

NATIONAL ARCHIVES**IRELAND**

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Title:	Draft background information document created by the Office of the Press and Information Counsellor in the Irish Embassy in London concerning legislation and procedures for extradition from the Republic of Ireland to Great Britain and Northern Ireland. Includes an attached covering letter [possibly drafted by Noel Dorr, Counsellor in the Information Section of the Department of Foreign Affairs] and a page containing details of extradition cases between 1 June, 1971, and August, 1973.
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Legal Adviser:

The Minister also expressed the wish some time ago that we should do something to counter criticism in the British press in regard to our record on extradition. He had initially envisaged a letter to the Daily Telegraph in response to ~~the~~ a critical editorial but later agreed that the matter could best be handled by the dissemination, on a background basis, of suitable information by the Press Officer in the Embassy in London.

In mid-September I prepared the attached rough draft of a background document which we might consider issuing and had intended submitting it to you for legal scrutiny and amendment as appropriate. In the event it did not seem necessary to do so since we were able to brief a group of fourteen British political correspondents we invited here in September fairly thoroughly in the matter and they had a very good question and answer session with the Minister for Justice. In addition our Minister himself provided some material which Simon Hoggart published in the Guardian and a fairly full account of the position, giving names and numbers was published in the Sunday Times on 30 September. (The Taoiseach, at his press conference at Baldonnell, also made some points in regard to extradition to a large number of journalists.)

It is evident however, that the issue is a continuing one and I think it would be useful if we had an approved background document which we could pass out fairly freely through the Embassy in London and otherwise. I am therefore, submitting at this stage the attached draft for your consideration. It obviously requires careful legal scrutiny and correction but it will of course be desirable to avoid ^{technical} ~~documental~~ language as far as possible and to keep the text "neutral" rather than "argumentative." (The reference in the background section to the old procedure on the backing of warrants is intended to get across by implication the limitations proposed on our freedom of action by a written constitution).

Even though a clear explanation of the position and an analysis of the statistics on the lines of the attached may help to win greater understanding for our position, we must, I think, accept that the general criticism will continue since ^{an} English editorial writer this month said ~~with truth as~~ (the Guardian ~~did~~ of 11 October) "for whatever reason in ~~some~~ ^{an} such (IRA) person has been extradited".

M

12 October, 1973.

Office of the Press and Information Counsellor, Irish Embassy, London
Background Information Document

EXTRADITION FROM THE REPUBLIC OF IRELAND
TO GREAT BRITAIN AND NORTHERN IRELAND

1. Extradition from the Republic of Ireland is covered by the Extradition Act, 1965. Part I of this Act deals with extradition to Great Britain and Northern Ireland; Part II deals with extradition to other countries.

2. Background

Until 1965 reciprocal arrangements existed for the "backing" in ~~with~~ ^{either} jurisdiction of warrants issued on the other and persons arrested in the Republic on British or Northern Ireland warrants were handed ^{over to the police authorities who issued the warrant} without formal extradition proceedings. The procedure followed was that provided for in the - - Act of 186- which had been enacted when ~~all of~~ Ireland was part of the United Kingdom. In habeas corpus proceedings in 1965, however, the Irish Supreme Court held that ~~the~~ procedure was unconstitutional. Shortly thereafter the Irish Parliament enacted the Extradition Act, 1965 - an Act which is generally similar to the extradition laws of most other countries, including Britain, and which conforms to the Council of Europe Convention on Extradition of 19- to which Ireland is a party.

3. Procedure for extradition to Great Britain or Northern Ireland

When a warrant issued in Great Britain or Northern Ireland is received in the Republic it is endorsed by the Commissioner of the Garda (Irish Police force). If the person sought can be found and arrested he is brought before a District (i.e. Magistrates)

Court. If the District Justice finds that the warrant is technically in order (i.e. properly drawn up and endorsed, and covering an offence which is also an offence under Irish law) he is obliged to order that the arrested person be handed over to the police authorities in Great Britain or Northern Ireland who issued the original warrant.

4. The Act provides however, for a delay of 15 days before this order is carried out. Within that time the arrested person may appeal to the High Court. If he does, extradition is postponed until the appeal (with a possible further appeal to the Supreme Court) has been dealt with. While the case is pending, the person in question may be allowed bail, as in ordinary criminal proceedings, if the Court is satisfied that he will appear when the case is heard.
5. In the appeal proceedings the Attorney General (acting on behalf of the State) is the defendant, and determination as to whether or not the appeal should be allowed is a matter for the Court and not for the Executive (i.e. the Government). Until recently no special provision existed to give extradition cases priority in the Courts and this had led to some delays in dealing with particular cases. In recent months however, on the application of the Attorney General, the rules of Court have been amended so that extradition cases may be dealt with more expeditiously.

In most extradition cases where an appeal is taken against the order of the District Court, the High Court is asked to give a direction quashing the order under Section 50 (2) of the Extradition Act. The relevant part of this Section reads:-

"A direction under this section may be given by the High Court where the Court is of opinion that -

- (a) the offence to which the warrant relates is -
 - (i) a political offence or an offence connected with a political offence, or
 - (ii) an offence under military law which is not an offence under ordinary criminal law, or
 - (iii) a revenue offence, or
- (b) there are substantial reasons for believing that the person named or described in the warrant will, if removed from the State under this Part, be prosecuted or detained for a political offence or an offence under military law which is not an offence under ordinary criminal law, or
- (c) the offence specified in the warrant does not correspond with any offence under the law of the State which is an indictable offence or is punishable on summary conviction by imprisonment for a maximum period of at least six months."

What constitutes "a political offence" or "an offence connected with a political offence" is a matter for determination by the court.

7. British Legislation

The Legislation governing extradition in Britain (- Act 19⁷³) or Northern Ireland is basically similar to the legislation in the Irish Republic except that in the British Act the section corresponding to Section 50 (2) of the Irish Act, refers only to a "political offence" and does not include the phrase "or an offence connected with a political offence". On this point the Irish legislation conforms to the Council of Europe Convention on Extradition of 19⁵⁸ while the British legislation diverges from it.

8. Details of the disposal of arrest warrants received in the Republic from Northern Ireland and in Northern Ireland from the Republic between 1 June and August 1973 are attached.

1971
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DETAILS OF EXTRADITION CASES 1 JUNE - AUGUST 1973

Warrants received in Republic of Ireland from Northern Ireland

Total 54

Extradited etc.

Extradited	6
Returned Voluntarily	1

Extradition Refused

Offence did not correspond to any offence in Irish Law.	5
Refused on various grounds by District Courts*	3

Warrant Returned

For re-drafting to conform to Irish legislation	5
Person could not be located. (It is normal practice to return a warrant when the Gardaí are satisfied the person cannot be located and considerable time has elapsed).	11

Awaiting final disposal

Under Appeal**

Extradition ordered by the District Court but case still under appeal in High Court or Supreme Court (in cases taken against the Irish Attorney General)	15
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Imprisoned in Republic

Northern Ireland Warrant already endorsed by Garda Commissioner but awaiting release of person concerned from imprisonment in the Republic for other offences	3
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Not yet located

Warrants still held by Irish police but wanted individual not yet located	3
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Police Awaiting instructions from Irish Attorney General

2

NOTES

* Of the 3 cases refused by the District Court, 2 were "IRA cases". In both of these the DJ held that the person sought had not been properly identified.

** Of the 15 cases pending before the Superior Courts, 2 are "habeas corpus" applications. These are both "IRA cases". In affidavits made to the High Court allegations were made against the Northern Ireland authorities who have been asked if they wish to reply. No reply has yet been received.

The other 13 actions were commenced by plenary summons. Action has been taken by the Irish Attorney General to have the hearing of these cases speeded up and the cases are likely to be heard in the law term beginning in October.

Warrants Passed to Northern Ireland (RUC) by the
Republic

Total 27

<u>Already Extradited</u>	13
<u>In Custody in Northern Ireland</u>	9
<u>Not located!</u>	5.