

# Jonathan Swain

Junior Counsel - Under 15 Years

CALLED 2010

*"He is a high calibre barrister. He is devastatingly efficient both in terms of his oral and written advocacy."*

LEGAL 500, 2025



**Jonathan is a specialist extradition barrister, listed as a leading junior in the Legal500 and Chambers and Partners.**

He has developed a successful extradition practice, regularly appearing at Westminster Magistrates' Court, and on appeal at the High Court, where he represents both Requested Persons and Judicial Authorities. He is a regular contributor to [CrimeLine's Extradition Hub](#) and has written extensively about the changes to extradition following Brexit.

He also accepts instructions in MLA requests, sanctions, public and private law. He undertakes work for the GLD as part of the Attorney General's civil panel, including advising on unlawful detention cases and matters arising out of Covid19 regulations.

Jonathan is Grade 3 on the CPS specialist extradition panel, Grade 2 on the CPS advocate panel for general criminal work, and a member of the Attorney General's list of civil panel counsel, C panel.

## Background and Experience

Jonathan was called in 2010. He became an in-house Senior Crown Prosecutor for the CPS, where his diligent preparation and robust advocacy meant that he was instructed to act in difficult and serious cases. He gained extensive experience in all types of cases in the Magistrates' and Youth courts, encompassing work from theft to sexual offences.

Jonathan spent 18 months in the Extradition Unit at the CPS where he gained considerable expertise in extradition proceedings.

After joining chambers, he quickly developed a busy practice both prosecuting and defending in extradition cases. He has been involved in numerous leading cases including those on prisons conditions, and he has appeared in the Supreme Court.

He has considerable experience of mutual legal assistance, including the European Investigation Order, and transfer of sentences.

## Notable Cases

### Appeals

#### **Stefanov v Italy [2023] EWHC 463 (Admin)**

The Appellant argued section 14, section 20 and Article 8. Unusually, the Appellant adduced additional evidence on appeal relating to section 20, and the Court proceeded to hear live evidence from an expert who was cross examined on behalf of the Respondent.

The Court considered Italian re-trial rights in depth from domestic caselaw, as well as the expert evidence adduced, and found that the appellant would be entitled to a retrial if surrendered. His evidence was found not to be wholly balanced [30] and ultimately rejected.

Submissions described as “a model of clarity” by Mrs Justice Yip at [33].

#### **Bobirnac v Romania [2023] EWHC 479 (Admin)**

Instructed for the Requested Person. Arguing in respect of the admissibility and applicability of prison assurances provided by the Romanian authorities.

#### **Bobirnac v Romania [2023] EWHC 479 (Admin)**

The Appellant challenged reliance on an assurance (addressing prison conditions) filed in Marinescu in his case, as well as the admission of a late personalised assurance provided. It was argued that the generalised assurance bore no hallmarks of applicability to all individuals. Further, that the

Respondent had repeatedly failed to adduce a personalised assurance in good time.

The Court held that the Marinsescu assurance had general applicability to all individuals (thus impacting all cases of extradition to Romania). Sir Ross Cranston also held that the late assurance could be admitted.

[Link to Judgement](#)

### **Ossowski v Poland [2023] EWHC 3249 (Admin)**

The appellant argued that his extradition was disproportionate pursuant to Article 8 ECHR, specifically focussing on the lengthy period of time since he left Poland. He argued that there was a culpable failure by the issuing country or NCA given the time lag since he left, given that he had informed probation that he was leaving for the UK.

Holgate J dismissed the appeal, finding that the delay was not the fault of the requesting state given the appellant's failure to notify them of his exact whereabouts. Delay had been properly considered by the District Judge.

### **Delik v Poland [2022] EWHC 785 (Admin)**

Acting for the Appellant. The Appellant argued that his extradition to Poland would be disproportionate given the impact it would have on his partner, with particular focus on her alcoholism and her reliance on him. The Court quashed the order for extradition and discharged the Appellant.

### **Feraru v Swedish Judicial Authority [2022] EWHC 400 (Admin)**

Acting for the Appellant. The Court considered grounds raised pursuant to section 12A of the Extradition Act 2003, decision to charge and try, and Article 8 ECHR. In light of the severe medical condition of the Appellant's husband, which had worsened since the extradition hearing, the court quashed the order for extradition, and discharged the Appellant.

### **Burghilea v Romania [2022] EWHC 2015 (Admin)**

Acting for the Appellant. The Romanian authorities had previously sought his extradition from the USA, which had been refused due to this continued cooperation with authorities. The Appeal centred on whether he was deliberately absent from his trial proceedings.

### **Rogala v The Circuit Court in Lublin, Poland [2021] EWHC 3324 (Admin)**

Junior counsel for the Appellant. The Appellant argued that the conduct in the warrant did not meet

the requirements of dual criminality, and that the decision in R v Rogers, 2014 EWCA Crim 1680 on the extraterritorial nature of money laundering offences was a matter needed further examination by the Supreme Court.

### **Antochi v Germany [2020] EWHC 3092 (Admin)**

Acting for the Respondent. The Court considered whether extradition was disproportionate in the circumstances, and addressed the impact of Brexit, the factors to be considered under the proportionality exercise, and the status of the appellant's evidence of the circumstances of the offences.

### **VA v Bulgaria CO/1965/2019, January, 2020**

Acting as junior counsel for the Respondent. The first case 'referred' from the English courts to the CJEU in extradition proceedings. The issue related whether a public prosecutor can be an issuing authority in circumstances where a Court has no oversight of the domestic arrest warrant or EAW prior to surrender.

### **Danfolds v Latvia [2020] EWHC 2041 (Admin)**

Junior counsel for the Respondent. 'Leading' case before the Divisional Court in respect of Latvian prison conditions and whether they placed extraditees at a real risk of a violation of Article 3 ECHR

### **Konecny v Poland [2019] UKSC 8**

Junior counsel for the Respondent. The Supreme Court considered whether an individual who has been convicted, but where the conviction is not final because he has an unequivocal right to a retrial after surrender, is "accused" pursuant to s.14(a) of the Extradition Act 2003 or "unlawfully at large" pursuant to s.14(b) for the purposes of considering the "passage of time" bar to surrender.

### **FK v Germany [2017] EWHC 2160 (Admin)**

Junior counsel for the Respondent. The Divisional Court considered the powers of the court to admit fresh evidence of the respondent on appeal which was relied upon to uphold the decision of the district judge, and concluded that it could do so in the interests of justice. The Court also rejected the arguments of the appellant that the District Judge had erred in his conclusions in respect of sections 2, 10, 14 and 21 of the Act. The appeal was dismissed.

### **Sobczyk v Poland [2017] EWHC 3353 (Admin)**

Appearing for the Respondent judicial authority as a lone junior before the Divisional Court. The Court upheld the decision of the district judge to order the extradition of the Requested Person.

## **Mlynarik v Czech Republic [2017] EWHC 3212 (Admin)**

Representing the Respondent. The Court held that a distinction could be drawn between a requested person trying to undermine a warrant by adducing evidence, and the district judge taking into account his evidence for the purposes of establishing dual criminality. The decision of the District Judge was therefore a proper one, and the appeal was dismissed.

### [Appeals](#)

## Challenges to Extradition

### **Colombia v Vallejo, 2023**

Surrender was sought by the Colombian government to serve a sentence of 38 years' imprisonment for kidnapping and extortion offences.

The requested person raised numerous human rights grounds (Articles 2/3 and 5/6 ECHR) as well as other challenges (prima facie case, right to retrial).

The Requested Person was discharged by the Chief Magistrate on the basis of a lack of prima facie case, following a concession made on behalf of the Colombian authorities.

This may be the first request to England from Colombia.

### **USA v W, 2023**

Instructed on behalf of the requested person in respect this 'part 2' request seeking surrender to be prosecuted for sexual offences.

### **Colombia v B-V, 2023**

Instructed for the state of Colombia in this 'part 2' request, seeking the surrender of the requested person to serve a sentence of thirty-eight years for a conviction in respect of a joint enterprise aggravated kidnapping for purposes of extortion.

### **Switzerland v A, 2022**

Instructed for the requested person in this 'part 2' request. It is alleged that three individuals stole three items from the Ming dynasty era, 14th-15th century valued at USD 3.58 million from Geneva, one of which was subsequently auctioned in Hong Kong resulting in the identification of the suspects.

## Belgium v H & M, August, 2018

Representing two requested persons facing extradition to Belgium in respect of high value theft offences. Both were discharged on the basis of section 12A. In addition, M was discharged on the basis of Article 8 ECHR on the basis of particular mental health vulnerabilities.

## Belgium v M, April, 2018

Representing the Requested Person, who had previously been the subject of extradition proceedings from Greece for the same matters, and had her sentence transferred to Greece where it had been served in full. The warrant was discharged on grounds of Article 8, double jeopardy and abuse of process.

### [Challenges to Extradition](#)

#### Mutual Legal Assistance

## Ahmedzai v Italy [2023] EWHC 3343 (Admin)

The appellant's extradition was sought to face trial in Italy for an offence of association for the purposes of terrorism. The Appellant argued that his extradition was disproportionate and abusive, having particular regard to the fact that he had agreed to participate in an 'abbreviate trial' in Italy, intending to appear via video link. However, he was frustrated from doing so due to apparent tensions between the mode of his appearance and the UK's reservation to defendants appearing at their own trials by video link. The appeal considered the interplay of MLA and extradition.

The appeal was dismissed.

Read more:

- [Express: Man accused of plotting terror in London was able to live in UK for six years](#)
- [Express: Man held in UK after six-year terror manhunt](#)

### [Mutual Legal Assistance](#)

# Achievements

#### Memberships

- DELF

- Criminal Bar Association
- CPS Extradition Panel grade 4
- CPS General Crime Panel Grade 2
- Attorney General's Civil Panel, C

## Appointments

- CPS Extradition Panel (Grade 4)
- CPS Panel (Grade 2)
- Attorney General's list of civil panel counsel (C panel)

## Publications

Publications on CrimeLine's Extradition Hub:

- 'Lies, damn lies, and statistics: what do the extradition numbers really tell us?'
- 'Anonymity in extradition proceedings'
- 'Extradition to the EU-27 under the UK/EU Trade & Cooperation Agreement: similarities and ten key differences'
- 'Looking beyond the transition period: will there be surrender?'
- 'All Change, Please: Post-Brexit extradition and beyond'
- Proportionality in extradition under the Trade and Cooperation Agreement: Plus Ça Change?

## Education

- BVC, BPP Law School (2010)
- MA in International Criminology, University of Sheffield (2009)
- LLB in Law and Criminology, University of Sheffield (2008)

## Activities and Interests

- Member of 9BR Chambers Extradition team
- Elected member of 9BR's management committee
- Trustee at ESDAS