Extradition in criminal investigation cases
# Extradition in criminal investigation cases

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This guidance is based on the Immigration Enforcement team’s guidelines. For general information, see related link: Criminal and financial investigations.

**Changes to this guidance** – This page tells you what has changed since the previous version of this guidance.

**Contacts** – This page tells you who to contact for help if your senior caseworker or line manager can’t answer your question.

**Information owner** – This page tells you about this version of the guidance and who owns it.

**Safeguard and promote child welfare** – This page explains your duty to safeguard and promote the welfare of children and tells you where to find more information.
Extradition in criminal investigation cases

Changes to this guidance

This page lists changes to the ‘Extradition in criminal investigation cases’ guidance, with the most recent at the top.

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<tr>
<td>18 July 2017</td>
<td>Amended contact details.</td>
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Extradition in criminal investigation cases

The definition of extradition

Extradition is the formal procedure for requesting the surrender of someone from one country to another, when the person needs to:

- be prosecuted
- be sentenced for a previous conviction
- serve a sentence already imposed, for example, in cases where the person fled before the court could deal with them.
Extradition in criminal investigation cases

Extradition and the law

This page tells criminal investigators in Immigration Enforcement Criminal and Financial Investigations (CFI) teams about the legal provisions which allow the extradition of someone to take place.

As a criminal investigator, you may occasionally be in the position where you:

- receive a request from a foreign law enforcement agency to arrange the extradition of a person to another country
- make a request to another foreign law enforcement agency to extradite a person to the UK to be prosecuted or sentenced for one of your investigations

The Extradition Act 2003 is the relevant UK legislation which governs all requests made on or after 1 January 2004. This act divides the UKs extradition partners into the following two categories.

Category 1 territories
These are the 27 European Union (EU) member states, plus Gibraltar.

Extradition between these states operates by issuing a European arrest warrant (EAW), but the act makes no references to EAWs, instead:

- 'outgoing EAWs' are referred to as 'part 3 warrants'
- 'incoming EAWs' are 'part 1 warrants'

For more information on EAWs, see link on the left.

Other territories (which include ‘Category 2’ territories)
These are non-EU members of the European convention on extradition (some countries have also signed up to the London scheme for extradition within the Commonwealth).

Extradition arrangements with these territories are regulated by the relevant bi-lateral or

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**External links**

- Extradition Act 2003
- CPS factsheet - extradition
- Link to staff intranet removed
multi-lateral agreements.

The UK has other similar agreements in place with a large number of other countries. To check if the country involved has any agreements with the UK you must speak to the Crown Prosecution Service (CPS) lawyer for the case.

For more information about the extradition legislation and the list of territories, see related links:

- CPS factsheet – extradition
- Extradition: processes and review
Extradition: European arrest warrants

This section tells criminal investigators in Immigration Enforcement Criminal and Financial Investigations (CFI) teams what a European arrest warrant (EAW) is, and when you may need to apply for one.

Who can issue an EAW
An EAW is a legal order for a European Union (EU) member state to arrest a person on behalf of another member state. An EAW is a document issued by a competent judicial authority (appropriate court official) for example a:

- Justice of the Peace (JP)
- District Judge in a magistrates’ court
- Judge entitled to exercise jurisdiction in the Crown court

When you would consider applying for an EAW
You must discuss the case in full with the Crown Prosecution Service (CPS) lawyer.

You must consider applying for an EAW if you are dealing with a Home Office immigration criminal prosecution if the person:

- has fled (escaped) the UK, after they have been charged, but before the court has held a trial to determine whether they are guilty of the offence
- has been prosecuted and sentenced by the courts but fled the UK before serving, or during their prison sentence, and the:
  - expected prison sentence is 12 months or more and the person flees the UK before a sentence is issued
  - actual prison sentence is 4 months or more and the person flees the UK before or during serving the sentence

You cannot apply for an EAW when a person you want to question flees the UK. But you would apply for an EAW where someone flees after they have been charged with an offence.
**Terms used when dealing with EAWs**
The EAW was introduced by the EU framework decision in 2002 and designed to increase the speed and ease of extradition across the EU.

The following are some terms you need to know if you deal with an EAW:

<table>
<thead>
<tr>
<th>Term</th>
<th>What it means</th>
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| Issuing judicial authority    | The EU country that has obtained and issued the EAW.  
                                      The 'issuing judicial authority' is the 'Home Office, UK' for any Home Office prosecutions where the defendant flees the UK before:  
                                      - trial serving or completing their full prison sentence |
| Executing judicial authority  | The EU country that has received the EAW to action on your behalf.                                                                                                                                         |
| The requested person          | This is the person:  
                                      - named on the EAW  
                                      - who you are wanting to arrest  
                                      - who is the defendant                                                                                                                     |
| Schengen information system   | This is the government database used by EU member states to maintain and distribute:  
                                      - information on individuals  
                                      - things of interest to member states (such as details of lost or stolen identity documents)  
                                      An EAW is issued through this system by |
| Interpol                     | The abbreviation for the ‘international criminal police organisation’.  
|                            | This is the inter EU state organisation which assists international police cooperation. |
| The National Crime Agency (NCA) fugitives unit. | NCA’s specialist team which processes all incoming and outgoing EAWs for UK law enforcement agencies such as the Home Office.  
|                            | The Home Office’s own fugitive unit are responsible for liaising with NCA but are only responsible for immigration related extraditions of people into the UK.  
|                            | To contact the Home Office fugitive unit, use related link. |
# Extradition in criminal investigation cases

## Extradition: making further intelligence checks

This page tells criminal investigators in Immigration Enforcement Criminal and Financial Investigations (CFI) teams about the intelligence checks you must do when a defendant in your investigation has fled the UK.

### Checks required before applying for a European arrest warrant (EAW)

As a criminal investigator, it is your responsibility to locate a suspect who has fled the UK either:

- after charge but before the prosecution trial started
- before the courts could impose a prison sentence
- before they had completed the full sentence

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**Official sensitive - do not disclose – start of section**

The information in this page has been removed as it is restricted for internal Home Office use only.
Once you have located the suspect or their possible location, you must assess the risk of them absconding (escaping again - also known as being a ‘flight risk’).

It is possible to apply emergency procedures to secure their arrest if they are a high flight risk. If you believe a suspect is a high flight risk you must speak to the Home Office fugitive unit to discuss securing the suspect’s arrest.
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<th>What if you cannot find an address for the suspect?</th>
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<td>If you cannot find a specific address or location where you believe the suspect has fled to, it may still be possible to issue an EAW.</td>
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<tr>
<td>For more information about applying for an EAW when you are not sure where the suspect is living, you must speak to the Home Office fugitive unit:</td>
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Extradition in criminal investigation cases

Extradition: European arrest warrant application process

This page tells criminal investigators in Immigration Enforcement Criminal and Financial Investigations (CFI) teams what you must do when you apply for a European arrest warrant (EAW) to secure the arrest of a person who fled the UK before the courts could deal with them.

The investigator's role
If you have made intelligence checks and decide to apply for an EAW you must follow the procedure below. For more information on intelligence checks before applying for an EAW, see related link.

The information in this page has been removed as it is restricted for internal Home Office use only.
The role of the CPS lawyer
The CPS handles all extradition cases. For more information on the role of the CPS, see related link: CPS factsheet – extradition.

A CPS lawyer must:

- apply for the EAW:
  - as a criminal investigator you may be asked to assist (see below, Assisting the CPS lawyer)
- arrange for the EAW to be issued
- get translated versions of the EAW in the appropriate language for the executing judicial authority - for a definition of this authority, see link on left: European arrest warrants
- arrange for the EAW to be transmitted (sent):
  - the fugitive unit will deal with this

Assisting the CPS lawyer
To assist the CPS lawyer prepare the application for a EAW, you must provide the following information, if it is relevant to your case:

- good quality photographic and identification evidence of the suspect:
  - a recent photograph available from the police national computer (PNC) database
  - fingerprints from the PNC database
  - the suspect's DNA profile
  - a physical description of the suspect including any distinctive marks
- the suspect's personal details, including where applicable:
  - date of birth
- forenames
- known address in the UK and abroad
- nationality
- maiden name
- aliases
- languages, spoken or understood
- passport number

- details of the suspect’s possible location
- flight risk assessment (whether they may escape again)
- details of other matters the person is wanted for
- details of previous convictions
- other relevant information, for example:
  - telephone numbers for the suspect and close relatives or associates
  - internet history
  - an assessment of the suspect’s potential for violent or dangerous behaviour
  - risk assessments prepared during investigation, planning and executing arrest
  - previous history of absconding
  - copies of any bench (UK arrest) warrants
  - statements or other evidence required for an extradition bundle in line with CPS advice
Extradition in criminal investigation cases

The extradition process

This section tells criminal investigators in Immigration Enforcement Criminal and Financial Investigations (CFI) teams about the process for extraditing a suspect after a European arrest warrant (EAW) has been issued.

Extradition offences
You can only apply for extradition for an extradition offence. The definition of the offence varies depending on the extradition scheme concerned. Generally extradition is not possible unless:

- the offence is ‘an indictable offence’ (punishable with at least 12 months imprisonment) for cases where the person has been either:
  - charged but not yet appeared in court
  - sentenced by the courts and received a minimum prison sentence of four months
  - where a ‘warrant for arrest in the first instance’ (see below) has been issued
- the offence committed is also an offence in the country from where you apply for the suspect’s extradition

A ‘warrant for arrest in the first instance’ is a way of getting approval to arrest someone suspected of committing an indictable offence, in cases where the person has not previously been arrested for this offence. These warrants are issued by a court when:

- you have ‘laid information’ to the court, this means provided written information about the offence and the suspect’s alleged involvement
- the Crown Prosecution Service (CPS) lawyer has agreed this course of action
- the court believes it is necessary to arrest the person

Extradition is a serious interference with a person’s liberty. You must only request extradition when it is necessary and proportionate because a person may be held in custody for months in the country receiving the EAW while it is decided whether to extradite them.
The Human Rights Act (HRA) 1998 has protections to safeguard the rights of people who a country is applying to extradite.

The relevant HRA articles in extradition cases are:

- Article 3: the prohibition of torture, or inhuman or degrading treatment
- Article 5: the right to liberty and security
- Article 6: the right to a fair trial
- Article 8: the right to respect for private and family life
- Article 14: the prohibition of discrimination

For more information on the HRA 1998, see related link.

**What you must do when an EAW has been issued and extradition has been agreed**

Once the CPS lawyer for the case has arranged for an EAW to be issued, and the executing judicial authority (EJA) has agreed to extradite the person back to the UK, you must:

- contact the Home Office fugitive unit, using the contact details below, to:
  - alert them an EAW has been authorised and extradition agreed
  - arrange for trained extradition officers to travel to that country to make sure the suspect is safely and quickly returned
- work within the strict time limits that apply:
  - once arrested, the suspect must be brought before a court in the EJA within 48 hours of the time of arrest
  - if the suspect consents to their extradition, and there are no bars to extradition, the court orders their surrender
  - the Home Office fugitive unit officers must collect the suspect within 10 calendar days of the order being made
  - if the suspect does not consent to their extradition, the EJA must make a final decision on surrender within 60 days of arrest; if that court decides it is appropriate to extradite the suspect, the 10 day time limit applies from the date the order was made
Disclosure of extradition papers
Under the Criminal Procedure and Investigations Act (CPIA) 1996, you have a duty to:

- record all actions you take during a criminal investigation
- keep all documents, papers, records, correspondence and other material generated during the criminal investigation
- inform the case disclosure officer of them

For more information on your duties and responsibilities under the CPIA, see related link: Disclosure.
Extradition in criminal investigation cases

Returning an extradited person to serve their prison sentence abroad

This page tells criminal investigators in Immigration Enforcement Criminal and Financial Investigations (CFI) teams about situations where the Home Office may be asked to return a convicted defendant, previously extradited to the UK, back to their home country for imprisonment.

Commitment to return a suspect to serve a prison sentence

Some European Union (EU) countries, including the Netherlands and Belgium, will only extradite their own nationals if an undertaking is given to return the suspect to serve any prison sentence in their home country. The Crown Prosecution Service (CPS) lawyer will advise if this affects your case.

The sentence given by the UK court may be increased or decreased to bring it in line with national laws in their home country. This can vary from one country to another and is based on each country’s own sentencing criteria.

In these cases, the CPS lawyer will get the required commitment from the Home Office. The lawyer may need you to give details of:

- UK court dates
- plea entered
- trial outcomes
- any confiscation orders, including:
  - amount of money to be repaid
  - property or assets forfeited
  - dates court decisions were made
  - details of any default sentences, additional sentences can be imposed if the suspect fails to repay confiscated amounts by a certain date
Extradition in criminal investigation cases

The effect of extradition on custody time limits

About this guidance

This page gives criminal investigators in Immigration Enforcement Criminal and Financial Investigations (CFI) teams about the custody time limits for a defendant awaiting extradition to the UK.

The definition of extradition

Extradition and the law

European arrest warrants

Making further intelligence checks

The extradition process

European arrest warrant application process

Returning an extradited person to serve their prison sentence abroad

Preparing for the trial of an extradited person

Extradition officers

Extradition in criminal investigation cases version 5.0 Published for Home Office staff on 18 July 2017

Definition of the custody time limit

The custody time limit is enforced through the Police and Criminal Evidence Act (PACE) 1984 and it is the length of time a person can be held at a police station or other designated custody office:

- before charge or release after charge, before the courts deal with the offence

Custody time limit after extradition

The custody time limit is calculated differently when a person is held after extradition.

If a defendant flees (escapes) the UK and you apply for extradition, any periods of time the defendant spends in custody abroad, waiting to be extradited and collected, does not count towards the PACE custody time limits.

The PACE custody time limits start again once the defendant is returned to the UK and remanded in custody until their trial.

For more information on PACE and the custody time limits, see related link.

External links

Police and Criminal Evidence Act (PACE) 1984
### Preparing for the trial of an extradited suspect

This page tells criminal investigators in Immigration Enforcement Criminal and Financial Investigations (CFI) teams how to prepare for the trial of an extradited suspect and the reasons why you must fully prepare your prosecution case.

Before you make an extradition request, you must make sure all case prosecution papers are in order and the case is ready for trial. For more information about getting your case ready for court you must speak to your CFI manager.

You must be fully prepared for the suspect’s trial because:

- Section 153 of the Extradition Act 2003 states if court trial proceedings are not started within six months of the suspect’s arrival in the UK (after extradition) the:
  - person must be acquitted (found not guilty)
  - UK Secretary of State must arrange for their prompt return, free of charge, to the extraditing territory; the person must apply for this within a certain period of time (The Crown Prosecution Service (CPS) lawyer will tell you the time limit)
- Article 6 of the Human Rights Act 1998 states every person has a right to a fair trial, including a commitment to a fair and public hearing within a reasonable time


### Related links

- Human Rights Act 1998
- Extradition Act 2003
Extradition in criminal investigation cases

Extradition officers

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This page tells criminal investigators in Criminal and Financial Investigations (CFI) teams about the work of Home Office extradition officers. Some of them also work in Immigration Enforcement teams.

If a suspect needs to be extradited back to the UK the Home Office fugitive unit has a pool of trained extradition officers to help in this process.

How to liaise with the Home Office fugitive unit

If the suspect has fled the UK you must speak to the fugitive unit:

- at the start of the extradition process, to give:
  - details to allow the fugitive unit to plan ahead and make sure they can provide trained extradition officers when they are needed
  - a brief about the person which includes a history of violence or use of weapons
- towards the end of the extradition process to give:
  - details of the country and location from where they will need to collect the person
  - contact details for staff in the executing judicial authority to liaise with to safely collect the suspect
  - a brief which includes the UK location, for example police station, where the officers are expected to return the person

Extradition officers training

Extradition officers must be trained to level 3 personal safety training (PST) standards. For more information on personal safety training, see related link.

For more information about the extradition officer role, including details of how you can apply to join the pool of trained officers, contact:

Official sensitive - do not disclose – start of section
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Extradition in criminal investigation cases

Contact

This page tells criminal investigators in Immigration Enforcement Criminal and Financial Investigations (CF) teams about who to contact for help with a specific query about extraditing someone in a criminal investigation case.

If you have read this guidance and need more help with this category, you must first ask the Crown Prosecution Service (CPS) lawyer for your case, the caseworker appointed to help with your case, or your line manager.

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Information owner

This page tells you about this version of the ‘Extradition in criminal cases’ guidance document, and who owns it.

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