

# Task Force

## ***The Future of EU, UK and US Cooperation in Criminal Justice and Police Cooperation***

*Prospectus for CEPS Task Force*

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### Content

Motivation & Context.....	1
Objectives.....	2
Methodology.....	3
Joining the Task Force.....	7
Registration Form.....	8
Annex.....	9



## 1. MOTIVATION & CONTEXT

During the last two decades the European Union (EU) has actively engaged in the development of an Area of Freedom, Security and Justice (AFSJ). A key component of the AFSJ are **common policies covering criminal justice and police cooperation aimed at fighting terrorism and crime**. These policies comprise not only a dynamic body of secondary legislation laying down common EU standards and rules, but also a set of EU large-scale databases and EU Home Affairs agencies, as well as various international agreements.

One of the most noticeable legislative achievements of the EU criminal justice and security area is the so-called **European Arrest Warrant (EAW)**. The EAW provides for a common EU regime aimed at facilitating extradition and surrender of suspects of crime and terrorism. This has been complemented by additional pieces of EU legislation such as the **European Investigation Order (EIO)**, and a set of 'sectorial' Directives covering various rights of suspects in criminal proceedings.

European cooperation in these domains has been also characterized by the emergence of **EU large-scale information systems** which aim at making available information deemed relevant for national law enforcement and judicial authorities across the Union in countering crimes and terrorism. Few examples include, among others, the Schengen Information System (SIS) II, the Prüm Decision and EU Passenger Name Record (PNR).

**EU Home Affairs agencies** play a crucial role in coordinating and supporting EU Member States and national authorities' operational actions in these areas, as well as information gathering hubs. These include Europol (EU Law Enforcement Agency), Eurojust (The EU Judicial Cooperation Unit), eu-LISA (European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice), or the future European Public Prosecutor Office (EPPO). They aim at playing an equally central role in enhancing EU Member States coordination and exchange of information in countering crime and terrorism. All these Agencies and Bodies engage in different ways and manners in criminal justice and police cooperation with third countries such as the US.

The EU has been equally active in concluding third country agreements on issues related criminal justice and policing. **The US has been a key strategic partner in EU's and UK's foreign affairs in questions related to security and justice**. There exist a set of EU international agreements and instruments covering important issues and setting up benchmarks in domains like mutual legal assistance and extradition with countries such as the US or Japan, as well as exchange and access to information with countries like Canada and the US (e.g. the Terrorist Finance Tracking Programme - TFPT and Passenger Name Record - PNR).

Key challenges characterizing more generally third cooperation relate to matters of **jurisdiction and conflicts of law regarding access to electronic data and IT communications.**

The UK has been a very active contributor and has been centrally involved in the development and shapes of the instruments, information tools and agencies. BREXIT poses profound questions and dilemmas to **the operability of the current framework in light of EU Treaties, as well as in respect of the frameworks of international cooperation with key strategic partners such as the US.** It is equally central regarding the shapes of the next phases of cooperation of this wide EU policy framework, tools and actors, as well as to the wider foreign affairs framework with countries such as the US.

**What are the options and models of EU-UK cooperation and their future collaboration with strategic international partners such as the US in countering terrorism and crime after BREXIT?**

## 2. OBJECTIVES

### To explore

- What are the most important achievements in EU criminal justice and police cooperation of central relevance in EU-UK relations?
- What has been the role played by the UK in the development of common EU justice and security policies, as well as in EU-US transatlantic relations?
- What are the options for future EU-UK and US cooperation in these areas? And which options there are for the EU and the UK in cooperating with the US?
- What issues and challenges do each of these pose from the perspective of the rule of law, fundamental rights and effective cross-border law enforcement and judicial cooperation in penal matters?
- Are there any existing models of cooperation between EU and third countries which could be considered when thinking ahead?
- Could the UK play any role in instruments such as the European Arrest Warrant and EU Agencies like Europol, Eurojust and EU-LISA, and the future EPPO?
- What should the main priorities for the EU and the UK in negotiating future agreements in these areas? What should be the main priorities when cooperating with the EU and the US?

### To deliver

- An independent assessment of the current issues, challenges and models/options for future cooperation between EU-UK and US in criminal justice and police cooperation;
- A background report, drafted in accordance with CEPS' highest academic standards; and

- A unique forum/platform where policy-makers, national and European practitioners, private sector and experts can meet and exchange views in an open and plural format when designed the way forward.

### 3. METHODOLOGY

The Task Force will ensure a structure and closed-doors dialogue supported by independent research by the CEPS Justice and Home Affair Section. It will be implemented in the form of **four meetings** at CEPS premises in Brussels:

- A **first Task Force (TF) meeting** will be organized in London with UK practitioners in January 2018 in order to discuss the preliminary results;
- A **second TF meeting** will be organized on 21 February 2018 to discuss preliminary results and policy recommendations in light of the relevant developments. This meeting will be followed by the 2018 CEPS Ideas Lab;
- A **third TF meeting** will take place in March 2018 to discuss the final report and recommendations; and
- A **final policy meeting** will be organized in April 2018 where the Task Force Report will be launched and discussed.

#### Co-Rapporteurs:

**Dr. Sergio Carrera** is Senior Research Fellow and Head of Justice and Home Affairs Programme at CEPS. He is Visiting Professor at the Paris School of International Affairs (PSIA) at Sciences Po (France); Associate Professor/Senior Research Fellow at the Faculty of Law in Maastricht University (The Netherlands); and Honorary Industry Professor/Senior Research Fellow at the School of Law in Queen Mary University of London (UK).

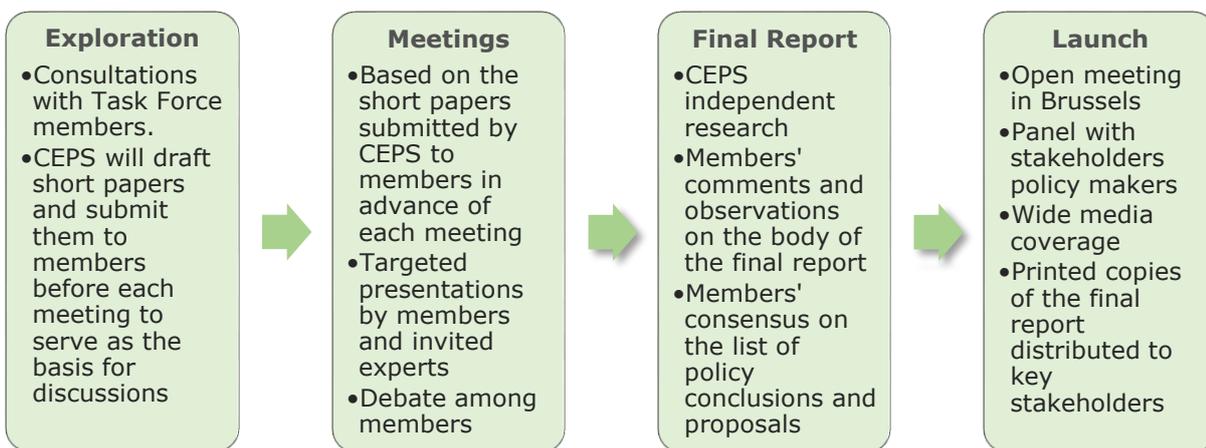
**Prof. Valsamis Mitsilegas** is Head of the Department of Law, Professor of European Criminal Law and Director of the Criminal Justice Centre at Queen Mary, University of London.

## Intended Stakeholders

This Task Force is intended for the following stakeholders:

- ✓ EU and national policy makers and practitioners
- ✓ Experts from academia
- ✓ Civil society organisations and international organisations
- ✓ Private Sector and IT Companies

Other stakeholders not explicitly mentioned are welcome to participate. CEPS Task Forces usually benefit from the participation of representatives of national and international policymaking bodies as «observers», including the European Commission. Few selected invitees will be also invited as keynotes.



*See the Annex for background information of the functioning of CEPS Task Forces.*



#### 4. Joining the Task Force

Participation in the Task Force is free of charge for those invited academics, practitioners & policy-makers and subject to a fee to cover the research and organisational expenses for for-profit entities and membership organisations (CEPS Corporate Members). CEPS Corporate Members are entitled to receive a significant discount. Discounted fees will be considered for non-members if they decide to become a member of CEPS.

The fee covers:

- The research carried out by CEPS for the purpose of this Task Force
- Organisational, catering and other costs of all meetings
- Launch of the final report in Brussels in a public event to maximise exposure
- Press release and communications management
- Printing and editing costs of the final report
- Distribution of the final report to key stakeholders in industry and policy-making
- Three printed copies of the final report per member (mailing included)

Upon request, CEPS will mail additional copies of the final report to members, at their expense. The final report will be launched at a public event in Brussels, open to the press, with the presence of high-level policy-makers. Additional launch events in other European capitals may be organised, if sponsored by members of the Task Force.

<b>Fee Structure (+21% VAT if applicable)</b>	
CEPS Corporate Members	€ 1,000
Non-Members	€ 5,000
Academics & Practitioners	Free of charge
Policy-makers	Free of charge

**To join the Task Force, for for-profit entities and CEPS Corporate Members, please fill in the application form on the next page.** If you have any questions do not hesitate to contact us:

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## REGISTRATION FORM

### The Future of EU, UK and US Cooperation in Criminal Justice and Police Cooperation

#### Person attending the meetings

Title:	First name:	Last name:
Job title:		
E-mail:	Telephone:	

#### Company / Institution

Company / Institution name:			
Postal address:			
	Postcode:	City:	Country:
Contact Person:			
E-mail:	Telephone:		

#### Billing information

Tax register number (VAT for Europe):			
Your reference, Customer Purchase Order No. or Cost Code N:			
Department:			
Postal address:			
	Postcode:	City:	Country:
Contact person:			

#### CEPS members – check the applicable fee (+21% VAT)

<input type="checkbox"/>	CEPS Corporate Member   EUR 1,000
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#### Non-members - check the applicable box (+21% VAT)

<input type="checkbox"/>	Full Fee   EUR 5,000	<input type="checkbox"/>	My company is interested in becoming a member of CEPS*
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Date:	Signature:
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**Return to:** Marco Stefan / [marco.stefan@ceps.eu](mailto:marco.stefan@ceps.eu) / +32 2 229 39 73 | Centre for European Policy Studies | 1 Place du Congrès | 1000 Brussels | Belgium

**More information:** If you would like to become a member or need more information, please contact *Sergio Carrera*, Senior Research Fellow at [sergio.carrera@ceps.eu](mailto:sergio.carrera@ceps.eu)+32 2 229 3926 or *Diana Musteata*, Corporate Relations Coordinator, at [diana.musteata@ceps.eu](mailto:diana.musteata@ceps.eu),+32 2 229 39 34.

\*Discounted fees for this Task Force will be considered for non-members if they decide to become member of CEPS

## **ANNEX**

### Principles and Guidelines for CEPS Task Forces

This Annex offers guidance to prospective Task Force members and other interested parties in understanding the functioning of the Task Force and the process of drafting the Task Force report. Task Forces are processes of structured dialogue among industry representatives, policy-makers, consumers and NGOs, who are brought together over several meetings. Task Force reports are the final output of the research carried out independently by CEPS and QMUL in the context of the Task Force.

#### **Participants in a Task Force**

- ✓ Members are for-profit entities, membership organisations, NGOs, academics, practitioners, officials & policy-makers which participate in a Task Force.
- ✓ Rapporteurs are CEPS researchers who organise the Task Force, conduct the research independently and draft the final report.
- ✓ Chair is an expert appointed by CEPS and QMUL to steer the dialogue during the meetings and advise as to the general conduct of the activities of the Task Force.
- ✓ Observers are any policymakers or stakeholders who are invited to attend the Task Force meetings and provide oral and written input.

#### **Objectives of a Task Force report**

- ✓ Task Force reports are meant to contribute to policy debates by presenting a balanced set of arguments, based on the members' views, available data and literature.
- ✓ Reports seek to provide readers with a constructive basis for discussion. Conversely, they do not seek to advance a single position or misrepresent the complexity of any subject matter.
- ✓ Task Force reports also fulfil an educational purpose, and are therefore drafted in a manner that is easy to understand, without jargon, and with any technical terminology fully defined.

#### **The role of the Task Force members**

- ✓ Member contributions may take the form of participation in informal debate or a formal presentation in the course of the meetings, or a written submission.
- ✓ Input from members is encouraged and will be made available to all members, if it is to be used for the final report.
- ✓ Members represent their institutions but are asked to provide input as experts.
- ✓ Members are given ample opportunity to review the Task Force report before it is published, as detailed below.

#### **Drafting of conclusions and recommendations**

- ✓ Task Force reports feature a set of conclusions. To draft these conclusions, rapporteurs will summarise members' views. Wherever members' views do not lead to clear conclusions, general phrasing will be employed.
- ✓ Task Force reports feature a set of policy recommendations. These recommendations are meant to reflect members' views.
  - For a recommendation to be featured in the report, there needs to be 'consensus' or 'broad agreement' among Task Force members. Consensus does not however mean unanimity or full agreement as to every aspect of a given recommendation.
  - Where 'consensus' co-exists with a significant minority view, the report will feature this minority view next to the relevant recommendation.

- Where there is no 'consensus' but several contradictory views, the report will feature all these views and either refrain from making any recommendation or simply advise policy-makers to clarify the given subject matter.
- In all cases, the report will seek to identify the points where there is some form of agreement, for instance a common understanding of facts or opinions.
- ✓ Both conclusions and policy recommendations will be summarised at the beginning of the report in the form of an 'executive summary'.
- ✓ Members will be given ample opportunity to review the text of both conclusions and recommendations.

### **Drafting of the main text**

- ✓ In the main text, rapporteurs detail the results of the research carried out independently in the framework of the Task Force. This part of the report will refer to the discussions during the task force meetings but also to available data and literature.
- ✓ Members' views are not simply presented as such but are also put into context. Wherever there is fundamental disagreement, the rapporteurs will ensure that all views are presented in a clear and fair manner.
- ✓ Scientific literature may be cited in this part of the report. Members are not purported to endorse any reference to this literature. A general disclaimer is inserted to clarify this aspect.
- ✓ The conclusions for each section will be clearly presented –and highlighted if appropriate. For the drafting of these conclusions please refer to the section above.

### **Use of data**

- ✓ Task Force reports feature data that are considered both relevant and accurate by the rapporteurs.
- ✓ Task Force members are encouraged to contribute with any data or propose any sources they may consider relevant.
- ✓ Members may question either the relevance or accuracy of any given data. After consultation with other Task Force members, rapporteurs may decide either to exclude this data or to mention these concerns in the main body of the text.

### **Sample structure of a Task Force report**

1. Editorial information
2. Disclaimer (see example below)
3. Executive summary
4. Outline
5. Main text
6. Summary of conclusions
7. References
8. Annexes, if any
9. List of participants

### **Sample disclaimer**

"This report is based on the discussions in the Task Force on *The Future of EU, UK and US Cooperation in Criminal Justice and Police Cooperation*, which met on four separate occasions in 2018. The policy recommendations offered at the beginning of this report reflect a general consensus reached by Task Force members, although not every member agrees with every aspect of each recommendation. A list of members, observers and invited guests of the Task Force can be found in Annex X. The members were given the opportunity to comment on the draft final report, but its contents may only be attributed to the rapporteurs."