

Economic Note	Number: HO EN 1050
Title of regulatory proposal	Extradition: cases where a person has been convicted
Lead Department/Agency	Home Office
Expected date of implementation	1 July 2026
Origin	Domestic
Date	18/02/2026
Lead Departmental Contact	CrimeandPolicingBillTeam@homeoffice.gov.uk
Departmental Assessment	GREEN
Rationale for intervention, objectives and intended effects Ensure that extradition can proceed in cases where the person subject to an extradition request has the right to request a retrial, rather than requiring the requesting state to guarantee a retrial in every instance. The intended effect of the amendment is to reduce the chance of discharge, delays and litigation arising from disputes over retrial guarantees, allowing extradition cases to progress more efficiently while maintaining fairness for the individual concerned. Reducing discharges has a second order impact by mitigating UK public safety risks.	
Policy options (including alternatives to regulation) Option 0: 'Do nothing': The Meticariu v Romania Supreme Court judgment in March 2024 requires the requesting state to guarantee a retrial in every instance rather than just guarantee that the individual has the right to request a retrial. Option 1: 'Corrective legislation': Pass corrective legislation to revert to the previous position whereby states are required to offer the right to request a retrial but not a guaranteed retrial. This is the government's preferred option.	
Costs and benefit summary No costs or benefits were monetised for this measure due to its limited impact and data availability. There will be non-monetised benefits in the form of reduced pressure on the criminal justice system (CJS) and improvements to public safety if there are cases impacted by this measure. There will be no cost to business of this measure.	
Risks There are risks regarding the international perception of the UK legal system but the limited number of cases in which this applies means this risk is small. There is uncertainty in the number of cases impacted, but the low volumes historically indicate the impact of this measure will be limited.	

Total Cost (£m PV)	Transition Cost (£m Constant)	Cost to Business (£m PV)	
N/A	N/A	N/A	
Total Benefit (£m PV)	NPSV (£m PV)	BNPV (£m PV)	EANDCB (£m PV)
N/A	N/A	N/A	N/A
Price Base Year	PV Base Year	Appraisal period (Years)	Transition period (Years)
2026/27	2026/27	10	

Departmental sign-off (SCS):	Adaeze Igboemeka	Date: 18/02/2026
Chief Economist sign-off:	Tim Laken	Date: 25/03/2026
Better Regulation Unit sign-off:	Emma Kirk	Date: 26/03/2026

Evidence Base

A. Policy objectives and intended effects

1. Extradition is the formal legal process by which a person accused or convicted of a crime is surrendered from one state to another to be prosecuted, sentenced or to serve a sentence already imposed. In March 2024, the UK Supreme Court ruled in *Merticariu v Romania*¹. that when extradition is being sought on the basis of a conviction which occurred in their absence, an individual cannot be extradited unless the person is guaranteed an automatic right to a retrial in the requesting country. The objective of this amendment is to ensure that extradition can proceed in cases where the person subject to an extradition request has the right to request a retrial, rather than requiring the requesting state to guarantee a retrial in every instance.
2. This interpretation diverges from both the long-standing interpretation and the original policy intention of the Extradition Act 2003², under which individuals needed only to be granted the right to seek a retrial. Some states do not have the domestic legal ability to offer a guaranteed retrial in advance, meaning the new interpretation creates an unnecessary barrier to otherwise legitimate extradition requests. Without this amendment, victims may be denied justice where extradition cannot proceed solely because of a procedural guarantee that was never intended by Parliament. Any case discharged by a UK court which would normally have been successful also represents potential public safety risks.
3. The intended effect of the amendment is to reduce discharges, delays and litigation arising from disputes over retrial guarantees, allowing extradition cases to progress more efficiently while maintaining fairness for the individual concerned. It preserves all existing safeguards, including the ability of the courts to refuse extradition where a request is politically motivated, unjust or oppressive, or where the requirement for dual criminality is not met.
4. By clarifying the legislation and restoring its original purpose, the amendment supports a system that is both effective and just, ensuring that individuals retain full access to rights and protections while preventing misinterpretations from obstructing legitimate criminal justice outcomes.

B. Policy options considered, including alternatives to regulation

Option 0 – ‘Do-nothing’

5. The *Merticariu v Romania* judgment requires the requesting state to guarantee a retrial in every instance rather than just guarantee that the individual has the right to request a retrial. The ‘Do nothing’ option entails retaining this approach to cases in UK domestic law.
6. This increases the likelihood of extradition cases being refused as it creates an additional ground to challenge a request. It also would likely increase court time dedicated to individual cases as it provides an opportunity to litigate an extra point as part of the extradition process. In addition, for cases where the judgment is determinative and an individual is discharged on that basis, there are potential public safety risks which arise.

Option 1 - ‘Corrective legislation’: Pass corrective legislation to revert to the previous position whereby states are required to offer the right to request a retrial but not a guaranteed retrial

7. The preferred option is to pass corrective legislation to revert to the previous position in place before the *Merticariu v Romania* judgment. This would mean that requesting states would be

¹ *Merticariu v Judecătoria Arad, Romania* – Supreme Court 2024: <https://supremecourt.uk/cases/press-summary/uksc-2022-0127>

² Extradition Act 2003 – GOV.UK: <https://www.legislation.gov.uk/ukpga/2003/41/contents>

required to offer the right to request a retrial but not a guaranteed retrial. **This is the government's preferred option.**

8. By putting the position beyond doubt in legislation, this option removes the unintended legal barrier created by the UK Supreme Court judgment and ensures that states whose domestic systems do not allow for guaranteed retrials are not automatically excluded from making valid extradition requests. This is essential to avoid a situation in which legitimate cases fail solely because of procedural features of a foreign justice system, even where the individual would still be able to seek a retrial on return.
9. The preferred option also reduces the scope for unnecessary litigation, as it removes an additional argument that individuals can use to challenge extradition requests.

Non-regulatory options

10. There are no clear non-regulatory options given the *Merticariu v Romania* judgment has now created a legal precedent.

C. Past evaluations and rationale for government intervention

11. The *Merticariu v Romania* judgment has fundamentally altered how the Extradition Act 2003 operates in cases involving convictions in absentia. Before the ruling, UK courts consistently accepted as sufficient a right to retrial conditional upon a preliminary finding by a court of the requesting state that the person had not deliberately absented themselves. This long-standing approach was confirmed through multiple earlier cases and formed the practical basis for cooperation under the Extradition Act 2003 for over two decades.
12. The Supreme Court judgment did not seek to alter the previous long-standing practice or policy intention of this part of the Extradition Act 2003. Instead, the Court concluded that the current statutory wording as drafted, when read strictly and narrowly constructed actually requires an unconditional guarantee of a retrial, subject only to procedural requirements. The judgment reflects the UK Supreme Court's interpretation of the current drafting of the Extradition Act 2003 rather than a general position that there should be a new higher standard of protection to a requested individual in this context. Many states, particularly those whose domestic legislation makes retrial conditional on a domestic finding of deliberate absence, cannot meet this additional requirement. As a result, this new stricter interpretation creates a barrier that was never intended by Parliament and it is not required to ensure European Convention on Human Rights (ECHR) compliance leading to individuals who would previously have been extradited potentially being discharged.
13. This problem cannot be resolved without government intervention because the judgment is now law. A legislative amendment is required to ensure that the wording of the Extradition Act 2003 reflects that a right to retrial conditional on a domestic finding of deliberate absence is sufficient for a court to proceed to the next stage of extradition deliberations.
14. External counsel has been engaged in the preparation of this amendment and have confirmed that it is compatible with the UK's ECHR obligations and the UK's obligations as set out in the EU-UK Trade and Cooperation Agreement (TCA).

D. Appraisal

General assumptions and data

15. Very few individuals are anticipated to be affected by the preferred option. Since the *Merticariu v Romania* case in 2024 it is not reported by operational partners that any further cases have been discharged where this judgment has been the sole determinative factor, but rather this has been one of several factors which has led to cases being discharged in some cases.

16. The in-absentia appeal right is only considered in extradition cases after all other grounds of appeal have been heard. Therefore, only a very limited number of cases are ever likely to reach this stage of the process.

Costs

Monetised Costs

17. It is not expected that this measure will incur any costs to businesses or the public sector as it is reducing the legal burden of extradition on the criminal justice system. It is also only expected to apply in a very limited number of cases. As such costs have not been monetised in this Economic Note.

Benefits

18. Due to an absence of evidence and the limited number of cases expected to be affected, the benefits have not been monetised.

Non-monetised benefits

19. The benefits of this measure would only accrue if there were cases over the appraisal period that would have been discharged as a result of the requesting country not being able to provide a guaranteed right to a retrial. It is expected that this will be applicable only in a very limited number of cases. In this scenario, there would be benefits for the victims outside the UK, the CJS, and for public safety.
20. This measure would reduce the demands on the CJS, by removing a route of appeal that can delay proceedings. This measure lowers the volume of litigation and as such decreases the costs to the CJS. Savings to the CJS would accrue from reductions in court time and resource demands as well as the associated costs of holding an arrested individual whilst the appeal process is ongoing.
21. The measure would also make it less likely that individuals convicted abroad are discharged in UK courts, reducing the chances that those who pose a public safety risk remain in the UK. This will also increase the likelihood of victims from outside the UK receiving justice.

NPSV, BNPV and EANDCB

22. This EN does not monetise costs or benefits for this measure due to an absence of available data and limited impact hence NPSV, BNPV and EANDCB are not provided.

E. Wider impacts

23. The only wider impact that might result from this measure is a potential reduction in the perception of trust in the UK CJS from international partners as a result of returning the law on extradition to the interpretation pre the 2024 Supreme Court judgement. However, this is likely to be offset by the positive impacts of increasing the likelihood of victims receiving justice for requesting states.

F. Sensitivity

24. This measure does not need an IA as the volume of cases is limited. It is not expected to be a politically contentious issue as the measure represents a non-monetised benefit to the UK.

G. Risks

25. An additional policy risk stems from erosion of confidence in the UK's extradition framework. Persistent discharges based on technical interpretation alone may lead to frustration among

significant partners, potentially affecting the UK's reputation for reliable judicial cooperation and its ability to return fugitives efficiently.

26. There is an analytical risk that the number of cases affected by this measure is above historical trends and so the positive impacts of the measure are above anticipated. This is a limited risk given the number of cases expected to be affected is small and the impacts of this measure are positive for the UK.

H. Annex

Mandatory specific impact test - Statutory Equalities Duties	Complete
The proposed amendment is assessed to have a neutral impact on individuals with protected characteristics under the Equality Act 2010. The measure applies only to specified individuals subject to extradition proceedings and does not differentiate on the basis of age, disability, sex, race, religion or belief, sexual orientation, gender reassignment, pregnancy and maternity, or marriage and civil partnership. No direct discrimination has been identified. While some indirect impacts may arise, primarily because extradition outcomes depend on the legal frameworks of requesting states rather than individual characteristics, these are considered proportionate to the legitimate aims of safeguarding public safety, ensuring serious offences are properly adjudicated, and preventing discharges based solely on procedural matters. The amendment does not introduce additional barriers or disadvantages for any protected group, nor does it affect opportunities to foster good relations. Ongoing monitoring through operational partners will ensure continuing compliance with the Public Sector Equality Duty. The SRO has agreed these findings.	Yes