

Think Tank Considers Solutions for a Post-Brexit JHA Deal

Thomas Wahl



News

The Institute for Government – a London-based think tank on governmental challenges – published a [report entitled “Negotiating Brexit: policing and criminal justice”](#) in September 2018. The report proposes how the United Kingdom and the EU can move towards a good agreement on their future relationship in law enforcement cooperation after Brexit. The report was authored by *Tim Durrant, Lewis Lloyd, and Maddy Thimont Jack*.

The authors analyse the current EU law enforcement cooperation and observe that cooperation on policing and criminal justice has been an important benefit of the UK’s membership in the EU. They also state that the UK already has a bespoke deal with the EU in view of the UK’s opt-in in justice and home affairs matters as part of the Lisbon Treaty.

According to the authors, a Brexit without a withdrawal agreement would have several disadvantages, since the UK would fall back to predated EU cooperation:

- Extradition of criminals will be slower and more bureaucratic;
- Getting perpetrators that fled to EU countries back to the UK will become more cumbersome;
- Law enforcement authorities will find it harder to obtain crucial information for investigations because they would lose access to EU databases, e.g., the SIS;
- Collaboration between UK investigators and prosecutors with EU counterparts will become more difficult.

In conclusion, the report suggests that both the UK and the EU should be more flexible in negotiating a tailor-made agreement. Whereas the UK strives for a security agreement that maintains the current status, the EU would currently only offer the UK a cooperation that it has established with non-EU countries. The authors find that the latter is not appropriate; the EU should recognise the UK’s special position in terms of its close relationship with the EU. A comprehensive security agreement would be the best way forward.

However, the UK should concede to certain issues in a future agreement, e.g., by accepting constitutional barriers existing in some EU states not to surrender own nationals or by fully implementing all EU law on procedural safeguards of suspects/alleged persons.

In addition, the UK should consider addressing the EU’s legitimate concerns about the way the UK handles personal data.

Lastly, the UK should further strengthen practical efforts now that improve law enforcement cooperation –in order to show its goodwill after Brexit.

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The IfG report was published at nearly the same time as another report on the future UK-EU partnership in justice and home affairs. The latter was presented by the so-called Task Force between the Centre for European Policy Studies (CEPS) and the School of Law at Queen Mary University of London (QMUL).

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