



**COUNCIL OF
THE EUROPEAN UNION**

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COVER NOTE

from: Secretary-General of the Italian Senate
date of receipt: 15 April 2010
to: Mr Pierre de Boissieu, Secretary-General of the Council of the European Union
Subject: Initiative by the Kingdom of Belgium, the Federal Republic of Germany, the Kingdom of Spain, the Republic of Estonia, the French Republic, the Republic of Hungary, the Italian Republic, the Grand-Duchy of Luxembourg, the Republic of Austria, the Republic of Portugal, Romania, the Republic of Finland and the Kingdom of Sweden for a Directive of the European Parliament and of the Council on the rights to interpretation and to translation in criminal proceedings [ref.: PE-CONS 1/10 DROIPEN 6 COPEN 22 CODEC 41]
– Reasoned opinion on the application of the principles of subsidiarity and proportionality

Delegations will find attached a translation of a letter showing that the above initiative complies with the principle of subsidiarity.

Senate of the Republic
The Secretary-General

Rome, 14 April 2010

Ref. No 168/UC

Sir,

On behalf of the President of the Senate of the Italian Republic, I enclose herewith the comments of the Committee on EU Policies on the following acts referred to it for a reasoned opinion regarding the application of the principles of subsidiarity and proportionality:

- Initiative by a group of Member States for adoption of a Directive of the European Parliament and of the Council on the rights to interpretation and to translation in criminal proceedings (PE-CONS 1/10);
- Initiative by a group of Member States for adoption of a Directive of the European Parliament and of the Council on the European protection order (PE-CONS 2/10);
- Proposal for a Regulation of the European Parliament and of the Council concerning European Union financial contributions to the International Fund for Ireland (2007-2010) (COM(2010) 12 final).

(Complimentary close).

Mr Pierre de Boissieu
Secretary-General of the
Council of the European Union
1048 BRUSSELS

COMMENTS AND PROPOSALS BY THE 14th STANDING COMMITTEE

(EU Policies)

under Rule 144(1) of the Senate Rules

(Drafter: Mr Boschetto)

Rome, 24 February 2010

Act assessed:

Initiative for adoption of a Directive of the European Parliament and of the Council on the rights to interpretation and to translation in criminal proceedings (PE-CONS 1/10)

The 14th Standing Committee on EU Policies, having examined the above act,

whereas it incorporates the proposal for a Framework Decision already submitted by the European Commission on 8 July 2009 (COM(2009) 338), on which on 30 July 2009 the 14th Committee issued a favourable opinion with some comments, which the European Commission addressed in a long, well-argued reply of 16 November 2009;

whereas the reason for the initiative is that, under the Lisbon Treaty, which extends the legislative procedure to judicial cooperation in criminal matters, the European Commission's proposal has to be turned into one for a Directive; whereas, until fully empowered in its new composition, upon approval by the European Parliament, given on 10 February 2010, the European Commission could conduct day-to-day business only and was thus unable to submit any legislative proposals; whereas a group of Member States therefore made use of the initiating powers expressly available under the Lisbon Treaty;

whereas, lastly, the initiative follows the proposal for a Framework Decision in spirit and in approach, while making some not insignificant changes,

for its part, comes out in favour, while noting the following points:

(a) As regards the principle of subsidiarity:

The initiative seems appropriate inasmuch as the objective of establishing common minimum standards cannot be achieved by Member States individually, but only at Community level.

To the Chairman of
the 2nd Standing Committee
At the Senate

(b) As regards the principle of proportionality:

The initiative seems appropriate in that Union action does not exceed what is necessary to achieve the objective established.

(c) As regards the merits of the proposal:

The Committee is entirely happy with the new wording of Article 4, which, in stipulating that interpreting and translation costs are to be borne by Member States, irrespective of the outcome of proceedings, fully reflects a comment made in the opinion issued by the 14th Committee when considering the proposed Framework Decision, thus showing the value and effectiveness of the dialogue which Member States' parliaments can and should engage in, directly or via their governments, with the European Union institutions.

The new provision included in Article 3 of the initiative, enabling an oral translation or an oral summary of documents to be provided instead of a written translation, should be worded as clearly and precisely as possible, so as to pave the way for a potential streamlining and shortening of proceedings, without thereby in any way detracting from suspects' right to a fair trial.

The reasons for omitting from the initiative any reference to training for magistrates, lawyers and court staff are on the whole acceptable, since the issue of vocational training, so as to ensure that the right to interpreting and translation is actually observed in practice by Member States, is dealt with in the proposal for a Resolution of the Council and of the Governments of the Member States, meeting within the Council, submitted by the Swedish Presidency of the European Union as an accompaniment to the proposed Framework Decision.

Like the proposed Framework Decision, lastly, the initiative does not safeguard the right to interpreting and translation while a sentence is being served as well. In its reply of 16 November 2009, the European Commission undertook to give further consideration to this issue, as specifically commented on in the opinion issued by the 14th Committee. It would therefore be desirable for careful attention to be paid to this point in the further course of the procedure which should lead to swift adoption of the Directive.

(s.) Gabriele Boschetto
