



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

### **JUSTICE COMMITTEE**

Tuesday 21 January 2014

Session 4

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## **Tuesday 21 January 2014**

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### **JUSTICE COMMITTEE** **3<sup>rd</sup> Meeting 2014, Session 4**

#### **CONVENER**

\*Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP)

#### **DEPUTY CONVENER**

\*Elaine Murray (Dumfriesshire) (Lab)

#### **COMMITTEE MEMBERS**

\*Christian Allard (North East Scotland) (SNP)

\*Roderick Campbell (North East Fife) (SNP)

\*John Finnie (Highlands and Islands) (Ind)

\*Alison McInnes (North East Scotland) (LD)

\*Margaret Mitchell (Central Scotland) (Con)

\*John Pentland (Motherwell and Wishaw) (Lab)

\*Sandra White (Glasgow Kelvin) (SNP)

\*attended

#### **CLERK TO THE COMMITTEE**

Joanne Clinton

Irene Fleming

#### **LOCATION**

Committee Room 6



## Scottish Parliament

### Justice Committee

Tuesday 21 January 2014

[The Convener opened the meeting at 10:00]

### Decision on Taking Business in Private

**The Convener (Christine Grahame):** I welcome everyone to the Justice Committee's third meeting in 2014. I ask everyone to switch off mobile phones and other electronic devices completely, as they interfere with the broadcasting system even when they are switched to silent. No apologies have been received.

Under agenda item 1, does the committee agree to consider in private a draft stage 1 report on the Criminal Justice (Scotland) Bill at item 4 today and at future meetings?

**Members** indicated agreement.

### European Union Legislative Proposal

10:00

**The Convener:** Item 2 is consideration of whether an EU legislative proposal meets the principle of subsidiarity. The proposal is for a directive of the European Parliament and the Council of the EU on the strengthening of certain aspects of the presumption of innocence and of the right to be present at trial in criminal proceedings. I remind members that the subsidiarity principle is that, unless the EU has exclusive competence, action should be taken at the lowest level of governance that is consistent with the subject matter and the objective.

Three options are available to us. We could agree that the proposal complies with the subsidiarity principle, in which case no further action would be required; that the proposal does not comply, which would trigger a motion in Parliament; or that we should write to the relevant Westminster committees to highlight the concern that the proposal may breach the principle.

This is our only opportunity to raise any concerns that we have with the Westminster committees, which are meeting tomorrow. As usual, there is plenty of time to consider European stuff—my goodness, the time gets shorter by the minute.

I ask Roderick Campbell, our EU reporter, to give his views on whether the proposal meets the subsidiarity principle. I will then invite views from other members.

**Roderick Campbell (North East Fife) (SNP):** I found it difficult to reach a full view on the proposal. I note the Scottish Government's view that there is evidence that the proposal breaches the subsidiarity principle. However, as a private paper to us from the Parliament's solicitor indicates, the United Kingdom Government accepts that, if there is a lack of mutual trust between judicial authorities of different EU member states, the EU's conclusion that EU-wide action is necessary is valid.

My problem is that it is difficult to reach a full view when we have seen no evidence to the contrary. It might help if Joanne Clinton outlined the procedural problems that we have.

**Joanne Clinton (Clerk):** The main procedural problem is that the Westminster committees will meet tomorrow. If members want to have input, a decision must be made today.

**The Convener:** That is ridiculous. I get longer to decide what blend of butter to buy.

**Elaine Murray (Dumfriesshire) (Lab):** I agree with Rod Campbell that it is difficult to come to a conclusion. In relation to what the Scottish Government said, I accept that there is probably no evidence of concerns about people from other EU member states who go on trial in Scotland. However, I wonder whether the reverse position applies—I do not know the answer. Can a Scottish citizen be assured of their full human rights in a trial in another EU state? Do we have any evidence of concern about that?

**The Convener:** That is a good point.

**Margaret Mitchell (Central Scotland) (Con):** Given the short time, perhaps we could email our concerns. The position is more or less outlined in option (c) in paper 1:

“the proposal may breach the principle of subsidiarity.”

Could we put our concerns to the UK Government and take it from there?

**The Convener:** We will send a letter as an attachment. I call Roderick Campbell.

**Roderick Campbell:** Does anybody else want to speak?

**The Convener:** No. I am happy for you to go ahead and chair the meeting.

**Roderick Campbell:** I am sorry, convener—it is early in the morning.

**The Convener:** You are doing a Margaret Mitchell.

**Roderick Campbell:** Realistically, all that we can do is sit on the fence, because we do not have the full picture. Otherwise, we would be accepting what the Scottish Government says without scrutiny.

**The Convener:** Can we say that the committee has had no opportunity to consider the matter in any depth?

**John Finnie (Highlands and Islands) (Ind):** I support that position. The committee has spent a number of months scrutinising legislation. Despite different people’s views, we are still accused of acting in haste. Today, we are being expected to act in a short timeframe that is totally unacceptable.

**The Convener:** This is not the first time.

**John Finnie:** It is consistent with what we had to deal with last week.

**The Convener:** The committee is experienced in justice issues in Scotland and it is inappropriate for such a matter to come to us so late from the UK level. We need time. All that we can do is wring our hands in misery and say that we cannot think about the issue in any depth. That is an important point to make.

**Roderick Campbell:** We might want to emphasise that the committee has seen no evidence that the subsidiarity principle is not being breached.

**The Convener:** That is important. Is everybody happy with that?

**Members** indicated agreement.

## Subordinate Legislation

### Act of Sederunt (Fees of Sheriff Officers) 2013 (SSI 2013/345)

10:05

**The Convener:** Item 3 is consideration of one negative instrument, which increases the fees that are payable to sheriff officers by 2.15 per cent from 27 January. Do members have any comments? Are you alive out there?

**Alison McInnes (North East Scotland) (LD):**  
There are no comments.

**The Convener:** Members have no comments.

**Elaine Murray:** I have a question. Does the act of sederunt concern the additional fees that are levied on an individual when they are in council tax arrears and the matter goes to sheriff officers, for example?

**The Convener:** We can find that out. I imagine that the fees that are payable to sheriff officers go across the spectrum of serving warrants and citations and so on, and that rates are set for that.

We will wait for the public gallery to clear and then go into private session.

10:06

*Meeting continued in private until 12:30.*



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