



Home Office

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Dear 

Thank you for your letter of 17 June to the Prime Minister regarding the case of Mr Julian Assange. You have also raised some general questions about the UK's extradition arrangements, and the Government's approach to reform. As I am sure you will appreciate, the Prime Minister receives a large amount of correspondence and is unable to respond to each piece personally. Your letter has been passed to the Home Office as the lead Government department for extradition and I have been asked to reply.

The Framework Decision 2002/584/JHA of 13 June 2002 on the European Arrest Warrant (EAW) provides a system by which individuals sought for trial or punishment are surrendered by one European Union (EU) Member State to another. It requires the acceptance of a foreign warrant by national judicial authorities without an inquiry into the facts or circumstances giving rise to the warrant. The EAW is therefore based on the principle of mutual recognition of judicial systems within the EU.

As you may know, the Serious Organised Crime Agency (SOCA) is the designated authority for the receipt and transmission of EAWs in the UK (with the exception of Scotland, where it is the Crown Office and Procurator Fiscal Service). The Home Office retains a policy and legislative role in relation to the EAW, but the EAW removes executive decision-making from the surrender process, which is now an exclusively judicial procedure between

the issuing and executing Member States. Neither the Prime Minister nor the Home Secretary has the power to intervene in Mr Assange's case in the manner you suggest. However, I take note of the concerns you have raised, which I will endeavour to address.

Mr Assange is the subject of an EAW from Sweden where he is wanted for the prosecution for sexual offences. The offences of which he is accused and in respect of which his surrender is sought are alleged to have been committed in Stockholm against two women in August 2010. They include "sexual molestation" and, in one case, rape.

His extradition was ordered on 24 February 2011 by the Senior District Judge of Westminster Magistrates' Court (sitting at Belmarsh Magistrates'). This decision was upheld by the High Court on 2 November 2011. Mr Assange was granted bail by the High Court, subject to a number of bail conditions.

Mr Assange then appealed to the Supreme Court on the basis that there was a "question of law of public importance" relating to the legal meaning of "judicial authority" in UK law. The Supreme Court dismissed his appeal on 30 May 2012 by a majority of five to two. The court subsequently considered an application to reopen his case, which was dismissed on 14 June 2012 on the basis that the application was "without merit". It remains open to Mr Assange to apply for Rule 39 relief to the European Court of Human Rights (ECHR) in Strasbourg.

Turning to the points raised in your letter in respect of Mr Assange, you state that his right to a fair trial under Article 6 of the ECHR has been breached. The UK is committed to safeguarding the rights of persons subject to extradition requests. At the hearing, the extradition judge must consider all the bars to extradition that are set out in Part 1 of the Extradition Act 2003. The District Judge must also consider whether extradition is compatible with the Human Rights Act 1998. The courts are able, if necessary, to call for evidence or information if there are concerns that an extradition request has been submitted for extraneous reasons.

The EAW respects fundamental rights and observes the principles recognised by Article 6 of the Treaty on European Union and reflected in the Charter of Fundamental Rights of the European Union. There is no evidence to suggest that Mr Assange will not receive a fair trial once he is extradited to Sweden. The fact that the Swedish authorities wish to question him in Sweden for the purposes of prosecution is a matter for them, a decision over which the UK has no influence. As for the issues you raise in relation to the Swedish authorities and their conduct – I hope you understand that is something the Home Office is unable to comment on.

You assert that Mr Assange faces the threat of onward extradition from Sweden to the United States, where he could be prosecuted for espionage. I would reaffirm that the issue at hand is one of extradition to Sweden under an EAW issued for allegations in respect of sexual offences. Mr Assange cannot be questioned or prosecuted for anything other than these allegations

whilst in Sweden. I would also ask you to note that the "temporary surrender" arrangements to which you refer in your letter apply to both the UK-US Treaty and the EU-US Treaty (to which both the UK and Sweden are parties). However, this provision does not bear any relevance to the process of onward extradition should it arise.

There are legal safeguards for persons who have been extradited from the UK to another Member State of the EU, and whose extradition is then requested by a third country. Under EU legislation on the EAW (which applies to both the United Kingdom and Sweden), a person who has been surrendered from one Member State of the EU to another (e.g. the United Kingdom to Sweden) pursuant to an EAW, shall not be extradited to a third State without the consent of the Member State which surrendered the person. Consent may only be given in accordance with the international conventions by which that State is bound, including the ECHR, and also its domestic law. In such circumstances, the Home Secretary would determine whether extradition is barred under the 2003 Extradition Act, this would involve careful consideration of a number of factors, including human rights.

I would stress that none of the above should be taken as an indication of the existence of any extradition request for Mr Assange from a third country.

You also state that Mr Assange has been under house arrest for 550 days and allege(s) that his Article 7 rights have been breached. As noted earlier he has been subject to bail conditions whilst extradition proceedings have progressed through the courts. One of these conditions was to remain at his bail address between 22.00hrs and 08.00hrs. His freedom of movement in the UK has otherwise not been restricted to a degree that would breach Article 7.

I now turn to the points raised regarding the Government's approach to extradition and reform. The Government appreciates that extradition is a contentious issue and concerns have been raised about the UK's extradition law since the Extradition Act 2003 came into force on 1 January 2004. These relate partly to the extradition regime operating in the EU (the EAW) and partly to arrangements outside the EU, though principally with the United States.

In a Written Ministerial Statement of 8 September 2010, the Home Secretary announced a review of the UK's extradition arrangements to Parliament. This followed a commitment in the Programme for Government document stating that the Government would "review the operation of the Extradition Act – and the US/UK extradition treaty – to make sure that it is even-handed".

The Home Secretary asked the review panel to assess five issues that have proven to be contentious in recent years, including the operation of the EAW. This covered the way in which the optional safeguards contained in the EAW have been transposed into UK law. The panel found that, broadly speaking, the EAW operates satisfactorily but that improvements could be made to

ensure it functions more effectively through both legislative amendments and enhanced dialogue and co-operation at EU level.

You state in your letter that the Home Secretary intends to "offload the legal and human rights responsibilities of her office" which I understand to be a reference to the findings of the panel in respect of her discretion in Part 2 cases. The panel examined whether the general discretion available to the Home Secretary under previous extradition legislation should be restored. They were firmly of the view that it should not. They further concluded that the issues which the Home Secretary is currently required to consider under the Extradition Act (i.e. determining which competing extradition request should proceed, certain very narrow national security issues, death penalty, 'speciality' and the need for consent where a person whose extradition has been sought has previously been extradited or transferred to the UK by the International Criminal Court) were properly matters for the Secretary of State rather than the courts.

The independent review was undertaken by three senior legal professionals who sought opinions and views of people and organisations with experience of all aspects of the extradition process, including seeking the views of people and their families who had been subject to requests. A public consultation also took place. The Review was published in November 2011 and contains almost 500 pages of analysis and recommendations. The Government will respond to the review shortly.