

Select Committee on the European Union

Home Affairs Sub-Committee

Corrected oral evidence: Brexit: future EU-UK security and police co-operation

Wednesday 2 November 2016

11.30 am

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Members present: Baroness Prashar (The Chairman); Baroness Browning; Lord Condon; Lord Jay of Ewelme; Baroness Massey of Darwen; Lord O'Neill of Clackmannan; Baroness Pinnock; Lord Soley; Lord Watts.

Evidence Session No. 6

Heard in Public

Questions 60 - 72

Witness

[I](#): Alison Saunders, Director of Public Prosecutions, Crown Prosecution Service.

Examination of witness

Alison Saunders.

Q60 The Chairman: Good morning and thank you very much indeed for your time this morning, Alison. It is good of you to make time to be here. As you know, this is a public session and it is being televised. You will get a transcript of the report to correct. Obviously, if there is anything you wish to add or supplementary information you want to send us, please feel free to do so. Before I start, is there anything you would like to say by way of background or any statement you wish to make?

Alison Saunders: I will say, very quickly, that we work really well with our European colleagues. We have built up long-established relationships not just with Europe but more widely. We find that probably a substantial majority of our cases now have some sort of international connection. I am sure I do not need to say this, but the crime we prosecute tends to be more and more global. We bring in commodities, whether it is people, drugs or guns. Our international connections are very wide-reaching and very important to us.

The Chairman: Post-Brexit, what tools and capabilities do you currently have that you would like to retain—things that are useful for you?

Alison Saunders: There is a package of measures that we think are really important. They are not just the obvious ones such as the European arrest warrant, which is absolutely vital and of which we make a great deal of use. It starts right at the beginning; the package around the European arrest warrant works because we also have SIS II—the Schengen information system. That helps us because, when we issue a European arrest warrant, we do not just issue it to a particular country; it can go to all 27. Certainly we have examples of cases when we did not really know exactly which European country an individual was in. The SIS II enabled us to put out a European arrest warrant, find somebody and bring them back very quickly. That package is absolutely vital.

We use Eurojust a lot. We have one of the busiest desks in Eurojust. At the moment, I think we have the most joint investigation teams. There are currently 31—so, again, that is really important. Something that may not have been mentioned before is mutual recognition for proceeds of crime. That is fairly new, but we see already that it is a very important package because not only can we ask other member states to recognise our orders and enforce them or restrain assets abroad, but we can do the same, which of course is really important for the UK economy, too.

The Chairman: Thank you. We can go into more detail on Eurojust with Lord O'Neill's question.

Q61 Lord O'Neill of Clackmannan: Could you be a little more specific as to what we would lose if we were not full members of Eurojust? I know it is not a binary option because there are, in fact, at least two others at the

moment: a co-operation agreement or a liaison prosecutor role, as the US and Norway have. How do you see the significance of Eurojust at the moment? You hinted at it, but perhaps you could elaborate. Would you then go on to say what the alternative arrangements could be or, of the two that are currently there, which might be more attractive—or is there a third option that nobody has thought of yet?

Alison Saunders: Dealing first with how much we use it, we use it a lot. As I said, we are one of the busiest desks and we have not just one person but a number of people on the UK desk. Where it is incredibly useful is not just on an individual case, although it is really important there. It gives us the ability to do things in real time. Without Eurojust we would have to send letters of request to individual states. We can say, “We have this case. It is an issue now. Can we get together a co-ordination meeting because we know that there are links with France, Spain and Italy?” We can do that very quickly and we get all those member states there with the right people, which is again very important, and in a place where there are no national priorities. We are in a neutral space, with translation, which makes it much easier. It means that we can deal with cases in real time and decide who has what evidence, how we will work together, whether we have a JIT and who takes priority in the investigation. That is really important, because it gives us real-time flexibility and the ability to talk to a number of member states immediately rather than doing it bilaterally.

The other thing we use Eurojust a lot for is around topics. To give you an example, we had some issues around prison conditions in some of our EAWs, where we were having difficulty extraditing people to countries because of concerns around prison conditions. We raised that as a topic at Eurojust. It convened a meeting with the relevant people at Eurojust, whom we could not always get to bilaterally, and we were able to deal with that very quickly—much more quickly than we could on a bilateral basis. It meant we were then able to extradite people to those countries. Again, it was very successful.

As I said, we are one of the biggest users of JITs. We have 31 JITs and they are absolutely vital. We do not necessarily have to be a member of Eurojust to do that, but it certainly helps.

On the follow-up question about the alternatives, I am aware that Switzerland and the US, for example, have liaison prosecutors there. They are able to engage in many instances in much the same way. As I understand it—I am not an expert on the details of their negotiations—they are not part of the Eurojust management board, nor can they be. So they cannot help or influence its strategic direction and where it may want to go. What is more important is that, as I understand it, they do not have access to the Eurojust case management system. That allows us to cross-check any cases or investigations that we have against the Eurojust database. It enables us to see what the potential conflicts or advantages might be of talking to other member states.

The other concern—the big unknown—is how long it has taken Switzerland and the United States to negotiate their positions. I certainly know, from having talked to the Swiss Attorney-General, and just by looking at the date, that they started negotiations in 2008 and put in a prosecutor only last year: 2015. That was a very long time to negotiate that. One would hope that we would be in a very different position because we are currently a member of Eurojust, whereas they never were. But obviously we think it is in everybody's interests for us to keep that mutual recognition and co-operation; it works for us and for other member states—but the same could be said of Switzerland or indeed the United States.

Lord O'Neill of Clackmannan: Would there be any financial implications for us of reducing our status? Are the membership dues paid by the US or Switzerland considerably lower than our figures? Is it done on a population basis?

Alison Saunders: I am afraid that I do not know the answer to that. I do not know what Switzerland or the US pay. There are certainly financial issues. If we were no longer a member of Eurojust, as I understand it, we could not necessarily ask for our JITs to be financed. We would have to wait for a member of Eurojust to do that. At the moment, Eurojust pays a significant contribution towards the JITs, which is very beneficial for us.

This relates to other things rather than Eurojust, but if we were doing things other than EAWs through Eurojust and we had to go back to conventions, which we used to use, that would be much longer and would take much more time and resource for us. So there may well be financial consequences.

Lord O'Neill of Clackmannan: If we were no longer on the management board, we would not be able to have a say in what the rates would be anyway.

Alison Saunders: No.

Q62 **Baroness Massey of Darwen:** You mentioned timescales. Would you like to hazard a guess, as best you can, about how long it might take to negotiate a new relationship with Eurojust? If there were an operational gap between the point at which we relinquish full membership and the point when the new relationship takes practical effect, what practical impact could that have?

Alison Saunders: In relation to timescales, I have no idea, I am afraid. We can look at Switzerland, which took a long time. Liechtenstein and Moldova took five and six years respectively to negotiate their bilateral agreements with Eurojust. All of them were in a different position from us, because they started as non-Eurojust members. Whether that will give us an advantage or not, I do not know. We just do not know how long it will take. It will depend on the negotiations.

Baroness Massey of Darwen: What are the obstacles? Why does it take so long?

Alison Saunders: I am not really sure why it took so long, particularly for Switzerland, because there was a lot of mutual interest. Eurojust wants things from Switzerland and Switzerland wants to link in with Eurojust. Some of it will be because, as I understand it, it does not just have to be ratified by the management board of Eurojust; sometimes individual members raise issues, and I think it needs to be endorsed by the Council of Europe. So there may be slight delays in doing all of that. I was not party to those negotiations so I do not really know, or understand, the details of why it took so long.

Baroness Massey of Darwen: Nobody knows what barriers there were, for example. Can we learn from that?

Alison Saunders: We will be able to learn from that, because we will be able to have more detailed discussions. I had a very general discussion with the Attorney-General in Switzerland when I met him at the International Association of Prosecutors conference earlier this year. I certainly have not done any detailed examination with him of what went wrong and what went right, but that is the sort of sensible thing that we ought to do.

In relation to the second part of your question concerning operational gaps, my sincere hope would be that we have no operational gaps and that if we leave Eurojust we will have things in place that mean there are no operational gaps. If there were, we would have to fall back on the 1959 convention for extradition and probably the 1957 convention—if I have them the right way round—for mutual legal assistance. The difficulty with that is that, certainly in relation to extradition, our current analysis is that some states may, when they implemented the EAW, have rescinded their convention. We would have to go into detailed research on whether that is still available for all member states. We would also have to make sure that we had the right domestic legislation. We may need some domestic legislation to make sure that we could do that. So it is not a straightforward picture and it needs a lot more detailed research, not just about our legislation but potentially about member states' legislation as well.

Q63 **Baroness Browning:** When Brandon Lewis, the Home Office Minister, gave evidence to us, he flagged up that a lot of work goes on at a bilateral level through the UK Central Authority's role in administering requests for mutual legal assistance. Could you elaborate on that for us and explain to what extent those bilateral relationships and structures can substitute for Eurojust membership or other EU measures?

Alison Saunders: There are a lot of bilateral relationships, not just through UKCA, which does not actually deal with an awful lot. If we are sending letters of request to member states, we send them directly. We have direct transmission so that they do not go through UKCA. Likewise, if we are doing an extradition request, it goes through the National Crime Agency SIRENE bureau; again, it does not go through the UKCA. That is more for incoming requests, and we have less sight of them.

Bilaterally, we have liaison prosecutors in a number of European countries. The CPS has liaison prosecutors in France, Italy, Spain and in some other countries that help us. But they do not do what Eurojust does, which is to facilitate the multinational co-ordination that is so important. Likewise, they do not do the SIS II bit, where you can put extradition requests out across all 27 countries rather than just one. Although there are good bilateral relationships, they do not cover all the work we do. They can help very much around individuals. If we know we have a case that involves France, we can use those bilateral relationships, but if it involves more than France, it is much more difficult to do without the facilities that we enjoy at Eurojust.

Baroness Browning: How problematic would it be if we were to mirror some of those bilateral agreements in lieu of the arrangement we have now within the EU? I was particularly thinking of the extradition treaty we have with the USA; I am rather familiar with the Gary McKinnon case. Some of the extradition treaties that we have already signed do not seem very satisfactory. I assume you would not want just to take an example of where we have that sort of agreement and use it as a model, or would you?

Alison Saunders: Probably the answer to that question is that, with European arrest warrants, we can get people back into this country in a matter of days. One of the first, which was quite notorious, was Osman, who was one of the 21/7 failed bombers. He went away and we got him back to the UK within 51 days, whereas our non-European extraditions take significantly longer, sometimes years—rather than days, it is months and years. So one of my real concerns would be the speed.

Using the European arrest warrant also means that there is no bar to people extraditing their own nationals. Bilaterals do not do that; Poland, for example, does not. A number of European countries—22 in total, I think—have bars on extraditing their own nationals unless it is under the EAW. In the last few years, 150 people have come back who would not have come back under a bilateral. The EAW allows us not only to do it quicker but to get back foreign nationals.

Baroness Browning: Finally, what contingency planning are you doing, as regards what you will be telling the Government is the ideal model, if you cannot just lift what you have now and replace it?

Alison Saunders: We are working very closely with the Home Office and with DExEU. I have a number of prosecutors, both from a policy point of view and operationally, who are working to help with the policy and to give advice on what we think is important and the bits we would not want to lose if we can help it.

Q64 **Lord Watts:** A framework already exists for joint investigation teams, and is in place for Norway, Switzerland and Iceland. Would that system be suitable for us? If it was, what would be lost by having to move from the present situation to that system?

Alison Saunders: I said earlier that you do not necessarily have to be a member of Eurojust to have joint investigation teams. We get a lot out of joint investigation teams because they help us to make sure that we collect the right evidence. It is much quicker than doing individual letters of request because you collect it all together and it is there; it helps with issues around jurisdiction. It also helps us significantly with issues around disclosure, which we might have if we were doing it bilaterally.

We would need to look at our legislation to make sure that it very clearly allowed us to undertake JITs if we were no longer a member of Eurojust. The legislation refers to having the 2000 convention, which, as I understand it, would go. We would need to check that. There is also a bit about making sure that other parties have the same legislation that allows us to undertake JITs. As I understand it, Norway and Iceland can ask for a JIT. You can still ask for it, but the bits that would be difficult would be around the funding and making sure that we have the legislation to do it. It could be done.

Lord Watts: Would there be any loss from adopting this system compared with the one that is in place now, if you could get over those couple of problems?

Alison Saunders: I probably do not know enough about how much those countries use them. I am not aware of a great many of them. I am not sure if that is because there is something stopping them or they just do not have the cases. As I said, we are one of the biggest users of JITs.

Lord Watts: In your department or somewhere else, is somebody opening those discussions with other parties to see how the system works and what the problems are? Are people working on this as we speak?

Alison Saunders: Yes. The Home Office will lead on the JHA issues, which will include all of this. It will do the negotiations and lead on policy. We are working very closely with it and are linked to the group looking at how this should happen. These are all the questions that we would look to answer and find answers to. We would certainly not want to go into anything that will not work.

The Chairman: You have already touched on the European arrest warrant, but Lord Condon wants to ask some more detailed questions.

Q65 **Lord Condon:** As the Chairman said, you have already touched upon this, but perhaps you could rehearse for us the importance of the European arrest warrant. You touched on the limitations of the European Convention on Extradition and so on. Could you give us more of a flavour for the importance of European arrest warrants and what seem to be the limitations of the current alternatives?

Alison Saunders: Yes. Perhaps it is easier to refer to a couple of case studies. I mentioned Osman, the 21/7 bomber, but we have had others. There was a fraud case, which was all about money laundering, fraud and false instrument offences—a person who purported to be a lawyer in

high-profile criminal proceedings. Surprisingly enough, he was not a qualified lawyer and he had stolen large sums of money. In January 2011 we issued an EAW. He was arrested two weeks later in Spain, and seven days after that he was extradited to the UK. He was subsequently given a sentence of 14 years' imprisonment as well as confiscation.

In relation to the point I was making about SIS II and the link with the EAW, we had a case recently of the murder of an elderly couple. We knew that the suspect had fled. His car was found at Dover by the ferry going across to France. All our intelligence seemed to suggest that he was going to France, and possibly elsewhere. Because we put the EAW out on the SIS II database, we found out days later that he was in Luxembourg. There was no intelligence to tell us he was there. We would not even have thought to look there, but it transpired that he was in Luxembourg. Again, we were able to extradite him back to this country, where he is currently standing trial for the murder of two people. We might have missed that had we not had the availability of both the EAW and the SIS II database.

The EAW came in because we were concerned about delays. As I said before, when we looked at casework, either outside the EU or prior to the EAW, we were talking months and years rather than the days and weeks we currently have. It is much quicker and more effective. When we compare our data, it is three times faster to use an EAW and four times less expensive; and that is apart from the really important bit about getting foreign nationals back from their home countries, which we would not be able to do if we did not have the EAW.

Lord Condon: As an alternative, is there anything that could be tweaked or elaborated that would get us anywhere close to the EAW, or will it have to be something totally bespoke?

Alison Saunders: If there was a gap, we would fall back on the 1959 convention, but there are issues. We would have to make sure that our legislation was in place to enable us to do that, and that bilateral relationships were there. When some European countries adopted the EAW, their domestic legislation repealed the convention. If they are in that position, we would have to start a whole bilateral agreement with them and make sure that they had the right domestic legislation as well.

Lord Condon: It sounds a lengthy process.

Alison Saunders: I do not know how long it would take. In other countries that have something similar to the EAW—Norway and Iceland—it looks on the face of it as though it is exactly the same as the EAW but what it still has in it, which would worry us, is the nationality bar. It still allows member states to invoke the nationality agreement, which is what we get around with the EAW. We do not have that with the EAW. That would be the concern, but Norway and Iceland on the face of it look as though they have got close to the EAW.

Lord Condon: You touched on cost implications earlier. Is there anything

more that you can tell us about the cost implications of not having the EAW?

Alison Saunders: We have a single extradition unit that helps us around comparing and contrasting. That looks about four times more expensive than EAWs. EAWs are quicker; we do not have to legislate it all again because it is about mutual recognition of the orders made in a member state, or member states recognising the orders made here, as opposed to challenges through the UK courts. It is four times less expensive for us.

Lord Jay of Ewelme: I want to come in on one point relating to the nationality bar. One of the criticisms of the European arrest warrant that one often reads in the papers here is not so much about the Poles coming here but about Brits going elsewhere. I think I am right in saying that there are 20 or 30 cases a year of British citizens being extradited. How many of those, if any, would you think are what one might call unjustified, in the sense that it would not happen if it was the other way round? In the press, it is often used in a rather unfortunate way to bring the whole question of the European arrest warrant into discredit. I am trying to get some sense of the proportion of people that you would have some doubts about yourself.

Alison Saunders: I probably cannot give you a figure for that, because I do not look at all of them myself. To give you a rough figure, we extradite just over 1,000 people a year from the UK, and fewer than 5% of them are UK nationals—which probably accords with your figure.

Of course, since 2014 or 2015, we have put in safeguards because of some of the concerns that you articulated. There is now a proportionality bar. There was concern that people were being extradited for low-level offending, for which we would not seek to bring people back. There is a proportionality bar and it is exercised by the National Crime Agency. I know that it exercises that bar and refuses some extradition requests.

Likewise, there is a forum bar. Again, if it is something that has some connection to the UK we can say—the court can do this—that the forum should be in the UK and not elsewhere. There is now the ability to do a temporary transfer. That is not a full-blown extradition; it means that people can come across and talk to the suspect before they make a decision about whether to apply for extradition. There are various things, including human rights, which can cause a court possibly to stop an extradition. They were all put in place to give reassurance that we were not just extraditing people when we would not seek to do so ourselves, or where we thought it was wrong.

Lord Jay of Ewelme: Has that, in effect, reduced almost to a minimum the risk of people being extradited abroad for reasons that you would think are unjust? Has it almost become a non-problem now?

Alison Saunders: Yes. I have not been aware in the last year or two of major issues in relation to any extradition of a UK national elsewhere.

The Chairman: What about the other way? What about an EU national being extradited this way. How would that be affected?

Alison Saunders: Again, because of the EAW, we have been able to do exactly that—for example, the case I mentioned earlier. We have some cases with non-EU states where we are seeking to extradite their own nationals but are currently blocked from doing that because they refuse to extradite their nationals. We know that, in 150 cases where we have managed to get EU citizens back, if we had not have an EAW, they probably would not have come because of the nationality bar. Hopefully, that makes sense.

Q66 **Lord Soley:** I want to turn to databases and the data information that we share on things such as criminal records, Prüm, passenger names and things of that nature. You have touched on this already, but we are struggling with the issue of how many of those are really critical to your work. Is it possible to give some indication of which of those are vital and would make a big difference to the safety and security of people in this country if we did not have them? I will come to what the alternatives are after that, but could you deal first of all with listing how crucial they are?

Alison Saunders: These are very much in the policing field. I know that you have already had Dave Armond and Steve Rodhouse from the police to talk about them. They are very much investigative tools that the police exercise rather than prosecutors. As I said at the beginning, it is all part of a package. What is important is that we are able to do investigations and get information, which allows us to prosecute and either extradite or seek extradition and then deal with possible sentencing and confiscation. It is very much a package.

The bit that we have the most direct contact with is SIS II, which we use on extraditions. I gave an example of where, without that, we probably would not have been able for a long time, if at all, to find the person we were seeking to return to this country to stand trial here. Knowledge of foreign convictions is really helpful for us, not just for understanding if a person has previous convictions but in relation to bail. If we have people in this country, or who are returning to this country, knowing what convictions they may or may not have helps us to decide on the bail position. Equally, it gives us a risk assessment; the risk if our people have to go and arrest them, or what it will mean if we bring somebody to court. Those are police investigators' areas, but they overlap significantly with the prosecutorial world.

Lord Soley: Let me take the criminal records information system. There have been a number of cases over recent years when people have committed very serious crimes here, including murder, and we did not know about their previous convictions. It should trouble us, if we cannot replicate that, which brings me to the second part of my question. It seems a rather vital area, and I take it that you are saying it is.

Alison Saunders: Yes.

Lord Soley: If, as a result of coming out of the European Union, we lose that right, what do we put in its place? Is there an agreement? Would we have to have an international agreement with the European Union? Would we go into memorandums of understanding with individual states? How do you see that moving forward, again bearing in mind that we are looking at very serious cases?

Alison Saunders: Yes. We would want to maintain the capability, both for law enforcement and for prosecutors. This again will be for the Home Office to negotiate. If it can be done on an EU-wide basis, that would be the easiest and most sensible way. You would get buy-in from all 27 countries. If you cannot do that, it would have to be done on a bilateral basis. The databases are there. It is about having access to them. My law enforcement colleagues who appeared before you made the point that opting into Europol is really very important because it gives us access to all the databases without having to do any bilateral agreements.

Lord Soley: If you had a bilateral agreement, it would have to cover issues such as privacy protection rights, and presumably those of the country we were doing the deal with.

Alison Saunders: Yes, I presume so.

Lord Soley: If we go down that road—it is obviously one of the options—it would invariably make it more difficult to know if a person had very serious convictions, whatever system they had come here under.

Alison Saunders: The one thing that is clear is that having such information really does assist us and helps to protect the UK and the citizens of the UK. It means that we can bring people to justice knowing their full background and that we are able to put information before the court that might impact on their bail status. It is really important, but how we maintain it will be a matter for others to make sure that they can negotiate. What I am very clear about is the importance of it.

Lord Soley: What about the alternative of having what, in effect, would be an international agreement with the European Union? I may be wrong, but things such as the passenger names list would be relatively easy to do because it is a fairly finite system.

Alison Saunders: If we can negotiate an agreement with all member states together, that is much better than a bilateral one, where you potentially get into very differing standards. If you can do it with the European Union as a whole, it is much easier. Of course, a lot of the justice and home affairs issues, such as EAWs and mutual recognition, help not just us but other member states as well—so there is mutual benefit.

Lord Soley: Would I be right in thinking that your preference would be an overall agreement with the EU on databases and data information rather than trying to do it individually?

Alison Saunders: It makes it much easier to negotiate with a body and to have an agreement that covers all 27 rather than 27 bilateral agreements.

Q67 **Lord Jay of Ewelme:** In your introductory statement—I think I am quoting you correctly—you said that a substantial majority of cases that you deal with have international connections. I have to say that I was surprised by that. Could you say a bit more about that and tell us what percentage of the cases that you deal with have European or EU connections? I am trying to get a perspective on that.

Alison Saunders: It is more anecdotal than fact based. We just did a quick check with our serious fraud division, which most people would tend to think of as much more nationally based. In fact, it sends between 350 and 400 letters of request for evidence abroad every year. I gave an example of where we used the European arrest warrant to extradite a fraudster back to this country.

We use them in some quite surprising crimes. You might think that they are all very national, but they are not. Our organised crime division obviously deals with National Crime Agency work, and that pretty much all has an international element—drugs being brought in, people trafficking and gun smuggling. It is not just from Europe. We know that drugs come from beyond Europe, but the routes in are through Europe so we need that evidence as it comes through. People trafficking is not just a wider-world thing but specifically European countries as well, where we need evidence. Quite often, we have joint investigation teams in those cases. Obviously there is terrorism, with people moving across Europe to Syria or coming back that way. We use evidence there, particularly following some of the terrorist incidents on mainland Europe.

It is a widespread phenomenon that more of our crime is international, as it becomes more serious and more complex. Those are the specialist divisions, but if you are in an area dealing with drugs cases or people who are committing offences here and have gone back, you need information from abroad. In the murder case that I referred to earlier, we found the suspect in Luxembourg. Although the murder was committed here, it had a European element.

Lord Jay of Ewelme: Would you say that a substantial majority have a European connection as well as an international one?

Alison Saunders: Yes. When we looked, certainly the numbers of extraditions are higher for Europe than they are for the rest of the world. The same is true for a lot of our requests for legal assistance.

Q68 **Lord Jay of Ewelme:** That is very helpful; thank you. We have covered quite a lot of criminal justice instruments in the course of the discussion so far. You have talked about the ones that are the most important to you. Are there any that we have not mentioned and have not discussed that you want to draw to our attention? We cannot cover everything in the report we are writing, but we want to cover those that matter most.

You mentioned, for example, mutual recognition of proceeds of crime in your introduction. That is not something I had come across before. Are there other things you want to draw to our attention so that we can incorporate them in the report?

Alison Saunders: The main one is mutual recognition for proceeds of crime. Obviously, proceeds of crime is important for us, not just for recovering the assets of the people we have convicted but when foreign criminals may have their assets based in the UK. From a UK security and UK plc point of view, we want to be able to deal with that as effectively as we can. Mutual recognition for proceeds of crime has been relatively recent, but we have already seen an increased number of requests from European countries asking us to freeze assets here. They come from countries where we have never had requests before, which is interesting. We think that the process is much simpler, much easier and much quicker.

In relation to that, currently we have 69 requests for restraint and we have £170 million frozen in the UK. They are assets that we have been asked to freeze by other European countries. It also means that we can ask other European countries to do that, and we have. Enforcement is quicker because we enforce the foreign court order and do not have to go through our own courts again. It is similar to the European arrest warrant. It is cheaper, quicker and more effective. The other slight advantage to it is that in cases where we are recovering more than £10,000 it is mandated that you split the proceeds that are recovered 50/50—so there is a slight financial incentive as well.

Lord Jay of Ewelme: We have not talked about the European investigation order, the European supervision order or prisoner transfer framework decisions. Are any of those important to you?

Alison Saunders: The European investigation order will be, depending on how it develops. It follows the EAW and mutual recognition for the proceeds of crime path, where we recognise foreign orders and they recognise our orders, so it makes it quicker and more effective, with timescales applied. That would be important.

Lord Jay of Ewelme: If we were to leave and therefore were not part of them, are there alternative mechanisms that you can envisage, or is that going to be a headache?

Alison Saunders: There are always alternative mechanisms. The reason we have EAWs and mutual recognition is that it is quicker and more effective and, therefore, particularly for prosecutors, less resource intensive. If you are a victim of one of those crimes where we are looking to get somebody back, if we can get them back within weeks or months and see the case go through court, it is much more immediate than having to wait years, when lots of things may have changed between times. We are all about making sure that justice is speedy and more immediate so that we get the right result in court.

The Chairman: We see the force behind its being speedy and justice being done, but are there any cost implications of alternative arrangements?

Alison Saunders: Yes. We know that the European arrest warrant is four times less expensive for us as prosecutors than non-European arrest warrants. If we had to go back, the 1,000 we extradite would potentially cost us significantly more to deal with. Likewise, we might potentially have to find the money we receive from Eurojust for JITs. Likewise with the proceeds of crime, the whole issue about mutual recognition is that we do not have to test it all through our courts. If there is a challenge, it goes back to the requesting state to deal with. That means we do not have to do it and it is much cheaper and quicker.

The Chairman: Is it something that you are doing yourselves? Is the Home Office costing this?

Alison Saunders: We are working with the Home Office to make sure that we advise it on this. We have some estimated costs that we have provided to the Home Office.

Q69 **Lord Watts:** I do not know whether you can give us any figures on this: what sort of scale are we talking about in relation to the seizure of assets from crime? How much does the UK receive and how much is sent out? Are we talking large amounts of money?

Alison Saunders: I will probably have to come back to you. I can look at some figures that we have, but the figure I had for this briefing was that we have currently frozen £170 million from 69 requests. What I can do is go back and give you the figures for how much we have asked to be frozen abroad in Europe, and how much we have recovered.

Lord Watts: On the ability to seize assets from each other, is there any underpinning European legal requirement that we would have to join, subject to a court decision in Europe?

Alison Saunders: We changed the procedure with Europe quite recently. The point about mutual recognition is that it now means that we do not have to litigate it through our courts. We recognise a foreign order asking us to restrain or enforce the confiscation order. Likewise, they recognise ours. That already makes it much quicker and more effective. We think more requests are coming through because it is quicker and more effective. It is a much better system than the previous one, where we had to litigate it almost in each country.

Lord Watts: For us to achieve something very close to that would mean us ceding some sovereignty over the legal decision.

Alison Saunders: It is like the EAW, where we have protections so that we can make sure that we are not asked to send people to countries where we would not ordinarily do that ourselves. There are protections. If we have a confiscation order here and we know that the assets are in Spain, and our courts say that you can confiscate those assets and

enforce it by forcing the sale of the property, it means that Spain will do that. Spain does not question our order. It is one of those issues where there is a mutual recognition, so it works both ways.

Q70 Lord O'Neill of Clackmannan: The role of the Lord Advocate in Scotland is very similar to yours. How do you liaise with them and what would be the consequences of exit? I would imagine that both of you would be leaving, but are you liaising with them as part of the exit preparation programme?

Alison Saunders: Yes. Not surprisingly, I have regular meetings with my Scottish counterparts and with those in Northern Ireland. We have already had some conversations and we are working with their offices to advise and inform the Home Office, which will be conducting the negotiations. We are making sure that we talk to our counterparts in Scotland and Northern Ireland.

Lord O'Neill of Clackmannan: This is an area where devolution is in a slightly different form because the legal systems pre-existed devolution and have certainly been around longer.

Alison Saunders: Yes. We have very close relationships anyway; we meet very regularly.

Q71 Baroness Pinnock: I have a couple of questions. I have read in various places that all this discussion about the European arrest warrant will become less significant if free movement of people is significantly curtailed. Have you any thoughts on that?

Alison Saunders: You will not have people moving, so you will not need to have the European arrest warrant?

Baroness Pinnock: Yes, basically that is the argument I read. It was not a sophisticated argument, I have to say, but I thought I would put it to you.

Alison Saunders: We know from some of the extraditions that we request anyway that, even if there are restrictions on people, they find ways around them. So you still need to have the ability to extradite or return people to this country. What is important for us is to make sure that we have an effective system that allows us to do that.

Baroness Pinnock: So it is a rubbish argument.

Alison Saunders: Yes.

Q72 Baroness Pinnock: Good. That has sorted that one out. The final question on behalf of the Committee is this. When Brexit occurs, what will we lose in terms of influence on forward policy-making and the areas where we can get together and make sure that things go in the right direction for us as a nation?

Alison Saunders: That will be very much an issue for other people rather than for me. What I can reassure the Committee about is that we

have very good bilateral relationships with many of our European colleagues, and through Eurojust. As I said, not only did I meet the Swiss A-G when I was at the International Association of Prosecutors, but I met the President of Eurojust and we have good relationships. We have prosecutors in some of the European countries but not all; nor could we, because there would be a cost issue in putting a prosecutor in each of the 27 member states and it would be quite difficult. Where we have bilateral relationships, we have very good working relationships with our European colleagues and we will continue to make sure that that happens.

Lord Condon: In relation to the evolution of Europol, Eurojust and the European arrest warrants, all of that architecture has really been facilitated by the overarching jurisdiction of the European Court of Justice. Some witnesses have suggested that once we sever the links with the European Court of Justice it will make it incredibly difficult for us to negotiate any sort of bespoke deals that get us back towards the status quo. Do you share that anxiety around the impact of severing links with the European Court of Justice?

Alison Saunders: That is a really interesting discussion, which I have to say I have not quite thought through. If we are not influenced by European Court of Justice decision-making, so we do not have to do what it says because we have removed ourselves from its jurisdiction, but 27 European countries are, it means that, if we were doing bilateral agreements or an agreement with Europe, we would still have to follow the standards. For example, if the European Court of Justice decided that you had to have a particular standard of justice in place before you could use information, I imagine we would still probably have to be influenced by that, because the European countries that were affected by it would not sign the agreement.

Lord Condon: We are going to have to write it into bilaterals or some generic, to give reassurance that, although they may be parallel systems of jurisdiction, they are compatible. One of my fears is that on something like Europol someone will show a red card and say, "No, you cannot play in this aspect of Europol because you are not subject to the European Court of Justice. It is being subject to its jurisdiction that gives us reassurance that Europol is under control. You want to play but you do not want to abide by the rules".

Alison Saunders: One would hope that it did not come down to that sort of argument. We are not a country that has said, "We are not abiding by human rights"; we would still have protections in place for citizens who are tried here. We have a very good record on criminal justice and the rule of law. But I can see specific issues where it may become a real issue.

The Chairman: There are no more questions from us. Thank you very much indeed for your very clear and comprehensive responses to our questions. We are very grateful to you. If, after reflection, there is anything further you wish to send us, please feel free to do so. If you can send some of the figures that you suggested, it would be very helpful.

Alison Saunders: We will certainly come back to you on the figures.

The Chairman: We are very grateful to you for your evidence.