



EUROPEAN COOPERATION IN CRIMINAL MATTERS

TEXT 4

DIRECTIVE 2012/29/EU ESTABLISHING MINIMUM STANDARDS ON THE RIGHTS, SUPPORT AND PROTECTION OF VICTIMS OF CRIME

Author: Denisa Petriláková

**Prepared for the purposes of a legal language seminar (Czech Republic, Kroměříž,
Judicial Academy, 27 June – 1 July, 2016)**

Study material is developed for the project “Training Legal Languages for Effective Functioning of Judicial Cooperation in EU”. It is produced solely for educational purposes. It has been created for the purposes of legal language training with the financial support of the Justice Programme of the European Union.

1 of 24



REPUBLIKA SLOVENIJA
MINISTRSTVO ZA PRAVOSODJE
CENTER ZA IZOBRAŽEVANJE V PRAVOSODJU



REPUBLIKA HRVATSKA
MINISTARSTVO PRAVOSUĐA



Justičná akadémia
Slovenskej republiky



Key terms (*English – Czech*)

1. *admissibility*:
Přípustnost

1. the concept in the law of evidence that determines whether or not evidence can be received by the court.

2. *clemency*:
žádost o milost

A power given to a public official, such as a governor or the president, to in some way lower or moderate the harshness of punishment imposed upon a prisoner.

3. *due process*:
řádný proces

legal fairness, legal safeguards, protection against deprivations,

4. *judicial review*:
soudní přezkum

A court's authority to examine an executive or legislative act and to invalidate that act if it is contrary to constitutional principles.

5. *legal aid*:
právní pomoc

Representation without cost or for a nominal fee for people who are unable to pay the usual amount for a lawyer's services.

6. *liable*:
právně zodpovědný

responsible or obligated

7. *prerogative powers*:
moc úřední

The special power or peculiar right possessed by an official by virtue of his or her office

8. *self incrimination*:
sebeobviňování

the giving of testimony which will likely subject one to criminal prosecution

Day 2:

AIM: read and discuss an actual European Arrest warrant case:

Target: to be able to comprehend the official legal text related to a case judgement and discuss it with us of correct and relevant vocabulary:

CASE 1: please read and underline any vocabulary that makes the text difficult to understand:



KUCERA (based on: <http://lexisweb.co.uk/cases/2008/march/kucera-v-district-court-of-karvina-czech-republic>)

Neutral Citation Number: [2008] EWHC 414 (Admin): Case No: CO/11201/2007

IN THE HIGH COURT OF JUSTICE: QUEEN'S BENCH DIVISION: DIVISIONAL COURT: Date:
07/03/2008

Before : LORD JUSTICE RICHARDS and MRS JUSTICE SWIFT DBE

Between: Miss Saba Naqshbandi (instructed by Hickman and Rose) for the Appellant

Judgment

MRS JUSTICE SWIFT DBE :

Background¹. This is an appeal under the provisions of section 26 of the Extradition Act 2003 ('the Act') from an order of District Judge Nicholas Evans on 10 December 2007, **ordering the appellant's extradition to the Czech Republic.**

Task 1: Write questions asking about the bold text:

- **the defendant, the offence/ offences , punishable by, arrest warrants, arrest and custody details**

2. On 12 April 2007, a European arrest warrant (EAW) was issued by the respondent **for the extradition of the appellant to the Czech Republic in order to serve a period of imprisonment which was imposed in 1998.** The warrant stated **that the appellant had been convicted for two offences.** The first offence was, in effect, **a failure, over a period of a year, to pay maintenance for his daughter in accordance with a court order.** The second offence was **theft of builders' tools and equipment committed in March 1998.**

3. The appellant was convicted of these offences in **September 1998 and sentenced to one year and nine months' imprisonment.** After an **unsuccessful** appeal, he was notified, **in January 1999, of his obligation to serve his prison sentence.** He **did not surrender** himself but instead left the country and travelled **first to France, and then to the UK,** where he has lived ever since. In June 2004, he and his wife were granted **indefinite leave to remain in the UK**



4. Meanwhile, on 29 April 2004, a **domestic warrant for the appellant's arrest** had been issued in the Czech Republic. The EAW ('the warrant') was issued in April 2007 and, on 5 August 2007, the appellant was arrested **in the UK**. He was brought before the City of Westminster Magistrates' Court the following day. He was **granted bail** subject to conditions. Since the hearing before the district judge, he has remained on conditional bail pending the hearing of this appeal.

Task 2: Now ask your partner some of the questions and let them use the handout for reference when they answer your questions.

Task 3: Read and fill in the missing word:

Grounds appeal

5. The grounds of the appeal are that :

i) the district judge was wrong to find that the warrant was valid the meaning of section 2(6)(e) of the Act;

ii) the district judge was wrong find that the offence of theft was an "extradition offence" within the meaning of section 65(3)(c) of the Act;

iii) the district judge was wrong to that there were specialty arrangements in place;

iv) the district judge was wrong to find that the extradition of the appellant was compatible Article 8 of the European Convention on Human Rights (ECHR).

Grounds 1 and 2: the issues of the validity of the warrant and the offence of theft meets the requirements for an extradition offence

Task 4: Read and re-tell:

The validity of a warrant

Summary 1:



8. In order to be valid, a warrant must meet certain requirements. If it does not satisfy those requirements, Part 1 of the Act will not apply to it and the courts have no jurisdiction to make orders in respect of it: see Cando Armas at paragraphs 27 and 28.

Summary 2:

9. Section 2 of the Act defines the material that must be contained in the warrant in order for it to be valid. Section 2(2) of the Act provides that a Part 1 warrant is an arrest warrant which is issued by a judicial authority of a category 1 territory and which contains (in a case, like the present one, where the person named in the warrant has been convicted of the offence(s) specified in the warrant and is unlawfully at large):

Task 5: Read and find verbs with dependant prepositions:

b) the statement referred to in subsection (5) and the information referred to in subsection (6).

10. It is accepted that, in this case, the "statement" required by section 2(2)(b) was contained in the warrant.

The dispute arises in respect of the "information" required by that subsection. Section 2(6) defines that "information" as including:

e) "particulars of the sentence which has been imposed under the law of the category 1 territory in respect of the offence, if the person has been sentenced for the offence".

11. The question that arises is whether the warrant in this case complies with the requirements of section 2(6)(e).

Task 6: Read and find 10 words you would like to remember:



12. It should be noted that the Extradition Act 2003 (Multiple Offences) Order 2003 ('the 2003 Order') provides, inter alia, that references in the Act to "an offence" (including a reference to "an extradition offence") are to be construed as references to "offences" (or "extradition offences").

An extradition offence

13. Section 10 of the Act (as modified by the 2003 Order) requires the judge at an extradition hearing to decide whether any of the offences specified in the Part 1 warrant is an "extradition offence".

If the judge decides that question in the negative in relation to an offence, he must order the person's discharge in relation to that offence.

14. The conditions that must be satisfied in order for an offence to constitute an extradition offence

are set out (in a case where the person named in the warrant has been convicted of and sentenced for an offence constituted by the conduct specified in the warrant, and is unlawfully at large) at section 65 of the Act. Section 65(3)(c) provides:

The conduct ... constitutes an extradition offence in relation to the category 1 territory if these conditions are satisfied - - -

(a) the conduct occurs in a category 1 territory;

(b) the conduct would constitute an offence under the law of the relevant part of the UK if it occurred in that part of the UK;

(c) a sentence of imprisonment or another form of detention for a term of 4 months or a greater punishment has been imposed in a category 1 territory in respect of the conduct.

15. It is common ground that the Czech Republic is a category 1 territory and that the relevant conduct occurred there; the condition in section 65(3)(a) is therefore satisfied.



16. It is accepted also that the conduct alleged in respect of the second offence named in the warrant (the theft) would constitute an offence under the law of England and Wales if it occurred here and that it therefore fulfils what is frequently termed the `dual criminality' requirement of section 65(3)

(b). The offence of failing to pay maintenance would not constitute an offence under the law of England and Wales. Recognising that fact, the respondent conceded prior to the hearing before the district judge that the offence failed the dual criminality test and therefore could not meet the requirements for an "extradition offence". Extradition was therefore sought and ordered only in respect of the offence of theft.

Task 7: decide if the words are synonyms or similar in the meaning or not:

Example: conduct - behaviour: yes those are synonyms

Dual criminality - double jeopardy - ne bis in idem- inter alia

Theft- burglary - robbery

Extradition - deportation - expulsion

Discharge a person - arrest a person - release a person

Maintenance - technical service - child support

Imprisonment - detention - arrest

Constitute an offence - represent an offence - amount to an offence

Task 8: Read and define the vocabulary in bold:

17. The question that arises is whether, in relation to the **offence** of theft, the condition (sometimes termed the `**test of gravity**') set out in section 65(3)(c) is satisfied so as to **render** it an "**extradition offence**" within the meaning of section 10.

An offence

Test of gravity

To render something an extradition offence

The information provided by the **respondent**



18. Before proceeding to consider these issues, I shall set out the relevant information provided by the respondent. This information is contained (a) in the **warrant** (b) in answers to questions asked of the respondent by the Crown Prosecution Service (CPS), which represents the respondent in these proceedings and (c) in a **statement** which has been provided by a judge of the respondent Court. The information contained in (a) and (b) was before the district judge. That contained in (c) was provided by the respondent subsequent to the **hearing** before the district judge.

19. The warrant identified the **sentencing brackets** for the two offences, stating that, both for the offence of **failing** to pay **maintenance** and for the offence of theft, "the offender will be punished by **imprisonment** for six months up to three years". As to the actual sentence passed, it stated:

"...Length of the custodial sentence or **detention** order **imposed** ... 1 year and 9 months ...

Remaining sentence **to be served** ... 1 year and 9 months..."

20. The respondent's answers to the relevant series of questions asked by the CPS were as follows:

Q: "Is **the term** of imprisonment of 1 year and 9 months the total of two separate..."

Q: "Is the **term of imprisonment** of 1 year and 9 months the total of two separate sentences for the two offences?"

A: "The **prison sentence** in the duration of 1 year and 9 months is the only punishment for both crimes."

Q: "If so, what was the separate term of imprisonment imposed for each offence? Or, is the term of imprisonment indivisible (so that it applies to both offences and cannot be separated)? In which case, please state that this is the case."

A: "The duration of the prison sentence is indivisible."

The further statement provided by the respondent set out the procedure that would follow were the appellant to be extradited:



"In response to your request we inform you that ... **if a person was requested or extradited to serve the sentence of imprisonment only for some of the criminal offences he/she was imposed an aggregate or cumulative sentence earlier [sic], the court shall rule in a public session on an appropriate sentence for the criminal offences the extradition applies to.** This provision will be applied also in case of extradition of Jan Kucera ... **It means that if the convicted person is extradited for the offence of theft only, then, after he is surrendered to the Czech Republic, the court will summon a public session in which appropriate sentence only for the criminal offence to which the extradition applies, i.e. criminal offence of theft, will be imposed."**

The findings of the district judge

The findings of the district judge in relation to the validity of the warrant were as follows:

"The sentence of 1 year 9 months imposed for the two offences, one not an extradition crime, are said to be an indivisible aggregate sentence. As I understand, that means that it was 1 year and 9 months on each charge concurrent, in the language of an English judge. **This is not a Euro concept. In relation to the extradition offence which is accepted as theft, when the penalty ranges from 6 months to 3 years, the actual sentence of 1 year 9 months, fulfils section 2(6)(e)".**

As to whether the offence of theft was an extradition offence, the district judge found:

"In relation to the extradition offence which is accepted as theft, when the penalty ranges from 6 months to 3 years, the actual sentence of 1 year 9 months, fulfils section 2(6)(e) [He must have meant section 65(3)(c)]. It is sufficient for the purposes of showing it is an extradition offence".

Task 9: Summarise the findings and discuss if you agree or disagree:



Day 2:

AIM: read and discuss 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime

Target: to be able to comprehend the official legal text related to the topic of rights of victims using correct and relevant lexis.

Day 2: Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:315:0057:0073:EN:PDF>)

Task 10: Read and answer the comprehension questions:

Many people fall victim to crime in the EU every year - around 30 million crimes, excluding minor offenses, alone are reported to the police. More and more people are travelling, living or studying abroad and are therefore potential victims of crimes committed in a country other than their own. The EU has a mandate to ensure that citizens and foreigners moving within its borders are protected.

What kind of mandate does EU exercise with respect to potential victims?

Does the crime always leave a victim vulnerable and in need of assistance?

Objectives

The very nature of a criminal act leaves a victim vulnerable and often in need of assistance. Victims are, often for the very first time, involved in the criminal justice system and may have to speak to police officers, lawyers and judges and ultimately go to court. Victims can find the process confusing and overwhelming, particularly when they are abroad.

The EU therefore acts to ensure that victims:

are recognised and treated with respect and dignity;

are protected from further victimisation and intimidation from the offender and further distress when they take part in the criminal justice process;

- receive appropriate support throughout proceedings and have access to justice;



- have appropriate access to compensation.
What must the victims be protected from?
How must the victims be treated?
What must the victims receive?
What must the victims have appropriate access to?
Victims must be guaranteed a minimum level of rights without discrimination across the EU, irrespective of their nationality or country of residence. These rights should apply whether a minor or serious crime is involved. Victims, and their family members, should also have access to support services - whether or not they have reported the crime – and be protected from further harm.
What must the victims be guaranteed?
Do the above standards only apply in felony and / or second crimes?
What kind of services should the victims have access to?
EU legislative framework
The national laws and policies on victims' rights and the role of victims in criminal proceedings differ considerably from one Member State to another. To ensure minimum level of victims' rights in all Member States, the EU has adopted several EU legal instruments setting up common rules aimed at protecting and assisting victims of crime: horizontal instruments dealing with victims' rights in general, more specific instruments on protection measures and financial compensation to victims of crime and on substantive law instruments regarding trafficking in human beings and child sexual exploitation.
Are the statutes governing victims' rights in various Member States identical or not?
How must the victims be treated?



Strengthening victims' rights in the EU

The Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime ensures that persons who have fallen victim of crime are recognised, treated with respect and receive proper protection, support and access to justice. The Directive replaces the 2001 Framework Decision on the standing of victims in criminal proceedings and considerably strengthens the rights of victims and their family members to information, support and protection and victims' procedural rights in criminal proceedings. The Directive also requires that the Member States ensure appropriate training on victims' needs for officials who are likely to come into contact with victims and encourage cooperation between Member States and coordination of national services of their actions on victims' rights.

What does the Directive establish and what does it require?

The EU Member States must implement the provisions of the Directive into their national laws by 16 November 2015. DG Justice has issued a guidance document to assist Member States in this process. This document clarifies the provisions of the Directive, in order to help national authorities, practitioners and relevant service providers understanding what is required to make the victims' rights set out in the Directive a reality everywhere in the EU.

With regard to specific groups of victims, EU legislation further establishes protection and support for victims of human trafficking and child victims of sexual exploitation and child pornography

Which groups of victims are treated in a manner so as to obtain further support and protection?

Right to continue to benefit from protection measures when moving to another Member State



To effectively protect victims of violence and harassment, national authorities often grant them specific measures which help preventing further aggression or re- assault by the offender. To ensure that a person who has been granted a protection order in a Member State continues to benefit from this protection when moving or travelling to another Member State, the EU put in place a mechanism for the mutual recognition of protection measures. National protection measures can be of civil, criminal or administrative law nature and their duration, scope and procedures of adoption vary among the Member States. Due to separate legal bases in EU law for mutual recognition of civil law measures and criminal law measures, two separate instruments were required to ensure the circulation of the three most common types of protection measures within the EU.

What further support and protection shall victims of harassment and violence be provided with?

The Directive 2011/99/EU on the European Protection Order (EPO) sets up a mechanism allowing persons who benefit from a protection order in criminal matters issued in one Member State to request a European Protection Order. Such an order allows for protection also in other Member States where the protected person travels or moves. Protection orders covered by the Directive concern situations where victims, or potential victims, of crime benefit from a prohibition or regulation of entering certain places, being contacted or approached by a person causing risk. The Member States shall implement the provisions of the Directive into their national laws by 11 January 2015.

What is the main role of EPO?

The Regulation (EU) No. 606/2013 on mutual recognition of protection measures in civil matters sets up a mechanism allowing for a direct recognition of protection orders issued as a civil law measure between Member States. Thus, persons who benefit from a civil law protection order issued in the Member State of its residence may invoke it directly in other Member States by presenting a certificate to competent authorities certifying their rights. The Regulation applies as of 11 January 2015.

What effect would EPO have in other Member States and how would it be achieved?



Right to compensation

The Directive 2004/80/EC relating to compensation to crime victims provides that persons can apply for state compensation when they have fallen victims to crime abroad, and receive assistance to do so. The Directive requires that all Member States have a state compensation scheme which provides fair and appropriate compensation to victims of intentional violent crime. The directive also creates a system of cooperation between national authorities for the transmission of applications for compensation in cross-border situations, notably victims of a crime committed outside their Member State of habitual residence can turn to an authority in their own Member State to submit the application and get help with practical and administrative formalities.

What can a victim of crime apply for and what are the main principles applicable to compensation?

The Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime (Article 16) provides the right to obtain a decision on compensation by the offender, within a reasonable time, in the course of criminal proceedings (or other legal procedures). It also encourages mechanisms to recover compensation awards from the offender.

Non-legislative actions

In addition to legislative action, the Commission has funded hundreds of projects aimed at supporting victims of crime, in the fields of criminal justice [JPEN and JUSTICE 2014-2020] and combating violence against children, young people and women [Daphne and REC_Rights, Equality and Citizenship Programme 2014-2020].

Aim: discuss a case related to rights of victims and right to effective investigation and discuss the case with legal experts using correct language structures and terminology:

Based on: <http://uksblog.com/new-judgment-hounga-v-allen-anor-2014-uksc-47/>

Task 11: Case Comment: Hounga v Allen & Anor [2014] UKSC 47



At the end of July, the Supreme Court handed down judgment in *Hounga v Allen* [2014] UKSC 47.

The case hung on a narrow point regarding illegality and discrimination on the grounds of nationality but also touches on a number of wider issues concerning immigration, contract and employment law. As Lord Wilson put it in the case '[a] small claim generates an important point' and, one could add, some interesting and contentious obiter.

Facts

There is some difficulty in outlining the facts, due to the 'tribunal's widespread failure to find facts', which indeed 'hampered the inquiry at all three appellate levels'. This was, to an extent, due to the **unreliability of both claimant and respondent**.

However, in summary, **Miss Hounga arrived in the UK from Nigeria in January 2007, when she was around 14 years of age. For two years preceding her arrival she had worked for Mrs Allen's brother in Lagos as a live-in home-help. Mrs Allen's brother and mother jointly proposed to Miss Hounga that she should go to live in England with Mrs Allen where she would both work in her house and go to school (a proposal she readily accepted, particularly due to the prospect of education, and to which Mrs Allen added the offer to pay her £50 a month in addition to bed and board).**

To achieve this, Mrs Allen, her mother and brother and Miss Hounga **conspired for Miss Hounga to swear a false affidavit as to her age and identity, leading to a Nigerian passport to be issued with incorrect details, and to gain entry clearance to the UK as a 6-month visitor, through the use of a document in which Mrs Allen's mother purported to be Miss Hounga's grandmother and which contained an invitation to stay with her in England.**

For 18 months Miss Hounga worked as 'a sort of au pair' but did not receive the promised income or education. And, while she was not entirely confined to the house, she was subjected to serious physical abuse and threatened with prison should she leave the house and be found by the police. She left the house following an incident during which Mrs Allen smacked, beat, drenched and evicted her causing her to sleep outside in wet clothes. She was then taken to social services by a stranger.



Miss Hounga brought claims, reliant on contract, for wrongful dismissal, unfair dismissal, unpaid wages and holiday pay and complaints in tort for discrimination and harassment.

The Employment Tribunal dismissed the contract claims on grounds of illegality (such dismissal being upheld by the EAT and not appealed further) and held that the harassment claim fell foul of the then statutory grievance procedure (again upheld by the EAT but overturned by the Court of Appeal due to the tribunal's failure to consider the exceptions to the requirement to follow the grievance procedure) but allowed the discrimination claim, awarding £6,187 for injury to feelings (again upheld by the EAT but overturned on the grounds of illegality by the Court of Appeal).

Judgment: Supreme Court UK Judgment delivered:

<https://youtu.be/Nx6TZ8V1Lt8?list=UUdkf93h71xVAI28v467Hk7w>

The Supreme Court unanimously agreed that the Court of Appeal was incorrect to hold that the **illegality defence defeated the complaint of discrimination**, although there was a **dispute as to the reasoning**, with Lord Wilson giving the leading judgment (with the agreement of Lady Hale and Lord Kerr) and with Lord Hughes (with whom Lord Carnwath agreed) **dissenting in part**.

The harassment claim, which the Court of Appeal had held was possible save for the presence of illegality, was consequentially remitted to the Employment Tribunal. While there was an attempt to introduce new points, the judgment primarily considers the doctrine of illegality.

'As Lord Wilson's penetrating analysis has clearly shown, a **generalised statement of the conceptual basis for the doctrine under which illegality may bar a civil claim has always proved elusive**' (per Lord Hughes at [54]).

However, Lord Wilson drew a contrast between the doctrine's use in contract and in tort (and, furthermore, within contract, considering that unfair dismissal might arguably require analysis different from a claim for wrongful dismissal). While claims of illegality in contract have their own complexities, the application in tort is highly problematic [24]-[25].



In determining whether a claim is 'inextricably linked' to unlawful activity, there is clear 'potential for inconsistent application driven by subjective considerations' [37].

Thus the three justices of the Court of Appeal could think the link obvious whereas the five justices of the Supreme Court could hold the illegality was 'no more than the context in which Mrs Allen then perpetrated the acts of physical, verbal and emotional abuse by which, among other things, she dismissed Miss Hounga from her employment' [40] (or that, in Lord Hughes's words, there was no 'sufficiently close connection between the illegality and the tort to bar the claim' [59]).

The majority fortified that decision through reference to international laws on human trafficking and the balancing of competing public policy concerns, the defence of illegality running 'strikingly counter to the prominent strain of current public policy against trafficking and in favour of the protection of its victims' [52].

The discrimination claim, having held that illegality did not prevent it, was not amenable to further challenge despite the attempt to introduce new points in the case (concerning the private household exemption re nationality in the Race Relations Act 1976 (but which not does not appear in the Equality Act 2010) and the correct comparator for direct discrimination with echoes of *Patmalniece v SSWP* [2011] UKSC 11 and *Lewisham v Malcolm* [2008] UKHL 43).

The Convention on Action against Trafficking in Human Beings CETS No 197, art 15(3) as to whether the provision is limited to compensation only for trafficking or mandates compensation for related acts of discrimination. (Based on:

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168008371d>)

AIM: revise and acquire relevant expert vocabulary used in the case at hand
Task 12: Vocabulary - read and underline unknown vocabulary: discuss in pairs the concept and meaning of the below lexical structures

Criminal offence

To commit a criminal offence

Penal code



To arrest the suspect
To apprehend the suspect
To place suspect in custody
Custody cell
Remand prison
To detain on remand
To apply for release on bail
Bail hearing
To post bail
To grant bail
To seize evidence
Search warrant
To charge the suspect

To breach the law

An act on ...

laws

National law

Fair trial

Right to a fair trial

Evidence - unlawfully obtained evidence

Fruit of poisonous tree

Right to remain silent

Right to protection from self-discrimination.

Due process

Pre- trial proceedings

Pre-trial hearing



To hear a witness

To testify

Evidence- documentary evidence

Direct evidence

Circumstantial evidence

Inculpatory - exculpatory evidence

Incriminating evidence

To convict the defendant of

To acquit the defendant of

To dismiss charges

Insufficient evidence

Chain of evidence

To plead guilty

To plead not guilty

To enter a guilty plea -

To remain silent

To appeal the conviction

To dismiss the appeal

Uphold the judgement

To admit the appeal

Appellant

Party to the Proceedings

Victim

Interested party

Secondary party

To grant appeal



Second instance court - higher instance court

The sentences

Acquittal

Stay proceedings

Defendant

Prosecutor

Plaintiff

Resolution of the court

Convict - conviction

Motion

Charges - to be charged with

Judge

Courtroom

Appear before court

Witness

Sentences

Sworn statement

First instance court

She claims that

Defendant claims that he..

Burden of proof

To meet the burden of proof

The defendant maintains ...

Ordinary courts

Exhibit

Attorney



Legal counsel

Task 13: First focus on the vocabulary above and then complete the collocations:

1. The burden _____
2. Ordinary _____
3. To seek legal _____
4. First instance _____
5. To plead not _____
6. Right to remain _____
6. Sworn _____
7. Search _____
8. Seize _____
9. Right to a fair _____
11. Direct or circumstantial _____
12. To commit a criminal _____
13. To _____ an appeal
14. To meet the burden _____

Task 14: Give a summary of the case and discuss the application of the Directive to the case -

- was Ms. Hounga a victim of crime,
- should she benefit from special protection,
- is the fact that she intentionally contributed to the situation relevant,
- is her age relevant,
- what would a court in your country hold



- would the illegality defence be relevant in your country
- would the right to effective investigation apply to the victim of trafficking as in the case at hand in your country?

Key to exercises:

Key to exercises:

Task 3: Read and fill in the missing word:
<i>Grounds FOR appeal</i>
<i>5. The grounds of the appeal are that :</i>
<i>i) the district judge was wrong to find that the warrant was valid WITHIN the meaning of section 2(6)(e) of the Act;</i>
<i>ii) the district judge was wrong TO find that the offence of theft was an "extradition offence" within the meaning of section 65(3)(c) of the Act;</i>
<i>iii) the district judge was wrong to FIND that there were specialty arrangements in place;</i>
<i>iv) the district judge was wrong to find that the extradition of the appellant was compatible Article 8 of the European Convention on Human Rights (ECHR).</i>
<i>Grounds 1 and 2: the issues of the validity of the warrant and NATURE OF THE OFFENCE the offence of theft meets the requirements for an extradition offence</i>

Task 13

1. BURDEN OF PROOF

2. Ordinary COURTS : (APPEAL OR REMEDY also possible)

3. To seek legal ASSISTANCE / ADVICE OR COUNSEL

4. First instance COURT

Task 13



5. To plead not *GUILTY*
6. Right to remain *SILENT*
6. Sworn *STATEMENT*
7. Search *WARRANT*
8. Seize *EVIDENCE*
9. Right to a fair *TRIAL*
11. Direct or circumstantial *EVIDENCE*
12. To commit a criminal *OFFENCE*
13. To *FILE* an appeal
14. To meet the burden *OF PROOF*

Task 7: synonyms or similar in the meaning or not:	
Synonyms - double jeopardy - ne bis in idem different meaning : inter alia ; double criminality	
Different meaning : Theft- burglary - robbery	
Different meaning : Extradition - deportation - expulsion	
Synonyms: Discharge a person - release a person; Different meaning: arrest a person -	
Similar meaning : Maintenance - child support; Different but similar meaning: technical service-maintenance	
Similar meaning but not synonyms: Imprisonment - detention Different meaning. arrest	
Synonyms: Constitute an offence - represent an offence - amount to an offence	

Links:

Key terminology: https://quizlet.com/_2dje7k

Link for the full text of the KUCERA case

<http://lexisweb.co.uk/cases/2008/march/kucera-v-district-court-of-karvina-czech-republic>



Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:315:0057:0073:EN:PDF>)

The Convention on Action against Trafficking in Human Beings CETS No 197 :
<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168008371d>

Supreme Court UK Judgment delivered:
<https://youtu.be/Nx6TZ8V1Lt8?list=UUdkf93h71xVAI28v467Hk7w>

Hounga v Allen & Anor [2014] UKSC 47 Based on: <http://ukscblog.com/new-judgment-hounga-v-allen-anor-2014-uksc-47/>