



THE SENATE
OF THE PARLIAMENT OF THE CZECH REPUBLIC

9TH TERM

193rd

RESOLUTION OF THE SENATE

Delivered on the 9th session held on 2nd May 2013

on the Proposal for a Directive of the European Parliament and of the Council on the protection of the euro and other currencies against counterfeiting by criminal law, and replacing Council Framework Decision 2000/383/JHA /Senate Press no. N 030/09/

The Senate

I.

1. Supports

the harmonisation of elements (physical facts) of criminal offences related to money counterfeiting because it may facilitate mutual recognition of judgements in criminal cases and contribute to uniform interpretation;

2. Recalls

the 64th Resolution of the Senate delivered on the 4th session held on 30th January 2013 on the Proposal for a regulation of the European Parliament and of the Council on the fight against fraud to the Union's financial interests by means of criminal law, the main points of which can be generally applied also to the proposal for a Directive on the protection of the euro and other currencies against counterfeiting by criminal law;

II.

1. Points out

that the legislation of the European Union in the area of criminal law must observe the principle of proportionality and must not impair the system of criminal law in the Member States unless it is necessary for the accomplishment of the objectives of this legislation;

2. Does not support

the detailed regulation of minimum sanctions for criminal offences defined by the Directive in Article 5 because the proposed graduation of sanctions does not take into consideration the national system of circumstances enabling the imposition of a higher penalty and does not have an added value *per se*; thus it represents a disproportionate encroachment on domestic law which is not necessary for the accomplishment of the Directive's objectives;

3. Emphasises

that the regulation of a minimum term of imprisonment for criminal offences defined by the Directive should not affect national legislation that allows, in certain circumstances, to impose a penalty of a shorter duration than the minimum term (for instance in case of sentencing the so-called co-operating defendant);

4. Welcomes

that other remaining aspects of the Directive do not go beyond what is necessary for the accomplishment of its objectives and do not interfere with the national regulation of related institutes of criminal law such as the prescription of criminal liability and prescription of the sentence;

5. Disagrees

with Article 11 of the Directive because the Union does not have a competence to impose upon the Member States, by an act of secondary law, a duty to accede to a certain international treaty or to prohibit them from terminating such a treaty;

6. Regards as helpful

the provision on jurisdiction regarding the prosecution of criminal offences defined by the Directive, where such offences are committed outside the European Union, as it may contribute to the effective punishment of counterfeiting of euro and other currencies;

III.

1. Requests

the Government to inform the Senate about the way this position was taken into account and to provide the Senate with information on the further proceeding of negotiations;

2. Authorises

the President of the Senate to forward this Resolution to the European Commission.

Milan Štěch
sign manual
President of the Senate

Hassan Mezian
sign manual
Senate Verifier