



The Scottish Parliament
Pàrlamaid na h-Alba

Criminal Justice Committee

Angela Constance MSP
Cabinet Secretary for Justice and Home Affairs
Scottish Government

and

Rt Hon Dorothy Bain KC
Lord Advocate
Crown Office and Procurator Fiscal Service

Via email only

28 May 2025

Dear Cabinet Secretary and Lord Advocate

Priorities for the Scottish Criminal Justice System in the forthcoming review of the Trade and Cooperation Agreement between the United Kingdom and the European Union

I am writing to you in the wake of [research work](#) which has been undertaken for the Criminal Justice Committee by members of the Scottish Parliament Academic Fellowship. The purpose of this work by the Committee is to inform parliamentary scrutiny and ensure that key Scottish and UK stakeholders work to deliver on the specific needs of the Scottish criminal justice system in the forthcoming review of the Trade and Cooperation Agreement (TCA) between the United Kingdom and the European Union in 2026.

Between March 2023 and January 2024 Gemma Davies, Associate Professor of Criminal Law at Durham University, and Helena Farrand Carrapico, Professor of International Relations and European Politics at Northumbria University, undertook research on behalf of the Committee. The aim of this research has been to [assess the actual impact](#) of the UK's withdrawal from the European Union on Scotland's criminal justice system. The Committee took written and [oral evidence](#) from Professors Davies and Farrand Carrapico on 30 April 2025.

This work is intended provide Members of the Scottish Parliament and key stakeholders in Scotland and in the UK Government, with a roadmap of the implications of the signing of the TCA on Scotland's criminal justice system to date.

To that end, the Committee is seeking a written response from you to the following issues-

Cabinet Secretary for Justice and Home Affairs:

- The research undertaken for the Committee highlights an overall increased workload for both Police Scotland and the Crown Office and Prosecutor Fiscal Service in police and judicial cooperation post-Brexit. It is vital that both organisations have the funding and personnel required to keep the public safe. To what extent is the additional resourcing and budgetary need of post-Brexit work being met by Scottish Government funding to the Scottish Police Authority/Police Scotland and COPFS?
- Will the Scottish Government's 2026/27 budget provide any specific supports to assist Police Scotland and COPFS to properly engage in the upcoming UK-EU review process of the TCA?
- The research undertaken for the Committee highlights that Scottish bodies are not consistently consulted when bilateral agreements, including Memoranda of Understanding are negotiated between the UK Government and an EU Member State. The UK Government has signed 24 (at the time of writing) bilateral declarations with EU Member States, since 2021, which cover areas of criminal justice. What steps are Scottish Ministers undertaking with UK counterparts to address this and ensure Scotland's interests in criminal justice are fully engaged as part of the UK Government's negotiations with the EU, or other international partners?
- The TCA overall is governed by the UK-EU Partnership Council – a body created by the TCA to ensure its implementation. There is, at present, no provision for Scottish Parliaments to scrutinise Partnership Council decisions before they take place or ensure alignment with Scottish interests. Do the Scottish Ministers intend to provide regular statements to the Parliament to address this deficit? Will you keep the Committee regularly informed, in writing, of discussions between Scottish and UK ministers on Partnership Council decisions?
- At present, there is no representation of the Scottish Parliament in the UK-EU Parliamentary Partnership Assembly (PPA), which hinders the representation of Scottish interests. Would Scottish Ministers support any discussions/decisions with the UK Government and UK Parliament to ensure MSPs are represented in the PPA on a cross-party basis?

Cabinet Secretary and Lord Advocate:

- The research undertaken for the Committee highlights that poor prison conditions in Scotland have led to requests for assurances in extradition/surrender cases. This, the research states, is causing delay in Scotland receiving wanted persons from overseas and increases the risk that extradition is refused. What is the position of the Scottish Ministers and COPFS to this? Can you reassure the Committee that conditions in the prison estate in

Scotland will not give rise to delays or refusals by EU members states in extradition/surrender cases?

Lord Advocate and COPFS:

- The research undertaken for the Committee highlights reported backlog of extradition cases in Edinburgh Sheriff Court. Can you set out the current position with extradition cases, and what the average timescale is for their completion?
- The research undertaken highlights difficulties in transferring proceedings to EU Member States when a transfer is in the public interest. Is COPFS putting any additional protocol or guidance document in place to ensure decisions on transfer are consistent, transparent and fair to all stakeholders including victims?
- What is the adequate level of resources needed to be able to transfer proceedings when extradition is unavailable or refused?

The Committee is seeking a written response to these questions by **Friday 27 June 2025**.

The Committee has also written in similar terms to Police Scotland, the UK Home Secretary, the Lord Chancellor and Secretary of State for Justice, and the chairs of the House of Commons Home Affairs Committee and Justice Committee, and the House of Lords European Affairs Committee. These letters are available on the Committee website¹. Any responses received will also be published in due course.

Yours sincerely,



Audrey Nicoll MSP
Convener

¹ Correspondence is available on the Committee's Inquiry webpage: <https://www.parliament.scot/chamber-and-committees/committees/current-and-previous-committees/session-6-criminal-justice-committee/business-items/research-on-impact-of-brexit-on-law-enforcement>