

UK REFERENDUM ON EU MEMBERSHIP – POSSIBLE IMPLICATIONS FOR THE ADMINISTRATION OF JUSTICE IN NORTHERN IRELAND

Overview

The Department and the justice organisations had identified the issues listed at Annex A as needing consideration in the event of a leave vote. The UK Government would be in the lead on the exit arrangements. There are no processes in place at the moment for us to engage on these issues but no doubt this will become clear both at Executive and UK Government level in coming weeks. In the meantime, this note gives a flavour of the issues we would need to work through. A couple of strategic issues occur, and more will arise:

- § 35 (1) (a)
- **Directives:** Decisions will be needed on whether we proceed with issues arising from EU Directives.

Suggested handling

For the period immediately after the Referendum, we suggest:

- The UK has taken a decision to leave the EU. There will be some issues for justice in Northern Ireland, and for co-operation with Ireland, to be worked through;
- But, co-operation is already very good and we will need to maintain that, albeit through some different technical means;
- **If needed on border control issues:** Nothing changes today. Not going to speculate on the implications. Time is needed to work these issues through.

Criminal Justice

Annex A lists the EU technical arrangements we will need to think about. Some will be more important than others. § 35 (1) (a)

Civil Justice

Cross-border civil disputes

There are a number of EU Directives and Regulations which facilitate access to cross-border justice in civil disputes. These instruments set out rules which establish which Member State has authority to deal with the dispute and the law that is to be applied. They also ensure that judgments given in one Member State in certain civil and family disputes can be recognised and enforced in other Member States with little formality. The types of judgments covered include those concerning matrimonial matters, the protection of children, maintenance and civil protection measures and as well as general commercial matters (such as breaches of contract). One example is an EU Regulation, known as the Brussels I Recast, which makes it easier to enforce civil and commercial judgments across the EU.

If the UK leaves the EU, certain judgments could still be enforced between the UK and Member States under existing international Conventions. For example, the Hague Convention on parental responsibility and protection of children would continue to allow for certain measures taken to protect children (such as those concerning contact or care) made in one country to be enforced in another.

s36 (2) (b) (i)

out of scope

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POTENTIAL ISSUES FOR CRIMINAL JUSTICE

Justice collaboration

- The use of judicial, police and prosecution networks/gateways e.g. Eurojust and Europol
- Mutual Legal Assistance
- Sharing information and intelligence including criminal records
- Joint investigation Teams (JITS)
- Mutual recognition of disposals including financial penalties, convictions and confiscation orders.
- The recovery of criminal assets under Proceeds of Crime legislation
- Police training (CEPOL)
- Co-operation between member states in the event of crisis situations (e.g. police officers to travel overseas to offer support)
- Missing persons
- EU oversight on issues such as human trafficking would end.
- Implications for the private security industry. Currently individuals may move to work between two jurisdictions on a temporary basis under an EU Directive.
- Access NI benefits from a Directive that enables us to check criminal records with other EU states. We are currently participating in a pilot project involving Latvia and Holland.
- Current plans to implement Prüm on a UK wide basis could be impacted significantly.

Border control

- Extradition and surrender procedures between member states (European Arrest Warrant)
- Prisoner transfer
- Sharing of information by customs authorities.
- § 35 (1) (a)
- Tracing, restraint and confiscation of assets
- Sharing of information between financial intelligence units

Finance

- EU funding streams to promote collaboration and partnership working would end. *out of scope*