

From: THE PRIVATE SECRETARY



John Holmes Esq
No 10 Downing Street
London SW1

RESTRICTED

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

20 FEB 1998

TOP - JEH

✓ AL
PB
AC

Jeh
Jeh

ROISIN MCALISKEY : HANDLING OF DECISION

I am writing to give you an early indication of our thinking at official level of how the decision on the German request for the extradition of Roisin McAliskey might be handled.

The Home Secretary will be taking a decision on Germany's request for Roisin McAliskey's extradition. He is under a statutory obligation to take that decision before 16 March. It is not yet precisely clear when advice will be ready - we are waiting for a psychiatric report and further information from Germany - but it should be in the next few weeks.

There is an outside chance that the decision could be taken after 16 March, but only with the formal consent of Roisin McAliskey and only if there is a challenge, for example, to the Home Office psychiatric report or if there are last-minute representations. We do not think this likely. In any event, there is no scope for delaying the decision on handling grounds; after 16 March Roisin McAliskey can apply for discharge via the courts unless the Home Office can show that there was "sufficient cause" for stepping over the deadline.

We have planned handling arrangements in consultation with officials from the NIO and FCO. These are entirely without prejudice to the Home Secretary's final decision: lines to take (subject to the Home Secretary's final approval) are attached that cover both a decision to extradite Roisin McAliskey to Germany and a decision to refuse extradition (probably on the grounds of ill-health). We will work up a short Home Office statement to cover either scenario.

It is usual practice (because a person whose extradition is sought has a statutory 7 days within which to lodge an application for judicial review) to notify solicitors - in this case Birnbergs - as soon as possible after a decision has been taken (identified by the date on the surrender warrant). We would recommend that all briefing/courtesy telephone calls should take place after the decision has been notified to Birnbergs (who will want to make arrangements with the Maudsley to tell Roisin McAliskey herself). This is of particular importance if the decision is to return her: our aim is to have factual information ready for immediate deployment.

RESTRICTED

RESTRICTED

Decision to order return

The sequence of events would be:

- (i) Home Secretary signs surrender warrant;
- (ii) that decision is conveyed to Birnbergs (Roisin McAliskey's solicitors) by means of a faxed reasons letter as soon as possible after that decision - generally the morning after overnight signature. Someone whose return has been ordered has a statutory 7 days within which to apply for judicial review - we try to cut into that time as little as possible;
- (iii) we suggest that the Home Secretary telephones the Irish Minister of Justice, (I should be grateful for advice from Sir Christopher as to handling in the US) stressing that Roisin McAliskey still has a route of appeal against his decision;
- (iv) once the decision is made public (probably by Roisin's family and solicitors), we intend to issue an immediate statement (following the lines to take); CD here will brief home affairs correspondents (particularly the Guardian); and the Irish media in London;
- (v) the NIO will brief in Northern Ireland, with the FCO picking up Washington and Dublin - we will also make certain that UKRep are briefed to cover the European Parliament. The Home Office will tell Germany via our usual extradition contacts (keeping our Embassy in Bonn informed).

The key points would be that she is wanted for serious offences, ill-health is not an automatic bar to extradition, the Home Secretary was fully satisfied that medical care was available in Germany, and that, in the meantime, Roisin McAliskey is still receiving the best possible specialised care in the Maudsley hospital. We would, however, have to avoid being drawn into too much detail; there would be ongoing legal proceedings.

Nevertheless, this would not be an easy ride. We could expect detailed accounts of her ill-health (and suicide risk), renewed speculation that she would be separated from her child, and accusations that the decision was made to punish Republicans. The decision would play particularly badly in the US, with a real prospect of St Patrick's Day marches becoming the focus of protest. Even though she has a right of appeal - judicial review, and not inconceivably, the ECHR - we could expect little credit for either; both would involve months more delay.

Decision not to order return

The sequence of events would be:

- (i) Home Secretary decides not to order Roisin McAliskey's return;

RESTRICTED

RESTRICTED

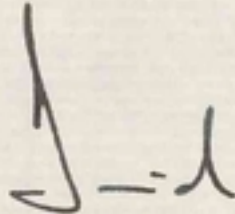
- (ii) that decision is conveyed to Birnbergs by means of a faxed letter - Bow St. and the Divisional Court are notified simultaneously (both were involved in setting bail conditions);
- (iii) we suggest that the Home Secretary telephones Kanther or Schelter - he knows both - to reaffirm the UK's commitment to combating terrorism (but I should be grateful for Sir Paul's views on handling: the Home Secretary has not met Schmidt-Jortzig) and the Irish Minister of Justice;
- (iv) the Home Office will talk to the German Embassy in London and in Bonn;
- (v) the NIO will brief in Northern Ireland, with the FCO picking up Washington and Dublin.

The key point to get across to German colleagues would be that this decision was no reflection on the substance or legitimacy of their extradition request, nor a weakening of the United Kingdom's commitment to combating terrorism.

Privately, at official level at least, the German side are all too aware of the pressures that surround this request. Subject to the outcome of a request for the RUC to undertake some interviews of people who say they can provide a limited alibi for Roisin McAliskey, Germany has every intention of maintaining Roisin McAliskey on the Interpol list of suspects they wish arrested for the purposes of extradition, even if her request is refused.

We would also have to defend claims that her release simply proves that the request was made in bad faith by Germany, and that what evidence there was was fabricated by the RUC, who made her suffer because of their dislike of her mother. With any luck, it might be relatively short-lived. We could probably expect some Unionist criticism, but we judge that it would not be too strident. There might be fall-out in the US, if they perceived the UK to be taking a political decision in an extradition case - this could feed into the Maze escapee cases.

I should be grateful for your and copy recipients' views on these proposals. I am copying this letter to Ken Lindsay (NIO), Sir Christopher Meyer (HMA Washington), Veronica Sutherland (HMA Dublin) and Sir Paul Lever (HMA Bonn).

Yours


DAVID REDHOUSE

RESTRICTED