

EUROPEAN COMMISSION

*Brussels, 14.3.2014
C(2014) 1591 final*

Dear Presidents,

The Commission would like to thank the Houses of the Oireachtas for their Reasoned Opinion concerning the proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office {COM(2013) 534 final}.

In its Communication of 27 November 2013 {COM(2013) 851 final} the Commission carefully analysed the arguments presented by the Houses of the Oireachtas 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 Houses of the Oireachtas 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 Commission takes note of the view of the Houses of the Oireachtas that criminal law is primarily a national competence and that investigation and prosecution of all fraud related offences, including offences against the financial interests of the Union, are primarily a duty of national authorities.

Under the Treaty, however, both the Member States and the Union are obliged to combat crimes affecting the financial interests of the Union. The Union's competence to establish an investigatory and prosecutorial body such as the European Public Prosecutor's Office by way of a Regulation is stipulated in Article 86 of the Treaty on the Functioning of the European Union.

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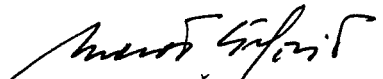
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The proposed decentralised and integrated model is based on respect for the national legal traditions and judicial systems of the Member States. This is reflected in particular in the fact that the proposed European Delegated Prosecutors would be national 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 in national hands. Equally, accused persons would be tried on the basis of national substantive law by national judges.

The Commission therefore considers that Article 86 of the Treaty and the approach taken in the proposal provide a solid basis to establish the proposed European Public Prosecutor's Office to combat crimes affecting the financial interests of the Union.

The Commission would like to underline that it will take due account of the arguments submitted by the national Parliaments during the legislative procedure. The Commission hopes that these comments address the concerns raised by the Houses of the Oireachtas and looks forward to continuing the political dialogue.

Yours faithfully,


Maroš Šešćović
Vice-President