



HOUSE OF LORDS

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The Select Committee on Extradition Law

Inquiry on

EXTRADITION LAW

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Questions 255 - 263

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1 pm

Witnesses: Mariusz Wolkowicz and William Bergstrom

USE OF THE TRANSCRIPT

This is a corrected transcript of evidence taken in public and webcast on www.parliamentlive.tv.

Members present

Lord Inglewood (Chairman)
 Lord Brown of Eaton-under-Heywood
 Lord Empey
 Baroness Hamwee
 Lord Hart of Chilton
 Lord Henley
 Lord Hussain
 Baroness Jay of Paddington
 Lord Jones
 Lord Mackay of Drumadoon
 Lord Rowlands CBE
 Baroness Wilcox

Examination of Witnesses

Mariusz Wolkowicz, and William Bergstrom, Solicitor, TV Edwards

Q255 The Chairman: I extend a welcome on behalf of the Committee to our two witnesses, Mariusz Wolkowicz and William Bergstrom—you are his solicitor and you are from TV Edwards.

William Bergstrom: That is correct. I am my Lord Chairman.

The Chairman: We are going to have translation.

Alex Nowak: That is from me.

The Chairman: That is you, yes. You would like us to speak in short chunks.

Alex Nowak: Please, yes, if you can.

The Chairman: As I explained to the witnesses outside, we are interested in hearing Mr Wolkowicz's experiences.

Mariusz Wolkowicz: Yes, I understand that, my Lord.

The Chairman: Please feel free, both of you, to say whatever you would like to tell us.

William Bergstrom: Thank you.

The Chairman: For the purpose of getting the record right, could you each introduce yourselves?

William Bergstrom: My name is William Bergstrom. I am a solicitor and I represented Mr Wolkowicz between 2011 and 2013 for his extradition proceedings.

Mariusz Wolkowicz: My name is Mariusz Wolkowicz. I am the object of this.

Q256 The Chairman: Yes, thank you. If I may, I will start with my first question to Mr Wolkowicz, which is: what information was given to you when you were first arrested on the European arrest warrant? Do you feel that you received sufficient information, and was it in the right format and at the right point in the process?

Mariusz Wolkowicz: I have no objection to the first meeting with the police, who handed me the European arrest warrant and practically transported me to London with the purpose of putting me in detention. I understood what the whole thing was about, but the issues about the arrest were explained to me by my solicitor, who I had the opportunity to meet on the first day of my detention.

The Chairman: Just so we are clear, did you have legal advice before you were arrested by the police or was it a solicitor who you acquired at that point?

Mariusz Wolkowicz: Not exactly. Basically when the police first stopped me I had a legal adviser. I had been in the police station only one day. The next day they took me to London and basically gave me a chance to take legal advice from my solicitor.

The Chairman: Mr Bergstrom, you were involved with Mr Wolkowicz's case right from the start?

William Bergstrom: I did not represent Mr Wolkowicz at the initial hearing, but one of my colleagues from my firm did. So from the point of the initial appearance at the court, Mr Wolkowicz had legal advice and representation.

The Chairman: Your firm was allocated to him, was it? How did it come about that you represented him?

William Bergstrom: I believe that my firm was allocated under the duty scheme. My colleague was acting as a duty solicitor at City of Westminster Magistrates' Court. That is how he came to meet Mr Wolkowicz.

The Chairman: You have been representing him ever since?

William Bergstrom: I have, yes.

Lord Rowlands CBE: Was the duty solicitor well versed in extradition issues?

William Bergstrom: He was. He was one of my colleagues from the firm at the time. He was very well experienced in extraditions.

Q257 Baroness Jay of Paddington: Mr Wolkowicz, has your case been handled with legal aid? I thought it had from what you said before, but perhaps you could tell us about that.

Mariusz Wolkowicz: To be honest, I have experience of the legal system in my own country. In comparison, I am really very satisfied with the system in the UK and what I experienced here. Despite the fact that I lost in my extradition proceedings, my solicitors were fantastic. They gave everything and I trusted them during the whole process. They visited me in prison. We prepared our line of defence together. I had no objections or problems with them at all.

Baroness Jay of Paddington: So you had no problems getting legal aid, financial aid?

Mariusz Wolkowicz: No, not at all, because they dealt with it in a professional manner.

Baroness Jay of Paddington: Did you also have lawyers working for you in Poland and legal representation in your own country?

Mariusz Wolkowicz: I wish I had. I wish the situation in our country was similar to here. I did not have anything like legal aid because our system does not provide for this sort of opportunity. If you have money and you can afford it you can hire a lawyer. Otherwise, there is no legal aid.

Q258 Lord Henley: Mr Wolkowicz, you are in a wheelchair and you obviously have severe medical concerns. You raised a number of medical considerations in your case. I was really just wondering how you felt those were dealt with by the United Kingdom courts.

Mariusz Wolkowicz: I have some reservations in this matter, not with the system itself but with the judge's approach to my medical problem. Despite many medical reports from medical specialists, not all aspects of my medical conditions were taken into account by the judge. While in detention in this country, when I had rehabilitation I was transported on a wheelchair. I was treated, I was taken care of. I had a chance then to stop using my wheelchair, to start walking again, but at the point of extradition that chance disappeared. In Poland I experienced a nightmare. I could talk for a long time about my experiences in Poland, but I think it would be a better solution if I hand over my complaint to the Strasbourg tribunal about my treatment, in which you have a description of everything that happened to me from the first day of the extradition.

Lord Henley: I am anxious to hear about your experiences in the United Kingdom. You seem to be saying that the courts did not take those conditions sufficiently into account, but you think the system itself is okay and you were looked after right from detention.

Mariusz Wolkowicz: Maybe I was just unlucky or maybe the judge did not look into the problem with sufficient care or attention.

The Chairman: Can I ask a question to Mr Bergstrom? Is Mr Wolkowicz putting in evidence to this Committee his application that he has referred to the Strasbourg court?

William Bergstrom: He is, my Lord Chairman.

The Chairman: He wants to give it to us?

William Bergstrom: He does want to, yes.

The Chairman: Thank you.

Baroness Hamwee: This may be for Mr Bergstrom. Was expert evidence sought over the medical considerations? Was there any problem with getting legal aid to cover it?

William Bergstrom: Yes. We instructed various medical experts from different fields. The legal aid system worked particularly well in relation to that, so it was all publicly funded. On a positive note relating the way the UK court handled problems, we were allowed sufficient time to prepare the case and instruct experts.

Q259 Lord Brown of Eaton-under-Heywood: We have the judgment of the Divisional Court from 30 January 2013 following a hearing in December 2012. Can you confirm this chronology, Mr Bergstrom? Mr Wolkowicz came to this country in 2009, SOCA certified the warrant in August 2011, and the proceedings before Westminster magistrates' lasted for some 14 months until 15 October 2012, when the senior district judge gave judgment against you and ordered extradition. Is that right?

William Bergstrom: That is correct so far.

Lord Brown of Eaton-under-Heywood: He had heard from two basically competing specialists, Dr Pierzchniak and Dr Joseph, is that right?

William Bergstrom: That is right.

Lord Brown of Eaton-under-Heywood: The matter then goes on appeal to the Divisional Court, which has further medical evidence from Dr Rix, is that right?

William Bergstrom: That is right.

Lord Brown of Eaton-under-Heywood: He sees your client on 20 December of that year, which must have been just after the hearing date and before judgment.

William Bergstrom: That is correct.

Lord Brown of Eaton-under-Heywood: All this is set out in a lengthy judgment in the Divisional Court, which dealt at the same time with two other cases. Is that right?

William Bergstrom: That is right.

Lord Brown of Eaton-under-Heywood: At the Divisional Court, you had instructed counsel—all this, perfectly properly, on legal aid—David Josse QC and Ben Keith, from whom we have already had general evidence.

William Bergstrom: That is correct.

Lord Brown of Eaton-under-Heywood: The Divisional Court came to the conclusion that they had no basis for upsetting the judgment of the senior district judge on which medical evidence he preferred, but actually then said that even if they had they still regarded the Polish system as able to deal with the question of your client's health conditions.

William Bergstrom: Yes, that is correct.

Q260 Lord Hussain: What assurances were given by Poland and to what extent were you informed of the nature of the assurances?

Mariusz Wolkowicz: Poland gave assurances to me and to the judge in this country that I would have proper conditions for medical treatment in Poland, that I would have a cell that would be adjusted for the wheelchair and where I would be able to move around in a wheelchair, and that I would be able to use all the facilities available to other prisoners, such as using the common room, visiting church, this sort of stuff. However, the reality is that Poland cheated me and this country because none of the assurances has been kept. I have been moved from one prison to another like a rotten apple. The reality was that nobody was able to take proper care of me because there were no proper conditions for that. In Polish prisons, there are no specialist physicians; there is only one general practitioner who is not a neurologist or urologist. I had to spend practically 24 hours a day in bed because I could not even go to the toilet in my wheelchair.

In Poland, like here, every prisoner has his rights, such as one hour's outside exercise or walk a day. There is a common room, and I have the opportunity or right to attend church services. I had practically nothing. I was deprived of those rights because of the wheelchair. The premises were on lots of different levels, with stairs. That is why the lawyers hired by my family sued the prisons for depriving me of my rights. That is why I was moved from one prison to another.

The biggest problem was my state of health. I have a permanent, chronic infection of my urinary tract. I often have urine retention problems and the prison doctors could not cope with it. Every time my condition deteriorated and threatened my life they were forced to call an ambulance and drive me to a local hospital to save my life. This happened dozens of

times. During the year I had lots of instances of internal bleeding. Muscular wasting in my legs progressed much more than it had here. They moved me to all the possible prisons where supposedly there were proper conditions for me, but in reality nobody wanted me because I was constantly in a state that threatened my life. Despite my custodial sentence of 10 years, Polish authorities let me off.

Lord Rowlands CBE: How much longer did you have to spend in prison?

Mariusz Wolkowicz: Four years remain from my sentence, because the time I spent in prison here was included in my sentence in Poland, plus the 14 months I spent in prison recently. Poland seemed desperately to want me back; nobody knows why they wanted me back so much. They got me back but did not provide proper conditions for me, so they had to release me. In practice, they damaged my health and took away my opportunities. Despite the fact that I am suing 10 prisons in Poland, I have started proceedings in the Strasburg tribunal, where the Helsinki Foundation sent their observers. I do not draw any satisfaction from all these legal proceedings because my family and life are here. I do not really care whether I win or lose those cases. I appreciate the British mentality and logic. Poland is 50 years behind the UK as far as the penal system and people's attitudes are concerned. If my health is to improve, my chances are better here. I have been here for six or eight months. I have had advice from several specialists, medical visits and so on.

Q261 The Chairman: I wanted to ask two things. Can you talk very simply through what physically happened to you from the time the Divisional Court said that you had to go back to Poland and the moment you arrived there?

Mariusz Wolkowicz: It might be better for William to talk about it. What happened is also in this document.

The Chairman: Very concisely, you were in the court room, and the police then took you where? What happened?

William Bergstrom: First, my Lord, there were further legal applications to avoid Mr Wolkowicz's extradition. In fact, it did not take place until March 2013.

The Chairman: Was he in detention at that stage?

William Bergstrom: He was. He was at HM Prison Leeds.

The Chairman: Had he sought bail or did he decide not to?

William Bergstrom: Overall, during the proceedings he sought bail between 10 and 15 times, but the applications were refused. He was remanded in custody and then removed from the United Kingdom.

The Chairman: Can you tell us about the process of removal? Was he taken to an airport?

William Bergstrom: Yes.

The Chairman: What happened next? Was he handcuffed?

William Bergstrom: My understanding is that the United Kingdom police took him to the airport and handed him over to the Polish authorities. He was then taken in a military plane to Poland. My understanding from Mr Wolkowicz—he can obviously tell you about this—is that he experienced some problems during the transport to Poland.

The Chairman: Does he want to, briefly?

Lord Rowlands CBE: Could you remind the Committee what offences the Polish authorities wanted to charge him with?

Lord Brown of Eaton-under-Heywood: Is it right that he got 16 years imprisonment for a variety of offences: burglary, forgery, theft, assault, robbery, escaping from custody and so forth?

William Bergstrom: Yes

Lord Brown of Eaton-under-Heywood: He had nine years at least still to serve at the time when he was the subject of the arrest warrant.

William Bergstrom: That is fairly accurate.

Lord Brown of Eaton-under-Heywood: Did he go back to Poland in March 2013?

William Bergstrom: I cannot recall.

Lord Brown of Eaton-under-Heywood: I thought somebody said March. What proceedings did he take after the Divisional Court rejected his appeal? Did he try to petition for leave?

William Bergstrom: Following the rejection of the appeal we made an application for leave to appeal to the Supreme Court on points of law.

Lord Brown of Eaton-under-Heywood: That was rejected, and then out he went.

William Bergstrom: Indeed. My recollection is that Poland requested an extension for the removal process.

Lord Brown of Eaton-under-Heywood: Okay, so he leaves apparently in March 2013. When is he eventually released from prison in Poland in 2014? What month?

William Bergstrom: My recollection is that it was May or June.

Lord Brown of Eaton-under-Heywood: So he spent just over a year in prison or in several prisons in Poland on his return, is that right? How many different prisons?

Mariusz Wolkowicz: Ten.

Lord Brown of Eaton-under-Heywood: When did he instruct his lawyer in Poland? He told us that he did so.

Mariusz Wolkowicz: Yes I have. The lawyers took proceedings against the prison authorities in Poland.

Lord Brown of Eaton-under-Heywood: When?

Mariusz Wolkowicz: From the very beginning.

Lord Brown of Eaton-under-Heywood: So they were monitoring the extent to which the Polish authorities complied with their assurances?

Mariusz Wolkowicz: Yes, from the very beginning, from the time I was put into my first prison, when my wheelchair would not even fit into my cell.

Lord Brown of Eaton-under-Heywood: The various lawyers were aware of that and were taking it up with the authorities?

Mariusz Wolkowicz: Yes, and there is documentation to support that.

Lord Brown of Eaton-under-Heywood: After he returned to Poland, did he have any contact with his English solicitor, Mr Bergstrom?

Mariusz Wolkowicz: I was thinking about getting in touch with Mr Bergstrom again to ask him for help.

Lord Brown of Eaton-under-Heywood: I did not ask whether he was thinking about it. I will ask you, Mr Bergstrom: did you have any further contact with your client after he left for Poland?

William Bergstrom: Not until towards the end of 2013. Mr Wolkowicz's Polish lawyer contacted me and explained the difficulties that he was experiencing, and in relation to other legal matters.

Lord Brown of Eaton-under-Heywood: Did you tell him of the assurance that had been obtained from the Polish authorities as a condition of extradition?

William Bergstrom: Indeed I did, I beg your pardon. During 2013, one of Mr Wolkowicz's lawyers contacted me and asked for copies of the assurances, which I forwarded to them.

Lord Brown of Eaton-under-Heywood: When was that, roughly?

William Bergstrom: Off the top of my head, during summertime in 2013.

Lord Brown of Eaton-under-Heywood: So within two or three months after he returned to Poland?

William Bergstrom: Yes.

Lord Rowlands CBE: So your experience of these assurances was that they were pretty meaningless?

William Bergstrom: Yes, that is correct.

Lord Rowlands CBE: Is that your experience in other cases you have dealt with?

William Bergstrom: I cannot say that that is my experience.

Lord Rowlands CBE: I want to know whether this is a very specific case or whether it is true of other cases.

William Bergstrom: It is not, in my experience, common. These assurances are obviously formal promises by foreign authorities. The expectation is that they are honoured. There are other cases where we have had problems with assurances being kept by certain authorities, but I would not say that it is a common problem.

Lord Hart of Chilton: But here we have a case where a wheelchair does not even fit into a cell on day one, he is frequently being transported off to hospital and he is in locations that are architecturally split in such a way that his wheelchair does not allow him to move from floor to floor. There are lawyers who are aware of all this. Who are they making their protests to to get the assurances met?

Mariusz Wolkowicz: In the first instance they would appeal to the management of the prisons I was kept in. If nothing changed, the next step would be to appeal to the penitentiary judge, who has responsibility for the prison. I met those judges quite often. Still nothing happened. Nothing changed because it could not change: in Poland we do not have a prison like the prison in Leeds, which is suitable for a wheelchair. So the judge could not send me anywhere because there was nowhere to send me.

Lord Hart of Chilton: Presumably there was a record of each of the protests made about the assurances not being kept.

Mariusz Wolkowicz: Yes. We even have documentation about proceedings in courts.

Baroness Jay of Paddington: Is this in the record of the appeal to Strasbourg that we are going to see?

Mariusz Wolkowicz: The proceedings in Poland are civil cases for abuse and violation of my rights. They are separate from the complaint to the Strasbourg tribunal.

Lord Brown of Eaton-under-Heywood: So you have domestic proceedings in Poland against the Polish authorities and an application to the human rights court in Strasbourg. Is that application only against Poland, or is it also against the United Kingdom?

Mariusz Wolkowicz: The application in Strasbourg is only against Poland.

Q262 Lord Empey: Earlier, Mr Wolkowicz mentioned difficulties when he was being transported by the Polish authorities after he was handed over at the airport. Are those concerns in the documentation? Can he elaborate on them now?

Mariusz Wolkowicz: I was in shock. I was taken to the airport by British policemen and the old Polish plane, a military-type CASA plane, arrived. It dates from the Second World War. There was a ramp, on which I was lifted by four Polish policemen. They dropped me from the ramp. It was very steep. I have evidence for that because I was X-rayed after that accident. I was then taken from that airport to the hospital, where they took care of me. I returned the next day, but the flight did take place because the engine caught fire. Fortunately, we were still on the ground, not in the air.

The next day, inside the plane the seats were different from on a normal plane. It was more or less like how we are sitting here. The policemen wanted to tie my wheelchair to the walls of the plane where the luggage was, because we were sitting in the luggage department. So they tied the wheelchair up and then the captain arrived. He said, "He cannot sit here, because all this luggage is going to fly together with him. Please move him and sit him next to the other prisoners". I protested, because I had a certificate from an English doctor saying that I could be transported, but only on the wheelchair without being taken off it. They took me by force. I was hit several times on my chest because I was resisting, but they dragged me by force to this armchair. They tied me up there in every possible way.

Lord Rowlands CBE: Was the plane carrying other prisoners being extradited to Poland?

Mariusz Wolkowicz: Yes, there were other prisoners, but I had assurances that the transport would be suitable for someone who was wheelchair-bound and not only for those other prisoners, but they wanted to move me together with the healthy prisoners. That is how I was transported to Poland.

Q263 The Chairman: Just two quick points please: you mentioned that your family helped you to get the lawyers in Poland. Is that correct?

Mariusz Wolkowicz: Yes.

The Chairman: Is that because they had some money or because they had contacts?

Mariusz Wolkowicz: Only because we had money, my Lord.

The Chairman: If you had not had any family, would you have been able to contact lawyers in Poland to pursue your case.

Mariusz Wolkowicz: No. No chance.

The Chairman: No chance?

Mariusz Wolkowicz: Nobody would take this case because it was a case against the prison, against the system. Nobody wanted to take my case.

The Chairman: If you had not had family, you would not have been able to respond to the circumstances you were in.

Mariusz Wolkowicz: Yes. This would have been the finish for me.

The Chairman: The other point is a separate point before we move on. Bearing in mind that it must have been obvious to anybody who thought about it that your wheelchair could not fit in a cell, are you arguing in Strasbourg that you were given assurances by the Polish Government in bad faith? Are you saying that deliberately misled the UK?

Mariusz Wolkowicz: They acted on purpose. The court in Białystok was determined to get me back to Poland, with the full knowledge that they did not have the conditions to put me in their prisons. When I got off that military plane when I was taken to Poland, even the car that arrived to take me to prison was not suitable for a wheelchair; it was a normal police car. I had to get off the wheelchair and crawl on my knees to the police car. In the UK, every time I went to the court or elsewhere I had transport suitable for the wheelchair. In Poland, when they had information that someone was arriving on a wheelchair they did not do anything to provide me with suitable transport.

The Chairman: Are you suggesting that there was some sort of vendetta against you from the Polish authorities?

Mariusz Wolkowicz: To tell the truth, I mentioned that possibility to William—Mr Bergstrom—but he told me that maybe it was better not to mention that. When I was young I broke into the flat of a judge in Białystok. From that moment, all my family had to emigrate or move out of my town. This particular judge wanted to damage me.

The Chairman: Thank you. Lord Empey, do you have anything you want to add?

Lord Empey: Very briefly: once you were returned to Poland, what responsibility do you think the UK Government had in your case?

Mariusz Wolkowicz: I knew that at the moment I transferred to Poland the UK Government lost their responsibility towards me. I knew what would happen. Maybe I had illusions that some of the assurances might be partly respected. But the very first day after I landed and went to prison, and they took away my wheelchair and four other prisoners carried me to the third floor, I was already in shock: how could they carry me like that, without proper training, to the third floor? How was I to go for a walk every day from the third floor? There was no lift. I knew what awaited me in that prison. Nobody normal would put a prisoner in a wheelchair on the third floor in a prison building; they would put me on the ground floor, like I was housed here.

The Chairman: Does any other member of the Committee have any further questions they would like to put to either of our witnesses? Is there anything you would like to say to us in conclusion, Mr Wolkowicz and Mr Bergstrom?

William Bergstrom: A couple of questions were asked about whether the application to the European Court of Human Rights contains details of what has happened to Mr Wolkowicz. It does. It summarises what occurred during the transport from the United Kingdom to Poland. It also gives detail about the lack of treatment and the bad time that Mr Wolkowicz had in prison. It also summarises the applications that were made to the various authorities and courts in Poland to improve his situation.

The Chairman: Fine. Thank you very much for that. I thank the two of you, and Mr Novak, very much. Without your help we would have been here for quite some time. We are very grateful for what you have done to help us. Thank you each of you.