

## Extradition/White Collar Crime

### Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2019

#### Most relevant to

- Anyone interested in white collar crime and extradition



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The UK will no longer be party to the European Arrest Warrant (EAW) scheme if it leaves the EU in a no-deal scenario. The EAW scheme is the basis for current extradition arrangements between the UK and Ireland.

#### What does the Act say?

The Act provides that in the event of a no-deal Brexit, Ireland will amend and pass secondary legislation under Ireland's Extradition Act 1965 to achieve the following:

- a return to reliance on the 1957 Council of Europe Convention on Extradition (the 1957 Convention) for extradition matters involving the UK
- a mechanism to ensure that the current reciprocal arrangements in relation to the extradition of UK and Irish nationals continue between the two states
- a mechanism to allow the electronic transmission of supporting documents for a request for extradition from the UK

The 1957 Convention would not be nearly as efficient or as straightforward an extradition mechanism as the EAW system, even allowing for the electronic transmission of documents. It would mean a return to the use of diplomatic channels for making extradition requests and for resolving any disputes which arise under them.

In our view, this would inevitably lead to delays in extraditions between Ireland and the UK, as well as higher costs. It also raises the possibility of political interference in extradition matters, which the EAW scheme sought to avoid by placing court-to-court communications at the heart of the extradition process.

Finding an effective replacement of the EAW mechanism has been a focus for the UK from the start of Brexit negotiations. This is because reliance on the 1957 Convention for extraditions to and from the UK will not be possible in many other EU countries. Effective cross-border law enforcement remains a stated priority for the UK government. We expect to see concerted efforts by the UK to agree arrangements which closely mirror the EAW scheme for the future.

In the meantime, it is business as usual for extradition requests between the UK and Ireland. Last year, the Irish Supreme Court asked the Court of Justice of the European Union (CJEU) whether extraditing a defendant (R.O.) to the UK under the EAW system was permissible in light of the UK's anticipated withdrawal from the EU. The CJEU ruled that Member States must continue to execute EAWs for as long as the UK is still in the EU, unless there are substantial grounds to believe that the person concerned is at risk of being deprived of his or her fundamental rights.