HOUSE OF LORDS

Select Committee on the European Union

Home Affairs Sub-Committee and Justice Sub-Committee

Corrected oral evidence: Criminal Justice Cooperation after Brexit

Tuesday 3 March 2020

10.35 am

Watch the meeting

Members present: Lord Morris of Aberavon (The Chair); Lord Anderson of Ipswich; Lord Anderson of Swansea; Baroness Deech; Lord Gold; Baroness Goudie; Baroness Hamwee; Lord Kirkhope of Harrogate; Lord McNally; Lord Polak; Lord Ricketts; Lord Rowlands; Lord Soley.

Evidence Session No. 1 | Heard in Public | Questions 1 - 11

Witnesses

I: Professor Valsamis Mitsilegas, Professor of European Criminal Law and Global Security, Queen Mary University of London; Deputy Assistant Commissioner Richard Martin, National Police Chiefs' Council.

USE OF THE TRANSCRIPT

1. This is a corrected transcript of evidence taken in public and webcast on www.parliamentlive.tv.

Examination of witnesses

Professor Valsamis Mitsilegas and Deputy Assistant Commissioner Richard Martin.

Q1 **The Chair:** I will ask you shortly to introduce yourselves to the Committee and the general public. A transcript will be prepared and made public that witnesses will have a chance to review before it is published.

This session will be webcast live and subsequently made available to view via the parliamentary website. Members of the Committee should declare their interests.

Thank you very much for coming. The acoustics in this room are appalling, so will you kindly speak up? If you do not and I ask you again, it is not in any way a criticism; it is because I have not heard you.

Would you like to introduce yourselves?

Professor Valsamis Mitsilegas: Good morning. I am a professor of European criminal law and global security at Queen Mary University of London in the east end of London. It is always a pleasure to be back. I had the privilege of serving both Sub-Committees a long time ago as legal adviser. I was here from 2001 to 2005, which was the golden age of this field of law for the EU.

Deputy Assistant Commissioner Richard Martin: I am a Deputy Assistant Commissioner with the Metropolitan Police, and I am the UK policing lead for Brexit and international criminality.

The Chair: Thank you very much indeed. We have to finish by 12 o'clock, so we will keep an eye on the timetable. I will be nudged from my left if we exceed the apportioned time for any question.

There was an exchange in the Lords yesterday on part of this very issue when Lord Paddick asked about the Government's assessment of the impact of the UK withdrawing from participation in the European Arrest Warrant, membership of Europol and membership of Eurojust. In the course of the exchanges, lots of hopes and expectations were expressed. I asked whether the situation after withdrawal would be as effective as it is at present. Baroness Williams of Trafford answered, "I would hope it will be enhanced".

Quite a lot of expectations, hopes and "shoulds" littered the exchanges in the House. What is your general assessment of the Government's plan to pursue a separate international agreement with the EU on law enforcement and judicial cooperation in criminal matters? The Government are confident. The Committee would like to know your view of that position.

Deputy Assistant Commissioner Richard Martin: From a policing point of view, it depends on what that agreement lands. We are very much about capability, so from a policing point of view I would not want to see any dilution in our capability to use our powers of arrest, to extradite people and to work with overseas partners.

The European Arrest Warrant has been mentioned recently. I know the Government are seeking a Norway-Iceland agreement, which is slightly different, but from a policing point of view the European Arrest Warrant has allowed us to fast-track extradition and given us the power to arrest people who are wanted overseas. As long as we get something very similar that allows us to do that and does not dilute that capability, whatever it is called and whatever the framework, it is fine.

We are very active members of Europol. We do a lot of work. Its Director-General used to be a British guy. It is fair to say we are one of the most active users of a lot of its systems, and we work very effectively with our overseas colleagues. Depending on what that negotiation yields us, we would like still to have the ability to influence and be part of Europol. Even the UK Government's negotiating mandate says they would like a bit more than what third countries traditionally get from Europol because of our role, remit and stretch. I would like to see that in the same frame as well.

Eurojust is slightly different. We use Eurojust to create joint investigation teams. We can still do that under the 1959 Convention. The only difference is that it does not come with funding. We can create one, but not under the auspices of Eurojust. There is still a capability there, but that will impact on some forces in being able to do things efficiently and quickly.

Therefore, whatever the framework is, as long as we do not dilute the current capability, that is fine, but I do not know the answer to that yet.

The Chair: Will the situation be as effective afterwards as it is now?

Deputy Assistant Commissioner Richard Martin: If we have the same capability, yes; if we do not, no.

Professor Valsamis Mitsilegas: I would like to make two points, because I think you asked more than one question. The first is a more legal/technical point: can there be a separate EU-UK security treaty? If you look at the negotiating mandate, you see that there is currently a difference of approach between the two sides. The European Union seems to be hoping to have a single legal framework for all areas of law after Brexit—it wants to negotiate trade and security at the same time. The UK Government are clear in their guidelines that they would go for a sectoral treaty separately from the trade negotiations. I am not really sure what will emerge after the negotiations, but, just on the politics of that, currently it remains to be seen what we will have.

On effectiveness, I defer to the expert witness, but we need to be clear that what is happening now in the post-Brexit reality is what could be seen as damage limitation for the United Kingdom. When the United Kingdom was a member of the EU it was part of a highly integrated system for judicial cooperation—you mentioned the European Arrest Warrant—and policing. The UK arguably has exported to the EU the system of mutual recognition in criminal matters. In 1998, Jack Straw proposed the European Arrest Warrant and the model of intelligence-led policing that now

governs the activities of Europol to the Cardiff European Council. Rob Wainwright was a very effective director of that for many years.

Now that we are pulling back, it is essential to maintain the status quo as much as possible to ensure effectiveness, but the EU negotiating guidelines clearly state that the UK will be treated as a third country and—I think we will come back to this in later questions—a non-Schengen member state, which is very important in the context of our analysis.

Q2 **Baroness Deech:** My question is about the realism of an agreement and the impact of our not getting one. With the kind help of Mr Mitchell, in the past few days I asked about the impact and was provided with statistics. Apparently, we get back from the whole of the EU only about 100 suspects a year and export to the whole of the EU only about 1,000 a year. I was surprised at how small those numbers were.

It also struck me, reading your reports, that many requests are held up because the requesting country, on the face of it, does not comply with human rights—places such as Bulgaria and Romania. Assange was not extradited to Sweden in the end because it took so long.

Given that background—that it does not always work out as fast track and the numbers are rather small—will there be a very big impact if we do not have an agreement and rely on the bilaterals that we have?

Deputy Assistant Commissioner Richard Martin: Before we had the European Arrest Warrant, we probably extradited about 60 people a year. Since we have had the European Arrest Warrant, that has grown to about 1,400 or 1,500, although you have available the most accurate figures. As you quite rightly said, we have an 8:1 ratio on this. For every nine people we arrest, eight are extradited, most of whom are foreign national offenders.

I am pretty sure that, if they are offending overseas, they have been offending here as well, so, if you do not have some system to be able to do that—whether it is called a European Arrest Warrant, a Norway-Iceland agreement or whatever it might be called—it becomes more complex. Extradition is complex. It would end up being done under Part 2 of the Extradition Act. That makes things slower and more cumbersome. Although there is a Bill going through Parliament, there is no power of arrest for a Part 2 extradition.

You could end up with a police officer on the streets carrying out a check on someone through the Interpol system. If we do not have the Schengen Information System any more and that person is wanted for murder in Poland, for instance, we have to go to Westminster Magistrates to get a warrant before we can arrest him. There are no other grounds for detaining that individual.

If we have the European Arrest Warrant, or whatever the new system might be called, it allows us to process that much more quickly and effectively. I would much rather get rid of 1,000 people who will be offending here than I would 50.

Baroness Deech: How does this compare with the many other countries with which

we have bilateral extradition agreements?

Deputy Assistant Commissioner Richard Martin: You mean non-EU member states.

Baroness Deech: Yes.

Deputy Assistant Commissioner Richard Martin: The numbers are pretty small: probably 30 or 40 a year with other countries. The European Arrest Warrant allows us to greatly speed up the system. It is a system of mutual recognition, as has probably already been mentioned; it means it has gone through a system of quality assurance before the warrant is placed on it; and it means it is almost case-ready—it is ready to be prosecuted. There are checks and balances in the system before we start circulating those pieces.

For any of the tools we use currently, there are back-ups on which we can rely, but most of them are slower and more cumbersome than the ones we have currently. Effective policing is intelligence-led, as the professor said, but it is also about being fleet of foot and able to do things and exchange information and intelligence quickly, almost in real time, and act on it. Anything that stops us doing that causes us problems.

Professor Valsamis Mitsilegas: Speed and closer relations with counterparts in EU Member States are of the essence here, not only on the European Arrest Warrant but elements such as mutual legal assistance, which is hugely important, and perhaps more the day-to-day work of our authorities than the European Arrest Warrant. That EU law currently provides a system based on speedy cooperation. The deadlines for extradition and mutual legal assistance requests have been substantially shortened.

The challenge for the United Kingdom as a third country is that, even with an agreement, it will no longer have the same priority as all the other EU Member States in how speedily requests are executed. All the EU 27 have to comply with the 30-day surrender request under the European Arrest Warrant for a framework decision, for example. The French authority might prioritise a European Arrest Warrant from Romania or Slovakia over an extradition request from the UK because the UK is a third country.

This is key and needs to be looked at in the text of any agreement. If you look at the mandate, you see that there are provisions where there is an ambition from both sides to have a speedy exchange, which is promising, but there is also how this is implemented in practice. I think that for the UK authorities the challenge is to maintain the relationship of trust with counterparts in EU Member States.

The Chair: Gentlemen, is the Government's hope of getting an agreement by the end of the year realistic? Commissioner, what would happen if there was no deal?

Deputy Assistant Commissioner Richard Martin: I am not a negotiator. I hope they will. I would defer to my learned colleague on my left on whether that is possible. The problem is that if we do not secure an agreement by 31 December—the end of

the transition period—we will fall back on our contingency planning. For instance, if there is no European Arrest Warrant, we go back to the 1957 Convention on extradition. If there is no Schengen Information System, we go back to the Interpol system.

There is something for everything, but we come back to the point that a lot of the things we are talking about will not be as speedy and in real time.

To respond to the Baroness's earlier question, we talked about the European Arrest Warrant, but, if you take the European Criminal Records Exchange System, ECRIS, at the moment if we do a check on somebody's foreign national offending, ACRO—the body that does that on behalf of policing—would say that, if there are no criminal convictions, it comes back pretty much instantaneously. Its average for EU Member States is about six days to get the records either overseas or back. If we were not part of that exchange system, it is reckoned that the average would move to 66 days. There is quite a tangible difference.

Lord Rowlands: I had the privilege of serving on a Select Committee of this House five years ago that took evidence on extradition. There were very considerable concerns about the use and misuse of the Arrest Warrant. Do you think that over the past five years those have been corrected, largely speaking? Is the Arrest Warrant now better than it was five years ago?

Deputy Assistant Commissioner Richard Martin: Yes. I think there are more checks and balances in the system. When a European Arrest Warrant is issued by a Member State it is looked at not only by a central department in the Home Office but by the National Crime Agency, which carries out the process. There are more checks and balances to make sure it is a reciprocally serious offence for us to act on.

Lord Anderson of Swansea: Are there deficiencies in the Convention other than just speed?

Deputy Assistant Commissioner Richard Martin: Are there efficiencies? Speed is a really important one. There is no power of arrest for Part 2 countries, as I have already articulated, although there a Bill is going through the House for some of those. It takes longer; it is more complex; there is a lot more legality involved; and we might not want to extradite to some of those countries because they do not have the same human rights approaches as we expect.

Lord Ricketts: I want to come back to the issue of how realistic it is to secure an agreement by the end of the year and ask whether it has to be black or white. In other words, does it have to be one single security agreement, or, if we cannot get that, could we go for an ad hoc arrangement on Schengen or Europol on arrest? I have always been worried that trying to wrap it up into one could make it more difficult to do, particularly by the end of the year.

Professor Valsamis Mitsilegas: My view is that legally it is feasible certainly to have an agreement by the end of the year, or more than one. The question of whether

there will be such an agreement is a purely political one and depends on how it will be negotiated and whether it will be viewed as part of a package of give and take in negotiations, but legally it is possible.

There are precedents. We should not forget that the UK was part of the EU acquis and has been operating the European Arrest Warrant, so I do not think it will be difficult to draft provisions. I think you are right. There is nothing to stop sectoral agreements. You could have an agreement on extradition, for example. That would be more cumbersome in its entry into force because, if you want a speedy system, or you would like to maintain the current system that would be in force until the end of this year under the Withdrawal Agreement, you might be better off having an overarching agreement, or at least something that covers judicial cooperation in criminal matters, but nothing stops you having sectoral agreements.

The experience of the EU with third countries is to have sectoral agreements. There are agreements with Norway and Iceland on extradition; Europol has agreements with third states and so on, so the two are not mutually exclusive.

Q3 **Lord Kirkhope of Harrogate:** In a moment I shall ask the professor to define "legal autonomy". I had the privilege of being involved in the drafting of most of these things in Europe: joint investigation teams; ECRIS; SIS II; the European Arrest Warrant; GDPR; and latterly PNR. All those are dependent on what I would loosely describe as an autonomous European system. In other words, the Europeans have clear rules and regulations attached to the implementation of all of them, in particular for the delivery of any of them across Europe in real time, which is the main value, as I think the Deputy Assistant Commissioner mentioned, in some of them.

The issue is the clash of two autonomous systems. The British Government have made their position clear. The Europeans are working on the basis that the rules are absolutely clear for the protection of all countries—who can have access to information, for instance, and who can be involved in co-operative efforts in Europol, which is a largely British-designed operation, as we know. Where is the breakthrough? To what extent can we have legal autonomy? Is that an internal consideration only, or to what extent are those two autonomies clashing in a way that is completely irreconcilable?

Professor Valsamis Mitsilegas: When I read the questions I thought how to answer the question on autonomy. We need to think very carefully about it. You hinted at it in your question. What do we mean by "autonomy"? It can be used by politicians to say, "We will keep our autonomy", but what is "autonomy" in this context? For every state that concludes an international agreement with another state, to what extent does it give away its autonomy?

What you hinted at—because you are one of the leading experts on this—is: to what extent will the EU accept cooperation with a third country, which effectively means following EU law? That is the key question in these negotiations. How much access do you give with some internal acquis when you have a third state? The

answer is not a single one. It is easier when the system is already bilateral; it is easier for both parties to claim that they preserve their autonomy in judicial cooperation in criminal matters—for example, in extradition—if they agree a common set of safeguards. I do not think that is impossible, but it is much more difficult when you have integrated aspects of EU law, including EU databases.

You probably have further questions and I will not go into that in detail now, but it is a big challenge for the UK to maintain even a close relationship compared with what it had as an EU Member State because, as you know perfectly well, there are EU internal rules on access. When I was reading the UK negotiating guidelines I was very interested that they say, "We really want it to be based on the precedents", but, first, the precedents do not give you the same access that you had as an EU Member State; and, secondly, the closest precedents involve third countries that are members of Schengen, and the UK is not in that position.

The EU negotiating position makes it very clear. It says, "We see the UK as a third country that is not a member of Schengen", so you cannot have as close a relationship as Iceland and Norway have because they do not have internal borders between them and Sweden, for example—hence in the databases you could say there is a differentiation.

I think "autonomy" is used for political purposes. It can mean many different things—we can write books about it—but clearly the answer is whether the two parties can find a level playing field that they are happy with, where both systems and values are respected in the future relationship.

Lord Kirkhope of Harrogate: You could argue that internally the autonomy of our legal system was adversely affected by the incorporation of the Human Rights Act, which effectively destroyed our common law system. There are various arguments about autonomy, but I wanted your views because there is an issue with cooperation. One always wants to co-operate—no doubt our European partners want to co-operate as well—but would the constraints that exist, partly because of the declaration of the British Government about their own autonomous legal system and partly because of the inevitable controls that exist through organisations within Europe, militate against the co-operative effort succeeding?

Deputy Assistant Commissioner Richard Martin: I have never yet met an international partner who does not want to continue working with us and the cooperation we have. As the professor already said, there are significant challenges. I look at SIS II, the Schengen Information System. We talk about autonomy, but part of us having access to that system means we are inspected on a regular basis and we have to comply with certain rules, as we do with any other database. I think that will be a real challenge.

The Chair: I suspect it is the practical implications of different philosophies that are important and how they are going to work out.

Deputy Assistant Commissioner Richard Martin: Yes.

Baroness Deech: I believe that Germany refuses to extradite any German national, full stop, yet it is within the European system. Is that not an exercise of autonomy?

Deputy Assistant Commissioner Richard Martin: That is part of the transition period. Every country has the ability to elect, under Section 185, not to extradite its own nationals. Only three countries have enacted that during the transition period: Germany, Austria and Slovenia.

Lord Kirkhope of Harrogate: From outside the EU.

Deputy Assistant Commissioner Richard Martin: Yes.

Q4 **Baroness Goudie:** This is an issue I feel very strongly about. Will the tension between the Government's view that an agreement should not specify how the UK or EU protect and enforce human rights and the EU's desire to make compatibility with the ECHR and judicial guarantees for a fair trial a condition of any agreement undermine the parties' ability to reach a successful outcome? This is a very serious issue.

Professor Valsamis Mitsilegas: I do not think the UK can have a very close relationship with the EU if it leaves the European Convention on Human Rights. It is clear in the Commission's negotiating mandate that you can have a relationship with the EU. After all, The EU has an agreement with the United States on extradition and the US is not party to the European Convention on Human Rights, but there is a common understanding and set of benchmarks on human rights.

You cannot have a European Arrest Warrant-light if you are not part of the ECHR. It is very difficult in accessing police data to have close cooperation if you are not a signatory to the European Convention on Human Rights, so the "how" is important. This emerges from the EU mandate as a very strong red line.

Interestingly, a case was decided by the European Court of Justice a few months ago. An Irish court asked the Court whether it should continue to extradite people to the United Kingdom after Brexit or whether the UK's human rights protection would fall. The European Court of Justice said it should continue to extradite because, after all, the UK was part of the European Convention on Human Rights. This is a safeguard that comes from the Court of Justice, if you like. The Court of Justice does not demand of the UK that it has the same human rights standards as the EU. It did not talk about the Charter of Fundamental Rights, which is the EU source, but the ECHR serves as a very good benchmark and is also a very good trust factor, if you like. Apart from the legalities of it, it is also a trust-building measure. If a country leaves the European Convention on Human Rights, I think it sends a very strong message against cooperation.

Lord McNally: For clarification, frequently there is confusion that the European Convention is a document of the European Union.

Professor Valsamis Mitsilegas: It is not.

Lord McNally: It is of the Council of Europe. Does that make any difference to how this matter should be treated by the British and by Europe?

Professor Valsamis Mitsilegas: On the contrary, I think it provides a get-out clause. After Brexit it becomes the default of protection. It is an instrument that reflects European consensus on human rights, and this is accepted also by the European Union. I think the ECHR would facilitate further cooperation after Brexit rather than hinder it.

Baroness Goudie: On the European Council—I used to make sure that various parts of the legislation were implemented—how strongly do you think the Government will participate in the Council of Europe? Although we have Members of both Houses, clerks and so on involved, how do you think they might view the Council of Europe?

Professor Valsamis Mitsilegas: I think there is potential with the Council of Europe after Brexit. The Council of Europe is an unsung institution. We talk a lot about the European Convention on Human Rights, but recently the Council of Europe, as Lord Kirkhope knows very well, put forward very innovative standards in the field of criminal law. There is a Convention on the prevention of terrorism—foreign fighters and so forth—and the EU was very strong within the Council of Europe in influencing the Council of Europe's standards.

The UK might be thinking about a similar role in the future because, if you have Council of Europe standards where both the EU and UK converge, it is much easier to use the standards as a basis for cooperation. The Council of Europe may be used more. I am thinking aloud now. Unless it is politically impossible, nothing stops the Council of Europe modernising its very old conventions on extradition and mutual legal assistance to bring them up to speed given technological developments and so on. This can serve as a proxy, if you like, for the European Arrest Warrant or European Investigation Order, but you would have both EU and UK input in that. That may be an avenue for more cooperation in the future.

Baroness Goudie: Thank you so much for that helpful answer.

Lord Gold: It could be quite a face-saving device.

Professor Valsamis Mitsilegas: It might be.

Lord Anderson of Swansea: I sit on the committee that selects the judges for the ECHR. In terms of extradition, membership of the Council of Europe and the ECHR is not in itself decisive, because the Court has ruled in respect of Greece—I do not know about Bulgaria—that given the prison conditions, there need not be extradition.

Professor Valsamis Mitsilegas: Yes, but this is in addition. What courts are saying is that just because you are a member of the European Convention on Human Rights we should not assume that you respect human rights in every single instance, but if you are not even a member of the Convention this presumption is even lower, in a

sense. If we know that you are an ECHR member and have poor prison conditions, so we do not execute a European Arrest Warrant, what would you say about a country that is not even a party to the Convention?

Lord Anderson of Swansea: We know there are serial offenders, such as Turkey and Russia.

Professor Valsamis Mitsilegas: Yes.

The Chair: We come back to Lord Paddick's question yesterday in the House.

Q5 **Lord Rowlands:** Now that the Government have turned their back on the European Arrest Warrant, what are the alternatives? Tell us something about the Norway-Iceland relationship. How does it compare with the effectiveness of the current arrangement?

Deputy Assistant Commissioner Richard Martin: I am sure the professor will cover the law, but from a practical point of view the Norway-Iceland agreement would, if we were able to negotiate it, allow all the 27 Member States of Europe to remain in Part 1 of the Convention on extradition, which means there is a power of arrest instantly. We do not need to get a warrant to arrest people. It does not wholeheartedly exclude countries from extraditing their own nationals, but it is based very much on an agreement basis—whether you agree or do not agree on a bilateral basis—in a way, which is different from Part 2 of the Extradition Act.

It is not dissimilar in some ways. If it is recognised, it will be as quick and efficient as the current process with the European Arrest Warrant. The only difference is whether countries respect the fact that they will extradite their own nationals.

Lord Rowlands: In the case of Norway and Iceland, how many cases have there been?

Deputy Assistant Commissioner Richard Martin: They have only just signed the agreement. I think it took 13 years to sign it. It was bouncing backwards and forwards for quite some time, so I do not know how many arrests have been made in that process.

Lord Rowlands: I think it is worth reminding ourselves that before the European Arrest Warrant, we had British criminals sitting in sunny Spain happily avoiding justice. I think it was Operation Captura that resulted in about 60 of those criminals being brought back to Britain and tried. Is there any danger that if we do not get a settlement we will have these kinds of havens?

Deputy Assistant Commissioner Richard Martin: I think it will be more difficult to extradite individuals, yes. Without having a European Arrest Warrant or a Norway-Iceland agreement, or whatever the mechanism is, it will be harder for us to extradite and get people back.

Lord Rowlands: There have been very effective arrangements by almost all European countries on extradition.

Deputy Assistant Commissioner Richard Martin: Yes, very much. Prior to the EAW we probably extradited 50 to 60 people a year; now it is more like 1,500. We also arrest under the European Arrest Warrant. Most of those go back; they are extradited. For my officers on the ground doing a normal stop check, they are checking what they think is in the Police National Computer. That automatically checks the Schengen Information System. If there is an alert stating that that person should be arrested, they arrest them there and then. It is a very slick process.

Lord Rowlands: Would the Norwegian-Iceland agreement be similar?

Deputy Assistant Commissioner Richard Martin: I think the powers of arrest will be. It will depend on what information system we negotiate. If we are not successful in negotiating and keeping the Schengen Information System, which we checked 603 million times last year—it has 2.9 million UK alerts on it and is a really good system integrated into our main Police National Computer—and we have to rely on, for instance, Interpol, or some other system that is set up, things will start to become slower.

Lord Soley: My question follows from that. The Extradition Bill that is currently going through Parliament says in the Note to the Bill, not the Bill itself, that it will be possible, if we fail to get agreement on an alternative to the European Arrest Warrant, to extend that Bill, when it becomes law, to all the other countries of the European Union.

Lord Ricketts: Or some.

Lord Soley: That could be done without taking primary legislation through Parliament; in other words, you could do it through the short-circuit system. Do you think that is a realistic alternative? Could it be brought in? It is clear that the legislation proposed is designed to fill that gap, if it happens.

Deputy Assistant Commissioner Richard Martin: The power of arrest is really important and we have been pushing for it through policing for probably the past two years. We have been saying that, if we ended up leaving the European Union and everything became Part 2 extradition, it would become much more cumbersome and difficult.

I always come back to the example of putting officers in a very invidious position where they have somebody in front of them who might be arrested but cannot be because there is no power of arrest. They have to go and get a warrant.

For me, that power of arrest is really important and fills some of that gap, but I come back to what sits behind it. How do we know that that alert has been created? Is that power of arrest going in live time on to a system to which our partners will have access?

To come back to Schengen, not all of our European partners automatically put people who are wanted both on Schengen and the Interpol system, because they do not need to; they have an automated system. If we do not have Schengen as well, in

the future there might be wanted people we do not know about. We will not be able to see them because we do not have access to Schengen.

The power of arrest in the extradition piece is very much linked fundamentally to the system. You have to be able to notify alerts and know people are there. That is everything from vulnerable missing people all the way through to people you want to track, so the two go hand in hand.

Lord Soley: It is the whole package that matters.

Deputy Assistant Commissioner Richard Martin: For those two, definitely.

Q6 **Baroness Hamwee:** I apologise for not being here at the very start of your evidence.

The Government's publication on their approach to extradition negotiations, talking about basing the arrangements on the Norway and Iceland agreement, states "but with appropriate further safeguards for individuals beyond those in the European Arrest Warrant". Do you know what they mean by looking for appropriate further safeguards beyond the EAW?

Professor Valsamis Mitsilegas: My guess is that the issue of safeguards is related to human rights safeguards. You may remember that when the European Arrest Warrant was first implemented in the United Kingdom, via the Extradition Act, there was a very big debate about the fate of British nationals who had surrendered in other EU Member States where the system of justice was not deemed to be adequate. Currently, at least on paper the European Arrest Warrant system is speedy and quasi-automatic, so the idea is to have further safeguards on what will happen to the individual once they have been extradited. In what kind of prison would they end up and so on? I do not think this would be very difficult to achieve.

On safeguards, EU law has changed a lot. In the past three or four years there has been a series of cases in the European Court of Justice where human rights are taken much more seriously. Therefore, the authorities in executing the European Arrest Warrant must check whether extradition would comply with the Charter and European Convention on Human Rights in future, even if this sacrifices speed. The European Court of Justice says you must make sure that when you send a person to another EU Member State you do not automatically assume that this state respects fundamental rights on the ground. If you are in doubt, you should check.

That is my understanding of the safeguards. There are probably additional human rights safeguards, with perhaps grounds to refuse to execute or extradite if you are concerned about human rights. I do not think personally that this would be a deal-breaker in negotiations. I do not think the EU will say, "Not to have it is a red line for us". I think the devil will be in the detail and wording to be found there, but this is already something that is happening within Europe. That is my take on it.

Baroness Hamwee: Are you suggesting this would be on a case-by-case basis?

Professor Valsamis Mitsilegas: Yes.

Baroness Hamwee: That is going to add more work for Horseferry Road.

Professor Valsamis Mitsilegas: Yes, it will, but the British authorities already examine the human rights implications.

Deputy Assistant Commissioner Richard Martin: That is built into some of the no-deal planning as well; it has been running in the Home Office for some time. As you know, we went through a number of dates before we exited the EU and some of that planning has been about demand volume, whatever that might mean, for parts of the system.

The Chair: I think Q6 has been answered, unless Lord Polak wants to come in.

Lord Polak: Not only has it been answered; it has been asked.

Q7 **Lord Gold:** Baroness Deech touched on this item when she mentioned Germany. Article 185 of the Withdrawal Agreement allows any EU Member State to invoke "fundamental principles of national law" to refuse to surrender its own nationals to the UK in response to a European Arrest Warrant issued during the transition period. What impact do you think that will have on UK law enforcement, and which Member States will rely on it?

It occurs to me, thinking back to the statistics, that, if we decided to invoke that, EU countries would suffer a bit more than we do. We have only about 65 people coming in, whereas I think there are over 1,000 being "exported", to use a term that I rather liked to hear used earlier.

Deputy Assistant Commissioner Richard Martin: Only three countries have enacted Article 185. If they have not declared it, they cannot do so now, if I am correct. The numbers are tiny.

Lord Gold: Apart from Germany, which are the other two?

Deputy Assistant Commissioner Richard Martin: Germany, Austria and Slovenia. They are very small numbers. While they will not extradite their own citizens, if those citizens decide to move across the border into another country they are fair game. We could obviously arrest them there. We can prosecute in that country, although that adds complexity, money and everything else. They are small numbers. I do not think it will make a massive difference.

On your point about the people we 'export', for want of a better word, that is to our benefit, too. I very rarely meet criminals who have not committed crimes somewhere else who will not be doing it to us as well, so for me it is a win-win.

Lord Gold: You said much earlier that if things are not agreed it will all slow down. I wondered what the mischief of that was. If it means that people we want to arrest skip the country, that is not necessarily such as bad thing.

Deputy Assistant Commissioner Richard Martin: If criminals who are committing crimes want to go abroad and stay abroad, I am very happy about that. If they are

here and we would like to get rid of them, I am all for quick systems to do that to make sure we keep our communities safe.

Part 2 of the Extradition Act concerns countries that are not part of Europe and may well be in the future. Up until about 18 months ago the only unit in the country that dealt with those cases was the Metropolitan Police. It was something that had been done for years and years. That is no longer the case. Now, each force has to deal with it themselves, and the expertise is not there and it is a more truncated process. It is much more difficult for forces to be able to deal with that.

As part of our contingency planning, you probably know that we have created the International Crime Coordination Centre, which sits under my command. It is the first time in UK policing that we have ever had a group of experts sitting in London who are there to give practical advice and bring in overseas partners for operational meetings to help officers plan anything that has an international link.

The critical thing is that it is not just about crime; it is everything from officers dealing with a road traffic collision that might involve a foreign national, a witness or a vulnerable person. It is not just crime. Everything we deal with now tends to have an international link because of the way the world has shrunk.

One of the things we have looked at in our no-deal contingency planning is centralisation of that extradition process, again having a bunch of experts sitting in the middle as part of that ICCC unit under me to do extraditions. That is one of the bids we have put in to Treasury to say this is a much more effective way of doing this. We have to fall back on a contingency, which we know is not as good as what we have currently. It does not mean we should not try to make that a bit better.

Lord Gold: I agree.

Lord Polak: Is the Met subsidising the rest of the country?

Deputy Assistant Commissioner Richard Martin: No. It was until the extradition treaty was taken away. We now have contingency funding from Government. The ICCC is funded through a separate Government piece, and our plan to centralise around extradition, which we think will make it much more effective, is a bid that we have as part of no-deal planning.

Q8 **Lord Anderson of Ipswich:** I have an operational question for Richard Martin concerning access to databases. Will you explain briefly what value we in the UK derive from the chief databases? I am thinking of airline passenger name records; Prüm—fingerprints and DNA; vehicle registration data; and SIS II, which you have already mentioned.

Perhaps you would then go on to answer a couple of questions on the negotiating positions of the EU and UK in relation to those databases. My sense, looking at them, is that the two sides are not that far apart when it comes to Prüm and Passenger Name Records. As for SIS II, it is hard to see where the common ground might be. However, even on PNR, the UK says in its negotiating position that the

agreement should in some respects go beyond precedents for PNR agreements between the EU and third countries. What are the respects in which we want a closer agreement from an operational point of view?

In relation to SIS II, I notice there is an emphasis in the UK's position on being able to share and act on real-time data on persons and objects of interest. That struck a chord with me, because when I used to review the terrorism laws I remember spending time at Dover with police officers who on hand-held devices could identify whether somebody coming off a ferry had a criminal record in Germany. How important is the real-time element of SIS II, and do you foresee obstacles in getting access to that?

Deputy Assistant Commissioner Richard Martin: I will try to remember all those questions, but please give me a nudge if I miss any along the way.

I would say as an overarching piece that access to databases is absolutely essential, even the newer ones. The newest one we have joined is Prüm. Going through Interpol to try to get crime scene matches, DNA and all that kind of thing used to take about four months; it now takes 15 minutes, if that. We joined Prüm about three months ago. I lead the board that decides on which countries we are linked to. Very early on, the legal advice we got when moving towards 31 October was that, if we connected at that time and started exchanging, even if we left the EU without a deal we could still act on the data. We connected with the top six countries, which means we now have access to over 80% of all crime scenes and DNA samples across the EU.

But it is also good for the EU because there are about 3 million samples on the EU database. We have uploaded over 4 million of our people—convicts—on to that. I think we have had about 26,000 hits on Prüm since we connected four months ago. Not all of those will turn into absolutely critical DNA samples on which we can arrest, but a lot will. For us, it is fantastic; it allows us to match crime scene data with overseas suspects and vice versa, so that is a really good way of tracking people.

We have talked about the Schengen Information System. We checked that 603 million times last year. The reason the number is so large is that it is real time. As soon as you put on to the Police National Computer somebody who is missing or wanted, it is an automatic gateway into Schengen. Therefore, as soon as the officer puts that on, whether you are in Poland, France, Germany or Spain, you can see that, so it is real time. Real time is absolutely critical.

You mentioned hand-held devices. A lot of forces now have hand-held devices. The ability to have somebody in front of you whom you know is wanted, vulnerable or missing from home is critical. It is the same for stolen items. If a car is stolen, as soon as you put that on to the Police National Computer, and it goes across the channel and ends up in Calais, French police will be able to see it is stolen and seize it. For us, that is critical.

We are part of the SIENA messaging system because we are part of Europol. That allows us to exchange messages instantly with overseas partners, carry out searches and see if somebody else is working on a crime that we might be working on. That allows us to come together and decide whether a joint investigation team might be useful because they are looking at the same people as we, Poland and Spain are. All those things allow us to generate those pieces.

ECRIS—the European Criminal Records Exchange System—was mentioned earlier. We do that fairly quickly. It is not fully automated, but it is a lot quicker than it would be if we were going through a mutual legal assistance-type treaty.

All these databases are critical. I go back to the beginning when I said that whatever deal we secure—the professor also said this—we want to make sure there is not a gap between what we have now and what we have in the future, because fast, real-time access to intelligence and data so that our officers are able to act quickly and put things on to a system where our partners overseas can see it and act on it, should they need to do so, is absolutely critical. I have probably missed a couple of your questions, in which case I apologise.

Lord Anderson of Ipswich: To go back to the specifics of third-country agreements that already exist and what we hope for, have you any comment on the UK's negotiating position where on PNR we are looking for something more than exists, for example, in the Canada and Japan agreement?

Deputy Assistant Commissioner Richard Martin: I am all for trying to retain the status quo. I think that for the UK to ask for more than traditional third-party country status is right.

Lord Anderson of Ipswich: What are Canada and Japan missing that the Member States get, and why is it important to us?

Deputy Assistant Commissioner Richard Martin: From a PNR point of view?

Lord Anderson of Ipswich: Yes.

Deputy Assistant Commissioner Richard Martin: I am not quite sure what the difference is. I do not know whether the professor can help. The PNR as a tool allows us to see not only who is coming but what credit card they might have used to book. It allows access to a vast range of data that is not just about the individual who is landing at whatever port it might be. It allows us to do a lot of research about that individual's background. I will not go into all of it because I know this meeting is publicised, but for intelligence purposes it is fantastic.

Professor Valsamis Mitsilegas: I think that intra-EU you have tried to streamline the information exchange stemming from PNR data. We have the so-called passenger information units or PIUs. I do not know whether the UK has implemented this. This is established in each Member State. They receive and exchange PNR data with one another. Maybe that is behind the plus, because I am not sure you have such streamlined cooperation between the EU and third countries.

Lord Kirkhope of Harrogate: I wrote PNR. The thing about PNR is that the arrangements with third countries or other countries are either negotiated specifically and limit the onward use of the information, as the professor said, or alternatively the EU has a separate PNR agreement, as you will know, with the United States. Although it was very useful, it did not have quite the immediacy or real-time nature of the full EU one. I think the uniqueness of it, as the Commissioner says, is the instant information. That is the really valuable part of it. I do not think other countries associated with it are necessarily able to develop other issues around it; in other words, the information itself cannot be used in as quite a quick or effective way.

Lord Anderson of Ipswich: I put a follow-up to either of you. Commissioner, you have already mentioned the importance of real-time information on SIS II. Do either of you know whether the existing SIS II arrangements with Switzerland, Norway, Iceland and Liechtenstein provide for that real-time exchange of information and, if so, is that something to which we could realistically aspire in the negotiations, appreciating that they are Schengen countries?

Deputy Assistant Commissioner Richard Martin: I will check, but my understanding is that they do. They have exactly the same system, but they are part of Schengen, which is why they have access to it. That is part of the challenge we will have in the negotiations, so they have the same access as we have.

Professor Valsamis Mitsilegas: A great challenge for the UK is access to the database, especially SIS II, because to my knowledge there is no access by a third country that is not a Schengen country.

Lord Anderson of Ipswich: But there is access by non-Schengen countries, including the UK.

Deputy Assistant Commissioner Richard Martin: But because we are part of Europe.

Lord Anderson of Ipswich: We are part of the EU.

Lord Kirkhope of Harrogate: We signed up to a number of the cooperation elements and protocols within Schengen, even if we are not full members of Schengen, which allows us to get this co-operative effort.

Q9 **Lord McNally:** The *Guardian* reports that we were not fulfilling our responsibilities on the transfer of criminal records. Lord Jay wrote to the Home Office to ask for clarification about this. It is interesting that the reply from the Minister was that the breaches, such as there were, were technical issues around the transmission of information that it was dealing with and that the Home Office was working to support ACRO to resolve the issue and find a technical fix that will be implemented as soon as possible. That is straight out of Southern Rail's book.

It goes on to say—it is worth sharing with you to get your comments—"I should add that the Government is clear that SIS II data handled by the UK has remained secure

and subject to strict data protections safeguards. The UK is a significant user of SIS II both in terms of responding to EU member states' alerts and by sharing UK law enforcement information. In 2018 the UK created over 2.9 million alerts on SIS II and there were over 7,000 hits recorded in the UK based on SIS II alerts by other countries".

I have not commented on the assurance, but do you think this idea that we were not fulfilling our responsibilities, even if it was for technical reasons, will do us damage in trying to negotiate a smooth continuation of this exchange of data?

Deputy Assistant Commissioner Richard Martin: I guess it does not help. I am not sure what our colleagues overseas would think. I do not know the full details of the ACRO issue. I know there was an issue because it was reported in the media. I know it is putting in a fix. I do not know. As a country, we still have to show we are responsible data owners and inputters, so it is for us to demonstrate that whatever issues we may have had in the past we have overcome and we can still be considered to be effective and efficient in what we do.

Q10 **Lord Soley:** I turn to data sharing and data adequacy. The data are obviously crucial, but we will have to meet certain adequacy standards. How likely is it that we will be able to get a data adequacy agreement in order to exchange data?

Professor Valsamis Mitsilegas: This will be perhaps the biggest challenge in this negotiation. It is striking that, if you read the negotiating positions, for the European Union data protection is like a prerequisite underpinning the whole negotiating position, together with human rights. There is ECHR and there is data protection, so they are very strong on that. The Court of Justice has very strongly been upholding the principle recently.

For the United Kingdom, when you read the negotiating position, data protection is dealt with in Part 3 as a technical issue. The United Kingdom Government are trying to separate this from the negotiation of everything else. This will not be possible in my view. You cannot really negotiate access to either database without really negotiating on data protection; the two are part and parcel, especially for the EU. They are great challenges.

If you read the EU negotiating mandate, it says that it may reach an understanding with the UK on the protection of commercial data flows, but it is essential to have an adequacy decision when we talk about security. I think that for security matters data protection scrutiny will be higher on the EU side. Of course, it is not impossible to reach an agreement, but currently I draw your attention to two decisions of the European Court of Justice. The first one was some years ago: Tele2-Watson. That was concerned with the retention of and access to data by British authorities. The court said it was in breach of EU law because bulk collection of personal data was not allowed under EU law.

A case currently pending in Luxembourg, Privacy International, is a similar matter where the Advocate-General's opinion in January applied the previous judgment

and said the current practice of bulk data collection by UK authorities under its domestic law was contrary to EU law. This is a major sticking point.

There are a number of cases, not only involving the UK, to be decided in the next few months where the European Court of Justice will probably develop some guidelines on bulk data collection, but the direction of travel is that bulk data collection in itself, without any justification, is prohibited under EU law. My view is that, if the UK wants to continue with its current legislation domestically, it will be very challenging for the Commission to assess whether the UK data protection system is adequate for the purposes of cooperation, and this will have an impact on access to other databases as well. Even if the UK can be viewed as compliant for the purpose of ECRIS for criminal records, the very fact its domestic law allows maximum access by national authorities to all sorts of information may be an obstacle.

There are real discrepancies in the legislation, but there are also lots of philosophical or political issues in the way the matter is framed. My own reading of the UK's negotiating position is an awareness that this is a sticking point, hence the attempt to neutralise it as a technical issue, but it is not a technical issue for the EU.

Lord Soley: I understand the issue about bulk data, but overall is data protection in the UK up to the same standard? I think there has been copying between the EU and UK in order to get the best standard. Is it just an issue to do with bulk data or are there other ones?

Professor Valsamis Mitsilegas: To my mind, the UK has internalised the GDPR. I think that is a very important step, because nobody wants to stop the commercial flow of data after Brexit. The EU is very aware of that. I would be surprised if there are major obstacles there, but in the specific field of security things may be a bit more complicated. It is very difficult for the EU to require a lower standard of data protection by a third country than is required by its own Member States. For example, when the Court of Justice tells France that it is breaching EU law because it enables bulk collection of data, it is very difficult to say: "But it is fine if the UK as a third country does it and we will allow the exchange of data". This is a matter of constitutional importance for the EU because the Court of Justice has really elevated this as a flagship-type policy, so we have ongoing litigation on that. It is about the position of the citizen in society in a sense and the relationship between freedom and security, so it is quite a big issue.

Lord Soley: What you are saying is that the situation as regards bulk data within the EU is unlikely to change.

Professor Valsamis Mitsilegas: We will see. It may change. In a recent opinion the Advocate-General tried to develop some criteria that will not justify bulk data. It can be close to bulk data but not entirely so if the national authorities develop some criteria about why collection is justified. We may end up somewhere in between because Member States are adamant that access to the data is required for security

purposes, but, without being a prophet, I find it very difficult for the court suddenly to say that bulk data collection is allowed.

Lord Anderson of Ipswich: You mentioned the Tele2 case, which appears to prohibit what was once mandated by EU law under the data retention Directive, which is the ability of service providers to keep some of this data because it is so useful to policing. It is a controversial decision, but I accept what you say about it.

My question relates to another type of bulk data collection that to some audiences may be a more troubling one than the relatively low-key data involved in Tele2: the bulk data collection by intelligence agencies. It may be—this is not entirely clear—that this is not an issue for existing EU Member States because there is a national security exclusion at the start of the treaty, but is it right that as a third country seeking data adequacy determination it could be relevant to that negotiation to look at what our intelligence agencies are doing by way of collection of data in bulk and analysis of it, including personal data of EU citizens?

Professor Valsamis Mitsilegas: That is a very valid and topical question. Currently, a number of cases are pending before the European Court of Justice where the court would have to rule on whether transfer of personal data by the private sector to intelligence services, not law enforcement, falls within EU law. A number of Member States have argued that, because intelligence is part of national security and there is a national security exception, this is not part of EU law and EU law does not apply. The Advocate-General has said that EU law applies because the origin of the data lies in the private sector, so if you ask internet or telecoms companies to provide data that they have collected during their commercial activity that is enough to bring it under EU law scrutiny in a sense.

This is an ongoing fight between Member States and courts and civil society. We will see what the Court of Justice says. We are waiting for these judgments impatiently. If EU law does apply, it will depend on what is considered to be a transfer from the private sector and what is considered to be the subsequent use of the data by the intelligence services, because you could argue that the subsequent use by the intelligence services falls outside EU law, so you just negotiate purely on the bilateral, but how you access data by the private sector evolves, if you like. I know it is a very complex issue and there is no legal clarity on it, but the Advocate-General has not excluded the applicability of EU law just because the data go on to the intelligence services.

Lord Anderson of Ipswich: Are you saying that the intelligence activities of a third country engaged in negotiation for a data adequacy determination will come within the ambit of that negotiation only if that activity comes within the ambit of EU law?

Professor Valsamis Mitsilegas: Can you rephrase that? I am not sure what the question is.

Lord Anderson of Ipswich: I think you were saying—it is reassuring if you were—that—

Professor Valsamis Mitsilegas: I think the EU will treat it as a matter of EU law, certainly if it involves transfer of data from the private sector to the intelligence services, and then we look at who has access to the data. That is one of the conditions. I do not necessarily think that EU law would cover how the intelligence services do their job while the data is in the system, but there is a very thin line between the two.

Lord Gold: I want to pick up an answer you gave a moment ago in relation to bulk data. I can see it is a really difficult issue. What is the solution? How can we find a way through this when both sides are taking very strong diametrically opposite views?

Professor Valsamis Mitsilegas: The issue is very complicated because it is not a discussion about the UK and EU taking diametrically opposite views; within the EU, governments take a different view from the courts. The Court of Justice is pushing back and saying, "You cannot do everything you want; there have to be some limits on your powers", so I think the discussion will be quite complicated.

I do not have a magic solution to that. We probably do not have time for this now, but it depends also on the degree of future alignment with EU law in order to continue to be part of it, because what the Court of Justice has said about adequacy decisions for the purposes of security of the state is that the assessment of a third country should be regular. The Commission should not say in 2021, "The UK has an adequate level of protection", and then it stops; it should check again a few years later. This is an ongoing process. By then the Court of Justice may start to give very law enforcement-friendly rulings—we do not know—but currently we have a balance of law that depends on the evolution of case law in the Court of Justice.

I do not think this will be easy. You will have to provide some safeguards. It also depends on the Commission. This will not necessarily be in law and can be done by a 'gentlemen's agreement' or code of conduct on access to data. You want to show that you have a system that respects the gist of whether you would require it.

Lord Anderson of Ipswich: Do you think it is feasible that the Member States, many of whom find the Tele2 judgment as difficult as we do, might agree to a data adequacy determination, and it would then be for the Court to decide whether it was going to invalidate it?

Professor Valsamis Mitsilegas: It is for the Commission to produce it.

Lord Anderson of Ipswich: But the Commission also has its position on these issues that does not altogether coincide with that of the Court.

Professor Valsamis Mitsilegas: It does. I am not saying the Commission will not agree an adequacy decision. I am saying that this is a hostage to fortune. The EU negotiating mandate says that an agreement would be suspended the moment the Court of Justice allowed an adequacy decision. Politically, it may be perfectly

feasible for the Commission to produce an adequacy decision to enable the exchange to take place, but then you would have perhaps judicial challenges.

Lord Anderson of Swansea: To ask a wrap-up question, I recall that in answer to the Chair's first question the Commissioner talked of damage limitation in respect of the series of matters we have been discussing. Are we to construe this to mean that any conceivable alternative arrangement is likely to be less helpful to our law enforcement agencies than the current position?

Deputy Assistant Commissioner Richard Martin: I think it depends very much on what is negotiated. At the beginning I talked about capability. I would like to retain our current capability with our present tools. If the Government are able to negotiate something that keeps that capability, that is really good. If we have to rely on some of the contingencies we already have, policing is more difficult for us. Policing does not stop; we will still protect our communities, but it might start slowing down some of our processes and our current ability to look across the piece. If we have to rely on the contingencies as the worst-case scenario, there will be some loss of capability.

Lord Anderson of Swansea: Professor, looking at existing precedents with third countries, do you have confidence that any negotiated arrangement will be as good as the current situation?

Professor Valsamis Mitsilegas: I think you have to be realistic. The United Kingdom is a third country in the eyes of the European Union. It is difficult to envisage a situation where cooperation remains exactly the same as it was when the UK was an EU Member State. There are precedents. I think that you can use them to serve either a general agreement or individual agreements.

The question that will complicate things is access to EU databases and exchange of personal data. That is what I see as the main challenge for the UK in achieving something in the negotiations in order also to back up judicial cooperation. For example, the link between SIS databases and the European Arrest Warrant is very important. It is not only about access; it is also about having access to the alert in the system. That is a really challenging field, especially if the EU wants to send a message that a third country should not have the same access or privileges as a non-EU or non-Schengen state.

Lord Anderson of Swansea: Based on precedent, do you believe that the EU will be prepared to offer those sorts of facilities to third countries such as the UK?

Professor Valsamis Mitsilegas: The precedents are different from area to area. In the field of extradition and mutual legal assistance, there is precedent. It is also interesting that both parties' positions converge as regards participation in Europol. For example, on Eurojust they both say that the UK will be a third country and they envisage something similar perhaps to the access that the United States currently has to Europol.

The precedents on the databases involve most Schengen countries. You can argue that the precedent is not applicable to the UK, so the UK will have to go into uncharted territory to try to have an agreement as the first third country that has access, or something close to access, to EU databases. That is a bigger challenge in my view.

Q11 **The Chair:** Gentlemen, are the negotiating mandates of both the UK and EU a replacement for membership? Are they as good and effective?

Professor Valsamis Mitsilegas: These are just mandates. I think we will have to see what comes out of them.

Deputy Assistant Commissioner Richard Martin: I agree. It is all down to the negotiations, and I hope they will be very successful.

Lord Gold: I understand the difficulty in negotiating an agreement at a political level. How significant are the very close relationships that exist between police forces across Europe, and to what extent will those close relationships continue irrespective of what politicians agree?

Deputy Assistant Commissioner Richard Martin: Relationships with overseas partners are very close. Part of my role has been to visit quite a few Member State countries' police forces. They are as keen to work with us now as they have ever been; they still see us as a valued partner, as we do them. From a practical law enforcement point of view, we understand that crime is borderless. You can commit crimes anywhere - in a bedroom in Poland, France, Italy or whatever these days. Our cooperation is really good.

At a higher level—serious organised crime—that is another piece. We are getting much better at the rest of it. For instance, looking at the International Crime Coordination Centre that we have set up, we are about to train 120,000 officers across the country in the use of tools and how to get involved in international inquiries. We are professionalising what we do as a service around that. I do not think we will see any reduction in commitment from overseas partners; it will be whatever the framework is that allows them to do what they can do.

Lord Polak: Maybe the police should do all the negotiations.

The Chair: We thank both of you very much. This is a very important session. We have gained a great deal from your answers to our questions. Is there anything you wish to add that we or you have not covered?

Deputy Assistant Commissioner Richard Martin: No.

The Chair: Thank you very much.