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Abstract

The UK's decision to leave the European Union has had a vast amount of consequences for all of those involved. Even now, Brexit continues to plague the headlines of both UK and EU newspapers and will continue to for some time. As a result of the negotiations between the UK and the EU, the UK lost access to key information sharing systems that assisted it in its counterterrorism efforts, namely Europol, the Schengen Information System and the European Arrest Warrant. The loss of these specific networks means that the UK has had to draw up new counterterrorism plans, as it used these networks more than any of its European counterparts. This dissertation will focus on these three entities and assess that the UK has lost a great deal of valuable cooperation opportunities and information as a result of Brexit. It will then argue that despite a significant amount of concern, both by international and UK government officials, not enough has been done as of yet to replace these crucial networks. This dissertation will also argue that the UK may attempt to rely on the other allies it has in the field of counterterrorism but, as things stand, no significant agreements have been made and this will prove to be a problem for UK counterterrorism if something does not change.

Introduction

Brexit means Brexit. A phenomenon we have come to understand over the last six years requires a whole lot of sacrifice and compromise. Under the wide field of Brexit, that is, the UK's exit from the European Union, there are many questions to address concerning the future relationship of the United Kingdom (UK) and the European Union (EU). From Economic relations, to trade, to security and defence, the endless list of new arrangements required to be drawn up between the two actors was immense. The EU referendum took place on 23rd June 2016, with the UK as a whole voting to leave by a margin of 51.8% of voters in favour of leaving the EU. Since then a long and drawn out process of negotiation, not to mention two changes in leadership and two snap elections in June 2018 and December 2019, the UK officially left the European Union on 31st January 2020. This began a transition period of negotiation which ended on 31st December 2020 with a deal for Brexit agreed by Boris Johnson's government. Since the EU referendum in June 2016, Brexit has been explored in relation to many different fields. Much of the commentary surrounding Brexit focuses on the lengthy and complicated process of actually exiting the EU, with a lot of specific focus on the problem of trade, fisheries and avoiding a hard border with Ireland. Brexit will actually continue to plague academic work, and the everyday news, for a long time to come as we have seen recently with the EU's decision to take legal action over the UK's alleged breaking of part of the Northern Ireland Protocol. Not to mention the continuing problems occurring at the border between Dover and Calais. This means that Brexit is and continues to be one of the most important decisions for UK politics ever, and will continue to effect not just the UK, but the entirety of Europe. It was for this reason, that this topic was selected.

The Brexit negotiations had to deal with a lot of complex issues due to the nature of European Integration and the high level of cooperation at the time of the EU

referendum. Thus, questions had to be raised about the future of EU security and defence cooperation, particularly in the field of counterterrorism and organised crime. As police and judicial cooperation was highly advanced and relied upon both by the UK and the EU member states, complicated agreements were certainly required to negotiate the UK's new relationship with the EU. Given the high level of terrorist threat to EU member states the UK's new relationship with counterterrorism officials from EU member states and the EU as a whole was highly important. Having said this, the dissertation will focus on the UK's internal security after Brexit and aim to answer the question: to what extent has Brexit changed the UK's involvement in EU policing and judicial cooperation and how has this impacted UK internal security in relation to the UK's counterterrorism efforts?

This dissertation will address this issue because the UK's decision to leave the EU will have enormous consequences, not just for future cooperation but for the UK and EU as lone actors as well. Specifically, after 9/11 terrorism became a global issue and one that would remain one of the forefront concerns on most Western states national security strategies for the next two decades, and potentially much longer. The UK's departure will have an impact on the way the UK has gone about combatting terrorism since 9/11 and this topic is important to address for a number of reasons. First, Brexit, marks a significant change in the geopolitical layout of Europe as a whole. The UK's departure will have a significant impact on both entities, as well as every individual member state within the EU as well. The historical and political importance of the UK's decision to leave the EU cannot be underestimated. Second, since 9/11 and specifically in the recent past, terrorism has become a major concern not just for the British government but also for the British public as well. The increase in terrorist activity, not just in the UK but in Europe as a whole, has added to this anxiety. It has also increased the level of xenophobia in general and at times immigrants have come to be considered a terrorist threat to the population

(Legewie, 2013). So much so, that drawing the link between terrorism and immigration was specifically a tactic of the leave campaign during the EU referendum campaign.

Since Brexit is likely to cause significant changes across the whole of the UK's defence and security strategy it is important to address why counterterrorism was chosen as a focus. As mentioned above, the tension surrounding public and government concern for terrorism since 2015 in the UK was extremely high. In fact, the UK public have considered terrorism to be a major security concern for far longer and to a greater extent than any of its EU counterparts (Bove et al, 2013). This area is particularly important for academic attention for a number of reasons. First, since the creation of the Schengen zone, locating and keeping track of suspects and individuals suspected of such crimes has become much more difficult. Second, since 2015 the increase in the amount of terrorist attacks has made terrorism a core issue for most EU member states' National Security Strategies. The attacks in Paris in November 2015, in Berlin in December 2016 and the countless attacks on UK soil, including the Manchester Arena Bombing and the Westminster Bridge attack both in 2016 solidified this core concern for terrorist activity in the EU (Eurojust, 2016). Third, the widespread global concern for terrorist activities since the 9/11 attacks means that states, even ones outside the EU are keen to cooperate on counterterrorism fronts. This means that any cooperation or agreements made with the EU will have to now be done separately with the UK. Thus, the topic of terrorism in relation to Brexit and the nature of counterterrorism cooperation between the EU and the UK is and remains a hot topic.

This dissertation's approach to answering the above research question will be threefold. Firstly, it will identify and analyse the different organisations and platforms within the EU that are used in the field of counterterrorism. The first is Europol, an organisation that facilitates law enforcement and judicial

cooperation in the EU. This organisation allows police and judicial agencies of EU countries to share information and work together on matters relating to terrorism, drug and human trafficking and organised crime. This dissertation will argue that Europol provides a crucial service for counterterrorism in the EU and out with and the removal of the UK as a member will have significant consequences. Second, is the Schengen Information System II (SIS II), a data infrastructure that allows EU member states to share and receive data alerts relating to suspects involved in terrorist activities or organised crime. This dissertation will establish the role that these two entities play in the field of counterterrorism and how they can be utilised to assist law enforcement agencies of EU member states in counterterrorism investigations. It will then establish the UK's role in these two vital pieces of counterterrorism strategy and what exactly has been lost by Brexit.

Following this, this dissertation will move on to address the topic of Brexit itself. It will firstly briefly look at the Brexit referendum and the process of the UK negotiating a deal with the EU. This will give context to the argument that will follow. Next, it will look at the Brexit deal itself, the Trade and Cooperation Agreement and specifically, Part Three which addresses the nature of Law Enforcement and Judicial Cooperation in Criminal Matters. This will explain the new relationship, if any, the UK now has with the EU in terms of information sharing and police cooperation. This, in turn, will establish the losses for the UK so we can address where the UK government need to put in place agreements and platforms to remedy the holes in its counterterrorism strategy thanks to Brexit.

Finally, it will address the question at hand, that is to what extent will Brexit change the UK's internal security in terms of counterterrorism. This will be broken down into three separate parts. Firstly, it will look at literature and articles to establish what opinions have already been made on Brexit and what

importance they possess. Secondly, having addressed where Brexit will have left gaps in the UK's counterterrorism strategy, it will focus on what, if anything the UK government and law enforcement agencies have done to try and remedy that. Whether that is in the form of new bilateral agreements drawn up with other states, or moving towards more reliance on other policing entities such as Interpol. Lastly, this dissertation will look at the instance of cooperation that have taken place thus far, since the UK left the EU on 31st December 2020 and establish the change in nature of this cooperation and if it is likely to carry on.

This dissertation will ultimately argue that the United Kingdom are now at a disadvantage in the field of counterterrorism now that they have left the European Union. The loss of information sharing networks and platforms, such as Europol and the Schengen Information System II, is detrimental for police and law enforcements ability to locate and track individuals suspected of terrorist offences. Despite some efforts and agreements put in place to remedy this loss, not enough has been done to replace the level of cooperation the UK had within the EU. Involvement with Europol, only as a third party member is not good enough for the level of cooperation needed for the UK in terms of counterterrorism. The threat level that terrorism poses to the UK requires cooperation with neighbouring EU to be sustainable. Furthermore, arrangements put in place to ensure continued cooperation are currently in the too early stages to be properly evaluated, such as the Surrender agreement, and so this dissertation cannot ascertain whether or not this continued cooperation will be successful. Of course, cooperation is still happening as recent arrests and judicial and criminal cooperation this year suggests, however, it cannot and will not make up for the level of cooperation and trust that the UK had with its EU counterparts when it was still a member of the Union. Ultimately, the UK have a long way to go before they are able to replicate that expertise level once more.

Chapter 1: Literature Review

Introduction

Since the European Union referendum was held on 23rd June 2016, there has been a significant amount of literature and research written and conducted on the phenomenon that came to be known as Brexit. It would come to represent the biggest geopolitical change that Europe has experienced since the fall of the Berlin Wall (Chalmers, 2020). The UK's exit from the EU meant it lost access to key information sharing networks crucial to counterterrorism efforts within Europe, primarily the Europol database and the Schengen Information System. The loss of uninhibited access to these systems for the UK could mean a re-evaluation of the country's counterterrorism strategy. The literature surrounding the impact of Brexit on the UK's counterterrorism abilities is overwhelmingly negative, portraying a predicted period of costly and timely efforts to reach the level of surveillance achieved with access to Europol databases and the Schengen Information System. However, while there is a lot of focus on what the UK have lost in terms of how the approach counterterrorism while still a member of the EU, there is less focus on what the UK has done to replace or mitigate this post-Brexit.

Brexit is a complex and highly written on phenomenon and so the literature on the topic is varied. Through an evaluation of a series of academic works, journal articles, newspaper articles and Think Tank publications this literature review will attempt to assess the current academic understanding of Brexit. It will focus on three main areas. First, it will look at the literature on Europol and the Schengen Information System II (SIS II) and assess what academics believe to be their strengths and flaws. Secondly, it will focus on the overall aim of this dissertation, the relationship between Brexit and counterterrorism. Ultimately, it will identify a gap in the way in which the literature assessed the EU referendum and Brexit negotiations. It would seem that insufficient research has

been conducted on the impact of internal security issues, such as terrorism, had on the decision to vote leave and that there is a subsequent lack of research and academic work following this issue through the Brexit negotiation process and afterwards.

Importance of the EU Relationship

The literature surrounding the UK's withdrawal from the EU tends to focus quite significantly about the importance of maintaining a strong and close relationship with the EU. Brexit has meant a discernible move away from the principle foreign policy goals that the UK have been pursuing since the end of the Second World War. The UK have made a decision to drop their European Integration goals and instead opt for what largely seems to be bi-lateral agreements with European allies (Chalmers, 2020). However, the literature surrounding this has made it abundantly clear that the UK must continue to pursue a good and long lasting relationship with its counterparts in Europe. In fact, many scholars have pointed out the necessity of continued frequent multilateral cooperation between the two entities, particularly because of the stark increase in terror-related incidents in the UK since the EU referendum (Sweeney, 2020). The UK would still greatly benefit from a relationship with the EU on this front but it is argued by scholars that Brexit will inevitably make for a more difficult road to tackling these transnational threats from outside of the EU (ibid). Literature surrounding the UK-EU relationship therefore, generally focuses on what the UK has lost in the process of Brexit and emphasises that in general there has been a lot more lost than was gained in the process of leaving the EU. While literature on Brexit is still largely being produced, from what exist already it seems there are significantly more disadvantages to write about than advantages.

Europol and Counterterrorism

The literature focusing on the UK's relationship with Europol tends to focus largely on the positive relationship the UK had prior to the EU referendum. With regards to Brexit, many scholars and journalists have pointed out the significant disadvantages that will come from the UK's exit from the EU policing and judiciary systems, specifically the impact on internal security. Klein (2017) writes that limited or no access to the Europol databases such as the Secure Messaging System (SIENA), the Passenger Names Records (PNR) and most importantly the Schengen Information System (SIS II) will be detrimental to UK domestic Security. Banks (2016) commented that Europol provides a very necessary service to the UK and one that the UK will continue to need after Brexit. Most notably, many researchers have commented on the extent of the UK's use of the Europol databases prior to its access being curbed. For example, the UK accessed the Schengen Information System 539 million times in 2017 (Sweeney, 2020). The UK is actually believed to have accessed the databases more than almost any other country in Europe (Carrapico et al, 2017). Many scholars have also quoted the former head of MI5 in stating that Europol was 'absolutely vital' for UK internal Security, particularly in the case of fighting terrorism (Dearden, 2019; Sweeney, 2020). The nature of these analytical pieces of literature surrounding the future of Europol, the Schengen Information System and Brexit remains largely in the form of think tank publications, journal articles and newspaper reports. This is due to the very recent nature of Brexit itself and the uncertainty of the way in which Brexit would, and will continue to, pan out. When applied in conjunction with official government reports and older analytical books and chapters these publications will help to contribute to this dissertations understanding of the potential future of counterterrorism strategy in the UK.

Much of the literature and journal articles focusing on the relationship of the UK with the EU policing and judicial systems looks at the significant amount

of services the UK has lost and the disadvantages of this. Of course, what is highlighted in the literature is that the UK will face an uphill battle in the fight against terrorism now that they are no longer a part of the EU information sharing systems. Sweeney (2020) argues that the UK's exit will have bi-directional implications for the UK's attempts to curb terrorism and organised crime. It is also highlighted on numerous occasions that this will also be a loss for the UK's European counterparts as well. The UK's removal from Europol not only prevents access but it also prevents the UK from sharing information with the rest of the EU countries. Many scholars point out that this will be a lose-lose game, particularly when considering the amount of home grown terrorist the UK produce (Prothero, 2020). Within the EU, only France create as many home grown terrorist as the UK and so a lack of access to UK information and intelligence will mean a great deal of setbacks in the fight against terrorism (ibid). Similarly, Graziani (2019) argued prior to Brexit that *'police and security cooperation after Brexit is undoubtedly a key interest of both the European Union (EU) and the United Kingdom (UK), with a view of safeguarding the security of UK and EU citizens in a world constantly threatened by international terrorism'*.

Many Think Tanks, Journals and articles have focused on the specific aspects that the UK's loss of access to Europol and the Schengen Information System (SIS II) will bring. Prothero (2020) argues that Brexit actually brings a 'lucky break' for terrorists within the UK simply because of the UK's inability to properly track and monitor them without the capabilities of the EU. Of course, it has been noted that the UK do have the capacity to build their own network similar to that of the SIS II. However, not only would this come as a great financial burden for the UK but the building up of a network to the same capacity of the SIS II would take a significant amount of time and effort. In the meantime, the UK will not be able to investigate terrorism to the same level and ability as they did with access to the EU information sharing systems (ibid).

Additionally, a former head of MI5 was also quoted numerous times in these works expressing the dire need that the UK has for Europol and the EU information sharing systems and argues that the UK's continued involvement is essential for counterterrorism efforts (Dearden, 2019; Sweeney, 2020). However, these named sources above tend to evaluate other sources and scholars who accessed information rather than produce their own new information. While an evaluation of such information is important and useful for further argumentation purposes later in this dissertation it is important to note that they are not first-hand accounts nor primary sources.

Terrorism as a Priority

The amount of literature surrounding the issue of terrorism in the UK is exhaustive. The issue of terrorism has been at the forefront of scholarly literature on Britain's security perspectives since the turn of the century right up until the Brexit referendum. It reflects the change in the political stance towards the UK's perceived threat of global terrorism. After September 11, 2001, the topic of terrorism became a lot more hotly debated in security studies because of the change in international political understanding of the threat that non-state actors could pose to western nations. The UK highly prioritised the threat of global terrorism after the World Trade Centre attacks and Prime Minister Tony Blair made a significant move towards focusing on deterring any potential terrorist attacks (Ricketts, 2019). This was highlighted as a move away from the goals of the Blair government prior to 9/11 who were focused on furthering European integration and defence (ibid). Much literature focuses on this distinct change in policy for the Blair government and some scholars argue that it signifies the beginning realignment of British relationship priorities from European to Anglo-American (Ricketts, 2019). In particular, Lord Ricketts (2019) is a quality source for analysis and evaluation purposes for a number of reasons. Firstly, as a former senior British diplomat, as well as former chair of the Joint Intelligence Committee under Prime Minister Tony Blair, Lord

Ricketts has experience both in the politics behind intelligence and in the field itself. This will not only provide expert opinion on the effects of Brexit on counterterrorism but it will also act as a source of credible and reliable information due to Lord Ricketts experience in the field. This will then in turn provide this dissertation with expert opinion that would otherwise not be available due to ethical constraints.

Furthermore, it provides a knowledgeable and first-hand account of the government understanding and handling of the issue of terrorism from a former expert diplomat and aid to David Cameron. As a result of this, the source uses a combination of primary and secondary source analysis and provides a narrative of the government strategy towards counterterrorism while also providing an analysis on the topic. This overall means both the author and book are credible and reliable sources for this dissertation.

Wither (2017) emphasises the trend in public opinion on the issue of global terrorism. She argues that an increased weight added to the importance of counterterrorism in the UK can be seen, not only through public opinion but also through government policy. The 2010 Security and Defence review made a distinct move away from strategic interests and significantly reduced the armed forces budget. Instead, it identified terrorism and organised crime as the top priority for security concerns in the coming decade. This was then doubled down on in the 2015 National Security Strategy and Strategic Defence Review which further emphasised the government's move towards internal security over traditional pathways of national security through defence (Wither, 2017). Analysis of the past Security Strategies of the United Kingdom is important for this dissertation as it provides necessary background information regarding the UK's approach to counterterrorism and how highly they place the issue of terrorism on the security agenda. This will provide solid background analysis of the situation in order to layout the argument of this dissertation, that

counterterrorism has been greatly affected by the UK's decision to leave the EU.

The perception of terrorism as one of the most significant threats faced by Britain increased tenfold in the two decades following the September 11 attacks. Internal security, specifically terrorism and organised crime, has long been one of the primary security concerns for the British public (Carrapico et al, 2019). Opinion polls also tended to reflect this view that terrorism posed a direct and imminent threat to the safety of the British public in the run up to the EU referendum (Bove, 2021). In fact, this is why prominent Tory leave campaigners continued to emphasise that regaining control of UK borders would directly contribute to counterterrorism efforts which much of the literature surrounding the topic picks up on (Dominiczak and McCann, 2016; Behr, 2016). Furthermore, Bove (2021) argues that the regularity of terrorist attacks in the years from the London bombings up until the EU referendum significantly raised public awareness of terrorism as an internal security problem. He also argues, however, that studies into the catalysts behind the decision to vote leave often tend to neglect how much internal security anxieties changed the public's opinions of Brexit (Bove et al, 2021).

Conclusion

The literature surrounding the relationship between Brexit and counterterrorism efforts is still largely being produced. The literature surrounding the EU referendum does look into the fundamental turning points in the British public's opinions but focuses significantly more on the impact of the economic arguments than internal security as a factor. In addition, quite a lot of the literature evaluated in this review uses sources ranging from political speeches, other journal and newspaper articles and official government sources, as well as scholarly works.

In terms of the literature on Brexit and the negotiations with the EU the overwhelming tone is negative. The prevailing thoughts of researchers and scholars is that the UK will lose significantly more than it will gain. In particular, the literature emphasises the UK's removal from Europol and along with it, access to the Schengen Information System. Largely, the literature defines this loss as detrimental to counterterrorism efforts, not to mention costly and time consuming to come up with alternative means to track and monitor terrorists. Moreover, scholars have frequently mentioned the sheer number of times the UK have accessed the EU Information Sharing Systems, highly suggesting their value and importance to the UK internal security efforts. Overall, the literature suggests that the UK very much relied on and benefitted from involvement in the EU policing and judicial agencies. This then implies that the issue of information sharing and counterterrorism was actually much more important than it was portrayed in the EU referendum campaign. Significant literature has been written on the UK's perception of terrorism and their strategy for combatting it. Furthermore, literature exists in great detail, and continues to come out, on the key areas that Brexit will affect and the specific implications of the UK's withdrawal from the EU will bring. However, there exists a gap in the present literature over what is being done by the UK to mitigate the loss of the EU in terms of terrorism. While there is significant focus on what the UK have lost in terms of how the approach counterterrorism while still a member of the EU, there is less focus on what has been done to replace or mitigate this post-Brexit. This is where this dissertation will fit into the current literature on Brexit and counterterrorism. First, by contributing to the analysis of what the UK has lost in the area of Police and Judicial cooperation and then by taking it a step further and discussing what the UK has done and what they may put in place to lessen the blow.

Chapter 2: Methodology

This dissertation will aim to investigate the impact that Brexit has had on the UK's ability to combat terrorism. In the research process for this dissertation, some problems arose due to the fact that access to some counterterrorism strategy and subsequent documents were prohibited from public access. Furthermore, many of the operations that involved cooperation in the field of counterterrorism are never fully disclosed to the public so research for this dissertation was partly limited to the retention of government documents, secondary sources and media reports. Furthermore, the use of human subjects and use of information gathered from these subjects would require both ethical approval and special permission from human participants. Therefore, interviewing or contacting specific experts in the field of counterterrorism would require ethical approval that this dissertation does not have. As a result, this dissertation will rely primarily on secondary sources with analysis of government documents and expert political opinions on the matter. These will be used to investigate the extent of UK-EU counterterrorism relations and how much the UK has adapted to this change.

As this dissertation focuses on a practical issue of counterterrorism actions in the face of an entirely new relationship between the EU and the UK, engaging with International Relations or Security theory is not strictly relevant here. Instead, the underlying approach of this dissertation will be twofold. Firstly, it will address the background and history of Brexit and UK cooperation with the EU on counterterrorism fronts through analysis of secondary sources and official EU and UK Government documents. This will ascertain the importance of the EU not only as a security actor but also as a counterterrorism actor. This will then in turn allow for understanding and analysis on the UK's counterterrorism relationship with the EU and how much has been lost in the process of Brexit. It will also address the Brexit deal constructed by Boris Johnsons government and what the new relationship has in store for UK

counterterrorism. A combination of this will provide a basis and understanding for where the argument will commence.

Second, the argument will commence by focusing on the current state of UK counterterrorism efforts now that it is no longer a member of the EU. This section will focus on a combination of expert opinions, government documents and case studies to ascertain the current state of affairs of the UK's counterterrorism network. Looking at current cooperation agreements, case studies of instances of information sharing and cooperation, and the UK's other counterterrorism allies outside of the EU, this dissertation will be able to determine to what extent the UK is making efforts to maintain its counterterrorism ability post-Brexit. It will also briefly look at the other commitments and bilateral agreements in which the UK are involved in the field of counterterrorism, namely the relationship with the US, Five Eyes and Interpol to ascertain exactly where the UK can turn to replace what they lost with the EU.

Within the field of EU counterterrorism cooperation this dissertation will largely focus on two different methods of cooperation that the UK were involved in prior to its departure from the EU. The first is Europol, the European police and judicial cooperation force. Despite the EU being made up of many sovereign states with their own counterterrorism and national security strategies, Europol is the closest the EU has come to a supranational law enforcement agency. As a result, Europol is mandated with specific authority in the field of counterterrorism and despite its rocky start, analysis in this dissertation will demonstrate how it has emerged as a lead counterterrorism actor both within the EU and globally. Specifically, in terms of UK involvement, Europol provides a great example of what has been lost. Essentially, a platform where EU member states can share data and information, cooperate and converse with other law enforcement agents and access data

infrastructures to assist with police and counterterrorism investigations. The UK's high level of involvement and use of this organisation and the networking it provides identifies a key area that the UK will have to replicate itself after Brexit. This will therefore justify the selection of this police and judicial cooperation organisation as the main focus for this dissertation.

The second area of cooperation in the field of counterterrorism that this dissertation will focus on is the Schengen Information System II (SIS II). This has been chosen not only because it is the largest information sharing data infrastructure in the EU, but also because it has been proven to assist law enforcement agencies in tracking and locating individuals suspected of terrorist offences. The SIS II provides a useful and important service to counterterrorism officials who have access to it. This is because, not only does it store hundreds of thousands of pieces of data on individual suspects and objects, but it also pieces relevant information together and sends alerts to law enforcement agencies of the movement or whereabouts of persons of interest. Therefore, the SIS II demonstrates a key counterterrorism infrastructure that the UK has lost access to as a result of Brexit. This will provide evidence of the UK's loss in the field of counterterrorism cooperation and will then in turn assist in evaluating the UK's efforts to replicate or replace the counterterrorism methods that it has lost because of Brexit.

Lastly, some focus will be attributed to the European Arrest Warrant (EAW). This has been specifically chosen as it provides a coherent and relevant example of what the UK has lost as a result of Brexit. Specifically, as a method of extraditing criminals or persons of interest out of other EU member states, the EAW directly alerts member states of persons of interest within its borders. This in turn allows for states to extradite individuals who are wanted in connection with terrorism or other criminal activity with relative ease. In relation to UK counterterrorism, this was chosen as studies and evidence suggests that a

disproportionate amount of extradition requests were made to the UK from EU member states in the two years prior to the UK's departure. The UK's lack of involvement in the EAW will therefore have direct consequences for UK counterterrorism and law enforcement in general.

Chapter 3: Police and Judicial Cooperation in the European Union

The principal aim of this dissertation is to investigate the impact that Brexit has had on the UK's ability to fight terrorism. Prior to addressing this, it is first of all important to acknowledge how membership of the European Union (EU) assisted and enhanced counterterrorism efforts in the United Kingdom. Firstly, this section will look at the creation and operation of Europol, the European's law enforcement agency that was originally set up to improve co-operation between and among European crime fighting organisations. It will investigate the mandate, the operation and members of Europol to assess how, and why, it is considered a crucial actor in the field of counterterrorism. Secondly, it will address the Schengen Information System II (SIS II) and how this giant data infrastructure can be used to give member states advantages when trying to obtain information about, or track, an individual or groups who is/are suspected of terrorist offenses. It will ascertain that both Europol and the SIS II play hugely important roles in counterterrorism as both make it easier for law enforcement agencies and intelligence organisations within member states of the EU to collate and share information with each other. This is vitally important to the collective effort of the EU and it plays a vital role in combatting the threat that terrorism poses to its member states and individuals within those states. It is clear that without these two crucial actors in counterterrorism, the UK will have a long road ahead to maintain the standards of its pre-Brexit counterterrorism strategy.

Europol

The European Union Agency for Law Enforcement Cooperation (Europol) is the EU's official law enforcement agency. It was officially established in 1999 with its headquarters in The Hague, The Netherlands and aims to assist in

generating a safer and secure Europe by being of assistance to, and working with, the law enforcement agencies of EU member states on important criminal and judicial matters (Europol, 2022). Encompassing the 27 member states of the European Union as of 2022, Europol facilitates the combined fight against terrorism, cybercrime and other serious forms of organised crime within its member states (EUR-Lex, 2005).

Creation

Initial support for the creation of an EU body of law enforcement began in the 1980s and 90s with numerous EU member states commenting on the fact that the EU was lacking such an institution. They believed that the EU would benefit from the creation of an organisation that would fulfil a role that was similar to that provided by the US Federal Bureau of Investigations (FBI) (Kaunert, 2010). As a result of this desire by EU member states to have a system of information sharing and police cooperation, the Maastricht Treaty entered into force in 1993. It created three new pillars to solidify European cooperation; to further advance the sense of a European Community, the creation of the Common Foreign and Security Policy (CFSP) and cooperation in the fields of Justice and Home Affairs (JHA). The latter third pillar identified the creation of an Area of Freedom, Security and Justice (ASFJ) that covered cooperation in areas such as combating terrorism, judicial cooperation in criminal and civil matters and controlling illegal immigration. Most importantly, it facilitated the creation of a European police force with the ability to facilitate the sharing of information between the law enforcement agencies of EU member states (European Parliament, 2022). This aimed to make information sharing and police cooperation within the EU a much more streamlined process.

What we now know as Europol began as a small, limited capacity drug operation aimed initially at tackling the problem of drug trafficking and related organised crime in the EU (Bures, 2008). It was known in 1994 as the Europol Drugs Unit

(EDU) and over the next few years it would have other criminal areas added to the mandate, including crimes that could be associated with, or that could be considered, terrorism (ibid). The official Europol Convention was formally created in July of 1995 but Europol was not officially ratified by all EU member states until 1999 (ibid). The Amsterdam Treaty that entered into force in 1999 helped to outline the operational powers of Europol (Kaunert, 2010; European Parliament, 2022).

When it was first created, Europol was not actually an official agency of the European Union but was instead a law enforcement agency for use by European Union member States with its own Convention in charge (Jansson, 2018). The Lisbon Treaty which was finally ratified in 2007 gave the European Parliament official authority and control over shaping and making changes to Europol's operational mandate, governance and tasks (Occhipinti, 2015). Following on from this, Europol became an official EU agency and encompassed representatives from all EU member states. Europol has the capacity to hold a representative from each member state of the EU, but it does not involve mandatory membership from EU member states and contributions are on a voluntary, opt-in or opt-out basis (Jansson, 2018). As it stands, all 27 current members of the EU are contributors to Europol, as well as numerous third party partners, most notably the US and, since Brexit, the UK.

Operation and Mandate

However, Europol is not an autonomous agency with supranational powers. It does not have the authority to act as a lone actor within the EU. As an agency of the EU, it aims to work with the law enforcement agencies of the EU member states but does not have the authority on its own to arrest suspects, conduct its own operations or undertake searches (Bures, 2008; Kaunert, 2010). The areas where Europol is mandated to assist EU member states law enforcement agencies include, illicit drug trafficking, illicit immigration networks, terrorism,

forgery of money and other means of payments, trafficking in human beings, illicit vehicle trafficking and money laundering (EUR-Lex, 2005). In terms of operations, Europol principal aims are to support the law enforcement agencies of EU member states by:

1. Facilitating the exchange of information, in accordance with national law, between Europol liaison officers (ELO's). ELO's are seconded to Europol by the Member States as representatives of their national law enforcement agencies;
2. Providing operational analysis in support of operations;
3. Generating strategic reports (e.g. threat assessments) and crime analysis on the basis of information and intelligence supplied by Member States and third parties;
4. Providing expertise and technical support for investigations and operations carried out within the EU, under the supervision and the legal responsibility of the Member States concerned. (EUR-Lex, 2005).

Europol and its operations are officially accountable to the Council of Ministers for the Justice of Home Affairs. The council are responsible for appointing the director of Europol and monitoring and approving the budget that is created by contributions from Member States according to their Gross National Product (GNP) (EUR-Lex, 2005).

Role in Counterterrorism

The extent to which Europol can be evaluated as a significant and crucial counterterrorism actor is obviously somewhat limited to the information and statistics that are available to the public (Bures, 2008). Many of Europol's counterterrorism efforts and operations go on underground and are not generally available in the public domain. However, from the information that is publicly available, it is clear that Europol has been given a high level of authority when

it comes to counterterrorism in the EU by the member states. Since its creation, and more specifically, since the 9/11 attacks, Europol has developed its counterterrorism authority and capabilities significantly to ensure full measures are being taken across the EU to combat global terrorism.

Since its creation '*Europol has become a European Law enforcement organisation that aims to support cooperation among EU member states with regard to terrorism, drug trafficking and other serious forms of international organised crime*' (Kaunert, 2010: 653). Although Europol plays an incredibly vital role in EU counterterrorism strategy, it was not originally strictly created for such purposes. Initially, counterterrorism was left out of the mandate for Europol despite countries, such as Spain, who were fighting their own domestic terrorism issues, advocating for it (Kaunert, 2010). There were a number of reasons for this, including distrust between member states and a reluctance to share information openly (Hufnagel, 2013). As well as, a general disagreement, in some instances, over a political definition of terrorism which would have resulted in measures to create collective legislation on countering terrorism incredibly convoluted and difficult (Bures, 2008; Ilbiz, Kaunert & Anagnostakis, 2017). There was also a discrepancy over the fact that counterterrorism was devolved to different organisations in different member states. Some states had law enforcement and police handle the issue, whereas others left the issue with the intelligence agencies. This meant that counterterrorism cooperation between police forces under the supervision of Europol would be more problematic for some state over others (ibid). Furthermore, member states within the EU categorised different organisations in different ways, meaning that one group may be recognised as a terrorist organisation in one state and not in another. This would lead to cooperation over counterterrorism much more difficult (ibid).

So, as a result, from the creation of the Europol convention up until the 9/11 terrorist attacks in the United States in 2001, terrorism was still largely regarded as a national issue rather than a global one (Bures, 2008). The Treaty of Amsterdam in 1997 did expand the mandate of Europol to include the authority to combat terrorism but little more actual cooperation between member states occurred and many member states still failed to actually provide Europol with any concrete operational information (ibid). In fact, when the 9/11 attacks did happen in New York City, Europol had little to no counterterrorism authority, and no collective counterterrorism policies (ibid). However, the fact that Europol was already a fully functioning actor, albeit with somewhat limited counterterrorism abilities, it was able to adapt itself where required much quicker in the wake of the 9/11 attacks to counter the new kind of threat that terrorism posed to the EU (Jansson, 2018). This significantly contributed to and enhanced its ability to grow into a functional counterterrorism actor throughout the 21st century (ibid).

Nevertheless, like many other actors in the field of international security and counterterrorism, the 9/11 attacks did change the mandate and operation of Europol significantly. Shortly after 9/11, Europol was mandated more power in areas relating to combatting terrorism. Firstly, they obtained the authority to request law enforcement agencies within member states to launch investigations on their behalf and the ability to request them to share information with official third party partners of Europol, for example Interpol (Bures, 2008). Furthermore, it was given the authority to open and expand a set of Analytical Work Files (AWF) that aimed to collate information and intelligence gathered and analysed from law enforcement agencies and intelligence organisations within the Europol member states (ibid). These AWF gave Europol the ability to know what the intelligence agencies and police forces of the member states knew and also share that knowledge with other member states. This was a huge advancement on the situation that previously existed prior to the 9/11 attacks.

Finally, in December 2002, a Europol Council Decision ensured that each member state would from then on share a base level of information to Europol, up to and including data that fully identifies a person in question, acts or cases under investigations by each member state and links to any other open and relevant terrorist cases (ibid).

Advancement in the field of counterterrorism within the EU tends to follow the threat level that terrorism poses to the member states and citizens of the EU at any given time. Of course, after 9/11, the terrorism threat level was extremely high with subsequent attacks in Madrid in 2003 and London in 2005 heightening this anxiety further. Europol has generally followed this trend, with the latest development in EU counterterrorism efforts happening after the wave of terrorist attacks throughout the EU in 2015, most notably the Paris Attacks on 13 November (Bellanova and Glouftsiou, 2020). After this, the EU saw a significant increase in the willingness of member states to cooperate on counterterrorism efforts. A particular driver of this increased willingness to cooperate was when it became clear that many of the perpetrators of the Paris Attacks passed through other EU states on their way to France (Bellanova and Glouftsiou, 2020). As a result of this increase in cooperation, in January 2016 Europol announced the creation of the European Counter Terrorism Centre (ECTC) which was set out to be an *‘operations centre and hub of expertise that reflects the growing need for the EU to strengthen its response to terrorism and ensure an effective response to these challenges’* (Europol, 2022). This centre is primarily dedicated to the facilitation of information sharing and cooperation, while offering operational support and expertise and mitigating the possible platforms and networks for radicalisation in the EU (ibid). Now, Europol and the EU have made significant moves towards becoming a cohesive counterterrorism unit, including adopting a European wide definition of what can, and should be considered terrorism. This definition came out of the EU directive 2017/541, which outlined that in order to combat terrorism as one

cohesive whole, all EU member states should adopt the same definition of terrorism or terrorist acts into state legislation by the end of 2018. This would then define terrorism as *'certain international acts which, given their nature of context, may seriously damage a country or an international organisation when committed in the aim of; seriously intimidating a population, unduly compelling a government or international organisation to perform or abstain from performing any act; or seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation'* (Europol, 2021: 10). As the UK are no longer a member of the EU, this is not a requirement. This has the potential to confuse counterterrorism cooperation in the future, although there is no evidence to suggest so thus far.

UK Involvement

The UK has been an involved member of Europol since its inception back in 1994. In fact, back in the 1990's, the UK was one of the main supporters of the creation of an EU police force and were key instigators in the initial formation and development of both Europol and Eurojust (House of Lords European Union Committee, 2021). The UK was also seen to have been involved in encouraging Europol developments to follow the basis of the British Model to make it easier for UK access and cooperation (Carrapico et al, 2017). As well as this, the UK was heavily involved in EU police cooperation as a whole particularly in the fields of operational cooperation and information exchange (Carrapico et al, 2019). It was also a key contributor to supporting police cooperation in the EU including training and in funding relevant research (ibid). Additionally, as of 2017, of the 13 active law enforcement operations in the EU, the UK was a participating member of all of them (Carrapico et al, 2019).

Clearly, the UK government and police and intelligence officials viewed membership to Europol as a vital source of information and security. In fact,

even during the referendum campaign, then prime minister David Cameron made several claims that in the unlikely event of a leave vote, it was crucial to maintain as much as possible the same police and judicial cooperation that the UK had with the EU previously. Cameron promised to negotiate this deal as a top priority hoping to orchestrate a deal close to that of the EU's deal with Norway or Iceland (Binns, 2021). Clearly, a top priority of the government prior to EU referendum vote. In fact, the UK government were among the highest contributors to the Europol Information System in 2017 and up until May 2018 Europol's director was actually a former British MI5 analyst further suggesting the high priority the UK would give to Europol. (Carrapico et al, 2019). It is quite clear the UK did benefit from membership to Europol, specifically in the field of counterterrorism. In fact, in 2019 out of 1004 arrests made by Europol and EU law enforcement agencies for terrorist-related offences in the EU, 281 of those arrests took place on UK soil (Europol, 2021). This could be overtly concerning for the UK, with such a high proportion of arrests in comparison with other EU states, clearly the problem with terrorism is very much on the UK home front. This means that levels of cooperation like this must continue if the UK hope to maintain its counterterrorism stance.

Of course, as the Brexit deal lays out, as of the official leaving date the UK ceased to be a member of Europol and, as a result, ceased to have access to information and databases shared within Europol. It has also lost its ability to control or have any ability to shape the proceedings of EU policing and judiciary measures from here on out, most importantly, counterterrorism.

Schengen Information System

The Schengen Information System (SIS II) is the biggest information storing system in the European Union and seeks to facilitate security, within and between member states, after the abolition of border controls inside the Schengen zone (eu-LISA, 2015). It is primarily an information sharing system

that assists EU law enforcement agencies and other entities to cooperate and control borders within the Schengen, and wider EU, area (Bellanova and Glouftisios, 2020). It is a data infrastructure that obtains and stores data and allows law enforcement agencies and institutions, that are not geographically linked, to cooperate with each other and share information (Bellanova and Glouftisios, 2020). Since the implementation of the Schengen Agreement in 1993, the SIS II is the biggest and most complex information sharing system operating within the EU and *'supports efforts to address irregular migration and operate as compensatory measure to perceived security risks, such as transnational organised crime and terrorism, associated with the easing of controls at the common borders of the (Schengen) member states'* (ibid). It is also the most frequently used source of information used by countless EU countries, most notably the UK up until its departure from the EU (Carrapico et al, 2019; Prothero, 2020). This is of particular concern because the UK were only granted access to the SIS II after special permission because it was an EU member so without EU membership continued access for the UK was highly unlikely even before the Brexit negotiation talks.

The SIS II entered into operation on 13 April 2013 under the operation of the European Commission but was transferred over to the control of eu-LISA, the European Union Agency for the control and operation of large-scale information systems, one month later (eu-LISA, 2015). It replaced its predecessor, the Schengen Information System I as a much more sophisticated version. One that held the ability, not only to hold information about individuals and objects, but also biometric data such as fingerprints and photographs (eu-LISA, 2015). It also contains the ability to hold European Arrest Warrants (EAW) and attach them directly to alerts for the individual that they are about creating a succinct and highly useful alert system (ibid).

The SIS II entails a vastly complex system for the storage of a huge amount of data pertaining to individuals, objects or places that are flagged as potentially associated with organised crime or terrorist activities. It works as an alert system, whereby all information about individuals and objects is stored together and links are created and highlighted between pieces of data that are related to one another (Bellanova and Glouftisios, 2020). This means that when links are drawn participant actors can be notified of such links almost instantaneously. Without access to this system, the UK will not be notified of alerts pertaining to individuals attempting to cross the border into the UK or with ties to people or organisations in the UK. Instead, the UK will have to find that information for itself or, at the very least, through bilateral agreements with each member state.

Role in Counterterrorism

Since its implementation in 2013, the SIS II has been seen to play a vital role in EU counterterrorism strategy through its ability to facilitate the quick exchange of information between counterterrorism agencies (eu-LISA, 2015). It is strategically very important for participant countries not only because of the amount of data that it can store and link but also because of the speed at which it can do it (Prothero, 2020). No team of humans could replicate such a high amount of data nearly as quickly. Even to create another system would be extremely expensive and take years to build up to the level of the SIS II. Of course, the UK are in a position where it does have the capabilities to replicate a system like the SIS II, however, to create something of such magnitude and with the same degree of cooperation is not likely. Furthermore, in the time it would take to build a system up to the size of the SIS II, the UK would be losing out on countless amounts of shared information. This means that either way, the UK's counterterrorism strategy will have to change, particularly in regard to where they obtain their information.

As mentioned previously, the alert system of the SIS II can link together individuals who have been flagged as being potentially involved in terrorist activities. This can happen when they attempt to enter the Schengen area, or even at times when they are moving within the Schengen zone. It also has the ability to link objects, such as passports or vehicles, to such individuals as a means of surveillance or tracking (Bellanova and Glouftsiou, 2020). This can have benefits for counterterrorism officials as it assists them in monitoring potential suspects or persons of interest as they move through the open borders of the Schengen area. Of course, it does not come without its faults, as even when highlighting individuals with suspected terrorist links it does not always lead to this being followed up with an arrest or detention of that individual. An example of this shortcoming was clearly seen after the terrorist attacks in Paris on 13 November 2015, when one of the suspected perpetrators of the attacks was flagged crossing the border from Belgium to France. Despite an alert going out about the suspect no detention or arrest was made. This means that despite the SIS II having the ability to piece together data and information, law enforcement agents must react very quickly to the large amount of information that may have been alerted to them. However, this information and other alerts, can still let counterterrorism officials know, not only where an individual suspected of terrorist activities is, but it also lets them know where they have been prior to that alert. This could again be seen with the case of the perpetrators of the Paris Attacks as it was soon found that not only had one been stopped at the border between Belgium and France, but another had entered the EU through Hungary with a spade of refugees coming in at the time. This highlights the necessity of such a system to counterterrorism as information like this, although too late to prevent or stall the terrorist attack, allows participant states to assess the current threat that terrorism poses and amend policy and legislation as required.

UK Involvement

Despite the UK not being a member of the Schengen Area Agreement, it had a specific set of opt-in or opt-out arrangements for involvement in areas it considers in the national interest of the country (Carrapico et al, 2019). More specifically, in areas surrounding information sharing and intelligence the UK largely decided to opt-in to such agreements and arrangements (ibid). This was the case with the SIS II where the UK officially became an active member of the information sharing system in April 2015, after a series of negotiations and tests to ensure the involvement of non-Schengen countries did not disrupt the flow of information (eu-LISA, 2015). The UK government actually explained its decision to opt-in to the SIS II by emphasising the role it would play in counterterrorism. The government highlighted that opting in to the SIS II would give law enforcement agencies access to real-time information that it only previously had access to through separate bilateral agreements or Interpol, and the ability to further secure and monitor the country's border (Miller, 2016: 115). Of course, since it was only after checks that the UK was allowed to have any involvement with the SIS II as a member state of the EU, continued membership of the SIS II for the UK out with the Schengen and the EU was never going to be on the cards.

It is no surprise that loss of access to the SIS II will have implications for the UK's ability to combat terrorism and transnational crime. Prior to the UK's departure from the EU, the UK accessed the SIS II more than 500 million times a year on average (Prothero, 2020). Specifically, UK officials have been known to access information from the SIS II upwards of 1.6 million times each day (ibid). EU information systems in general still hold tens of thousands of pieces of data entered into the system by the UK, and it was not required to be deleted before the UK's departure. So, it is just the UK that has lost the ability to continue retaining information uploaded by other member states of the EU,

which was previously viewed as being crucial for the UK's counterterrorism strategy (ibid).

Having established the crucial role that Europol and the SIS II have played and will continue to play in the field of counterterrorism in the EU, we can now move onto assessing what the loss of this actor will mean for the UK. Europol have acted as an established counterterrorism actor in the field for over two decades and the institutional experience of being a Europol member, is something that the UK will miss. As counterterrorism is, now more than ever, a supranational issue, the UK's departure from the main EU counterterrorism institution appears to be a significant blow. In addition to this, the inability to even access information shared between EU member states now that the UK have opted-out of the Schengen Information System II, will make such efforts even harder. This more than Europol seems like it will be the most significant loss yet. However, since Brexit was a convoluted and difficult process and the UK only formally left the EU not two years ago, the Brexit deal is still in the early stages of playing out. This means that even if the UK have the capacity and finance to create similar infrastructures and organisations, it will be a long time before they are up and running to the level and standard of their EU counterparts. Until then, the UK must look for other means to try and replicate the level of cooperation and information sharing technologies it had as a member state of the EU.

Chapter 4: Brexit

The UK's exit from the European Union marked the biggest geopolitical change within Europe since the fall of the Berlin Wall (Chalmers, 2020). From the date of the UK's vote to Leave the EU in 2016, until the eventual date of departure almost 4 years later, the process of negotiating an entirely new relationship with the EU was painstakingly complicated and slow. Finally, on 31st January 2020 the UK officially left the EU and the agreements made between the UK government and the EU Parliament came into place. The withdrawal agreement covered a multitude of areas, however, within these agreements were a set of arrangements over the future of police and law enforcement cooperation and UK access to crucial policing and judicial systems and data infrastructures. Among this was the agreements concerning Europol, the Schengen Information System (SIS II) and the European Arrest Warrant (EAW). These three entities were responsible for a significant majority of the interaction and cooperation that the UK previously had with the EU in terms of counterterrorism and in these areas, UK officials relied on these entities heavily. As a result of the UK formally leaving the EU on 31 January 2020, the UK has lost first hand access to all of these systems. This chapter will firstly address the phenomenon that has come to widely be known as Brexit. It will briefly look at the period immediately following the EU referendum and the protracted formal negotiation process that would lay out the terms for future cooperation in the area of policing and criminal matters. Secondly, it will address the Brexit Agreement itself, more specifically the agreements reached about the UK's involvement with Europol, the SIS II and the EAW. It will then assess the extent of the new cooperation agreements and how much it will impact the UK and how much it will change the UK's counterterrorism efforts. This will then in turn lead into the full investigation of the impact of Brexit on counterterrorism efforts in the following chapter.

From the Referendum to Brexit

Primarily due to the September 11 attacks on the World Trade Centre in 2001 global concern for terrorism has increased tenfold in the 21 Century. This is true of the situation within most developed countries but arguably more so in the UK where there have been an increased number of terrorist attacks, The major incidents were, the London Bombings in 2005 timed to coincide with the G8 summit meeting being held in the UK at Gleneagles in Scotland, the Manchester Arena Attack following a concert by the American singer Ariana Grande on 22 May 2017, the Westminster Attack and London Bridge Attack all in 2017, to name a few. These attacks brought about a number of changes but one of the most significant was that immigration has been deemed a higher imminent security threat in the UK, both by the general British public and successive UK governments. Regardless of the fact that the perpetrators of both the London bombings and Manchester Arena attacks were British born. As were, many of the other perpetrators of attacks and attempted attacks in the UK throughout the last decade, but this problem itself goes beyond the scope of this dissertation.

Nevertheless, the increasing number of terrorist attacks since September 11 has heightened the general xenophobia within the UK with immigrants often being perceived as a danger to the economy, the welfare state and national identity (Legewie, 2013). This is reflected further with increasing terrorist attacks in Europe as well with studies emphasising a directly negative impact on public opinion on immigration after a terrorist attack in Europe (Nussio, Bove and Steele, 2019). In fact, public opinion on migration is intrinsically linked to the situation concerning global terrorism and will continue to affect it for some time (Nussio, Bove and Steele, 2019). As a result of these heightened immigration concerns relating to the economy, social welfare and security, many voters in the UK were swayed by the arguments of the Leave campaign. The British public have long considered terrorism to be one of the major security concerns for the country for a long time, more so than any other European Union nation

(Bove et al, 2021). This means that terrorism was at the forefront of public concern in the time leading up to the Brexit referendum and the leave campaign sought to capitalise on this fear by drawing links between the increased amount of terrorist attacks in Europe since 2015 and the increased amount of immigration as a result of the migrant crisis. Specifically, they highlighted the case of the Paris attacks on 13 November 2015 claiming that, despite a number of the perpetrators having been French or Belgian, one of them had entered the EU via Hungary alongside a spate of refugees moving into the EU at the time particularly from Syria and Afghanistan (Clarke, Goodwin and Whiteley, 2017).

On a similar vein, the leave campaign were much more astute at exploiting these concerns about immigration and this was one of the reasons they triumphed and the remain campaign failed. For example, one of the key claims that the Leave campaign made was that the UK could do nothing to stop Turkey joining the EU which would subsequently lead to a flood of immigrants coming from Turkey to the UK. (Behr, 2016). This was not true but the Remain campaign failed miserably to effectively refute this assertion. In fact, few voters in the UK were even aware that the remain campaign had a line on immigration (Behr, 2016). Instead they honed in largely on a platform of severe economic uncertainty should the UK choose to leave the EU (ibid). The remain campaign did try and emphasise the role that the EU played in counterterrorism efforts with David Cameron the Prime Minister at the time, a pro-remainer member of the Conservatives, commenting that ISIS would be at an advantage should the UK leave the EU due to the loss of key surveillance and information sharing networks that allows the UK to track suspects entering the UK (Bove et al, 2021). Despite this, the public were not convinced of the EU's abilities as a counterterrorism actor and on the 23rd June 2016, the general public in the UK voted to leave the European Union. However, although important to address the influence that counterterrorism had on the Brexit referendum goes beyond the

scope of this dissertation. What is important now, is to look at the impact it had on the process of negotiation over the following four years.

With a fairly close margin of 51.9 percent to 48.1 percent in favour of the UK leaving the EU, the events that would then follow seemed rather unprecedented (BBC, 2020; Grey, 2021). In the days following the EU referendum, the British Pound plummeted to lower than it had been in over thirty years spiking widespread economic and political panic (Grey, 2021). As it turned out, many expected the referendum to go in favour of the Remain campaign predicting that in the end, undecided voters would stick with the status quo rather than take the risk with Boris Johnson and Michael Gove's seemingly ill-thought out approach to an independent UK (Clarke, Goodwin and Whiteley, 2017). This had been the case a few years earlier in the Scottish Independence Referendum, but the outcome was not the same for England and Wales (ibid). This meant that almost everyone involved in politics at the time was at a loss of what to do next, particularly the leaders of the leave campaigners, who, as was becoming abundantly clear, had never even expected to win in the first place and had no clear plan of what to do next.

The Lisbon Treaty

To actually fully trigger the leaving process from the UK the Government had to formally trigger Article 50 of the Lisbon Treaty. However, shortly after losing the referendum vote, David Cameron resigned as Prime Minister resulting in a Conservative Party leadership election (Grey, 2021). Cameron's almost immediate resignation meant the Article 50 of the Lisbon Treaty was not triggered as it was promised to be immediately following a leave win in the EU referendum. Instead, a drawn out process of finding a new leader followed by settling in period that saw the date of the UK's departure from the EU pushed further and further into the horizon (Grey, 2021). Cameron was eventually

succeeded as leader of the Conservative Party, and therefore Prime Minister of the United Kingdom, by Theresa May on 13 July 2016 (Grey, 2021).

The Lisbon Treaty entered into force on 1 December 2009 and outlined the future plans for further European integration and cooperation (European Parliament, 2022). It changed '*the way the Union exercises its existing powers and some new (shared) powers, by enhancing citizens' participation and protection, creating a new institutional set-up and modifying the decision-making process for increased efficiency and transparency*' (European Parliament, 2022: 2).

The UK began the process of leaving the EU when Prime Minister Theresa May invoked Article 50 of the Lisbon Treaty on 29 March 2017 in a letter to European Council President Donald Tusk. Within the letter May made clear that although the UK are leaving the EU they wished to '*remain committed partners and allies to our friends across the continent*' (May, 2017: 1). This meant that the UK had formally began the legal process of exiting the EU and a date was set for when that official departure would be. Initially, this was set out to be on the 29 March 2019, however, subsequent events made that date unachievable.

Not long after signing the article 50 withdrawal notice, Prime Minister May then called a snap election to be held on 8 June 2017, with the intent to secure 5 more years of Conservative government to ensure Brexit was delivered fully and sufficiently as she had promised immediately after being named as the new Prime Minister the previous year. Of course things did not quite go to plan and May did not get the full mandate she was seeking in the June 2017 election and actually lost her majority in Parliament. May was then forced to make an agreement on with the Northern Irish Democratic Unionist Party in order to make her majority back up (Erlanger and Castle, 2017). However, this was not a full coalition like the conservatives had agreed with the Liberal Democrats in 2010, and this meant that May would then go into negotiations for a Brexit deal

without a full parliamentary majority in the House of Commons to back her deal. This, of course, would subsequently lead to numerous stumbling blocks on the road to Brexit. As now known, Theresa May failed to get her Brexit deal passed through parliament and resigned on 7 June 2019. This resulted in yet another leadership contest which resulted in Boris Johnson becoming the prime minister on 23 July 2019. Johnson remained in power to see the UK through its withdrawal from the EU and managed to pass a deal through parliament in the dying weeks before Brexit officially was done.

The Brexit Deal

The Trade and Cooperation Agreement

In the months leading up to the UK's official exit from the EU, on 31st January 2020, there was significant doubt about whether or not a deal with the EU would be reached, and even then, if an agreement could be negotiated by the government, whether or not it would make it through parliament like Theresa May's deal failed to do. As previously mentioned, the legal process for the UK leaving the EU was triggered under Article 50 of the Lisbon Treaty. After protracted negotiations about this process it started to become clear that Brexit would have to consist of two separate agreements. Firstly, the Withdrawal agreement which Johnson passed through parliament as the European Union Act 2020 and outlined the conditions for the UK's specific exit from the EU and the proposed date that it would no longer be a member state (EUR-Lex, 2019). Of course, the date for the UK to leave the EU would be pushed more than once after that. Secondly, was a future trade agreement, The Trade and Cooperation Agreement (TCA) and this would set out the terms of the UK's future cooperation with the EU in terms of trade, security, economy and much more (Grey, 2021). The TCA was cobbled together following lengthy negotiations between Johnson's government and the EU representatives. This second agreement is comprised of seven key sections.

1. Common and Institutional Provisions
2. Trade, Transport, Fisheries and other Arrangements
3. Law Enforcement and Judicial Cooperation in Criminal Matters
4. Thematic Cooperation
5. Participation in Union Programmes, Sound Financial Management and Financial Provisions.
6. Dispute Settlement and Horizontal provisions
7. Final Provisions (EUR-Lex, 2021)

This dissertation will focus on part three of the TCA, entitled Law Enforcement and Judicial Cooperation in Criminal Matters. This crucial part outlines the future of UK-EU police cooperation and information sharing in relation to terrorism, organised crime, drug-trafficking and other criminal and judicial matters. As mentioned previously, the UK was highly involved in law enforcement cooperation with other members of the EU prior to its departure ranking institutions such as Europol and Eurojust as crucial actors in ensuring and maintaining internal security for the UK.

[Trade and Cooperation Agreement: Part Three Law Enforcement and Judicial Cooperation in Criminal Matters](#)

Europol

To understand the extent of the UK's attempts to secure counterterrorism efforts after the Brexit deal, changes in the way counterterrorism is undertaken must be addressed. Firstly, as part three of the TCA lays out, as of the UK's exit from the EU, it is no longer a participating member of Europol. The agreement sets out that the UK will continue to work with Europol, however, only as a third party member (House of Lords European Union Committee, 2021). This is

outlined in Article 567 of the TCA which states that the UK will continue to cooperate with Europol in specific areas such as;

1. The exchange of information such as specialist knowledge;
2. General situation reports;
3. Results of strategic analysis;
4. Information on criminal investigation procedures;
5. Information on crime prevention methods;
6. Participation in training activities; and
7. The provision of advice and support in individual criminal investigations as well as operation cooperation (EUR-Lex, 2021: Article 567).

In addition to this, the UK agreed to designate a specific point of contact between itself and Europol which will be used as a point of communication after the UK's exit from Europol. The UK will also be allowed to send liaison officers who will be allowed to attend operational meetings, however, this remains at the discretion of Europol (ibid). This means that the UK no longer has full and free unbridled access to Europol's databases and any other information that law enforcement officials in EU member states share with Europol. To receive such information, the UK would have to formally request it or draw up separate information sharing agreements with each individual EU member state. This would mean a costly and timely effort to have access to information that was once willingly and automatically shared with the UK. With the current Covid-19 Pandemic, War in Ukraine and the fuel and energy crisis, not to mention the crumbling state of the government at this time, the UK does not seem able to afford this a priority. This means that the UK will lose out on access to hundreds of thousands of pieces of information that could be crucial in tracking or knowing about terrorist activities within, or involving, the UK. In fact, on 31st December 2019 alone, the UK no longer had access to over 40'000 alerts that

came from EU databases (House of Lords European Union Committee, 2021). This number, just a short time out of the EU must be staggering now.

In addition to losing automatic access to countless data alerts and information, not to mention the police cooperation platform, the UK also no longer has the ability to shape, influence or change the nature of police and judicial cooperation in the EU (House of Lords European Union Committee, 2021; Binns, 2021). This means that, despite being able to continue as a third party member, it will have no say over the future structure, layout or operation of Europol (Binns, 2021). It will not be able to have a say on the process of information sharing or the future police cooperation agreements put into force in the EU. As a third party member, the UK will have access to Europol and its information servers only at the discretion of Europol itself. This will undoubtedly change the nature of the UK's counterterrorism strategy without the ability to at least partly control what is going on in the EU. This can also have other maybe unintended consequences as, under the terms of the TCA, the UK have completely lost the ability to influence or shape the future structure or layout of European security policy as a whole (Klein, 2017). This will be problematic because, despite leaving the EU, the UK will still have to have close relations with EU law enforcement for years to come. Changes in the structure or layout of EU Security Policy could make this relationship more difficult.

European Arrest Warrant

Part three of the TCA also outlines the loss of the European Arrest Warrant (EAW) for the UK. The EAW is a system that allows EU member states to issue an arrest warrant to another EU state if evidence shows that an individual resides in that state. The receiving EU state then must ensure that the warrant is followed through by seizing the individual wherever possible. It works efficiently because states receiving the warrant have very limited grounds for refusing to comply with the warrant and so states can arrest persons of interest

easily from outside their own borders (House of Lords European Union Committee, 2021: 36).

The importance of the EAW to the UK while it was a full member of the EU cannot be overestimated. Statistics show that between the year 2019 and 2020 the UK requested 2,741 arrests from other EU countries and in return received 4,533 requests, for arrests within the UK, from other EU countries (National Crime Agency, 2021; Sweeney, 2021). Not only does this highlight the UK's frequent use of this network to obtain persons of interest within the EU, it also raises alarming questions about the number of suspects from other EU states that are within the UK in any given year and in the ability of the UK to deal with these. Considering this statistic, the loss of this system will have major consequences for the internal security of the UK and a quick solution will most likely have to be found. Furthermore, in 2021, Europol reported that they had arrested 449 individuals suspected of terrorism in the whole of the EU. In comparison, the UK reported 185 arrests for terrorist related activity on UK soil. However, in 2019, 1,004 arrests were made in total of individuals suspected of terrorist offences, 281 of which were arrested on UK soil (Europol, 2021). This highlights a problem for the UK as since it is no longer a member of Europol or an active participants in the EAW, arrests like this will cease to continue. This means that it will be up to counterterrorism officials in the UK to track and locate individuals within the UK alone without the assistance of European police forces or systems. Without extradition or help from EU member states the UK may struggle to maintain the level of arrests by itself. The consequences of this could be really significant, putting UK citizens at more risk, however, it is simply too early to tell the full impact that this will have on counterterrorism.

The TCA outlines plans for a replacement of the EAW in the form of separate extradition agreements to be known as the Surrender Agreement. It is similar to the agreement that the EU has with Norway and Iceland in that it tries to hone

in on the selling point of the EAW, where states had very little grounds for refusing to follow through with an arrest warrant request. This means that, although no longer participants in the EAW, the UK can still send arrest warrants to EU states but the receipt of them will be regarded differently. Although this looks promising and is much better than having no agreement whatsoever, heavy doubt has been attributed to the ability of the new extradition system to actually meet the same standards of the EAW (House of Lords European Union Committee, 2021). Specifically, concerns about the ability of the new system to operate as efficiently and as well as the EAW are widespread. In particular, concern has been expressed about the ability of the Surrender Agreement to meet the time limits that were in place under the EAW. This means the ability for the UK to receive and request arrest warrant as sufficiently and quickly as they were able to do when they were able to use the EAW is questionable (ibid: 37).

The Schengen Information System (SIS II)

The TCA also lays out that the UK will lose access to the SIS II. From the date of its departure from the EU, the UK will no longer have the ability to upload or retrieve real-time information and data from the system. This means, not only will the UK not be able to access information relating to terrorism, drug and human trafficking and organised crime, but it will no longer be able to easily share information with EU counterparts (EUR-Lex, 2021). The UK has also lost access to any data entered onto the system before Brexit officially happened, although, as the EU were not required to delete information uploaded by the UK prior to Brexit, it is more of a loss for the UK than anyone else involved.

The loss of this system will have consequences for police and law enforcement bodies within the EU. In fact, the House of Lords European Union Committee aforementioned report on the Brexit deal emphasises this role by commenting that *‘witnesses to past inquiries have repeatedly highlighted the vital role this*

system has played in supporting the operations of UK law enforcement agencies’ (House of Lords European Union Committee, 2021: 22). It also goes on to comment that, in evidence given before the committee by the Deputy Assistant Commissions of the National Police Chief’s Council Richard Martin, that the UK police alone checked the SIS II over 600 million times in 2019 (House of Lords European Union Committee, 2021: 22). This goes to show that the loss of this system will require a near total upheaval of the way in which counterterrorism officials go about retrieving information. It is clear, simply by the frequency of access to the system that the UK will have to find another way to compensate for the loss of the data, and quickly.

Passenger Names Record

Despite the seemingly long list of bridges burned the UK will continue to be involved in some of the EU’s information sharing networks. Most notably, Part three of the TCA outlines the UK’s continued involvement in the Passenger Names Record (PNR) (EUR-Lex, 2021; Article 542). The PNR is a system that allows for the protected sharing of data relating to flights within the EU. It allows states to track individuals travel records of passengers from the point of their arriving in the EU to their final destination. Under Title III of the Law Enforcement and Judicial Cooperation in Criminal Matters section, the agreement outlines that the UK will maintain the ability to access information about individuals travelling to and from the EU (ibid). The UK will be allowed to retrieve and analyse data from the PNR *‘for the purposes of preventing, detecting, investigating, or prosecuting terrorism or serious crime, subject to safeguards on the use and storage of the information’* (Davies, 2020). Furthermore, the UK will be required to share any analysis of data obtained from the PNR with Europol, Eurojust and law enforcement agencies of EU member states (ibid).

In addition, the UK have retained the right to share and receive biometric and personal data from the EU, including DNA, fingerprints and Vehicle registrations (Davies, 2020). Under the Prum Decisions, member states of the EU, have the ability to share biometric and personal information about individuals suspected of terrorist offences or organised crime. This in turn then allows law enforcement agencies within these member states to collect data points on these individuals and collate them into a database (EUR-Lex, 2021: Article 527). The UK's continued involvement in this process will no doubt be beneficial in the field of counterterrorism.

Overall, the Trade and Cooperation Agreement significantly changed the nature of UK and EU police and judicial cooperation. The TCA shows some areas of saving grace where the UK will still be involved in the sharing of information for judicial and criminal matters, including the sharing DNA and biometric data. As well as this, continued access to the Passenger Names Record will allow the UK to at least continue to monitor and track the number of suspects or individuals entering or leaving the UK via air travel. However, the cooperation and level of trust is not the same and is now less comprehensive that it was before the UK left the EU. The withdrawal from Europol will have significant consequences for the UK's ability to share and receive information with law enforcement agents on the continent and will require quite an overhaul in the counterterrorism strategy going forward. In addition, loss of the Schengen Information System II and EAW networks will mean that the UK will lose key access points to information and data, that it previously used to track and locate individuals suspected of terrorist offences or organised crime. Of course, the impact of the loss of these organisations and systems is still being investigated but data on the UK's use of these EU entities before the date of departure alone suggests that UK law enforcement officials relied on them heavily. Having established the UK's new role in EU police and judicial cooperation, this dissertation will now go on to investigate the nature of this relationship and the

impact it will have on counterterrorism within the UK. The loss of direct and simplified access to both Europol and the SIS II will have a major impact on the UK in future. Both Europol and SIS II played a key role and had a considerable impact in terms of helping to combat terrorism and the UK will have to amend and adapt its processes without unbridled access to them. Without a doubt, the change in relationship will have changed the way in which the UK approach counterterrorism but the extent to which it has had an impact will be investigated in the following chapter.

Chapter 5: UK Counterterrorism: Mitigating the Loss.

The purpose of this dissertation thus far has been to establish where the UK are now that they have left the European Union. As we have already seen, the Brexit deal that Boris Johnson's government managed to pull through parliament allowed for fairly limited retention of the cooperation the UK had in the key areas of law enforcement and judicial cooperation while it was a full member of the EU. The UK's withdrawal from Europol which also led to the loss of direct access to the Schengen Information System II will leave the UK at a disadvantage in the field of counterterrorism, at least in the near future. What remains now is attempting to understand what other actions the UK has undertaken to try and mitigate the worst effects of this. During the negotiation process after the referendum, many attempts were made by Theresa May and her government to try and minimise the damage that the UK's departure from the EU would have on the UK's internal security. Of course, at this time there was a lot of speculation about the UK's ability to combat terrorism effectively after it left the EU, without the assistance it regularly received as a member. As this dissertation has already outlined, the UK heavily relied on pieces of EU information sharing and police cooperation in its counterterrorism efforts. Thus, now that the UK no longer has access to these networks it will have to make a number of changes to the way that it approaches counterterrorism. This concern has been addressed again and again by many prominent sources in the field of international relations and security and the opinions tend to be overwhelmingly negative.

UK Counterterrorism Efforts After Brexit

Internal Counterterrorism Efforts

What this dissertation has established so far is that the UK have lost a great deal of the capabilities and data that they once used for counterterrorism purposes as a member of the EU. However, the UK did not solely rely on access to Europol and the SIS II for all of its counterterrorism efforts on the EU. By the end of 2020, the UK had upped its terrorism threat level meaning an attack on UK soil was ‘highly likely’ (US Department of State, 2020). As a result, counterterrorism officials have been on high alert and further steps have been taken by the UK to mitigate this threat. For example, the Counterterrorism and Sentencing Act 2021, was passed through parliament in March 2021, and it particularly focuses on the sentencing procedure for individuals convicted of terrorist offences or offences with a connection to terrorism (UK Parliament, 2021).

Furthermore, in December 2020, the UK government launched the 2025 Border Strategy, which aimed at creating the world’s most effective border that ‘*creates prosperity and enhances security for a global United Kingdom*’ (UK Government, 2020). The strategy itself essentially aims to create the most efficient border in the world, one that allows easy access for traders and allows travellers to move freely while also maintaining and improving the security and biosecurity of the country as a whole (ibid). Essentially, the UK have outlined plans to closely monitor the border to ensure that any individual passing through the UK border will have been properly vetted and screened to ensure no suspect individuals or criminals will get in without monitoring. This is something that would have been incredibly difficult to manoeuvre if the UK were still a part of the freedom of movement requirement that was a mandatory and key element of membership of the EU.

Of course, in addition to these counterterrorism efforts, the UK still have a great deal of external arrangements, organisations and bilateral agreements that make up the bulk of its counterterrorism cooperation, even now without the crucial unhindered access to the networks of the EU. Its 'special relationship' with the US is expected to be relied on much more heavily now that it has left the EU, although some academics and experts are sceptical of the success that this will bring. In addition to this, the UK are also a member of Interpol and the Five Eyes Intelligence Alliance that all still have the potential to contribute to information sharing now even after it has left the EU. However, the UK already had all of these before and still extensively used the EU systems, so it is clear that the country has lost something really important because Brexit.

Five eyes

The Five Eyes intelligence alliance is a intelligence cooperation agreement between the five anglosphere countries: the United States, the United Kingdom, Canada, New Zealand and Australia. It was formed following the Second World War and was initially comprised of only the UK and the US but expanded to include Canada, Australia and New Zealand by 1956 (Tossini, 2020). It is now largely considered to be one of the most significant intelligence alliances in the world and operates on the basis of cooperation using signals intelligence (SIGINT) (ibid). In terms of intelligence gathering, each state is allocated regions of the world to monitor and unsurprisingly, the UK's territory covers Europe, Western Russia, the Middle East and Hong Kong (ibid). This means that for intelligence gathering purposes the UK's focus is still on Europe. Of course, the Five Eyes alliance is not strictly a counterterrorism alliance but focuses on intelligence sharing over a number of defence and security issues prevalent in global politics at any given time. As the most significant intelligence alliance that we know of, the UK will surely be able to rely on this organisation the same as, if not more than they did as a member of the EU. This

shows that the EU was not the only source of counterterrorism intelligence that the UK had access to.

Interpol

Of course, Europol and the SIS II were not the only law enforcement cooperation that the UK was involved in. In addition to a number of other organisations, the UK has been a member of the International Criminal Police Organisation, hereafter Interpol since 1928 (Gardeazabal and Sandler, 2015; Interpol, 2022a). Interpol is the world's largest police and judicial cooperation organisation and is involved in the sharing and disseminating of information to its member states law enforcement agents. It also provides member states with law enforcement training, communication links and is the hub for the coordination of tracking and locating suspects or persons of interest worldwide (Gardeazabal and Sandler, 2015: 761). As of 2022, Interpol had 195 member countries and each member state has a National Central Bureaus to link its national law enforcement agents with the global interpol network (Interpol, 2022a). This allows for the efficient and quick communication between member states and also the transfer of information, not just to the interpol databases but to each other member state as well.

In terms of data and information, Interpol is comprised of a number of databases that facilitate cooperation and information sharing between its member states. Similar, to that of the SIS II, Interpol have the I-24/7 system. This is Interpol's secure global police communications system and *'is the technical network that links law enforcement in all member countries and enables authorised users to share sensitive and urgent police information with their counterparts around the globe'* (Interpol, 2022b). It is a restricted access internet portal through which, when connected and authorised, member states can access all Interpol databases and online resources (Gardeazabal and Sandler, 2015). It is used for the sharing and dissemination of information but also can be used to issue arrest

warrants, known in Interpol as red notices. This also has the ability to allow member states to put out an alert for all other member states about a particular individual suspected of terrorist activities and warn them to detain the suspect whenever possible (ibid: 764). It also holds information about terrorist suspects, as well as stolen or lost travel documents that might be used by terrorist suspects to leave or enter another state. As was the case with several of the perpetrators of the 9/11 attacks as they made their way to the United States of America (ibid). However, in this case not enough information was present on the Interpol system alone to alert them of the attack beforehand.

This is clearly an extremely useful source of vital information and provides huge assets in the field of counterterrorism as it allows states to know when a suspected criminal or terrorist has left one state and entered another. It not only gives member states a platform for them to communicate with each other on and it also provides training to law enforcement agencies. It gives access to its data banks in order to assist, wherever possible, in the arrest of individuals suspected of terrorist offences. In fact, most suspects are, in reality, apprehended in the course of attempting to cross international borders (ibid). Interpol are a significant actor in the fight against global terrorism and since the 9/11 attacks in 2001, Interpol has allocated up to 25 per cent of its annual resources to be specifically used for combatting international crime and towards coordinating international police efforts in the fight against global terrorism (Gardeazabal and Sandler, 2015: 764).

So, the UK are clearly not at a total loss for information sharing now that they have left the EU. The UK will maintain all the access it previously had to Interpol and its departure from the EU is not expected to inhibit the UK's relationship with Interpol at all. However, despite arguments that the UK do not need use of the EU and Europol's databases because of the prevalence of access to the Interpol I-24/7 system, many are sceptical of the benefits of sole access

to the Interpol system instead of both this and the EU databases. In fact, Davies (2020) argues that sole reliance on the Interpol I-24/7 system will be a disadvantage for the UK in terms of counterterrorism. Specifically, the UK will have to rely on EU member states law enforcement agencies uploading all information gathered on suspected terrorists or document onto both the SIS II and Europol databases as well as Interpol. This is problematic for several reasons. First, not all states, specifically, not all EU states, regularly issue red notices on the Interpol I-24/7 network as frequently as arrest warrants on the SIS II database (Davies, 2020). Secondly, with significantly more information uploaded due to the global capacity of the Interpol I-24/7 system, dissemination of information will be a lot more complicated. Finally, as a result of EU states not regularly uploading to the I-24/7 system, the UK will struggle to filter the information to what specifically concerns Europe. As Europe face slightly different terrorist threats at certain times it is crucial for the UK to have coordination with the EU specifically regarding terrorist suspects. Particularly in this time of heightened tension due to significant increase in terrorist attacks in Europe in the last decade. The Interpol I-24/7 could be only a small help in combatting this.

Moreover, in the UK government House of Lords European Union Committee report on the Trade and Cooperation Agreement in 2021, further concern was attributed to the UK's overreliance on the Interpol I-24/7 system. Specifically, concerns were raised about the UK having to fall back on the I-24/7 after the loss of direct access to the SIS II, commenting that the I-24/7 system '*falls a long way short*' of providing the advantages that the UK's involvement in the SIS II did (House of Lords European Union Committee, 2021: 23). However, they also commented that the I-24/7 system does enable the UK to continue its police and judicial cooperation at least somewhat sufficiently. It also expressed similar concern over the likelihood of its EU counterparts entering pertinent information twice, into both the SIS II and the I-24/7 system. Whether

individual EU states do decide to ‘double key’ the information is entirely at their discretion and so leaves the UK at a significant disadvantage for obtaining information.

These concerns are important to note for a number of reasons. Firstly, the House of Lords European Union Committee consisted of experts in the field of UK counterterrorism and some that have first-hand knowledge and understanding of these systems and how useful they are. This important committee attributing significant concern about the UK’s ability to maintain the level of information it had access to prior to Brexit is very problematic. Secondly, the report of the House of Lords European Union Committee sought testimony from very specific experts in the law enforcement and counterterrorism fields. Clearly the UK will have some catching up to do in the information sharing realm in the future.

[The United States: The Special Relationship](#)

Academic’s that have written on the UK’s decision to leave the EU tend to emphasise the impact that Britain’s understanding of their geopolitical rank had on the EU referendum campaign. How Britain perceived its international standing and the extent of its ability to influence and shape world politics is something to look at when discussing the topic of Brexit (Michaels, 2019). In fact, Michaels (2019) writes that Brexiteers thought that the UK outside of the EU would actually be in a position to increase its international standing and credibility. They believed this due to the fact that the UK would now be able to realign its focus away from EU problems to what it perceived to be bigger picture problems (Michaels, 2019). Of course, this was misguided as even out with the EU, the UK’s priorities will still somewhat lie with the security issues of those nations closest to them geographically speaking (ibid). Furthermore, Michaels (2019) further mentions the role of the UK’s relationship with the US and that this is also highly affected by how Britain perceive their world ranking

of influence. This special relationship between the two nations is touched on a lot in the literature surrounding the decision to leave the EU and emphasises the potential influence that this relationship could bring to the future of the UK outside of the EU.

Being a relatively stable and powerful democracy, at least as far as history is concerned, the UK has close ties with many other strong middle and great powers in international relations. There exists a great deal of literature surrounding the special relationship that the UK has with the US on the EU Referendum and the Brexit negotiations following the vote. Firstly, in terms of security, the leave campaign sought to downplay how important membership to the EU was in protecting Britain's security interests. Instead, they argued that it was really NATO who were solely responsible for the protection of British citizens and in addition, the special relationship they had with the US was crucial to further strengthen this protection (Wither, 2017). Furthermore, the UK has always been reluctant to allow for EU security or defence developments to build to a point where they could potentially undermine the importance of NATO in ensuring Euro-Atlantic Security (Wither, 2017). A great deal of literature comments on the UK's persistent stance of maintaining NATO's position as the primary security alliance in the West, but Wither (2017) acts as a credible source for this dissertation. It provides an analytical account of the UK's Security and Defence policy in the years leading up to Brexit, accessing a range of both primary and secondary sources to advance the argument of the paper. With this strong relationship in mind it is possible that the UK were preparing for further cooperation with US in the field of counterterrorism over the EU policing and judicial cooperation

However, the assessment of the influence of the UK's relationship with the US was reportedly misguided from both sides of the campaign, Michaels (2019) argues. From the leave campaign's perspective, many thought that leaving the

EU would make the UK more of an advantageous partner for the US and would allow them to focus on strengthening that relationship over uninteresting battles within the EU. Or simply, at the very least, would set to make no difference to the current relationship the two states had (ibid). Of course, Michaels (2019) emphasises that this was ignorant of the fact that US officials at the time were directly lobbying for the UK to remain within the EU. President Barack Obama was quoted by several journalists on the topic of the US' relationship with a non-EU UK and specifically wrote that the UK would be at the 'back of the queue' in terms of the US' priority for trade talks should they vote to leave the EU (Asthana and Mason, 2016; Cooper, 2016).

Perhaps, the leave campaign thought this was simply fear mongering arranged by David Cameron to scare voters into voting remain however, this strongly suggests that the leave campaigns assessment of the UK-US special relationship, at least at the time, was misguided. From the side of the remain campaign, the fault lay in perhaps an overestimation of the impact of US support for the UK remaining in the EU would have on the overall opinion of voters. It seemed that the remain campaign thought that both President Obama and Presidential candidate Clinton coming out in favour of the UK remaining in the EU, would see the polls swing significantly in their favour (Behr, 2016). As we now know, it did not. Of course, we know that because of its exit from the EU, the UK has had to seek increased cooperation and alliances elsewhere in the world, such as Interpol and NATO. The question that remains though is if the UK have moved even more towards cooperation and assistance from the US or not.

Prior to Brexit the UK was (and still remains) a close ally and counterterrorism partner of the US and both actors have commented that the level of bilateral cooperation in the field of counterterrorism is highly advanced. Since the UK's official exit from the EU on 31st January 2020, after which cooperation with the

EU was significantly reduced, cooperation with the US has continued to grow. The UK and the US are both partners in the Global Coalition to Defeat ISIS and continue to have close cooperation and contribution to stabilisation missions in Iraq and Northern Syria (US Department of State, 2020). The UK and the US are involved in information sharing via Five Eyes and Interpol but also have bilateral agreements of their own. For example, in September 2020, the UK shared information with the US regarding the UK-born ISIS fighters Alexandra Kotey and El Sharee Elsheikh which led to their extradition to the US for prosecution (US Department of State, 2020). The pair were subsequently handed life sentences in a court in the US for the torture and execution of Western hostages in Syria (Smith, 2022).

Continued Relationship with the EU and Europol

Europol

The problem that this dissertation has encountered is that, in the field of counterterrorism, many sources and agreements made are not visible as they are not in the public domain. This means that, while analysis of the direction that the UK's is or may be leaning towards in terms of cooperation in counterterrorism is useful, it lacks empirical evidence to support the analysis. However, while there most likely are some specific arrangements and counterterrorism measures that this dissertation will not know of at the time, it can look at some and what we can see from this is continued cooperation with the EU.

The UK abandoned its membership to Europol when it left the EU but, in spite of that, cooperation agreements are still in place. As the Brexit deal laid out, the UK have continued as a third party member but that, as has been previously mentioned, will not allow the UK to be involved in shaping or changing of the structure of police and judicial cooperation in Europe. It will still, however,

allow the UK to participate in Europol with regards to counterterrorism but at a much reduced level and as a much less important actor to Europol than it once was. In saying this, cooperation between the UK and the EU is still taking place. In fact, cooperation has clearly continued in even an even higher level. In June 2022, a coordinated effort through Europol, saw the seizure of an infamous human trafficking network. This was achieved through the coordination and work of several national law enforcement agency across the EU, including the UK which successfully managed to pull apart one of the biggest criminal networks in Europe who were involved in the smuggling of migrants across the English Channel in small boats (Europol, 2022). In total, 39 arrests were made, 9 in France, 18 in Germany, 6 in the Netherlands and 6 in the UK. This is significant to note for a number of reasons. Firstly, although it does not relate directly to counterterrorism it does suggest that cooperation with Europol and its EU members is still continuing. This in turn suggests that UK officials still value and want cooperation with Europol. Secondly, it means that cooperation is still able to secure targets that are outside of the EU, as 6 of them were in this case in the UK at the time of arrest. Lastly, it provides clarity on the future of the UK's relationship with Europol and in general its aims at cooperation with its EU counterparts. Clearly the UK's exit from Europol and the EAW does not mean all cooperation ties have been cut.

European Arrest Warrant

The Surrender agreement, that replaced the EAW after the UK lost access to it does still allow for the extradition of criminals to and from the UK. This was the case recently when in May 2022, the UK arrested a high value target on behalf of Belgium on UK soil (Europol, 2020) As we know, the new Surrender Agreement is not as binding as the EAW and the receiving country does have the ability to refuse the request for several reasons. The UK's continued involvement in extradition and cooperation with EU member states will be highly beneficial for counterterrorism officials. As previously noted, with a high

percentage of EU arrests relating to terrorism taking place on UK soil, continued access to extradition both to and from the UK is extremely important and useful to monitor individuals suspected of terrorist offences within the UK (Europol, 2021). Clearly, despite widespread scepticism about the operation of the Surrender Agreement, some cooperation is still working. Not only that, but the UK is still very much willing to participate in this kind of police cooperation which is certainly promising for the future relationship between EU law enforcement agencies and the UK.

Schengen Information System

Unfortunately, the major loss for the UK appears to be in the Schengen Information System II (SIS II). As this system was created for Schengen countries in the first place and the UK were admitted as a partner only two years after its creation, despite not being a member of the Schengen group, no one held out very much hope for continued use of the network. As previously pointed out, the UK will now have to rely on the Interpol I-24/7 network as a substitute for access to the SIS II. In addition to the concerns addressed about the likelihood of information being uploaded by European counterparts and the nature of the information uploaded to the I-24/7 network, the UK will certainly have to look elsewhere for information from the EU. Of course, the SIS II is a loss and many experts and government officials in the UK have agreed that it was of frequent use and importance to the UK. However, with obvious continued cooperation with Europol, an agreed replacement of the EAW, even if it is inferior and retention of the DNA sharing capabilities it is clear that the UK will be able to mitigate this loss, at least to a certain extent.

The UK, despite Brexit and the loss of direct access to Europol and SIS II, has one of the most sophisticated systems of counterterrorism cooperation in the world. The UK's involvement in the Five Eyes alliance, Interpol, its special

relationship with the US and formerly, Europol and the information sharing networks of the EU, saw the UK at a very high level of counterterrorism cooperation. However, there is no denying that with its departure from the EU this has changed significantly. The loss of the Schengen Information System is a blow for counterterrorism officials who, at times, accessed it more than any other EU nation. The loss of the alert system will undoubtedly leave the UK with a gap to fill on information gathering and the replacement of the European Arrest Warrant with the new Surrender agreement is certainly likely to have, at the very least, some teething problems. However, the UK are in quite a unique position whereby it can rely on other means of cooperation, much of which was all very much in place before its departure from the EU. This means that although the UK will have to continue to mitigate the loss of access to the systems that were available to it as an EU member, for years to come, it will be significantly easier due to its high level of cooperation agreements and organisation memberships that it already had out with the EU.

Conclusion

In conclusion, this dissertation has aimed to investigate the current nature of the United Kingdom's counterterrorism efforts after it has exited the EU. First, it was important to address exactly what counterterrorism methods the EU has at its disposal and how the UK were involved prior to Brexit. Europol, the European Union Agency for Law Enforcement, represents the closest that the EU is likely to come to a supranational police force and helps ensure the cooperation of law enforcement and judicial agencies from across all of the EU member states. The main aim of Europol is to facilitate the cooperation of law enforcement in the area of counterterrorism, organised crime and cybercrime. It is an important actor in the field of counterterrorism because not only does it facilitate the sharing of information between police forces, it also provides operational support and analysis to law enforcement and counterterrorism officials of each member state. Europol has proven to be a significant counterterrorism actor through subsequent amendments to its mandate allowing for further powers relating to combatting terrorism. The UK clearly recognised Europol as an important counterterrorism actor as it relied heavily on Europol for a number of key roles in counterterrorism. It has been a member since its inception in 1994, campaigned to have it developed in relation to the British model and was one of the highest financial contributors to the organisation. In addition to this, it was highly involved in the running of Europol and frequently undertook research for the organisation. Prior to the UK's departure from the EU in 2019, Europol coordinated the arrest of 281 individuals suspected of terrorism on UK soil. This number alone is enough to suggest the police cooperation were regarded highly in the field of counterterrorism. Of course, the Brexit agreement means that the UK are no longer a member of Europol. This is likely to have significant consequences for the future with cooperation being more limited and UK police forces and counterterrorism officials having to readjust their methods in the fight against terrorism. However, the Trade and

Cooperation Agreement does allow for cooperation as a third-party member. This means that cooperation with Europol is still possible however, crucially at the discretion of Europol and only for certain cases or operation. This will undoubtedly prove to be significantly better than no cooperation at all, however, it is clearly not as good as it once was when the UK was still a member of the EU. In addition, evidence and recent arrests have shown that the UK are still very much cooperating with Europol and vis-versa and so Europol may not be the biggest counterterrorism loss that many feared it may be. This could be because law enforcement agencies on the ground still value this cooperation and are finding work arounds to ensure that it can continue as much as possible in the future.

The same argument can be made for the European Arrest Warrant. The Trade and Cooperation agreement outlined that it would be replaced by the surrender agreement, which is similar to that of the extradition agreements that exist between the EU and Norway and Iceland. Of course, many experts and politicians had concerns about the operation of the Surrender Agreement and argued that it will not be as effective or full proof as the EAW. Recent evidence has shown that the UK are still in cooperation with EU member states when it comes to the extradition of suspects so it is possible the Surrender Agreement could be a somewhat successful substitute. However, in the early stages of the Surrender Agreement little evidence is there to suggest the operational capacity and it may be too soon to analyse the full impact of this replacement to the EAW.

However, one thing that has certainly left the UK at a disadvantage is the loss of access to the SIS II. This is the biggest information storing system and data infrastructure in the EU and seeks to facilitate security within and between member states after the abolition of border controls inside the Schengen zone. It works on an alert system basis whereby information concerning criminals or

persons of interest are sent as direct alerts to the relevant law enforcement agency of each state. Obviously, it plays a major role in counterterrorism for a number of reasons. First, it identifies persons that may be suspected of terrorist offences and alerts the relevant authorities. This can in turn greatly assist law enforcement agents in tracking them down. Second, it can link individuals suspected of terrorism or other criminal activity to objects that they may have used such as passports, travel documents or vehicles.

Again, as the TCA lays out, the UK have lost access to the SIS II from the date of its departure from the EU and will no longer have the ability to upload or retrieve information from the data infrastructure. Of course, since the UK were never a member of the Schengen group and require special checks to join in the first place it was highly unlikely that SIS II would make it into the Brexit deal. The SIS II is arguably the biggest loss for the UK in terms of Counterterrorism simply because it does not have an adequate replacement. The UK is still a member of Interpol and therefore has access to the I-24/7, which is likely the closest replacement to the SIS II that the UK will maintain access to. However, it certainly does not act as a substitute as many have pointed out as the UK will have to simply hope that its EU counterparts upload to both systems instead of just the SIS II. If they do not, then the UK will be at a serious disadvantage when it comes to trying to obtain data about potential terrorist suspects and their whereabouts within the EU. So far, nothing exists or has been put in place that aims to directly rectify this loss.

Of course, as disastrous as Brexit may appear in the field of counterterrorism cooperation, the UK is in a somewhat unique position whereby it has other solid and reliable alliances to fall back on. It is still a member of Interpol, the world's largest police cooperation organisation and is also a member of the Five Eyes intelligence group. Additionally, as much of the UK's terrorism is homegrown, as we saw with the London Bombings in 2005 and the Manchester Arena Attack

in 2016, the UK has implemented numerous counterterrorism bills and strategy's to combat the problem within the UK's borders. However, despite this reliance on other strong organisations the UK will ultimately be at a loss when it comes to sharing counterterrorism information with and about the EU. There exists, at the moment, no solid plan that will successfully replicate the extensive network of intelligence and information sharing that the EU had built over the last several decades. So, even with the UK's position of relative power within the global system, Brexit will be a setback for counterterrorism and there will could be many more setbacks for years to come because of it.

In a similar vein, this argument will indeed raise further questions in the field of counterterrorism and Brexit. Of course, even well over a year after the UK's departure from the EU, the full extent and consequences of Brexit in this area are still largely unknown. In general, in the topic of Brexit and Counterterrorism a number of questions are still left unanswered. Of course, the full impact of Brexit is still unknown. Questions will likely still be raised concerning bilateral agreements between the UK and EU member states as well as whether the UK will move more towards cooperation with other entities over EU member states. Additionally, due to the Covid-19 pandemic and the widespread partial closure of borders, particularly in the EU, it would be hard to ascertain exactly what information the UK has missed out on. Questions are likely to be raised over the impact that this will have on UK relations with the EU for years to come.

The argument of this dissertation, that the UK's loss of key information sharing networks will have a significant impact on counterterrorism in the UK and as things currently stand, not enough has been done to mitigate this damage, is important for several reasons. First, Brexit marks the biggest geopolitical change within Europe since the end of the Cold War. It marks what will become a significant point in history and unearthed a great deal of problems in the process of making Brexit happen. Second, terrorism continues to plague both

the EU and the UK and it continues to top the national security strategies and agendas of most EU states since the 9/11 attacks in 2001. The high level of cooperation in the EU that existed in the field of counterterrorism as a result of this global concern for terrorism means that the UK were undoubtedly set to lose out in one way or another. The difficult and tiresome nature of the Brexit negotiations clearly emphasise the magnitude of the UK's decision to leave the EU and this will be a topic that continues to be brought up in years to come, especially considering the anti-EU sentiments that is growing in the East of the EU. Furthermore, Brexit continues to plague the headlines even now, with yet another change in leadership imminent in the UK and the EU's decision to take legal action over the UK's threat to abandon elements of the Northern Ireland Protocol. It is clear Brexit will likely be a topic of discussion in the field of security for decades. This dissertation has tried to fit itself into a gap in the literature that, as things stand, has failed to fully investigate and address how the UK will mitigate the loss of the EU in terms of counterterrorism.

Finally, it is important to outline the limitation that this dissertation faced during both the research and writing processes. First, due to ethical constraints, this dissertation had to rely on a series of newspaper articles, secondary sources and think tank analysis to come to a conclusion about the current state of UK counterterrorism. As the author of this dissertation is a British citizen and is only fluent in English, research was therefore limited to those sources written in English, or have been translated into English, which can incur a bias. Additionally, it is also important to note that as a result of this some unconscious bias will have occurred, however, significant efforts were made to remain neutral in language and tone.

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