

SCHEDULE 6

Regulations 85 and 104

Grounds for refusal to monitor supervision measures

PART 1

Grounds for refusal

1. The certificate requesting monitoring under the Framework Decision—
 - (a) is incomplete or obviously does not correspond to the decision on supervision measures, and
 - (b) is not completed or corrected within the period specified under regulation 86(3)(c) or 105(3)(c).
- 2.—(1) Where the person subject to the decision on supervision measures is lawfully and ordinarily resident in the relevant part of the United Kingdom, the person has not consented to return there with a view to the supervision measures being monitored there under the Framework Decision.
(2) Where the person subject to the decision on supervision measures is not lawfully and ordinarily resident in the relevant part of the United Kingdom, the person—
 - (a) has not asked for a request to be made for monitoring of the supervision measures under the Framework Decision by a competent authority in that part of the United Kingdom, or
 - (b) has asked for such a request to be made but has not given adequate reasons as to why it should be made.
3. The certificate includes measures other than those referred to in Article 8(1) of the Framework Decision (types of supervision measures).
4. Recognition of the decision on supervision measures would contravene the principle of *ne bis in idem*.
- 5.—(1) The decision on supervision measures was based on conduct that would not constitute an offence under the law of the relevant part of the United Kingdom if it occurred there.
(2) But sub-paragraph (1) does not apply if—
 - (a) the conduct is specified in Part 2 of this Schedule, and
 - (b) the conduct is punishable under the law of the issuing State with imprisonment or another form of detention for a term of 3 years or a greater punishment.
- (3) For the purposes of sub-paragraph (1) —
 - (a) if the conduct relates to a tax or duty, it does not matter whether the law of the relevant part of the United Kingdom contains the same kind of tax or duty or contains rules of the same kind as those of the law of the issuing State;
 - (b) if the conduct relates to customs or exchange, it does not matter whether the law of the relevant part of the United Kingdom contains rules of the same kind as those of the law of the issuing State.
6. The decision was based on conduct where, under the law of the relevant part of the United Kingdom—
 - (a) the criminal prosecution of the conduct would be statute-barred, and
 - (b) the conduct falls within the jurisdiction of that part of the United Kingdom.

7. The decision on supervision measures was based on conduct by a person who was under the age of 10 when the conduct took place.

8. The conduct on which the decision on supervision measures was based is such that—

(a) if there was a breach of the supervision measures, and

(b) a warrant was issued by the issuing State for the arrest of the person subject to the decision, the person would have to be discharged at an extradition hearing under the Extradition Act 2003⁽¹⁾.

9. It appears that the decision on supervision measures was in fact made for the purpose of punishing the person subject to the decision on account of the person's race, ethnic origin, religion, nationality, language, gender, sexual orientation or political opinions.

PART 2

European Framework List (supervision measures)

10. Participation in a criminal organisation.

11. Terrorism.

12. Trafficking in human beings.

13. Sexual exploitation of children and child pornography.

14. Illicit trafficking in narcotic drugs and psychotropic substances.

15. Illicit trafficking in weapons, munitions and explosives.

16. Corruption.

17. Fraud, including that affecting the financial interests of the European Union within the meaning of the Convention of 26th July 1995⁽²⁾ on the protection of the European Union's financial interests.

18. Laundering of the proceeds of crime.

19. Counterfeiting currency, including of the euro.

20. Computer-related crime.

21. Environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties.

22. Facilitation of unauthorised entry and residence.

23. Murder, grievous bodily injury.

24. Illicit trade in human organs and tissue.

25. Kidnapping, illegal restraint and hostage-taking.

26. Racism and xenophobia.

27. Organised or armed robbery.

28. Illicit trafficking in cultural goods, including antiques and works of art.

29. Swindling.

(1) 2003 c.41.

(2) OJ No. C 316, 27.11.1995, p. 49.

- 30. Racketeering and extortion.
- 31. Counterfeiting and piracy of products.
- 32. Forgery of administrative documents and trafficking therein.
- 33. Forgery of means of payment.
- 34. Illicit trafficking in hormonal substances and other growth promoters.
- 35. Illicit trafficking in nuclear or radioactive materials.
- 36. Trafficking in stolen vehicles.
- 37. Rape.
- 38. Arson.
- 39. Crimes within the jurisdiction of the International Criminal Court.
- 40. Unlawful seizure of aircraft or ships.
- 41. Sabotage.

PART 3

Interpretation

42. In this Schedule—

“conduct” includes any act or omission;

“relevant part of the United Kingdom” means—

- (a) England and Wales, in the application of this Schedule to England and Wales, or
- (b) Northern Ireland, in the application of this Schedule to Northern Ireland.