
STATUTORY INSTRUMENTS

2018 No. 187

**The United Nations (International Residual
Mechanism for Criminal Tribunals) Order 2018**

PART 3

DISCONTINUANCE OF PROCEEDINGS IN NATIONAL COURTS

Discontinuance of relevant proceedings

14.—(1) This article applies where the Secretary of State receives from the Mechanism a request in accordance with the Statute and the Rules that a national court should defer to the competence of the Mechanism by discontinuing proceedings to which the request relates.

(2) The Secretary of State must transmit the request to the court in which the proceedings are taking place by a notice addressed to the appropriate person; and for the purposes of this paragraph the appropriate person in the case of a court mentioned below is the person or authority indicated—

- (a) Magistrates' Court: Justices' Chief Executive for the Court;
- (b) Court of summary jurisdiction: Clerk of Petty Sessions;
- (c) Crown Court: Chief Clerk of the Crown Court;
- (d) High Court: Head Clerk, Crown Office;
- (e) High Court of Northern Ireland: Master (Queen's Bench and Appeals);
- (f) Court of Appeal: Chief Clerk (Criminal Division);
- (g) Supreme Court: Registrar of the Supreme Court;
- (h) Court-martial under the Armed Forces Act 2006: Court Administrative Officer.

(3) If a court to which a request is transmitted is satisfied that—

- (a) the request relates to relevant proceedings within the meaning of this article, and
- (b) in the case of proceedings which are relevant proceedings as defined in paragraph (6)(a) or (c), those proceedings are in respect of conduct which would constitute a Mechanism crime,

the court must order the discontinuance of the proceedings and may make such other orders as are appropriate to give effect to the request, including the revocation of a warrant of arrest issued in connection with the proceedings.

(4) For the purposes of considering a request transmitted to it in pursuance of this article, the court may adjourn the proceedings for such period or periods, and on such conditions, as it deems fit.

(5) If the court is not satisfied as to the matters specified in paragraph (3), it may not make an order for the discontinuance of the proceedings.

(6) Relevant proceedings within the meaning of this article are—

- (a) proceedings in a Magistrates' Court, a Justice of the Peace Court, a court of summary jurisdiction or the Crown Court, a Sheriff Court or the High Court of Justiciary concerning an indictable offence of which the accused has not yet been convicted;
 - (b) proceedings under the Extradition Act 2003 relating to a person in respect of whom a "Part 1 warrant", an "arrest warrant" or a "provisional warrant" (as those terms are defined in that Act) has been issued under that Act or proceedings relating to such proceedings; or
 - (c) proceedings in a service court concerning an offence of which the accused has not yet been convicted.
- (7) The discontinuance of any proceedings in pursuance of a request by the Mechanism does not of itself prevent—
- (a) the institution of fresh proceedings in a national court; or
 - (b) the institution of fresh proceedings under the Extradition Act 2003,
- in respect of the same offence.
- (8) In the application of this article to Scotland the following modifications have effect—
- (a) the Secretary of State must transmit to the Lord Advocate, in the case of solemn proceedings, or the procurator fiscal, in the case of summary proceedings, any request made by the Mechanism which relates to proceedings in a court in Scotland;
 - (b) paragraphs (2) to (5) are omitted.