

Written evidence submitted by the Police Service of Northern Ireland (FRE0055)

The Police Service of Northern Ireland is unable to answer a number of the questions posed by the Chair of the Committee in the letter to the Chief Constable on 5th June 2020. We believe that as a number of these questions relate to national policing, the National Police Chiefs' Council are the appropriate authority to give a national position. The Police Service of Northern Ireland do however contribute via a number of forums, which have been established by the Home Office, to feed into the negotiations including the Internal Security Delivery Board, EU Exit LENS Contingency Planning Steering Group, CAGE (Home Office Group on Extradition) and Mutual Legal Assistance.

As with Policing nationally we are concerned re the potential impact that exit arrangements have on Justice and Home Affairs Measures.

The UK has asked for capabilities similar to those delivered by SIS II. What are the main capabilities of SIS II system that the UK is seeking to replicate? Why might any replacement not fulfil these? Why might the UK be holding back its proposed test on SIS II?

The Police Service of Northern Ireland uses SIS II on a frequent basis; the figures below are an example of this in relation to SIS Art 32 and SIS Art 26 Alerts: .

Outgoing Requests:

SIS Art 26 Alerts (Person wanted for arrest) from 01/01/2019 – 25/06/2020: 79 (39 of these were persons from Ireland).

SIS Art 32 Alerts (Missing Persons) from 01/01/2020 – 25/06/2020: 1336 (this includes all missing persons reported, including those in our own jurisdiction).

SIS Art 36 Alerts (persons or objects for discreet or specific checks) are also widely used by the Police Service of Northern Ireland. Our Modern Slavery and Human Trafficking Department would be the main users of the system for alerting victims

and suspects. There may be a loss of access and operational effectiveness in this area depending on how EU Member States respond to Interpol diffusions, potentially having adverse implications for victims.

In relation to all SIS alerts, the priority countries at present for Northern Ireland are Ireland, Poland, Romania, Lithuania, Latvia, Slovakia, Czech Republic and Hungary. As the above figure shows, Ireland accounts for the majority of these alerts (almost 50%) which is logical given that the land UK-EU frontier between Northern Ireland and Ireland stretches 310 miles and has more than 320 crossing points.

The contingency for loss of this measure is to use Interpol Notices. These alerts are not “like for like”, not all SIS alerts will transfer to an Interpol Notice, which can be viewed on the Interpol i-24/7 system. There are a number of implications associated with this: i-24/7 alert system is not ‘live time’, it takes up to 24hrs for alerts to be uploaded onto the system; a new process for viewing and actioning alerts will be needed; there will be associated compliance risks that come from introducing new processes, and a reliance on other countries to dual circulate their alerts on both SIS II and i-24/7 which they are not obliged to do.

As with other police services, the Police Service of Northern Ireland will need to carry out back record conversion to ensure our alerts are dual circulated on the i-24/7 system. The process for using i-24/7 is more cumbersome than SIS II with more regulatory checks in place; this will have a financial implication for us in terms of administration and public safety implications in terms of the loss of ‘real time’ alerts.

In which areas of the current law enforcement and judicial cooperation relationship is the UK a net contributor in terms of information flows, expertise and resources? In which areas would security in the EU be most impaired without the UK’s involvement?

As with GB colleagues the Police Service of Northern Ireland contributes to the flow of information via a number of European systems including: Siena, Prum, SIS II, Mutual Assistance Requests, Interpol Requests, European Criminal Records

Exchange System (ECRIS), International Letters of Request (ILORs), European Investigation Orders (EIOs) and Joint Investigation Teams (JITs).

An example of the usage of these various systems over the last six months is set out below:

Incoming Requests:

PRUM DNA requests – 15
(Not all EU member states participate in the Prum Convention) ACRO

Criminal Record requests via ECRIS - 884

Mutual Assistance requests with An Garda Síochána - 392 Interpol

requests which includes SIS Alerts - 291

ILOR/EIO requests – 101

It is anticipated that should contingency arrangements be activated relating to Justice and Home affairs powers there would be questions regarding their efficiency and effectiveness. The contingency measure for European Criminal Record Information Systems for example is the European Convention on Mutual Assistance in Criminal Matters 1959 and Council for Europe (ILOR). We believe there are implications for using these alternative measures, we understand there is no guarantee of response timescale nor is there a mechanism to enforce compliance; requests can only be made in relation to suspects in criminal proceedings and there is no obligation to notify the UK if a UK national is convicted in a Member State.

Therefore, suspects with overseas convictions may receive lower sentences if full criminal history is not known and, officers may not know the risk a suspect poses without previous conviction data, which can have an adverse public safety effect. Likewise, it will be slower to respond to criminal record check requests from the EU; there may also be translation costs and additional administrative processes to progress the requests.

The UK aims to receive a comprehensive data adequacy decision from the EU before the end of the Transition Period. What concerns might the EU have that will affect whether to award a data adequacy decision? How important is it to any future UK-EU relationship on law enforcement that the UK secures a data adequacy decision?

We are aware that receiving a comprehensive data adequacy decision from the EU is the foundation to enabling us to share information. We believe failure to secure data adequacy could result in the UK losing capability to secure agreements and potentially jeopardise any contingency measures.

The impact of not having a data adequacy decision from the EU before the end of transition would be felt most acutely in the Police Service of Northern Ireland's working relationship with An Garda Síochána. If we are to maintain and develop our close working relationship with An Garda Síochána it is vital to us as a service to achieve data adequacy, it is imperative that we have the legal framework to enable the spontaneous sharing of information which contributes to day to day policing as well as combating Serious and Organised Crime.

What are your main concerns, if at the end of the Transition period, the UK and EU cannot agree a future security relationship? What would that mean for day- to-day operational policing, access to EU criminal justice databases, and the UK's relationship with Europol and Eurojust? In which areas would the loss of operational capability be greatest?

The main concerns that the Police Service of Northern Ireland have if a future security relationship between the UK and EU cannot be agreed is the potential encouragement and enablement to criminal activity combined with a potential reduced ability to deal with it (sub optimal Justice and Home Affairs measures). Losing these measures coupled with losing access to EU criminal databases and Europol will be felt by the Police Service of Northern Ireland in the following areas:

- **Serious and Organised Crime: *Increased criminal opportunity***

Recent assessments conducted by the National Crime Agency suggest that regulatory variance will lead to increased criminal opportunities in Northern Ireland, namely: smuggling; fraud; money laundering; drug trafficking and human trafficking. Criminal profits from these activities may enrich paramilitary organisations linked to Organised Crime Groups, magnifying the risk. The Service is concerned that EU Exit related economic pressures within Northern Ireland may contribute, as a motivator, to additional criminal activity.

- **Concerns around the Common Travel Area:**

The Common Travel Area may be vulnerable to exploitation by illegal migrants, criminals, paramilitary organisations and persons involved in international terrorism seeking to travel or return to the UK. Reliance on sub-optimal intelligence and information-sharing mechanisms or alert systems would increase the risk of such persons entering, travelling through or remaining in the UK undetected.

- **Community Tensions: *adverse community reaction***

Government provisions relating to EU Exit may result in detrimental economic impacts and be subject to adverse community and sectorial reaction.

Concerns regarding Northern Ireland's constitutional position may contribute to local community tensions and possible protest. Violent Dissident Republicans previously targeted operational activity to coincide with EU Exit dates to magnify publicity (Lurgan IED/Belfast Ferry threat).

As part of our response to EU Exit the Service has increased its capacity within Local Policing to maintain positive relationships, provide reassurance and contribute to community confidence in Policing, this has included joint operational activity with An Garda Síochána.

- **Justice and Home Affairs Measures: *operable but sub-optimal***

While contingency arrangements will be available, it is anticipated that they would be slower, costlier and more bureaucratic to operate. The loss of access to or use of

SIS II, European Arrest Warrants, ECRIS,

Europol/Europol and current Data Adequacy agreements may result in reliance on sub-optimal replacements. Risks include slower processes, the delay or loss of information or intelligence, potential lack of arrest powers, additional costs and some countries refusing to extradite their citizens to the UK.

In which areas are there standard third country arrangements that the UK and EU could fall-back on in the event of no agreement by 1 January 2021? If there are no such fall-back mechanisms, what contingency measures could the UK and the EU put in place, either unilaterally or jointly, to ensure some sort of cooperation on law enforcement and judicial cooperation?

The Police Service of Northern Ireland are preparing for every eventuality including non-negotiated outcomes and will continue as best we can to protect the public and share information whether it be as a third country or not, in terms of cooperation.

There may be a requirement to further develop Cross-Border protocols, structures and legislation to enhance law enforcement cooperation within an agreed legal framework.

In the Cross Border Policing Strategy 2016 between the Police Service of Northern Ireland and An Garda Síochána the Chief Constable of the Police Service of Northern Ireland and the Commissioner of An Garda Síochána made the following joint statement: *'The bedrock of success for joint police activity has been, and will continue to be, the sheer strength and depth of cooperation between An Garda Síochána and the Police Service of Northern Ireland. These are not mere words.*

They are evidenced on a daily basis by conversations, contacts, practical assistance and information sharing. These engagements take place at every level in our respective Services across a range of disciplines and service delivery.'

The strategy outlines structures to coordinate joint activity in critical areas such as community relations, rural policing, intelligence sharing, emergency planning, organised crime and paramilitarism. This strategy demonstrates the determination of

the two police services to work together and enhance cross border cooperation, which has never been higher. Strategic examples of this Inter-Agency approach include the Annual Cross Border Conference, the joint An Garda Síochána /Police Service of Northern Ireland Tasking and Coordination Group and the Joint Agency Task Force. There are regular operational meetings which are held at a local level, including cross border meetings hosted by the Police Service of Northern Ireland with the border area Crime Investigations Department offices from An Garda Síochána to discuss investigations and emerging trends.

There are existing bilateral agreements specific to the Police Service of Northern Ireland and An Garda Síochána including the Inter-Governmental Agreement on Policing 2002 and powers which currently exist within the Criminal Jurisdiction Acts 1975 (NI) and 1976 (ROI).

Is there anything else in the two parties' proposals, for example on prisoner transfer or anti-money laundering, that you wish to bring to the Committee's attention?

Money Laundering

The Police Service of Northern Ireland along with GB colleagues will require the continuing need to work with Law Enforcement Agencies outside of the UK to establish networks being used by criminals in the laundering of the proceeds of crime and to identify assets for confiscation and in some cases repatriation to the UK economy.

Large money laundering investigations also require evidence from our partners in Law Enforcement Agencies internationally to prove in such cases that the suspects in the UK are engaging financially with criminals of a similar ilk outside of the UK. The present method through Joint Investigation Teams within the EU and assistance from Interpol and Eurojust is of paramount assistance in this area and has been found to be expeditious and effective.

We are aware that in Northern Ireland professional money launderers are moving value on behalf of Organised Crime Groups indeed both Republican and Loyalist paramilitaries alike will use professional money launderers especially when monies are to be moved internationally. As with other Police Services we are concerned that any reduction in our capacity to link and engage with EU Law enforcement may have a detrimental impact on our ability to bring such investigations successfully before the courts.

June 2020



Committee on the Future Relationship with the European Union

House of Commons, London, SW1A 0AA

Email: freucom@parliament.uk Website: www.parliament.uk/freucom

05 June 2020

Simon Byrne
Chief Constable
Police service of Northern Ireland

Dear Mr Byrne,

The House of Commons Committee on the Future Relationship with the European Union is inquiring into the progress of the negotiations between the UK and the EU. Under normal circumstances, the Committee holds regular oral evidence sessions in Westminster. However, measures to prevent the spread of the coronavirus make this difficult.

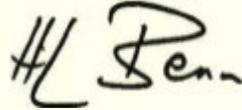
The Committee is keen to gather as much evidence as possible to inform its deliberations so I am writing to you to ask whether you would be willing to help us with our work by making a written submission. We welcome general responses to our [call for evidence](#), which was published on 4 March. We also hope that you would be willing to answer some of the more specific questions set out below on issues that fall within your area of expertise. Submissions need not address every bullet point and can include other matters that you think are relevant to the negotiations and should be drawn to the attention of the Committee.

- Now that we have seen draft legal texts from both the UK and the EU, what are the main areas of disagreement that risk a future arrangement on law enforcement and judicial cooperation in criminal matters? In which areas does it appear that the two parties are closest to an agreement?
- Which aspects of a possible agreement are at risk due to the negotiating positions of the UK and the EU on the role of the CJEU? How can these risks best be overcome?
- How can the UK and EU positions on the ECHR be resolved without risking the wider law enforcement and judicial cooperation agreement?
- What are the other major obstacles to reaching an agreement on law enforcement and judicial cooperation? And how might these obstacles be overcome?
- The UK will be a non-Member State outside Schengen. What precedents are there in this area on: access to EU databases (such as ECRIS and Prüm), Passenger Name Records, Europol and Eurojust? Is the UK asking the EU to go significantly further than it has in these precedents? Is the EU asking the UK to go significantly further than it has in these precedents?
- The UK has asked for capabilities similar to those delivered by SIS II. What are the main capabilities of the SIS II system that the UK is seeking to replicate? Why might any replacement not fulfil these? Why might the UK be holding back its proposed text on SIS II?
- How would an agreement on extradition similar to those negotiated with the EU by Norway and Iceland differ to the current situation where the UK has access to the European Arrest Warrant? Is there scope for the UK and the EU to negotiate an extradition arrangement that builds on those of Norway and Iceland?
- In which areas of the current law enforcement and judicial cooperation relationship is the UK a net contributor in terms of information flows, expertise and resources? In which areas would security in the EU be most impaired without the UK's involvement?
- The UK aims to receive a comprehensive data adequacy decision from the EU before the end of the Transition Period. What concerns might the EU have that will affect whether to award a data adequacy decision? How important is it to any future UK-EU relationship on law enforcement that the UK secures a data adequacy decision?
- What are your main concerns if, at the end of the Transition Period, the UK and the EU cannot agree a future security relationship? What would that mean for day-to-day operational policing, access to EU criminal justice databases, and the UK's relationship with Europol and Eurojust? In which areas would the loss of operational capability be greatest?

- In which areas are there standard third country arrangements that the UK and EU could fall-back on in the event of no agreement by 1 January 2021? If there are no such fall-back mechanisms, what contingency measures could the UK and the EU put in place, either unilaterally or jointly, to ensure some sort of cooperation on law enforcement and judicial cooperation?
- Is there anything else in the two parties' proposals, for example on prisoner transfer or anti-money laundering, that you wish to bring to the Committee's attention?

The Committee staff will be happy to discuss the inquiry, any issues raised, or the process for submitting written evidence. You can contact them at freucom@parliament.uk.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'H Benn'.

Hilary Benn
Chair of the Committee