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Where does the UK stand on extradition post-Brexit?

There is a danger that criminals will flock to our shores as it becomes even more of an island



Alison Saunders has warned that it will be more difficult to extradite criminals after Brexit.
TIMES PHOTOGRAPHER RICHARD FOHLE

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The recent narrative of extraordinary politics has left the UK in an interesting position vis-à-vis its extradition arrangements.

One of the key Brexit strategies was that Brexit would give the UK control over its borders and help in the fight against terrorism. However, no one has considered the alternatives to the current extradition arrangements.

For all its faults, the European Arrest Warrant (EAW) has made extradition between EU states fast and effective. It has enabled the UK to request the arrest of suspects within hours and for the extradition to take place in weeks. Through the bastions of mutual co-operation and trust between the member states, the EAW has proved to be an effective, if often disproportionate, tool of law enforcement.

This is not the full story: EU-UK co-operation in criminal cases extends above and beyond extradition. It includes recognising each other's financial penalties and sentences, and the enforcement of confiscation orders to prevent assets being hidden overseas. The police co-operation given by Europol and the strategic multinational operations of Eurojust, which decide on where to prosecute international people-trafficking rings and drugs cartels, are swift and effective.

Alison Saunders, the director of public prosecutions, and James Wolffe, QC, the lord advocate in Scotland, have said it will be more difficult to extradite and co-operate with Europe post-Brexit. What they haven't said is how difficult it will be. The answer is: very difficult. There is no plan yet for co-operation or extradition. Given this extreme uncertainty and the high number of cases that the UK deals with, there is a real risk that criminals will flock to the UK as it becomes even more of an island. For some time the UK may even become a safe haven for them, and even building a Trump-esque wall will not prevent this.

Looking westwards towards our special relationship with the US and the president-elect, the position is equally uncertain. Hillary Clinton was involved in the request for the extradition of Gary McKinnon, the alleged Pentagon hacker who was saved by Theresa May, of all people. Clinton was a known entity; Donald Trump is not.

The US has an interesting attitude towards human rights — Barack Obama still maintains Guantanamo Bay and thousands of prisoners in the US are kept like dogs in cages in their supermax prisons, serving life sentences in solitary confinement. Trump is no lover of human rights and has said that he agrees with torture — not just waterboarding — and that the US should go farther. He said: "Torture works, OK." It seems unlikely that he will adopt a softer approach than Obama and Clinton.

However the real cat among the pigeons is Trump's continued praise of Vladimir Putin. It is extraordinary for an American president to gush like this about a Russian one. So far Putin has been out in the cold as far as the US was concerned. The cold-blooded murder of Sergei Magnitsky by Russian officials led to the US and the EU instituting the Magnitsky list to prevent a number of Russian officials obtaining visas to the US and the EU. More than 39 Russian politicians, prosecutors and investigators remain on that list.

In addition, there are the international sanctions for the annexation of the Crimea, something that Trump has said he will review. His personal relationship with Putin might change the US stance and see a rapprochement of relations with Russia. He could even try to negotiate the surrender of Edward Snowden and thaw the frosty silence over extradition between the US and Russia.

In a post-Brexit world Trump's personal position is such that he could turn international relations and extradition on its head.

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