

**Neutral Citation Number: [2010] EWHC 878 (Admin)**  
**IN THE HIGH COURT OF JUSTICE**  
**QUEEN'S BENCH DIVISION**  
**DIVISIONAL COURT**

Case No. CO/3015/2010

Royal Courts of Justice  
Strand  
London WC2A 2LL

Date: Thursday, 11 March 2010

**B e f o r e:**

**LORD JUSTICE LAWS**

**MR JUSTICE MCCOMBE**

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**Between:**  
**GANIC**

**Claimant**

**v**

**REPUBLIC OF SERBIA**

**Defendant**

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**MISS C MONTGOMERY QC and MR J JONES** (instructed by KINGSLEY NAPLEY)  
appeared on behalf of the **Claimant**

**MR B WATSON and MISS R BARNES** (instructed by THE CROWN PROSECUTION  
SERVICE) appeared on behalf of the **Defendant**

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**J U D G M E N T**

1. **LORD JUSTICE LAWS:** This bail application was adjourned by the court on 5 March over to today. On 5 March I gave a short judgment describing the background which I will not repeat. Miss Montgomery QC had, on 5 March, advanced substantial arguments to show that the prospective request for extradition of the claimant to Serbia may not, in the events which had happened, have been based on objective evidence, but would or will be motivated by other, essentially political, factors. It is not necessary to go into the detail for today's purposes. It is enough to record that the Rules of the Road Recommendation, as it is known (that is to say an investigation by independent lawyers at the International and Criminal Tribunal for Yugoslavia) concluded, after setting out very detailed reasons, that there was effectively no evidence against Dr Ganic in relation to the matters principally occurring in Sarajevo in 1992, for which it appeared his extradition would be sought.
2. On 5 March I recited short conclusions given by the Rules of the Road Recommendation at page 19. I will not set it all out again. It is enough to record that this is stated:

"The prosecution file does not disclose sufficient prima facie evidence that Ejup Ganic committed any serious violations of international humanitarian law, within the jurisdiction of the International Tribunal, in respect of any other charges".
3. We adjourned the matter so that the Serbian authorities, who might perhaps have been taken by surprise at the court's insistence on more information as to the parties' cases, should have an opportunity to produce material showing some evidential basis for the offences for which Dr Ganic was prospectively required. The authorities have now produced a letter from the office of the War Crimes Prosecutor dated 8 March 2010. That shows, on its face, that some investigations have taken place since 2003, but Mr Watson for the government accepts in terms that the letter effectively contains no answer to the conclusions of the ICTY lawyers. There has also been produced a letter from the Serbian Ministry of Justice of 4 March 2010. That concerns the jurisdiction of the Serbian authorities to try Dr Ganic. That does not in my judgment materially advance matters for today's purpose. Lastly, there is a further short letter of 11 March (today's date) from the prosecutor, merely indicating that "the relevant extradition documentation" would be sent to the United Kingdom authorities today.
4. There will be a further hearing at the Magistrates' Court, we are told, on 25 March. There is a very considerable dispute as to the breadth of the jurisdiction which the district judge will then be in a position to exercise. Skeleton arguments have been ordered. Miss Montgomery anticipates advancing substantive argument on issues such as abuse of process, the existence on the facts of an extradition offence, and the legality of the provisional warrant. Mr Watson says that his client's case is that the judge will effectively be confined to deciding questions of bail.
5. In all these circumstances, it seems to me, and I understand my Lord to agree, that Miss Montgomery's case, while of course not proved before us today, remains a substantial one and will at some stage have to be fully considered. In those circumstances the fair course is to grant Dr Ganic bail subject to stringent conditions.

6. The conditions will be as follows, and my Lord will remind me if I omit any. First of all, that he live at a specified address in London. I need not read the address into the record. It is set out in paragraph 8 of the first witness statement of the solicitor, Mr Gentle. Secondly, that he make no application for a passport or travel document. That means, I apprehend, no such application to any national authority. Thirdly, we note the assurance of the Bosnian government that they will not issue a passport to Dr Ganic, and, so far as it lies within their power, will seek to see that he complies with the conditions set by this court. Fourthly, there is the sum of £300,000 that has been provided by a well-wisher, who we understand is a lady of substantial means. That sum is, at present, in the appropriate account of Dr Ganic's solicitors. We accept that sum as a security for Dr Ganic's appearance when he is called upon to appear at court, and order that it be transferred within 24 hours by the solicitors to the City of Westminster Magistrates' Court. Next, there is a surety in the sum of £25,000 which has been given by the Vice Chancellor of Buckingham University. We accept that surety. There will then be a curfew to the effect that Dr Ganic remain within the confines of the London address where he will be staying between 10pm and 7am each night. There will also be what is sometimes called a "doorstep condition", that is to say he must undertake to appear at that property if called on to do so by a Constable in uniform between those specified hours. He will also report daily -- Miss Montgomery may suggest a time of day -- at the Battersea Bridge Police Station.
7. **MISS MONTGOMERY QC:** Would your Lordship say between 7 and 10 in the morning?
8. **LORD JUSTICE LAWS:** Yes.
9. **MR JUSTICE MCCOMBE:** I entirely agree, for the reasons given.
10. **MISS MONTGOMERY QC:** My Lord, would you then formally remand him on the conditions of bail -- it is agreed by Mr Watson -- until 13 April. That is the date that has been fixed for any consideration of a request to take place. That means that 25 March will be in his absence, but that is acceptable to my learned friend.
11. **LORD JUSTICE LAWS:** 13 April is?
12. **MISS MONTGOMERY QC:** The date fixed. It is the end of the 45 day period.
13. **LORD JUSTICE LAWS:** That is to remand him to appear at the Magistrates' Court?
14. **MISS MONTGOMERY QC:** Yes, on 13 March.
15. **LORD JUSTICE LAWS:** Yes. We will remand him on bail on those conditions, to appear at the City of Westminster Magistrates' Court on April 13, presumably at 10 o'clock in the morning.
16. Any consequential matters?
17. **MR WATSON:** No, my Lord. Thank you.
18. **LORD JUSTICE LAWS:** Thank you very much. We are obliged to counsel.