

JUSTICE 1 COMMITTEE AND JUSTICE 2 COMMITTEE (JOINT MEETING)

Tuesday 12 April 2005

Session 2

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JUSTICE 1 COMMITTEE

9th Meeting 2005, Session 2

CONVENER

*Pauline McNeill (Glasgow Kelvin) (Lab)

DEPUTY CONVENER

*Stewart Stevenson (Banff and Buchan) (SNP)

COMMITTEE MEMBERS

*Marlyn Glen (North East Scotland) (Lab)
Mr Bruce McFee (West of Scotland) (SNP)
*Margaret Mitchell (Central Scotland) (Con)
*Mrs Mary Mulligan (Linlithgow) (Lab)
Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

COMMITTEE SUBSTITUTES

Brian Adam (Aberdeen North) (SNP)
Helen Eadie (Dunfermline East) (Lab)
Miss Annabel Goldie (West of Scotland) (Con)
Mike Pringle (Edinburgh South) (LD)

*attended

JUSTICE 2 COMMITTEE

10th Meeting 2005, Session 2

CONVENER

*Miss Annabel Goldie (West of Scotland) (Con)

DEPUTY CONVENER

*Bill Butler (Glasgow Anniesland) (Lab)

COMMITTEE MEMBERS

Jackie Baillie (Dumbarton) (Lab)
Colin Fox (Lothians) (SSP)
*Maureen Macmillan (Highlands and Islands) (Lab)
*Mr Stewart Maxwell (West of Scotland) (SNP)
*Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD)

COMMITTEE SUBSTITUTES

Ms Rosemary Byrne (South of Scotland) (SSP)
Cathie Craigie (Cumbernauld and Kilsyth) (Lab)
Kenny MacAskill (Lothians) (SNP)
Margaret Mitchell (Central Scotland) (Con)
Margaret Smith (Edinburgh West) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Cathy Jamieson (Minister for Justice)
Valerie Macniven (Scottish Executive Justice Department)
Fergus McNeil (Scottish Executive Justice Department)

CLERK TO THE COMMITTEE

Callum Thomson

SENIOR ASSISTANT CLERK

Douglas Wands

ASSISTANT CLERK

Lewis McNaughton

LOCATION

Committee Room 2

CLERK TO THE COMMITTEE

Gillian Baxendine

Tracey Hawe

SENIOR ASSISTANT CLERK

Anne Peat

ASSISTANT CLERK

Steven Tallach

Scottish Parliament

Justice 1 Committee and Justice 2 Committee (Joint Meeting)

Tuesday 12 April 2005

[THE CONVENER *opened the meeting at 14:00*]

Justice and Home Affairs in Europe

The Convener (Pauline McNeill): Good afternoon and welcome to this joint meeting of the Justice 1 Committee and the Justice 2 Committee. The reason for the short—and unusual—delay is that we are not supposed to start our meetings before the published time, which in this case is 2 pm. There is a first time for everything. As the Minister for Justice has only 45 minutes to give us today, committee members have ensured that we are on time and ready to start.

Before we move on to questions, I will run through the formalities. Apologies have been received from Jackie Baillie, Colin Fox and Bruce McFee. I ask members to switch off their mobile phones if they have not already done so.

Our business today concerns justice and home affairs in Europe. I welcome Cathy Jamieson, the Minister for Justice, to the meeting. The minister is accompanied by two Executive officials: Valerie Macniven, who is head of the civil and international group; and Fergus McNeil, who is from the criminal procedure division. I welcome the officials to the meeting and thank them for appearing before us today.

I refer members to the background note on engagement with European Union justice and home affairs, which the Executive's Justice Department has prepared for us. The minister will know that there is good reason for both committees to take a special interest in European Union matters, as they affect much of our criminal and civil justice system. Over the next 45 minutes, we want to put as much as we can on the record about Scottish ministers' involvement in European matters and, of course, the up-and-coming United Kingdom presidency.

What is the schedule of meetings for the justice and home affairs council during the UK presidency?

The Minister for Justice (Cathy Jamieson): First, I thank the convener for the invitation to come before the committees today. She will know from previous events in which both committees and I have been involved that I consider Scotland

playing its role in Europe to be an important issue. There are many areas that we can influence.

A number of events are scheduled for the UK presidency. Although I am happy to run through a list of them, the convener might want me to focus on the justice and home affairs council or on some of the events in which the Executive has particular involvement. Rather than asking me to give the full list of events, the committees might have particular areas of interest that it wants to explore in more detail.

As a starting point, members will be aware that the UK presidency begins on 1 July. The presidency will focus on a number of areas, including the promotion of justice; continuing work on security; combating crime—in particular, serious crime—through co-operation; dealing with some of the issues around borders and migration flows; and having a focus on safer, stronger communities.

Ministers and officials have been involved in discussions with our Whitehall colleagues around what we might do during the UK presidency. For example, as part of the events that will take place during the presidency, we intend to hold a justice seminar during the best of Scotland week in November.

Working backwards, a civil justice conference will be held in Edinburgh in October—I can supply the dates—and a policing-based conference will take place in Glasgow in September. The European crime prevention network will hold its regular meeting in August and into September. The academy of European law will also hold a conference in Edinburgh in September and the European Police College will hold a board meeting in Edinburgh in December.

Those are some examples of the initiatives in which the Executive is involved directly. Of course, the presidency will also include formal council meetings and an informal council meeting. As I said, there are a number of areas in which the Executive has an opportunity to participate. Indeed, we are taking a major role in some of them.

The Convener: Thank you. For the purposes of today's meeting, committee members will be primarily interested in the justice and home affairs agenda as well as in the presidency as a whole. I am sure that we will run out of time today, so it would be helpful if you could relay some of that information to the committees in writing.

Cathy Jamieson: I am more than happy to do that and to provide an outline of what is happening at each of the meetings at which the focus will be on the justice and home affairs agenda.

The Convener: What role do you expect to play in the UK presidency? What input do you think that you will make to deliberations?

Cathy Jamieson: I take very seriously the issue of being part of the UK delegation, where appropriate. I expect to continue to work with my ministerial colleagues in both the Home Office and the Department for Constitutional Affairs, because there are issues that relate to both those UK Government departments. I expect, where appropriate, to be part of the UK delegation to the formal councils. Since becoming the Minister for Justice, I have tried to attend a formal council meeting at least once during each presidency and to play as full a part as possible. We are also working closely with our colleagues to ensure that in Scotland there will be a number of significant events that will allow me and, possibly, the First Minister to be involved. A number of events will also be of particular interest to the committees. Members will want to receive early notification of those, so that they can be involved.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): I would like to ask about the Hague programme action plan, which we expect to be published at the end of May. What elements of the plan does the Executive expect to be of particular significance to Scotland and how is it approaching them?

Cathy Jamieson: You are probably aware that the Hague programme action plan follows on from the work that was done in Tampere back in 1999. We will continue to take an interest in a number of issues, especially in the general area of criminal justice. I refer, for example, to the continuing programme of mutual recognition of judicial decisions. We also expect further work to be undertaken in relation to the approximation of criminal law and procedures throughout the EU. There is a range of other issues on which we must continue to work to ensure that Scotland's unique legal system is respected, at the same time as we seek mutual recognition across the different member states. We have worked on that matter carefully and closely with our UK colleagues, to ensure that it is included. The issue has been raised not just by me, but by some of my Home Office colleagues at various stages. Once the action plan has been produced, we will consider it in more detail during the UK presidency.

Jeremy Purvis: My next question relates to the presidency and one element of the Hague programme, which will be reflected in the action plan. Immigration and asylum is a reserved area, but the Scottish Executive may have an input into policy. You may have seen the House of Commons European Scrutiny Committee's fourth report of 2005. The Parliamentary Under-Secretary of State at the Home Office states that

the UK will opt into the asylum and immigration aspects of the programme

"only if satisfied that they are in the national interest."

Does the Executive have an input into the discussions at UK level regarding immigration, which will inform the UK Government's view on the Hague programme action plan? I am thinking of the fresh talent initiative, in particular.

Cathy Jamieson: You mention the fresh talent initiative, which is an important part of Scottish Executive policy. We will continue to work with Home Office ministers and others on that. However, I take seriously the point that it is right and proper that, when Scottish Executive ministers attend JHA councils, for example, they should represent the UK. When discussing certain matters, including at council meetings, I have spoken on behalf of the UK delegation. Although we attend to ensure that Scottish interests are represented, we also represent wider interests as part of the UK delegation. There will be on-going discussions at official level. If members want more detail on those, I am sure that that can be provided. However, as a matter of principle, it is important to recognise that we have an input but are part of the wider UK delegation.

Jeremy Purvis: Will you ensure that, when the national interests of the member state are determined, the Scottish Executive's position on the fresh talent initiative, for example, is included in discussions?

Cathy Jamieson: I will certainly seek to ensure that the Executive's position is represented in discussions, but if I attend a JHA council meeting, I do so as a minister who has a responsibility to consider some of the issues that concern the UK. I must play a broader role than that of seeking only to represent Scotland's interests. At council meetings, it is just as important that I represent wider UK interests.

Jeremy Purvis: What role do Executive officials play in the discussions on such subject areas? Do they take the lead?

Cathy Jamieson: Home Office officials and senior Executive officials have regular discussions on some of the specifics of immigration and nationality issues. Executive officials will also be included in discussions at the European level when that is appropriate. The short answer is that Executive officials are involved in those discussions.

Jeremy Purvis: As part of the Commission's work programme action plan, a policy plan on legal migration will be produced. Are Executive officials in discussions with the Commission on that plan or is that all being done through the UK?

Cathy Jamieson: Executive officials have been involved in those discussions, in which we have had good representation. The officials might want to give the committees a bit more detail.

Valerie Macniven (Scottish Executive Justice Department): We have formed an arrangement to have regular meetings with some of our colleagues who are responsible for both the policy and the operational aspects of migration. To reinforce our regular contact, we have set up meetings twice a year or so at which we can bring together any on-going issues in a more strategic way. If we meet the people at the other end, it means that when we have discussions day by day and week by week we know with whom we are dealing.

Jeremy Purvis: Is that contact with the Commission?

Valerie Macniven: I was talking about the UK people who deal with immigration and asylum matters.

Jeremy Purvis: My question was about the Commission's policy plan on legal migration, which the Hague programme had requested be produced by the end of this year. Are Executive officials involved in discussions with the Commission on that?

Cathy Jamieson: The answer that was given shows that my officials follow the correct route for dealing with such matters. There will be occasions on which it will be right and proper for representations to be made directly to the Commission. As regards the legal migration plan, it is my understanding that work has been undertaken in conjunction with Home Office officials, as Valerie Macniven outlined.

Mr Stewart Maxwell (West of Scotland) (SNP): You talked about Executive officials being fully involved in the process along with UK colleagues. Is that the position in all areas, or will Executive officials lead on negotiations on particular proposals, because of their potential effect on Scotland?

Cathy Jamieson: That may well happen. Officials will probably want to give some examples of occasions on which they have taken a leading role, particularly in relation to the civil justice agenda. There is a particular need for involvement of fairly senior officials in discussions on some of the matters that are about to come up, in which the committees will probably want to take an interest. That is being progressed.

Mr Maxwell: You mentioned civil justice. Will officials also play a leading role in relation to criminal justice matters or is their involvement restricted to the area of civil justice?

Cathy Jamieson: I referred to civil justice because some interesting proposals are about to come on to the radar, in which the committees might want to take an interest—time permitting, I might be able to return to those. That may well be the case on the criminal justice side, too. I realise that I am at risk of labouring the point, but the fact that we have a different legal system in Scotland means that there are opportunities both to learn from elsewhere in the EU and to contribute to developments. It is right and proper that we have tried to lead the way in some areas. Executive involvement is not restricted to civil matters.

Mr Maxwell: I just wanted to clarify that point.

Marlyn Glen (North East Scotland) (Lab): You said in your opening remarks, minister, that there are plans for a wide range of justice-related events to take place in Scotland during the UK presidency. Will you tell the committees more about the purpose of the civil justice and policing conferences in particular?

14:15

Cathy Jamieson: On the policing conference, we have a particular interest in sharing best practice around the policing of youth crime and antisocial behaviour, and links have been established with other EU countries. There is an opportunity for us to bring in people to share examples of how those problems have been tackled. Sometimes, there is a tendency for us to think that we are the only ones who are facing such issues.

In relation to the civil justice agenda, there is an opportunity for a significant piece of work to be undertaken in Scotland. There are several areas in which civil justice requires to be modernised and reformed. We must also consider where it is appropriate to work in closer co-operation, and the policing conference is designed to bring people into Scotland as a key part of the UK presidency. Valerie Macniven has been involved in work on that.

Valerie Macniven: Among the themes of the civil justice conference will be access to justice for citizens in a European context. We will examine how disputes that have a cross-border dimension to them can be settled and will focus on alternative dispute resolution, in which I know that the committees are interested. We will consider both formal and informal procedures and will perhaps bring in experts from across Europe to help to inform policy and practice. The conference will focus on the practical aspects of how disputes can be resolved.

Marlyn Glen: You also mentioned the best of Scotland week in November, and the justice seminar that will take place. Will ministers

participate in that event directly? What do you hope will be the outcome of the seminar?

Cathy Jamieson: I understand that planning for the seminar is being undertaken at the moment. The idea is that there will be a series of speakers at that event, and Valerie Macniven can update the committees on the planning for it.

Valerie Macniven: A number of events will take place in Brussels during that week, and we want to use the opportunity to extend knowledge in Brussels about the Scottish justice system. We hope that we will be able to inform people who are working in Brussels and make them more generally aware. It will be a showcase event on the practicalities of the justice system in Scotland.

Cathy Jamieson: It is worth clarifying—we could set this out in the information that is to be supplied to the committees—that the different events will target different audiences. For some, we are seeking to bring in other justice ministers and politicians; others will be at the official level and will be about giving information and trying to get across some of the issues that are particularly relevant to Scotland. All of that, taken together as a package, constitutes a significant volume of work for the people who are involved. If it all goes to plan, it will have a positive benefit in getting out information about what happens in Scotland and in getting people to come here.

Marlyn Glen: Have you planned any follow-up activity to maximise the impact of all that work for the longer term?

Cathy Jamieson: It is important to recognise that we are holding the seminar because there is an agenda coming down the line in Europe. For example, there are several green papers in which the committees will be interested, and the seminar will give us an opportunity to focus on those areas. Also, for the policing conference, we have established working partnerships with people in Ireland, Bavaria, Latvia and Spain. The conference gives us an opportunity to deal with some of the issues and then to follow the process through. The different events will have different follow-up, depending on the target area.

The Convener: There is a lot of interest in the area of law enforcement co-operation, on which members have quite a few questions.

Margaret Mitchell (Central Scotland) (Con): The Hague programme has considered ways of improving the practical exchange of criminal intelligence and establishing better co-operation between EU member states in trying to combat serious organised international crime. What kind of representation do we have on Eurojust and Europol, which was established in 1999? Has Scotland always had such representation? How has Eurojust panned out?

Cathy Jamieson: It is important to put on record the fact that the Scottish police service benefits from Europol, which is the EU's criminal intelligence agency, as members are aware. Europol has no operational powers, but it supports national law enforcement agencies. The Scottish Drug Enforcement Agency in particular benefits from the rapid and secure exchange of intelligence between member states on a range of serious and organised crime issues. Police forces and officers in Scotland are working with their colleagues in the rest of the UK to try to remove any barriers that might exist to successful co-operation throughout the EU.

The Executive and the Association of Chief Police Officers in Scotland have been fully behind the UK's decision to make police and law enforcement co-operation a key issue that will be tackled during the UK's presidency of the EU. It makes sense to continue to work to break down barriers, because organised criminals do not respect national boundaries, as we know. That is important for us and has been a key feature in allowing the SDEA to progress some of its work.

Margaret Mitchell: Does Scotland have representation in Eurojust and Europol?

Cathy Jamieson: Close working takes place with both organisations. At various stages, different people are involved in different pieces of work.

Margaret Mitchell: Is involvement ad hoc? A Scottish representative does not work in either organisation.

Cathy Jamieson: That is not my understanding, but I will be corrected if I am wrong. We are represented in Eurojust but we have no dedicated representative in Europol.

Margaret Mitchell: Can we explore how that works? How is the dedicated representative appointed?

Cathy Jamieson: We could provide you with that information later.

Margaret Mitchell: That would be helpful. How are management issues and liaison between Scotland's police forces and judiciary and the two organisations handled?

Cathy Jamieson: I can provide further information by way of examples of co-operation. I know that people from the Crown Office and Procurator Fiscal Service have had the opportunity to consider secondments. Co-operation back and forward has taken place on several issues. It might help you if we were to supply further detail.

Margaret Mitchell: That would help, because the matter is a priority of the Hague programme and is important. Have any notable prosecutions in

Scotland arisen from co-operation with the two agencies?

Cathy Jamieson: It would be better to obtain that information from the appropriate people—the law officers.

Stewart Stevenson (Banff and Buchan) (SNP): The Justice 1 Committee is about to start stage 2 of the Protection of Children and Prevention of Sexual Offences (Scotland) Bill. You referred to cross-border co-operation by the Scottish Drug Enforcement Agency, within which is the Scottish high-tech crime unit. In a European context, to what extent are we upping the ante in relation to the activities of paedophiles and sexual crime of one sort or another?

Cathy Jamieson: The member raises a couple of interesting issues, one of which is intelligence sharing post Bichard and the resulting recommendations. A case that gained a fair amount of notoriety prompted the Belgians to make proposals to ensure that people who have been convicted of paedophile activity in one member state cannot be employed to work with children or seek access to children elsewhere. That is a live issue. We are examining how best to share information. There are issues that we need to consider around enforcement, because it has been suggested that information be recorded alongside the conviction information. The Scottish context is that with the list of adults unsuitable to work with children we have set up a slightly different system. There are issues to tease out, but the matter is on the agenda.

Stewart Stevenson: When I visited Bapaume prison near Paris in 2002—for entirely different reasons—it was suggested that more than 50 per cent of people incarcerated in French prisons had a sexual element to their crime, whereas here the figure is probably 8, 9 or 10 per cent. Are you satisfied that a consistent view is being taken throughout Europe? Should more work be done to ensure that we are not failing to catch things or are accepting things from other countries about which we would take a rather different view?

Cathy Jamieson: There are issues to do with mutual recognition of how offences are defined and prosecuted and the sentences that are imposed in different jurisdictions. We could perhaps consider that in more detail, without straying into a debate about the number of people in our prison system for whom the index offence might not be a sexual offence but about whose behaviour there might be issues.

It would perhaps be useful for the committees to consider the white paper on the establishment of a system of information exchange, which mentions a computerised system. The Executive intends to consult various interest groups fairly soon,

probably over the summer, about the implications of such a system. The potential implications for Scotland relate to the disqualification list and how we deal with the Scottish Criminal Record Office and store information. We intend to develop a piece of work on that, in which I hope that the committees will take an interest.

Miss Annabel Goldie (West of Scotland) (Con): On the Scottish dimension, how does the proposed serious organised crime agency fit in with Europol and Eurojust? Will there be a direct umbrella link between one strategic body and another and then a subsidiary, drop-down link to the Scottish dimension? I was interested in what you said about the SDEA. Will we, under the serious organised crime agency, have a direct Scottish link to the two European agencies?

Cathy Jamieson: Without getting into a discussion about the relationship between the serious organised crime agency and the Scottish Drug Enforcement Agency—that discussion will have to take place elsewhere—I will say that the important thing for us has been to ensure that Scottish interests are represented in the way in which SOCA has been set up and in the way in which the SDEA fits in with it. As I said earlier, the SDEA has strong operational linkages with the relevant European institutions and contributes to their work, as well as working closely with colleagues elsewhere. I expect and will try to ensure that those positive working relationships are enhanced by the work of SOCA and that the SDEA's on-going international work continues.

Mrs Mary Mulligan (Linlithgow) (Lab): I move on to civil justice. Just last month the European Commission published the green paper on applicable law and jurisdiction in divorce matters. The Executive has made legislative proposals on family law, consideration of which the Justice 1 Committee is just about to begin. I appreciate that there has not been a lot of time for the Executive to consider the green paper, but does it have implications for family law in Scotland?

Cathy Jamieson: Yes. It is perhaps worth stating at the outset that the green paper was published in March, and already the UK has indicated that it has serious reservations about it. Courts and UK jurisdictions apply only their own law in divorce cases; there are issues around how we would apply international law in domestic circumstances.

International divorces need to be considered and it is important that the Executive consult and respond on that issue; the DCA will do that south of the border. However, it is also important to recognise that nothing in the proposals would change Scots law regarding the grounds for divorce, which would continue to apply in purely Scottish cases. There would be implications for

Scots courts if they were obliged to apply foreign law in certain cases with an international dimension. That is why there are some reservations about the proposals at the moment. I understand that, because the proposals relate to family law, a new EU regulation could be adopted only following unanimous agreement of all member states that participate in the process. It is fair to say that the proposals caused controversy when they were discussed and a number of member states are fairly sceptical about the extent to which they will be progressed.

14:30

Mrs Mulligan: In which specific areas might the proposals create problems or challenges?

Cathy Jamieson: I am trying to think of a straightforward example, but I cannot provide one off the top of my head. However, there could be difficulties if we had to ask our judiciary to apply the law of another member state in a Scottish context when the grounds for or rules relating to divorce in that member state were different or were governed by principles different from those of Scots law. It is felt that more needs to be done to tease out such issues. It is important that we carry out some consultation on the proposals, to help us to formulate our response to the green paper.

Mrs Mulligan: In response to a question from Jeremy Purvis, you spoke about how the Executive has worked with the UK Government to progress issues. However, clearly there will be a Scottish dimension to the proposals that we are discussing. Does that mean that the Executive might produce its own response to the proposals, once it has had time to consider them?

Cathy Jamieson: It is important that, when an issue has a particular Scottish dimension, we should be able to produce our own response at green paper or consultation stage, where possible. We have already done that in relation to other matters. Once we have produced our response, the process is for the UK, as a member state, to develop its position. However, we have an opportunity at the earliest point in the process to influence that position.

I return to the points that I made at the beginning of the meeting. If the committees believe that it is appropriate for them to take an interest in several of the issues that we are discussing, they have an opportunity at this point to feed into the responses that the Executive will submit and some of the principled positions that we may take during the on-going discussions.

Stewart Stevenson: I have a quick follow-up question on the subject of the need for unity in European decision making. Are the substantial

opt-outs that Denmark has in this area likely to present particular difficulties?

Cathy Jamieson: I am not sure whether the opt-outs will create difficulties—we will have to see how the discussions progress. However, a working group has been set up to take the matter forward. I understand that an Executive official will be able to be involved in the group, so our interests will be represented during the process. We may want to provide the committees with updates and further information, as appropriate.

The Convener: The minister may be aware that the Justice 1 Committee was in Brussels at the tail-end of last year and that members had the opportunity to speak to officials, especially from the civil justice unit of the Commission. Without exception, all the political parties represented on the committee expressed alarm at the rate at which the European Union was attempting to deal with the conflict of laws issue in civil justice. Obviously, the Commission's view is that movement is far too slow. From our point of view, having to scrutinise it, we feel a bit inundated even by the civil justice side of things. There is a white paper on divorce and there will soon be a paper on succession, and so on. We cannot afford not to be involved in this.

I find it difficult to follow the politics of the European Union. It is impossible to have a great insight into it without being there. For years, we have operated internationally with member states and non-member states with a jurisdiction of private international law and the Hague convention, and that has been successful. My impression is that it is a political issue for some member states to undermine the existence of international agreements that have served us quite well. I cite the white paper on divorce as evidence of that. It is becoming very complex and almost impossible to follow the steps that someone could take and the opportunities that are available to them, regarding which country they might want to get divorced in. The technical term is jurisdiction shopping, whereby someone says, "I fancy that state to get my divorce in because I will do better there." I think that we should argue to simplify the law and protect existing agreements that have been successful. Do you have a view about what the UK may be arguing in the coming years in that area of law?

Cathy Jamieson: You have picked up on a number of important issues. I believe that we need to try to avoid what you describe as jurisdiction shopping. We must ensure that the principles of mutual recognition are applied rather than have people being able simply to go round about to try to find the member state that gives them the best deal. At the same time, we should make justice

more accessible, which, in some instances, may mean simplifying the processes.

I understand what you say about the complexity of the new proposals. We have talked about the green paper on applicable law in divorce, and you mentioned the green paper on succession and wills and some of the issues around that. That green paper discusses which country's succession laws should apply in the case of the estate of a deceased person with property in more than one country. The papers deal with real situations that affect people; however, at the same time, we will also have to consider which country's courts should have jurisdiction and how we would get mutual recognition and enforcement of the decisions. The Executive intends to consult a range of people on that issue, as there are implications in relation to Scots law.

The issues are not confined to one green paper, which is why, along with my UK colleagues, I have tried to argue, where possible, for the mutual recognition principles to apply. No doubt, we will continue to do that.

The Convener: We have a few minutes left, so I open the floor to members who have not asked a question. If no one else has a question, there are a few final issues that Stewart Stevenson wants to raise.

Stewart Stevenson: I want to pick up on some of the work that colleagues on the Justice 2 Committee have been doing on criminal justice. It has been suggested that the Commission hopes that framework decisions on the European evidence warrant and procedural safeguards will be adopted by the end of the UK presidency. Can you give us an update on that and tell us what the Scottish involvement in that will be?

Cathy Jamieson: There were discussions at the February JHA council, on which I reported to the committees in a letter. Some of the issues that were discussed concerned the questions of dual criminality and territoriality. The work that was requested following that particular council is continuing. Scottish Executive officials are involved in that. Valerie Macniven reminds me that one of the officials is in Brussels today dealing with that issue. There is still some work to be done following the last council, but it was agreed that officials would continue with that to get a resolution of the text.

Stewart Stevenson: The other issue that is still on our list is the green paper on bail. The justice committees are expecting and hoping to see a copy of the Executive's response on that. When might that be seen and what issues are highlighted for Scotland?

Cathy Jamieson: As a general principle, there is no problem with the committees having access

to the work that the Executive has done; I am sure that we are able to provide that. Again, officials at various levels have done some work.

Our response argues in principle for a measure on the mutual recognition of bail that would promote equality of treatment between the resident and non-resident accused. That is a variant, if you like, of the Eurobail model. We believe that the courts in the member state where the offence took place would decide whether to grant bail. If they decided to do so, the member state of residence would then have the option of deciding whether it was prepared to accept the bailed accused. Those are the underlying principles in the Executive's response, to which I see no reason why the committees cannot have access. I am happy with that.

Stewart Stevenson: Is allowing people who are on bail to be on bail in a different jurisdiction within the European Union being considered?

Cathy Jamieson: That is indeed one of the issues. There are questions around how that would be monitored and supervised and what the sanctions would be if an individual failed to comply. Those issues are teased out in much more detail in the green paper.

Stewart Stevenson: Are there cross-border tagging arrangements that might go with that?

Cathy Jamieson: I have not yet come to that conclusion.

The Convener: What stage is the paper on bail at?

Fergus McNeil (Scottish Executive Justice Department): The green paper has been submitted to the Commission. The United Kingdom package, which consists of the Home Office's response and the Scottish Executive's response, was submitted last month. A meeting of experts was held on 8 April, at which a partial draft framework decision was discussed. I did not attend that meeting, but I understand that the experts expressed a range of views. The Commission has now gone back to think about how to progress the draft in light of those views and of the responses received from the member states in their green papers.

The Convener: I will conclude the session by saying that I realise that we cannot have access to everything because some of it is work in progress. However, we would welcome any papers that you can give to the justice committees.

Our difficulty is in trying to keep up with the process because there is no systematic list of meetings that we can use to organise our timetable. We just have to be on the ball and work out the critical times to comment on issues. I am sure that if we had had more time we would have

liked to have gone into a bit more detail on some of the proposals. I am also sure that you would respond positively if I said that we would like to do that by exchange of correspondence, so that we get the maximum amount of information on the issues in which both committees are interested and so that we know where we are at the various stages.

Cathy Jamieson: I suggest that when the action plan is produced, it might be useful to give the committees an update on where each of the different items is, the likely timescale, and perhaps the critical decision-making points that would inform the committees. At that stage, no doubt the committees would have further and more detailed questions. I appreciate that today it has been possible only to scratch the surface on some of the issues rather than go into all the technicalities.

14:45

Miss Goldie: I welcome what you say, minister. There is also a practical decision that occasionally confronts Pauline McNeill and me as conveners. It might be necessary for one or other of the committees to look at something quickly and we have to agree on which committee has time to do that. If we know in advance roughly what your timescale is, it is extremely helpful to us. We can then try to organise our activities accordingly.

Cathy Jamieson: I am sure that we can organise something on that.

The Convener: We are almost trying to explore models that other committees could use. So much of our work is being dealt with at EU level and we are not the only committees that are in this position. We are trying different ways of fitting into the process. I can never remember whether it is a matter for the Conveners Group or the Scottish Parliamentary Corporate Body, but we need to be able to travel to Europe at least twice a year to make contact with the Commission and other officials so that they know how we work and so that we have some contact with them. That is work in progress.

I thank you and your officials for appearing before the committees this afternoon. We have not done too badly for time; we are only just a minute and 30 seconds over; I am sure that you will forgive us for that.

There are no further joint justice committee meetings arranged on the issue of justice and home affairs. However, members might want to seek an update from the minister later in the year or whenever they think it is appropriate; I am sure that the committees will discuss when they think that is. I thank members for their attendance and their sharp focus on the line of questioning.

Meeting closed at 14:46.

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