

2009 No. 2768

EXTRADITION

The Extradition Act 2003 (Specification of Category 1 Territories) Order 2009

<i>Made</i>	- - - -	<i>15th October 2009</i>
<i>Laid before Parliament</i>		<i>16th October 2009</i>
<i>Coming into force</i>	- -	<i>16th November 2009</i>

The Secretary of State, in exercise of the powers conferred by section 155A(3)(a) and (4) of the Extradition Act 2003(b), makes the following Order:

1. This Order may be cited as the Extradition Act 2003 (Specification of Category 1 Territories) Order 2009 and shall come into force on 16th November 2009.

2. The category 1 territories listed in column 1 of the Schedule to this Order are specified for the purpose of section 155A(3) of the Extradition Act 2003.

3. For extradition requests made to a category 1 territory specified in this Order to which section 155A of the 2003 Act applies, which relate to acts committed before the relevant date listed in the corresponding entry in column 2 of the Schedule to this Order, Part 3 of the Extradition Act 2003 is to have effect as if that territory were a category 2 territory.

Home Office
15th October 2009

West of Spithead
Parliamentary Under Secretary of State

(a) Section 155A was inserted into the Extradition Act 2003 by section 42 of, and paragraph 24 of Schedule 13 to, the Police and Justice Act 2006 (c.48).
(b) 2003 c.41.

SCHEDULE

Article 2

Category 1 territories

<i>Category 1 territory</i>	<i>Relevant date(a)</i>
Austria	7 th August 2002
The Czech Republic	1 st November 2004
France	1 st November 1993
Italy	7 th August 2002
Luxembourg	7 th August 2002
Slovenia	7 th August 2002

EXPLANATORY NOTE

(This note is not part of the Order)

Extradition between Member States of the European Union is governed by the Council Framework Decision of 13th June 2002 on the European arrest warrant and the surrender procedures between Member States ('the European Arrest Warrant Framework Decision'). Under the European Arrest Warrant Framework Decision, requests for extradition are made and executed by judicial authorities; this contrasts with the system governing all other extradition requests made and received by the UK in which the final decision as to whether to make, or accede to, a request for extradition is for the Secretary of State.

All Member States of the European Union have, by virtue of the Extradition Act 2003 (Designation of Part 1 Territories) Order 2003, been designated as category 1 territories for the purpose of the Extradition Act 2003 ('the 2003 Act'). Incoming extradition requests from category 1 territories are governed by Part 1 of the 2003 Act, while outgoing requests to such territories are made under the relevant provisions of Part 3 of that Act. Reflecting the fact that the European Arrest Warrant Framework Decision requires a request for extradition made by one Member State to another to be made by a judicial authority, section 142 of the 2003 Act provides that requests seeking the extradition of someone in a category 1 territory must be made by the appropriate judge (in England and Wales a District Judge at the City of Westminster Magistrates' Court) following an application by a constable, by the Director of the Revenue and Customs Prosecution Office, by a designated Member of the Serious Fraud Office or by the Director of Public Prosecutions, any Crown Prosecutor or any counsel or solicitor instructed by the Crown Prosecution Service.

The European Arrest Warrant Framework Decision applies to requests for extradition made by one Member State to another which are received on or after the 1st January 2004; article 32, however, allows Member States to continue to apply their pre-existing extradition arrangements to requests for extradition which concern offences committed before a date specified in a statement published in the Official Journal of the European Communities ('the relevant date'). In order to allow the UK to make requests for extradition to Member States that continue to apply their pre-existing extradition arrangements in these circumstances, section 155A(3) of the 2003 Act (which was inserted into the 2003 Act by section 42 of, and paragraph 24 of Schedule 13 to the Police and Justice Act 2006) allows the Secretary of State to provide by order that where a request for extradition is made to a category 1 territory specified in the order to which section 155A of the 2003 Act applies, which concerns acts committed before the relevant date, that category 1 territory will fall to be regarded as a category 2 territory for the purpose of Part 3 of the 2003 Act. This

(a) The relevant dates listed in column 2 are, in accordance with section 155A(1) of the Extradition Act 2003, the particular dates in respect of which the Member States listed in column 1 consider extradition requests concerning offences committed before that date otherwise than in accordance with the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States.

means that extradition requests made to such specified territories in relation to acts committed before the relevant date will fall to be made by the Secretary of State in the exercise of prerogative powers, rather than by the appropriate judge pursuant to section 142 of the 2003 Act.

By virtue of article 2 of, and column 1 of the Schedule to, this Order, Austria, the Czech Republic, France, Italy, Luxembourg and Slovenia are specified category 1 territories for the purpose of section 155A of the Extradition Act 2003. Article 3 provides that where an extradition request is made to one of these specified category 1 territories, which relates to acts committed before the relevant date listed in the corresponding entry in column 2 of the Schedule to the Order, Part 3 of the 2003 Act is to have effect as if that category 1 territory were a category 2 territory.

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STATUTORY INSTRUMENTS

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