

EU Committee of the Federal Council on 9 March 2010

### **Statement by the Committee**

on COM (2010) 12 final 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) (26077/EU XXIV.GP)

The EU Committee of the Federal Council has decided:

#### **I.**

#### **Reasoned opinion to the Presidents of the European Parliament, the Council and the European Commission**

**in accordance with article 5 of the Treaty on the European Union and article 6 of the Protocol on the Application of the Principles of Subsidiarity and Proportionality**

The EU Committee of the Federal Council discussed the contents of COM (2010) 12 final 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) (26077/EU XXIV.GP) at a public session on 9 March 2010 and comes to the following conclusions:

#### **A. Opinion**

The content of proposed regulation does not conflict with the principle of subsidiarity.

#### **B. Reasons**

1. The EU Committee explicitly welcomes the proposed Regulation as a valuable and necessary means of strengthening solidarity between the Member States and their populations. It is also important for peacekeeping and reconciliation in this particular region.
2. The proposal does not conflict with the criteria for subsidiarity, and the principle of proportionality also appears to be respected.
3. The EU Committee nevertheless has the following concerns in this regard:
4. Art. 5 no. 2 of the Protocol explicitly demands that every draft European legislative act be justified with regard to the principles of subsidiarity and proportionality. The justification must comply with the demands of article 5 of the Protocol and should contain in particular a detailed statement based on qualitative and quantitative criteria as to why the Commission believes that the proposal complies with the principles of subsidiarity and proportionality. This statement demanded by the treaties is completely absent from the proposal.
5. In the opinion of the EU Committee of the Federal Council the provisions on the application of the subsidiarity principle are an inalienable component of the subsidiarity principle, as set forth and guaranteed in the treaties.
6. This proposal is therefore formally non-compliant with the principle of subsidiarity because of the complete absence of the agreed statement. The Committee refrains from explicitly objecting to this violation, as provided for in article 6 of the Subsidiarity Protocol, because it is one of the first proposals following the entry into force of the Treaty of Lisbon and because it expects that the Commission will provide

the statement called for in article 5 of the Protocol by the time the proposal is dealt with in the Council and the European Parliament.

7. In this context, it should also be pointed out that there is no explanation of the choice of the legal basis in accordance with article 352 of the Treaty on the Functioning of the European Union (TFEU). The references to a decision of the European Court of Justice and to the earlier legal basis of article 308 of the Treaty establishing the European Community are not sufficient.
8. The Committee expects that future draft legislative acts will contain a detailed and comprehensible explanation based on article 352 TFEU of the specific Treaty aims that the legislative act will fulfil and the reasons why these aims cannot be achieved in the framework of the authority invested in the Union on the basis of the treaties.
9. The absence of the statement therefore violates the expectation guaranteed by the treaties of Member States that the Commission will submit only substantiated proposals for legislative acts.

## **II.**

The EU Committee of the Federal Council expects the relevant members of the Federal Government in the Council to approve this draft Regulation but will request a statement as described above.

## **III.**

The EU Committee is submitting this statement to the President of the Federal Council for publication as a communiqué in accordance with section 34 paragraph 6 of the Rules of Procedure of the Federal Council (GO-BR).

## **IV.**

The EU Committee requests the President of the Federal Council to transmit this communiqué to the National Council, the Austrian Federal Government, the provincial governments, the Verbindungsstelle der Bundesländer (Liaison Office of the Federal Provinces) and Städte- und den Gemeindebund (Association of Towns and Municipalities) and the statement adopted under Point I to the President of the European Parliament, the Council and the Commission, the Committee of the Regions, COSAC and IPEX.