

European Scrutiny Committee

House of Commons, London, SW1A 0AA

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From: Sir William Cash MP

11 June 2020

Mr Alex Chalk MP
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European Commission reports on the implementation of EU Directives on Victims' Rights and on the European Protection Order (Commission documents COM(20)188 and COM(20)187) (41248 and 41249)

Thank you for your Explanatory Memoranda on two European Commission reports assessing Member States' implementation of two EU criminal law Directives, one on victims' rights,¹ the other on the European Protection Order.² You confirm that the UK opted into both Directives and that they will cease to apply at the end of the post-exit transition period provided for in the EU/UK Withdrawal Agreement.³

Both Directives have as a common purpose the effective protection of individuals who are (or are at risk of becoming) victims of crime. The Directive on victims' rights establishes minimum EU-wide rules on standards for the protection of victims in criminal proceedings which all Member States must meet and are free to exceed. By contrast, the Directive on the European Protection Order is based on the principle of mutual recognition. It seeks to ensure that protection measures taken in one Member State to safeguard an individual against a criminal act that may endanger their life, physical, psychological or sexual integrity, dignity or personal liberty can be maintained and continued if that individual moves (even temporarily) to another Member State.

You confirm that the common minimum standards set out in the victims' rights Directive will be "unaffected by the end of the transition period [and] they will

¹ [Directive 2012/29/EU](#) establishing minimum standards on the rights, support and protection of victims of crime and replacing Framework Decision 2001/220/JHA.

² [Directive 2011/99/EU](#) on the European protection order.

³ See Article 127 of the [EU/UK Withdrawal Agreement](#).

remain in domestic law”. This is because they will have been incorporated into domestic law and form part of the retained EU law which is preserved by the European Union (Withdrawal) Act 2018. The common minimum standards will also, of course, be available to UK citizens or residents involved in criminal proceedings elsewhere in the EU.

This does not appear to be the case for the cross-border protection measures provided for in the Directive on the European Protection Order. We ask you to provide further information explaining:

- how the Directive was implemented in UK law;
- whether EU criminal law measures based on the principle of mutual recognition—and this Directive in particular— fall within the scope of the “deficiencies in retained law” envisaged in section 8 of the European Union (Withdrawal) Act 2018;
- what action the Government has taken to “prevent, remedy or mitigate” deficiencies concerning the operation of the Directive after transition;
- how any changes made (or to be made) to retained EU law will affect the protection available to those who have secured a protection measure in the UK and then move to an EU Member State;
- whether (i) the Government would support a continuation of existing cooperation in this area through specific provisions in any EU/UK future relationship agreement(s) and (ii) has proposed provisions to this effect; and
- absent any such provisions, what other mechanisms will be available after transition to safeguard those whose need for protection has been recognised by a domestic court in the UK when they travel abroad.

I look forward to receiving your response within ten working days.

I am copying this letter to the Chair (Sir Robert Neill MP) and Clerk (David Weir) of the Justice Committee; the Chair (Yvette Cooper MP) and Clerk (Elizabeth Hunt) of the Home Affairs Committee; the Chair (Hilary Benn MP) and Clerk (Gordon Clarke) of the Committee on the Future Relationship with the European Union; the Chair (the Earl of Kinnoull) and Clerk (Christopher Johnson) of the EU Select Committee in the House of Lords; Maxine Cristiano and Tessa Gilder-Smith, your Departmental Scrutiny Coordinators; and Les Saunders and Donald Harris in the Cabinet Office.

CHAIR