



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

EUROPEAN AND EXTERNAL RELATIONS COMMITTEE

Thursday 13 December 2012

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EUROPEAN AND EXTERNAL RELATIONS COMMITTEE
17th Meeting 2012, Session 4

CONVENER

*Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP)

DEPUTY CONVENER

*Hanzala Malik (Glasgow) (Lab)

COMMITTEE MEMBERS

*Clare Adamson (Central Scotland) (SNP)

*Roderick Campbell (North East Fife) (SNP)

*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)

*Helen Eadie (Cowdenbeath) (Lab)

*Jamie McGrigor (Highlands and Islands) (Con)

COMMITTEE SUBSTITUTES

*Gavin Brown (Lothian) (Con)

*Neil Findlay (Lothian) (Lab)

*Aileen McLeod (South Scotland) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Iain Mclver (Scottish Parliament)

CLERK TO THE COMMITTEE

Ian Duncan

LOCATION

Committee Room 1

Scottish Parliament

European and External Relations Committee

Thursday 13 December 2012

[The Convener opened the meeting at 09:32]

Decision on Taking Business in Private

The Convener (Christina McKelvie): Good morning, and welcome to the 17th meeting in 2012 of the European and External Relations Committee. I make the usual request that all mobile phones and electronic devices be switched off, because they interfere with broadcasting.

Agenda item 1 is a decision on taking business in private. Does the committee agree to take item 5 in private?

Members indicated agreement.

European Union Trafficking Directive

09:32

The Convener: Item 2, which is on a much more substantive issue, is consideration of a Scottish Parliament information centre research paper on the European Union directive on human trafficking. Members will see from their papers that we have received a letter from various organisations that have an interest in the field and that have raised a number of issues. I hope that we can address those today and take forward some of their ideas. Iain McIver will give us a brief oversight of his paper before we go to members for questions.

Iain McIver (Scottish Parliament): The committee asked me to look at human trafficking in the context of devolved issues. Immigration and asylum are reserved to Westminster, but policies in those areas impact on devolved responsibilities, such as access to health, education and social work. There are also justice issues, which are devolved.

The European directive on preventing and combating trafficking in human beings and protecting its victims was passed in April 2011. The paper covers the main provisions in the directive, so I do not propose to go through them all.

The directive identifies as a criminal offence

“the recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, for the purpose of exploitation.”

It outlines penalties, which include imprisonment of at least five years, or 10 years if there are aggravating circumstances when an offence is committed.

The directive also provides for assistance, support and protection for victims of human trafficking. Initially, the United Kingdom Government withheld its position and did not declare whether it wished to opt in to the directive. However, in March 2011, it announced that it would opt in, and it is now making plans to ensure that England and Wales comply with the provisions in the directive.

In Scotland, the Cabinet Secretary for Justice told the Parliament in February this year that he felt that the changes that were made by the Criminal Justice and Licensing (Scotland) Act 2010 meant that Scotland was already broadly compliant with the directive. In October, the Scottish Government hosted a human trafficking summit at which the Government announced that a new statutory aggravation is to be introduced to

make it easier to prosecute the perpetrators of human trafficking.

That is a brief summary of the issues that the paper covers.

The Convener: Thank you. Do members have any comments?

Helen Eadie (Cowdenbeath) (Lab): It is helpful to have had a briefing. I was unaware of the cabinet secretary's views on the issue, but I gather from informal discussions among committee members in our pre-meeting that the cabinet secretary might be open to considering what actions could be taken.

We have received a powerful letter from six or seven important agencies throughout Scotland that focus specifically on human trafficking. Convener, you have told us about your involvement in the issue—I have not had such an intensive experience. The letter makes a persuasive case that, despite the fact that Scotland seems broadly to comply with the requirements of the EU directive, something more specific should be done. I suppose that it is down to the committee to try to persuade the cabinet secretary that he should look at the issue again.

The point that impressed me most in the letter is in paragraph 3 on page 2, on

"The criminalisation and detention of potential victims of human trafficking",

where it says:

"Scotland cannot be said to be acting in the spirit of Article 8 of the EU Directive, laid out in the preamble of Article 14 whilst people, many of them under the age of 25, continue to be detained for activities they undertook linked to trafficking and their exploitation."

We are informed in the committee papers about the fragmentation of existing law. Baroness Helena Kennedy QC is compelling when she urges the Scottish Parliament to press the Scottish Government to

"consider introducing a comprehensive Human Trafficking Bill based upon a review of all its legislation relating to human trafficking."

I would support such an approach and I hope that the cabinet secretary will take that on board.

I understand that the cabinet secretary has huge pressures on him and that the Justice Committee is overwhelmed by work. In the absence of anyone else being willing to undertake a bill in Parliament, I suggest that this committee considers doing so. Although it would be better if one of the specialist committees undertook the work, given the level of expertise round the table—including that of the convener—and the enthusiasm among a number of us to tackle the issue, we ought to be disposed

to keep an open mind and be willing to work hard on the issue.

The Convener: I take on board all those comments. On the issue of a committee bill, we should have a conversation with the Equal Opportunities Committee about its plans. The inquiry in which I was involved in 2010 included a recommendation about looking at what has happened since.

As Helen Eadie said, the letter expresses particular concerns in paragraph 3 on page 2, one of the main ones being that in Scotland we do not have control of the national referral mechanism, because the UK Border Agency has control of that. Unless someone refers themselves or is referred by a first responder with evidence, they are not deemed to be trafficked and are then convicted as an illegal immigrant or convicted under other legislation. There is no right of appeal in the national referral mechanism, which means that UKBA officials make decisions on whether someone has been trafficked and on people's asylum status at the same time. There is a real concern about conflict of interest in that regard, which is an on-going issue.

Helen Eadie is right about my personal involvement in the issue. I should declare an interest in that I am the co-convener of the cross-party group in the Scottish Parliament on human trafficking.

Helen Eadie is right about all those issues, and I think that taking up some of the points with the cabinet secretary is the way to go. Do members have any other comments?

Roderick Campbell (North East Fife) (SNP): Perhaps I ought to declare an interest, too, because I am a member of the cross-party group on human trafficking.

Iain McIver's briefing was helpful, but I am not quite sure what the EU timetable is for the directive. The convener might want to comment on that in a minute.

We have received a useful letter, dated 10 December, from Ann Hamilton and others. I would have thought that, as a first step, it would be helpful for the committee formally to refer the letter to the Scottish Government and invite comments on the matters that are raised in it. My recollection of the cabinet secretary's comments at the end of February on Baroness Kennedy's recommendation about a catch-all piece of legislation is that he did not rule it out, but he said that there are a lot of priorities and that parliamentary time is precious. If there were ways of dealing with the issues of parliamentary time, that approach would seem advantageous. However, I take on board what the convener said about the Equal Opportunities Committee's remit,

so we need to investigate that further. It is an important directive and a topic that we need to take seriously.

Willie Coffey (Kilmarnock and Irvine Valley)

(SNP): I welcome the SPICe briefing. Human trafficking obviously has victims and perpetrators, but there are also beneficiaries. The briefing drew my attention to the issue of whether there will be proposals under the directive to target the beneficiaries of human trafficking, or those who might profit from some of the activities that are going on. The briefing paper refers to those who profit from the delivery of goods and services in areas that use forced labour. I would hope that the directive covers that aspect in detail or, if it does not, that it will cover that at a future stage.

We have proceeds of crime legislation in Scotland, but I am unclear about such provisions in EU member states. That is a final loophole that needs to be closed to send out a loud and clear message that those who benefit and profit from human trafficking will be targeted.

The Convener: That is a valid point. I have the directive in front of me, but there are pages and pages of it. Having a more in-depth look at it on the issue to which Willie Coffey referred would be helpful.

Iain McIver: Article 7 of the directive requires member states to

“take the necessary measures to ensure that ... competent authorities are entitled to seize and confiscate ... proceeds from the offences referred to in Articles 2 and 3.”

Rod Campbell asked about the transposition date: member states are required to transpose the directive by April 2013.

The Convener: The directive goes into a lot of detail, but it is well laid out and it is fairly easy to find things. Would the committee find it helpful to have a copy of the directive?

Members indicated agreement.

09:45

Hanzala Malik (Glasgow) (Lab): As a citizen of Scotland, the United Kingdom and the EU, I find it challenging that we have different legislation for different things, which is pegged at different levels. That is unhelpful. As Europeans, we need to home in and focus on legislation so that we are all singing from the same hymn sheet.

I am not comfortable with the idea that different parts of the European Union should be cherry picking legislation. I say that because I believe that there are far too many victims of that process. We see examples of immigrants putting themselves at risk by trying to enter the United Kingdom from France in trucks and lorries. More importantly, in

this day and age, it is important that our borders are secure. It is important that anyone who walks our streets can identify themselves and say who they are and what they are about.

It beggars belief that, in this day and age, we have different bits of legislation in the European Union on this matter. That needs to change. I am not sure that it is the best position for Scotland to say that we have good legislation and that we only need bits of legislation from Europe. I would appreciate it if the cabinet secretary considered the matter a bit more clearly in terms of where we actually want to go.

There is crime in the streets of Glasgow today. Individuals are being driven round to various begging spots. There are beggars in our car parks and shopping centres and beside our bank machines. Many people are intimidated by them, yet we fail to deal with the issue. There is also prostitution and victimisation of vulnerable people. The challenge is greater than we sometimes believe.

I suggest that we ask the EU to come up with a system that involves us all having the same legislation, so that people are protected equally across Europe and there are no safe havens for criminals in Europe.

Jamie McGrigor (Highlands and Islands)

(Con): I thank Iain McIver for his briefing. The crux of the matter is whether the Scottish legislation is too piecemeal. If that is the case, we should ask the cabinet secretary to look into that and come up with new legislation that will encompass the issue.

Clare Adamson (Central Scotland) (SNP): I take a different view from my colleague Mr Malik. We are not cherry picking pieces of legislation; we are ensuring that the directive is fully complied with under Scots law. Obviously, we have had a discussion about whether that would best be done through a bill or whether we should try to shore up various bits of legislation.

We need to stress that trafficking is not just a matter of illegal immigration; it is a much more complex crime that also involves legal entrants to the UK. We should not underestimate the level of organised crime that is involved.

The SPICe briefing deals with the timescales and the need to be compliant by 2013, and it has information on the assistance, support and protection of victims, on children's access to education and on the issue of prevention, with particular regard to the training of officials. All that is relevant to the forthcoming children's services bill. The committee should ensure that due note is taken of the directive during that bill's progress through Parliament.

Hanzala Malik: I was not strictly suggesting that people are cherry picking; I was saying that, although Scots law is robust, any piece of legislation that is passed in the EU affects us either directly or indirectly, which means that we have to ensure that Scots law is robust enough to face up to that challenge. Our law lords need to know that, when they are dealing with cases, they must have regard not only to Scots law. Traditionally, most European countries have good, tried and tested legislation. That is fantastic, but things have moved on. People are usually uncomfortable about change, but change is in the air in the European Union.

All citizens in the EU are now protected primarily by EU legislation—it has superseded state law. Obviously it is important that we focus on protection of children and vulnerable people, but our immigration policy affects things and is part and parcel of that. How we treat people with regard to freedom of movement and what rights they might or might not have is where the EU and EU legislation come in. We need guidance from the EU on how best to have legislation that is exactly the same throughout Europe so that there are no safe havens or areas where people can prey on others. That is an important issue.

Roderick Campbell: It might be helpful if Ian Duncan gave us an overview of the status of a directive and what we are trying to achieve.

Ian Duncan (Clerk and European Officer): An EU directive allows greater flexibility for implementation within the member state. Members will be aware that an EU regulation is primary law that simply becomes law the moment that it is signed off. A directive gives greater freedom to the member state to implement it in a way that is compliant with existing legislation. As long as the member state can justify compliance, it is compliant with that law when it comes in.

We are talking about a directive, which allows the UK and Scotland to determine how best to implement the proposals to achieve the objective and gives greater freedom as to how that can be done. Each member state is entitled to implement the directive in the way that it deems appropriate, as long as it is fully compliant with the directive's ambition.

Roderick Campbell: It is not a one-size-fits-all approach.

Ian Duncan: No, it is not.

Roderick Campbell: I just wanted to clarify that for the committee.

The Convener: Thanks for that. We have given the issue a lot of coverage this morning and we have asked a lot of questions, to which we need a number of answers. If the committee is minded to

support the letter from the organisations, I suggest that we formulate a letter to the Cabinet Secretary for Justice that is based on all the questions in it.

Members indicated agreement.

The Convener: I ask Iain McIver to do a bit more digging on the specific points that members have raised.

To maintain our good working relationships and friendships with other committees, we should alert the Justice Committee and the Equal Opportunities Committee that we are looking at the issue further. Is there anything else that we should do at this point?

Helen Eadie: Can the cabinet secretary and those committees get a copy of the organisations' letter? It would be helpful for them to see the context of our discussion this morning.

The Convener: Yes, you are right. Ann Hamilton emailed me late last night to ensure that all members had a copy of the letter. I think that the organisations will be looking to see what decisions we make. Once the committee has sent its letter to the cabinet secretary, we can share it with those organisations, so that they know our line of inquiry.

Clare Adamson: We should also write to the Education and Culture Committee, given the proposed children's services bill.

The Convener: Absolutely.

Jamie McGrigor: We have not discussed in any detail the letter that we received, which was on our desks this morning. There were a lot of other questions in there, to do with issues such as guardianship. Will that letter go to the Scottish Government for its comments?

The Convener: My proposal was to look at all the issues. The letter has six sections and a few points at the end, and its questions should form the basis of our letter to the cabinet secretary. We could include a copy of the organisations' letter and ask for comment, guidance and advice on all the points that are raised in it. Once we have received a reply, we can decide what lines of inquiry to pursue further and what direction we want to take. Is the committee content to do that?

Members indicated agreement.

The Convener: Thank you. I have just given Ian Duncan some more work.

“Brussels Bulletin”

09:54

The Convener: Agenda item 3 is consideration of the “Brussels Bulletin”, which our European officer Ian Duncan will talk us through.

Ian Duncan: Let me begin at the beginning. As per usual, the biggest section in the bulletin is on developments in the eurozone. I have tried to pick up some of the strands in which the committee expressed an interest at the previous meeting. For example, Willie Coffey spoke in some detail about credit rating agencies, and I have provided a section on what is going on in that respect and a wee bit of background on page 3 on how they got to their current position. It would be worth while to have a little look at that. At the top of the second column on page 2, I detail some of the features that the EU would like to introduce to regulate credit rating agencies, although I draw members’ attention to the quote from Moody’s at the bottom of that column, which I think has an ominous overtone. It has said:

“While we fully support the G-20 agenda on credit ratings, we had expressed significant concerns about the potential market ramifications of some of the proposed policy measures.”

The best thing we can say is that it is clearly not happy.

The meeting on banking union finished at dawn, and a proto-agreement appears to have been reached. Again, a compromise had to be brokered between the French and the Germans; as you will recall, the Germans did not want their smaller banks to be regulated, while the French were very keen for everything to be regulated. It seems that a compromise between those two positions has been agreed. The smaller German banks will not be regulated in the first instance, but the issue will be considered later.

I also put in a “stop press” item almost for my own amusement. One finds odd things happening in these negotiations and, in what seems to have been an effort to buy off the French, there was a big discussion about a suggestion that they get the headquarters of the agency that would take forward this work. It shows that, in these negotiations, everything is up for grabs.

Greece will receive its money on 13 December. However, a rather ominous note is that the Greek economy has shrunk by 25 per cent in the past five years. As for Italy, the party of the former Prime Minister, Silvio Berlusconi, has somewhat unexpectedly withdrawn support from Mario Monti, who has now declared that he will stand down. Exactly when that will happen is unclear, but it is likely to be in February. As you will see, the

markets are already perturbed by the situation and the EU is uneasy about what it will mean. All I can say is: watch this space. Lots more is going to happen.

It is also worth noting the consultation on electricity generation and capacity mechanisms, which I mention at the back of the bulletin. The closing date for that is 7 February 2013.

Following Helen Eadie’s interest in state aid, I have covered some of the current work on that issue. I note that this is just the beginning and members will get a bigger paper in the new year that touches on some of the other stuff, but I thought that this starter for 10 would show the committee where things stand.

Finally, I am sure that members have read in the papers about the situation with alcohol pricing. In the second paragraph of column two on page 6, I provide a link to the full text of the opinion, should members wish to read it.

I am happy to take questions.

The Convener: Do members have any comments or questions?

Roderick Campbell: I have a request for further information. Do you know whether, in the negotiations that went on last night, there was any discussion of the future programme for banking union?

Ian Duncan: As you will appreciate, I was reading the material and trying to find out information quite early this morning. The people involved are trying to put together a timetable. They still believe that, if the heads of state and Government are able to sign it off at the upcoming summit, it should be implemented at the beginning of next year as the first step in the sequence.

As you will recall, the bigger issue is the tension between those within the eurozone and those outwith it. There seems to be more agreement in that respect, but it remains to be seen whether it will hold throughout the forthcoming Council meeting. The timetable could easily be upset. I will be able to provide more information when I have read the paper more thoroughly; I was able to take only a cursory romp through it this morning.

Roderick Campbell: It certainly appears that the issue will be of high political significance in the months ahead.

Jamie McGrigor: I see that the president of the eurogroup, which comprises the 17 countries that use the euro, is standing down. The group meets a month before the official EU meetings, but how much influence does it have on them? Does it meet openly or in secret?

Ian Duncan: Very few groups in Brussels meet openly and, if they do, they tend to have their

discussions before the meeting itself. The answer, therefore, is no—the group is not very open. It is influential, because it brings together the finance ministers of the eurozone countries. On any issues connected with the eurozone, it will have the most important voice. The UK and other non-members of the eurozone have observer status at those meetings, so they can participate on an invited basis and are aware of what is being discussed.

As the committee will know, the meetings usually take place the day before the formal meeting of the European finance ministers. The group is probably the most influential body in the eurozone and one of the most influential in the whole financial area.

10:00

Jamie McGrigor: So the president of the eurogroup is the closest thing that we have to a president of Europe.

Ian Duncan: He is the man who controls the big bag of money, which is quite influential in itself. Jean-Claude Juncker is the Prime Minister of Luxembourg, so the influence of a very small state is very large.

Willie Coffey: I do not want the committee to think that I am pursuing a vendetta against the credit rating agencies, but I am interested in the points on them that Ian Duncan put in the bulletin. It came as a surprise to learn that the agencies can have shares in the companies that they rate. I am astounded by that, to be perfectly honest. However, I was pleased to see that, in January, the European Parliament will legislate to regulate the agencies so that such practices cannot happen or at least will be controlled.

With regard to Ian Duncan's comments, I am not surprised that one of the agencies is not particularly happy about the proposed measures. The agencies have existed for a long time, but they have come to public attention only since the economic and banking crisis. I am amazed that there has never been any regulation of them until now, and I am pleased that it is coming.

Helen Eadie: I share the views that Willie Coffey has expressed. One point that I picked up is that

"no rating agency may hold more than 10% shares in any entity they rate."

That holding of shares is an aspect that I had not thought about. It has a huge influence on the way in which money moves around the globe, so I welcome the fact that there will be limitations on it.

Dr Duncan's point about the European Central Bank being located in France is not unimportant. We have to admire the French for their speculative building—after all, they built the palace of Europe

in Strasbourg before there was any agreement on where the Parliament would be located. They seem to get in on the act all the time. We have something to learn from them in that regard, because such things bring massive employment opportunities in construction and all the rest of it.

I agree with Willie Coffey that broadband is an important issue across Europe. I gather that, although £1.5 billion of financial support is coming to the UK, £28 billion has been earmarked for broadband across Europe. That is powerful money, which underlines how critical broadband is for the more rural parts of Europe. I would welcome any developments in that regard, and I would be glad to be kept updated on how broadband is being rolled out, because it brings employment opportunities, too.

Another point that has been highlighted concerns state aid. I note that a big general review is taking place, but I am concerned—as I highlighted at our previous meeting—about the power of officials, without recourse to elected representatives, to change the state aid rules in a way that will impact hugely on areas such as Scotland. I have circulated to all members of the Parliament a letter that I wrote to Commissioner Almunia to outline my concerns about that. If the rules are changed, we will no longer have the Avivas, the Amazons or the rest.

The rules are likely to be changed next week, so that is the deadline. Unless my colleagues round the table take urgent action—I also look to the convener to impress on her colleagues in Government the importance of the matter, and I have discussed it with the cabinet secretary and urged her to take action—it will mean that Scotland will no longer enjoy the special category C for regional state aid. We will lose a huge amount of employment opportunities because of that, so the matter is not unimportant. I hope that colleagues will pick up on the email that I circulated to them yesterday.

I was really interested to read in the "Brussels Bulletin" about minimum pricing for alcohol. We have all picked up on the issue in the newspapers over the past week. It is clear from the "Brussels Bulletin" that the UK Government is being urged to ensure that the legislation on minimum pricing does not proceed, because it is the member state that would be answerable.

The European Commission uses legalistic and cautious language, but it suggests that minimum pricing for alcohol would be against competition rules and would create "market distortions". Labour made that point all the way through the debates on the issue. Certainly when I spoke in committee and in the Parliament about minimum pricing, I made the point that is mentioned in the "Brussels Bulletin", that the

“unintended consequence of the law would be a boost in profits for supermarkets and retailers”.

In effect, Government policy will put money into the pockets of retailers and supermarkets.

Roderick Campbell: On that point, I was under the impression that the UK Government supports the Scottish Government’s position, although that is not mentioned in the “Brussels Bulletin”. Helen Eadie can make those points, but I think that the UK Government is at one with the Scottish Government on the issue. Ian Duncan might be able to clarify that.

Ian Duncan: The UK Government has stated that it would support the Scottish Government’s position, which closely mirrors its own. It is seeking to contest the Commission’s opinion. It is in dialogue with the Scottish Government to find out how best to take things forward, and we will find out on 27 December what submission has been made by the UK Government and the Scottish Government.

Helen Eadie: I understand that the whisky distillers have taken legal action, which is being considered in Brussels. A lot will hinge on the outcome of that.

Roderick Campbell: Legal cases from members of the alcohol, tobacco and drugs industries do not always succeed, though, Helen.

Jamie McGrigor: I am slightly confused as regards the different proposals. The “Brussels Bulletin” states:

“The Secretary General of the Commission has written to the UK Government outlining the concerns of the Commission with regards the Scottish Government proposals for alcohol minimum pricing and recommends the UK abandon the current proposals”.

Does the reference to “current proposals” relate to the UK proposals or the Scottish proposals?

Ian Duncan: I see what you mean. The confusion might be my fault. The Scottish Government’s proposals are further advanced than the UK Government’s proposals. The proposals from Scotland have been considered by the Commission secretary general and those are the proposals that are being discussed. However, as you know, the UK Government is responsible, in this instance, for the Scottish Government’s particular policy and must be an advocate for that.

The UK Government is supportive because the Scottish policy exactly mirrors its proposal for minimum pricing, so it is likely that both Governments will be on the same page when it comes to the position that they put to the Commission authorities. It just happened that Scotland was quicker and is therefore more advanced in its proposals.

Jamie McGrigor: Right, so the Commission is asking the UK Government to abandon the Scottish proposals. Is that correct?

Helen Eadie: Because the UK is the member state.

Ian Duncan: Yes, in a sense. I know that it sounds odd, but because the Scottish Government is part of the UK authority, if you like, in that regard, the UK is being invited to not go forward with the proposal. The internal mechanism for that will be more complicated, I imagine.

Clare Adamson: I reiterate what my colleague Roderick Campbell said about the cases that have been brought against the Scottish Government. There can be significant health issues, and in the case that was decided this week with regard to the display of cigarettes the health issue was upheld. We must remember that the competition rules were always there and we were always aware of them. The exception to the rules was always about the health benefits. Where we are has not changed—the health benefits are still the issue.

Ian Duncan: The legal test to which Catherine Day has referred is that, on balance, the evidence provided by the UK Government and the Scottish Government is not adequate to justify the proposal. That is why the issue is more difficult. As Catherine Day has assessed the evidence, I suspect that further evidence—or a greater depth of evidence—will need to be supplied in order to justify the distortion in the market on the basis of the health benefits. That will be the test.

Helen Eadie: I notice that the bulletin gives a link that we can click on to get the full text of the opinion.

In response to Rod Campbell’s point, the reality is that, in a case about state aid rules that was taken by the gin industry in the Netherlands, the European Commission found that a similar measure was anticompetitive and it was not allowed. We could find ourselves in the same position. The European Union has a policy on alcohol, so the outcome will depend on whether minimum pricing fits into the EU’s overall alcohol policy.

Willie Coffey: I understand on the surface the argument that minimum pricing will have the unintended consequence of providing a boost in profits for supermarkets and retailers, but my understanding is that, if the policy works—which we fully expect it to do—it will not do that because the extent to which people purchase these products will diminish. That is the whole point. If the policy failed and people generally ignored it, the increased price would yield a profit, but if the policy works, it will not do so.

Helen Eadie: The Sheffield Hallam report estimated that £120 million to £130 million of profit will be generated for the retail sector. I would not have a problem with that if an additional levy was to be imposed on the private sector to draw that money back into central Government to cover the cost of ambulances, police and all the other social costs of binge drinking, but that has never been agreed by the Government. If the Government changed its view on that, I would support it on the measure. However, as long as you are putting £120 million a year into the pockets of Tesco and others, you can count me out.

The Convener: Okay, I think that we can see that this is obviously a complicated issue.

Members will see that, in the final paragraph under “Alcohol Pricing”, Ian Duncan refers to Alex Neil’s visit to Brussels last week. I suggest that the committee writes to the cabinet secretary to ask for an update on where things are as far as the EU goes—we have to be careful not to tread on the toes of our Health and Sport Committee colleagues, who obviously have a great interest in the policy—so that we can find out how he got on in Brussels last week and the Scottish Government’s intention in going forward. Is the committee happy with that?

Members *indicated agreement.*

The Convener: Are we happy to send the “Brussels Bulletin” to all the relevant committees? The specific committees that we should target include the Justice Committee, the Equal Opportunities Committee and the Health and Sport Committee. Is that agreed?

Members *indicated agreement.*

Balance of Competencies

10:13

The Convener: Agenda item 4 is consideration of the clerk’s paper on the balance of competencies. Ian Duncan will give us some insight into that and what it means for the committee, and we will then take comments and questions.

Ian Duncan: As you will probably be aware, earlier this year the UK Government declared its intention to re-examine the balance of competencies between the UK and the EU with the purpose of ensuring that laws are made in the right place. The approach that the UK Government has decided to take is comprehensive and it will take two full years to complete. The annex to the paper sets out all the areas that will be explored, which include every single competence. As you can appreciate, it is a big task.

In the first semester, the UK Government will look at what I would contend are broadly reserved issues—sorry, there was a missing page in the paper, so you may have been given an extra page—such as the internal market, taxation, animal health and so on. However, you will find that every single area that the Scottish Government covers is also touched upon.

Given that the review is a big task, I suggest that we first ask the Scottish Government how it intends to approach the issue, so that we can get a feel for how it intends to tackle it. We should also alert the subject committees to the review because it will impact on each of them in specific ways. Once we get a response from the Scottish Government, I think that we should come back and look at how best to take the matter forward.

I will give some examples of the areas of competence that are being considered. There has been a lot of discussion on whether the competence for fisheries should lie more with Scotland or with the EU. On immigration and asylum, as Hanzala Malik has said, the EU might have greater competence than the domestic authorities. There are tensions pulling in both directions. However, I think that the first stage is to get an appreciation of where the Scottish Government stands on the review. We can then decide on the best course of action for this committee and the subject committees.

10:15

The Convener: We can see how comprehensive the review is and how detailed a piece of work it could be. At the previous meeting of the European Chairs-United Kingdom group, we had a brief discussion on the matter with the

House of Lords European Union Committee chairman, Lord Boswell, who has some grave concerns about the process. I hope that we can work with the other devolved European committees in Wales and Northern Ireland and consider making a joint submission to the House of Lords inquiry to ensure that the devolved nature of different areas of legislation—given that Scots law has always maintained its independence in that respect—is at least recognised. I do not think that the initial approach to the balance of competencies between the UK Government and Brussels included recognition that the law in Scotland is slightly different and should therefore be approached differently.

Do members have any comments or questions?

Jamie McGrigor: I was going to ask whether we will get the results of the review as they come along, given that it is a work in progress and it will obviously take a long time. However, I note that the paper states:

“reports on areas of competence will be published as the review progresses”.

Presumably, we will learn about it a bit like a story that has chapters. I imagine that we will look forward to the next instalment.

The Convener: Absolutely.

Is the committee content to write to the Scottish Government to seek an update on its approach; to alert the subject committees to the review, the schedule and its implications; and to consider our approach once we have done that?

Members *indicated agreement.*

The Convener: We will now move on to agenda item 5—

Jamie McGrigor: Sorry. Can I just ask whether the order in which the areas of competence are being considered is completely arbitrary? I see that fisheries is quite close to the end, whereas taxation is right at the beginning.

Ian Duncan: I do not think that the order is arbitrary, but I could not necessarily tell you why that order has been chosen.

Jamie McGrigor: The list is certainly not in alphabetical order.

Ian Duncan: It is not in alphabetical order and it does not seem to depend on the value of the area of competence. The broader and more important areas, which are mostly reserved, seem to be set out at the beginning. For example, the internal market and taxation are important areas. There must be a reason for the order, but I am afraid that I do not know what it is.

Jamie McGrigor: I just wondered.

The Convener: We can ask.

Ian Duncan: Yes, we can ask about that.

The Convener: If members are happy, we will move on to agenda item 5, which we agreed to take in private. I thank all members of the public and ask for the public gallery to be cleared.

10:18

Meeting continued in private until 10:41.

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