



EUROPEAN COMMISSION

Brussels, 20.3.2012  
C/2012/ 1789 final

Dear President,

The European Commission would like to thank the Bulgarian National Assembly for its Opinion on the proposed Directive of the European Parliament and of the Council on the right of access to a lawyer in criminal proceedings and on the right to communicate upon arrest {COM(2011)326 final} and welcomes the broad support expressed as well as the various constructive comments made on the text.

The Commission takes in particular note of the concerns expressed by the Bulgarian National Assembly as regards the proposal's compliance with the principle of proportionality and would like to take this opportunity to make the following comments:

Regarding Article 10(2) the Commission feels there is added value in retaining it in the directive, building on the jurisprudence of the European Court of Human Rights whereby the guarantee of a fair trial is irretrievably prejudiced when incriminating statements made without access to a lawyer are used for conviction. The protection must apply when a person is, in reality, suspected of a criminal offence regardless of their formal classification and is in the interests of all parties to the proceedings. Concerning Article 13(3), there is a need to provide for adequate remedies to ensure the effectiveness of EU rights. The right to a lawyer is paramount and the consequences of breach must be serious in order to discourage violations.

The Commission hopes that these clarifications address the concerns expressed by the Bulgarian National Assembly.

I look forward to further deepening the political dialogue with your Assembly.

Yours faithfully,

Maroš Šefčovič  
Vice-President

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