

Home Office - Written evidence (PBS0002)

EU MEMBER STATE NOTIFICATIONS UNDER THE LAW ENFORCEMENT AND CRIMINAL JUSTICE TITLE OF THE TRADE AND COOPERATION AGREEMENT INCLUDING EXTRADITION OF OWN NATIONALS

During an evidence session on 16 February 2021 concerning UK/EU security cooperation the Committee enquired about notifications due to be made by the EU Member States under the Trade and Cooperation Agreement's provisions on Surrender in relation to Dual Criminality, Political Offences and the extradition of their Own Nationals. I noted Member States had until the end of February to make notifications and would write to provide you with an update.

I can confirm a total of 10 EU Member States have notified of their intention to exercise an absolute bar on the extradition of own nationals. This includes Croatia, Finland, France, Germany, Greece, Latvia, Poland, Slovakia, Slovenia and Sweden. In addition, Austria and Czechia have noted own nationals will only be extradited with their consent.

Where Member States refuse the extradition of their nationals, the Agreement requires the State concerned to refer the case to its own prosecution authorities. In such cases the Agreement establishes an obligation to provide appropriate support to victims and witnesses.

As regards the other notifications, 15 Member States have indicated their willingness to waive the requirement to establish dual criminality in respect of the Framework List of offences (Belgium, Ireland, Greece, Spain, France, Italy, Cyprus, Lithuania, Luxembourg, Hungary, the Netherlands, Austria, Poland, Portugal and Romania) and 12 have notified their use of the political offence exemption (Belgium, Czechia, Denmark, France, Croatia, Italy, Cyprus, Poland, Portugal, Slovakia, Finland and Sweden). It is worth recalling the political offence exemption may not be relied upon to refuse surrender where the offence concerned is a terrorist offence under either the European Convention on the Suppression of Terrorism or under the list of terrorist offences defined in Annex LAW-7 to the Trade and Cooperation Agreement itself.

I am copying this letter to Rt Hon Yvette Cooper MP and the Home Affairs Committee and am placing copies in the libraries of both Houses.

5 March 2021