

Brussels, 13 SEP. 2010
C/2010/ 6172

Ms Barbara Prammer
President of the Austrian Nationalrat
A-1017 WIEN

Dear President,

The European Commission thanks the Austrian Nationalrat for its opinion on the proposal for a Directive of the European Parliament and of the Council on combating the sexual abuse, sexual exploitation of children and child pornography, repealing Framework Decision 2004/68/JHA {COM(2010) 94 FINAL}. We welcome the assessment of the Austrian Nationalrat that the Commission proposal complies with the principles of subsidiarity and proportionality.

The European Commission points out that it has indeed carried out an estimation of the financial impact involved in some of the measures proposed, where the cost may be most evident. This is the case for free legal counselling and legal representation, individual risk assessment for offenders, offering programmes for offenders or potential offenders, as well as mechanism to block access to websites containing child abuse material¹.

The European Commission is aware of the need for clarity and legal certainty in legislation, in particular in criminal law matters. The level of detail that can be reached in the text of a directive is limited by the very nature of this instrument, which according to the Treaty is binding upon Member States as to the result to be achieved, but leaves to the national authorities the choice of form and methods. It is the duty of the national legislator to ensure that criminal law provisions adopted pursuant to this directive are both precise and consistent with the national legal system.

The European Commission takes note of the remarks of the Austrian Nationalrat, in particular those concerning the liability of legal persons, the reporting of offences and awareness-raising measures. The corresponding provisions of the Commission proposals will be subject to detailed analysis in the Council and the European Parliament. The Commission will take into account during the discussions the remarks of the Austrian Nationalrat.

Yours faithfully,

¹ *Impact Assessment, p. 26, 35 and 36. Commission Staff Working Document accompanying the proposal of a Council Framework Decision on combating the sexual abuse, sexual exploitation of children and child pornography, repealing Framework Decision 2004/68/JHA. SEC(2009) 355.*