



EUROPEAN COMMISSION

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Dear President,

The Commission would like to thank the Bundesrat for its Opinion concerning the Commission's Communication "The EU Justice Agenda for 2020 – Strengthening Trust, Mobility and Growth within the Union" {COM(2014) 144 final}.

This Opinion has been a timely contribution to the debate on the future guidelines for legislative and operational planning within the area of freedom, security and justice which were adopted by the European Council on 27 June 2014.

The Commission notes that the Bundesrat shares the Commission's assessment that the focus of EU justice policy in the coming years should be on consolidating existing legislation and that the development of this policy area has to be based on real needs.

The Commission welcomes the fact that the Bundesrat also highlights the need to base EU justice policy in the development of a European area of justice on mutual trust.

In its Communication, the Commission has demonstrated that justice policy plays a key role in the context of the challenges "mobility" and "growth". It has been able, for example, to further strengthen the awareness for the need of effective justice systems throughout the EU.

The Commission takes note of the Bundesrat's reluctance with regard to the method of "codification" as described in the Commission's Communication. Pursuant to the Communication, "codification" relates to "existing laws and practices" and does not mean the creation of entirely new laws. It should be considered in cases when it is beneficial in terms of providing consistency of legislation and clarity for the citizens and users of the law in general.

The Commission underlines that the EU should fully take account of the fact that the diversity of legal systems and traditions in the EU has to be preserved; that subsidiarity and proportionality have to be respected as well as the need to base all EU action firmly on the EU Charter of Fundamental Rights. Like the Bundesrat, the Commission stressed in its

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Communication that the EU must remain exemplary as regards the protection of fundamental rights. The Commission takes note of the Bundesrat's proposal to focus more on the fight against homo- and transphobically motivated crimes.

The Commission appreciates the Bundesrat's view regarding civil and criminal procedural law and supports the opinion that there is the need to carry out thorough impact assessments before proposing harmonisation. Impact assessments are a basic requirement for any new EU legislation.

Regarding contractual law, the Commission takes note of the Bundesrat's support of optional regimes as a matter of principle. Indeed, this approach is considered as particularly suitable from an angle of subsidiarity principle as it leaves national laws intact. The proposal for a Common European Sales Law, which is currently discussed by the EU legislators, includes appropriate safeguards that the consumer can take an informed and conscious decision to choose this law.

In relation to harmonisation of substantive criminal law, as for any other area of justice policy, the EU's competences are defined by the Treaties and the fundamental principles for any EU action, such as the principle of subsidiarity, would need to be fulfilled to justify any additional EU action in this regard.

Finally, the Commission appreciates that the Bundesrat shares its view concerning the importance of e-justice and of training for legal practitioners. The Commission takes note of the Bundesrat's opposition to any standardisation or centralisation of structure and content of training. The Commission would like to draw the Bundesrat's attention to its suggestion that the EU should make full use of existing networks to facilitate the training of legal practitioners and to help reach the objective of training in EU law for 50% of them – a total of 700 000 – by 2020.

The Commission hopes that these clarifications address the concerns raised by the Bundesrat and looks forward to continuing our political dialogue in the future.

Yours faithfully,

*Tonio Borg
Member of the Commission*