

European Union (Withdrawal) Bill Briefing

Committee Stage, House of Lords

Ensuring that cross-border mechanisms are in place to safeguarding children

Following our withdrawal from the European Union (EU), European legislation for the purposes of safeguarding children will be transferred into UK law, continuing to provide a vital legislative framework through which the UK can effectively tackle crimes such as child trafficking and child exploitation that take place both on and offline across borders.

The ability of law enforcement agencies and the courts to effectively prevent and detect such crimes and bring perpetrators to justice, requires more than a strong legislative framework; it requires cooperation. The UK has played a leading role in the development of cross-border measures to tackle crime and has both contributed to and benefited from this greatly.

The Government's commitment to 'sustain cooperation' across EU structures that exist to keep citizens safe is welcome.¹ Yet, there is limited detail relating to what this future relationship will look like, and how it will be ensured that cooperation continues to ensure that children and young people are protected. The first duty of any Government is to keep its citizens safe. Parliament must be empowered to hold the Government to account on this.

We would recommend that Peers support the amendment laid out in this briefing, which would require the government to lay a strategy before Parliament outlining how it plans to maintain existing benefits of strong cooperation with EU cross-border criminal justice agencies and mechanisms. Such a strategy would provide Parliament a vital opportunity to scrutinise the Government's plans to ensure that

¹ <https://www.gov.uk/government/publications/security-law-enforcement-and-criminal-justice-a-future-partnership-paper>

children who are victims of or at risk of cross-border crime are kept safe and supported.

Amendment

Insert the following new Clause—

“Prevention and investigation of crime following withdrawal of the United Kingdom from the European Union

(1) The Secretary of State must, within 6 months of this Act receiving Royal Assent, lay before Parliament a strategy on—

(a) cooperation with the European Union Agency for Law Enforcement Cooperation (Europol), Eurojust, and the European Criminal Records Information System;

(b) participation in the European Arrest Warrant.

(2) The strategy must set out how the Government plans to cooperate and participate with the agencies set out in paragraph (1)(a) immediately after exit day.

(3) It is an objective of the Government to seek to incorporate the strategy in the final terms of the withdrawal of the United Kingdom from the European Union.

(4) If the strategy forms part of the withdrawal terms it is subject to Parliamentary approval as set out in section 9(1).”

This amendment would set out a new clause in the Bill, which would require the Secretary of State to lay a strategy before Parliament outlining how the UK will continue to cooperate, and participate with EU bodies and structures for the purposes of crime prevention, investigation and prosecution. The Government should seek to ensure this strategy forms part of the final terms of Withdrawal of the UK from the EU and should be subject to Parliamentary approval as set out in Clause 9 of the Bill.

Why is this amendment important?

From our collective experience, we know that many crimes affecting children are increasingly complex, with many having international elements. Trafficking, for example, is predominantly a cross-border crime. Trafficking networks can span several countries, with victims recruited in one country and transported to another to be exploited. Europol have previously reported that there is a “tremendous amount of crossover” between smugglers transporting refugees across borders and gangs ensnaring people for forced sexual and labour exploitation.²

² <https://www.ecpat.org.uk/Handlers/Download.ashx?IDMF=875b65b5-08d4-4e9f-a28c-331d1421519f>

Crimes conducted online also span across borders. Child abuse material is typically produced, disseminated and viewed by multiple people in different jurisdictions. Recent research has found that 60% of child abuse imagery is hosted in Europe.³

The Children’s Society runs the Rise Project, a specialist service for boys and young men who have been trafficked into the UK. The following is a quote from a practitioner who works in this service.

‘Many of the young people we work with have been trafficked across multiple borders, experiencing abuse and exploitation in several countries for months on end, before they arrive in the UK. We have worked with some young people whose journeys have taken over a year - they have been trafficked across many countries, including other European countries, where they have been held for months in situations of forced labour and exploitation. Over the last few years, we have seen young people increasingly disclose about being held in other European countries for extensive periods, where they have been subject to forced labour, forced criminality and sexual abuse and exploitation. Our team work closely with the Metropolitan Police supporting young people who are willing to cooperate with police investigations, which are often transnational investigations, due to the multiple experiences of abuse and exploitation trafficked young people have been through in other countries on their way to the UK.’ - *Practitioner, Rise Project*

In order to effectively tackle such crimes, police forces, legal professionals and the National Crime Agency need to be able to cooperate with their colleagues across the European Union through agencies such as Europol and Eurojust which have allowed for closer collaboration between Member States.

In December 2016, Rt Hon Brandon Lewis MP (then Minister for Policing and the Fire Service) noted that about 40% of everything that Europol does is linked to work that is either provided or requested by the UK.⁴ The UK benefits greatly from EU support in helping to tackle crimes such as trafficking and exploitation. For example, Eurojust plays a key role in supporting EU efforts to tackle trafficking through facilitating and funding Joint Investigation Teams (JITs). These teams consist of judicial and police authorities from at least two member states who work together to conduct specific cross-border criminal investigations. In 2016, the UK received the most funding of all EU member states to establish JITs, 32 in total.⁵

³ <https://www.demos.co.uk/wp-content/uploads/2018/01/Technology-Briefing-1-Online-CSAI-19.01-1.pdf>

⁴ <https://www.antislavery.org/wp-content/uploads/2017/07/ATMG-Brexit-paper.pdf>

⁵ <https://www.antislavery.org/wp-content/uploads/2017/07/ATMG-Brexit-paper.pdf>

Case Study: Operation Golf¹

Operation Golf was a major operation to tackle the trafficking of children, which entailed close working across EU member states. It consisted of a joint investigation team (JIT) between the UK Metropolitan police, the Romanian National Police and Europol, with the aim of tackling a specific Romanian organised crime network that was trafficking and exploiting children from the Roma community. The operation identified and led to searches of 16 addresses in Essex, UK. As a result, 28 child trafficking victims were discovered and immediately taken to a specialist support centre to be assessed and treated by child protection experts.

Europol was an active member of the JIT and provided assistance to the competent authorities by:

- Giving expert advice on setting up the JIT and the planning of strategic and operational activities.
- Ensuring analytical support throughout the whole investigation. One of the key outcomes from this analysis was the identification and prioritisation of the main targets of the organised crime group, both in Romania and the UK.
- Providing on-the-spot assistance through the deployment of its mobile office, in the UK and Romania on four occasions. Each time, real-time checks were carried out on the database to support intelligence gathering operations and coercive British and Romanian police actions (searches and arrests).
- Drafting and disseminating 67 analysis reports.
- Identifying key links to other EU countries, especially Belgium and Spain.
- The quality and quantity of analysis provided by Europol was crucial to the progress of the case.

The European Arrest Warrant has been used nearly 200 times between 2010 and 2016 by the UK to extradite suspected child sex offenders.⁶ Prior to the introduction of the arrest warrant, it took on average 12 months to transfer offenders across the EU⁷, but now this process takes less than two months.⁸

⁶ <http://www.nationalcrimeagency.gov.uk/publications/european-arrest-warrant-statistics/wanted-from-the-uk-european-arrest-warrant-statistics>

⁷ <http://www.eu-facts.org.uk/what-does-the-eu-do/eu-policy-areas/european-arrest-warrant/>

⁸ https://e-justice.europa.eu/content_european_arrest_warrant-90-en.do

The UK is a member of the following EU agencies and agreements, and it is crucial that the Government presents to Parliament a strategy for maintaining cooperation with and participation in these bodies and processes:

- Europol – facilitates co-operation between the investigating authorities in the Member states with a view to preventing and combating serious organised crime, including criminal activities involving children.
- Eurojust – this judicial co-operation body responsible for co-ordinating investigations and prosecutions across Member States. Its activities primarily focus on organised criminal activity that crosses borders, particularly human trafficking.
- European Arrest Warrant – this is a fast track extradition procedure enabling the national judicial authorities of one Member State to secure the arrest and return of a person to their territory to answer charges of an offence. It is increasingly used to bring to justice perpetrators of crimes against children following their move to another Member State.
- European Criminal Records Information System – this established an electronic interconnection of criminal records databases to ensure that information on convictions is exchanged between Member States in a uniform and speedy way. It also provides judges, prosecutors and potential employers with easy access to comprehensive information on the criminal history of persons concerned, regardless of the Member State in which that person has been convicted in the past. The system therefore significantly reduces the possibility of offenders slipping under the radar and obtaining access to children by moving to another country.
- The second generation Schengen Information System (SIS II) is an extensive database of (approximately 70 million) real time alerts about individuals and objects (such as vehicles) of interest to EU law enforcement agencies. It includes information on people wanted under a European Arrest Warrant for alleged crimes against children and on missing children.
- The European Protection Order enables a judge to issue protection measures in order to protect a person against a criminal act which may endanger his or her life, physical or psychological integrity, dignity, personal liberty or sexual integrity. It is used, for example, to ensure that protective orders put in place in one Member State for children (e.g. against a violent parent) remain in force should the child or the aggressor move to any other Member State.

Questions to the Minister

- What assessment has he made of the need for the UK to remain a part of the cross-border agencies and mechanisms for the purposes of safeguarding children?
- What steps are being taken to ensure that the UK remains part of agencies such as Europol and agreements such as the European Arrest Warrant and European Protection Warrant for the purposes of safeguarding children?
- What assessment has he made of the impact which the loss of our cooperation with and participation in these agencies and agreements would have on the safeguarding of children?

For more information, please contact Matt Hussey at The Children's Society on matthew.hussey@childrenssociety.org.uk or 0207 841 4485.