

# Merticariu (Appellant) v Judecatoria Arad, Romania (Respondent)

Case ID: 2022/0127

## Case summary

### Issue

- (1) Would a requested person be entitled to a retrial or (on appeal) to a review amounting to a retrial where the law of the requesting state confers a right to retrial which depends on a finding by a judicial authority, in the requesting state, as to whether the requested person was deliberately absent from his trial?
- (2) Would a requested person be entitled to a retrial or (on appeal) to a review amounting to a retrial where it is not possible for a judge to say that a finding of deliberate absence by a judicial authority, in the requesting state, is "theoretical" or "so remote that it can be discounted"?

### Facts

Ionut-Bogdan Merticariu is subject to a European Arrest Warrant ("EAW") issued by the Romanian Judicial Authority on 7 May 2019. Acting with others, Mr Merticariu entered commercial premises using a key which the group had as employees of the business concerned. Goods valued at around EUR 1,500 were taken but some of these were later returned. Mr Merticariu was convicted and sentenced for the burglary of commercial premises in his absence.

Mr Merticariu was arrested under the EAW on 25 September 2019. Following a hearing at Westminster Magistrates' Court, Mr Merticariu's extradition was ordered. The High Court dismissed Mr Merticariu's appeal. Mr Merticariu now seeks permission to appeal to the UK Supreme Court. Mr Merticariu contests his extradition. One of the conditions for a court to make an extradition order under s.20(5) of The Extradition Act 2003 requires the court to be satisfied that the requested person would be entitled to a retrial or (on appeal) to a review amounting to a retrial. Mr Merticariu argues that this requirement has not been satisfied and that he should be discharged.

### Judgment appealed

[\[2022\] EWHC 1507](#)

### Parties

#### Appellant(s)

Ionut-Bogdan Merticariu

#### Respondent(s)

Judecatoria Arad, Romania

### Appeal

#### Justices

Lord Hodge, Lord Sales, Lord Burrows, Lord Stephens, Lord Burnett

#### Hearing start date

29 November 2023

**Hearing finish date**

29 November 2023

**Watch hearing**

29 November 2023 [Morning session](#) [Afternoon session](#)