

POST-BREXIT: BRITISH INTELLIGENCE AND SECURITY COOPERATION WITH EUROPEAN UNION STATES INCLUDING GREECE

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This article is written shortly after a referendum in the United Kingdom (UK) referred to as BREXIT whose results decided that the UK would leave the European Union (EU).¹ It shows the thinking at the time in January 2017 about intelligence and security cooperation between the UK and other EU states. The article considers this by providing three methods and options for such cooperation in, by, with and within the EU between the UK and other EU states. The methods and options of intelligence and security cooperation are single, common and bilateral. No EU state is more or less significant in such evaluations and hence Greece is a salient case example to contemplate.²

The explanation of the methods and options define bilateral as an agreement and arrangement between two states. The word common in EU vocabulary is usually used to define and / or explain the stage, policy or organization in the multinational integration process where not all states participate at the same pace or level but there is agreement to cooperate or act towards a common (universal) goal or purpose. Single is by definition in EU vocabulary the objective of, by and for all member states and its implementation sometimes referred to when talking about an EU agency.³ It is possible to consider these methods and options by standing in the shoes of policy makers in EU capitals for example London or Athens. There are two parts to the thinking of what will transpire after the UK leaves the EU.

The first part of the thinking is that intelligence and security cooperation between the UK and EU states after BREXIT will continue. For instance it is not possible to conceive of no cooperation or even reduced cooperation between the Greek National Intelligence Agencies (Εθνική Υπηρεσία Πληροφοριών, ΕΥΠ, *Ethniki Ypiresia Pliroforion, EYP*) and the Greek

¹The UK Electoral Commission, EU Referendum Results, <http://www.electoralcommission.org.uk/find-information-by-subject/elections-and-referendums/past-elections-and-referendums/eu-referendum/electorate-and-count-information>

²EU member States, EUROPA, https://europa.eu/european-union/about-eu/countries_en

³The European Commission, The European Single Market, https://ec.europa.eu/growth/single-market_en

military and their British counterparts simply because the UK is no longer in the EU.⁴ The two countries will both continue to be part of the North Atlantic Treaty organization (NATO) and whatever cooperation transpired only within the EU framework could be moved to the NATO or even another bi-lateral framework.⁵

The reason for such continued cooperation is not hard to explain. The history of intelligence and security services is replete with examples of “interests”. Usually states prefer to handle a threat unilaterally and only cooperate where their capacity is challenged. However, when it is their interests security organizations including intelligence services cooperate outside their borders with other states. Such cooperation has traditionally been on a bi-lateral basis between two agreeing and like-minded states. The UK and Greece fit this definition. So there is no doubt that bi-lateral intelligence and security cooperation will continue between the UK and other states in Europe such as Greece, as it does elsewhere with non-European states, for example with the USA.⁶

The second part of the thinking is more complex and open to speculation. That is to say: Will intelligence and security cooperation continue on the same level as when the UK was part of the EU, will it be improved or will it deteriorate? Data sharing is used as an example because of the complex legal issues that might be involved. The UK as part of an EU legal framework has reduced legal complexity of trans-national data flows and privacy laws, compared to being a third-party state not within in EU legal framework. Nevertheless to scale the answer is to note that intelligence cooperation is demand driven. Most cases are related to crime, financial investigations, and terrorism including flight data, drugs, human trafficking and others.⁷ So where it is in the interests in specific cases for both the UK and Greece then a way would be found to share data even if the UK was not a member of the EU.

It is only when both parts and lines of thinking are drawn together then it is possible to judge the long term ramifications of BREXIT. While bilateral state-centric intelligence and security cooperation will continue the issue is whether they could ever be supplanted by some states within the EU ambitions’ for a single or common mechanism for example transnational aspirations for an EU wide FBI or CIA.⁸ It is important to note that a single EU military or police force doesn’t exist so EU visions on this are hypothetical given that up till now intelligence sharing has not been able to prevent numerous terrorist attacks in the EU.

⁴The Greek National Intelligence Services, <http://www.nis.gr/portal/page/portal/NIS/>

⁵The North Atlantic Treaty Association (NATO), <http://www.nato.int/>

⁶EU-US cooperation in Justice and Home Affairs, Briefing European Parliamentary Research Service, April 2016, [http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/580892/EPRS_BRI\(2016\)580892_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/580892/EPRS_BRI(2016)580892_EN.pdf)

⁷The EUROPOL Information System (EIS), <https://www.europol.europa.eu/activities-services/services-support/information-exchange/europol-information-system>

⁸Maia De La baume and Giulia Paravicini, Europe’s Intelligence ‘blackhole’, POLITICO, 12/8/2015 <http://www.politico.eu/article/europes-intelligence-black-hole-europol-fbi-cia-paris-counter-terrorism/>

So the important hypothetical question for both the UK and Greece is whether the UK outside of the EU and Greece inside the EU would ever face a detrimental impact on bi-lateral relations if such an EU wide FBI or CIA were to come into existence.

The answer is not clear cut because despite greater EU integration in all areas that is driving towards such a goal partly to grant legitimacy to the political unity of the EU it might also result in fragmentation as not all states could or would want to cooperate in such organizations. States traditionally resist such transnational aspirations because of the risk that it could curtail their authority and sovereignty, even on the level of being dependent on external sources of information in order to be able to make decisions or being drawn into operations by alliance commitments.

Hence the BREXIT decision by the UK highlights the nationalism and sovereignty inherent in all EU states, people and governments that is also prevalent in the rational why an EU wide FBI or CIA has not yet been created. It can be explained in basic terms as “going too far too quickly against popular feelings.” This elucidates in part why the UK is leaving the EU, determined by a referendum.

However this is not the only reason that an EU wide FBI or CIA is far over the horizon and might never happen. For example there are many bureaucratic interests and structures even when it comes to counter-terrorism operations, in many EU states, that have been a barrier and will be for even data sharing.

The first stumbling block is that most countries have difficulty integrating the work of their own intelligence and security agencies with that of their own police.⁹ Political elites and judiciaries are distrustful of intelligence, while politicians fail to take effective ownership of their intelligence communities. Overcoming such domestic hurdles will be the first inflexible step before transnational cooperation can happen in a single EU organization.

Even if domestic harmony were to ensue trans-national cooperation would still have to overcome the different legal structures in different states exemplified by privacy laws and levels of surveillance as well as wide variations of the capabilities and priorities of the services involved.

So more than likely for at least the next decade the UK and Greece will not have to contemplate whether the UK outside of the EU and Greece inside the EU will result in detrimental impacts on bi-lateral relations due to the creation of a single EU wide body similar to the American FBI or CIA or even a single EU Army.

To show this and to show how bi-lateral agreements predominate and will persist to do so, this article will continue to detail the three functions of EU intelligence and security arrangements. These are supporting law enforcement, informing foreign and security policy and societal protection. There is no intrinsic difference between the participation of the UK

⁹Nigel Inkster, BREXIT, Intelligence and Terrorism, Survival, Volume 58 Issue 3, pp/23-30, 2016 ,
<http://www.tandfonline.com/doi/abs/10.1080/00396338.2016.1186974?journalCode=tsur20>

and Greece in these and the intelligence and security cooperation between the UK and Greece within these.

The first of these functions is supporting law enforcement where the EU arrangement for intelligence and security cooperation strives towards “single” namely an EU agency with all member states participating exemplified by the European Police Office (EUROPOL) that is an official EU agency.¹⁰ The goal is for information exchange to take place for example within the Secure Information Exchange Network Application (SIENA).¹¹ However the “single” has not been achieved as the analytical work is based mainly on working files for specific cases that include many non-EU partner countries. So after BREXIT the UK could and would continue as a third-party partner in the same way non-EU partner countries collaborate today on working files.

Similarly this would be the same with the European Union’s Judicial Cooperation Unit (EUROJUST)¹², the border management agency FRONTEX,¹³ the Schengen Information system (SIS),¹⁴ Supplementary Information Request at the National Entry (SIRENE),¹⁵ the EU-US Society for Worldwide Interbank Financial Transfers (SWIFT)¹⁶ and the Passenger Name Record (PNR) agreements.¹⁷

The second of the functions is informing foreign and security policy. The impact of BREXIT will be no different from that on the first function of supporting law enforcement. Bi-lateral will persist because single and common have not been achieved. For the main part in informing foreign and security policy intelligence and security cooperation is in support of the EU common defense and security policy (CSDP)¹⁸ and the EU common foreign and security policy (CFSP).¹⁹

For example in the CFSP framework data sharing and analysis is for specific purposes and operations with limited scope and timescale. These are within mechanisms such as the

¹⁰EU EUROPOL, https://europa.eu/european-union/about-eu/agencies/europol_en

¹¹EU SIENA, <https://www.europol.europa.eu/activities-services/services-support/information-exchange/secure-information-exchange-network-application-siena>

¹²EU EUROJUST, <http://www.eurojust.europa.eu/Pages/home.aspx>

¹³EU FRONTEX, <http://frontex.europa.eu/>

¹⁴Schengen Information system (SIS), http://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/schengen-information-system_en

¹⁵Supplementary Information Request at the National Entry (SIRENE), <http://www.policija.si/eng/index.php/internationalcooperation/sirene/1319-sirene-schengen-information-system>

¹⁶EU-US Society for Worldwide Interbank Financial Transfers (SWIFT) <https://www.swift.com/>

¹⁷The Passenger Name Record (PNR) agreements, http://ec.europa.eu/justice/data-protection/international-transfers/pnr-tftp/pnr-and-tftp_en.htm

¹⁸The EU common defence and security policy (CSDP), https://eeas.europa.eu/topics/common-security-and-defence-policy-csdp_en

¹⁹The EU common foreign and security policy (CFSP), https://eeas.europa.eu/topics/common-foreign-security-policy-cfsp_en

European External Action Service (EEAS)²⁰ that provides intelligence for the CFSP missions, the EU Intelligence Analysis Centre (IntCen)²¹ that works closely with the intelligence directorate of the EU military staff (IntDir),²² through the Single Intelligence Analysis capacity (SIAC),²³ and the EU Satellite Centre (SatCen). Not all EU states participate in these. It is clear that CSDP/CFSP fall short of the creation of a Single European Army.

However one fact is obvious above all. BREXIT means that the CSDP will lose one of its majority financial shareholders, and a veto player. The UK and France alone make up more than 40% of public defense investments in the EU. The UK's military expenditure amounts to 2% of GDP, making it one of the five EU member states spending 2% or more on public defense, after Greece (2.6%), Poland (2.2%), France (2.1%), and equal to Estonia (2%).²⁴

So the question is: What could replace the Franco-British engine at the core of EU security and defense integration? A new Franco-German engine would appear to be the safest bet. BREXIT as a UK unilateral move might encourage the remaining two main military powers on Continental Europe, Germany and France to strengthen the EU battle groups that have been operational since 2007 but have never been used.

To this end on the one hand Germany and France have outlined plans to deepen European military cooperation. They have made a detailed list of proposals, including a joint and permanent EU command headquarters for its civilian and military missions.²⁵ Such a move falls well short of a European army, but would mark a step in the EU's ambitions in areas from disaster relief to peace-keeping. On the other hand EU diplomats say that no European nation has the resources alone to confront failing states on Europe's borders, Islamist militants or a resurgent Russia.²⁶ That means when it is in the UK's interests it will continue to cooperate with the EU and when it is in the EU's interest it will welcome this cooperation.

²⁰The European External Action Service (EEAS), https://eeas.europa.eu/headquarters/headquarters-homepage_en

²¹The EU Intelligence Analysis Centre (IntCen), http://www.europarl.europa.eu/meetdocs/2009_2014/documents/sede/dv/sede041011cvsalmi/_sede041011cvsalmi_en.pdf

²²The EU military staff (IntDir), https://eeas.europa.eu/topics/sanctions-policy/5436/the-european-union-military-staff-eums_en

²³The EU Single Intelligence Analysis capacity (SIAC), <http://eu-un.europa.eu/factsheet-on-eu-intelligence-analyses-center-intcen/>

²⁴ The Implications of BREXIT for the EU's Common Security and Defence Policy, CEPS, 26 July 2016, <https://www.ceps.eu/publications/implications-brexiteu%E2%80%99s-common-security-and-defence-policy>

²⁵Reuters, Germany, France seek stronger EU defence after BREXIT – document, 12 September 2016, <http://uk.reuters.com/article/uk-europe-defence-idUKKCN11I1XS>

²⁶Tom Batchelor, Brussels plans for EU Army to explore SPACE as Eastern Europe blasts 'this is POINTLESS', Express Newspaper, 15 September 2016, <http://www.express.co.uk/news/world/710990/EU-army-Brussels-chief-says-enhanced-military-force-would-better-police-Europe-borders>

Considering the above shows that BREXIT is likely to have more impact on the politics and governance of the CSDP/CSFP than on its actual operations and cooperation for example on armaments production and procurement. There is no doubt that UK will still have an role to play in all of the above and especially in disaster relief, peace-keeping and weapons procurement because it is in her interests.

Hence after BREXIT EU member states would have to agree on a dual-track political process to i) provide the CSDP/CSFP with a new governance model, namely through the emergence of a new 'core' and ii) devise a partnership framework to keep the UK involved in future CSDP/CSFP activities as a third party.

The third of the functions is intelligence cooperation in support of societal protection that aims for example to inform decision-makers about pending security threats and if necessary to thwart them. This function has "bilateral" as its keyword and has never been considered as even contemplating single or common. Cooperation within the EU on this function is not on an operational level but rather it is the development of policies and strategies for the example the EU Counter-Terrorism Coordinator (CTC).²⁷

So here the UK would continue as previously in such venues that have been very successful as the Club de Berne²⁸ and its offspring the Counter Terrorist Group (CTG)²⁹ both of which have no official connection with the EU; even if it has a presence in the form of a team working within IntCen. The UK will remain in the G6 with France, Italy, Germany, Poland, and Spain though will have to reconsider the aim of influencing internal security policy in the wider EU.

The debate of this article on the above three functions can summarize them as the evolution into an effective single or common EU mechanism has not yet occurred. Intelligence and security cooperation are primarily bilateral arrangements due to sovereign interests of each state and the nature of privacy and secrecy. This is because intelligence sharing is a well worn cliché. Information is power and no one wishes to compromise their sources, so the service even within a state that first obtains the intelligence has the right to control how it is used, who it can be shared with and what action can be taken on it. There is also the risk of exposing methods or the defection of a cooperation partner, namely the risk of vulnerability.

This leaves the last and demanding question whether, if and how the UK could share data and analysis without being a member of the EU? An insight into the answer being "Yes" it could do so and how is to consider EUROPOL sharing data with the USA in the Focal Point

²⁷The EU Counter-Terrorism Coordinator (CTC), <http://www.consilium.europa.eu/en/policies/fight-against-terrorism/counter-terrorism-coordinator/>

²⁸The Club de Berne, <https://pilac.law.harvard.edu/europe-region-efforts//counter-terrorist-group-ctg>

²⁹The CTG, <https://pilac.law.harvard.edu/europe-region-efforts//counter-terrorist-group-ctg>

Travellers (FPT) Agreement³⁰ and the manner in which EU states work with INTERPOL's Foreign Terrorist Fight (FTF) program.³¹

In these, the organizations share data with third party states not members of their organization when needed through bilateral agreements. Interests prevail! They are valuable and effective because joint and niche analysis by services more specialized in certain fields or geographic regions creates a common perception of threats and challenges and common interests to counter them. They show that BREXIT would not result in the UK being denied access to EU datasets and analysis or in providing to them and directly to states such as Greece, as a series of bilateral agreements could be concluded.

Further, austerity measures and limited competences could not allow the EU and its member states to replace the data and analysis provided by the UK. EU intelligence services that did not have the UK as a core component of its counter-terrorism and security efforts would arguably be much weaker, and that, in turn, would leave the UK facing greater risks.

Nevertheless there would be a certain yoke on the UK not being part of the EU mechanism or organization where decisions are taken, and the related control and oversight, that frame the sharing of data. So after BREXIT the UK could be handing over the data but might not be party to decisions on how that data was controlled or further shared. This might slow down the process of data sharing in any incident whilst the UK deliberated whether to share it or not.

In these mechanisms it is important to stress that asymmetry in intelligence and security cooperation is acceptable. The UK can cooperate bilaterally with the EU as a single entity exemplified by current procedures within the North Atlantic Treaty Organization (NATO) for non-NATO states³² and the "Five Eyes" (UK, US, Canada, New Zealand and Australia).³³

That's why the mechanisms of the UK sharing data and analysis with the EU and its member states such as Greece are the focus rather than UK membership of the organizational structures of the EU.

Accordingly in January 2017 for those interested in intelligence and security cooperation after BREXIT it is accepted that bilateral arrangements can and do work. Subsequently moving towards a bottom line on UK intelligence and security cooperation after BREXIT with EU states including Greece is to emphasize that the EU, all EU states and the UK should and will make bilateral arrangements to continue and enhance current cooperation.

With such an evaluation, this article concludes stressing that the bulk of intelligence cooperation at least from an operational perspective takes place and will take place at the

³⁰Focal Point Travellers (FPT) Agreement, <https://www.europol.europa.eu/newsroom/news/fbi-and-europol-strengthen-joint-fight-against-foreign-terrorist-fighters>

³¹The INTERPOL's Foreign Terrorist Fight (FTF) program, <https://www.interpol.int/Crime-areas/Terrorism/Foreign-terrorist-fighters>

³²The North Atlantic Treaty Association (NATO), <http://www.nato.int/>

³³The "Five Eyes", <http://www.nationalarchives.gov.uk/ukusa/>

bilateral level. This is because some states have extensive capacities, others have niche while historical and geographical reasons enjoy high level of shared security interests. For the foreseeable future the EU is not likely to have an effective common or single mechanism, policy or organization for intelligence cooperation, so the UK and other EU states will not suffer by the UK not being an EU member state.

However it would also be prudent for both the UK and Greece as an example of an EU state to consider the judgment of BREXIT in January 2017 by hypothetically questioning whether single or common EU arrangements could at any stage in the future be operationally better than bilateral arrangements.