

UK SECURITY

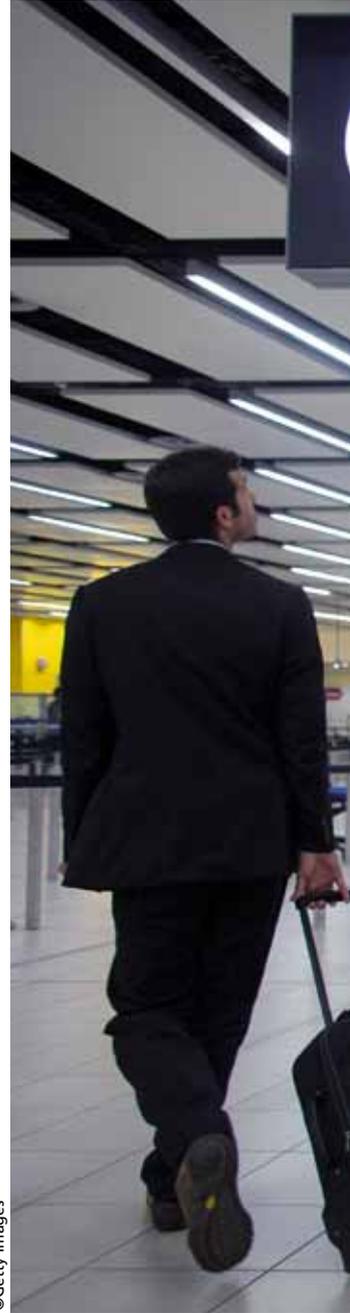
Internal security, including the fight against terrorism and organised crime, has traditionally featured as one of the highest concerns of the British population. In April 2015 *The Guardian* conducted a survey, which revealed that terrorism and law and order issues ranked among the very top concerns of the population (58 percent of those asked were worried about terrorism and 43 percent were worried about crime). With the exception of brief references by Nigel Farage and Ian Duncan Smith to free movement being linked to the prospect of further terrorist attacks, however, internal security was barely mentioned in the debate. Given the traditional importance of this policy area, how can we then explain such paradox?

I would like to propose three reasons for an absence of debate in this area. Firstly, I believe that there was a general consensus among political elites and the population that the UK's security was not particularly dependent on EU cooperation. This erroneous perception was circulated by a number of people, namely by Sir Richard Dearlove, who earlier this year stated that the consequences of Brexit for the UK's security would be limited. His line of argument was essentially based on the idea that European Union member states would feel a moral duty to inform the UK of a possible terrorist attack, even if the country was no longer part of the EU. Officials working in the area of police and judicial cooperation in criminal matters have noted that the sharing of intelligence is not a simple matter of moral duty, but rather one of existing agreements, communication channels and technical compatibility. Following a detailed investigation into the causes of the Paris attacks, we now know that a lack of appropriate intelligence sharing among EU countries substantially contributed to the event taking place. Clearly, this communication problem cannot be boiled down to France or Belgium's lack of moral duty to pass on relevant information. Furthermore, officials working in the field have also been quick to clarify the UK's degree of interdependence regarding existing European instruments. As mentioned by Rob Wainwright, the UK is involved in half of Europol's coordinated operations against organised crime groups. This unusual level of participation is essentially due to the fact that the UK is disproportionately affected by organised crime activity, which has resulted in it and Germany having the largest number of Europol investigations and high profile cases.

The second reason is a general Eurosceptic approach at the basis of UK/EU relations in the area of justice and home affairs. Naturally, this argument is not exclusive to this policy area, and many commentators mentioned how the referendum debate had been highjacked by a Eurosceptic tone, allowing the Leave Campaign to set the agenda. Such approach has, however, been particularly visible, since 1997, in the area of internal

security given the UK's selective participation in police and judicial cooperation. Such form of participation has allowed the UK to avoid for a long time being subject to specific EU rules considered to threaten its national sovereignty. The hesitant character of the cooperation became even clearer when the UK Government asked for a full opt out from police and judicial cooperation in criminal matters back in 2013 (around 130 measures). The decision, which in a way can be seen as a trial run for Brexit, was sparked by concerns similar to the EU referendum ones, namely the issue of sovereignty. Numerous actors, including the House of Lords EU Select Committee, as well as practitioners, responded to this political decision by presenting a vast array of evidence on the dramatic consequences of a mass opt out, which eventually pushed the Government to backtrack by opting back into 35 of those measures (including for instance Europol and the European Arrest Warrant). To sum up, it would be difficult to expect a Government that has a consistent history of being skeptical towards EU security cooperation instruments to suddenly change its position and start defending them.

The third and final reason I would like to point out for the absence of discussions on internal security is related to a fundamental misunderstanding of how terrorism and organised crime operate. As mentioned previously, the limited references to this area underlined the need to 'take back control' of the UK border, based on the idea that border reinforcement would automatically prevent criminals and terrorists from entering the country, thus reducing the levels of illegal activity. However, given the reality of criminal strategies and modus operandi, this is a rather problematic rationale. Firstly, this idea is very much based on the presupposition that the UK has no domestic organised crime and terrorism, and that in order to develop their activities in the UK, criminals and terrorists actually have to cross borders. As attacks on UK soil demonstrate, most individuals carrying out acts of terror were born and raised in the country. Furthermore, it also ignores that some forms of crime are actually borderless. When an individual carries a distributed denial of service attack (DDoS) on a UK bank, borders are in practice irrelevant. Secondly, this rationale also assumes that the UK is not in control of its borders, which clearly shows that free movement of people and the Schengen system are often mixed up in people's minds. EU citizens' rights to settle in the UK (free movement of people) are completely separate from the possibility of travelling freely and without passports across EU countries (Schengen system, which the UK does not apply). When entering the UK (from any country except Ireland), all travellers are prompted to show a form of identification in order to gain access to the territory. As such, any possible terrorist or member of an organised crime group will, like everyone else, show



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his/ her passport when going through a UK border. This leads to my last argument about the misunderstanding of how terrorists and criminals operate. The need to 'take back control' of UK borders assumes that borders are an effective instrument to counter criminal activities, which is only partly correct. A border is only as good as the information that appears on border guards' screens when a passport is swiped. In fact, a border can only correctly identify a potential terrorist or criminal if it has received previous information regarding that person. As such, the key to effective counter terrorism and counter organised crime does not lie in physical barriers, but in the information systems that equip them.

The key is intelligence, which needs cooperation to be complete. This rationale applies as much to internal state cooperation (which is problematic in the case of Belgium, for instance), as between different member states.

But what about the possible consequences of Brexit for this area? We are now faced with the same problem as with the 2014 mass opt out, but on a much larger scale. At the time, academic and policy analysis identified a serious risk of increased insecurity for the UK, resulting from losing its seat at the EU negotiation table, as well as the access to EU instruments.

Where the first is concerned, a loss of influence in the direction of justice and Home Affairs policies, as

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well as a reduced capacity to export security norms to other member states and neighboring countries may lead the UK to give up the leading role it had assumed in a number of internal security areas (such as cyber crime). Regarding the loss of influence, Brexit implies that the UK will no longer have access to Home Affairs Council meetings, will not be able to shape internal security proposals, nor vote for/ against them. It will also not have the possibility of taking part in European Council decisions, which determine the political direction of the European Union. The UK would continue to be able to influence EU decisions, but only from the outside, which might put its national interests at risk by preventing it from successfully lobbying for specific measures. Examples such as the European Passenger Name Record (PNR), which was adopted earlier this year, might no longer be possible. As the only country in the EU with a national PNR, the UK actively pushed for the development of a European similar instrument. It is also worth noting that the transnational nature of security threats implies that the UK's security is dependent not only on its own arrangements, but also on the measures applied by neighbouring countries. As such, losing the capacity to directly influence such measures could further increase the UK's exposure to insecurity.

Regarding access to EU instruments, the situation

becomes more complex as it will essentially depend on the future agreement between the UK and the EU. In any case, the level of data exchange and intelligence cooperation will most certainly not remain the same. In the case of Europol, for instance, the UK will cease to have direct input and access to databases, and will no longer be able to lead initiatives such as the Joint Cybercrime Action Taskforce (J-CAT) or joint police operations. According to its director, Rob Wainwright, it would take years to negotiate database access for a non- EU country. The European Arrest Warrant (EAW) is another example of an instrument that is fundamental for the UK's security governance. If the UK loses access to it, it will have to rely on international or bilateral extradition agreements, which can often take up to 10 years to successfully return a suspected criminal to the UK for a trial (the EAW currently takes an average of 48 days). Longer waiting times mean a slower justice system and higher chances of the suspect escaping.

In conclusion, it would benefit the UK to successfully maintain post-Brexit a high degree of cooperation in the area of internal security. We need to be realistic, however, about the degree of difficulty in doing so. With member states concerned about further fragmentation of the Union, there might be limited political goodwill in the negotiations ahead.

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It is now understood that a lack of appropriate intelligence sharing among EU countries contributed to the Paris attacks taking place

