



Neutral Citation Number: [2026] EWHC 1720 (Admin)

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 08/07/2026

Before:

THE HONOURABLE MR JUSTICE SWEETING

Between:

Case No: AC-2025-LON-001318

Andreea-Maria TOBOSARU

Appellant

- and -

Court of Law Craiolva, ROMANIA

Respondent

Case No: AC-2025-LON-001548

Ionut-Andrei TOFAN

Appellant

- and -

Secuava Local Court, ROMANIA

Respondent

Ben Watson KC and Martin Henley (instructed by AM International Solicitors) for the
Appellants

David Perry KC and Laura Herbert (instructed by Crown Prosecution Service –
Extradition Unit) for the Respondents

Hearing dates: 10th February 2026

Approved Judgment

This judgment was handed down remotely at 11.30am on 8th July 2026 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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THE HONOURABLE MR JUSTICE SWEETING

Mr Justice Sweeting:

Introduction

1. Ms Tobosaru appeals against the decision of DJ Zani ordering her extradition, dated 23 April 2025. Mr Tofan appeals against an order for his extradition made on 13 May 2025 by District Judge Pilling.
2. Permission was granted on the papers by Mrs Justice Williams by order dated 18 September 2025. She ordered that the appeals be joined and heard together.
3. They are each brought under section 26 of the Extradition Act 2003 (the 2003 Act), and are advanced on the basis that the lower court ought to have decided two questions differently:
 - i) First, whether an ‘extradition offence’ was properly made out for the purposes of sections 10 & 65 of the 2003 Act (Ground 1); and
 - ii) Secondly, whether extradition would be compatible with article 8, ECHR (Ground 2).
4. The issue common to both appeals is:

“whether the District Judge was wrong to rely on the decision of the House of Lords in *Pilecki v Poland* [2008] 1 WLR 325 in determining that in each case the ‘extradition offence’ test was met.”
5. The function of this court is to determine whether the District Judge was wrong in law, wrong in fact, or reached a conclusion which they were not entitled to reach on the material before them. Issues of statutory construction, including the correct interpretation of sections 10 and 65 of the 2003 Act are questions of law. In relation to such matters, the court applies its own judgment. If the District Judge applied the wrong legal test, misconstrued the statutory scheme, or misunderstood the effect of binding authority, the court must substitute its own conclusion.
6. Where the factual basis is not in dispute, the question is whether, applying the correct legal approach, the District Judge was entitled to conclude that the statutory requirements were satisfied.
7. Issues arising under Article 8 involve an evaluative assessment and the exercise of judgment. In that context, the appellate court must consider whether the District Judges:
 - i) misdirected themselves as to the applicable legal principles;
 - ii) failed to take into account a material consideration;
 - iii) took into account an immaterial one; or
 - iv) reached a conclusion on proportionality which was not reasonably open on the facts.

8. The court should not interfere merely because it might itself have struck the balance differently. Particular weight must be given to the strong public interest in extradition. Accordingly, across all grounds of appeal, the question for this court is not whether it would have reached the same conclusion as the District Judge, but whether the decision under challenge is vitiated by legal error, material factual error, or an impermissible evaluative judgment.

The Background - Tobosaru

9. Ms Tobosaru is the subject of a conviction European Arrest Warrant issued on 6 September 2024. The warrant concerns two Romanian offences of selling pyrotechnic articles without the required licence:
 - i) The First offence (31 December 2020) related to the sale of:
 - a) 9 F2 fireworks (“Magical Shots” Roman Candles); and
 - b) 1 box of 100 P1 sound-emitting pyrotechnic articles (“3-Schlag Pirat”).
 - ii) The Second offence (30 December 2021) concerned the sale of:
 - a) 1 “Lily Magnolia” F2 firework battery; and
 - b) 1 box of 20 “Black Widow” firecrackers.
10. Following the Appellant’s attendance at her trial and an indication of guilty pleas, on 18 January 2023 the Court of Law Craiova imposed three months’ imprisonment for each offence and then applied the Romanian rules as to the merger of sentences (under the Criminal Code, Article 39). This resulted in a total custodial sentence of four months.
11. The sentence was initially postponed for two years of probation supervision, including unpaid work to which the Appellant had consented. The postponement was later revoked when Ms Tobosaru failed to attend her first probation appointment.
12. Ms Tobosaru is now 27 years old. She has two daughters from a previous relationship which, on her account, appears to have been abusive. She travelled to the UK because her domestic situation was fraught and she wished to find work, which she did. She was arrested in the UK on 17th September 2024. The full extradition hearing took place on 7th January 2025.
13. During the extradition proceedings, enquiries established that only one element of the conduct, the sale of the 20 Black Widow firecrackers in the second offence group, would constitute an offence in England and Wales. The Romanian authority accepted that extradition could proceed solely on that basis. The District Judge proceeded accordingly, determining that only one offence was an extradition offence within section 10 of the Act.
14. Further information provided by the Romanian authority confirmed the structure of the sentence as 3 months (for each offence but merged), plus an additional 1 month, leading to the final 4-month term of imprisonment (arrived at by imposing the most severe sentence plus an additional one third of the total).

15. As to how the sentence would be implemented if (as occurred) extradition was ordered in respect of one offence only, the explanation given by the Respondent by way of further information was:

“Regarding the punishment that the wanted person would have to serve if extradited only for her conduct in connection with the ‘Black Widow’ ‘Flash Banger’ fireworks, we inform you that, following an internal judicial procedure to be carried out after the surrender of the wanted person, meeting the rule of 4 specialty, the punishment is 3 months, being applied for the commission of the offence of carrying out operations with pyrotechnic articles without right [...] of two products together: 1 piece of pyrotechnic article type fireworks batter, marked ‘Lily Magnolia 36 shots’ [...] and 1 box of 20 pieces of pyrotechnic articles type firecrackers, inscribed ‘BLACK WIDOW’.

...at the moment of her surrender, the wanted person will be incarcerated in order to serve the resulting sentence of 4 months imprisonment and subsequently, in order to meet the rule of specialty, which our country respects, in accordance with the international agreements to which it is a party, the matter will be referred to the court, in order to determine the sentence to be served as a result of the surrender decision approved by you, in relation to the part of the sentence for the offence you recognise. [...] We cannot confirm at this moment which part of the sentence is to be executed, corresponding to the offence for which extradition has been ordered, since this decision, of partial execution of the sentence, given that two sentences of 3 months each have been imposed in the case, can only be ordered by a judge, following a judicial procedure, which will take place after the actual surrender of the wanted person in Romania.” (My emphasis)

16. In his judgment the District Judge concluded [49-56]:

“In order to comply with the provisions of s.10, the sentence imposed has to be 4 months or greater (section 64(3)(c)). Having heard the submissions very capably made by counsel for the parties, I am satisfied that it is not, in fact, necessary for this court to enquire as to the length of the individual aspects of the sentences (*Pilecki v Poland* [2008] 1 WLR 325 (*Pilecki*)) ; *Horbacz v Poland* [2019] EWHC 1071 (Admin) at [19]).

I bear in mind that the sentence originally imposed for the 1st offence (comprising 2 brands of fireworks) was 3 months and that a separate 3 months term was imposed for the 2nd offence. These sentences were later merged into a sentence of 4 months.

I disagree with Mr Henley that the present case falls to be distinguished from *Pilecki* for the reason that he suggests, notwithstanding that *Pilecki* may have been a case which did not

have to deal with the situation wherein all the conduct attracted individual sentences of less than 4 months

[...]

The defence argument suggests, inter alia, that the aggregate sentence will be disaggregated and the original sentence(s) restored. However that is a matter for the Romanian court, having due regard to the RP's specialty protection (which I am satisfied the Romanian authorities will appropriately respect).

Furthermore, I am satisfied that the operative sentence to be actually served is immaterial to the operation of the statutory scheme and its omission does not effect the validity of an extradition request, nor does it amount to an abuse of process (*Zakrzewski v Poland* [2013] 1 WLR 324 at [16]).

As mentioned heretofore, it will be a matter for the Romanian court to establish the precise term that the RP will serve and the question for the court when considering s. 65 of the 2003 Act is not 'whether the sentence the RP would be required to serve is 4 months or greater', nor is it 'whether the sentence for the part of the conduct for which extradition would be ordered is 4 months or greater'.

I have carefully considered the submissions ably made by counsel for the parties, both orally and in writing, and I am satisfied that s.10 has been satisfactorily complied with. A sentence (merged term) of 4 months has been imposed and it will be a matter for the Romanian authorities to decide how much of it the RP will actually have to serve, taking into account the specified 'Fireworks' in respect of which the RP will not be surrendered." (My emphasis)

17. The District Judge further found that the Appellant had deliberately absented herself from trial and knowingly placed herself beyond the reach of the judicial authority so that she was a fugitive from Romanian justice. He conducted the conventional balancing exercise required in relation to the Appellant's Article 8 rights.
18. He accepted that the Appellant's extradition would cause hardship to her and her current partner but held that this was not enough to prevent extradition. Although the custodial sentence was short, the offending was, in his view, of "moderate seriousness", given the safety risks associated with the unlawful sale of fireworks, which are regulated because they are explosives.
19. The Appellant's personal circumstances were found to carry limited weight. Her relationship in the UK is recent, she has no dependants here, and her two children live in Romania with her former mother-in-law. She has lived in the UK for less than two years, has minimal ties, limited English, no employment, and does not financially support her children. The Judge considered that after completing her short Romanian

sentence she could either apply to return to the UK and pursue plans to bring her children here, or re-establish life with them in Romania.

20. The Judge also noted that the Appellant is not of good character, having accumulated four UK convictions for shoplifting in 2023 and a prior theft conviction in Italy in 2019. Given that she was a fugitive from justice the Judge concluded that there were no sufficiently strong countervailing factors to render extradition disproportionate under Article 8 ECHR.

The Background - Tofan

21. The extradition of Mr Tofan to Romania was sought on the basis of two conviction European Arrest Warrants, both issued on 13 June 2024 by the Suceava Local Court.
22. Arrest Warrant 1 (“AW1”) related to a conviction for driving without a licence in 2017. The Romanian court imposed 8 months’ imprisonment, all of which now remains to be served. The sentence had originally been suspended for two years with conditions but was later activated because Mr Tofan failed to attend probation as required.
23. Arrest Warrant 2 (“AW2”) related to convictions for three offences committed in 2011 and 2012, resulting in a combined sentence of 5 months’ imprisonment, all still outstanding which were:
 - i) Presenting a false identity document for which a 2-month suspended sentence was imposed.
 - ii) Smuggling cigarettes and driving without a licence which resulted in a single 3-month sentence.
24. The custodial sentence for offences 1 and 2 led to the activation of the suspended 2-month sentence for the false identity document offence. The appeal is directed at AW2 alone for which the total sentence was 5 months as a result of being cumulated rather than aggregated.
25. In relation to the argument advanced by reference to section 10, the District Judge accepted the Judicial Authority’s interpretation. Applying *Pilecki*, the Judge held that the relevant sentence was the total sentence imposed; here, 5 months’ imprisonment. Since this total sentence exceeds the statutory minimum, she was satisfied that section 65 requirement was met, and therefore that section 10 was also satisfied.
26. In conducting the Article 8 proportionality assessment, the Judge weighed the significant public-interest factors favouring extradition; namely the constant and weighty public interest in honouring extradition obligations, the Appellant’s status as a fugitive, and the fact that he had committed multiple offences over a number of years, against the factors advanced against extradition, including his long-established family life in the UK, the age of the offences, the absence of any UK convictions, the short sentences involved, and the presence of young children, including a newborn. While extradition would cause hardship to the Appellant’s family, the Judge was not persuaded on the evidence that this hardship would be exceptional; meaningful support was available, and the Appellant’s family life in the UK was built in the knowledge that he had chosen not to engage with proceedings in Romania. Balancing all considerations

the Judge concluded that the public interest factors decisively outweighed those against extradition and that extradition would not amount to a disproportionate interference with the Article 8 rights of the Appellant or his family.

The Legal Framework

27. Section 2(2) of the 2003 Act sets out what a Part 1 warrant issued by a category 1 territory must contain. The requirements differ depending on whether the warrant relates to an accusation or conviction.
28. In the case of a conviction warrant it must state that:
 - i) the person is unlawfully at large after being convicted of the offences named in the warrant by a court in the category 1 territory; and
 - ii) the warrant is issued to secure the person's arrest and extradition so they can either be sentenced or serve a sentence already imposed.
29. The warrant must also include specified information, including details of the sentence imposed under the law of the category 1 territory, if the person has already been sentenced.
30. The relevant part of section 10 of the 2003 Act, as modified by the Multiple Offences Order 2003, provides:
 - “(1) This section applies if a person in respect of whom a Part 1 warrant is issued appears or is brought before the appropriate judge for the extradition hearing.
 - (2) The judge must decide whether any of the offences specified in the Part 1 warrant is an extradition offence.
 - (3) If the judge decides the question in subsection (2) in the negative he must order the person's discharge in relation to that offence only
 - (4) If the judge decides that question in the affirmative in relation to one or more offences he must proceed under section 11.”
31. Section 65 of the 2003 Act sets out what amounts to an “extradition offence” where the person has been sentenced for the offence (hence a conviction case). The relevant part provides as follows:
 - “(2) The conduct constitutes an extradition offence in relation to the category 1 territory if the conditions in subsection (3) are satisfied.
 - (3) The conditions in this subsection are that-
 - (a) the conduct occurs in the category 1 territory;

(b) the conduct would constitute an offence under the law of the relevant part of the United Kingdom if it occurred in that part of the United Kingdom;

(c) a sentence of imprisonment or other form of detention for a term of 4 months or a greater punishment has been imposed in the category 1 territory in respect of the conduct.”

32. The burden is on the issuing authority to prove to the criminal standard that the extradition offence test is met.
33. The question raised by the appeal is whether, for the purposes of sections 10 and 65(3)(c) of the 2003 Act, the court is required to examine the sentence imposed for each individual offence, or whether it is sufficient that the sentence imposed for the conduct taken as a whole amounts to a term of imprisonment of four months or more, applying the approach articulated by the House of Lords in *Pilecki v Poland* [2008] 1 WLR 325 where Lord Hope (with whom Lords Bingham, Scott, Brown and Neuberger agreed) said [33-34]:

“Adopting that approach to the construction of the 2003 Act, it seems to me that section 2(6)(e) does not present a problem. As modified, it requires information to be given of particulars of the sentence which has been imposed under the law of the category 1 territory in respect of the offences. The singular use of the word sentence, even in multiple offence cases, matches exactly the wording of the Annex to the Framework Decision. Nor does section 65(3)(c) present a problem either. It refers to a sentence of imprisonment or another form of detention . . . [that] has been imposed in the category 1 territory in respect of the conduct. This wording too is consistent with the Framework Decision.

The problem lies only in the wording of section 10 as modified in the case of multiple offences. Section 10(2) requires the judge to decide whether ‘any of the offences’ specified in the Part 1 warrant is an extradition offence. I would hold that it is unnecessary, in a conviction case to which section 65(3) applies, for the judge to ask himself whether the sentence that was passed for each offence satisfies the test that is set out in section 65(3)(c). If the other requirements of section 65(3) are satisfied, all he needs to do is to determine whether the sentence for the conduct taken as a whole meets the requirement that it is for a term of at least four months. If it does, he must answer the question in subsection (2) in the affirmative and proceed to section 11: section 10(4). The information on which this decision is to be based must be found within the Part 1 warrant itself: section 2(6)(e). Further information such as that which was made available in this case will be irrelevant to his decision on this issue.”

The Appellants’ Submissions

34. The Appellants challenge both the applicability and the continuing authority of *Pilecki*. Their submissions proceed on two alternative bases.
35. First, it is argued that the present cases are factually distinguishable from *Pilecki*. In *Pilecki*, the sentence was an aggregated composite which could not be disaggregated and all of the underlying conduct was extraditable. By contrast, in each of the present appeals the individual components of the sentence can be identified. In Ms Tobosaru's case, the sentencing court imposed two sentences of three months and then added a further month under the Romanian rules on merger; in Mr Tofan's case, the five-month total derives from clearly identifiable sentences of two months and three months, with activation of a suspended term. Because the component parts of the sentence are known, the court is said to be able, and required, to apply sections 10 and 65 to each offence separately in accordance with their ordinary language.
36. That argument is, it is said, reinforced, in Ms Tobosaru's case, by the fact that substantial parts of the conduct underlying the merged sentence are not extradition offences at all, having failed the dual criminality test. Once those offences (or parts of offences) are removed from consideration, the remaining sentence attributable to the extraditable conduct is three months at most, which falls below the statutory threshold. In that regard reliance is placed on *Tega v Romania* [2024] EWHC 2269 (Admin), as demonstrating that where a sentence is not truly indivisible, the *Pilecki* approach does not apply.
37. Secondly, and more fundamentally, the Appellants submit that *Pilecki* is no longer good law. They contend that its reasoning rests on an erroneous assumption that the *Criminal proceedings against Pupino* (Case C 105/03) ("*Pupino*") principle of conforming interpretation applied to the Framework Decision as a matter of domestic law; an assumption subsequently rejected by the Supreme Court in *Assange Swedish Prosecution Authority (Nos 1 and 2)* [2012] UKSC 22.
38. In *Pupino* the Court of Justice of the European Communities (Grand Chamber) held that National courts were required, so far as possible, to interpret domestic law in conformity with EU law, including Framework Decisions adopted under police and judicial cooperation measures in criminal matters. In light of *Assange*, the proper approach it is argued is to give sections 10 and 65 of the 2003 Act their "natural and ordinary meaning", subject only to the common law presumption of consistency with international obligations.
39. On this approach, the Appellants argue that Parliament has required the court to decide whether "any of the offences" specified in the warrant is an extradition offence and in multiple offence cases, as a result of the modification brought about by the 2003 Order, to discharge in relation to those which are not. Thus, it is contended, section 65(3)(c), properly construed, requires that a sentence of at least four months has been imposed in respect of each offence for which extradition is sought. Article 599 of the Trade and Cooperation Agreement ("TCA") which now governs the relationship with the European Union, does not, it is argued, compel a different result, because it merely reflects the requirements of the 2003 Act and makes surrender conditional on the relevant "acts" constituting an offence under the law of the executing state and meeting the minimum sentencing threshold.

40. Accordingly, the Appellants submit that once an EU law conforming interpretation is stripped away, *Pilecki* cannot stand or at least should not be followed. Applied correctly, the statutory scheme requires discharge in both cases because no individual offence for which extradition may lawfully be ordered carries a sentence of four months or more.

The Respondent's submissions

41. On behalf of the Respondent judicial authorities, it is submitted that *Pilecki* remains binding and determinative. Properly understood, section 65(3)(c) directs attention to the sentence imposed “in respect of the conduct”, not to the individual sentences notionally or actually attributable to each offence. In conviction cases, the legislative and treaty framework is concerned with the seriousness of the sentence imposed and sought to be executed, not with its constituent elements.

42. Relying on Lord Hope's reasoning in *Pilecki*, the Respondents emphasise that the 2003 Act, the Framework Decision, and now Article 599 of the TCA, require only that a sentence of four months or more has been passed; a requirement reflected in the language of the TCA:

“An arrest warrant may be issued for acts punishable by the law of the issuing State by a custodial sentence or a detention order for a maximum period of at least 12 months or, where a sentence has been passed or a detention order has been made, for sentences or detention orders of at least four months.”

43. Where a composite, merged or cumulated sentence of that length exists, the executing court should not enquire into how it was arrived at, whether by aggregation, merger, or cumulation, nor attempt to disaggregate it by reference to individual offences. The terminology used by the sentencing court in the requesting state is, it is submitted, immaterial; the operative question is whether an overall sentence of at least four months' imprisonment has been imposed.
44. It is further argued that the reasoning in *Pilecki* does not depend on the EU law conforming interpretation articulated in *Pupino*, but reflects a broader, long standing domestic presumption that extradition legislation should be construed in a manner which facilitates international cooperation and respects the sentencing decisions of requesting states. In that regard, reliance is placed on authorities both pre-dating and post-dating *Pilecki*, including *R v Governor of Ashford Remand Centre Ex Parte Postlethwaite* [1988] AC 924, *Re Evans* [1994] 1 WLR 1006, *Re Ismail* [1999] AC 320, and more recently *Banica v Romania* [2023] A.C.D. 70. The Respondents submit that *Assange* does not undermine *Pilecki*, noting that the majority judgments reaffirm the presumption that Parliament intends domestic legislation to comply with the United Kingdom's international obligations.
45. Applying those principles to the facts, the Respondents contend that in both appeals there is a single sentence imposed by a final judicial decision which exceeds four months. In Ms Tobosaru's case, although one offence has been discharged under section 65(3)(b), the sentence imposed by the Romanian court remains one of four months' imprisonment, subject to the specialty principle. The Court is not required, and indeed is not entitled, to recalculate a hypothetical sentence for the surviving offence.

In Mr Tofan's case, the final cumulated sentence of five months is, it is argued, the relevant "sentence imposed" for the purposes of section 65(3)(c), regardless of the fact that the component sentences were of two and three months respectively.

46. In short, the Respondents submit that to require examination of individual sentences would reintroduce technical barriers to extradition which *Pilecki* authoritatively rejected and would be inconsistent with Article 599 TCA, which mirrors in material respects the language of Article 2(1) of the Framework Decision.

Discussion and Conclusions

47. The 2003 Act gives effect, in domestic law, to the United Kingdom's international extradition obligations. In conviction cases, sections 10 and 65 require the court to determine whether the offence (or offences) specified in the warrant are "extradition offences" and, if so, whether a sentence of imprisonment of at least four months has been imposed. Where multiple offences are involved, provision is made for discharge in respect of those offences which do not satisfy the statutory requirements.
48. From its inception, the Act has been construed in the context of the United Kingdom's international obligations and against the background of long established principles of comity and mutual recognition. The domestic courts have emphasised that extradition legislation is not to be interpreted in an unduly technical or restrictive manner which would undermine those objectives.
49. In *Pilecki*, the House of Lords considered whether, in a conviction case, the court was required to examine whether any individual offence attracted a sentence of at least four months, where the requested person was subject to a single sentence exceeding that threshold imposed in respect of several offences taken together.
50. The House of Lords held that the statutory scheme does not require such an analysis. The critical question is whether the requesting state seeks the surrender of a person to serve a sentence of at least four months imposed by a final judicial decision. The court rejected an approach which would involve analysing how the foreign sentencing court arrived at the total term or attributing specific periods of custody to individual offences. The sentence imposed, not its constituent elements, was held to be determinative.
51. In *Pupino*, the Court of Justice of the European Union gave a preliminary ruling concerned the interpretation of the EU Framework Decision on the standing of victims in criminal proceedings, in the context of Italian criminal procedure and set out a principle of conforming interpretation which was frequently invoked in extradition cases under the 2003 Act.
52. At the time *Pilecki* was decided, the 2003 Act was understood as implementing the EU Framework Decision on the European Arrest Warrant and the House of Lords referred to the principle that domestic law should, so far as possible, be interpreted consistently with EU obligations.
53. However, although reference was made to the United Kingdom's obligations under the Framework Decision, the core reasoning in *Pilecki* was rooted in the language and purpose of the domestic statute, and in broader principles governing extradition, rather than in any novel or uniquely EU law derived doctrine.

54. In *Assange* the Supreme Court clarified the constitutional position of framework decisions in domestic law. It held that they have no direct effect and that the *Pupino* principle does not override clear statutory language or fundamental constitutional principles. As Lord Mance explained [217]:

“217 The Framework Decision, the Court of Justice’s decision in *Pupino* and the European legal principle of conforming interpretation are not therefore part of United Kingdom law under the 1972 Act. The only domestically relevant legal principle is the common law presumption that the Extradition Act 2003 was intended to be read consistently with the United Kingdom’s international obligations under the framework decision on the European arrest warrant. But this presumption is subject always to the will of Parliament as expressed in the language of the Act read in the light of such other interpretative canons and material as may be relevant and admissible.”

55. The decision has been viewed as marking an important recalibration of the relationship between EU law and domestic extradition law. However, *Assange* did not establish that earlier extradition authorities were wrongly decided; nor did it require a literal or isolationist approach to statutory interpretation. The Supreme Court reaffirmed the orthodox presumption that Parliament intends to legislate in conformity with the United Kingdom’s international obligations, while rejecting the notion that EU law could compel a meaning inconsistent with the statute. As Lord Brown observed [98]:

“...even were the *Pupino* imperative not in play (which now appears may well be the correct view), the general presumption that the United Kingdom legislates in compliance with its international obligations would produce the same result.”

56. Accordingly, *Assange* limits the reach of EU law as an independent interpretative force, but it does not undermine domestic authorities which are properly rooted in the statutory language and purpose of the 2003 Act.
57. Subsequent cases have continued to apply *Pilecki* as authoritative. The courts have resisted attempts to disaggregate foreign sentences or to require a granular examination of sentencing mechanics in the requesting state. Where challenges have succeeded, they have typically turned on the absence of a single operative sentence, or on defects in the underlying extradition offences, rather than on rejection of the *Pilecki* principle itself.
58. Following the United Kingdom’s withdrawal from the European Union, extradition between the UK and EU Member States is now governed by Part Three of the TCA. Article 599 of the TCA preserves, in materially similar terms, the requirement that extradition in conviction cases depends upon the existence of a custodial sentence of at least four months.
59. Although the interpretative obligation associated with EU membership no longer applies, the TCA forms part of the United Kingdom’s international law obligations. The domestic courts continue to interpret the 2003 Act in a manner which is compatible with those obligations unless the statutory language clearly requires otherwise.

60. In that respect, the approach in *Pilecki* sits comfortably with both the domestic statutory scheme and the post-Brexit extradition framework. It reflects a principled balance between statutory construction, respect for foreign judicial decisions and the need for effective extradition arrangements.
61. In *District Court in Wroclaw, Poland v Horbach* [2019] EWHC 1071 (Admin), Dingemans J (as he then was) observed:
- “The problem caused by one aggregate sentence for the purposes of determining whether an offence amounts to an extradition offence under the 2003 Act is not new. Particular issues have arisen where an aggregate sentence has been imposed for a number of offences, because of the requirement in the 2003 Act for the sentence to exceed four months. Another difficulty that has arisen is where an aggregate sentence has been imposed for a number of offences where one of the offences is not an extradition offence, because it does not satisfy the requirements of dual criminality, for example, a failure to pay child maintenance or, as in this case, insulting a police officer.”
62. Having reviewed the authorities including *Pilecki*, *Kucera v The District Court of Karvina, Czech Republic* [2008] EWHC 414 (Admin), [2009] WLR 806, *Zboinski v Poland* [2011] EWHC 558 (Admin) and *Brodziak v Poland* [2013] EWHC 3394 (Admin), each of which raised a slightly different iteration of the “problem” identified, Dingemans J concluded:
- “It seems possible in my judgment, therefore, to state the following propositions from that review of the authorities. First, the court is to take the aggregate sentence as the relevant sentence for the purposes of the 2003 Act, even where those offences include an extraditable offence and a non-extraditable offence. Secondly, the court is to have regard to the assumption that the relevant judicial authority will, in the absence of further information, comply with specialty when disaggregating the sentence on the return of the requested person.”
63. Against this background I accept the Respondents’ submissions as to the correct construction and continuing authority of *Pilecki*. In my judgment, *Pilecki* establishes a principle of general application in conviction cases under the 2003 Act: namely, that where the requesting state seeks the surrender of a requested person to serve a single sentence of imprisonment of at least four months imposed by a final judicial decision, the statutory threshold is satisfied without the need for the executing court to analyse the contribution made by individual offences to the overall term.
64. The decision of Chamberlain J in *Tega* does not run counter to that general proposition because it was predicated on the fact that whilst three offences had been aggregated there was a fourth which had not been: “the warrant does not indicate that any similar aggregation exercise was undertaken in relation to the one-month sentence of imprisonment for assault.” In other words, the assault offence fell outside the separate sentences which had imposed and aggregated.

65. That conclusion flows from the language of section 65(3)(c), which is concerned with whether “a sentence of imprisonment or another form of detention for a term of four months or more has been imposed in respect of the conduct.” The statutory focus is on the sentence imposed, not on a hypothetical sentence which might have been imposed had the requesting state’s sentencing rules been different, nor on the conceptual disaggregation of the total term by reference to individual offences.
66. The reasoning in *Pilecki* does not depend upon the application of an EU law conforming interpretation. Rather, it reflects a long-standing and orthodox approach to extradition legislation: that it should be construed, so far as the statutory language permits, in a manner which respects the judicial acts of the requesting state and facilitates the performance of the United Kingdom’s international obligations. That approach predates the Framework Decision and has been reiterated in numerous authorities. I do not accept that *Assange* casts doubt on *Pilecki*’s correctness. The rejection in *Assange* of a rigid duty of conforming interpretation does not undermine the presumption that Parliament intends extradition legislation to operate consistently with the United Kingdom’s treaty obligations, nor does it require an artificially literal or fragmented reading of sections 10 and 65.
67. As Lord Dyson observed in *Assange* [121-123]:

“121 It is common ground that the EA was enacted in order to give effect to Council Framework Decision 2002/584/JHA on the European arrest warrant (the Framework Decision). I agree with Lord Mance JSC that, for the reasons that he gives at paras 207—217 below, the duty of conforming interpretation under European law, which the European Court of Justice held in *Criminal proceedings against Pupino* (Case C-105/03)[2006]QB83 to exist in the context of framework decisions, does not apply in relation to the Framework Decision.

122 But there is no doubt that there is a strong presumption in favour of interpreting an English statute in a way which does not place the United Kingdom in breach of its international obligations: see, for example, per Lord Hoffmann in *R v Lyons* [2003] 1 AC 976, para 27. It is worth repeating what Lord Bingham of Cornhill said in *Office of the Kings Prosecutor, Brussels v Cando Armas* [2006] 2 AC 1, para 8, because his comments about the correct approach to the interpretation of the EA do not seem to have been influenced by the *Pupino* principle. He said:

“Part 1 of the 2003 Act did not effect a simple or straightforward transposition, and it did not on the whole use the language of the Framework Decision. But its interpretation must be approached on the twin assumptions that Parliament did not intend the provisions of Part 1 to be inconsistent with the Framework Decision and that, while Parliament might properly provide for a greater measure of cooperation by the United Kingdom than the Decision required, it

did not intend to provide for less. I would approach the correct interpretation of the EA in the same way....”.
(My emphasis)

68. I also accept the Respondents’ submission that the presence of multiple offences does not, of itself, require the court to examine whether each offence, taken individually, meets the four-month sentence threshold. The legislative scheme governing multiple offences permits discharge in relation to particular offences which are not extradition offences because they are not criminal offences in the relevant part of the United Kingdom, but it does not require the court to recalculate or re-engineer the sentence imposed by the foreign court once that part of the exercise has been carried out.
69. Where, as here, the requesting state has imposed a single sentence to reflect the offender’s criminality taken as a whole, that sentence remains the relevant “sentence imposed” for the purposes of section 65(3)(c). To require the court to carry out an attribution exercise, deciding how many days or weeks of a composite sentence are “referable” to a particular offence, would invite speculation, undermine legal certainty and represent an impermissible intrusion into the sentencing process of the requesting state.
70. The distinction relied upon by the Appellants between “indivisible” and “divisible” sentences is not grounded in the statutory language. Nor does it find support in *Pilecki*, which rejected precisely such an enquiry. The fact that the mechanics of the sentencing exercise may be visible or explicable under the law of the requesting state does not alter the nature of the final judicial decision: namely, that the requested person has been sentenced to a term of imprisonment of four months or more.
71. That approach is also consistent with the Supreme Court’s recent decision in *Andrysiewicz v Poland* [2025] UKSC 23 [at 11]:

“11. We set out section 65(2) and (3) not because there was any dispute as to whether the conduct of the appellant constituted an extradition offence. Her conduct clearly did do so as it occurred in Poland, a category 1 territory, the conduct would constitute an offence in England and Wales if it occurred in that part of the United Kingdom and a sentence of imprisonment for a term of more than 4 months had been imposed in Poland in respect of the conduct. We set out these provisions to emphasise that the requirements in section 65(3)(c) include “a sentence of imprisonment ... for a term of 4 months or a greater punishment”. The condition in section 65(3)(c) relates to the total sentence imposed and not to the part of the sentence which remains to be served. Therefore, the minimum threshold of seriousness, before extradition can be considered, is met if any period remains to be served provided the total sentence imposed was more than four months.” (My emphasis)

Application to the present cases

72. Applying those principles, I am satisfied that the sentencing condition in section 65(3)(c) is met in both appeals.

73. In Ms Tobosaru's case, the Romanian court imposed a single custodial sentence of four months' imprisonment. That sentence remains the operative sentence for the purposes of extradition. The fact that part of the underlying conduct falls to be excluded following the application of section 65(3)(b) does not require this court to reconstruct the sentence which might have been imposed had the Romanian court been sentencing only by reference to the extraditable conduct. The specialty principle provides the necessary and sufficient safeguard.
74. In Mr Tofan's case, the final decision of the Romanian court was that he should serve a custodial term of five months. It is irrelevant that this outcome resulted from the aggregation of shorter sentences or the activation of a suspended sentence. What matters is that the requesting judicial authority seeks his surrender to serve a sentence of imprisonment exceeding four months, imposed by a final judicial decision. Section 65(3)(c) is therefore plainly satisfied.

Conclusion – Ground 1

75. For these reasons, I conclude that *Pilecki* sets out the correct approach and remains binding. Properly applied, it leads to the conclusion that the sentencing threshold is satisfied in both cases. Notwithstanding the siren logic of Mr Watson's submissions, the Appellants' arguments to the contrary involve a level of statutory interpretive literalism and forensic dissection of foreign sentencing decisions which the statute neither requires nor permits.
76. I do not conclude that either Judge fell into error in their interpretation of the requirements of the 2003 Act and I agree with the observation made by District Judge Zani that:
- “the question for the court when considering s. 65 of the 2003 Act is not ‘whether the sentence the RP would be required to serve is 4 months or greater’, nor is it ‘whether the sentence for the part of the conduct for which extradition would be ordered is 4 months or greater’.”
77. Accordingly, the challenges based on sections 10 and 65 of the 2003 Act fail.

Article 8 ECHR

78. Both Appellants contend that their extradition would constitute a disproportionate interference with their rights under Article 8 of the European Convention on Human Rights (“ECHR”).
79. It is common ground that extradition constitutes an interference with private and, where established, family life within the meaning of Article 8(1). The decisive question is whether that interference is justified under Article 8(2). In extradition cases, the public interest in honouring international obligations and preventing impunity for criminal conduct is engaged at a particularly high level.
80. The authorities establish that only in exceptional circumstances will Article 8 outweigh the strong public interest in extradition. The court must conduct a fact sensitive proportionality assessment, bearing in mind that separation from family and disruption

to private life are the inevitable consequences of extradition and do not, without more, render surrender disproportionate.

Ms Tobosaru

81. On behalf of Ms Tobosaru, it is submitted that extradition would have a disproportionate impact on her private and family life. Reliance is placed on her residence in the United Kingdom, the disruption that extradition would cause to her settled life, and the anticipated practical and emotional consequences of serving a custodial sentence abroad.
82. It is further submitted that the custodial sentence is relatively short and that the interference with Article 8 rights is therefore not justified by the seriousness of the offending or the penalty imposed.
83. I accept that Ms Tobosaru has an established private life in the United Kingdom and that extradition will interfere with that private life. However, the evidence does not disclose the compelling or exceptional features required to outweigh the strong public interest in extradition.
84. There was no evidence before the court of dependent children, vulnerable family members, or exceptional caring responsibilities. Nor is there any medical or other evidence suggesting that extradition would have consequences going materially beyond those which routinely arise when a person is required to serve a custodial sentence abroad.
85. The fact that the custodial sentence is relatively short does not materially assist the Appellant. On the contrary, the limited duration of the sentence mitigates, rather than aggravates, the interference relied upon. Any separation from her private life in this jurisdiction will be temporary and will arise as a direct consequence of her conviction and sentence in the requesting state.
86. Taking these matters together, I am satisfied that Ms Tobosaru has not identified exceptional circumstances capable of displacing the strong public interest in extradition. The interference with her Article 8 rights is proportionate and justified under Article 8(2).

Mr Tofan

87. Mr Tofan advances Article 8 submissions in similar terms. It is said that extradition will disrupt his established private life in the United Kingdom and impose hardship arising from detention in Romania. Reliance is also placed on the comparatively modest length of the custodial sentence sought to be enforced.
88. Again, I accept that extradition will interfere with Mr Tofan's private life. However, as with Ms Tobosaru, the evidence falls well short of establishing exceptional circumstances.
89. There is no evidence of exceptional family dependency, no suggestion of particular vulnerability, and no material demonstrating that extradition would cause consequences

of an unusual or exceptional kind. The anticipated hardship identified is no more than that inherent in extradition and the serving of a custodial sentence.

90. The seriousness of the offending is reflected in the imposition of a custodial sentence by a competent court of the requesting state. The public interest in enforcing that sentence through extradition is substantial. The length of the sentence does not diminish that interest and the temporary nature of the interference with Mr Tofan's private life serves to underline its proportionality.

Conclusion on Article 8 – Ground 2

91. In both cases, the District Judge carefully weighed the impact of extradition on the Appellants' private lives against the public interest in extradition. Neither Appellant has pointed to features capable of taking their case out of the ordinary run of extradition cases.
92. Accordingly, I conclude that the District Judges were correct to conclude that extradition would not give rise to a disproportionate interference with the Article 8 rights of either Appellant. The Article 8 challenges therefore fail.

Overall Conclusion

93. For the reasons set out, I am not satisfied that the District Judges ought to have decided any question raised at the extradition hearings differently or that they were required to order the Appellants' discharge. The appeals are dismissed.

Postscript

94. Prior to the hearing of the hearing appeal an issue arose concerning the accuracy of certain authorities cited in the Respondents' written submissions.
95. In grounds of opposition prepared by the Crown Prosecution Service ("CPS") dated 3 June 2025, reliance was placed on a number of authorities said to demonstrate the continued application of the reasoning in *Pilecki*. Those authorities included cases cited as: *Vlad v Romania* [2017] EWHC 2060 (Admin) and *Jeziorski v Poland* [2019] EWHC 3885 (Admin). Neither of these authorities exists.
96. The same erroneous material had also been carried forward into a further document in the appeal, prepared by junior counsel dated 12 June 2025 headed "Respondent Submissions", such that the non-existent authorities were relied upon in more than one document before the Court. The error was not identified at the permission stage, notwithstanding that the relevant submissions had been before the Court at that point. The erroneous citations were not relied upon in the Respondents' skeleton argument dated 2 February 2026, settled by junior and leading counsel. Equally, the Respondents' skeleton did not explain (as is clear now, see below) that the false citations had by then been identified by those acting for the Respondents.
97. Initially, it appeared that the error was not identified by the Respondent or its legal representatives, but by those acting for the Appellants, who were unable to locate the cases despite searches of the usual legal databases. The matter was therefore raised with

the CPS, first by email on 3 February 2026, and then by letter dated 5 February 2026 and brought to the attention of the Court.

98. The CPS responded the following day, acknowledging the error. An apology was offered, and it was made clear that there had been no intention to mislead the Court. The CPS indicated that enquiries were being undertaken into the circumstances in which the citations came to be included in the submissions. Leading and junior counsel for the Respondents provided a Note to the Court dated 9 February 2026 which stated that the two cases did not exist and that the Respondents regretted and apologised for the fact that the erroneous citations were placed before the court in the documents dated 3 and 12 June 2025 and that they had not been included in bad faith. The Note stated that an investigation was underway into the circumstances in which the citations came to be included in the two documents and that the matter was being considered at senior levels of the CPS. A fuller explanation was subsequently provided in a letter from the Chief Crown Prosecutor dated 3 March 2026, which proceeded on the basis that the error was not identified by counsel instructed until it was raised by the Appellants.
99. In its letter, dated 3 March 2026, the CPS accepted that the citations were inaccurate and explained that they were likely to have originated from the use of artificial intelligence. However, the CPS identified the critical failing as the fact that the reviewing lawyer did not properly check the accuracy of the document before it was filed and served.
100. The position of the CPS was therefore that, while the immediate source of the error may have been the use of generative artificial intelligence, the operative cause was human error in the failure to verify the authorities relied upon in formal submissions placed before the Court. The CPS emphasised that this was not a deliberate attempt to mislead, but rather an isolated incident arising from inadequate checking of written work.
101. The CPS indicated that, once the issue came to light, it had undertaken a series of steps.
 - i) First, a full internal review was initiated in order to establish how the error had occurred.
 - ii) Secondly, in order to assess whether the issue was confined to this case, senior managers reviewed a substantial number of other cases (78 in total) conducted by the same lawyer. That review did not identify similar issues, and the lawyer's work was otherwise assessed to be of a good standard.
 - iii) Thirdly, the CPS used the incident as an opportunity to reinforce professional obligations within the Extradition Unit. In particular, lawyers were reminded of their duty, as officers of the court, to ensure the accuracy of written submissions. Internal processes were also reviewed, and the learning points arising from the incident were disseminated more widely across the organisation.
 - iv) Finally, the CPS indicated that the matter would be raised with instructed counsel, noting that the error had not been identified prior to being drawn to its attention by the Appellants. (In fact, and as below, this subsequently proved to be incorrect: the error had already been identified by junior counsel.)
102. The CPS concluded that, in light of these steps, the risk of recurrence was low.

103. In summary therefore, at the outset of the appeal hearing the Court was faced with a situation in which non-existent authorities had been cited in formal submissions on behalf of the Respondent. The error appeared not to have been identified by those responsible for preparing or reviewing the submissions, nor by counsel, but was instead brought to light by the opposing party. The CPS had explained the matter as arising from the use of artificial intelligence combined with a failure of proper verification, and has taken steps internally to investigate, review and mitigate the risk of repetition.
104. Thereafter, a draft judgment was circulated under embargo in the ordinary way which referred to the fact that the error had not been identified by counsel for the Respondents until it was drawn to their attention by counsel for the Appellants, which was the position communicated to the Court by the CPS in its letter, dated 3 March 2026. It subsequently transpired that this was inaccurate. Junior counsel instructed for the Respondents had also been unable to locate the authorities and independently raised the matter with the CPS shortly before it was separately identified by those acting for the Appellants. The error in the letter dated 3 March 2026 was corrected by the CPS in a further letter to the Court on 9 June 2026, in which the CPS made a further apology for this error.
105. As far as the appeal was concerned the errors came to light prior to the hearing and therefore had no impact on argument or the court's judgment. I have accepted the apology given on behalf of the Crown Prosecution Service and the assurance that there was no attempt to mislead. I have noted the steps taken to ensure that there is no repetition but considered that it was necessary to set out what had taken place in this judgment given the serious consequences that an error of this nature might have had in other circumstances. It would be naive to assume that there will not be an increasing use of artificial intelligence in legal work in future; indeed, that may be both necessary and beneficial. The episode highlights the risks of its use without appropriate oversight particularly for legal research.

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