

Ministry of Justice determines time spent in overseas prison awaiting extradition cannot be counted as time served

Legislation	Ombudsmen Act 1975, Penal Institutions Act 1954
Ombudsman	Anand Satyanand
Case number(s)	A4998
Date	1995

Time spent in overseas prison awaiting extradition—does not count as time served in New Zealand

A prison inmate complained that it was unreasonable of the Department of Justice not to take account of the time spent in a prison in England awaiting extradition to face charges in New Zealand. This was in spite of an amendment to the Criminal Justice Act which provided that time spent in a penal institution should be counted as time served upon sentencing.

In reporting on this complaint the Department advised that the definition of "penal institution" in s.4 of the Penal Institutions Act 1954 requires the Minister of Justice to gazette land and buildings as a penal institution. Clearly, the Minister has no authority to gazette such land and buildings if it is under another sovereignty.

It was concluded that the apparent anomaly highlighted by the complaint would be best addressed by defence counsel advising the Court of the situation at the time of sentencing.

This case note is published under the authority of the [Ombudsmen Rules 1989](#). It sets out an Ombudsman's view on the facts of a particular case. It should not be taken as establishing any legal precedent that would bind an Ombudsman in future.