



JUDICIARY OF
ENGLAND AND WALES

IN THE WESTMINSTER MAGISTRATES' COURT

DEPARTAMENTO DE INVEIGACAO E ACCAO PENAL,
DE LISBOA (PORTUGAL)

- V -

JOAO ANTONIO DE ARAUJO VALE E AZEVEDO

Ruling of District Judge Purdy dated 27/5/14. Extradition Act 2003. Consent to prosecute – S.54 – for individual already extradited.

Issues: (i) Abuse of process (ii) double jeopardy – S.12 (iii) passage of time – S.14 (iv) No adequate speciality S.17 & Art 27 Framework (v) Arbitrary detention S.21(2) & Art 5 & risk Art 6 unfair trial.

Advocates: Pros: Ben Lloyd
Def: Alun Jones, Q.C.

1. Background.

Joao Antonio de Araujo Vale E Azevedo is a Portuguese born citizen (d.o.b. 17/5/57) and now 57 years old. He was the subject of surrender/extradition proceedings brought by a Portuguese Judicial Authority culminating in physical removal from the U.K. to prison in Portugal on 12/11/12. The first instance decision was mine dated 16/3/12 upheld on appeal on 10/10/12 and reported at [2012] EWHC 3433 (*Admin*) per Sir John Thomas, P. (as he then was) and Silber J. Mr Alun Jones, Q.C. once again acts for this Requested Person who now faces 3 further E.A.W.s via the consent procedure seeking this court's agreement to prosecute for yet more offences allegedly committed in Portugal before his extradition from the UK in November 2012. Although in a prison outside Lisbon serving the concluding part of the sentence that led to his extradition his express refusal to waive speciality means, absent express agreement by this court, the Portuguese cannot lawfully send for trial these latest complaints. Mr Ben Lloyd, as previously, acts for the Judicial Authority and contends there is no lawful basis for this court to refuse consent. The main thrust of the Defence challenge is that this court's process is being abused given the delays occasioned in issuing the new E.A.W.s and the manipulation of the Portuguese judicial process by victimising a high profile figure- a former president of the Lisbon football club *Benfica* – leading to repeated denials of due process, such that this court should do what it can to counter by refusing the consent

sought. Mr Lloyd submits this is nonsense if the Portuguese really did conduct themselves so reprehensively why even bother to seek consent. To all this I shall return. Given my previous dealings with this case both sides expressly asked I adjudicate on these new Requests.

2. "Original" Extradition Request.

The 12th November 2012 surrender, since which time the Requested person has been in custody (albeit not on the new consent matters), related to an "*aggregated penalty*" of 11 years and 6 months with "*5 years and 6 months*" outstanding upon return. That sentence was for a significant number of dishonesty offences as a Portuguese lawyer defrauding his clients *and* as President of *Benfica* various significant frauds on the club's funds. Offences – all convictions – ranged from 1993-1999. A series of Portuguese trial/appeal cases followed including to the Supreme Court. Without doing an injustice to five formal challenges the crux of that case surrounded a contention extradition was unjust given the inevitable grant of parole upon return. Parole, an expressly judicial decision, was not granted at first instance or upon appeal. No less than 4 applications to the Supreme Court (Portugal) seeking *habeas corpus* have all failed. However, come June 2014 release will be automatic on that aggregate sentence. That said not only is he facing further trials, the subject of this consent Request, but has been tried *in absentia*, because of a refusal to waive specialty, since being returned to a Portuguese prison for frauds between 1997-2000 and sentenced to a term of 24 years imprisonment albeit in fact "*an aggregate penalty of 10 years*" given the operation of "*Portuguese criminal law*" – see (further information 25/2/14 @ page 3).

3. New Requests.

Three new "*consent*" E.A.W.s, the format is the same, are dated 7/1/13 certified by S.O.C.A. 21/4/13, secondly 3/6/13 certified by S.O.C.A. 10/6/13 and thirdly 27/7/13 certified by S.O.C.A. 8/8/13. Mr Jones makes much of the fact the first was issued just 3 weeks after surrender 12/11/12 yet all 3 E.A.W.s (for want of a better expression) deal with events going back years 2004-2008, 2006 and 1998/99 respectively for the various warrants. Each is of serious dishonesty/forgery including "\$432,366.77" for his "*own advantage*" (2nd consent Request) and "*forging proofs of payment*" (3rd consent Request) defrauded *Benfica's* accounts to the tune of USD \$1,000,000. Guilt/innocence is plainly not for this court but a competent trial court alone. Mr Azevedo denies any wrong doing.

4. Chronology of Instant Proceedings.

Unlike an E.A.W. arrest the process for a S.54 consent by definition has the Requested person in the jurisdiction of the Judicial Authority i.e. Portugal, in this case a prison outside Lisbon. Mr Azevedo, through Mr Jones, has made clear his wish to participate fully in these proceedings including giving evidence. There is no dispute the formalities of the consent procedure in terms of service and certification of the Requests and being duly opened are in order. As just stated Mr Azevedo upon formal notice of these proceedings indicated challenges would be pursued and he wished most emphatically to retain the speciality protection afforded him by virtue of the fact he has been surrendered/extradited to Portugal – see S.17 Ex Act 2013. On 4/11/13 Mr Lloyd confirmed the 3 E.A.W.s consents where "*the*

only” ones outstanding. Much time was expended seeking to establish if the Judicial Authority would facilitate participation via Skype or similar live link means and if so how. Directions for evidence were given. Exchange of evidence/skeleton arguments etc. followed. Both U.K. legal teams have acted as always and expected to the very highest standards. Complaint has been made of repeatedly late responses by the Judicial Authority putting or potentially so the Defence at disadvantage and necessitating delay in the full hearing. On 5/2/14 Skype live link to a courthouse in Lisbon, from which Mr Azevedo has been taken for each hearing since, was established and I heard here in Westminster Mr Glenn Cooper a former financial adviser to *Benfica*, to whose evidence I shall return. On 6/2/14 live here Judge Pimenta and via Skype Mr Azevedo. On 27/2/14 again via Skype from the same Lisbon location Ms Luisa Cruz the Portuguese lawyer who acts and has acted for Mr Azevedo in Portugal during recent years. On 17/4/14 I heard final submissions by both learned counsel and adjourned for this ruling.

5. Formal Challenges.

Mr Jones, as always, has been fearless and direct in the challenges pursued. They are: (i) abuse of process as already summarised. (ii) double jeopardy; S.12 given the factual matrix of previous E.A.W.s and new Requests. (iii) passage of time ; S.14 – delay in progressing that which now comprise these 3 further Requests (iv) specialty ; S.17 – no adequate specialty arrangements exist- see Article 27 Framework Decision 2002. (v) Human rights ; S.21 (2) i.e. Article 5 ECHR arbitrary detention in Portugal and Article 6 ECHR a real risk of a flagrant denial of due process at any trial following a grant of consent.

6. Consent: S.54/55 Ex Act 2003.

The procedure to be followed largely mirrors that of a conventional E.A.W. extradition hearing with the self-same questions to be considered e.g. consideration of any bars “*under Sections 11-25*” see S.55(5). Additionally “*whether consent is required*” – see S.55 (1). There is no dispute such is indeed so. Likewise that the conduct alleged in each case “*is an extradition offence*” – see S.55 (3). No specific appeal provision is provided in the Extradition Act 2003. Article 27 Framework Decision 2002 “*possible prosecution for other offences*” does not bind this court, which must apply the U.K. statute, but is plainly instructive as to the consideration of like cases as envisaged by the founding fathers of the E.A.W. scheme. Save for one material exception (see below) Article 27(2) says “*... a person surrendered may not be prosecuted, sentenced or otherwise deprived of his or her liberty for an offence committed prior to his or her surrender other than that which he or she was surrendered*”. The exceptions Article 27 permits are if the Requested person “*renounced the specialty rule*” (27:(3) (e)). Other exceptions do not apply here save issue is taken with the post surrender trial and sentence in 2013, not strictly subject to this request but describable as an elephant in the room in the context of this case, i.e. Article 27(2) (c) as interpreted by the E.C.J. itself in *Leymann & Pustovaror* [2008] ECR 1-8983. Article 27(2) (e) excludes Article 27 if: “*(c) the criminal proceedings do not give rise to the application of a measure restricting personal liberty*”. This has been held @ para 73 of the judgement:

“It follows that, in the case of that exception, a person can be prosecuted and sentenced for an offence other than that for which he was surrendered, which gives rise to a penalty or measure involving the deprivation of liberty without recourse being necessary to the

consent procedure, provided that no measure restricting liberty is applied during the criminal proceedings. If however, after judgement has been given, that person is sentenced to a penalty or a measure restricting liberty, consent is required in order to enable that penalty to be executed” – emphasis added. This decision comes from the ultimate court on E.U. law albeit, given the U.K.’s current position under the *Lisbon Treaty 2009*, valid until 1st December 2014, not binding on U.K. courts. Essentially that decision, whatever criticism may be made (Mr Jones does indeed), in E.U. law means the Azevedo 2013 trial is lawful but that the penalty, 24 years imprisonment or actually the “*aggregate penalty of 10 years*” (per further information 25/2/14 @ page 3), cannot be carried out or enforced absent agreement via the consent procedure – Article 27 – of the U.K.’s competent court(s).

7. Procedural Formalities.

For the avoidance of doubt, given the number of challenges and the very rare instances of contested S.54/55 consent proceedings I find, without more, all procedural formalities of S.54/55 in order save the particularised challenges to which I shall come.

8. Material Considered.

The formal certified Requests for consent, various further informations and skeleton arguments from Mr Lloyd. For the Defence a substantial volume of papers much in Portuguese with English translations of the various court rulings in Portugal and media reports. Additionally a 90 paragraph proof of evidence (1/11/13) from Mr Azevedo, likewise proofs from his Portuguese lawyer, Ms Cruz, Judge Pimenta and Glenn Cooper, plus comprehensive skeleton arguments by Mr Jones. Oral submissions by both learned counsel concluded on 17/4/14. All has been considered at length although only such matters as a directly material to my decision are expanded upon hereafter.

9. Live Evidence:

(i) Glenn Cooper (heard 5/2/14): He adopted a detailed signed proof dated 21/12/13 and describes himself as a “*Merchant Banker helping to float Benfica FC as I did successfully Manchester United*”. The involvement with Mr Azevedo was 1997. In 1991 he had “*been the merchant banker responsible for the successful stock exchange flotation of Manchester United FC*” and thus “*very often*” consulted “*about the financing of other such football clubs*”. The aim was to turn *Benfica* into a company “*floated on the Lisbon stock exchange*” known as a SAD in Portugal or our P.L.C. (publically limited company). His understanding was the club was “*bankrupt*” upon Mr Azevedo becoming President “*only saved from bankruptcy by the injection by him of many millions of euros*” which was done by him running the club’s “*bank account through his client account*” – Mr Azevedo being a high profile lawyer as well as club president. Mr Cooper describes the atmosphere for his financial team as “*a nightmare experience*” with some media “*very against what we were trying to do*”. His firm *Altium Capital* endeavoured to explore the flotation of *Benfica* “*during 1998-1999*”. The political/corrupt nature of Portuguese football “*is extremely difficult to describe*” but as “*passions run very high indeed*” he was “*forced to the conclusion that it would be impossible properly to complete the business in hand*” and would

never agree to any more business in Portugal in future. Part of his exasperation was reading his *"leaked correspondence"* to official bodies *"in the press before the post arrived"*.

Detailed work in preparing a prospectus required examination of *Benfica's* accounts. Access was given *"to the company's accounts, their auditors and the state auditor's review"* leading him to conclude *"... far from having misappropriated funds from the club Mr Vale Azevedo was owed millions of euros by the club"*. He has *"no doubt whatsoever"* Mr Azevedo has been the *"subject"* of *"a vindictive and politically based campaign"* and that Portugal is *"corrupt"* particularly *"around football"*.

Orally he stressed a comprehensive *"due diligence"* exercise had been conducted, using *"U.K. and Portuguese lawyers"*. He maintains there is *"a lot of corruption in Portuguese football"*. His team was *"professional"* and comprised *"merchant bankers/corporate financiers"* taking the possible flotation task *"very seriously"*. His *"only conclusion a coordinated campaign against Mr Azevedo"*. He was unaware of the defence at the trial he attended as a witness in which he felt the public prosecutor seemed intoxicated which seemed to surprise none of the locals and claims no knowledge of Mr Azevedo's *"own financial affairs"*. His cross examination was 20-30 minutes only being asked if he had personally *"counted the money"* following his testimony €7-12 million euros were owed to Mr Azevedo. *"My team and me have done this for years (but) faced a walk of incompetence if not hostility from the local Regulator"*. The due diligence carried out by P.W.C. from the U.K. was not, to his knowledge, challenged. The T.V. rights sale (i.e. the highly lucrative contract to show the club's matches) was *"opaque"* with a lot of *"blocking going on from banks"* with the only explanation along the lines of instructions from *"on high"*. In his view a *"politically motivated hate campaign"* was waged. The prospectus was only ever a draft and upon Mr Azevedo losing re-election as club president *"we ceased to work for Benfica"*.

(ii) **Judge Jose Pimenta:** gave oral evidence via a Portuguese language interpreter on 6/2/14 adopting a proof of 29/11/13 but relying on that of 12/1/12. He complains *inter alia* that although present and willing to give evidence in the original extradition process before me on 2/3/12 he was not called. Furthermore that in my judgement of 16/3/12 @ para 14 (page 10) I declined to accept his evidence as *"reliable"* funding it motivated by a personal campaign against *"... the highest levels of the Portuguese Judicial system"*. Sir John Thomas PQBD, as he then was, reviewed that point at para 30 of the appeal [2012] EWHC 3433 (Admin). Any failure to hear him has now been remedied by a comparatively lengthy time in the witness box. As before the crux of his evidence is an assertion that anyone facing the charges here should have *"all associate charges... dealt with in a single hearing"* and not as has occurred a lengthy series of trials. This is a *"fundamental"* right to have *"all proceedings relating to a particular time period... condensed into one judgement"* orally *"all lawyers agree in this case 1 trial so by allowing more acted illegally"*. Of Mr Azevedo he is *"like the Queen in England very famous in Portugal"* but *"I (have) only met him twice, I am only here for Justice"*.

Under cross examination Mr Lloyd put the Judicial Authority's stance that separate trials are perfectly lawful on the instant facts and have been upheld on appeal to the Supreme Court of Portugal. The response *"I know this song off by heart"* and the response is *"materially false"*. He refuted the suggestion he was compulsorily retired from judicial office as long ago as 1998 *"I am still holding the position as a judge"*. While subject to an *"administrative decision to compulsory retire... this is not a court I do not agree (with) the decision... I have lodged appeal"* there has been *"a challenge since 1998"*. To me he accepted not having

exercised any judicial function or been paid as a judge since "30/3/98" but "carried on until April 1998" when "wages were stopped" and "closed my chambers" but "I still hold the keys".

(iii) Joao Azevedo: via Skype from Portugal. No interpreter was necessary. This was on 6/2/14 between 12.00 – 13.00 hours and 14.15 – 15.30 hours all G.M.T. although there is no time difference. He adopted his proof dated 1/11/13 and vast number of supporting documents. He complains of "7 trials – 3 acquitted so 4 left" but "never ending" trials/cases. The remaining 4 cases being civil not criminal. Benfica FC was "totally bankrupt when I was elected, wages 6 months" in arrears "I put a lot of (my) money into club". Some "500 trial sessions i.e. individual attendances at court" have been required of him. The recent 2013 trial was presided over by a judge who is "president/chairman of a Benfica Supporters' Branch". He was "not at all" allowed to attend that trial after being asked to renounce specialty "said no" and was told "I could not attend any trial session ever unless I renounced specialty protection". His former and and current lawyer have faced "retaliation" for representing him as does anyone who champions his cause or questions his treatment before the courts. Portugal is "a small country judicial/legal system very, very small". Several judges in cases had active bias against him due to football based rivalry. The "Portuguese police gave me 8 bodyguards as life (was) in danger it was really, really tough". Now "my expectation of trials is of another 10-15 years at least". Despite a board of directors and other employees "I am the sole Defendant". Each case "always the same facts and same evidence I am being tortured year after year... want me to kill myself or something... my trials unfair and unjust... 100% sure will lose appeal. I only appeal to allow me to go to the ECtHR as must exhaust remedies in Portugal but as my cases (have) no end I cannot go to ECtHR". Tried 3 times I cannot go to ECHR until "cases here – Portugal – closed". He said "I deny guilt for offences currently serving... my life was fantastic before I was president Benfica... I was a good lawyer and successful businessman, now I have nothing, no money and because of convictions I cannot be a lawyer". Some 4 unsuccessful Habeas Corpus challenges have been heard by the Supreme Court, "two by me, one by my brother and fourth by citizens I do not know" the failures to succeed means "something is wrong here". His current lawyer is "under criminal investigation" he asserts for simply representing him. Of the Judicial Authority's assertions of mutual trust and due process "beautiful words that mean nothing" involving "a game of cat and mouse where the cat has already eaten the mouse". The "British authorities are misled by the Portuguese".

(iv) Ms Luisa Cruz: (originally heard by me 1/12/11) via Skype on 17/2/14 from Lisbon assisted by a Portuguese language interpreter. She adopted a proof dated 24/2/14 as "completely true". She acts in Portugal for Mr Azevedo, "I have been his lawyer throughout all the proceedings except extradition". She too asserts all cases faced should be heard together "the law is completely clear". She agreed making the "same arguments to Portuguese courts unsuccessfully". Under firm cross examination she accepted the "Chief Magistrate" who directed separate trials "... didn't make it up (the law) but applied the rules to those criteria". In "my opinion" she said the "best equipped court" to resolve the issue was "the court in England" compared to the alternative namely the "Court of Appeal in Lisbon". She accepted the 2013 trial has not resulted, yet, in "... detention... until the U.K. court agrees". She is "100% clear" Mr Azevedo could not attend the 2013 trial as he "hadn't renounced the specialty principle". Come "July 2014 I expect him to be granted parole", what will happen the day after depends on the decision of the English court "I believe" he will be put into "preventative detention".

10. Factual Findings on the Live Evidence:

(i) Glenn Cooper:

I find Mr Glenn Cooper an honest and frank witness who had a unique perspective on the politics surrounding Portuguese football when Mr Azevedo was president of *Benfica*. He seems to have no reason to mislead or frustrate this court's examination of the facts although personally bruised by hostile press and official attitudes while preparing the draft prospectus on *Benfica* 1998/99. I note he declines to contemplate working in Portugal again. His view, derived from heading up the due diligence checks, was of overt hostility against the Azevedo plan and very real corruption in "*Portuguese football*". Significant sums were paid into *Benfica's* coffers by Mr Azevedo. That said Mr Cooper was bemused at the trial he attended, as a Defence witness, as to what he was being asked about or that which he was challenged on. He seems genuinely ignorant of the defence being run or the detail of the prosecution's case.

(ii) Judge Jose Pimenta:

Having now seen and heard him at some length I feel fortified in my view of his testimony as found at para 14 (page 10) of my ruling 16/3/12. The more I heard him the clearer it became to me, put as delicately as I can, why he was "*compulsorily retired*" in 1998. While entitled to the professional opinion that all Azevedo trials should be heard together as a matter of Portuguese criminal procedure he was simply contemptuous of any other view despite the numerous decisions of Appellate courts to the contrary. I do not find he is in any way in league with or particularly (if at all) pro Azevedo merely unreliable as an expert witness and severely discredited by his dismissal of any view that contradicts his own, not with intellectual superiority but outright contempt. I am driven to make clear I stand by my original view he is using these proceedings as a platform for airing his personal complaints against the Portuguese judiciary following his long long ago removal from judicial office, in March 1998, and is plainly, in my judgement, unreliable on the issues for which he was called.

(iii) Joao Azevedo:

He is entitled to deny wrong doing but his character has long ago been tainted by serious convictions for dishonesty towards his own clients (as a lawyer) as well as frauds on *Benfica*. I am prepared to accept football is a highly passionate subject in Portugal and never more so that around the fortunes of the internationally known Lisbon based club *Benfica*. President of that club at a plainly volatile time in its fiscal fortunes inevitably aroused much excitement. However, I am dealing with a man, tried and convicted of a number of offences with similar matters outstanding. Those trials/appeals all presumed to be before competent rule of law observing tribunals. While one might, given the trauma of trials/appeals, extradition proceedings and lengthy imprisonment in Portugal, except a potentially broken man that is

certainly not the case. He goes no further than assert the authorities would be content if he killed himself and he can see no end to his trials/imprisonment but is, as previously, defiant and self-confident. On matters relevant to my decision i.e. any campaign of wilful manipulation against him and wicked, if he be correct, misapplying of procedural rules I do not accept him as truthful or reliable. Guilt/innocence, on any outstanding trials, being only for a competent trial court and thus I make clear no finding is or could be made by me on that topic.

(iv) Luisa Cruz:

I have seen her now for the second time as a witness. My finding is of an individual determined to play the same record as before that her view of the Portuguese procedure i.e. single/joint trial of all matters is right and all others undeniably wrong. Yet she accepts the criteria required by law has been applied by the correct tribunal. I am driven, with respect, to conclude she is inflexible and dogmatic lacking the objectivity required to give her views much if any weight.

11. Submissions.

(i) Abuse of Process:

Procedurally this must come first with regard being had, as a starting point, to the criteria in *U.S.A. v Tollman* [2006] EWHC 2256 (Admin) per Phillips, LCJ @ para 84 *inter alia* “*No steps should be taken to investigate an alleged abuse of process unless the judge is satisfied that there is reason to believe that an abuse may have taken place*”. Mr Jones is characteristically bold for he claims a “gross” abuse, relying on the long chronology of events, and the claims of wilful and wrong decisions to seek separate trials and for the courts to sanction this based on personal hostility against Mr Azevedo in Portugal given his role as President of *Benfica*. Mr Lloyd argues there is “no tenable basis” (skeleton 2.2.14 @ para 31) for any such contention. I have the jurisprudence clearly in mind. That which I am being urged to find and then counter by ordering a stay is grave indeed. Nothing short of Prosecution and then judicial corruption of due process, time and time again, right up to and including the Supreme Court of Portugal – that latter on no less than 4 occasions by dismissing the *habeas corpus* applications. I accept no external oversight of this individual’s particular case has yet been possible by the ECtHR given the lack of finality of proceedings. However, Portugal is a long established Western democracy versed in the rule of law with, one may observe, at least as good a record before that tribunal as that of the U.K. I have not forgotten or rejected Mr Cooper’s evidence but that is a far cry from finding institutional corruption as alleged across the entirety of the Portuguese judicial (not football/media) system generally against this individual. I need go no further than hold there is no tenable basis for the finding of an abuse of process as alleged or at all.

(ii) Double Jeopardy: S.12:

The essence of the Defence position is the new complaints are or should have been tried with those already the subject of extradition being so factually interlinked. Recital in detail is unnecessary. Mr Lloyd argues this is not so and expressly Portuguese criminal procedure does not permit issuing of E.A.W.s or trying cases when investigations “*were still pending*” – see further information 25/10/13- and any argument to the contrary should “... *only be debated within the Portuguese procedure, not in the frame of a decision on the extension of cooperation*”. Mr Jones, very properly, given his case, seeks to place the factual matrix of abuse “*together with the double jeopardy argument*” – (skeleton 26/2/14 @ para 43). In my judgement while the complaints are of similar misconduct they are **not** barred by operation of this bar. I accept that procedurally, given the progress of investigations, the new complaints were not ready to be tried and could not have been and thus double jeopardy does not apply; albeit a Portuguese court may (potentially) hold otherwise. Such marginal issue/debate as there may be is, on mutual trust grounds, for the local competent courts alone to determine.

(iii) Passage of Time: S.14:

The legal principles are well known from *Kakis v Government of the Republic of Cyprus* (1978) 1 W.L.R. 779 (H.L.) and *Gomes & Goodyer v Government of Trinidad & Tobago* [2009] U.K.H.L. 25. “*Unjust*” relating to fair trial itself and “*oppressive*” due to intervening events. As Lord Diplock put it in *Kakis supra* “*there is room for overlapping and between them they would cover all cases where to return him would be unfair*” (p. 782). In *Gomes supra* hardship was clearly “*not enough*” given the imperative of enforcing cross border criminal justice. Indeed Mr Lloyd relies on Lord Brown’s powerful words of extradition law golden principle @ para 35 “*Council of Europe countries in our view present no problem. All should be readily assumed capable of protecting an accused against an unjust trial*”.

Without reiterating Mr Jones’s complaints of injustice by virtue of trial elongation and thus an express article 6 complaint I have very much in mind the oppression by elongation of process, as a fact, caused by the “*passage of time*” leading as Lord Diplock said in *Kakis* to returning for trial being “*unfair*”. Each case on its own facts. This case taken as a whole is more peculiar than most. However, it seems to me significant time has elapsed since complaints were known to the prosecuting authorities and investigations commenced. High profile cases, as this certainly is, attract significant resources to pursue and progress through the judicial system. Mr Azevedo may not have cooperated by admitting wrong doing but he has certainly fully engaged in the process via Ms Cruz even when living in the U.K. I pause long and hard before finding any of the outstanding 3 E.A.W.s should not be tried on merit following a fair trial process, the more so for a Council of Europe jurisdiction like Portugal, indeed a founding member. However, I **do conclude** in mid-2014 that it would be “*oppressive*” given the *passage of time* since the alleged commission of the outstanding offences and the opportunity for the Judicial Authority to move far more quickly than, with respect, it has to Consent to these further trials. Indeed I am driven, given my clear view of Mr Azevedo’s lack of honesty, reluctantly to hold it would be “*unfair*” for 3 further trials to be faced now by virtue of the passage of time. Having, however reluctantly, come to that conclusion I “*must*” per S.14/54 refuse this Consent Request.

(iv) No or No Adequate Specialty Protection: S.17 & Art 27 Framework:

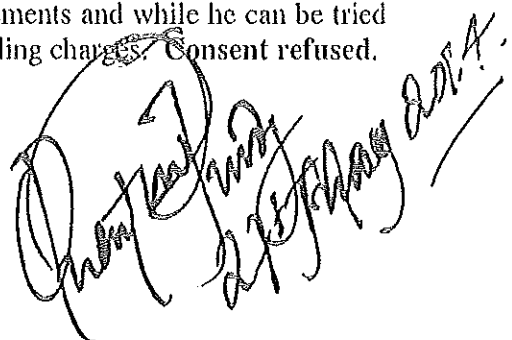
Mr Lloyd contends the Defence simply cannot argue such a safeguard is absent. Firstly he submits, as a fact, there are formal specialty arrangements in place between the U.K. and Portugal. To that Mr Jones agrees. Secondly, says Mr Lloyd, if Portugal ignored or treated with contempt the Article 27 Framework specialty protection why have they bothered to seek the consent they do if not because they do, most emphatically, acknowledge the lawful position on specialty. Furthermore the 2013 trial excluded Mr Azevedo because the court was determined to honour not breach specialty and E.U. law expressly permits trial, but not execution of any prison term, see *Leyman & Pustovaror* (*supra* – discussed my para 6 page 3). Mr Jones argues to the contrary depending on a finding that I do not believe the integrity of the Judicial Authority. I am bound to reject this challenge. Mr Lloyd is correct, in my judgement, the conduct of the Judicial Authority is all one way i.e. to honour the specialty arrangements just as one would expect.

(v) S.21 (2) Art 5 & 6 Breaches.

This contention is again factually underpinned by a finding of bad faith by the Judicial Authority. As is plain I make no such finding. Arbitrary detention contrary to Article 5 ECHR because parole has not been granted is unarguable. Due process including no less than 4 decisions of the Supreme Court considering and rejecting the Defence complaints lead me to one clear conclusion: detention is lawful following full and thorough due process and thus not arbitrary. As for any fear of no due process and thus unfair trial contrary to Article 6 ECHR – my earlier rejection of bad faith leads me to reject this challenge as unarguable.

12. Conclusion.

To those unschooled in the law on extradition these proceedings may seem somewhat bizarre. Portuguese authorities are seeking this U.K. court's consent/permission to try an individual who happens to be one of their citizens and is physically in a prison outside Lisbon. However, international treaty and extradition jurisprudence acknowledge the safeguards against say a hidden agenda being used if someone is extradited such that any additional offence(s) or indeed onward extradition to a third jurisdiction requires consent of the original extraditing jurisdiction and affords procedural safeguards. Mutual trust principles mean although unenforceable by this Court given the, by definition, location of the Requested person already geographically within the Requesting jurisdiction, each Judicial Authority will respect the decision of the other. I accept the Judicial Authority may well be disappointed in my decision albeit on one ground alone (but the effect is the same) to refuse consent. That said I hope my reasoning, if unwelcome, is nevertheless clear. For the avoidance of doubt I stress I reject as essentially without merit the allegations of bad faith, in their various forms, as made now and as rejected by me in 2012. However, given the context of the myriad of cases against this Requested Person and the manner, as a fact, they have hitherto and thus highly likely (if not inevitably) will be pursued if consent is granted I do find it oppressive and thus unfair by reason only of the passage of time since alleged commission until now 2014 to consent to the 3 Requests made. Accordingly I decline to Consent. Mr Azevedo therefore has the protection afforded by the specialty arrangements and while he can be tried and sentenced he cannot be imprisoned on any of the outstanding charges. Consent refused.

A handwritten signature in black ink, appearing to be 'Anthony...', with the date '23 May 2014' written below it. The signature is written in a cursive style.