

Home Affairs Committee

Oral evidence: [The work of the Home Secretary](#), HC 299

Tuesday 10 May 2016

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Members present: Keith Vaz (Chair); James Berry; Mr David Burrowes; Mr Ranil Jayawardena; Tim Loughton; Stuart C. McDonald; Nusrat Ghani; Mr Chuka Umunna; Mr David Winnick

Questions 318–388

Witness: **Rt Hon Theresa May**, Home Secretary, gave evidence.

Q318 Chair: Home Secretary, thank you for coming in. The purpose of this session is specifically to look at EU issues. I think that most of the Select Committees are meeting their Ministers, so to speak, to talk about how the referendum will affect their portfolio. I am going to start with a couple of issues, before we move straight on to the EU. The first is anti-Semitism. As you may know, the Committee is about to open our inquiry into anti-Semitism. I am not going to start examining you on this today, simply because we will presumably have you back at the end of July, but generally speaking, do you think that anti-Semitism is on the rise in this country? Do you welcome the fact that we are having a look at this issue?

Mrs May: First of all, Chairman, thank you for your clarification of what my appearance will be about. The sign outside says, “Prostitution; The work of the Home Secretary”, which made me somewhat concerned about what you might ask me.

Mr Winnick: We are getting our priorities right.

Mrs May: That is very interesting, Mr Winnick. *[Laughter.]*

Chair: Can I bring the Committee to order?

Mrs May: On the very serious subject of anti-Semitism, I am pleased that the Committee will be looking into the issue. Frankly, I think we have cause for concern. In the past couple of years, we have seen an increase in the number of incidents of anti-Semitism in the UK. I have said before publicly that I never thought I would see the day when members of the Jewish community in the UK were concerned about staying in the UK because of the anti-Semitism they saw. Anti-Semitism has no place in our society, and I have to say that I think that the views expressed by Ken Livingstone were unacceptable and wrong. It was right that the Labour party eventually suspended him. Those views have no place in our politics.

Q319 Chair: Do you think he should be prosecuted for what he said?

Mrs May: Decisions about prosecutions and investigations are not for the Home Secretary. They are for the police and the Crown Prosecution Service.

Chair: Mr Loughton, are you all right?

Tim Loughton: Yes, I am fine.

Q320 Chair: Can we move on to the article in *The Daily Telegraph* that said that the UK warnings index crashed on two nights last year? As a result, hundreds of potential suspects or criminals perhaps entered the country without being flagged. Can you confirm that there was a crash of the index, allowing people to walk into this country? Has that been dealt with now?

Mrs May: First, Chairman, I think I am right in saying—I do not have the *Telegraph* report in front of me—that they referred to the Semaphore system, which is a different system from the warnings index.

Q321 Chair: You are quite right.

Mrs May: The warnings index is the key system that is used at the border. Semaphore is a different system. We have a multi-layered approach. Because Semaphore went down, that did not mean that people were not being checked as they crossed the border. They were still being checked. We have done a lot of work over the past five years. As you know, Chairman, when we came into Government in 2010, the UK Borders Agency gave rise to concern. Indeed, those concerns were expressed by you and the Home Affairs Committee of the time. We have done a lot of work taking Border Force out of that, and we continue to do work on the IT systems that we operate, because we always want to ensure that we are operating with the systems that we believe will give us the maximum benefit.

Q322 Chair: So it is not going to happen again.

Mrs May: We have taken steps to ensure that we have put greater robustness into our systems.

Q323 Chair: And it won't happen again.

Mrs May: Well, Chairman, we have taken steps to ensure that we have dealt with the issue that occurred in that particular system, and we have done that across the board. We have significantly improved the IT around the warnings index as well. As I said, you are always looking with IT systems to ensure that you are operating the best system that you can, and that you can ensure their robustness.

Q324 Chair: Finally on non-EU matters, the election for Mayor of London has been completed. You said in an article in *The Sun* on the day of the election that Sadiq Khan would be “unsafe” to run London at a time when we face “a significant threat of terrorism”. That is a direct quote from your article in *The Sun*. Members of your party—including Sayeeda Warsi and Mohammed Amin, the chair of the Conservative Muslim Forum—have been critical of what they have described as a “smear campaign”. Mr Amin said that it has “imperilled” attempts to detoxify the Tory brand among Muslims. You were very clear, when

you were chairman of the Conservative party, that it was important that the Conservative party changed. Do you think that the comments made during the campaign were perhaps a little over the top?

Mrs May: During the campaign, I made a point that I had made previously, which was to raise a question about what I had described as the contortions that Sadiq Khan was going through on the subject of his relations with Babar Ahmad, and also raised a question that had been raised by others, not only in the Conservative party, about sharing a platform with a particular group linked to an extremist imam. Those are important issues to raise. He has been elected with a very clear mandate by the people of London. I look forward to working with him, and we are already trying to arrange my first meeting with him.

Q325 Chair: So it is no longer unsafe that he is going to run London.

Mrs May: He has been properly elected by the people of London as the person whom they want to see running London. He is now the police and crime commissioner for London, and I look forward to working with him. My office has already been in touch with his to set up our first meeting. Obviously, the work that is done by the police and crime commissioner in London is very important.

Q326 Chair: So you disagree with Sayeeda Warsi and Mohammed Amin about the words and tenor of the campaign, and the way in which it operated against Sadiq Khan. You are quite happy as the Home Secretary to work with him now, and London is safe in his hands.

Mrs May: I am happy as the Home Secretary to work with him, and I look forward to hearing what ideas he has, as the police and crime commissioner in London, with regard to the Met.

Q327 Mr Winnick: Hopefully, no one who is so hungry for publicity will become a martyr, so that should deal with Mr Livingstone. As far as anti-Semitism is concerned, should it not be a matter of very serious concern that there is literally hardly a synagogue or Jewish faith school that does not find it very necessary indeed to have security precautions?

Mrs May: It is a matter of concern. As you will be aware, the CST is the organisation that provides security for many synagogues and Jewish schools around the country. The Government have provided some funding to the CST to help with that work. It works not just with institutions in terms of providing security, but also with individuals who find themselves sometimes on the receiving end of anti-Semitic abuse. It is a concern that we share, Mr Winnick; this is not a situation that we want in the United Kingdom.

Q328 Mr Winnick: Following what the Chair said, is it not a matter of great significance—perhaps not only for London, but for London certainly—that the new Mayor made it clear during his election campaign and since he was elected that he wants to work with all faiths? Does that not undermine the sort of smear and to a large extent racist campaign that was waged against him?

Mrs May: It is important that the Mayor of London works with people of all faiths and none across London in looking at the issues that he is dealing with. As I said, I

look forward to working with him. He is one of the newly elected police and crime commissioners, I am pleased to say. Obviously, there are a number of other newly elected police and crime commissioners across the country, of which I am pleased to say a number are new Conservative police and crime commissioners.

Q329 Mr Winnick: Can you give any apology for the sort of campaign your party waged against the newly elected Mayor?

Mrs May: Issues were raised during the campaign. The people of London have spoken in terms of their votes, and I will now work with the Mayor of London.

Q330 Chair: Thank you. Let us move on to the EU. All colleagues will come in on this issue. We were having all the outers on the left-hand side and the inners on the right-hand side, but it has changed, so we have a mixed Committee today.

The Prime Minister was quite critical of the Home Office last week at the Liaison Committee as far as foreign national prisoners were concerned, because there are 4,270 EU nationals in our prisons who should not really be there; they should be back in their own countries. They are costing the taxpayer £169 million. Just to refresh your memory, he said that the Government should have done better. In making the argument for staying in the EU, surely a powerful point must be that because we are in the EU, we can send back their nationals after they have finished their sentences. I know that you have been very strong in all the meetings at EU summits to try to get these countries to take their foreign nationals back. Now the Prime Minister has said that you should have done better. What more can we do, if we stay in the EU, to persuade Poland, Ireland and all these other countries to take back their own citizens?

Mrs May: First, Chair, I believe that the Prime Minister's response on foreign national offenders was in response to a question that you asked him on this issue. I know that this has been a matter of interest to you and the Committee for some time. What he said was that in some cases it is incredibly difficult. I can't remember exactly the phrase that he used—

Q331 Chair: He said "you should have done better"; that is the exact phrase.

Mrs May: He also said that it was incredibly difficult in some cases to do this, for a whole variety of reasons. He also made clear that the National Security Council looks at this issue on a six-monthly basis. The Prime Minister has been very keen to ensure that this question is taken across government and that it is not simply a matter of one Department lobbying to improve the way we are able to do this, but that it is done by all.

There are advantages to being within the European Union. It is not just about the possible return of foreign national offenders after they have completed their sentences; it is also what is starting to operate, with the prisoner transfer framework and the prisoner transfer agreements that we have, which enable us to transfer people and ensure that they can complete their sentence.

Q332 Chair: It clearly has not worked in the last six years. If we come out, will it be more difficult to persuade the EU partners to take their citizens back? If we are making the case to

stay in, as you and I are—and this Committee is not having an inquiry into that issue because we will probably not agree a report; this divides the nation—one of the positive arguments for staying in is to say, if we stay in, you can go to the Polish home affairs Minister and say, “We have got a thousand Poles in our prisons—take them back.” That does not seem to have happened.

Mrs May: One of the reasons why it has not happened is that the prisoner transfer framework has not been fully put into place in every country yet. That is in process at the moment. But the fundamental point you are making is the right one, which is that if you are part of the European Union, dealing directly with people, operating within these frameworks, it is easier. As Home Secretary, from everything I have seen and from my experience, I believe that we are safer and more secure inside the European Union than we are outside it.

Chair: Sure. You are going to get some very short, sharp questions from all colleagues, starting with Mr Loughton.

Q333 Tim Loughton: On 10 November 2014 in the House of Commons, you said that you wanted to end the jurisdiction of the European Court over our justice and home affairs laws as part of the UK’s renegotiation. You specifically said, “I believe we must look again at this matter in our renegotiations with the European Union before the referendum”. What did we achieve in that renegotiation on that front?

Mrs May: What we achieved was, for the first time, a challenge to the European Court of Justice. We achieved an agreement among all member states of the European Union that we would put into place directives that will effectively overturn judgments of the European Court of Justice. That was a major step forward. This is in the area of abuse of free movement. Prior to this, I do not think there had been challenges of that sort. We have achieved that in the negotiation and if there is a vote to remain, that will be put in place.

Q334 Tim Loughton: But none of this is in the treaty, is it?

Mrs May: No; as I am sure you are well aware, Mr Loughton, the agreement that was negotiated is an international law decision. That will be deposited at the United Nations. It is similar to the decision in relation to the relationship with Denmark, which was deposited at the United Nations and therefore has a legal backing.

Q335 Tim Loughton: But it does not have the backing of a treaty obligation within the EU.

The second thing you said in your party conference speech in 2015 was, “The numbers coming from Europe are unsustainable and the rules have to change.” What did we achieve in the renegotiation that achieved that?

Mrs May: We have done two things in the renegotiation. First, we have renegotiated on welfare benefits, so that nobody can come in and have full access to in-work benefits—they have to be here for four years before they get full access. I believe that will reduce the pull factor for people coming to the United Kingdom. Secondly, as I have just indicated, we have achieved a change in approach to decisions taken by the European Court of Justice that will make it easier for us to clamp down on abuse of

free movement rights and will actually make it easier for us to deport criminals and stop people with a criminal record coming here in the first place.

Q336 Tim Loughton: So why did the document, produced at great cost to the taxpayer by the Treasury, which estimated that Brexit would cost approximately £4,300 for every family in this country, also state that net migration would increase by 3 million by 2030?

Mrs May: The Treasury document quoted a figure that had been set by the ONS, not as a prediction for what would happen, and it set that in the context of having to establish a framework in which they were making their various judgments. But I think this question of whether you are in or out of the European Union and the issue of free movement is not as simple as it is sometimes portrayed to be, for this reason: if we were to come out of the European Union and have access to the single market, we would almost certainly have to accept free movement. Coming out of the European Union is not the silver bullet.

Q337 Tim Loughton: Well, that is an option for the UK to negotiate after it comes out. So are you saying that the figure of £3 million in that document is wrong?

Mrs May: What I am saying is that that figure was estimated by the Office for National Statistics. I have not predicted a figure because that figure did not take into account changes that would be introduced as a result of the renegotiated package, neither did it take into account the impact of the Immigration Bill that we are currently putting through Parliament.

Q338 Tim Loughton: So you are not endorsing that figure. In which case, by the same token, you would therefore not agree that the speculation of the cost of Brexit being £4,300-odd to each family is also highly speculative and not to be treated as a fact.

Mrs May: Mr Loughton, the Treasury produced a very lengthy document—

Tim Loughton: Indeed—200 pages.

Mrs May: —which went through the arguments in very careful terms. The £4,300 figure, as you know, was not the only figure that was suggested as the potential cost for coming out of the European Union to each family by 2030, because a number of scenarios were looked at and the Treasury chose a particular scenario in which to produce that figure. I think it is right that the Treasury is setting out the potential effect on people of the economic impact of coming out of the European Union—

Tim Loughton: Okay. So why is it right—

Mrs May: —from the immigration point of view.

Q339 Tim Loughton: Why is it right for the Treasury to headline, as it did in its press releases, the dire forecast of £4,300 per family as the cost of Brexit, and conveniently to hide in the footnotes the—also dire—forecast of a potential 3 million net people coming from the EU by 2030? Are you picking and choosing as to which bit of the Treasury document we should pay any credence to?

Mrs May: No.

Tim Loughton: You are.

Mrs May: Well, no. What I have been very clear about, and I will repeat it, is that the figure that was in the Treasury document was a figure from the Office for National Statistics. This was not a prediction as to what was going to happen in terms of migration, but obviously there was a basis on which the Treasury produced their £4,300 figure. But I come back to making the point that I think is important in this area, which is that if the United Kingdom was to pull out of the European Union and wished to have access to the single market for the economic benefits that that gives, then, given the examples of everybody else, we would almost certainly have to accept free movement. So pulling out of the European Union is not the silver bullet that suddenly solves all our immigration issues.

Q340 Tim Loughton: By the same token, therefore, your wish to reduce net migration is not going to be achieved at all, is it? Let us look at the ability for us to refuse people coming into this country from inside the EU and from outside the EU. Just to give the statistics, before the free movement directive there were just 22 million EEA and Swiss nationals coming to this country, of whom we refused 1,663. In 2014, that figure had gone up to 44.9 million—that is an over 50% increase—and yet the figure of refusals was at 1,755; that had barely changed. At the same time, the number of non-EU people coming in has gone up a little bit, but the number being refused has fallen by half. Is it not the case, Home Secretary, as you well know, that we lack the power to refuse entry to people from the EU coming to this country whom we deem to be appropriate, because that power has been abrogated away to the European Court, and nothing in this renegotiation gives us any further powers to regain that sovereignty over those decisions?

Mrs May: I am sorry; you are not correct in your assumption about the renegotiated package. The renegotiated package specifically says that if the UK votes to remain in the European Union, action will be taken effectively to overturn judgments of the European Court in relation to the abuse of free movement. This will make it easier for us to deal with abuse of free movement. There has also been negotiated a change which will make it easier for us to deport people who have a criminal record, or to stop people who have a criminal record coming here in the first place.

Q341 Stuart C. McDonald: Home Secretary, do you have a figure for the number of UK citizens who currently choose to live in other EU countries?

Mrs May: I don't have the figure off the top of my head, but it is something like—

Stuart C. McDonald: I think—

Chair: I think Mr McDonald has the figure.

Mrs May: I was going to suggest a figure, but I thought he probably had.

Q342 Stuart C. McDonald: I think it is in the region of 1.8 million. Do you have any idea of what happens to them if we leave the EU?

Mrs May: That is a question that has to be asked of those who believe that we should leave the European Union, because there is an uncertainty in relation to what would happen to British citizens who have exercised free movement rights in order to live in another country within the EU.

Q343 Stuart C. McDonald: As you pointed out earlier, there are countries outside the EU that, in order to get access to the single market, still take part in the free movement scheme, including Norway and Switzerland, which both have higher immigration from the EU per head of population than the UK. Have you seen a concrete proposal from Brexiters about how the immigration system would operate after EU exit?

Mrs May: No, I haven't. I have seen no such proposal.

Q344 Stuart C. McDonald: Regardless of whether we stay in the EU, clearly there are challenges that are brought about by migration, but isn't it the point that, ultimately, rather than kidding that we could somehow stop significant levels of migration at any point in the near future, we have to address those consequences? For example, the migration impact fund was one attempt to do that. Why did the Government scrap that, and what is it going to do to try to address some of the issues caused by significant levels of immigration?

Mrs May: First of all, as you have seen in the Immigration Bill that we are currently putting through the House, we continue to look at what further changes we need to make in the immigration legislation to enable us to exercise that greater control over migration into the United Kingdom. You are absolutely right that, as I have just indicated in response to a previous question, pulling out of the European Union is not the silver bullet that suddenly means that all issues around free movement are resolved. Access to the single market, if you are outside the EU, takes with it, as other countries have shown, a need to be willing to accept free movement, so it doesn't resolve that particular issue.

In relation to some of the impacts of net migration on communities, we are looking at the whole question of integration of communities and the ability to integrate and participate in society. We are currently looking at a number of ways in which we can give support to communities on that particular aspect.

Q345 Stuart C. McDonald: On a slightly different issue, what is the Government's position on the European convention on human rights? Do we need to be in the convention to be a member of the EU?

Mrs May: I have made my own view clear, which is that the issues that people often ascribe to the European Union—for example, I have read several articles referring to the problems of deporting Abu Qatada or extraditing Abu Hamza being down to membership of the European Union—are down to the European convention on human rights. I think there is an issue about that and the jurisdiction of the European Court of Human Rights and, as I said in a speech a couple of weeks ago, the way to resolve that is to be out of the European convention on human rights. The Government's position is that we will be bringing forward a British bill of rights in due course. Considerable work is being done on that already.

Membership of the European Union and the ECHR do not go hand in hand. What the European Union requires—I forget the exact word—is that respect for human rights is shown by its member states, and of course that respect can be shown in ways other than being inside the European convention. Human rights were not invented when the European convention on human rights was drafted.

Q346 Stuart C. McDonald: Are you saying that your position on membership of the convention is not the Government's position? Are you taking a different view?

Mrs May: I have given a view on what I think, but the Government will be coming forward with a British bill of rights in due course. There are many minds looking to see how we can ensure that, in human rights terms, we are able to avoid the problems that we have seen with the European convention and the jurisdiction of the European Court. People are looking at what the various solutions for that might be.

Q347 Stuart C. McDonald: We might return to that in due course. I have one final question. What will be the effect of Brexit on the European arrest warrant scheme and our ability to benefit from that?

Mrs May: I think it would have a very significant impact. Indeed, that is what I argued when we opted back into the European arrest warrant, which was supported by Parliament. If we are not in the European Union, we would almost certainly not have access to the European arrest warrant. Norway, for example, started negotiating with the European Union on access to something similar to the European arrest warrant in 2001. An agreement has been reached, but has not been implemented yet. It includes, as I understand it, the caveat that could mean that nationals of some countries could not be extradited. There are some countries that will not extradite their nationals unless it is under a European arrest warrant. I think that would have a real impact on our ability to deal with criminals.

Q348 Mr Jayawardena: You have recently expressed your belief—and we touched on it a moment ago—that the ECHR can bind the hands of Parliament and therefore represents a threat to national security, because the convention has prevented Britain from deporting lawbreakers and hate preachers. I will return to that proposition in a moment.

UK courts can and have set aside Acts of Parliament because they breach EU law, not because they breach the convention. If the United Kingdom being a party to the ECHR is an unacceptable constraint on Parliament, why do you consider this not to be the case for the European Union?

Mrs May: Parliament has, as I also set out in my speech two weeks ago, the ability to exercise itself in relation to the European Union by deciding to vote down the relevant Act that established the UK's membership of the European Union, so it does have that ability. In the European convention on human rights and the access of the European Court of Human Rights we are talking about a different relationship, but a relationship nevertheless that does have an impact on decisions that we are able to take on the deportation of individuals.

Q349 Mr Jayawardena: So do you then challenge the judicial activism that is occurring right now where the will of Parliament—the will of this place—is being usurped by judges deciding that the EU law should be supreme?

Mrs May: As a member of the European Union, there are various bits of legislation directives that the European Union has put into place that we put into place in the UK in our legislation. There is an issue for us in the United Kingdom in how we approach our relationship with the European Union. From the experience I have in relation to issues that I have dealt with such as the European arrest warrant, I think there is more scope for us as a United Kingdom to ensure that our interests are served rather better when we look at some of these directives being drafted in the first place.

Q350 Mr Jayawardena: I will go back to the proposition you made in your speech that it is the ECHR that prevents us from deporting people, and again today you said that it was the ECHR that makes it difficult to deport Abu Hamza. In the legal opinion from the ECJ this morning—I am sure you have had a look at it—the EU advocate general has said that the charter of fundamental rights can now be relied on by criminal and terrorist suspects to prevent their extradition from the United Kingdom to countries outside the EU. Do you believe that this would have affected your attempts to extradite Abu Hamza to the USA? That is what it is suggesting. Doesn't this show that it is not the ECHR but the EU in this morning's opinion that is now a danger to our security?

Mrs May: People have said in the past that it was the European Union that stopped us deporting Abu Qatada for some period of time, and the extradition of Abu Hamza for a period of time. It was not. It was the European convention on human rights. It is important that people recognise that there is a difference between the ECHR and the European Union.

In relation to the advocate general's opinion that came out this morning, this is not a legally binding position—it is the opinion of the advocate general—and we await the final decision that is going to be taken. If I may return to something I said earlier, one of the benefits of the package that the Prime Minister managed to negotiate was precisely this point that a different approach is now being taken, with a willingness to challenge judgments of the European Court of Justice. We have shown that that could be done. We have shown that we can get agreement effectively to change judgments of the European Court of Justice and I think a new approach is being taken.

Q351 Mr Jayawardena: You say this is an opinion and you await further judgments. However, the UK Government, I understand, encouraged that this opinion should be given and that the European Court should have control. My understanding is that the advocate general has stated: "I endorse the position expressed by the Government of the United Kingdom at the hearing, namely that the first paragraph of article 18 of the treaty of the European Union and article 21 are applicable."

Mrs May: I have to say, Mr Jayawardena, I suspect that one needs to read the entire judgment in order to be able to put everything in proper context.

Q352 Mr Jayawardena: Fine. If we may move on, Home Secretary, what is your view of the statement made by the Prime Minister yesterday that Britain leaving the European Union would risk Europe descending into war?

Mrs May: What the Prime Minister said yesterday was in fact a point that I made in my speech two weeks ago, which is that I think the European Union is a force for stability. I am very clear that I believe we are more secure within the European Union. That is from all my experience as Home Secretary.

Q353 Mr Jayawardena: You have often cited intelligence sharing as an important function, yet when we visited Europol, it became very clear to us that whether we are in or out of the European Union, the sharing of intelligence is on the table—in fact, it is encouraged—and countries outside the European Union are already doing it. Why, when that is the case and when our important Five Eyes alliance would remain none the less, would we be any less safe?

Mrs May: First, this isn't an either/or, where either you are sharing data and intelligence with countries within the European Union or you are within the Five Eyes. We have the benefit of being in the Five Eyes and in the EU, and there are different levels of sharing that take place in relation to intelligence and relationships between—

Mr Jayawardena: But a lot of that is bilateral, isn't it?

Mrs May: Can I just explain, Mr Jayawardena? You have conflated in your question a number of aspects of this security matter. There is intelligence sharing between intelligence agencies, not just within countries in Europe but also with the Five Eyes countries, as you have indicated. There is then the sharing of data—access to Europol. Obviously, as a member of Europol, we have the ability to access certain data and to share that data in a way that isn't always open to those who are not within Europol.

Q354 Chair: Sorry, we need to move on. Just a quick question on who is going to war with whom: are there particular countries that you and the Prime Minister have in mind, or is it general war?

Mrs May: The European Union does provide us with stability. I think our membership of it is part of the stability that it provides within Europe.

Chair: So it is general stability, not in individual countries.

Q355 Mr Umunna: May I start with a quick question to follow up on what the Chair asked in relation to the London election campaign? He asked a very straight question which you completely dodged. Is London safe in light of the change of the personality of the Mayor of London?

Mrs May: The Mayor has been elected. The safety of London is something that I will be discussing with the Mayor. Of course, it is something that is provided—

Q356 Mr Umunna: Home Secretary, please just answer the question yes or no.

Mrs May: The safety of London is ensured by the work done by the Metropolitan police and by our security and intelligence agencies, and that has not changed.

Q357 Mr Umunna: So you were wrong to suggest, therefore, that we would be unsafe in light of a change in the personality of the Mayor?

Mrs May: I think it is entirely right, within the campaign, to have raised concerns about some of the relationships that had been shown by one of the candidates for the London mayoralty.

Q358 Mr Umunna: It was wrong and it was shambolic, and I am disappointed you put your name to that article, Home Secretary. Let me move on to the EU. Could you provide us with the latest figures on the number of people who have been extradited to the EU, and the number of people who have been brought back to the UK to face justice under the European arrest warrant?

Mrs May: Yes, I am sure I can. I don't have them off the top of my head, but I will have them—

Q359 Mr Umunna: You can send them to us, with fresh figures.

Mrs May: Oh, I can send them to you? Yes, I will.

Q360 Mr Umunna: I wanted in particular to talk to you about our intelligence services. Just to check, are you the Cabinet Minister responsible for MI5?

Mrs May: Yes.

Q361 Mr Umunna: It is you who is responsible for that, and not the Lord Chancellor?

Mrs May: I am responsible for MI5.

Q362 Mr Umunna: The Lord Chancellor has suggested that the European Union, and the European Court of Justice in particular, is undermining the Five Eyes intelligence-sharing agreement that we have and are part of with Australia, Canada, the US and New Zealand. He has said that it is a “source of jealousy and suspicion in Brussels”. He said that first in a speech on 19 April and has repeated the claim several times since. Do you know of any Head of Government of any of the four other states that are part of the agreement who does not think that Britain is stronger in Europe and that, from their point of view, it is better for us to stay in Europe?

Mrs May: Certainly I am aware of two of the four Heads of Government—I think it may apply to the other two as well—who have been very clear in their view that the United Kingdom should remain inside the European Union.

Q363 Mr Umunna: Has any interior Minister or counterpart Minister whom you deal with in any of those states expressed unease and disquiet at the impact of the European Union, including all of its institutions, on our intelligence-sharing arrangements with them?

Mrs May: That is not a view that has been expressed to me.

Q364 Mr Umunna: Have you detected in your dealings with any EU institution or individual representing any EU institution jealousy or suspicion on their part in respect of the Five Eyes intelligence-sharing agreement that we have with the states I just mentioned?

Mrs May: I find that when I am discussing with opposite numbers and interior Ministers inside the European Union and with those representing the EU institutions,

we talk collectively about how we can encourage the sharing we have between us and our interaction with others, so that we can collectively increase the robustness of our defences and our security.

Q365 Mr Umunna: But the two words used by your Cabinet colleague, the Lord Chancellor, were “jealousy” and “suspicion”. Do you detect, as the Minister responsible for MI5, any jealousy or suspicion on the part of any EU institution or individual working for it in respect of the Five Eyes intelligence-sharing agreement?

Mrs May: In the interactions I have had, I believe there is a respect for the relationships that the United Kingdom has and a recognition of the role that the United Kingdom has played in developing intelligence sharing in a wider sense than just here in the UK, to benefit a number of countries inside and outside the EU.

Q366 Mr Umunna: What on earth would the Cabinet Minister, who does not have responsibility for MI5, be doing talking to your counterparts about the Five Eyes intelligence-sharing agreement? Would there be any good reason for him to be discussing that with them?

Mrs May: You will have to ask the Justice Secretary about comments he made. I am responsible for comments I make.

Q367 Mr Umunna: This is my final question. Is it not the case that this is cooked-up nonsense by a Lord Chancellor who increasingly is becoming something of a conspiracy theorist?

Mrs May: The best way I can answer that, Mr Umunna, is by saying what I said before, which is very simply that in my experience as Home Secretary, which is coming up to six years in two days’ time—

Mr Umunna: Responsible for the intelligence agencies.

Mrs May: In my experience, the United Kingdom is more secure as a member of the European Union.

Chair: Thank you. May I just say to colleagues that the Home Secretary has matters of state to deal with at 5.30 pm, so we need to stay within our limits?

Q368 Nusrat Ghani: Home Secretary, in your speech on national security in February, you said: “The problems of failed and fragile states, not just in Syria, but across the Middle East and Africa, are no longer confined to those regions. Not only has this created one of the greatest humanitarian challenges in decades, it has also sparked a political crisis within the European Union.” If the effect on the EU of the world’s greatest challenges is a political crisis, how confident should we be of the role it can play in international security and counter-terrorism when those crises arise?

Mrs May: We can be confident, as I have indicated already, in security. What has happened in relation to the migration issue is that it has created concerns and issues within the European Union. Those are obvious. People have seen the discussions we have been having in the EU and the difficult consideration that is being given to how we deal with those issues of migration in order to reduce the impact of the movements

of people. Obviously, in relation to migration across the Aegean, the EU-Turkey deal has been entered into by the European Council and that is part of it. I think it is entirely fair to recognise that the migration crisis has challenged Europe.

Q369 Nusrat Ghani: I think Europe has been able to come up to the plate as much as Britain has.

Mrs May: Europe has come up to the plate. Crucially, what has mattered in doing that is that the United Kingdom has been part of the EU and has been able to help to shape the discussions that have taken place, and has been able to show leadership within the EU on this issue.

Q370 Nusrat Ghani: You also said in that speech: “In the EU, after many years of negotiations, we reached agreement on the sharing of passenger name records on flights to, from and within Europe, a crucial step in supporting our fight against terrorism.” Later in the speech you said: “For the EU to deliver on the security of its members, it must be a forum for taking action and garnering a collective response.” If the EU is such a strong security partner, why did it take so long? Are there other examples, in your experience, of the EU being slow or unco-operative to fight against terrorism and other threats?

Mrs May: The EU is not unco-operative. The passenger name records directive is an important development that has taken place within the EU. It is a very good example of what I think is important in relation to the UK, which is for the UK to recognise that we have a significant role to play within the EU. We have experience and understanding in some areas, which we can take into the EU, and we can produce results that will be to the benefit of all the countries within the EU. It is absolutely important, as I have indicated publicly before, that the UK leads within the EU.

Q371 Nusrat Ghani: Definitely, especially on tackling terrorism and managing extremism. The Prevent programme, which is often criticised, is actually providing a really good relationship between local communities and police. Britain is leading on a number of such issues, but do you think Europe is a drag on the work we are doing, or are they taking on board our expertise?

Mrs May: They are taking on board our expertise. I will give you a very practical example. In the UK, we have the counter terrorism internet referral unit. Since its inception in 2010, it has taken down 170,000 pieces of material from the internet, and at an increasing rate in the past couple of years. Within Europol, we have established—the UK was very keen to progress this and pushed this—a European internet referral unit, which is doing similar work across countries within the EU. That is a very good example of the EU coming together to do something that is to everybody’s benefit. It happens that the first example of that was in the UK and we have been able to take that expertise in, work with others and develop something to a wider benefit.

Q372 Nusrat Ghani: There was the issue of the terrorist attack in Paris. The tragedy there saw the plotters travel in and out of Europe and plan their appalling attacks in Belgium before travelling to France to carry them out. One of them left France through an open border. Is that not an example of how EU arrangements do not help to ensure our security?

Mrs May: I think it points to the importance of our maintaining our borders, which we are doing and will do. We will never be part of Schengen, the border-free zone.

Q373 Nusrat Ghani: I think I have time for one more question. What do you make of the views of Sir Richard Dearlove and Sir John Sawers, both former chiefs of MI6 who, despite having held the same role, have contradictory views about the benefits of EU membership to our security landscape? Is it not slightly worrying that experts with first-hand experience have failed to come to an agreement that Britain needs the EU to add to our security?

Mrs May: Well, they have come up with different opinions. Of course, Sir John Sawers has been head of MI6 rather more recently than Sir Richard Dearlove.

Q374 James Berry: Home Secretary, I welcome the tone of your 25 April speech, which did not seek to rubbish the views of either side of the debate and recognised that this is a finely balanced issue for many people and many of our constituents. First, can I confirm that it is correct that the UK enjoys the double advantage of being outside Schengen and having the opt-in on home affairs and justice issues? That is, if not unique, a very rare situation within the EU.

Mrs May: Yes. First, in relation to my speech, I felt that it was important. It is a balanced judgment that people will be making. People will be weighing up the costs and benefits. I am clear that I think the benefits are to remain within the EU. We do have a particular relationship with the EU precisely because, as you say, we are not part of the border-free zone—the Schengen zone—and we do have the ability to choose whether to opt in or out of justice and home affairs measures. Indeed, another part of our negotiation package was clear confirmation of that and confirmation that, in those measures which were part JHA, our opt-in would apply to those parts of it which were JHA.

Q375 James Berry: As a non-Schengen country, the UK conducts border checks, and we have the power to turn away undesirable people from within the EU or outside the EU. My understanding is that we have turned away 6,000 EU citizens since 2010. Unless we were to require visitors from EU countries to apply for visas—which we don't do for American or Canadian citizens, for instance—would leaving the EU actually make it any easier to deny people entry to this country from the EU as visitors?

Mrs May: No, unless we put in the sort of visa system that you are talking about. There are many countries outside the EU from which people are able to visit the UK without requiring visas. What being inside the EU enables us to do is to have access to the systems such as SIS II—forgive the jargon, Chairman, but I'm sure you and members of the Committee are familiar with it. SIS II enables us to have information at the border, which makes it easier for us to identify people against whom a European arrest warrant has been issued, for example.

Q376 James Berry: When the Committee visited Europe, all the senior staff were very clear that it was your work as Home Secretary that was leading and persuading your European counterparts at the Council of Ministers to expand Europol's power and remit. If we left the EU, we could still work with Europol, as the Americans do—that was certainly made clear to us, to be fair, Mr Loughton—but is it your assessment that we would lose our influence over Europol's powers and direction if we left the EU?

Mrs May: Yes. We would be in a different relationship with Europol; we wouldn't be a member of it. There are a number of countries, as you say, such as Norway, the USA and one or two others, that have a relationship with Europol. It is a separately negotiated relationship—in most cases it has taken several years to get to that point—but they are not members. They are not influencing what Europol does in the way that one is as a member of the EU.

Q377 James Berry: Finally, it strikes me that the European arrest warrant, the passenger name record directive and the Prüm convention are all kinds of practical co-operation arrangements that we, the UK, may well be looking to be a member of even if we were outside the EU, to tackle cross-border crime and threats to our security. Am I right that the thesis of your 25 April speech was that if we had not been a member of the EU—if we had not had a seat at the table—such arrangements would have been very much more difficult, if not impossible, to broker?

Mrs May: Absolutely. The UK has been instrumental in a number of areas—the passenger name record directive was one that was referred to earlier—in ensuring that we get that agreement across the EU table. To achieve that outside the European Union would be far more difficult. If you have to negotiate separate bilateral deals with 27 countries rather than getting that one collective agreement, by definition it is going to take even longer and be even more difficult. Being in the EU gives us that ability not only to drive what is happening, but to be, with others, part of systems that I believe definitely add to our security.

Q378 Mr Burrowes: If it had not been for the Prime Minister's negotiated deal, would leaving the European Union have been an option for you?

Mrs May: I looked at all the issues around this whole question of membership of the European Union. As you know, Mr Burrowes, I had not given an opinion before I looked at the deal. I took the very simple view that I would weigh up the arguments when the deal was there and come to a decision based on it, and that is what I have done.

Mr Burrowes: But prior to the deal—indeed, notwithstanding it—would it have been an option to leave the European Union? Would that have been an option for you?

Mrs May: There were many people who—I think it is true to say, as I said in my speech several weeks ago, that it is not the case that everything in the European Union is always perfect. I think it would be wrong to suggest that that is the case. It is a balanced judgment that people must make on whether or not it is right to be in the European Union. Depending on the package, I would have judged the arguments that had come through, and I would have given an opinion after that time.

Q379 Mr Burrowes: So it is conceivable that if the deal was a bad package, it would have been an option for you to support leaving the European Union.

Mrs May: The Prime Minister indicated that from his point of view, nothing was off the table. My position was that I was working to try to ensure that the package that came back was a good one, and I believe it was.

Q380 Mr Burrowes: But if it had been a bad one, would it have been an option to leave the European Union?

Mrs May: I have been very clear that I was not going to give an opinion on that—

Mr Burrowes: I appreciate that; you were very clear.

Mrs May: I was very clear and I'm being clear now.

Q381 Mr Burrowes: It was a very balanced—your speech was—it is a balance—

Mrs May: It is a balance judgment—

Q382 Mr Burrowes: But does that mean that, in that balance, you could well have gone on the side of leaving the European Union if the package hadn't been a good one?

Mrs May: It is a balance judgment, and what you will have seen from the speech is that what I looked at was not just issues around the renegotiated package; I looked at wider issues from the European Union. I think the three areas of challenge that I set out—security, trade and the economy—are all areas in which we are safer and better off for our future inside the European Union. There were, of course, many people who were suggesting to me that, for my career, I should take a different view; my view was that I do what's right and what's right is to be in.

Q383 Mr Burrowes: May I pick you up on what you said in your personal speech—"If we want to reform human rights laws in this country, it isn't the EU we should leave but the ECHR and the jurisdiction of its court"? I looked to the BBC for a Reality Check verdict and they said, "If the UK wanted to stay in the EU but leave the ECHR, the European Commission would have to decide whether that meant the UK had too little respect for human rights to stay in the Union...lawyers disagree about what the Commission's conclusion would be." Isn't that making the point very clearly that it's the European Commission—? It'll be evidence that there is not a democratic control of our destiny in relation to human rights unless we leave the European Union.

Mrs May: First of all, it is often claimed that we could not be within the European Union and not be within the ECHR. That is wrong; it is perfectly possible. It is a decision that would be taken about our respect for human rights and I think the United Kingdom is a country that has shown over the years its very great respect for human rights.

Q384 Mr Burrowes: But isn't the point that it would be the European Commission that would be determining this crucial issue, and that is a fundamental concern in relation to people's view about the democratic control that we have—or not—on these vital issues such as human rights?

Mrs May: The position is that if we were to leave the European convention on human rights then a decision would be taken, and a process would need to be put into place, about human rights. But if I may just pick up on this general point about the relationship that the UK has with the European Union and what this means about our sovereignty, which was another issue that I addressed in my speech two weeks ago,

we live in a world today where we are part of a number of multilateral institutions, and in all of those institutions decisions are taken as to the extent to which being within those institutions—notwithstanding that that may have an impact on aspects of sovereignty—is an overall benefit. I think in relation to NATO, for example, it is an overall benefit, although there is an impact of NATO on United Kingdom sovereignty.

Q385 Mr Burrowes: The previous speech that has been referred to, in terms of saying that the numbers coming from Europe are unsustainable and the rules have to change—if the UK was not subject to the same freedom of movement rules, would it help or hinder our fulfilling our manifesto pledge to reduce net migration?

Mrs May: I have made it clear that free movement makes it harder to control immigration but not impossible, and that's exactly what we've seen in relation to the renegotiation that we've taken. We have been able to take steps which, I believe, will have an impact on the number of people coming here to the United Kingdom from other countries within the European Union. So, this goes to part of my argument that I have indicated in a number of answers, that if we look to Europe of the future, which is what people will be voting on, not Europe of the past, actually I think the United Kingdom has a very important role to play, and I think there is scope for us in being more robust in our defence of British national interests.

Q386 Mr Burrowes: So, if we did change the freedom of movement rules, it could make it easier to control net migration?

Chair: May we have a quick answer, please.

Mrs May: Well, we are changing free movement rules. Part of the renegotiated package is changing free movement rules, which will have an impact, I believe, on migration into the UK.

Q387 Chair: Thank you. On borders, it has been reported that you have authorised an increase—quite a large increase—in the maritime capacity for Border Force, to deal with activities off the Kent coast. Is that correct?

Mrs May: The maritime capability of Border Force is being changed so that it is more flexible, to be able to deal with the issues that we are now looking at and addressing, because we are conscious of the need always to ensure that the capability is able to deal with any potential issues that may be coming down the line.

Q388 Chair: Home Secretary, thank you for coming. We have kept to your deadline of an hour—5.30 pm. On a lighter note, one question that is on the lips of everyone where I come from: if Britain comes out of the EU, will Leicester still play in the Champions League?

Mrs May: You will have to ask the Brexiteers whether Leicester will be able to have access to the French and other members of the team if we come out of the European Union. I am sorry to see you are not wearing your Leicester City scarf.

Chair: Indeed. I will do that tonight. Thank you very much indeed, and thank you for coming.