

# Northern Ireland Affairs Committee

Oral evidence: [Cross-border co-operation on policing, security and criminal justice after Brexit](#),  
HC 766

Wednesday 18 November 2020

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Members present: Simon Hoare (Chair); Scott Benton; Mr Gregory Campbell; Stephen Farry; Mary Kelly Foy; Mr Robert Goodwill; Claire Hanna; Ian Paisley; Bob Stewart.

Questions 121 – 160

## Witnesses

[I](#): Naomi Long MLA, Minister of Justice, Northern Ireland Executive; and Linda Hamilton, Deputy Director, EU Exit and Victims Support Division, Department of Justice, Northern Ireland Executive.

## Examination of Witnesses

Witnesses: Naomi Long and Linda Hamilton.

Q121 **Chair:** Good morning, colleagues. Good morning, Minister and Ms Hamilton. We are very pleased that you are joining us this morning as the first Minister of the restored Executive in Northern Ireland to find the time to come before the Committee. I am very grateful to you for doing so, particularly after what I understand was a very long and gruelling session last night taking through some very important legislation. We are doubly pleased.

Minister, I would ask you to introduce yourself and your colleague for the record, and invite you to make a few introductory remarks of three minutes or so. Then I will throw you to the tender mercies of my colleagues on the Committee.

**Naomi Long:** Chair, I thank you and the Committee members for the invitation to give evidence to the Committee's inquiry. I am joined this morning by the head of our Brexit team, Linda Hamilton, who will also be able to answer questions as and when required. We welcome this inquiry into cross-border co-operation on policing, security and justice after Brexit. It is a very timely inquiry with the end of the transition period now rapidly approaching without any clarity or certainty as to what lies beyond that. It is understandably a key concern for me and for my Department, the Department of Justice.

A major risk that has been identified for the justice agencies in Northern Ireland and, indeed, for UK agencies operating in Northern Ireland is the impact of the loss of EU measures on data adequacy from the end of the transition period and how this will affect co-operation with the EU and, in our case, Ireland in particular. Negotiations between the EU and the UK are ongoing, but they have been difficult and we have no guarantee of a successful outcome at this stage. I understand that progress has been made on a future security partnership, but I am concerned that this may be impacted by what appear to be significant difficulties in terms of trade and other issues in the wider future relationship negotiations.

For that reason, I would prefer at this stage to see a standalone security partnership agreed, regardless of the difficulties in other areas of the negotiation. Public safety is too important to place at risk. However, from the EU perspective, I am conscious—this was very clear in my time in the European Parliament—that they see this very much as a package of measures and would be reluctant to concede a standalone future security partnership in the absence of a wider future agreement.

A no-deal outcome would be the worst possible option for us, forcing us in most cases to rely on much older and less efficient measures developed by the Council of Europe in the 1950s. These measures would have been appropriate and probably quite innovative for their time, but this is 2020 and times have changed. We should not be going back to old systems and processes that have been superseded by better

arrangements using modern IT processes. We cannot combat 2020 crime and security threats using 1950s tools.

It is also imperative that the UK and the EU agree a future security partnership. However, even if they do, it will not have the same breadth of measures to which we currently have access. The outcome will be suboptimal unless we have the same access to the current IT systems, legal instruments and EU agencies that we currently enjoy. The UK has been clear that it is not seeking to stay in the EU measures but to agree new and similar arrangements. It is highly unlikely that the EU would agree better arrangements with the UK than already exist between member states. It follows that any future security partnership is unlikely to be as comprehensive or as good as what we have now.

We also require a data adequacy arrangement or an interim arrangement to be in place prior to the end of the transition period, in order to allow the transfer of personal data between the justice agencies in the UK and the EU, and specifically in our case between Northern Ireland and the Republic of Ireland. The issue of cross-border co-operation is critical for me as a Justice Minister and it is perhaps one of the more acute ones for us in Northern Ireland than elsewhere in the UK.

Co-operation between operational partners on both sides of the border is currently very good, and it must remain that way. The co-operation is often but not exclusively facilitated, however, by EU measures, which have helped significantly in the fight against crime and organised crime on the island of Ireland and further afield, so we cannot really afford to lose those key EU measures. If we, tragically in my view, exit without a deal, it is imperative that bilateral arrangements are put in place with Ireland to bridge any gaps in capability. This is a function for the UK Government, which alone can negotiate those international agreements.

There is huge uncertainty for justice partners, which I have to highlight. There are only weeks to go to the end of the transitional period, yet we do not know what beyond that will look like. Recognising that we must plan ahead—and we are doing this as best we can to ensure the justice sector in Northern Ireland is as ready as it can be—planning can only go so far in that context. We now urgently need detail on the outcome of the negotiations and clarity, in particular, as to how the Northern Ireland protocol will be implemented in practice, to try to embed a culture of compliance and a culture of lawfulness.

Finally, I want to put on record the excellent co-operation that exists between operational partners and policymakers within Northern Ireland and on a cross-border basis. We also have good co-operation with colleagues in Whitehall. With these good relationships in place and with goodwill on all sides, we should and must exit the transition period with arrangements that facilitate the continuation of as full co-operation on justice matters within the island of Ireland and between Ireland and the UK as is possible. This may be by means of a good security partnership between the UK and the EU or by a substantial bilateral agreement

between the UK and Ireland. Anything else would be a failure of policy-making and negotiation.

I will leave it there. I am happy to answer any questions the Committee might have.

Q122 **Chair:** Thank you, Minister. That was very wide ranging and useful. Is the necessity of close co-operation between Northern Ireland and the Republic on justice and other matters readily understood in both Brussels and Whitehall? Are they seized of the importance of it?

**Naomi Long:** I am aware from my time in Brussels that they are very conscious of the cross-border nature of co-operation. Many of them have land borders themselves so they understand the practicalities of that, whether it is in terms of hot-pursuit protocols, live data sharing or the fact that organised crime extends across boundaries and exploits differences in arrangements. From my experience, certainly on the EU side, in meetings with Michel Barnier and others in the run-up to Brexit and since, they are very cognisant of that.

There is less consciousness, if I may say, from the UK Government. As an island economy and an island nation, there is a tendency to forget that we have to operate in the context of having a close neighbour and a land border to manage. I know colleagues in Northern Ireland are constantly reminding colleagues in Westminster about that. It does present particular challenges. We all have borders, of course, but it is much easier to slip across the Irish border if you are engaged in nefarious activities in either direction than it is to board a plane, a ship or whatever it might be to move between the two islands.

From that perspective, there is sometimes a lack of understanding of just how interlinked and co-operative our agencies are at the moment, but also perhaps a lack of appreciation of just how crucial it is in the fight against crime and organised crime in particular, which is now, as you will appreciate, highly linked into terrorist activity.

Q123 **Chair:** Have you had the opportunity to put these concerns and points directly to Robert Buckland, Priti Patel or Michael Gove?

**Naomi Long:** I have had meetings with Priti Patel, Michael Gove and Robert Buckland. I have probably met most frequently with Robert Buckland in relation, particularly, to the Terrorist Offenders Bill and so on. That is one of the areas where we have had more discussion. He has an appreciation of the particular challenges we face. I also stressed this in a recent meeting I had with Priti Patel, who was in Northern Ireland to discuss other issues. We raised this specifically with her at the time.

Yes, we do have the opportunity. I am sure Linda would want to concur that we have good relationships with officials both in the MoJ and in the Home Office.

Q124 **Chair:** In terms of the day-to-day initiatives and new thinking that, in ordinary circumstances, would be taking place between Belfast and

Dublin, how has the uncertainty of how the transition period might end affected those, if at all?

**Naomi Long:** In terms of practical co-operation, we are continuing with that for as long as that is possible, but we are acutely aware of the limitations that may be placed on that beyond 31 December. That is something that both sides in the discussions are conscious of. I regularly have contact with our counterparts in the Republic, whether that be the Department of Foreign Affairs or Helen McEntee, who is the Justice Minister, my counterpart, in the south. There is ongoing co-operation and contact, and we are all aware of the challenge that exists.

The biggest difficulty at the moment is the uncertainty. While we remain in negotiation mode, we are really not in a position, for example, to scope out the extent of a bilateral agreement that might be needed, were there not to be a future security partnership. The Irish Government are relying on the future security partnership and the negotiations being led at EU level to deliver for them and, indeed, for us. It has not impacted on the current relationships, but there is certainly a recognition that those current relationships would become more difficult to operate, not because of the failure of people's willingness to co-operate but simply because the legal basis on which to do so would no longer exist.

Q125 **Chair:** We heard evidence in earlier sessions of this inquiry—I paraphrase slightly—almost saying, “There is nothing to see here.” With goodwill, personal relationships north-south and potentially temporary or permanent reliance on the older structures that you referenced, going back to the 1950s, everything will be broadly okay in policing, justice, security and the like. If there is no deal and we have to fall back on those agreements from 30 or 40 years ago, what is your assessment of whether the border on the island of Ireland would become an even more attractive route for illegal activity, particularly with regards to the wider UK criminal market using Northern Ireland as a bridgehead?

**Naomi Long:** Those who say there is nothing to see here are clearly not looking. That is the first observation I would make, because there is quite a lot to see. Co-operation, goodwill and good relationships will carry you so far, but will not protect you in a court of law. If, for example, you engage in the exchange of live information and you do not have a legal basis on which to do it, going along to the court and saying, “But we are friends” will not cut the mustard. We just need to be serious when we deal with these issues.

There must be a legal basis for that co-operation. There is no lack of goodwill; there is no lack of a wish for us to co-operate. I have no doubt that there will still be co-operation on a cross-border basis, but there are a number of mechanisms that we will be relying on through the Lugano convention and others that would, for example, complicate the issue of extradition.

In previous evidence that you have taken I know you identified the challenges of extradition, in terms not only of whether people would be

extradited—there is a massive question over how that would operate—but of how long it would take to extradite someone. I do not have the figures in front of me, but perhaps Linda has access to them. We have done some work on that. One of the biggest challenges about extradition is simply the length of time it would take under those older arrangements in comparison to the speed with which we can operate at the moment under the European arrest warrant.

Q126 **Chair:** A colleague can correct me if I do not have the correct figures, but we heard evidence from Simon Byrne that it is somewhere in the region of six to eight weeks under the European arrest warrant and likely to be up to two years without it.

**Naomi Long:** Yes. We have other figures, but that is roughly correct. I suppose our concern is that, in that time, there is every opportunity for somebody to evade justice while we are waiting for that extradition to go through. We have seen that happen before. We also recognise that, in the past, extradition has been a hugely contested space. We do not anticipate that continuing to be the case under these arrangements. It will not be a matter of reverting to the difficulties we had previously.

Even with goodwill, the point stands: we are talking about significant delay in the justice system. With delay in the justice system, you have extra cost. I am taking forward a second piece of legislation, which I have brought to the House this week, to speed up justice through committal reform. There is no point in me trying to shave days off here and there in the justice system if we are going to add something like two years to the length of time to extradite someone for trial.

Q127 **Chair:** I do not wish to caricature the evidence we heard from PSNI, but—whether this was shared by colleagues on the Committee I am not entirely sure—I was struck by not the lack of urgency but the seriousness of the admissibility of evidence, if introduced in a court without having the proper legal frameworks in place so that data could be shared between jurisdictions. Personally, I was not convinced that this was necessarily as sharply realised among the leadership of the PSNI, but I could be wrong.

There is one final question from me, which may be slightly tangential. It may well be that more money is required through block grant or elsewhere to deliver funding for increased policing, justice resource, et cetera. We still have no progress towards the independent fiscal council, which would be a rather useful vehicle for the Executive to make the case back to Whitehall. What is your take on the potential impact of its absence?

**Naomi Long:** There are two things. First, there will be enhanced costs as a result of Brexit. There are a number of scenarios for which the police are planning. There is always in Northern Ireland the potential for unrest, if people are politically disturbed by the outworkings of Brexit. There is capacity for the expansion of black market activity where differentials in tariffs and trade arrangements exist. There is now the spectre of potential shortages of certain goods because of the lack of clarity on the

operating procedures that will be in place at the time. A number of large haulage companies are saying they will not operate into Northern Ireland for the first three or four months. That will potentially spark a black market in goods.

The additional element for which we are preparing is the practicality of dealing with the challenges of all that in a context where we are at severe threat levels in Northern Ireland. Additional funds were provided to the PSNI in order to employ new officers so they could prepare for Brexit. There has not been clarity on whether that funding will continue. At the moment, the Executive have taken it essentially from Covid allocations to allow the PSNI to continue with the officers they have in place. We have not had at this stage confirmation that it will be recovered from Westminster, although I believe there will be future bills.

I personally think the fiscal council is a good thing. The Westminster Government have the OBR; the Irish Government have a fiscal council. I see no reason why Northern Ireland should have less oversight and independent accountability when it comes to budget setting and other things. It is something I would like to see progressed. Without it, it is a challenge for us to make a case to Treasury, not just on this matter but on a whole range of other matters, including, if I may remind Committee members, if I can be so bold, the Victims Payment Scheme, which I am now responsible for and for which there is still a discussion to be had about the financial responsibilities.

Without the fiscal council in place, it will be hard for us to make a coherent case on any of those issues unless we have that done. It was agreed in the *New Decade, New Approach* agreement, and I am really unsighted as to what the delay has been within the Department of Finance in terms of delivery, but it is something I am pursuing with Minister Murphy, because I believe it is an impediment to us being able to make a robust case for additional funding.

**Chair:** Thank you, Minister. On behalf of the Committee, can I thank you for the work that you did with regard to the victims' pensions? It was pivotal. You will know of the interest this Committee took in that issue over a long period.

Q128 **Mr Campbell:** Good morning, Minister. It is nice to see you again. This is on the issue of the potential for no deal and what it might mean on the border. I will resist the temptation to ask what the last four years were all about, but yesterday Simon Coveney said, "No checks, no installations, nothing." Hopefully, within the next week or 10 days, we should have an outcome in terms of whether we have a deal. In the interim period—you have had to work in that interim period for the past number of months—what are you doing within the next week or 10 days that will take account of the possibility of no deal?

**Naomi Long:** We have already planned with respect to what a no-deal outcome would look like. We believe that the measures are in place to allow co-operation to continue. We are highlighting with the Committee

today that there will be gaps in that provision and it will be a suboptimal arrangement, and therefore there will be challenges. It is not to say that co-operation will stop, because that would be unthinkable, but we will be operating in a space that is very complex, if there is no deal.

We will really be relying on how swiftly the UK Government can negotiate some kind of bilateral agreement with the Irish Government. Without that, even some of the co-operation that I believe both sides would be willing to agree will not have a basis in law. It will be challenging, because, despite the good relationship between the Executive and the Irish Government and so on, it is not something that we as an Executive can take forward on our own. It is not something I can prepare for. It has to be UKG that does that, and it is really in their hands to take it forward.

With respect to the spectre of no deal and the concern about that, we will lose the access to EU-wide measures such as the European arrest warrant, EU-wide agencies, such as Europol and Eurojust, and real-time IT systems including SIS II, Prüm and ECRIS. If there is no future security partnership in the context of no deal, you will be aware that we will revert to the Council of Europe conventions agreed in the 1950s and to Interpol. That is not nothing, but it is clearly the worst possible outcome we could have.

From our perspective, we would want to see a future security partnership agreed. Even if it is, we need to be conscious that some of the alternative measures to the EU systems that are in place will not be as good, efficient and effective as the ones that we have at the minute. It will lead to delay; it will lead to additional cost; it will be clunkier than what we are currently using. I will be meeting Helen McEntee shortly to discuss with her again what we can do within the frameworks that are there around worst possible scenarios. At the same time, we do not want to be left reliant on that. We would like the UK Government to be in a position to have agreed a bilateral agreement at the very least, if the full future security partnership cannot be delivered.

**Q129 Mr Campbell:** I would imagine that someone in your position and your counterpart in the Republic would be dependent to some degree on the chief constable's advice and his prognosis for the next few weeks, and similarly with the Republic's Garda commissioner in the south. Are you getting any information that indicates a higher level of concern? Are they content with what they have at the moment? Do they think that things could be better but they could be worse? Where is this at in terms of preparation from the coalface of, in your case, the chief constable?

**Naomi Long:** I cannot comment on operational matters for the chief constable, and certainly not for An Garda Síochána, but I suppose I can give a view of how the chief constable views the Brexit situation and the challenges he faces. I have outlined those already to some degree.

They are concerned that they will be operating without a safety net, essentially, if they end up without the legal provisions in place to be able to continue in the way they do. There will be some difficulties initially

with new processes bedding in, particularly where those processes provide challenges and delays. There are some inherent risks involved in that. They are conscious, as I know you and your colleagues are, about things like the black market economy, particularly around the border, where we already have smuggling in goods, given different VAT regimes and so on.

You then multiply that up with tariffs. It is worth noting that it is not just the future security partnership that will affect policing and justice in Northern Ireland; it is also the economic decisions that are made. If we have increased differentials in tariffs and other issues around the border, we will end up with a potential bonanza for organised crime. The chief constable has been very clear with me about that when we have been speaking. He would be concerned about the growth of the black market. Obviously, consequent to that, you could have quite serious implications for legitimate businesses, which are already under stress due to Covid.

There are also issues, which you will appreciate, Gregory, about trying to embed a culture of lawfulness within Northern Ireland, which we still struggle to do at times. You could end up, by default, with some companies breaking the law because they are unaware that they are breaking the law. You could also end up with others deciding that they are just not going to both abiding by the law because it is too complex and they are not sure how it works. They will just continue to trade as is, but they will do it through the black market economy. You drive people into illegality, because there is a lack of clarity and a lack of understanding of what they are doing.

The other part of this is about the security situation. There are sensitivities that you will appreciate about Brexit, about those who are involved in organised crime, particularly in border areas, and about some of the dissident terrorist organisations. All these things coming together is an unhelpful confluence of challenges. From that perspective, the police have their hands full. They are certainly not sitting back and waiting to see what will happen, but, in reality, they are responsible for the operational outworkings of this; they are not responsible for the policy decisions and the legal frameworks. That is the responsibility of Government, and it is the UK Government who need to do that. It is not something the Assembly has competence over.

Q130 **Mr Campbell:** I am more interested in the chief constable's level of preparedness for the next six to eight weeks, in terms of his conversations with you.

**Naomi Long:** As with everything else, Simon briefs me on a bi-weekly basis. I am actually due to meet him later today, so I will get another briefing now about what is happening. You will understand that accountability in terms of operational readiness for the PSNI is taken account of by the Northern Ireland Policing Board, so he is not answerable to me as Justice Minister on operational matters for policing, although he does out of courtesy speak to me about the challenges. He has raised the issues of uncertainty, the impact that is likely to have on

ongoing operations and how those will not be able to be progressed if there are changes in the legislative and legal landscape in the interim.

It would be fair to say that we all recognise there are challenges. We are all doing the preparation and the panning that we can, but it is scenario planning. Until we actually know the outcome of the discussions, it is very difficult for us to do anything more.

Q131 **Ian Paisley:** Welcome to the meeting, Minister. In your opening statement, you said it is unlikely that the EU can agree a better arrangement with the United Kingdom than currently exists, because it will no longer be in the EU. That is a fair comment, but it does not necessarily suppose that the agreement has to be worse. Have you given any thought to the idea that the agreement could be the same as or equal to what is currently in place? Is that the mindset of the Department, or is the mindset from the position that this cannot be done: "It is just going to be worse and we are not really in a can-do place"? I want the reassurance that the Department of Justice is in a can-do place with regards to getting something that is equal or same as.

**Naomi Long:** With respect, Ian, it is not for the Department of Justice to have a can-do attitude; it is for the British Government to have a can-do attitude, because they are negotiating. We are simply responding to the negotiations and the outworkings of those.

It is not possible for us to have the same as we would have otherwise, because, for example, we know we will not have access to the Schengen Information System. There is an example where we will not have that access already. We have no clarity on data adequacy. Irrespective of a can-do attitude, if we are not able to data share, we are not able to do our jobs on a cross-border basis. A can-do attitude and optimism will take you so far, but unfortunately you cannot cash cheques on that basis. You have to have a legal underpinning for what you do.

With respect, you need to take up the can-do attitude with the UK Government and the EU. It is not for me to be in the negotiations or to be driving that process. We are simply responding to whatever the outworkings of that may be. From our perspective, it is our intention, as you would expect, in order to protect the citizens of Northern Ireland for whom we are responsible, to maximise the co-operation that is possible for us under whatever arrangements are put in place. That is why, for example, we have already taken through some measures in the Assembly to make sure there is a safety net of basic provisions, so we can continue to operate at some level.

I am not going to try to gloss over the difficulties this will create and the challenges it poses to law enforcement, because that is not my job. My job is not to see things through rose-tinted glasses. My job is to see and respond to the reality, and that is exactly what I am doing.

Q132 **Ian Paisley:** But you do not see an arrangement that could be equal to?

**Naomi Long:** I have already pointed out why it cannot be equal to, because we already know there are a number of systems that we will not have access to post-Brexit. We know that already. We do not know whether we will have a data-adequacy agreement in place or even whether we will have interim measures to allow us to proceed. We will already have lost some of those access points, some of which were indeed being further developed, so we will fall further behind where we might have been. You are asking me, "Can we not get the same as?" The same as 2016 will be challenging, but the same as we would have had in 2021, had we remained in the EU, is impossible.

Q133 **Claire Hanna:** Good morning, Minister. I wanted to pick up on that discussion about what happens if, unfortunately, there is no comprehensive EU-UK deal. Assuming that there has to be a separate bilateral justice and home affairs arrangement, what are the priorities for that? How comfortable are you that those arrangements would be delivered in a swift and comprehensive way, if that can-do attitude is there?

**Naomi Long:** At the moment, the important thing for me and my priority is data adequacy, because that underpins all the data sharing between the various justice agencies, not just those that are based in Northern Ireland, the PSNI and so on, but others that operate in Northern Ireland but are UK-wide. Agencies such as the NCA, HMRC and Border Force will all require data-adequacy agreements in order to share in live time the information they need. To me, that is the priority. That is the single most important thing we would be able to do.

In terms of being able to deal with the consequences, if we are going to have a bilateral agreement in place and that is going to be negotiated in time for the end of transition, we need a quick decision on the future security partnership with the EU. As long as those negotiations are going on—I am happy for them to go on until we get a future security partnership, which would be the preference—we cannot engage with the Irish Government on bilateral arrangements. We are shortening the time we have available to make alternative provision as we lengthen the time we are taking to get the main provisions in place.

It is a matter for Government to decide at what point they feel these talks have reached their conclusion. If there is not a future security partnership in place, we need to switch very rapidly to looking at bilateral arrangements with the Irish Government. The challenge is going to be the timing of that, given that it is very short. Even interim arrangements that we have put in place to ensure that not everything disappears immediately will still be very important. That is why we have proceeded on that basis: to put the bare minimum of legal requirements in place in order to build on those. It would need to be done in rapid time and the UK Government would need to decide that it is a priority. It is a priority for me, but you will understand that their priorities may be somewhat different if we are exiting the EU without a deal.

Q134 **Claire Hanna:** You spoke about the relationships you have with those

relevant UKG Ministers. Do you get the sense that they know, if the worst happens, exactly the priorities they need to move on and that they share your sense of urgency?

**Naomi Long:** It is very difficult for me to judge whether other people share my sense of urgency or are fully cognisant of the challenges, but I can assure you that, if they are not, it is not because we have not been raising it. We have been saying this for quite a number of months now. We have put it in writing to colleagues and we have met them. When we have met them, we have stressed those issues. They certainly seem to be aware of them in the conversations we have with them, but, again, the priority they will attach to it in response to any, for example, no-deal arrangement, if there is such an outcome, is hard for me to judge because I do not know what other priorities they will be balancing that against.

Q135 **Claire Hanna:** You spoke with the Chair a few minutes ago about the cross-border arrangements and the structures that currently exist like the joint agency task force. Will there be a need for new north-south cross-border structures?

**Naomi Long:** At the moment, the key is for us to get the legal underpinnings in place for the coalface operation to continue. In terms of oversight, scrutiny and long-term planning, there may well be a need for additional cross-border co-operation. As you know, we are not, for example, part of the main structures around the North/South Ministerial Council; there are particular threads of justice there. Nevertheless, we meet on a regular basis and we work together on a cross-border basis.

I have always believed that practical co-operation between north and south is crucial regardless of the status of the UK within the EU. It is important that we have seamless justice across the island. That is important for the security of the UK as a whole, as well as for Ireland as a whole. It also aids security in Europe, because none of us should be blind to the fact that, while Northern Ireland may be an island off an island off the coast of the EU, it is nevertheless a very attractive place for people who are involved in crime and criminality to try to either bury their profits or, indeed, make new connections. We have seen evidence of that in recent investigations by the NCA. For some of the property they have seized as part of their work, the criminal offences that funded it took place in eastern Europe.

Q136 **Claire Hanna:** You mentioned the North/South Ministerial Council. Of course, it allows Ministers to attend on relevant EU matters even post-Brexit. Have you given any thought to how you will be able to use the North/South Ministerial Council to facilitate co-operation, albeit, as you say, you are not mainstreamed in its structures?

**Naomi Long:** Yes, where possible I will attend those meetings. Justice issues will be under scrutiny at that point in time. It is important that we constantly review our levels of co-operation and continue to work. Outside of that, I continue to meet and to discuss these issues, as I say, both with the Department of Foreign Affairs and the Department of

Justice and Equality. It is important that we do not focus entirely on structures but that we also focus on building up the good, responsive links that we need to identify problems where they exist and respond to them in quick time.

As you will be aware, there is excellent co-operation between An Garda Síochána and the Police Service of Northern Ireland on an ongoing basis. Some of the recent operational success they have had has been achieved by their co-operation but also by bringing in people like the NCA to help deliver on those objectives. We need that to continue. Put bluntly, there are seriously dangerous individuals who are currently behind bars either on remand or because they have been convicted of offences, and they are there purely because of the level of cross-border co-operation that has been possible to achieve. We cannot throw that away, so we have to find a way through this. I am absolutely determined to do that, as are my Irish counterparts. Unfortunately, this will be a matter for the UK Government to lead on. They will need to drive it forward through either the future security partnership negotiations or bilateral agreements.

It is also important to say that any damage done to the Northern Ireland protocol would be of concern at this time, because any undermining of the protocol could create difficulties. The protocol itself is what will allow us to establish bilateral agreements with other nation states. In order for us to do a bilateral agreement with the Irish Government, we require the protocol itself to be respected. Otherwise the capability to make bilateral agreements may be gone.

Q137 **Chair:** Pausing there for a moment, Minister, I have two quick questions. I am going to guess that the answer to my first would be yes. In the circumstances of a no-deal exit on 31 December, it would be enormously helpful to you and your portfolio, and, indeed, those issues for the island of Ireland, would it not, were there to be a short, focused extension of the existing agreements to allow either UK-EU or bilateral Anglo-Irish agreements to be put in place?

**Naomi Long:** Absolutely, we need continuity in the interim. We as a party, and I as a Minister, argued strongly, given Covid, that the transition period should be extended by six months to allow for these negotiations to take place and not be foreshortened by the fact that a number of people were affected by Covid. I also think that Government focus and EU focus will have been impacted by the effects of the pandemic. We want to maintain stability for as long as possible and introduce change in a constructive and organised way.

Q138 **Chair:** As that is not going to happen in a generic extension, are you pressing for, in the event of no deal, a security and justice co-operation extension for, let us say, six months to allow bilateral agreements to be put in place?

**Naomi Long:** It is not something that I can press for. The UK Government would have to take it forward in the negotiations.

Q139 **Chair:** Would you be pressing the UK Government to adopt that position?

That is my question.

**Naomi Long:** We would welcome it, but we are also realistic. The Government have said very clearly that they see the deadline as a hard deadline and they see no flexibility in that. There has been some discussion, for example, of interim arrangements for data adequacy, should a comprehensive deal not be done. We are aware that there are some moves in that direction, but whether it has extended beyond that is very difficult for me to see, because we are not party to the negotiations. We simply made clear to the UK Government our priorities, and our priorities, as I have said, are data adequacy and extradition.

Q140 **Chair:** With your ministerial hat on, you have referenced the protocol of the withdrawal agreement. Considering the protocol versus the Internal Market Bill provisions, when it comes to Northern Ireland, which, in your judgment, is the greater threat and why?

**Naomi Long:** It kind of sums up the conversation that we are now having as a country when we are talking about which is the greater threat. For me, the protocol is not the ideal, and we have never been supportive of it. In fact, I voted against the protocol as a Member of the European Parliament, because it is not ideal. If I can be candid, I much preferred the backstop arrangements under Theresa May, which gave much more flexibility and opportunity for development of collaborative relationships, but we are in a different space now.

The Internal Market Bill is a threat on a number of levels. The reputation of the UK is damaged when it looks as though it does not take international law seriously. It is a bad message to send out to the public in general, and I say this as Justice Minister, that it is okay to break the law in limited and specific circumstances. That is not the case; that is not a defence in law. When the Government say things like that, it is quite disconcerting.

More than that, it undermines confidence and the ability for us to show flexibility, for example, around extensions of certain agreements on the fringes of this in order to allow a smooth transition. That becomes more difficult if the UK Government continue to pursue an act of harm against the protocol, having signed off on the protocol.

Much as I dislike the protocol, this Government chose the protocol; they negotiated the protocol; and they told everyone that the protocol would deliver unfettered access to Northern Ireland. I do not think that is the reality. I never thought it was the reality, but that was what the Government said. Therefore, they have to stand by their own agreements. Otherwise they will find it very difficult to get any further agreements with anyone, and that will be a massive issue in terms of confidence. It will impact on the justice system if we do not get reciprocal flexibility from the EU as a result.

Q141 **Mr Goodwill:** Good morning, Minister. You have certainly underlined the problems that will occur if we do not have access to EU-wide data systems. You used the word "clunky". The chief constable said it would be

like moving from wi-fi to modem. There are a number of important areas that you mentioned in the Northern Ireland Assembly back in September, including access to the Schengen Information System. Ironically, the Republic of Ireland goes online with SIS II on 1 January just at the point we come off. There is also the Prüm convention, which gives us access to DNA, fingerprints and vehicle data.

In terms of some of these "clunky" systems, have you made any assessment of the time delays that might be built in if we do not get access to this data? Will there be cases where it would not be worth bothering trying to get the data, because the offence maybe is not deemed important, so people could go unpunished?

**Naomi Long:** The classic example is the European arrest warrant. We have already alluded to the extensive increase in time around that. Not having access to ECRIS, Prüm, SIS II and so on could create public safety issues. It is not just about time. In terms of ECRIS, it is about being able to establish the criminal background of suspects and those convicted, to support vetting processes for those working with children and vulnerable adults. There is a public safety issue if we do not have access to those; it is not just about cost and time. It makes it much more difficult for us to share that kind of information.

This is why data adequacy is crucial. Once we are able to share information, it is then about how quickly we can share information. Until there is an acceptance that we can do that and there is reciprocal agreement around that, it will be impossible for us to make use of any kind of live data sharing. Even other data sharing may become very complex and subject to individual legal agreements.

It is not only about time and cost; it is also about public protection. For example, the Prüm facility has quick search facilities. That would be really impactful on cross-border co-operation, because biometrics are a hugely impactful tool in terms of what we are able to achieve. Not to be able to do the quick search on biometrics could make it very, very difficult for us to develop further. We are due to add vehicle registrations next year to the suite of measures we had within Prüm. That will not happen, which I suppose is what I was referring to when I was answering Mr Paisley's questions. There are things that are developing: the Irish Government are moving on to SIS II and we were about to develop further our involvement with that project. With Prüm, we were getting more embedded into that system.

If you look at the current timing of where we would be compared to where we will be, there is a major difference. Even looking back, say, to the point when we made the decision to exit the EU, there will be a differential in what we are able to achieve from that period. We will find our way through this; we will have to do so, but it will be much more difficult. There are both costs and public safety issues involved.

Q142 **Mr Goodwill:** When the Committee visited Strabane a little while ago, we visited a school. We were told that quite a number of the teaching staff

and other staff at the school lived in the Republic of Ireland but worked in Northern Ireland. Could this lack of access to data on criminal records mean that it would be almost impossible for a school in Ulster to employ people from south of the border? That could be a real problem, particularly for existing staff. Maybe they would need to renew their verifications.

**Naomi Long:** There are two challenges. Those who are already employed will have already been checked, so to some degree it will not be an immediate problem. If the situation is not resolved down the line, it could become much more complex for future teaching applications.

It is not just that we need an agreement between the Republic of Ireland and Northern Ireland on what might happen down the line. Bear in mind that not everyone who lives in Lifford and works in Strabane was born in Ireland and has lived their whole life in Ireland. There will still be other EU citizens who reside there. Even if we have a bilateral agreement, it will require agreement from the EU that the information the Irish Government glean from their systems in the EU can be passed to the UK for our screening processes through a bilateral agreement. There are complexities in this, undoubtedly.

The priority has to be protecting the public. That is what we are focused on. We are aware of these challenges. Until we have a clear idea of the level of co-operation that can be agreed in the current negotiations, it is very difficult for us to say with any certainty how it will impact on different sectors, other than to say that any reduction in ability to access that kind of live information will be challenging.

Q143 **Mr Goodwill:** Could this have an impact on the prosecution of minor motoring offences like speeding or, indeed, ensuring that people pay the HGV levy that non-UK vehicles have to pay to use the roads in Northern Ireland?

**Naomi Long:** Things like that would not be justice matters. They would fall under other Ministers' responsibilities. There has been a long, long history of people committing motoring offences on the side of the border on which they do not reside, then absconding without paying fines and so on. A lot of that has now been resolved simply because people's registrations and so on are much more readily collected. I am not sure that all of those would fall apart. They would not be subject to things like extradition.

It might be more difficult if there is a more serious incident, for example, that requires prosecution and the ability to return somebody into the court system to face charges. Things like fines and the collection of fines should be simpler in theory, but I would need to check with the Infrastructure Minister about the work she will have been doing in that respect. The more complex area would be where people have to face the courts for motoring offences, even if they are relatively minor. That could be more challenging.

Q144 **Mr Goodwill:** Finally, you said in your earlier evidence that these

matters were a matter for the UK Government. Is it possible, in these areas of criminal justice and co-operation with, for example, the Irish law enforcement agencies, that some kind of Northern Ireland-Irish agreement could be struck, rather than having to have a UK-wide agreement with Ireland or, indeed, the rest of the European Union?

**Naomi Long:** No, unfortunately not. The negotiations under the protocol to do bilateral arrangements would have to be at nation state level, so it would not be possible for Northern Ireland to negotiate. It would, of course, be possible for Northern Ireland to be party to the negotiations by the UK Government, because we would have good insight into what happens.

We are already included as part of the four nations discussions that are ongoing about the negotiations, but we are not the negotiating party. That will remain at nation state level, because international relations are a reserved matter. While it might seem slightly strange to some of us who lead cross-border lives that this is an international matter, it nevertheless is a fact in law that it is. Therefore, it remains a reserved matter.

Q145 **Mr Goodwill:** Simon Byrne told us that there is already very good co-operation between the Police Service of Northern Ireland and its counterparts in the Republic, even so far as having officers in each other's control rooms, et cetera. There is no reason why that should cease if we do not get an agreement. Is that true?

**Naomi Long:** The level of co-operation will continue. The co-operation and the model of collaboration we have seen will continue. The issue will come in the practicalities of what they can and cannot do legally, in terms of investigations, powers of seizure and co-operation on data sharing. Those are all underpinned by the law rather than good relationships. Where the general co-operation, awareness and so on will still be possible, there will not be such a problem.

I know the chief constable and the An Garda Síochána commissioner are both very committed. It is helpful, I have to say, that Drew Harris was in the Police Service of Northern Ireland and intimately knows the challenges of the border area from the Northern Ireland perspective. Indeed, some of those who are now working with him in An Garda Síochána were trained in the PSNI. There is now good embeddedness. Equally, we would have officers from An Garda Síochána who have transferred into the PSNI and work there now. There is good co-operation and collaboration and there are very strong relationships.

As you would expect, the police are taking these issues very seriously, but they are also seeking practical solutions as to how they will work around any difficulties that are there. They are very conscious that they do not want to be placed in a space where the law is either unclear or non-existent. It is important for them to have legal certainty before they embark on investigations and prosecutions.

**Chair:** Thank you, Mr Goodwill. I was tempted to say in relation to your

driving licence questions, "Once a Transport Minister, always a Transport Minister," but there we are.

**Mr Goodwill:** The HGV levy was actually my invention, and it is bringing in millions every year to the UK Government.

**Chair:** If anybody has any complaints about the levy, it is the right hon. Robert Goodwill, House of Commons, SW1A 0AA.

**Stephen Farry:** Good morning, Minister. Long time no see.

**Chair:** I like the respectful greeting there, Stephen. That is good. I like that.

Q146 **Stephen Farry:** We know our place in the Alliance party, let me tell you. I just want to come back to the issue around data adequacy, which has been covered to a fair extent already. I want to explore what is required to receive a data-adequacy recognition decision from the European Commission. To what extent are those issues in the hands of the local agencies in Northern Ireland? Are we largely dependent on the UK Government taking this forward?

**Naomi Long:** It is a good question. Part of the issue is that at the moment we have data adequacy, so one would expect that most of the things are in place. You need to have GDPR and mutual recognition of that. You need to convince the EU that you can manage the data safely and so on. We already have all those bits in place, so in theory data adequacy ought to be one of the simpler things to deliver.

The concern is that, if the UK decides to depart from the current arrangements it has in terms of respect for GDPR, changing the rules around using data and so on, it would then open up this question. The EU will want to tie down the exact terms under which the UK will continue to process and hold data so it meets not just the data standards in terms of security but also things like privacy, human rights and all the other standards. There is quite a challenge in that space to convince them that that will be the continuing way. This is not impossible; it is doable.

This is not just critical in the justice space. It is very critical in the economic space and for business. As you know, one of the challenges we will have is that a large part of our economy is based on the service industry. Data adequacy is crucial in being able to continue with that. This will be a challenging period, but we are well placed to get an agreement. It does require on the EU side for it to be a complete and comprehensive agreement, not just on one point.

Q147 **Stephen Farry:** To what extent is the UK's ongoing commitment to the European Convention on Human Rights a core consideration in these discussions? Do you sense there is a nervousness in that respect? I suppose that point applies not just to data adequacy but also to things like extradition. Is ongoing ECHR compliance a potential issue in this respect?

**Naomi Long:** It is bound to be, because we know the main reason why people will not extradite is because they have concerns about human

rights compliance. If we are, for example, to maintain our current relations with the Irish Government in terms of extradition, it is going to be important that we maintain our current levels of human rights and, indeed, match the EU's improvements where those go. The UK is currently signed up to the ECHR. That must continue post the exit from Europe, because otherwise we could lose the gains we have, to instil confidence in the new arrangements.

I do not have access to the negotiations to know the degree to which that has been discussed as part of this, but it is one of the considerations in terms of how the Government and Government agencies would use data. If the EU has any questions in its mind as to how appropriate that would be, it would potentially make life more difficult. Again, if we remain committed to the ECHR, it is another way of smoothing the passage we have from where we are now to where we are going to be in January.

Q148 **Stephen Farry:** It seems at times that the UK Government are making clear at a very high level their ongoing commitment, but there seems to be a reluctance in the Brexit negotiations and the future relationship negotiations to make that commitment on paper in a very specific way in certain areas.

**Naomi Long:** It is understandable that the EU will be more enthused about having it as a commitment on paper, given the previous commitments on paper around the protocol seem to count for very little. You can understand that they will be more dogmatic than ever in wanting to receive extra assurances that what is said is actually the intent. They will be less likely than ever to rely on taking people at their word, because they do not have that confidence now. That is unfortunate, because it is very hard to negotiate a deal as complex as this unless there is a level of trust and respect for people to be taken at their word. That has been damaged, unfortunately, with some aspects of the Internal Market Bill.

Q149 **Mary Kelly Foy:** Good morning, Minister. You have been very clear that data adequacy is a priority. If the UK is not granted this decision when the transition period ends, what alternative mechanisms could the UK and Ireland employ to facilitate ongoing data sharing? The Northern Ireland Office has suggested that the law enforcement agencies will need to use alternative transfer mechanisms in the GDPR and the law enforcement directive to share data with the UK. Do you think this would be an effective solution?

**Naomi Long:** It would be a solution, but it would not be effective or efficient. This is what it comes down to. This is about real-time sharing of data. GDPR and all those other things are fine for sharing data, for example, if people are doing security checks on an individual or whatever it might be. Those might be able to fill that space. The difficulty will arise when we are talking about live data sharing, for example, in a live operation that is ongoing on both sides of the border. That will be much more complicated and would not really be covered by that arrangement.

I suppose, from our perspective, we want to see to what degree we can maximise co-operation. However, if we have a no deal around this, it will be highly detrimental; there is no alternative analysis that would suggest otherwise. There would still be co-operation, but the loss of the EU measures and the IT systems that we have evolved over many years to build up speed and efficiency would be lost. For example, the Council of Europe conventions around some of this are suboptimal in most cases when compared to the current arrangements.

There are alternatives, but none of them is as good as what we have at the moment. That is why they have to come with a health warning. As an interim measure, they may assist. Even with data adequacy, they will not necessarily be able to deliver at the same capacity as some of the alternative mechanisms. The ideal for us would be for the UK to get the future security partnership, maximise what is included in it, negotiate that and get it delivered.

The EU may have reservations for its own reasons, which I respect, in terms of maintaining the coherence of the internal market and so on. While it might have particular issues with hiving off the issue of the future security partnership from the wider negotiations, those are not my concern as Justice Minister. My concern is that we get a future security partnership, because I believe that is the most robust way forward.

Q150 **Chair:** What are the criminal Bar and the Northern Ireland Lord Chief Justice advising you that they will need in order to bring watertight prosecutions that rely upon data share north-south or from the EU into the courts? What do they need? You have referenced the new legal defence of "limited and specific", which I am sure somebody is going to have to test in a legal case in due course. What are the lawyers telling you they need, so that they do not get tripped up by some tricky defence lawyer? They might ask, "Where did you get this information from?" "It was a pal in Dublin in the police force who told me because we have been old mates, et cetera." "That is inadmissible. I am frightfully sorry—case dismissed."

**Naomi Long:** The Lord Chief Justice and I will be meeting this afternoon. I seem to have a lot of meetings today, but I am meeting with the Criminal Justice Board.

**Chair:** I hope you have some Sanatogen squirreled away in your desk. You have had an all-night session, and now us and the Lord Chief Justice. It is a busy day.

**Naomi Long:** I have to say the justice issues are interesting and complex. They manage to hold my attention even when I am running out of energy. I do not mind. We meet as a Criminal Justice Board this afternoon, so that includes partners. The judiciary is represented by the Office of the Lord Chief Justice. Simon Byrne from PSNI and the Director of Public Prosecutions will be there.

One of the standing items on our agenda is dealing with Brexit. Each will come to this from a slightly different perspective, with the urgency that is attached to their individual situations. For example, the Public Prosecution Service and the judiciary can look at this in slower time because they will build cases over time and deal with issues that are brought before the courts in slower time. Some of this will be developed as case law beyond the exit from the EU. They recognise that there could be real issues.

The people who are under the most pressure are those in the PSNI, because they are doing live investigations and building cases as they proceed with their investigations. For them, the elephant traps about having information that they should not have, having knowledge that should not be shared, and so on, are likely to be much greater.

You are correct, and I am sure that a good defence barrister would want to exploit and expose any weaknesses in that data gathering. That is why the PSNI has been so vociferous in saying that it needs a future security partnership to give the good co-operation that it has a legal underpinning. Without it, cases that it could spend years developing and bringing to fruition—and many of these are complex cases that are years in the development—could be completely undermined simply by inappropriate disclosure between An Garda Síochána and the PSNI at some point in that investigation. It is really important that that does not happen. We need legal security for them to be able to proceed.

Q151 **Chair:** That is looking forward. If one looks forward, but also backwards, for criminal cases awaiting trial to be heard at some point next year, for example, a strong part of the prosecution case is derived from current information share, data share, et cetera, under the rules. We are then outwith those after a no-deal exit and all the rest of it. Has the Lord Chief Justice given you any advice as to the potential for applications to the court for that information and evidence, garnered under a system of which we are no longer a part, to be ruled inadmissible?

**Naomi Long:** Not at this point, no. He has offered no advice on that and I am not aware that that has been a specific problem. I am happy to raise it with him and try to seek his advice on that.

Q152 **Chair:** One can just hear a charlatan defence barrister trying to use every trick in the book to get their client off. In the interests of peace and security, we need to be careful about that, do we not?

**Naomi Long:** Of course.

Q153 **Scott Benton:** Good morning, Minister. You stated that relying upon the 1957 European Convention on Extradition would be a poor substitute for the European arrest warrant. In addition to the obvious time delays that this would create, are you able to expand upon the other problems this would create or, conversely, whether it would provide any new opportunities going forward?

**Naomi Long:** The world has moved on significantly since 1957. I would regard that extradition arrangement as highly inefficient and not sufficient for the needs of today. We have already indicated the differential in the time taken to extradite someone under that. However, I am aware that it will now be topped up by the Extradition (Provisional Arrest) Act 2020, in trying to keep the operational policing capacity of the European arrest warrant with the creation of a new arrest power. That would preserve some of the public safety protections that are currently in place and then use that legal framework for the actual cases. It is slightly more complex, but not comparable to what we have at the moment.

There are other extradition tools that we could look to. For example, there is a Norway-Iceland model that you will be aware of. We could look to model something similar in terms of north-south extradition. I have to say it is far superior to the 1957 convention and very similar to the European arrest warrant. However, it is not identical because it does still allow member states not to extradite their nationals in some situations. That is where the challenges with this really arise.

We know that a number of nation states have already said they will not extradite their own citizens to the UK at this time under the current transition arrangements. Some of those are quite significant. For example, Germany has derogated from this, as well as a number of others. There are already challenges around this where people who would have been happy to extradite prior to Brexit are now not willing to do that for their own citizens.

The Norway-Iceland model also allows for non-extradition on grounds including, for example, political offences. Ireland has made it clear that it will continue to extradite nationals to the UK. The definition of what constitutes a political offence has been tightened, both in case law and in legislation, in Ireland. We will not find ourselves back in the position we were in during the 1970s and 1980s when extradition was a pretty hot-button topic, to put it mildly, but there will still be challenges. We would struggle to put something like the Nordic model or the Norway-Iceland model in place in time. We would simply be dealing with the 1957 conventions.

Q154 **Scott Benton:** The Norway-Iceland model would be one approach going forward. You have alluded to some of the political offences that might not be covered by those agreements. Would the Norway-Iceland model be preferable to a bilateral agreement with Ireland, for argument's sake?

**Naomi Long:** The bilateral agreement with Ireland is a concept rather than a reality at the moment. We would need to look at what was included within that. If we were able to negotiate our own agreement that was comparable but better than the Norway-Iceland model, that would be a major improvement over the 1957 convention. But it still would not be identical to the European arrest warrant. It would relate to people being transferred between Northern Ireland and the Republic of Ireland, which is our major customer when it comes to extradition.

Not all our extradition is north-south; some of that will also include other European nations. We will now have to engage as a country in negotiating our way out of each of those. That is where the challenges arise because there will potentially be different arrangements with different countries that then need to be managed rather than a single arrangement that covers all, which we currently have. That is much more labour intensive and complex, and more likely to lead to mistakes in processing.

Q155 **Chair:** You referenced the idea of bilateral in answer to Mr Benton's question. Bilateral arrangements have been referenced a number of times this morning. We have a situation in the Republic where Sinn Féin has emerged as a very strong political force in the last elections. It certainly sees part of its role as the official Opposition as holding the toes of the Dublin Government to the fire. Against that backdrop, do you see any political impediment coming from Dublin to enter into bilaterals should bilaterals be needed?

**Naomi Long:** No. I do not detect from the Taoiseach or the Tánaiste that there would be any reluctance to continue to work with the UK at all. Indeed, Ireland could, at the point of Brexit, have taken the decision not to agree to extradite Irish citizens to the UK. Germany and others have reserved the right and chosen not to do that.

The political landscape has changed since then. This could undoubtedly become a political issue, which was one of the reasons why I was quite concerned about the loss of the European arrest warrant, not just in the context of Brexit, but previously when Theresa May had withdrawn from part of the justice and security arrangements within the EU and had to opt back into certain parts. You will possibly recall that I raised this repeatedly in the Chamber as an MP, because I was very concerned that we would lose these issues then.

This is a challenge because the political sensitivities of extradition, while they are nothing like they were in the 1970s and 1980s, remain issues that could be exploited. In the context of east-west and north-south relations at any given time, it is very difficult to predict what is likely to be contentious, and what is likely not to be. It is much better for me if the smooth working that we already have is able to continue uninterrupted as far as possible.

I do not believe that the Irish Government would resile from their decisions around extradition because I believe that there is a general recognition that it is important that people face the courts on both sides of the border and are accountable for their actions. There is now a better relationship between London and Dublin, as well as between Belfast and Dublin, around those issues. Of course, after another election, we could be in a completely different political landscape. Indeed, the parties of Government may be very different. It is very hard to predict what the outcome might be at that point.

Q156 **Chair:** I hope it is not too contentious of me to observe. We have heard

evidence in previous inquiries that there is sometimes a disconnect between the verbal commitment toward extradition south-north and how it plays out in real time, with the Irish authorities sometimes being slow, if not unco-operative, when it comes to extradition. Could you just say a word or two about whether that is your assessment and what you can do to bring pressure on the Irish Justice Department to ensure that extradition works?

**Naomi Long:** My perception would be that that might have been the case historically, but it is not currently the case.

Q157 **Chair:** We have been hearing that it is a current perception. It may be a misperception, but it is certainly a current perception that does not refer to times historical.

**Naomi Long:** It is not my perception; that is all I can really answer on that. We have good co-operation. As any state that was going to extradite citizens would, the Irish Government would wish to ensure that, for example, they were content with the means in which they were being extradited, the state to which they were being extradited, the human rights commitments and other things. At the moment, they would be content that those conditions were met.

Extradition is never straightforward or simple, as you will appreciate. The European arrest warrant has de-escalated a lot of the tensions around extradition. It has made it a lot easier and simpler for us to seek extradition from the Republic of Ireland for citizens to come and face the courts in Northern Ireland and vice versa. The Irish appreciate that, as do we.

There is a risk that, when you start to change and impact on the very delicate ecology of political relationships on this island, you can do unintended damage with those changes. You can make issues out of things that hopefully have not been issues of late. Nothing can be ruled out, but it would not be my perception that there was an inherent reluctance to extradite. It would be fair to say that any Government would wish to interrogate the rationale for the extradition. That is just good practice.

Q158 **Mr Campbell:** On the issue of extradition, you are probably aware that party leaders have been queueing up to contact incoming President Joe Biden from this side of the Atlantic. You have probably been in touch as well. As Justice Minister, are you going to make any representations to the US consul-general's office, particularly in light of a photograph that has emerged in the past week or so of Joe Biden with Gerry Adams and Rita O'Hare, who was an infamous person of renown? There was an extradition set-to and argument for a long period, way back. The American Administration need to tread very carefully in future because a lot of people would have taken deep offence at that picture of Joe Biden and Rita O'Hare.

**Naomi Long:** I have not been in touch with the President-elect. I have not had any discussions with him or, indeed, with the current incumbent

about extradition at all. However, I would always caution any politicians from outside the jurisdiction to tread lightly around issues that are highly political. It is important that they are respectful of the political dispensation and lawfulness within our jurisdiction.

The history of American Presidents and Presidents-elect being photographed with high-profile Irish republicans, and indeed others, is nothing new. It has often simply been the case that people were at events and have had photographs taken. There are photographs of Donald Trump at fundraisers for Sinn Féin, and so on, in the US. It is not just a matter for Joe Biden, but I would certainly want to stress it to the US.

I generally find the US consul-general here to be very supportive of the peace process, the rule of law and ensuring that that is upheld in Northern Ireland, and very respectful of the delicacies of the arrangements, the sensitivities of our past and our legacy issues.

Q159 **Chair:** This is obviously an inquiry on cross-border co-operation on policing, security and criminal justice after Brexit. Might I ask you to give a word or two? From an intra-Northern Ireland security perspective, and then looking to north-south issues, we effectively have two opportunities in Parliament before us. One is the protocol, part of the withdrawal agreement, and then the other is the clauses of the Internal Market Bill. The latter provides unfettered access, east-west and west-east. The withdrawal agreement deals with things in a slightly different way. Either or both are likely to potentially generate targets for one side or the other. Which is your greatest anxiety in terms of the security of Northern Ireland?

**Naomi Long:** In terms of what?

**Chair:** Go north-south and, by definition, one creates magnets—I am going to use the word “magnets” rather than “targets”—for nationalist activity. If you do anything east-west, there is the potential for loyalist activity. Which one do you think is the greater threat? Are they equal?

**Naomi Long:** In terms of capability of the organisations, that would be a matter for the security services. It would not be appropriate for me to give an assessment of it as Justice Minister. I have been very clear throughout this process and over the last four years. I believe fundamentally that creating barriers anywhere in Northern Ireland, east-west or north-south, carries with it a high degree of risk. The whole purpose of the Good Friday agreement was that we would minimise the effect of borders and be able to move forward in a co-operative and collaborative way. The importance of borders would diminish and our shared membership of the EU would allow that to be possible. The reintroduction of borders and checks anywhere is detrimental to Northern Ireland.

Look at the issues that we are facing at the moment and the recently highlighted potential for food shortages because certain people will not be able to transfer their goods into Northern Ireland. There is a risk,

therefore, on the sea border of things like organised crime and food smuggling. Food safety issues will arise from that. I know that Minister Poots has been looking at that, given his responsibilities at the Department of Agriculture.

If you put the border on the Irish border, you have the opportunity for cross-border smuggling, building on a network that is already present. There is already fuel smuggling and other forms of organised crime in border areas. The capacity of these organisations to work together in the organised crime sphere, even though they are opposed to each other in the political sphere, should also not be underestimated. There can be cynicism about the ability of these organisations to line their own pockets. They are often quite willing to co-operate in the same organised crime networks even though they may have very different political objectives on the surface.

There are risks inherent wherever you put a border and it is one of the reasons why I fundamentally opposed Brexit. Introducing borders around Northern Ireland, obstacles to trade, obstacles to business, and additional costs and differentials across borders, will automatically lead to a riper environment for organised crime and the black market economy. Ultimately, that feeds para-militarism and terrorism in Northern Ireland.

There is a risk regardless of where you put that border. It may be more sensitive for Unionists if the border or the checks are seen to be in the Irish sea; it may be more sensitive to nationalists if they are seen to be on the Irish border. In reality, regardless of where you put it, there are real challenges of organised crime and feeding the beast that is para-militarism and terrorism in Northern Ireland.

Q160 **Chair:** Minister, thank you. That has drawn us neatly to the end of the questioning. Can I reiterate my thanks on behalf of colleagues for you finding the time this morning and giving us such a full and comprehensive set of answers? Ms Hamilton is obviously auditioning for that TV series *Silent Witness*.

**Linda Hamilton:** It does not happen very often.

**Chair:** She did it phenomenally well. It was not a hologram; we had a Linda Hamilton on the screen, but she restrained herself beautifully. Thank you both for finding the time.

We would be interested, Minister, if you were able, in meetings later today, to raise with the Lord Chief Justice and others their view on the necessity of data reliance in terms of prosecution and defence. It would be helpful if your Department could drop a note to the Committee on any further thoughts you had on that.

**Naomi Long:** Yes.

**Chair:** We would find that helpful to our inquiry. Thank you very much indeed.

**Naomi Long:** Thank you very much for your time, your questions and the opportunity to hopefully assist you with your inquiry.

**Chair:** Thank you. As a Committee, we would like to see these sorts of sessions, discussions, collaborations, and all the rest of it, go on with your other colleagues in the Executive as well. We find them incredibly useful and of great value.

**Naomi Long:** As a former member of the Committee, I have to say that I welcome the opportunity to come and give evidence. I know how valuable and influential the Committee's reports can be. I also have to commend you on your recent interim report on legacy, which has been incredibly helpful in crystallising some of the challenges that my own Department faces in that regard. I am really pleased with the work that the Committee is doing and am happy to co-operate with you wherever we can. Thank you.

**Chair:** We are most grateful, Minister. Thank you very much indeed. Thank you, colleagues.