

REPUBLIC OF AUSTRIA

President of the upper
house of the Austrian
Parliament (Bundesrat)

Vienna, 9 April 2010
Ref.: 27000,0040/9-L2.1/2010

Sir,

At its meeting of 6 April 2010 the EU-Committee decided in the course of its discussions on the EU draft Proposal for a Directive of the European Parliament and of the Council on the right to interpretation and translation in criminal proceedings COM(10)82 final (27797/EUXXIV.GP) on the following statement:

“Statement of the Committee

Concerning **the draft Proposal for a Directive of the European Parliament and of the Council on the right to interpretation and translation in criminal proceedings COM(10)82 final (27797/EUXXIV.GP)** (deadline for submitting comments 10.5.2010)

Reasoned opinion

In an open session on 6 April 2010 the Bundesrat EU Committee discussed the draft Proposal for a Directive of the European Parliament and of the Council on the right to interpretation and translation in criminal proceedings COM(10)82 final (27797/EUXXIV.GP) and came to the following conclusion:

A. Opinion:

The Commission proposal under discussion is incompatible with the subsidiarity principle. The Member States’ initiative PE-CONS 1/10 for a Directive of the European Parliament and of the Council on the rights to interpretation and to translation in criminal proceedings (25797/EU XXIV.GP) is, however, compatible with the subsidiarity principle.

B. Grounds:

1. Firstly, the Committee appreciates the fact that the Commission has provided an

extensive, thorough and clear analysis of how its proposal satisfies the principle of subsidiarity.

2. However, the subsidiarity principle is contradicted, most notably because the proposal attempts to harmonise the various criminal law systems in the Member States without there being any compelling need to do so, and imposes vastly different financial burdens on the Member States as a consequence. It may be necessary to check whether Article 82(3) of the TFEU applies. In particular, where defence counsel is chosen freely, for example, the Member States should have the possibility, applying social criteria, of bearing the costs only where accused persons cannot pay themselves. In accordance with the subsidiarity principle, therefore, there should be no requirement to ensure that a list of procedural documents to be translated is drawn up and that communication between the suspected or accused person and his legal counsel is interpreted.

3. Reference is also made to the opinion delivered on 3 September 2009 on the Commission proposal for a Council Framework Decision on the right to interpretation and to translation in criminal proceedings (COM (2009)338 final).

4. By contrast, the Committee supports the Member States' initiative PE-CONS 1/10 (25797/EU XXIV.GP) on the same subject.”

Complimentary close



(Peter Mitterer)