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Rt. Hon Sir Scott Baker
Extradition Review Panel

Dear Sir Scott

Thank you for the opportunity to feed into the Home Office Extradition Review Panel. The Foreign and Commonwealth Office has a close interest in extradition policy as it affects British Nationals to whom we provide consular assistance, our relationships with other States, and the governance of the UK's Overseas Territories.

As has been identified in your terms of reference, the operation of the European Arrest Warrant has attracted particular attention. In the last three years, consular staff have provided assistance to over 120 British nationals extradited on European Arrest Warrants to 17 different EU countries. We provide consular assistance to British nationals in distress overseas and that includes both victims of crime and those detained on suspicion of or conviction for having committed crime overseas. Victims have a strong interest in seeing those accused of crimes against them facing justice – and the European Arrest Warrant has been used to extradite British nationals accused of crimes against other British nationals. Some of those accused – and their MPs and supporters – have expressed concern to us about the operation of the European Arrest Warrant, particularly at the length of time which can pass on remand between extradition and trial. Our current policy is that we can consider approaching the local authorities if it seems that a trial has not taken place within a reasonable time. Should the Panel find it useful, we could ask some of those we have assisted whether they would wish to be in direct contact with the Panel about their experiences.

In relation to the Overseas Territories (OTs), the Extradition Act 2003 does not extend to them and so extradition between one OT and another, as well as between OTs and the UK, Republic of Ireland and Commonwealth countries is governed by the Extradition (Overseas Territories) Order 2002 (made under the Extradition Act 1989). This is a significant because the 1989 Act contains some gaps. For example, the UK-US treaty, incorporated into UK law by the 2003 Act, does not apply to the OTs. The current relationship between the United States and the OTs in relation to extradition is governed by the UK-US Extradition Treaty of 1972 (extended to the OTs in 1976) and the Supplementary UK-US Extradition Treaty of 1986. The OTs would need to agree to any extension of the 2003 Act to them.

The Panel may also wish to consider the impact of politically-motivated or otherwise abusive extradition cases. One particular example, that had significant FCO Ministerial engagement and UK press coverage, is the case brought by the Republic of Serbia against former Bosnian Vice President Dr Ganic, in which judgement was given last year. The relevant FCO Department stands ready to provide further information on this case and its various implications if this would be useful to the panel.

I hope the above is of use for the consideration by the Panel. Please do not hesitate to get in touch if you have any further questions.

Yours sincerely

Rob Tinline

Head of Consular Assistance