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Compilation of executive summaries of four Brexit analyses for the LIBE Committee

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European Parliament

The EU-UK relationship beyond Brexit: options for Police Cooperation and Judicial Cooperation in Criminal Matters

Following the UK's referendum on membership of the European Union, held on 23 June 2016, the UK government notified the EU of the country's intention to leave the Union by the end of March 2019. The negotiations on the framework for, and content of, the future relationship between the UK and the EU started in 2018. One of the central questions concerns the potential options available for the future cooperation between the EU and the UK in the field of police and judicial cooperation in criminal matters. A key challenge in this context will be to reconcile the political expectation of the changing form and nature of the cooperation with the UK as a third country outside of Schengen, with the needs at the operational level, which are in the EU's security interest. In this context, the key may lie in the principle of reciprocity: as long as the additional degree of cooperation strengthens the security of EU and UK citizens, and the partnership is at least as beneficial to the EU and its Member States as it is for the UK, the status of the UK and precedent for such cooperation may be less important.

A second challenge specific to this policy area, in which mutual trust, human rights and exchange of personal data play a key role, is the need for the EU to ensure that following the UK's withdrawal from the EU, the UK's human rights and data protection standards will be equivalent to those in place in the EU. Although the UK legal framework is currently broadly in line with the EU legal framework and the UK is a signatory to the European Convention on Human Rights (ECHR), there are substantial questions over whether the Data Protection Act fully incorporates the data protection elements required by the Charter of Fundamental Rights, concerning the use of the national security exemption from the GDPR used by the UK, the retention of data and bulk powers granted to its security services, and over its onward transfer of this data to third country security partners such as the 'Five Eyes' partners (Britain, the USA, Australia, New Zealand and Canada). Furthermore, there is no guarantee that the UK will continue to align its human rights and data protection standards with those of the EU in the future. Moreover, mutual recognition measures such as the European Arrest Warrant (EAW) rely to an extent on mutual trust in one another's systems, including procedural protections. Therefore, as a prerequisite to the conclusion of any cooperation agreement with the UK in this field, commitment to an ongoing robust set of human rights, including procedural and data protection safeguards, should be required to ensure compliance with existing and future EU data protection legislation.

However, it should be noted that the transition to a new relationship in this field will still be simpler for the UK than it would be for most other Member State, due to the special position the UK was already granted in the area of freedom, security and justice (AFSJ) and the vertical way in which the UK is currently cooperating with other Member States in this field.

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Following the UK's withdrawal, a number of Council of Europe Conventions could be considered to provide an adequate level of cooperation in the field of mutual legal assistance, including the setting up of Joint Investigation Teams (through the 1959 European Convention on Mutual Assistance in Criminal Matters and its 1978 and 2001 Protocols), the transfer of prisoners (through the 1983 European Convention on the Transfer of Sentenced Persons and its Additional Protocol), as well as the mutual recognition of financial penalties and of confiscation orders (through the European Convention on the International Validity of Criminal Judgments, if the UK and other Member States ratify it, and the European Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism). The reliance on the Council of Europe Conventions for cooperation in these matters following the UK's withdrawal would not entail significantly reduced cooperation, as compared to the current situation. Therefore, these areas for cooperation are not to be considered as priority areas by the European Commission during the negotiations. In addition, the the 1957 European Convention on Extradition could be considered to provide a basic level of cooperation in the field of extradition. Furthermore, the Council of Europe framework, through the ECHR and the jurisdiction of the European Court of Human Rights (ECtHR), will ensure a basic level of protection in terms of procedural safeguards.

Table 1 gives an overview of the EU measures in the field of police cooperation and judicial cooperation in criminal matters, suggesting the level of priority that these measures should be given in the future EU–UK relationship. Priority is assigned depending on (1) the importance of continued cooperation from the EU perspective (i.e. the EU27 security interest); and (2) the existence of an adequate fall-back option after Brexit. The level of feasibility is assigned based on the existence of a precedent for cooperation with third countries, which could indicate politically more or less challenging areas for negotiation. Eurodac has been excluded from this table, as the primary objective of Eurodac lies in its function in the Dublin system. Without the UK participating in this system, access of the UK would provide no added value to the EU.

Table 1: Recommended level of priority to be given to type of cooperation/EU measures during the withdrawal negotiation

Level of priority	Level of feasibility	EU measure/system
High priority – Continued cooperation in some form is in the EU27 security interest and no adequate fall-back option is available	More challenging – No adequate third country precedent for cooperation	• ECRIS • SIS II • PNR Directive
	Less challenging – Existence of third country precedent for cooperation	• Europol • Eurojust • Prüm Decisions
Medium priority – Fall-back options exist, but these would result in a substantial reduction in the level of cooperation	More challenging – No adequate third country precedent for cooperation	• European Arrest Warrant • Confiscation orders
	Less challenging – Existence of third country precedent for cooperation	• EIO ♦
Low priority: Adequate fall-back options for cooperation exist under the Council of Europe framework	N/A	• MLA and setting up of JITS • Transfer of prisoners • Financial penalties

With regard to the relevant information exchange databases and systems currently used for operational cooperation between the EU and UK, the adoption of available fall-back options (i.e. Interpol, Council of Europe conventions and the Treaty concerning a European Vehicle and Driving Licence Information System (EUCARIS) for access to judicial records, information on missing persons, vehicle ownership and searches of DNA profiles) or third country precedent options (with regard to PNR) or Schengen member precedent options (with regard to SIS II and Prüm[1]) would result in a substantial reduction in the level of cooperation when compared to the current situation, including a reduction in the level of intelligence available to the EU . Moreover, no precedent for third country access to the European Criminal Records Information System (ECRIS) exists. Therefore, the negotiation of an agreement on information exchange between the UK and the EU to replace the information exchange through these databases and systems should be considered.

Regarding the UK's future cooperation with the EU agencies Europol and Eurojust, no adequate fall-back options are available. There are existing forms of cooperation between both Europol and Eurojust and third countries; however, the level of cooperation outlined in these agreements is in stark contrast to the current situation and would represent a significant reduction in operational cooperation between the EU and the UK. It should be noted, however, that continued cooperation with Europol is considered to be key for the future operational cooperation between the EU and the UK – even more so than cooperation through Eurojust.

For those EU measures where a fall-back option at Council of Europe level is available, it should be noted that cooperation under the 1957 European Convention on Extradition would result in a considerable increase in the length and cost of the extradition process, as compared to the current process under the European Arrest Warrant. Similarly, replacing the European Investigation Order (EIO) and the Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders, with the above-mentioned Council of Europe Conventions, when compared to the current situation, would result in a substantial reduction in the level of cooperation. For these measures, the negotiation of a bespoke agreement could be considered, while for the EIO, an agreement similar to the agreements in place with Norway and Iceland (cooperation on basis of 2000 EU MLA Convention) could be foreseen.

Link to the full study:
http://www.europarl.europa.eu/RegData/etudes/STUD/2018/604975/IPOL_STU(2018)604975_EN.pdf

[1] The Prüm Decision grants participating countries access to automated DNA analysis files, automated fingerprint identification systems and vehicle registration data of other participating countries.

EXECUTIVE SUMMARY

Requested by the LIBE committee

European Parliament

The future EU-UK relationship: options in the field of the protection of personal data for general processing activities and for processing for law enforcement purposes

Background

This study has been commissioned against the backdrop of the UK's Brexit referendum of 23 June 2016, and the subsequent official notification by the UK government of its intention to withdraw from the European Union (EU). Since that notification, negotiations have been ongoing between the UK and the EU on the form and content of their future relationship. One of the key policy areas that raises concerns in these negotiations is data protection. The protection of personal data is recognised as a fundamental right for European citizens, enshrined in Article 8 of the Charter of Fundamental Rights of the European Union. This implies essentially that no collection, exchange, use or other form of processing of personal data may occur unless certain measures have been taken to ensure that such processing will be done in full compliance with the EU's legal and policy framework for data protection.

Brexit poses clear challenges with respect to data protection. As a Member State of the EU, the UK is required to comply with, and align to, the EU's regulatory and policy framework. As a corollary of membership, exchanges of personal data meet no additional legal hurdles. This affects both private companies, public sector bodies and institutions that can exchange personal data with their EU peers in relative freedom. After Brexit, this freedom of exchange is no longer ensured in the same manner, and entities in the UK that depend on information exchanges may face significant additional hurdles, or may simply be unable to continue these exchanges. This creates challenges for both private enterprise and for the public sector, including such issues as law enforcement cooperation.

Aim of this Study

The aim of this study is to summarily examine possibilities and legal and institutional prerequisites for continuing the exchange and processing of personal data between the UK and the EU following Brexit, also in view of a future relationship agreement. This is done by examining existing legal mechanisms and policy measures that can support the exchange of personal data, but also by looking at current information flows between the EU and UK, and between the EU and third countries. In this manner, the study may support Brexit negotiations and contribute to a correct appreciation of the main options for organising information flows between the UK and the EU post-Brexit.

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Main findings

The study shows that the existing legal mechanisms and policy measures which are presently used to support the exchange of personal data between the EU and third countries can alleviate some of the concerns surrounding Brexit, but that none of these, in isolation or collectively, would be sufficient to permit a continuation of personal data flows and cooperation in relation to data protection on the same basis as today. Notably, an affirmative adequacy finding for the UK (both in relation to data protection in general under the General Data Protection Regulation (GDPR) and in relation to law enforcement under the Law Enforcement Directive) would be highly beneficial, but insufficient to allow a continuation of current information flows. While adequacy findings would be appropriate for private sector exchanges, in the public sector – both for internal market exchanges and law enforcement exchanges – a multitude of legal instruments exist beyond general data protection law, that determine which countries may participate in information exchanges, and on which basis.

An adequacy finding would be a beneficial step in ensuring the continued integration of the UK in such information exchanges – assuming that there is a mutual understanding that this should be the outcome of negotiations – but it would not be sufficient without a broader legal basis in the form of a bespoke legal agreement that would authorise the UK and EU to continue to participate in information exchanges. Furthermore, it should be noted that an adequacy finding is generally a lengthy process, the initiation of which could only begin after the UK has left the EU. Therefore, an adequacy finding is insufficient to avoid a temporary standstill in information exchanges, which would be mutually detrimental.

Other common legal instruments used in data protection law to organise personal data exchanges – such as standard contractual clauses, binding corporate rules, certification, codes of conduct and approved ad hoc contractual terms – are equally available to the UK after Brexit, but the use of such instruments is generally resource intensive and unsuitable to set up a broad framework for data exchanges that can be used to organise compliance transfers of personal data on a large scale, including particularly regarding SMEs.

Globally, and to the extent that there is a consensus on the political desirability of each of these points, there is a need for a bespoke instrument that establishes an initial standstill period that allows the EU and the UK to continue personal data exchanges on a provisional basis, taking into account that the UK's data protection law is already substantially aligned to EU data protection law and policies. Furthermore, the bespoke agreement can allow the UK to participate in (i) the development of common EU data protection policy (i.e. by contributing to positions of the European Data Protection Board, by participating in the one-stop-shop mechanism, and by ensuring a homogeneous application of EU case law in relation to data protection, including in the UK), (ii) internal market data transfers, and (ii) security and law enforcement initiatives. Assuming that the EU and UK mutually agree on the desirability of these priorities, this would seem to be the only approach that can avoid a temporary halt in personal data exchanges, and that can ensure continuous alignment of data protection policy between the UK and EU, even after Brexit.

Link to the full study:
http://www.europarl.europa.eu/RegData/etudes/STUD/2018/604976/IPOL_STU(2018)604976_EN.pdf

EXECUTIVE SUMMARY

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Brexit and Migration

The UK will leave the EU on **29 March 2019**, either with or without an agreement. If the current **Withdrawal Agreement** (WDA)[1] is signed and ratified, a transition period extending free movement until the end of 2020 would apply. Thereafter, the **future relationship** of the UK with the EU as regards mobility and migration is unknown. This study examines four substantive issues relating to the UK's departure from the EU and mobility and migration. These issues are:

- the UK's **existing participation** in EU measures on migration and mobility (**chapter 1**),
- the **rights of EU citizens** and UK nationals to move between the EU and the UK including family reunification (**chapter 2**),
- models for **future cooperation** between the EU and the UK in the field of migration and mobility (from the EU's perspective) (**chapter 3**), and
- the role of the **Court of Justice of the European Union** and its jurisprudence in migration and mobility (**chapter 4**).

Existing participation

The UK's existing participation in EU law on migration and mobility can be divided into **two periods**: before and after the Maastricht Treaty (1993). Free movement of EU citizens, already part of EU law when the UK joined the EU in 1973, applies fully to the UK. EU law has never countenanced the separation of the single market's four freedoms – free movement of goods, persons, services and capital – allowing access to some and not to others. Delays to the free movement of workers have been applied to acceding Member States (for up to seven years) but not to other forms of migration and mobility. So, when the UK joined the EU it embraced the **single market** and its **four freedoms**.

However, from 1993, and the Maastricht Treaty calling for the **abolition of border controls** on the movement of persons within the EU, the UK became increasingly concerned about border and migration control. By the time of the Amsterdam Treaty in 1999, the UK had negotiated with the other Member States an **opt out** so that it would not be engaged by EU migration and mobility measures in respect of third country nationals[2] nor would it be obliged to join what had become the Schengen area without internal border controls on the movement of persons (which also became part of EU law in 1999). Thus, the UK was a full member of the single market but only an **occasional visitor** to the EU's area of freedom, security and justice.

[1] Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community highlighting the progress made (colored version) in the negotiation round with the UK of 16-19 March 2018; TF50 (2018) 35 - Commission to EU-27, 19 March 2018.
[2] The concept third country national (TCN) refers to any person who is not a citizen of the EU.

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In **chapter 1** of the study we set out in detail every measure and the status of the UK in respect of it. Suffice it to note here that from 1999, the UK's immigration policy has become ever **more divergent** from that of the EU. While EU citizens continue to have full free movement rights, including with their family members to move to and live in the UK after 1999, the UK became increasingly concerned about the arrival of third country nationals, even when these were family members of EU citizens (or UK nationals returning to the UK). The UK continues to participate in EU agreements with third countries on **readmission** but not on **visa waiver**. However, the UK is bound by other third country agreements to which the EU had acceded and which include reciprocal migration and mobility rights.

Migration and mobility rights

The biggest difference which the UK's departure from the EU will cause in this field is disruption to EU citizens' and UK nationals' **migration and mobility rights** on the territory of the other. After the departure, UK nationals will become third country nationals on the territory of the EU-27. This will mean that unless agreement is reached to the contrary, they will be subject to EU measures on third country nationals such as the Long-Term Residents Directive, or the Blue Card directive.[3] In effect, UK nationals will be covered by a **patchwork** of **EU measures** and **national law**. EU citizens in the UK will be covered by UK immigration law. In order to protect the position of all people who have exercised free movement rights between the UK and the EU, very extensive provisions have been included in the **Withdrawal Agreement** (WDA), a proposed agreement between the EU and the UK to regulate an orderly departure, covering the continuity of rights of those who have used their free movement rights.

The objective of the Withdrawal Agreement is to limit to a minimum the disruption to people's lives which the UK's departure is likely to cause. It guarantees work and residence rights and the entitlement to non-discrimination on grounds of nationality. All categories of EU citizens and UK nationals are covered in the Withdrawal Agreement from visitors to pensioners and the economically inactive. Assuming the successful conclusion of the Withdrawal Agreement, the issue going forward will be ensuring consistent and faithful implementation of the Withdrawal Agreement. To this end the Withdrawal Agreement has extensive provisions on supervision, oversight and the continuing jurisdiction of the Court of Justice of the European Union (**CJEU**) regarding the situation of those EU citizens and UK nationals who have already exercised their free movement rights. A **transition period** is included in the Withdrawal Agreement to end on 31 December 2020 during which period people would still be entitled to move and start acquiring migration and mobility rights under the EU rules. **Chapter 2** explains in depth these provisions.

Models for future cooperation

One of the open questions for both the EU and the UK is what kind of **future cooperation** in the fields of migration and mobility is desirable. The EU has **extensive experience** in negotiating agreements with third countries (and groups of third countries) in this field. One of the guiding principles of the EU's approach has been to offer closer cooperation to those states which participate in the **Schengen area of no border controls** than to others. This is because the **reciprocal** security assured by the Schengen rules on visas and border controls means there is greater confidence both parties can have in extending free movement and mobility rights within the area. Thus, the EFTA-EEA states (Iceland, Liechtenstein and Norway) and Switzerland all enjoy

[3] Directive 2003/109 (Long-Term Residents Directive) concerning the status of third-country nationals who are long-term residents (*OJ* 2004 L 16/44); Directive 2009/50 (Blue Card Directive) on conditions of entry and residence of third-country nationals for the purposes of highly qualified employment (*OJ* 2009 L 155/17).

full free movement rights with a few minor modifications to adjust to the fact that there is no common citizenship project at work with these states. Thereafter, the EU has negotiated agreements which include parts of mobility and migration. **Visa waiver agreements** which abolish visa requirements for visitors have been self-standing agreements dealing only with the one issue. **Workers' rights**, primarily non-discrimination on grounds of nationality but not general access to the labour market have been included in trade agreements covering a wide range of issues. The right of **establishment** (including self-employment) has included access to the territory for self-employed activities as well as non-discrimination and is generally included in trade agreements. **Service provision** is the most commonly included provision in trade agreements and includes a dimension of mobility for service providers (now usually based on the General Agreement on Trade in Services (GATS) of the World Trade Organisation (WTO)). Students, pensioners and the economically inactive are rarely granted mobility rights in EU agreements with third countries. **Coordination** of **social security** on the traditional EU terms of non-discrimination, aggregation of contributions and export accompany all agreements with provisions on workers. The detail of these models is found in **chapter 3**. What kind of agreement might be acceptable to the EU and the UK after the latter's departure, will depend on the degree of **reciprocity** which the parties will countenance. All agreements have reciprocal obligations so the treatment of EU citizens and UK nationals would have to follow this pattern.

The Court of Justice of the European Union

The role of the **Court of Justice of the European Union** has been of great importance to the realisation of free movement rights in the EU. It is worth remembering that **UK legislation** implementing free movement rights has been at the core of 21 judgments of the Court in the ten-year period 2008–2018. This is not insignificant as it indicates a degree of uncertainty on the part of judges in the UK about the correct interpretation of EU free movement rights. The Court's role in providing one definitive interpretation of EU rights has been central to the development of **EU law**. The confidence that all Member States have that EU law is applied in the same manner across the EU and that in the event of disagreement there is a Court charged with providing a solution for all, has been central to making free movement of persons work. Divergent interpretations of EU law undermine its authority and effectiveness. **Harmonisation** is key to the smooth operation of EU law generally. Thus, the continuing jurisdiction of the Court to matters of free movement of persons arising in the UK after Brexit is a matter of much concern. The Withdrawal Agreement, if signed and ratified, provides a **continuing role** for the Court until the end of the **transition period** (31 December 2020). Thereafter a Joint Committee will be established to settle disputes. This issue is dealt with in depth in **chapter 4**.

Recommendations

Conclusions and recommendations are subject of **chapter 5**. The first **priority** of the EU as regards migration in the Brexit context is to secure, in a durable manner, the **rights of EU citizens and UK nationals** who have exercised free movement rights and invested their lives in the territory of the other party. The Withdrawal Agreement provides a good basis to achieve this objective. The Commission has indicated that its objectives in the negotiations of the Withdrawal Agreement did not extend to UK nationals resident in the UK or returning there. This means that **some rights** which these people currently have will fall away and **are not protected** by the Withdrawal Agreement. The **future relationship** of the EU and the UK regarding mobility and migration after the end of the transition period (assuming that the Withdrawal Agreement is signed and ratified) can take one of a number of forms. Depending on the willingness of the parties, a very close relationship could be

negotiated such as that of the EEA states or if there is no desire for such a privileged relationship, something very distant with virtually no rights of mobility or migration such as the EU Canada Agreement.

Link to the full study:
http://www.europarl.europa.eu/RegData/etudes/STUD/2018/608835/IPOL_STU(2018)608835_EN.pdf

EXECUTIVE SUMMARY

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European Parliament

The future relationship between the UK and the EU in the field of international protection following the UK's withdrawal from the EU

Background

Following the 2016 UK referendum on EU Membership, the **UK Government formally invoked Article 50 of the Treaty on European Union (TEU) on 29 March 2017**, officially notifying the EU of the UK's intent to depart the Union two years later. As such, after 29 March 2019, the UK will no longer be an EU Member State and will, instead, become a third country with a longstanding history of cooperation with the EU.

Furthermore, based on the Lisbon Treaty negotiations, the UK has been able to selectively participate in EU legislation proposed and adopted in the area of freedom, security and justice, including the legislation underpinning the Common European Asylum System (CEAS) and international protection more generally. Under this framework, the UK has opted-in to the first, but not second, phase of the CEAS Qualification, Asylum Procedure and Reception Condition Directives, which have been transposed into UK law. In addition, the UK participates in the Dublin and Eurodac Regulations, the Temporary Protection Directive (although it has never been used in practice), the Asylum, Migration and Integration Fund (AMIF) and the European Asylum Support Office (EASO). Moreover, the UK has cooperated closely with other EU Member States through Frontex operations and is part of the European Migration Network (EMN), the Immigration Liaison Officers (ILOs) Regulation and EU Readmission Agreements (EURAs).

Given the unique position that the UK is already granted through the opt-in system, the transition to a new relationship might be easier to achieve compared to other fields in which the UK fully participates. However, if no withdrawal agreement is reached by 29 March 2019, the UK will experience a 'no-deal' Brexit. In such a scenario, all EU laws not retained in accordance with the UK's European Union (Withdrawal) Act (26 June 2018) will cease to apply to the UK. However, if an agreement is reached, it will likely include a transition period lasting until 31 December 2020, as stipulated in the draft withdrawal agreement published by the EU and UK negotiators on 19 March 2018. During such a transition period the whole of the EU *acquis* will continue to apply to the UK.

Aim of this Study

The purpose of this study is **to provide expertise to the LIBE Committee of the European Parliament on the legal, institutional and technical implications of the UK's future relationship with the EU after Brexit in the field of international protection**. This is achieved by examining legal standards applicable to the UK following Brexit in light of current collaborations and areas of common interest, and by reviewing existing forms of cooperation between the EU and

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other third countries; in particular, considering, where relevant, the models of Norway and Switzerland. The study aims to increase awareness on the possible consequences of Brexit in the field of international protection and provide potential options for future cooperation in the areas of asylum, resettlement, return and readmission.

Main findings

To date, negotiations on the framework for the future relationship between the UK and the EU have not covered the field of international protection and it is clear that **limited focus has been placed on the topic**. The **EU institutions and, in particular, the Taskforce on Article 50 have not published anything** on the future framework of cooperation in the field of international protection. Moreover, the European Council guidelines do not explicitly provide for a mandate on the topics of asylum, resettlement, return and readmission. However, the question remains whether paragraph 9 of the Council guidelines, which states that the 'future partnership should address global challenges', could also apply to the area of international protection.

The **UK**, through its White Paper on *The Future Relationship between the United Kingdom and the European Union*, has indicated that 'it is vital that the **UK and the EU establish a new, strategic relationship to address the global challenges of asylum and illegal migration**', echoing the wording of the European Council guidelines. This White Paper further details the UK's interest in continued cooperation, in particular with regard to Frontex, Europol, Eurodac and the development of a Dublin-like legal framework.

A primary area with significant implications in the area of international protection is the **Dublin system** and, interwoven with Dublin, access to the **Eurodac database**. In this regard, the EU and the UK both have strong interest in continued cooperation. In contrast to the first-round CEAS Directives, the Dublin and Eurodac Regulations will cease to apply following Brexit in the case of a no-deal. In such a scenario, there will be no backup option to transfer asylum seekers to or from the UK under international law and uncertainty will persist in relation to pending transfers. While the UK has expressed interest in a legal mechanism to be able to return asylum seekers to their first point of entry for processing, the EU may wish to establish a Dublin-like system to carry out Dublin transfers for the purpose of family reunification. If the UK is no longer able to remain in the current Dublin III system, an agreement similar to those concluded with Dublin/Schengen associated countries could be established between the UK and the EU for all or specific criteria (e.g. family reunification) for the application of the Dublin system.

Additionally, Brexit might also impact the UK's participation in the **Immigration Liaison Officers Regulation**, within which the UK is currently a major contributor. The implications include the fact that the UK will no longer have access to non-UK contributors to the network, leading to a loss of immigration intelligence on third countries that is shared through the network. On the other hand, the EU will lose access to UK expertise and resources.

Moreover, with regard to the UK's future cooperation with EU bodies such as **EASO and Frontex**, both the EU and the UK would benefit from future cooperation, as the UK is a major contributor in terms of resources and expertise, and both agencies give the UK access to important data and information on legal and illegal migration to and from Europe. The options for continued engagement are however relatively simple and, although it is unlikely that the UK will continue to have the current level of involvement, the agencies have the possibility to conclude Working Arrangements with third countries. The UK will also no longer be part of **EU readmission agreements** with third countries and will need to negotiate separate bilateral readmission agreements. Also related to readmission, the UK and the EU, following Brexit, will have **no means for returning illegally staying citizens on the other territory**.

The study findings suggest that **none of the existing legal mechanisms and policy measures which are used to support the cooperation between the EU and other third countries in the field of international protection are exactly replicable for the UK**. Following Brexit, from being a Member State, the UK will become a third country with a longstanding history of institutionalised cooperation with the EU in the area of international protection, which is likely to distinguish it from other third countries. New arrangements will therefore need to be developed that are tailored to the unique position that the UK will have as an ex-Member State.

A **key challenge will be to ensure the protection of asylum seekers' and refugees' human rights in the UK following Brexit**, as the UK will neither have obligations under the EU Charter nor be subject to CJEU jurisdiction after exit day unless explicitly agreed as part of an arrangement for continued cooperation in the area of international protection. If the UK continues to implement the content of the first-round CEAS Directives, however, the existing **standards for reception, qualification for international protection and the procedures for granting refugee status to asylum seekers will continue to apply**. However, although the UK will remain committed to the 1951 UN Convention relating to the status of Refugees and the European Convention on Human Rights (under the jurisdiction of the European Court of Human Rights), there are **concerns that the UK will not replace the elements of the EU Charter that are not covered by these international commitments**, leading to reduced human rights protection in the UK. Moreover, there is no guarantee that the UK will continue to align its asylum standards with those of the EU in the future.

Policy recommendations

Overall, Brexit will have **important implications in the field of international protection and more work is needed to ensure preparedness at all levels for the consequences of the withdrawal of the UK from the EU**. On the basis of the findings, the study makes the following recommendations to ensure full preparedness following Brexit:

- The **European Parliament should include an item on the agenda of the LIBE Committee** to discuss the implications of Brexit for asylum, resettlement, return and readmission.
- The **European Parliament should call on the European Council to clarify the mandate of the Article 50 Taskforce** (i.e. whether or not it includes future cooperation in the field of international protection).
- The **European Parliament should call on the European Commission to develop preparedness notices** detailing how Brexit will modify laws and policies in the area of international protection.
- The **European Parliament should call on the European Commission, in close consultation with relevant EU agencies and bodies, to clarify its position on continued cooperation with the UK** in the area of international protection.
- The **LIBE Committee should call on the European Parliament's Brexit Steering Group to comment on**, and the European Commission's **Article 50 Taskforce to respond to, the UK Government's July 2018 White Paper**.
- The **European Parliament, in combination with other relevant authorities, should seek to ensure commitment from the UK to the human rights** that remain shared and that find expression in the European Convention on Human Rights (ECHR). Furthermore, it is recommended that a **'guillotine clause' related to the protection of the human rights of asylum seekers could be included in any cooperation agreements** concluded on the matter between the UK and the EU.

Finally, it is recommended that the **Commission's Article 50 Taskforce works to ensure the development and inclusion of robust enforcement and dispute resolution mechanisms** to ensure legal certainty in the UK's continuing relationship with EU law.

Link to the full study:
http://www.europarl.europa.eu/RegData/etudes/STUD/2018/608836/IPOL_STU(2018)608836_EN.pdf