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Dear Paul

**Justice Committee evidence session: the Istanbul Convention**

I have come to the view that I have given an unclear impression on the relevance of the Istanbul Convention in response to a question yesterday from Ms Woods MLA on clause 10 of the Domestic Abuse Bill.

There is, as I noted, an obligation on the United Kingdom to establish a level of extra territorial jurisdiction in relation to any offence established in accordance with the Istanbul Convention. See Article 44 (1) of that Convention.

This obligation in international law does not expand the legislative competence of the Assembly.

What the Bill terms the offence of 'domestic abuse', primarily meets the Istanbul Convention requirement to legislate to criminalise psychological violence (Article 33) and stalking (Article 34), noting that physical and sexual violence, for example are already clearly criminal.

By Article 44 (1), it is necessary for the UK to establish jurisdiction over the new offence of domestic abuse when committed in the UK, on board a ship flying the UK flag, on an aircraft registered under UK law, or by a UK

national or a person who had habitual residence in the United Kingdom (wherever in the world that person is when the offence is committed).

For some offences, the Istanbul Convention requires the UK to establish extra territorial jurisdiction *even if the behaviour is not an offence in the territory where it takes place* - Article 44 (3). These offences are: sexual violence, forced marriage, FGM, forced abortion and forced sterilisation.

The point I hoped to make in answer to Ms Woods' question was that the offence of domestic abuse is not one of those offences. There *must* be extra territorial jurisdiction but it can be limited to situations where the behaviour by the UK national or resident is already criminalised in the country in question.

For the UK to ensure that it is in compliance with the requirement to claim at least some level of extra territorial jurisdiction, the surest way of doing so is through an Act of Parliament as this avoids any doubt over legislative competence.

Yours sincerely

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