



EUROPEAN COMMISSION

Brussels, 05 MAI 2010
C/2010/2614

Dear President,

The Commission thanks the Austrian Bundesrat for having examined the 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} and for having transmitted its opinion.

After the entry into force of the Lisbon Treaty, it is the first opinion the Commission has received on a draft legislative act falling under the scope of the new subsidiarity control mechanism (Protocol 2). Given the fact that in its conclusions the Bundesrat states that the proposal complies with the principle of subsidiarity, this opinion is not to be considered as a (negative) reasoned opinion in the sense of Protocol 2.

However, and despite the positive conclusions of the opinion, the Commission has taken note of the concerns raised therein, namely as regards the proposal's justification with regard to the principle of subsidiarity as well as with regard to the legal basis. I hope that the Austrian Bundesrat will deem satisfactory the following additional information.

Subsidiarity and Proportionality

The International Fund for Ireland was established in 1986 by means of an International Agreement between the Governments of Ireland and of the United Kingdom of Great Britain and Northern Ireland as an independent, international organisation, whose objectives are to promote economic and social advance and to encourage contact, dialogue and reconciliation between nationalists and unionists on the island of Ireland.

Therefore it was the wish of the two founding governments that the Fund remains independent and that it receives money from donors rather than been financed by them.

Both governments, in setting up these arrangements, recognised that the two communities are reluctant to apply for funding from governmental departments and that it is necessary for any interventions in support of peace and reconciliation to be financed by third parties that are neutral to the conflict. Hence the IFI was created to be clearly independent from the two governments and to accept funding from donors. This helped the two communities to perceive the Fund as neutral and to engaged in peace and reconciliation funded activities. As a matter

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of fact, evaluations of the IFI and of the PEACE programme underline that the fact that these interventions were funded by the EU was the critical factor for the two communities to become involved in the peace process through these neutral to the conflict instruments.

The Fund has decided not to seek donations beyond 2010 and this proposal for regulation provides contributions up to the last year that the Fund is accepting donations.

For these reasons the Commission believes that the 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) respects the principles of subsidiarity and proportionality.

Legal basis (Article 352 TFEU)

The proposed Regulation is based on Article 352 of the Treaty on the Functioning of the European Union as indicated in the judgment of the European Court of Justice. The rationale behind the use of Article 352 of TFEU is that since the EU financial contributions are to be used in accordance with the IFI founding agreement, and since the Commission is not undertaking the formulation or implementation of the IFI activities, then it is possible that some activities undertaken in line with the founding agreement of the IFI do not fall under the scope of the cohesion policy. Therefore it is necessary to have Article 352 of TFEU to cover that eventuality.

I look forward to developing our policy dialogue further in the future.

Yours sincerely,

Maroš Šefčovič
Vice-President of the European Commission