

EU Balance of Competences Review: Police and Criminal Justice report
Stakeholder Roundtable
Edinburgh, 23 June 2014

The following is a summary record of key points made by participants during the event. It was agreed that the event would run under the Chatham House Rule. An agreed note of the meeting would be used as evidence for the Police and Criminal Justice Balance of Competences report, but contributions at the event would not be attributed directly to any individuals or organisations.

General comments - Has the development of EU police and criminal justice competence over the years led to improved cross-border co-operation?

1. The general feeling was that there had been an improvement and that having a 'point of contact' through Eurojust, Europol and the European Judicial Network was the most important benefit. Previous to this, co-operation had to operate within the "great unknown".
2. One area of concern was the 'fit' of EU justice and home affairs (JHA) legislation with the UK common law systems. Member State transposition is also a difficulty in this context as sometimes there is a very literal interpretation which doesn't take account of the common law position. Article 62 of the TFEU makes reference to different legal systems but there is little evidence of this being considered in practice. It is the responsibility of the UK and Ireland to identify these issues and to get them understood at EU level.
3. The 'firm rebuff' of the Commission in regard to definite Member State concerns about the EPPO was also discussed. It was pointed out that there was a need for more accountability to monitor the Commission in ensuring that Member State concerns are taken into account. The EU should be adding value.
4. Legislation needs to be implemented effectively before adding to it. The European Commission should undertake post-legislative evaluation of existing measures before proposing new ones and there is a need for improved impact assessments to ensure they are substantive.

Judicial Cooperation

5. A comment on terminology here in regard to the term 'judicial'. In the UK judges do not become involved at a practical level whereas prosecutors are part of judicial systems in other Member States.
6. There is a further mismatch of personnel in that there is a role for the police in this area whereas it is purely prosecutors in most other Member States.

7. An attendee cited an example of how useful Eurojust is. Witnesses due to appear in Scotland from Slovakia decided they didn't want to travel to Scotland five days before the court date. It usually takes six to seven weeks to set up a video link. Eurojust managed to set up a video link for this case successfully in good time.
8. It was also commented on that there is a lack of experience of other MS systems amongst local legal defence practitioners who are asked to support UK citizens subject to proceedings in other Member States – this needs to be addressed with training and education.

Police cooperation

9. Europol makes it easier to operate in other Member States – it is good at facilitating. Interpol was relieved when Europol was introduced as it was overstretched.
10. As the EU expands, there will be new Member States where there will be more accessible contacts.

11. Future challenge: education of practitioners

It was suggested that there is a degree of ignorance amongst practitioners in regard to how the UK operates over jurisdiction borders, and that practitioners do not know about EU tools, so an awareness and education needs to be addressed.

12. Future challenge: new forms of criminality

Europol now has units on murder, cybercrime and honour killing. As new forms of criminality emerge, how will the EU react?

Minimum standards in criminal law and procedure?

13. Attendees discussed whether progress in this field is primarily to raise standards, or to create minimum standards. It was suggested that if you have these standards it encourages people to “behave better”, as something to aspire to - an incentive. Also, as UK citizens will travel abroad it is important that they will be entitled to similar rights outside of the UK.
14. The jurisdiction of the European Court of Justice (ECJ) in regard to PCJ matters post 1 December 2014 was discussed. As a consequence will the court at Strasbourg ‘fade’? Most other Member States have a domestic bill of rights but the UK does not – will the UK be able to avoid endless resort to Strasbourg and the subsequent ill-considered judgements?

15. Future Challenge: Terrorism and cybercrime are global problems.

Future challenges in this area will contain a continuation and enlargement on current problems. Technology is unpredictable and it is not possible to foresee new forms of criminality. In light of this, it was suggested that 28 heads are better than one, and that it may be easier for the EU to negotiate as a whole rather than bilaterally.