

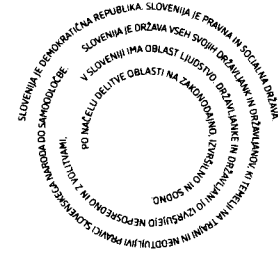


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COURTESY TRANSLATION
25 October 2013

Janko Veber
President of the National Assembly

In accordance with paragraph 6 of Article 154m of the Rules of Procedure of the National Assembly, the Committee on EU Affairs, at its 79th meeting of 25 October 2013, adopted the following

DECISION:

The Committee on EU Affairs establishes that the Proposal for a Council Regulation on the Establishment of the European Public Prosecutor's Office, COM(2013) 534 final, violates the principle of subsidiarity as laid down in Article 5 of the Treaty on European Union and the Protocol on the application of the principles of subsidiarity and proportionality, annexed to the Treaty on European Union and Treaty on the Functioning of the European Union.

Explanation:

As specified in the Proposal for a Council Regulation on the Establishment of the European Public Prosecutor's Office, the Commission justifies its proposal – in terms of complying with the principle of subsidiarity – by determining that the envisaged measure of establishing the European Prosecutor's Office, as a new European Union body for investigation and prosecution of offences affecting the Union's financial interests, is of major importance for the Union, since steering and coordination of investigation and prosecution affecting its own financial interests, the protection of which is required both from the Union and the Member States by Articles 310 (6) and 325 TFEU, should be conducted at the Union level. The Commission argues that in accordance with the subsidiarity principle, this objective can only be achieved at Union level by reason of its scale and effects, since the present situation in which the prosecution of offences against the Union's financial interests is exclusively in the hands of the authorities of the Member States is not satisfactory and does not sufficiently achieve the objective of fighting effectively against offences affecting the Union budget.

The Committee on EU Affairs took note of the proposed Regulation. The Committee stresses that the establishment of the European Public Prosecutor's Office per se does

not constitute a violation of the principle of subsidiarity, since the possibility of its establishment is provided by Article 86 of TFEU. The Committee agrees that it is necessary to achieve the objective of fighting effectively against offences affecting the Union's financial interests in all Member States; however, it believes that this objective could be achieved with other measures and not with the establishment of the European Public Prosecutor's Office as a new European Union body. In view of the above, the Committee believes that the content of the proposed Regulation does not comply with the principle of subsidiarity.

The Committee establishes that the Commission did not sufficiently explain the fact that the objective – the effective fight against offences affecting the Union's financial interests – cannot be ensured by measures at the national level and with the participation of the already existing bodies of the Union (such as Eurojust, Europol and Olaf). The Committee notes that the Commission's statement – which is the underlying assumption of the proposed measure – saying that actions taken by Member States to fight against offences affecting the Union's financial interests are not effective, does not hold true for Slovenia, since the competent Slovenian prosecuting authorities are already successfully investigating and prosecuting such offences. It should also be noted that certain other EU Member States have also proved successful as regards the investigation and prosecution of these offences, therefore the Committee believes that the issues relating only to some of the Member States cannot be tackled with such a significant measure at the Union level, thus applying to all Member States. The Committee believes that the objective should be achieved with other measures (e.g. by Member States regularly reporting to Union's institutions), whereas greater attention should be devoted to an increased cooperation between the competent authorities of the Member States and an effective functioning of the existing bodies of the Union and better cooperation between them and the national bodies should be ensured.

The Committee notes that the establishment of the European Prosecutor's Office with exclusive competence to investigate and prosecute the offences against the Union's financial interests could imply a far-reaching impact on the Slovenian constitutional and legal arrangement and on the work of the competent Slovenian bodies.

The Committee also believes that it is necessary to wait until the conclusion of negotiations and the adoption of the Proposal for a Directive of the European Parliament and of the Council on the fight against fraud to the Union's financial interests by means of criminal law, COM(2012) 363, since only then all the criminal offences within the competence of the European Public Prosecutor's Office will be known, and in addition, Member States will be obliged to transpose the adopted directive into their national legal systems and implement it.

Therefore, the Committee considers that an effective fight against offences affecting the Union's financial interests should be ensured by mechanisms that already exist at the national level as well as at the level of the Union.

Jožef Horvat
President