

ITALIAN SENATE
COMMENTS AND RECOMMENDATIONS OF THE
14TH STANDING COMMITTEE

(European Union Policies)

in pursuance of Senate Rule 144(1)

(Rapporteur: DEL VECCHIO)

Rome, 29 September 2010

Comments on:

Proposal for a decision of the European Parliament and of the Council on the right to information in criminal proceedings (COM (2010) 392)

The 14th Standing Committee, following consideration of document COM (2010) 392,

[...]

expresses, insofar as its remit is concerned, a positive opinion with the following qualifications:

[...]

the proposal appears to comply with the subsidiarity principle [...];

the proposal appears to comply with the proportionality principle [...];

the legal basis appears to be appropriately identified [...];

on the substance of the text, the Committee welcomes the proposal's aim to establish a minimum and homogeneous set of rules in all EU Member States to protect the rights of the defence in criminal proceedings, with a view to strengthening the principles of mutual recognition and judicial cooperation;

with reference to Article 7(1) on the right of access to the case-file in case of detention also during investigation, though limited to those documents which are relevant for the determination of the lawfulness of the arrest or detention, the Committee recommends that the proposal envisage that an assessment on the relevance of such documents should be conducted by a judge or other third party;

with reference to Article 8(1), mandating Member States to ensure that a procedure is in place to ascertain whether a suspect or accused person has received all information relevant to him for the purposes of greater consistency with the rationale of this provision and in view of the recent judgment of the European Court of Human Rights (*Panovits v. Cyprus*, judgment of 11 December 2008, application n° 4268/04 § 67), whereby the authorities of Member States should ensure that the person arrested should be able to understand "the general thrust" of the information on his rights, the Committee recommends that Member States should be made responsible for ensuring that the accused or suspect has not only received the information but also understood its general thrust;

the Committee notes that the application of the directive in the national legislation will hopefully entail the involvement of the Supervisors of the rights of detainees in

monitoring that the accused or the suspects has actually received and understood the information and the development of appropriate measures to ensure the actual implementation of the provisions of the directive, including the allocation of adequate human and financial resources.