

Annex C

Case Name	Details	Sentence	
<p><i>R. v Kuosmanen (Paavo Topias)</i> [2004]EWCA Crim1861</p>	<p>The applicant (K) applied for leave to appeal against a sentence of five years' imprisonment imposed for three counts of having a false instrument with intent. Customs officers found 250 counterfeit passports and other identity documents on K's person. K had agreed to deliver the documents for a third party. Held, refusing the application, that a sentence of five years' imprisonment did accord the appropriate credit for the early guilty plea. The instant case concerned 250 passports, forged in a sophisticated way, which had been imported in a professional operation. The sheer scale of the operation meant that a starting point of seven years would not have been inappropriate. The judge had referred to K's plea at the outset of his sentencing remarks, therefore it was clear that he had taken it into account.</p>	<p>7 years (before credit)</p>	<p>A1</p>
<p><i>In Cheema</i> [2002] EWCA Crim 325, [2002] 2 Cr App R (S) 79 (356),</p>	<p>The Court of Appeal considered a sentence of three years appropriate under the previous legislation of the Forgery and Counterfeiting Act 1981 for having custody or control of 12 false passports, intending that they would be used as genuine passports.</p>	<p>3 years</p>	<p>B1</p>
<p><i>Carneiro</i> [2007] EWCA Crim 2170</p>	<p>Pleaded (full credit) D was an Algerian who had overstayed on a visitor's visa which expired in 2008. D was stopped at the Channel Tunnel whilst on a coach to Germany. He had on him a Belgian ID document and a bank card, both in the same false name. His explanation for the bank card was that he had used the account of an Algerian to operate as self-employed. He had purchased the ID document off the Internet to visit a German woman he met online and whom he may have been intending to marry to obtain legitimate EU immigration status. D was of good character. The Judge emphasised the importance of preserving the integrity of the UK's borders. Held. The Judge was right to consider the time D had been an overstayer. D had been unlawfully living and working in the UK for over five years and, although caught leaving the UK, his intention was to return. D had a counterfeit document which would have been used to enable him to continue his long-assumed false identity.</p>	<p>The Judge must have started at 27 months. He was entitled to do so. 18 months was not excessive.</p>	<p>C1</p>
<p><i>Kolawole</i> [2004] EWCA Crim 3047</p>	<p>Rose LJ indicated that where a passport had been used to gain entry to the United Kingdom or to evade immigration controls, even a person of good character who pleads guilty should normally receive a sentence of between 12 months and 18 months for a single offence.</p>	<p>18-27 months pre GP</p>	<p>C1</p>

<p>Lasgaa [2014] EWCA Crim 1822</p>	<p>Guilty plea</p> <p>L had entered the United Kingdom in 2008 under a visitor's visa which did not entitle him to work. After the visa expired, he became an unlawful overstayer. He worked as a self-employed painter and decorator and, in order to do so, used a bank account in an assumed name. In 2014 he left the UK to travel to Germany. He was stopped by border control who found him to be in possession of a counterfeit Belgian identity document and a debit card. Both were in the same name as the bank account being used by L. L admitted that he had intended to travel to Germany to marry a German woman he met on the internet, return to the UK and then establish himself legally in the UK as the husband of a European Union national. The sentencing judge emphasised the importance of preserving the integrity of the country's borders. He accepted that L was of previous good character and had pleaded guilty at the first opportunity, but identified as aggravating features the fact that L had been an illegal overstayer and that he had had another false document, namely the debit card, in his possession.</p> <p>L had for more than five years been living and working in the UK when he had no right to do so. Although he was using his counterfeit identity document to leave the country, his clear intention was to return.</p> <p>A starting point of 27 months' custody before giving credit for the guilty plea was significantly longer than the upper end of the range indicated in <i>Kolawole</i>. It resulted in a sentence of 18 months' imprisonment, which was undoubtedly high. However, the sentence was neither wrong in principle nor manifestly excessive.</p>	27 months'	C1
<p>R v Oryem (Emmanuel) [2016] EWCA Crim 1699</p>	<p>Plea. The offender was attempting to purchase a £5k watch using a bank card in someone else's name and showed false identification to the shop supervisor. Due to a concern about the documents the police were called and the offender arrested. The offender admitted that he had gone to the shop to commit fraud and that the documents were fakes. He said he had done so for a friend, who he described and the police subsequently found and arrested.</p> <p>The offender was sentenced to 20 months imprisonment for fraud and 12 months concurrent for the ID document offence. On appeal the fraud sentence was reduced to 15 months to reflect the fact that full credit for his plea should have been given. As the other sentence was to run concurrent and was less than 15 months the Court did not reduce it, so it is a little unclear whether this sentence did or did not include a reduction for plea.</p>	12 months	C2

<p>R v Isufi [2020] EWCA Crim 703</p>	<p>Plea. The applicant had been convicted in Germany for supplying cannabis and was wanted on a warrant by the German authorities. He had been sentenced in that jurisdiction to a term of imprisonment of 4 years and 3 months but had failed to surrender to custody and was on the run. He was arrested by the police on the German warrant on 26 January 2019 in East London. He had clearly not learnt any lessons from his earlier conviction and sentence because he was found to be carrying a shoulder bag containing 994 grams of cocaine with a purity of 86%. The police officers then went on to search his home address and found stocks of cocaine. The quantities of cocaine found on the premises were of an average of 58% purity. Its wholesale value was estimated to be around £70,000, with a street value in the region of £163,000. Also found at the applicant's address were forged identity documents comprising a driving licence, passports and an ID card were all of which were in the name of an Italian national but displayed photographs of the applicant.</p> <p>On the first count of possessing a controlled Class A drug with intent to supply, contrary to <u>section 5(2)</u> of the Misuse of Drugs Act 1971, he was sentenced to 9 years' imprisonment. On the second, of possession of an identity document with improper intention, contrary to <u>section 4</u> of the Identity Documents Act 2010, he was sentenced to 9 months' imprisonment to be served concurrently. Appeal dismissed</p>	<p>9 months after plea. 25 % credit given. Sentence before reduction 12 months</p>	<p>C2</p>
<p>R v <i>Hidri</i> [2019] <u>EWCA Crim 1618</u></p>	<p>Plea. Three Albanians stopped in car. All had false driving licences. D, a passenger, was aged 28 and of good character.</p> <p>Mr Asghar submitted that recent decisions of this Court such as <u>R v Aderemi</u> [2018] EWCA Crim 1502 and <u>R v Mehmeti</u> [2019] EWCA Crim 751, draw a distinction between cases where a false identity document is used for immigration purposes, for example, to enter the country illegally and where a false identity document is used for other purposes such as to obtain work. The former category of cases is regarded more seriously by the courts and attracts a more severe sentence; the latter category (into which this case fell) would attract a sentence of around 6 months on an early guilty plea. The judge's sentence wrongly put this case into the former category. We accept these submissions.</p> <p>Accordingly, in our judgment, this case fell into less serious category of case than the judge seems to have thought. Whilst, as the single judge recognised, each case is different, and 6 months' imprisonment is not in any sense a tariff in this sort of case, there is nothing in the facts of this case which would justify treating this appellant more harshly than others who have used false documents other than for immigration purposes. He has no known previous convictions. He was not the driver</p>	<p>9 months</p>	<p>C2/ 3?</p>

	and he pleaded guilty at the earliest opportunity. We start at 9 months, not 15, so with plea 6 months not 10.		
Mehmeti [2019] EWCA Crim 751	D pleaded to possession of an identity document with improper intention. D was driving his vehicle when police indicated that they wanted him to stop. D carried on driving for a time before stopping the vehicle. When asked for his driving licence, D gave police a counterfeit licence with a false name. D ran from the scene and had to be chased on foot for about ten minutes before being apprehended. In D's police interview, he admitted to entering the UK illegally as an Albanian citizen. D had one previous conviction in 2016 for possessing criminal property when he and a co-accused were found in possession of £100,000 ₁ in cash, three mobile phones and a counterfeit Greek driving licence. D received 12 months' imprisonment and admitted at the time to having entered the UK illegally. The Judge noted that having been deported from the UK following his previous conviction, D had once again entered the UK illegally and had acquired another false driving licence.	The document was not used for immigration reasons. 15 months was too long. We start at 9 months , so with plea, 6 months not 10.	C2/3?
R v Lumanaj [2022] EWCA Crim 725	D pleaded. D was driving a vehicle that collided with a pedestrian. At the scene he told the police his name and showed them a photograph on his phone of a Greek driving licence matching the name he gave. Police took him to his home address to inspect the original. The licence was false and subsequent fingerprint testing identified D as an Albanian national who was unlawfully at large having previously been recalled to prison for a third time for breaching the terms of his licence. He was also driving without a licence or insurance. D was aged 19 at the time of the offence and had one previous conviction for four offences of possessing false identity documents for which he was imprisoned for 6 months. D was found to have no legal standing in the UK and had arrived no later than June 2020. Since then, he had been living under several different names. In his sentencing remarks, the judge said that the use of a photograph of the fake licence was a way to further avoid detection and prevent the police from inspecting the hard copy. The judge treated the previous conviction for similar offences as an aggravating feature which merited an uplift of nine months to a starting point of 27 months. He gave full credit for the guilty plea. Held. Given D's previous offending, it is reasonable to infer that he has repeatedly relied upon having a false licence with him while continuing to drive. The previous offending seriously aggravated the index offence. Although a significant uplift in sentence was required, a sentence of 3 years after trial was manifestly excessive. Instead that sentence should have been 2 years which, after allowing for the guilty plea, should be reduced to 16 months. Therefore, with discount for plea, 16 months.	2 years	C2/3?
Ovieriakhi [2009] EWCA Crim 452	The offender pleaded guilty.	In our view a sentence of twelve months'	C3

	<p>The circumstances of this case present a not unfamiliar picture. The appellant, a woman of good character, lawfully enters the UK. She then remains longer than the time permitted. Next, she obtains a false passport in a name similar to her own in order to obtain a job. The work that she obtains is worthwhile and necessary. She embarks on this course of conduct because of her family difficulties and because, although she could obtain a job in Nigeria, work in the United Kingdom pays more.</p> <p>In our judgment the present case falls into the category of case considered in <u>Mutede</u>, <u>Carneiro</u> and <u>Olasunkanmi</u>. Despite what was said in <u>Adebayo</u>, there is a valid distinction to be made between use of a false passport to gain entry and its use to gain work.</p>	<p>imprisonment was excessive. We shall substitute for it a sentence of six months' imprisonment. Pre GP 9 months</p>	
<p>Acheampong [2015] EWCA Crim 1894</p>	<p>Guilty plea. Cynthia has never applied for a visa to come into the United Kingdom and there is no record of her entry into this country. However, she undoubtedly did enter this country unlawfully. In June 2014 an investigation revealed that Cynthia was working at a care home in Sunderland using the identity of her sister Doreen. It appears from the pre-sentence report that she had been using her sister's identity for very nearly two years by the time she was discovered.</p> <p>In this case, the passport was not false. Further, the passport was not used to gain entry into the United Kingdom; it was used instead to gain work. Cynthia, however, as the judge pointed out, had never been lawfully entitled to be in the United Kingdom or to work here. In our judgment, this places the case above the category of case which includes R v Ovieriakhi , where a 6-month sentence was imposed by the Court of Appeal, and closer to the R v Kolawole category.</p> <p>However, it was a case which involved a genuine British passport which had been lent to her dishonestly by her sister. It therefore did not involve any contact with those who forge passports and sell them. It did not involve any contact with that dishonest and damaging trade. We consider that that aspect of the case justifies reducing the sentencing bracket below the R v Kolawole bracket and towards that adopted in R v Ovieriakhi . The fact that the passport was not used to gain entry is some mitigation and, in the words used by the court in R v Ovieriakhi , an offender who has “done no more with the passport than to try to gain work to maintain herself and her family” is some mitigation to be taken into account.</p> <p>In all the circumstances, we consider that if the judge had had R v Ovieriakhi before him, he would very likely have come to the same conclusion that we have come to and imposed a sentence based on a sentence before discount for plea of 12 months, which he would then have discounted for the early plea to 8 months.</p>	<p>Sentence before discount for plea of 12 months</p>	<p>C3</p>

Aderemi [2018] EWCA Crim 1502	D pleaded to possession of an ID document (section 4(1) and (2)) and working when disqualified (4 months concurrent, no appeal). In 2013, D arrived in the UK on a student's visa to attend university. He didn't attend there. In 2014, his leave to remain was revoked. D remained. On 16 August 2017, D went to a recruitment agency and showed them a false Dutch ID card, which it was inferred he had obtained quite recently. He was checked out and the ID was considered suspicious. On 1 September 2017, D went to another agency and he was able to work in a brewery for about 10 weeks earning about £2,875. He was arrested and co-operated with the police. He said he paid a friend £350 for the ID. D was aged 38 and of good character. Held. The use of the ID card was limited to obtaining work.	We start at 12 months , so 9 months with the mitigation, making 6 months with the plea	C3
---	---	---	----