

THE MAGISTRATES' ASSOCIATION
JUDICIAL POLICY & PRACTICE COMMITTEE

UK Views on EU JHA Future Work Programme 2009 - 2014

Introduction

The Magistrates' Association welcomes the opportunity to comment on this paper and makes the following submissions. These are confined to those areas on which magistrates have influence in dealing with criminal, family and some civil court work and where issues may impinge on the manner in which they perform their duties.

Victims and Vulnerable Witnesses

The protection of all witnesses but especially those who are victims and/or vulnerable is essential so that justice is done in every case. The proposals to enhance this area of the justice system including the provision of appropriate financial resources, eg legal aid, to implement that requirement are therefore strongly supported.

Mutual Recognition

The European Union (EU) Framework Decision (FD) on the Mutual Recognition of Financial Penalties (MRFP) allows fines and certain other financial penalties that are imposed in one Member State to be transferred and enforced in another. It applies to fines, compensation and court costs imposed by a court or certain other authorities in criminal proceedings, including road traffic offences.

This decision has not been implemented in the UK so that penalties for offences committed in the UK may not be recovered. It is important that these arrangements are implemented across the whole of Europe so that all citizens are treated equally and fairly.

Although "Disqualification" covers a range of issues, in respect of road traffic offences it is essential that progress is made to ensure that confiscation of driving licences is consistent across the EU and that sentences imposed by the courts in one nation are effective and monitored in other states. Arrangements for a uniform system of penalty points should also be pursued.

The increased movement of goods across national borders in Europe has generated considerable concern over road safety making the control of Heavy Goods Vehicles

(HGVs) extremely important. The Vehicle and Operator Services Agency (VOSA) monitors roadworthiness of commercial vehicles in the UK. It is important that all such vehicles are operated to a common standard and regulation and that the penalties imposed for offences committed are equivalent across the whole of Europe.

The restrictions that apply to drivers' hours should be operated uniformly including all cross-border journeys within the Union.

The paper indicates that “at an operational level, there are many obstacles in the way of police action across borders”. Clearly there are benefits from the co-operation between national police forces in relation to international crime but the authority to operate across national boundaries may be a step too far.

Exchange of Good Practice

It is important that the best procedures and practices are shared and hence support to facilitate such opportunities should be pursued. An initiative in this area is being explored for Lay Judges (Magistrates or Justices of the Peace) through the auspices of seven Associations in Europe. Such initiatives should be encouraged and supported with the necessary financial resources.

Use of Technology

The paper encourages the use of the new technologies available including video conferencing, machine translation. It is essential to proceed with caution and at a pace that ensures that all aspects of the judicial process are protected as required by the law. This is important especially where video conferencing is being pioneered for some court hearings.

Interpretation

The increasing movement of people throughout the European Union with a wide range of languages requires a professional approach for interpretation in all the stages of the criminal justice process. This includes the period from initial interviews at the police station through to the court proceedings including trial and sentencing. Defendants and other court users must be given every opportunity to ensure they fully understand all the proceedings and decisions made at every stage of the process.

Much progress has been made in the UK to apply the guidance that has been prepared for use in Magistrates' Courts. There is a need across Europe for a common approach so that all are able to understand and provide relevant evidence to any case without disadvantage due to language.

Some problems remain due to the availability of qualified interpreters and hence a wider register of interpreters referred to in the paper may assist.

The Association reserves judgement on whether “machine translation” is a possibility in this field, certainly in the near future.

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