



House of Commons
Northern Ireland Affairs
Committee

**Cross-border co-operation
on policing, security and
criminal justice after
Brexit: Government
Response to the
Committee's Fourth Report
of Session 2019–21**

**First Special Report of
Session 2021–22**

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Northern Ireland Affairs Committee

The Northern Ireland Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Northern Ireland Office (but excluding individual cases and advice given by the Crown Solicitor); and other matters within the responsibilities of the Secretary of State for Northern Ireland (but excluding the expenditure, administration and policy of the Office of the Director of Public Prosecutions, Northern Ireland and the drafting of legislation by the Office of the Legislative Counsel).

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Publication

Committee reports are published on the Committee's website at www.parliament.uk/niacom and in print by Order of the House.

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First Special Report

On 28 April 2021, the Northern Ireland Affairs Committee published its Fourth Report of Session 2019–21, *Cross-border co-operation on policing, security and criminal justice after Brexit* (HC 766). On 28 June 2021 we received the Government Response to the Report, which is appended below. The Committee's recommendations are in bold italics, the Government response is in plain type.

Appendix: Government Response

Letter from Robin Walker MP, Minister of State for Northern Ireland

I am writing following the publication, on 28 April, of the Northern Ireland Affairs Committee's report, "Cross-border co-operation on policing, security and criminal justice after Brexit - Fourth Report of Session 2019–2021."

I would like to take this opportunity to thank the Committee for the work they have taken forward and to recognise the contributions of the many witnesses and others who have provided written or oral evidence, particularly given the challenging circumstances of the past year.

Please find the Government's response to the recommendations made in the Committee's report below.

Response to Recommendations

British-Irish Intergovernmental Conference

The Government and the Irish Government must agree to convene the British-Irish Intergovernmental Conference (either virtually or physically) as soon as possible, and no later than the end of June 2021, to discuss security co-operation, as part of wider ongoing efforts to minimise the opportunities for organised crime gangs to exploit the Common Travel Area. [...] (Paragraph 29)

The Governments convened the British-Irish Intergovernmental Conference (BIIGC) on Thursday 24th June 2021 in Dublin. The Conference noted the importance of maintaining the high level of security co-operation between both jurisdictions on the island of Ireland. We reaffirm our commitment to both the BIIGC and the British Irish Council and the opportunities they provide for continued collaboration. It was agreed that the next BIIGC should take place in London in November.

Specialised Committee on Law Enforcement and Criminal Justice Cooperation

When the Specialised Committee on Law Enforcement and Criminal Justice Cooperation is established, the Government must invite representatives from the Northern Ireland Executive to participate in the Committee [...] to allow them to articulate their perspective on security co-operation on the island of Ireland. (Paragraph 34)

We of course value the perspective of the Northern Ireland Executive in relation to security cooperation on the island of Ireland.

We want to engage the Devolved Administrations on a constructive and mutually beneficial basis. However, final discretion in any specific instance as regards attendance would be held by the UK co-chair of the body concerned, depending on the nature of the discussion.

Extradition arrangements

The Government must commission a review of the effect of the new extradition arrangements after they have been in force for two years. Research on the effect of the need to establish double criminality on the speed of extradition processes between the UK and Ireland should form part of this review. (Paragraph 57)

The extradition arrangements in the TCA are intended to be as fast and effective as those under the European Arrest Warrant, while providing greater safeguards for those who are arrested. The arrangements are based on the exchange of warrants between judicial authorities, which is similar to the arrangements in place between the EU and Norway and Iceland, and contain identical time limits to those under the European Arrest Warrant Framework Decision. Regarding dual criminality, it is an important principle of judicial cooperation and ensures that a person will not be extradited to an EU country for an offence which is not an offence in the UK. The UK and other EU criminal justice systems criminalise behaviour in very similar ways, so this will not have a bearing on most cases.

Under the extradition arrangements we would therefore expect cooperation between the UK and Ireland on extradition to proceed largely as it did before the end of the Transition Period.

We will continue to work closely with domestic operational partners and our partners in the EU to monitor the operation of the arrangements and will take steps to address any issues should they arise.

Operational information sharing

The Government must set out how it plans to mitigate, limit or eliminate delays in receiving arrest warrants and operational information from EU partners following the loss of access to SIS II. The Government and relevant UK law enforcement agencies must also set out how it plans to encourage partner agencies in EU Member States to enter arrest warrants into the Interpol I-24/7 database to mitigate the operational loss of SIS II. (Paragraph 63)

In the absence of SIS II, we have returned to tried and tested mechanisms of cooperation via Interpol and bilateral channels, which we already use with the rest of the world – and which we already used with Ireland as they were not previously connected to SIS II. Using Interpol channels, we are routinely exchanging information with EU Member States on persons of interest, including missing and wanted individuals, on lost and stolen documents and on notifications of counter terrorism and serious crime interest. Further to

our engagement with EU partners before the end of the Transition Period, we continue to encourage Member States to make full use of these channels, including for the circulation of arrest warrants.

There is an automated upload of incoming Interpol circulations to domestic systems. Information is available via policing systems within minutes of receipt and is available at the border within 24 hours. If the National Crime Agency is notified a case is urgent, then specific alerts can be uploaded to domestic systems more rapidly. Information is therefore already quickly accessible and technical work is in train to further expedite access.

We are also investing in longer-term technical capabilities to support law enforcement data sharing by developing a single technical mechanism for law enforcement agencies to access and share alerts related to people, documents and objects with international partners on a reciprocal basis. The current priority of the programme, which is at an early stage of development, is to enhance the UK's connectivity to Interpol.

Ensuring positive operational outcomes will require commitment to routine and intelligent use of the full range of available capabilities, rather than specific system comparisons. Working with our EU partners and law enforcement partners in Ireland, we will continue to strengthen international law enforcement cooperation to tackle shared threats.

Information-sharing systems

The Government must use the Specialised Committee on Law Enforcement and Criminal Justice Co-operation to, where possible and cognisant of third country limitations, make the case for ongoing and organic alignment between the UK and EU in the development of information sharing systems. (Paragraph 72)

The TCA provides for the fast and effective exchange of law enforcement and criminal justice data through shared infrastructure, reflecting the value the UK and EU place on this kind of cooperation. We have a common goal: to protect citizens. As such, it is clearly in our mutual interest to keep one another updated on future initiatives.

Biometric data

The Government should set out if, and how, it plans to use these arrangements [on reciprocal access to biometric data with the EU] to co-operate on sharing biometric data with Ireland in particular. (Paragraph 81)

Biometrics data sharing is a vital capability to aid UK Law Enforcement in combating cross-border crime and terrorism. The TCA provides for the continued fast and effective exchange of DNA and fingerprint information with EU partners – including Ireland – using the Prüm mechanism which was in place before the end of the Transition Period. Future exchanges of vehicle registration data are also provided for through the TCA and we are working on implementing that connection. The Prüm arrangements significantly speed up information sharing and enhance the ability of UK authorities to keep citizens safe.

We currently share DNA data under Prüm with 12 EU Member States, including Ireland, with whom we connected in March 2020.

Bilateral cooperation

The Government must set out how it plans to support the development of existing bilateral mechanisms for the exchange of operational policing information between UK and Irish law enforcement agencies in line with technological advances to ensure that operational information exchange is as efficient as possible. (Paragraph 87)

We have excellent bilateral cooperation with Member States across the EU – including Ireland - on a wide range of law enforcement and criminal justice issues and we will continue to consider ways to strengthen this. The Government takes a pragmatic and proactive approach to ensuring effective law enforcement and criminal justice cooperation between Northern Ireland and Ireland and this will continue. Ireland is, and will remain, a vital partner for the UK.

As the Committee's report notes, the law enforcement and criminal justice provisions in the TCA also provide an additional basis for bilateral cooperation to continue between the UK and EU Member States. This includes information sharing in response to requests, as well as on a spontaneous basis, such as information on wanted and missing persons and objects.

We will continue to build on the strong existing relationships with our colleagues in Ireland when considering ways to tackle crime and keep our citizens safe.

Criminal record data

The Government must work with the Irish Government to ensure that criminal record data requested for the purposes of criminal proceedings continues to be exchanged as quickly as possible between UK and Irish law enforcement agencies, aiming for the shorter time limits as set out when using ECRIS rather than the 20-day time limit set out in the Trade and Cooperation Agreement; and reporting on its performance against those limits. (Paragraph 94)

The TCA allows the UK to continue fast and effective exchange of criminal records information with the EU. Criminal Records can be exchanged for law enforcement purposes, including to assist criminal proceedings and for public protection.

The TCA provides for access to shared technical infrastructure that allows the UK to continue to exchange data through a secure electronic transfer mechanism, meaning we continue to use the same forms and processes that were in place as before the end of the Transition Period. That mechanism operates exactly as it did before the end of the Transition Period.

As the Committee's report notes, the 20-day deadline for responding to criminal records requests is a limit not a target.

Data adequacy

The Government must explain how it plans to ensure that the UK's data protection regime continues to clear the necessary bar to maintain the country's data adequacy status. The Government must proactively engage with the European Commission on

this as part of efforts to ensure that data adequacy decisions are reached in good time, ahead of deadlines for their adoption, and to avoid uncertainty about the future of data sharing arrangements. (Paragraph 111)

We have always been clear on the importance of high data protection standards in the UK and in the EU. We agree that good data protection underpins international law enforcement cooperation, which is why the UK is firmly committed to maintaining high data protection standards - now and in the future. Going forward, both the UK and the EU will keep each other's data protection regimes under regular review.

Northern Ireland centre of excellence for co-operation and co-ordination to combat crime

The Government must support the Northern Ireland Executive in establishing a bespoke Northern Ireland centre of excellence for co-operation and co-ordination to combat crime. There would be demonstrable benefit in ensuring that law enforcement agencies such as HM Revenue & Customs, the National Crime Agency, the security services and Border Force, participate in this centre. (Paragraph 128)

The Government is keen to encourage cross agency cooperation and looks forward to reviewing any proposed plans from PSNI, Department of Justice and other agencies in advancing a project bringing together all key partners involved in tackling crime in Northern Ireland.

Conclusion

The Government is grateful to the Committee for the consideration they have given to this topic and for the opportunity to provide evidence for this inquiry. The Government recognises the importance of ongoing Parliamentary scrutiny and will always endeavour to cooperate with Select Committees to facilitate this where possible.

We have been cooperating with EU Member States via the new arrangements since 1 January, and the indications so far are that, in general, the new arrangements are working well in practice. We are working closely with domestic operational partners and counterparts in the EU, including Ireland, to monitor the operation of the new arrangements and will take steps to address any issues should they arise.

The Government is committed to working together with European partners to counter the threats we all face, within Europe and beyond and will continue to build on the strong existing relationships with our colleagues in Ireland in tackling crime and maintaining security and an effective criminal justice system.