arrest warrant....”

51. At paragraphs 187-189, Owens J. said that:

“The first of those circumstances is that a long delay by the Northern Ireland prosecuting authority in pursuing prosecution and surrender of John McNicholl and Séamus O’Kane was not satisfactorily explained, in the sense that the prosecuting authority did not produce any good excuse for its inaction. The second is that that during that period of delay the whereabouts Séamus O’Kane and John McNicholl were known to that prosecuting authority.

John McNicholl and Séamus O’Kane are advancing an impossible contention. If an application for surrender were to be given short shrift by an executing judicial authority on the basis that these circumstances could show that it was an abuse of process, that would defeat the purposes of the Framework Decision, the relevant provisions of TCA and the 2003 Act. Delays by issuing states in carrying out investigations of suspects or in pursuing criminal proceedings against suspects, especially those who have fled to avoid prosecution or trial for serious offences, could not possibly give those suspects a basis to claim that it is an abuse of process to resort to procedures mandated by law to seek their surrender with a view to bringing them to trial.

If a person subjected to that process cannot get a fair trial as a result of lapse of time or if a trial should not proceed for some other reason associated with delay, that can be dealt with in the appropriate forum at the appropriate time. The appropriate forum is the courts of the issuing state. The appropriate time is after surrender.”

52. In my view, the legal position could not be clearer. Further, I know of no authority in this jurisdiction, and none was opened to me, where, outside of the realm of juvenile cases where very particular considerations arise, a delay of this duration *simpliciter* resulted in an order for prohibition on the basis of a breach of the right to a fair and expedient trial.

Prison Conditions

53. This argument was curiously framed. It is submitted at paragraph 17 of the respondent's written submissions that:

“The prison population in the North of Ireland has generally been below their stated capacity, however the recent influx in detainees has resulted in sudden and severe overcrowding.”

54. This submission is based on news reports of statements made by the Justice Minister for Northern Ireland indicating a rapid increase in the prison population and a weekly situation report dated the 19th of June 2026 published online by the Department of Justice (Northern Ireland) indicating that the prison population in Maghaberry Prison currently stands at 1,414 prisoners, where there is only capacity for 950 prisoners. In that regard, there are footnoted references to three particular news reports, all published in July 2025.

55. It was submitted that because the problem is so recent (counsel for the respondent suggested that the surge in prison population occurred within the last six months), most of the inspection reports from recognised bodies are now out of date.

56. It was suggested in the course of the hearing that, at a minimum, the Court should seek further information from the issuing state pursuant to section 20 of the 2003 Act or alternatively adjourn the hearing to allow the respondent to put appropriate expert evidence before the Court. I am satisfied that this was in effect a ‘Hobson’s choice.’

57. I am satisfied that the respondent has not come close to discharging the burden of demonstrating any, still less substantial, grounds for believing that his surrender to the issuing state would expose him to a real risk of a breach of his fundamental human rights. The very limited material placed before me indicates, at its height, recent pressure being placed on the Northern Ireland prison system by an increase in inmate numbers.
58. There is an evidential deficit in this case which fails to meet what is required under *Minister for Justice, Equality and Law Reform v. Rettinger* [2010] 3 I.R. 783 or *Minister for Justice and Equality v. Angel* [2020] IEHC 699 as interpreted in light of *Alchaster*, a burden which, it must be said, could not be described as onerous.
59. There is nothing before me to sustain a submission that there are systemic deficiencies or a generalised risk of ill treatment in the Northern Ireland prison system which could give rise to a concern on my part of a real risk of a breach of fundamental human rights, absent the provision of any specific assurances.
60. I note that this case had been listed for hearing previously and no explanation has been offered as to why evidence in relation to these matters (if such is available) has not been placed before the Court. It is an invidious position for the Court to be asked to conduct investigations of its own, absent any evidential basis of substance for doing so, or to alternatively create further delay by adjourning the matter to allow the respondent to produce evidence, whether by way of expert or in relation to his own particular circumstances.

61. I also adopt the reasoning of McGrath J. in *Minister for Justice v. Curtin* [2025] IEHC 145 where he said at paragraphs 68-72 that:

“Concerns have been raised in relation to issues in prisons generally in the United Kingdom. Reports have been prepared by bodies tasked with inspecting prisons in the United Kingdom and a number of reports have been provided which contain general criticisms of the UK prison estate and of particular institutions. Issues have been raised concerning inter alia:

- a. Overcrowding in the prison estate generally and in particular prisons;*
- b. Inter prisoner violence and how the authorities might be dealing with the same;*
- c. Failures in certain instances to provide certain medical treatment in a timely manner, including treatment for mental health issues;*
- d. The absence of sufficient resources and staffing in UK prisons;*
- e. The absence of sufficient resources for rehabilitation.*

The court has had to consider such general criticisms in other cases, Minister for Justice v Keating [2024] IEHC 515 and Minister for Justice v Dumitri [AKA Cerban] [2025] IEHC 69, and has rejected claims that, given the deficiencies identified in the UK prison estate generally and in certain specific prisons, surrender to the United Kingdom should be refused as there is a real risk of breach of Article 3 of the Convention.

This court is cognisant of various difficulties and issues in the UK prison estate, but nothing has been put before the court in this case to reach any conclusion different to that in those recently decided cases. Generalised complaints have

been made by the Respondent arising from such reports but no evidence has been put before the Court in relation to this Respondents specific mental health issues, his needs and to support any contention that there is a real risk that the UK prison authorities will fail to meet his needs in a manner that would lead to a breach of his rights under the ECHR.

On the facts of this case, applying the test set out in Alchaster and without any reference to the principles of mutual trust and confidence, I have come to the same conclusion arrived at in Keating and Cerban. Applying the weaker presumption that now arises in relation to TCAWs, I do not consider that the evidence adduced by this Respondent gives rise to concerns that, if surrendered, he will be exposed to inhuman and degrading treatment such as to give rise to a possible breach of Article 3 of the Convention.

Whilst there are ongoing difficulties in relation to issues such as overcrowding, inter prisoner violence, timely health treatment and rehabilitation generally in the UK prison estate, having considered all of the material submitted by the Respondent and the submissions thereon, I do not consider that he has shown even a generalised risk of ill treatment such that might raise issues under Article 3 of the Convention.”

62. For completeness, and in deference to the arguments made by counsel for the respondent, I did access online versions of the footnoted news reports referred to in the respondent’s written submissions.

63. I note that the BBC report dated the 21st of July 2025 refers to a Council of Europe (“COE”) Report which noted a “*significant increase*” of prisoners in Northern Ireland. It also states that the COE “*did not describe the situation as overcrowding.*” The same news report quoted a spokesman for the Northern Ireland Prison Service as saying that “*whilst challenging, the prison population in Northern Ireland has not yet exceeded available capacity, and we continue to prioritise safe decent and secure custody.*”
64. The Irish News report dated the 20th of July 2025 refers to the population in Maghaberry Prison as “*close to maximum capacity*” and states that this has increased tensions.
65. The Belfast Telegraph report dated the 18th of July 2025 refers to the high likelihood of a disused cell block in Maghaberry Prison being reopened as a result of the increasing prison population.
66. None of these reports, in my view, give rise to a concern of a real risk of a breach of the fundamental rights of the respondent and I reject this point of objection.
67. I am satisfied that the warrant is in compliance with section 11 of the 2003 Act.
68. The name and address of the judicial authority that issued the warrant and its telephone number, fax number and email address are set out on the face of the warrant.
69. I am satisfied that I am not required to refuse the respondent’s surrender under sections 22, 23 or 24 of the 2003 Act. I am also satisfied that I am not required to refuse surrender for any other reason pursuant to Part 3 of the 2003 Act.

Conclusion

70. For the reasons set out above, I reject the points of objection raised by the respondent to surrender. I, therefore, propose to make an order for surrender to such a person as is duly authorised to receive him on behalf of the issuing state.