



EUROPEAN COMMISSION

Brussels, 14.03.2014
C(2014) 1587 final

Dear President,

The Commission would like to thank the Országgyűlés for its Reasoned Opinion concerning the proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office {COM(2013) 534} and apologises for the delay in replying.

In its Communication of 27 November 2013 {COM(2013) 851 final} the Commission carefully analysed the arguments presented by the Országgyűlés from the perspective of the principle of subsidiarity. As a result of the analysis of the different arguments, the Commission concluded that its proposal of 17 July 2013 complies with the principle of subsidiarity and decided to maintain it. The Commission stressed, however, that during the legislative process it will take due account of the Reasoned Opinions of the national Parliaments.

This letter addresses the arguments submitted by the Országgyűlés which according to the Commission's assessment do not relate to the principle of subsidiarity and hence fall outside the scope of the subsidiarity control mechanism and therefore of the Communication of the Commission.

In respect of these issues, the Commission would like to provide the following comments:

The Országgyűlés stated in its Reasoned Opinion that the proposed model of the European Public Prosecutor's Office would disproportionately limit the Member State's existing sovereignty in the field of criminal law and the independence of its prosecution system. In addition, the Országgyűlés challenged the overall added value of the European Public Prosecutor's Office: it found that several provisions of the proposal would raise issues of implementation and thus undermine the efficiency of Union action.

The Commission does not share this opinion. Concerning the argument on the Member State's sovereignty as regards criminal law, the Commission would like to recall that, even though criminal law primarily remains a competence for the Member States, under the Treaty both the Member States and the Union are obliged to combat crimes affecting the financial interests of the Union. The Union is competent, in particular, to establish an investigatory and prosecutorial body such as the European Public Prosecutor's Office pursuant to Article 86 of the Treaty on the Functioning of the European Union to combat crimes affecting the financial interests of the Union.

*Mr László KÖVER
President of the Országgyűlés
Kossuth Lajos tér 1-3.
HU – 1357 BUDAPEST*

The proposal seeks to achieve that objective by establishing a European system of investigation and prosecution of offences affecting the Union's financial interests. The suitability of this European system has been illustrated in the Impact Assessment accompanying the proposal for a Regulation on the establishment of the European Public Prosecutor's Office (SWD(2013) 274), and reiterated in the Communication. Setting up a common European system of prosecution would imply that the Member States accept the competence of the European Public Prosecutor's Office with regard to offences affecting the financial interests of the Union.

As set out in the Communication, the Commission considered alternative measures such as efforts undertaken at national level or the strengthening of existing mechanisms at Union level, leading to the conclusion that they would not achieve the objectives in an effective fashion.

Similar considerations apply to other alternatives, such as preventive measures, additional resources or enhanced reporting requirements. The proposed European Public Prosecutor's Office complements these measures and is one element of the overall efforts to combat criminal activity affecting the financial interests of the Union.

The proposed decentralised and integrated model is based on respect for the national legal traditions and judicial systems of the Member States. This is reflected in particular in the fact that European Delegated Prosecutors would be national prosecutors, familiar with their domestic jurisdiction and embedded in the national prosecutorial system thereby ensuring close links to and cooperation with the national authorities. Enforcement of investigative measures as well as judicial review would remain at national level. Equally, accused persons would be tried on the basis of national substantive law by national judges.

Accordingly, the Commission considers that its proposal strikes a fair balance between the objective to have a more efficient protection of the Union's financial interests by creating the European Public Prosecutor's Office and the impact this may have on national jurisdictions and sovereignty.

The benefit of a European prosecution system lies in its European nature, which ensures better coordination and efficiency, better use of resources and, ultimately, better deterrence through timely investigations and prosecutions.

The Commission will take due account of the views expressed by the national Parliaments during the legislative process.

The Commission hopes that these comments address the concerns raised by the Országgyűlés and looks forward to continuing the fruitful political dialogue.

Yours faithfully,

*Maroš Šefčovič
Vice-President*