

## UK Law Enforcement Must Resume Cooperation With EU

By Ian Hargreaves and Grace Kim (March 22, 2021, 5:56 PM EDT)

In her remarks in December announcing the outcome of the Brexit negotiations between the European Union and the U.K., European Commission President Ursula von der Leyen borrowed a few lines from T.S. Eliot's "Little Gidding": "What we call the beginning is often the end / And to make an end is to make a beginning."

Her message to the bloc was clear: Let's move on.

Elsewhere in Eliot's poem, the narrator speaks of arriving where we started, yet knowing the place for the first time. Aspects of the EU-U.K. Trade and Cooperation Agreement addressing cross-border cooperation on law enforcement matters put the U.K. in a rather similar sort of position.

British agencies may feel as though the clock has been turned back to reveal an unrecognizable past, as they find themselves relying on outdated mechanisms insufficient to deal with current threats and modern policing environments.[1]

Of greatest concern to security specialists is the loss of access to key information exchange systems such as the Second Schengen Information System and the European Criminal Records Information System, as well as databases in which the U.K. has heavily invested and to which it has contributed significant volumes of data, such as the Europol Analysis Projects.

Much of the capability gaps left by the loss of such tools will be filled by less efficient, more manual processes and bilateral relationships at least in the short term. In place of the Second Schengen Information System and the European Criminal Records Information System, British law enforcement will be relying on less automated and less integrated databases such as Interpol.

Having lost full membership to Europol and Eurojust, the U.K. has had to transfer several hundred live investigations to bilateral channels and dispatch additional international liaison officers to European capitals. European investigation orders have been replaced with a slower, more cumbersome, discretionary process, as is the case with new extradition procedures.

All in all, it appears that the U.K. has thrown away millions of pounds invested, huge volumes of data contributed, and time and effort spent over decades in the structuring of such systems and mechanisms,



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only to end up with a patchwork of slower, less efficient substitutes. What exactly the U.K. is meant to gain from this disposal is unclear.

In the long term and in the absence of political will to rejoin EU platforms, the British government will need to invest a significant amount of further expenditure in systems and recruit a great deal more personnel to bridge these gaps.

In its March 16 policy paper "Integrated Review of Security, Defence, Development and Foreign Policy,"<sup>[2]</sup> the U.K. government promises to "strengthen international efforts to disrupt and dismantle [serious organized crime] networks" by building "on the work of our diplomatic and operational networks such as the NCA's liaison officers" including those stationed at Europol and to "work with like-minded partners to strengthen Interpol's support to frontline law enforcement, increasing data-sharing and investment in its technical capabilities."

In effect, the U.K. will continue to have to rely on the limited tools and channels it has access to now, while encouraging other states' enforcement authorities to bolster the data-sharing and usage of Interpol on their end. How exactly the government plans to work with which partners to improve Interpol's technical capabilities is not clearly stated.

Elsewhere, the policy paper also announces increased integration of domestic enforcement and decision-making bodies, via the Counter Terrorism Operations Centre, the National Cyber Force for cybersecurity and a central crisis decision-making National Situation Centre within the Cabinet Office.

The U.K. will need to ensure these organizational changes do not just add yet another layer of bureaucracy in the name of integration without actually strengthening enforcement. Moreover, such operational changes will not lead to improved outcomes without the existence of up-to-date and accurate information.

Those in government and those who negotiated and supported the Brexit deal can continue to reassure the public saying "all shall be well" to quote again from "Little Gidding," but without quick access to the data that sit in European systems and mechanisms that ensure stronger cooperation with European counterparts, U.K. enforcement agencies will continue to face an uphill battle in maintaining the kingdom's safety and security.

As such, throwing millions of pounds and hours into reinventing the wheel to reach an end product that cannot be as robust as what we had before surely cannot be the answer. It must be in the interests of both the EU and the U.K. to return to the negotiating table and come to an agreement to revert to the level of cooperation that both sides enjoyed prior to Brexit.

The tone of the letters written by the National Crime Agency and the National Police Chiefs' Council to members of Parliament in November 2020 suggest that enforcement agencies at least in the U.K. would prefer a return to existing capabilities.

The NPCC warned that losing access to key systems such as the Second Schengen Information System will have a major operational impact, as the National Police Chiefs' Council noted that having lost its voice at the Europol members' table, the U.K. will "no longer exert influence over the future focus and prioritisation of UK operations" and bilateral cooperation will not be sufficient to fill the gaps left by the unique "multilateral coordination and specialist analytical services" offered by Europol.

Pressure has been growing on the British government on multiple fronts. The weeks following the end of the transition period have brought friction, leading to rising disquiet amongst]] even some of those who supported Brexit.

Fishermen who had previously been promised continued frictionless trade with the EU post-Brexit have been bitterly disappointed, having to abandon lorries full of rotting stock stopped or turned away at the border for lack of proper paperwork. Supermarkets in Northern Ireland have had supply issues resulting in a waiver of some of the new regulations for a short period of time and rejigging some supply chains.

Retailers' concerns over worsening shortages may have been temporarily alleviated by the U.K. government's unilateral decision to extend the customs grace period to October 2021. However this action has, of course, alarmed the EU, which has now launched legal action.

Of even greater concern were the threats of violence made toward staff enforcing the new customs rules at Northern Irish ports, which saw them temporarily leave their posts in early February.

To add fuel to the fire, any trust that remained between the U.K. and the EU has diminished resulting from challenges to the Northern Ireland protocol and issues concerning the COVID-19 vaccine supply.

The European Commission's Northern Ireland vaccine faux pas in late January, alongside its poor performance in securing vaccines quickly, has been a significant loss of face, and even Von der Leyen herself had to admit that mistakes had been made.

The commission continues to face growing pressure from its member states regarding the slow supply of vaccines while the U.K. was forging ahead at some speed in vaccinating its adult population. Some have even signaled their interest in pivoting to Russia's Sputnik V and China's Sinovac vaccines.

These tensions have made the EU appear even more bullish, with European Council President Charles Michel accusing the U.K. of banning vaccine exports and Von der Leyen warning that emergency controls on coronavirus vaccine production and distribution could be introduced.

In her speech on Christmas Eve, Von der Leyen also quoted Shakespeare, lamenting that "parting is such sweet sorrow." Whether intentional or not, the context of the quote is revealing. Juliet will let Romeo go, but not very far — like letting "a bird hop a little from her hand" before she "plucks it back again" with a silk thread, "so loving-jealous of his liberty."

One could argue that the EU has viewed its position with the U.K. in a similar light throughout the Brexit negotiations: Britain can hop a few steps toward freedom, but its fate is tied to its neighboring behemoth by the silk thread of trade.

It is important and in the interests of both the U.K. and the EU that the issue of cross-border cooperation on criminal investigations is brought back to the table. This issue cannot become a bargaining chip or part of a larger political game played by the U.K. and EU. The U.K.'s law enforcement capabilities need to be at the level they were before Brexit.

At the very least, the exchange of criminal information via the Second Schengen Information System and the European Criminal Records Information System (if not other forms of cooperation such as extradition) needs to revert to pre-Brexit levels to ensure security on the island of Ireland, the U.K. and Europe as a whole.

It would make the most sense to, as Eliot put it, "arrive where we started" pre-Brexit, not pre-1973 and preferably without too much exploring.

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[1] See Law360's [How Will Brexit Hinder Law Enforcers? Let Us Count The Ways](#).

[2] See [Integrated Review of Security, Defence, Development and Foreign Policy](#).