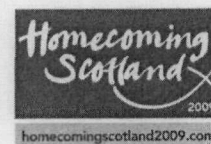


Rt Hon Alex Salmond MSP
First Minister of Scotland

St Andrew's House, Regent Road, Edinburgh EH1 3DG
T: 0845 774 1741



Alex Fergusson MSP
Presiding Officer
Scottish Parliament
EH99 1SP



13th May 2009

Dear Alex

PRISONER TRANSFER AGREEMENT BETWEEN THE UK AND LIBYA

I informed the Parliament on Thursday 7 May that Scottish Ministers have now received an application from the Libyan Government requesting the transfer to Libya of Mr Megrahi in accordance with the recently agreed Prisoner Transfer Agreement between the UK and Libya. I am writing to set out the procedure Scottish Ministers will now follow in reaching a decision on this application.

I made an Emergency Statement to the Parliament in June 2007 regarding a Memorandum of Understanding covering four areas of judicial co-operation that the UK Government had entered into with Libya. I was not consulted in the run-up to this agreement. I wrote immediately to the then Prime Minister, Tony Blair, expressing my concern at the way this process had been handled and at the potential implications for Scotland given that Mr Megrahi was currently serving a life sentence in HM Prison Greenock.

I continued to press the UK Government that in negotiations with Libya, an exclusion should be included in the Prisoner Transfer Agreement preventing anyone convicted of involvement with the Lockerbie bombing from being considered for transfer. Although initially it seemed that this would be the position of the UK Government, in the event the UK Government did not secure such an inclusion, despite our request and warning of the potential consequences. I would be happy to share our side of the correspondence with the UK Government with you if you wish. However despite our requests the UK Government has not agreed to release its side of the correspondence.

The Prisoner Transfer Agreement was signed on 17 November 2008, and following scrutiny by the Joint Committee on Human Rights at Westminster, was ratified by the UK and Libyan Governments. Instruments of ratification were exchanged on 29 April 2009. Scottish

Ministers are now bound by this Agreement and required to consider transfer applications made under it.

We received an application from the Libyan Government in respect of Mr Megrahi on 5 May 2009. The application will now be determined on its merits in line with the Agreement and relevant legislation by the Cabinet Secretary for Justice who will be advised by officials in the normal way and will take all relevant considerations into account. As I assured the Chamber, the decision will be one made on judicial grounds alone. Economic and political considerations have no place in the process. In the Chamber I made it clear that it would have been preferable for all concerned if the judicial process were able to take its course. Clearly however, there are a number of factors which may not make this possible.

The Agreement states that "*The requested State shall inform the State requesting the transfer of its decision whether or not to agree to the requested transfer, normally within 90 days of the receipt of the request. If a decision cannot be notified within 90 days of the request, the requested State shall inform the requesting State of the reasons for any delay and use best endeavours to notify the requesting State of its decision as soon as possible.*" Whilst the Cabinet Secretary for Justice will deal with this application expeditiously he will consider it thoroughly and will ensure that he has all relevant information available to him before reaching decisions.

The Lockerbie Air Disaster remains the most serious terrorist atrocity committed in the United Kingdom. We are aware of the pain and grief that are still being experienced by many people whose lives were affected by it both here in Scotland and across the world. My Government and in particular the Cabinet Secretary for Justice will approach the task of considering the application and taking account of relevant matters – including listening to the representations of interested parties - with care, respect and sensitivity.

It would not be appropriate for me to give any more details of the application. But I can assure you that it will be considered carefully and with regard to the terms of the Prisoner Transfer Agreement and appropriate judicial procedures.

Mr Megrahi's appeal against conviction is currently being heard at the High Court in Edinburgh. The appeal remains a matter for the Courts, Mr Megrahi and his legal team.

I am copying this letter to party leaders and will place a copy in SPICE.

Y f Scotland
Alex Salmond

ALEX SALMOND

Rt Hon Alex Salmond MSP
First Minister of Scotland

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Annabel Goldie MSP
The Scottish Parliament
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29/ April 2009

Dear Annabel

TREATY BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GREAT SOCIALIST PEOPLE'S LIBYAN ARAB JAMAHIRIYA ON THE TRANSFER OF PRISONERS

You will be aware of the Prisoner Transfer Agreement which has been negotiated between the UK and Libyan Governments. I know the implications of such an agreement cause you concern, and that you raised the issue during First Minister's Questions on 15 January 2009.

The Treaty was laid before the UK Parliament on 27 January 2009 and the instruments of ratification have been exchanged today, 29 April, in Tripoli. Now the instruments have been exchanged, the process will be open for applications for transfer of prisoners between the UK and Libya. Scottish Ministers will make the decision on applications for any prisoners currently serving their sentence in Scotland or for transfer to Scotland.

As you will know, I pressed the UK Government for a specific exclusion to be made in the wording of the Treaty that would prevent anyone convicted of offences connected with the Lockerbie Air Disaster from being considered for transfer. However, the United Kingdom Government has not negotiated such an exclusion within the Treaty and therefore any application must be treated on its merits.

As you will understand, it would be potentially prejudicial of me to say any more on this matter or to speculate on any application that we might receive. I can assure you, as in all matters, we will continue to uphold the integrity of the Scottish judicial system.

I am copying this letter to Iain Gray, Tavish Scott, Patrick Harvie and Margo MacDonald. I will also place a copy in SPICE.

Y f Scotland
Alex Salmond

ALEX SALMOND