

Ministers' Office Brief— Office for Minister for Home Affairs and Justice

Extradition – Request from Croatia for Vasiljković/Snedden for war crimes

Issue

On 15 November 2012 the Minister for Justice determined that Mr Dragan Vasiljković, who is also known as Daniel Snedden, is to be surrendered to Croatia to face prosecution for three war crimes offences.

Talking points

- **On 15 November 2012, the Minister for Justice made a determination under the Extradition Act 1988 (Cth) that Mr Vasiljković should be surrendered to Croatia to face prosecution for war crimes offences.**
- **The Minister arrived at his determination following careful consideration of the provisions of the Extradition Act and taking into account representations made by, and on behalf of, Mr Vasiljković as to why he should not be surrendered.**
- **It is open to Mr Vasiljković to seek review of the Minister's surrender determination.**
- **It would not be appropriate to comment further.**

SENSITIVE: LEGAL

Background [NOT TO BE DISCLOSED. ANY QUERIES ABOUT EXTRADITION, INCLUDING ANY QUERIES ABOUT THIS MATTER, SHOULD BE DIRETO TO AGD MEDIA / EXTRADITION UNIT.]

Extradition matter – current status

On 15 November 2012, the Minister for Justice determined that Mr Vasiljković is to be surrendered to Croatia to face prosecution for the three war crimes offences for which his extradition has been requested by Croatia. Mr Vasiljković has publicly indicated that he intends to seek judicial review of this determination. Mr Vasiljković remains in extradition custody in New South Wales.

Extradition proceedings - Background

In January 2006 Croatia requested the extradition of Mr Vasiljković in relation to three war crimes offences allegedly committed during the conflict in the former Yugoslavia. Mr Vasiljković was provisionally arrested by Australian authorities on 19 January 2006. On 18 March 2006 the then Minister for Justice and Customs issued a notice under section 16 of the *Extradition Act 1988* (Cth) formally receiving the request for Mr Vasiljković's extradition for the three war crimes offences.

In April 2007 a magistrate found Mr Vasiljković eligible for extradition to Croatia, a decision he appealed in the Federal Court and the Full Federal Court. The Full Federal Court upheld Mr Vasiljković's appeal. Australian authorities on behalf of Croatia appealed the decision of the Full Federal Court to the High Court. On 30 March 2010, the High Court upheld Croatia's appeal and set aside the decision of the Full Federal Court, confirming the magistrate's order in 2007 to find Mr Vasiljković eligible for surrender to Croatia and to commit him to prison to await the Minister's surrender determination. The High Court handed down reasons for its decision on 19 May 2010, finding that the Full Federal Court erred in finding Mr Vasiljković had established he would be punished in Croatia by reason of his political opinion.

Circumstances of Mr Vasiljkovic's committal to custody pending a surrender determination

Mr Vasiljković was released from custody following the decision of the Full Federal Court in September 2009, and was not in custody during the High Court appeal. Mr Vasiljković attended the High Court on 29 March 2010 but could not be located after the High Court gave its decision on 30 March 2010. The AFP located and arrested Mr Vasiljković in northern NSW after 43 days on 12 May 2010. He was committed into custody in Sydney on 13 May 2010. The AFP deployed significant resources in locating Mr Vasiljković following the High Court decision, which attracted media attention.

Collateral challenge to extradition

On 20 September 2010 Mr Vasiljković served an application filed in the Federal Court seeking orders and declarations that he was not an extraditable person under the *Extradition Act*, that he was unlawfully imprisoned, that Croatia only required him for questioning and seeking a writ of habeas corpus and compensation and damages. The application was brought against various Commonwealth respondents (including the Minister for Justice) and Croatia. Croatia waived foreign state immunity and appeared in the proceedings.

In November 2010, the respondents were successful in having Mr Vasiljković's application summarily dismissed. In December 2010 Mr Vasiljković filed an appeal in the Full Federal Court against the decision of the Federal Court handed down in November 2010. On 30 September 2011 the Full Federal Court unanimously dismissed Mr Vasiljković's appeal and awarded costs in the respondents' favour. Mr Vasiljković did not seek leave to appeal this decision to the High Court within the time available to do so.

SENSITIVE: LEGAL

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Media attention

This matter has attracted ongoing media attention both in Australia and internationally, which the Department expects will continue. On 20 November 2012, *The Australian* published an article entitled 'Dragan case could drag on for 10 years.' The author Natasha Robinson wrote that the 'case has sparked calls for Australia urgently to reform the way it deals with alleged war criminals,' that 'lawyers had questioned why the decision took so long' and the 'Attorney-General's Department failed to provide any explanation yesterday of why the extradition decision...took so long.'

Timeline

15 November 2012	A determination is made by the Minister for Justice to surrender Mr Vasiljković to Croatia
30 September 2011	The Full Federal Court hands down judgment on Mr Vasiljković's appeal.
22 August 2011	Appeal is heard by the Full Federal Court. Judgement is reserved. Mr Vasiljković remains in custody.
December 2010	Mr Vasiljković appeals to the Full Federal Court against the decision of the Federal Court.
November 2010	The Federal Court summarily dismisses Mr Vasiljković's application.
20 September 2010	Mr Vasiljković makes a collateral challenge to extradition - seeking orders and declarations in the Federal Court that he is not an extraditable person under the Act, that he is unlawfully imprisoned, that Croatia only requires him for questioning and that he is not accused or charged with the relevant offences and seeking a writ of habeas corpus and compensation and damages.
12 May 2010	The AFP locates Mr Vasiljković. He is committed to prison in Sydney the following day.
30 March 2010	The High Court upholds the appeal and confirms that Mr Vasiljković is eligible for surrender to Croatia. Mr Vasiljković cannot be located.
September 2009	The Full Federal Court upholds Mr Vasiljković's appeal. The Commonwealth appeals to the High Court. Mr Vasiljković is released.
April 2007	A magistrate finds Mr Vasiljković is eligible for extradition to Croatia. Mr Vasiljković appeals in the Federal Court and the Full Federal Court.
18 March 2006	The then Minister for Justice and Customs issues a notice under section 16 of the <i>Extradition Act 1988</i> (Cth) formally receiving the request for Mr Vasiljković's extradition.
19 January 2006	Mr Vasiljković is provisionally arrested by Australian authorities.
January 2006	Croatia requests the extradition of Mr Vasiljković in relation to three war crimes offences allegedly committed during the conflict in the former Yugoslavia.

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