

Extraterritorial Offences (extract taken from Prisoners and detainees Consular Guidance)

Extraterritorial jurisdiction is the ability to prosecute someone in the UK for offences they have committed abroad. The primary basis of United Kingdom law is territorial - this means that for a crime to be prosecuted in the UK, it normally has to have been committed there. However, there are exceptions, including these offences.

Most questions from posts on whether or not an offence committed abroad can be prosecuted in the UK concern matters of murder, manslaughter and sexual offences where the victim is under 16 and the suspect is a UK national. Although in strict legal terms they can, it is rare for this to happen in practice. There are two main reasons for this.

Diplomatically. In all probability the offence would have been reported to the local judicial authorities, who in most cases would be reluctant to give up jurisdiction, and who would probably have objections to UK police officers conducting enquiries in their country. It could also appear insensitive to exercise jurisdiction if the matter was already being investigated overseas. In addition, if a case had actually been prosecuted overseas, UK courts would not exercise jurisdiction, because of 'double jeopardy' (the rule against being tried twice for the same crime).

Logistically. The offence would have been committed abroad, so the scene, forensic evidence and witnesses would be there. It would be very difficult to transfer all this to the UK. UK courts also have no power to compel witnesses from abroad to give evidence in the UK (although in practice such witnesses sometimes give evidence in the UK voluntarily).

Any questions on this issue should be referred to the Police Adviser in Consular Directorate.