

Justice Committee

Subsidiarity

Letter from the Convener to William Cash, Chair, European Scrutiny Committee, House of Commons

At its meeting on 3 September, the Justice Committee considered Commission Proposal for Council Regulation on the European Agency for Criminal Justice Co-operation (Eurojust) (COM(2013) 532 final). We agreed to write to the European Union Select Committee and the European Union Justice, Institutions and Consumer Protection Sub-Committee in advance of their scrutiny of the proposal to highlight our concerns that it may breach the principle of subsidiarity.

We accept that there is an argument that, because Eurojust is an existing agency, the necessity test has been established. However, we have concerns regarding the proposal in Article 8(3) that national members will be able to order investigative measures in undefined "urgent cases". This changes the current position where national members are only able to order investigative measures "in agreement with the competent national authorities". We consider it difficult to determine whether the proposal meets the subsidiarity principle while urgent matters remain undefined. Furthermore, no impact assessment has been produced on this proposal and little effort appears to have been made to establish whether its objectives could be better achieved by continuing with the existing arrangements which we believe better respect national and local jurisdictions.

We have also placed on record our concerns that the proposal is somewhat premature, given that the Council has not yet concluded its evaluation of the current structure of Eurojust.

The official report of our meeting of 3 September will be available online from Monday 9 September at the following link:
<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/29847.aspx>

I understand that your Committee is considering this proposal for compliance with the subsidiarity principle on 11 September. I trust that our comments will assist you in this scrutiny.

Christine Grahame MSP
Convener
5 September 2013