



## Factsheet 6: The European Union's role in combatting Crime and Terrorism

### Summary

- Our participation in the EU helps us keep Britain safer. It is in Britain's interests to work with our neighbours to combat terrorism and international crime.
- Britain retains border controls and since 2010 we have refused entry to over 100,000 people including over 6,500 nationals from EU/EEA countries. The measures agreed through the Prime Minister's renegotiation increased the legal grounds on which we can refuse EU nationals entry.
- Justice and Home Affairs (JHA) policies operate on the basis of mutual recognition between member states, with minimal interference from the EU.
- The JHA arrangements have proved invaluable in promoting co-operation between member states in, for example, the aftermath of the Paris and Brussels attacks.
- The European Arrest Warrant has proved to be an invaluable resource in combatting the ability of fugitives to evade justice. It has helped bring criminals back to Britain for trial and accelerated the expulsion of suspected criminals.
- Many leading UK security experts, including former heads of MI5 and MI6, believe that British withdrawal from the EU would weaken our security and make it more difficult to combat terrorism, organised crime, cybercrime, and drug and people trafficking.

### History and Context

The EU's approach to Security and Law Enforcement embraces the following EU policy areas:

- Justice and Home Affairs (JHA);
- Transport and Border Security;
- Health Security and Civil Protection

The Maastricht Treaty of 1992 created the three 'Pillars' of the EU: Justice and Home Affairs was part of the 'Third Pillar' which operated on an intergovernmental co-operation basis. The Lisbon Treaty (2009) incorporates these policy areas. The Treaty explicitly recognises that national security is the sole responsibility of individual Member States.

### Border Controls

Every person entering the UK has their passport checked. The UK is not part of the Schengen area, an agreement on border-free travel signed in 1985 between 5 original EU Member States, which has subsequently expanded as the EU enlarged. We retain our border controls and can refuse entry to or deport EU nationals who we believe constitutes a threat to our security. The Schengen Information System (SIS), in which Britain does participate, enables 'watch lists' to be shared to identify persons of interest to law enforcement agencies. It gives us access to 43,000 alerts for national and public security threats. Similarly, shared airline passenger records help identify people who are security risks before they travel.

## European Arrest Warrants

The European Arrest Warrant (EAW) was a British idea, following the terrorist attacks of September 2001. The EAW, established in 2002, is the judicial equivalent of the Single Market, whereby participating Member States recognise the competence of each other's legal systems. The Government has chosen not to participate in the full range of JHA measures to which the EAW applies; due to the differences between the UK's 'common law' and continental codified legal approaches. Through the EAW, since 2003 we have sent over 7,000 suspects out of the UK and brought over 1,000 back here.

In 2015 the UK [requested 228 EAWs](#) leading to the arrest of 150 people; 121 surrendered due to the EAW. In 2015-16, the UK [received 14,279 EAW requests](#) resulting in 2,152 arrests; 1,271 of these were surrendered. More than 90% of those arrested in the UK in 2015 under an EAW were non-UK citizens. Under the Crime and Policing Act 2014 EAWs cannot be used for minor crimes; they also cannot be used to arrest people for actions that are not a crime in the UK. Important cases where the EAW has been central to bringing offenders to justice include those of: Jeremy Forrest, a teacher who fled to France in 2012 with a schoolgirl; the fugitive terrorist Hussain Osman who in 2009 fled to Italy; and, in 2012, of Jason McKay who committed murder and fled to Poland.

It is worth remembering how difficult it was for the UK to extradite terrorists during the height of the IRA campaigns in the 1970s and 1980s. If we abandoned the legal underpinnings provided by the EAW regime, there are 22 countries that would refuse to extradite their own nationals to the UK.

The UK had the ability to opt-out of the EAW and a range of other Justice and Home Affairs instruments. In November 2014, on the recommendation of the Home Secretary, Parliament voted for the UK to opt back in to 35 specific JHA measures, including the EAW. If the UK left the EU it could seek to negotiate a 'Surrender' agreement with the EU member states collectively; Norway and Iceland took 8 years to conclude a similar arrangement.

## EUROPOL

Europol is the European Union's law enforcement agency which helps to achieve a safer Europe for the benefit of all EU citizens. The agency uses its information capabilities to identify and track criminal and terrorist networks in Europe. This leads to the disruption of criminal and terrorist networks, to the arrest of dangerous criminals, the recovery of millions of euro in criminal proceeds, and to the recovery from harm of hundreds of victims, including children trafficked for sexual exploitation. Europol officers have no direct powers of arrest but support EU law enforcement colleagues by gathering, analysing and disseminating information and coordinating operations. Since 2009 the head of EUROPOL has been a Briton, Rob Wainwright; formerly head of SOCA. If the UK left the EU, this level of influence would be missing and other countries would essentially make the rules.

## Discussion

The UK has been a leading player in developing the EU's anti-crime competences, recognising that terrorism, criminal activity and the related areas of money laundering, cybercrime and drug and people trafficking are international in their scope. Criminals and terrorists do not respect national boundaries and often seek to use them to thwart national law enforcement authorities. The Lisbon Treaty established rights and protections for citizens of the EU. The EU has created various agencies that enable co-operation to be better managed.

The UK enhances its own security by sharing information with our neighbours. If the UK left the EU it might be able to arrange bilateral working methods to enable continued co-operation, but it would not be able to *influence* the way policies and programmes are directed. Recent public pronouncements (May 2016) by former heads of the Security Service (MI5) and the Secret Intelligence Service (MI6) make clear that the UK's security is *enhanced* by its participation in co-operation on security matters, underpinned by judicial measures. The UK retains its ability to opt-out of specific JHA matters. It has chosen not to participate, for example, in the European Public Prosecutor's Office (EPPO) which seeks to prevent fraudulent misuse of EU funds. But Britain is a keen proponent of increasing co-operation in areas such as sharing DNA, fingerprint, vehicle registration and passenger flight information.



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