



# HOUSE OF LORDS

European Union Committee

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Rt Hon James Brokenshire MP  
Minister of State for Security  
Home Office  
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17 June 2020

## **Evidence to the Lords EU Security and Justice Sub-Committee**

Dear Minister,

Thank you for giving wide-ranging evidence to the Security and Justice Committee yesterday. One point which emerged clearly from our discussion was that the current negotiations with the EU on these matters are vital to protecting the safety of UK citizens, as well as those in EU Member States, and that effective collaboration on criminal justice and judicial matters should continue after the transition period wherever possible. We look forward to continuing to work closely on these issues.

We listened carefully to your optimistic assessment about the likelihood of achieving this objective. But members of the Committee remained very concerned about the lack of public information on the Government's contingency plans should an agreement nonetheless prove impossible. We therefore agreed that I should write to you as a matter of urgency to seek further information on the following points.

The Government published in May its draft texts on law enforcement and judicial cooperation. You expressed your optimism to the Committee that an overarching agreement could be reached. You also told us that if such an agreement were not reached there would be "some mutual loss of capability [but] there are alternatives [and] well-rehearsed plans" in place to mitigate that outcome. However, at the end of the session the precise detail about the Government's proposed alternatives remained unclear to us. The Committee would therefore welcome the Government's assessment of how the UK's law enforcement capability could be affected by the failure to reach an agreement on security and criminal law cooperation by the end of the year.

With regard to future cooperation on extradition, you stated that you were "positive" about reaching agreement on the fast track surrender of individuals based on the process agreed between the EU and Norway and Iceland; we also note that both Parties have included arrangements to that end in their proposed negotiating texts. However, we seek your confirmation that, if no agreement can be reached by the end of this year, the Government intends to fall back on the 1957 Council of Europe Convention on Extradition. We recall that, in July 2017, the Lords EU Home Affairs Sub-Committee concluded that: "Falling back

on the 1957 Council of Europe Convention on Extradition would significantly slow down extradition proceedings, since it would mean going back to making routine extradition requests—as well as resolving disputes about extradition requests—through diplomatic channels.”<sup>1</sup>

As we discussed with you, a positive data adequacy decision from the EU Commission is probably the single most important requirement in order to achieve close EU/UK cooperation in the field of law enforcement and justice. If this matter is not resolved, we cannot see how the UK Government can get close to replicating the arrangements that we enjoyed as an EU Member State. We were grateful for your responses to the many questions on this issue. You said that you had “no doubt” that the EU would award adequacy because “the UK is operating the same regulatory framework as the EU.” But you added that if the EU did not award adequacy “there are alternative legal mechanisms in place to transfer legal data.” Again, we are not clear about what those alternatives might be. We would therefore welcome from you details of what those alternatives consist of, and your assessment of how resorting to them would affect the operational effectiveness of UK law enforcement.

I would be grateful for a response to these matters within 10 working days.

I am copying this letter to Sir William Cash MP, Chair of the Commons European Scrutiny Committee; Jessica Mulley, Clerk to the Commons Committee; Les Saunders, Cabinet Office; and Mark Leslie, Home Office

Yours sincerely,



Lord Ricketts

Chair of the EU Security and Justice Sub-Committee

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<sup>1</sup> European Union Committee, 6<sup>th</sup> Report, Session 2017-19, HL Paper 16, para 73, p.25:  
<https://publications.parliament.uk/pa/ld201719/ldselect/lducom/16/16.pdf>