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Policy paper

# Extraterritorial jurisdiction factsheet

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## What are we going to do?

The Bill will extend the jurisdiction of the UK courts so that, where appropriate, UK nationals and residents who commit certain violent and sexual offences outside the UK may be brought to trial in the UK.

Women's Aid, in response to the government consultation on domestic abuse:

“ We welcome the Government's commitment to extending extraterritorial jurisdiction over offences that are routinely committed in a domestic abuse or VAWG context.”

## How are we going to do it?

The Bill will extend the jurisdiction of the courts:

- in England and Wales to relevant offences committed outside the UK by a UK national or a person habitually resident in England or Wales
- in Northern Ireland to relevant offences committed outside the UK by a UK national or a person habitually resident in Northern Ireland
- in Scotland to relevant offences committed outside the UK by a UK national or a person habitually resident in Scotland

## Background

The Council of Europe Convention on preventing and combating violence against women and domestic violence ('the Istanbul Convention') provides for standards that are binding in international law to prevent violence against women and domestic violence, to protect victims and to punish perpetrators.

The UK signed the Istanbul Convention in June 2012 and the government is committed to ratifying it as soon as possible.

Article 44 of the Istanbul Convention requires the UK to be able to prosecute criminal conduct set out in the Istanbul Convention when that conduct is committed outside the UK by a UK national or a person who is habitually resident in the UK. This is known as extraterritorial jurisdiction.

The UK already has extraterritorial jurisdiction over offences which cover some of the criminal conduct set out in the Istanbul Convention, such as forced marriage and sexual offences where the victim of the offence is under 18. But we need to amend domestic law to take extraterritorial jurisdiction over offences covering other criminal conduct set out in the Convention before it can be ratified.

## What behaviour does the Istanbul Convention require the UK to criminalise?

The behaviour set out in the Convention includes psychological, physical and sexual violence as well as stalking, forced marriage and female genital mutilation.

The UK courts already have extraterritorial jurisdiction over the following offences required by the Istanbul Convention:

- murder and manslaughter in most (but not all) circumstances (Article 35)
- sexual offences (including those required by the Convention) where the victim of the crime is under 18 (Article 36)
- forced marriage (Article 37)

- female genital mutilation (Article 38)

The Bill extends extraterritorial jurisdiction to other offences required by the Istanbul Convention, including murder and manslaughter in circumstances where the courts do not already have such jurisdiction and sexual offences where the victim of the crime is 18 or over.

Article 44 of the Istanbul Convention requires domestic law to be able to prosecute relevant offences when committed outside the UK by a UK national or resident.

As with all criminal offences, however, the decision to prosecute would be a matter for the relevant prosecuting authority

## **Does extending extraterritorial jurisdiction mean that the UK will be responsible for prosecuting relevant offences committed anywhere in the world?**

Government policy generally on the jurisdiction of our courts is that criminal offending is best dealt with by the criminal justice system of the state where the offence occurred. If an accused person is not prosecuted in the state where the offence occurred, a prosecution would only take place in the UK if the accused person were physically present in this jurisdiction (following extradition if necessary), there is sufficient evidence to provide a realistic prospect of conviction and it is in the public interest to prosecute.

## **Will these measures apply across the UK?**

Yes. The Bill makes separate provision for each of England and Wales, Scotland and Northern Ireland reflecting the separate body of criminal law in each jurisdiction.

# Transition period

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