



HOUSE OF LORDS
European Union Committee

House of Lords
London
SW1A 0PW

Tel: 020 7219 6083
Fax: 020 7219 6715
euclords@parliament.uk
www.parliament.uk/hleu

Vice-President Maroš Šefčovič
European Commission
B-1049 Brussels
Belgium

02 April 2014

Dear Maroš,

Doc: 17176/13; COM (2013) 851: Communication from the Commission on the review of the proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office with regard to the principle of subsidiarity, in accordance with Protocol 2

Letter of 14 March from Vice-President Šefčovič

Thank you for your letter of 14 March 2014. My Committee is grateful for the additional information you have provided in respect of the objections raised to this proposal by the House of Lords.

As a matter of general principle, we are disappointed that the Commission has decided to press forward with this proposal in unamended form despite the issue of a yellow card from national parliaments.

In relation to the timing of your responses, the Commission's initial reply to the Yellow Card (COM(2013)851) was agreed on 27 November 2013, barely a month after the triggering of the card itself. This initial response was hasty and ill-considered. A detailed reply to the points raised by the House of Lords (and, presumably, by other chambers) was only provided several months after the Commission's decision to maintain the proposal unchanged. It does appear from this that the decision came first, and that the consideration of the points made by national parliaments came subsequently. Whether or not this was the case, we ask you in future to ensure that the Commission's replies to reasoned opinions are approved and communicated to the relevant national parliaments not later than when the Commission's response to the Yellow Card itself is agreed.

In relation to the substance of your response to us, we are concerned that the Commission has narrowed further the scope of the subsidiarity principle by treating more of the specific objections to the proposal raised by the House of Lords as falling outside the principle. Furthermore, we remain dissatisfied that the Commission has not specifically addressed each separate subsidiarity objection we have raised.

As you know, the Committee recently published a report on *The Role of National Parliaments in the European Union*, which I hope you found interesting. In this report we make several suggestions to improve the reasoned opinion procedure, including that responses to each reasoned opinion should be provided "in a timely manner", which we do not think has been achieved with the EPPO. We also argued that it is not appropriate for the Commission to assume the sole responsibility for deciding

what arguments do, or do not, come within the ambit of the subsidiarity principle, and that there should be dialogue between national parliaments and the Commission, to determine appropriate guidelines for the Commission to respond to reasoned opinions.

Overall, we consider that the Commission's handling of this proposal has undermined confidence in the effectiveness of the subsidiarity reasoned opinion procedure.

We do, however, welcome your assurances that the Commission will take due account of the points made in the reasoned opinions during the legislative process, and we look forward to hearing from you your proposals to achieve this.

We look forward to your response to these points.

I am copying this letter, together with yours of 14 March, to Vice-Presidents Miguel Angel Martínez-Martínez MEP and Othmar Karas MEP; Juan Fernando López Aguilar MEP, Chair of the LIBE Committee; Klaus-Heiner Lehne MEP, Chair of the JURI Committee; Carlo Casini MEP, Chair of the AFCO Committee; Salvatore Iacolino MEP, rapporteur for this proposal; Birgit Sippel MEP, Renate Weber MEP, Jan Philipp Albrecht MEP, Timothy Kirkhope MEP and Cornelis de Jong MEP, shadow rapporteurs for this proposal; William Cash MP, Chair of the Commons Committee; Sarah Davies, Clerk to the Commons Committee, Arnold Ridout, Legal Adviser to the Commons Committee; Les Saunders, Cabinet Office; Deborah Maggs, Home Office Departmental Scrutiny Coordinator.

Yours,
Tim.

The Lord Boswell
Chairman of the European Union Committee