



# Home Office

Home Secretary

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Sir William Cash MP  
Chairman,  
European Scrutiny Committee  
House of Commons  
14 Tothill Street  
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10 April 2017

Dear Sir Bill

## **27 / 28 MARCH JUSTICE AND HOME AFFAIRS COUNCIL**

As Parliament is in recess, I am writing to provide you with a report of discussions at the Justice and Home Affairs Council which took place on 27 and 28 March in Brussels. I represented the UK for Interior Day and the Minister of State for Policing and the Fire Service, the Rt Hon Brandon Lewis MP, represented the UK for Justice Day.

At the opening of both Interior and Justice days, the Council held a minute's silence in memory of those who were killed and injured in the Westminster attack. I, and the Policing Minister on Justice day, then provided an update on the Westminster attack, noting the quick and effective response from our emergency services, and noting that the investigation was ongoing, but that it was likely there was a lone attacker. We also thanked Ministers for the many messages of condolence, and stressed that the UK remained a committed partner on security matters and in the fight against terrorism.

Interior day (27 March) began with a discussion on IT Measures Related to Border Management. The Presidency provided a progress update on negotiations on the European Travel and Information Authorisation System (ETIAS) proposal and the Entry/Exit System (EES) proposal. As the UK is not part of the border control aspects of the Schengen agreement it will not take part in either proposal. This item was followed by a progress update from the Commission on the implementation of the European Border and Coast Guard Agency (Frontex). Again, the UK will not be a member of the new Agency.

Interior day continued with a discussion on the Commission's Action Plan to improve the effectiveness of returns from EU Member States to third countries. Commissioner Avramopoulous argued that more had to be done to counter practical, operational and legal obstacles to returns in national systems. Member States were broadly supportive of the Commission's recommendation and agreed that both internal and external elements need to be addressed to strengthen the efficiency of the EU's return policy. There was broad consensus for a proposal to limit visas for third countries that did not cooperate on returns and readmission. The Presidency will take this forward at technical level. I agreed that though the priority should be to stop migrants arriving in the EU illegally in the first place, quicker returns were required and efforts were needed to maintain cooperation with countries of origin.

Over lunch, Ministers discussed EU Migration policy – specifically the implementation of commitments relating to relocation and deployment to the Agencies. The Presidency reiterated its calls for Member States to meet commitments made under Relocation measures, which the UK did not opt in to, and to increase support to the European Asylum Support Agency.

The afternoon session began with a short item which discussed the possibility of consolidating the EU's counter-radicalisation work, including the Radicalisation Awareness Network (RAN), into a single EU centre for prevention and de-radicalisation. The Commission committed to bringing forward a proposal in June.

The Council then discussed external aspects of EU Migration policy, including a follow up to actions contained in the Malta Declaration and the Valletta Action Plan. Member States supported focusing on actions: to tackle human trafficking and smuggling; to improve conditions for migrants in transit countries; and to support capacity building of the Libyan Coastguard.

Under 'Any Other Business', the Commission updated on the outcomes of Commissioner Avramopoulous' visit to the United States to discuss actions that internet companies are taking to counter terrorist propaganda and extremist content online. I intervened to note that the UK believes encryption is the foundation of our cyber security and protects information online, but that it is irresponsible for certain companies to create technology that allows safe spaces for terrorists to communicate online without the possibility of interception by law enforcement. I called on EU counterparts to work together with internet and social media companies to be more proactive in preventing the dissemination of terrorist propaganda on their platforms, which was supported by a number of Member States. I highlighted the work of the EU Internet Referral Unit which has built on the model of the UK's CT Internet Referral Unit. The CTIRU, working with private sector companies, has removed over 250,000 pieces of terrorist propaganda.

The Presidency also provided an update on its proposal to establish an expert group to take forward the EU response to the European Court of Justice's TELE2-WATSON judgment on data retention.

The final substantive item of Interior day covered a progress report from the Presidency on negotiations on the reform of the Common European Asylum System (CEAS). Of the measures that make up CEAS, the UK has only opted in to the recast Eurodac Regulation.

Justice day (28 March) began with a repetition of the Presidency's proposal on Interior day to convene an expert group to facilitate a common reflection process at EU level on the impact of the TELE2-WATSON judgment on data retention. The UK is committed to working with other Member States to understand the potential impact of this judgment on Member States' data retention regimes.

On Criminal Justice in Cyberspace, the discussion focussed on strengthening and further aligning the legal frameworks and practical processes that allow access to, and the transfer of, electronic communication data to support the prevention and prosecution of crimes. The Policing Minister intervened to reiterate my comments on encryption on Interior day that a balance needs to be struck between data protection and preventing digital safe havens. Ministers would consider this issue again at the June Justice and Home Affairs Council on the basis of the policy options expected from the Commission.

There was then a discussion on policy recommendations made by the European Counter Terrorism Coordinator (ECTC) to tackle the threat from Foreign Terrorist Fighter Returnees. The ECTC set out ambitions to involve Europol and Eurojust in facilitating information sharing. The Policing Minister supported the policy recommendations and highlighted the work undertaken by the UK, Belgium and the Government of Iraq through the Bringing Da'esh to Justice project, on the collection of evidence that can later be used to convict returning foreign fighters.

On combating financial crime and terrorist financing, Ministers noted the progress made at the working groups for the Directive on countering money laundering by criminal law and the Regulation on mutual recognition of freezing and confiscation orders. Ministers also noted the progress made at the technical level regarding the Directive on certain aspects concerning contracts for the supply of digital content. The Presidency reaffirmed its intention to achieve a general approach for both Directives by June 2017.

The final agenda item on Justice day was a lunch discussion on the employment protections afforded to 'whistleblowers'. The Commission presented proposals on protecting whistleblowers on which they were publicly consulting, and encouraged Member States to submit views.

I am placing a copy of this letter in the House library.

I am copying this letter to Lord Boswell, Chairman of the Lords European Union Committee; Chris Johnson, Clerk to the Lords Committee; Eve

Samson, Clerk to your Committee; Les Saunders, Department for Exiting the European Union; and Maya Pillai, Departmental Scrutiny Coordinator for the Home Office.

A handwritten signature in black ink, appearing to read 'Amber Rudd', written in a cursive style.

**Rt Hon Amber Rudd MP**