

EUROPEAN COMMISSION

Brussels, 25.7.2014
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Dear Chairman,

The Commission would like to thank the House of Lords for its Opinion in reply to the Commission's letter of 14 March 2014 and in reference to the Commission's Communication 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 No 2 {COM(2013) 851 final}.

The Commission refers to its earlier reply to the House of Lords' Reasoned Opinion in relation to arguments not related to the principle of subsidiarity, in which it already addressed a number of concerns.

Concerning the general remark about the House of Lords' disappointment that the Commission has decided to maintain its proposal according to the procedure set out in Protocol No 2, the Commission would like to recall that according to Article 7(2), second subparagraph, of Protocol No 2, the Commission may decide to maintain, amend or withdraw the draft, after having given reasons. The Protocol leaves the choice among these three options to the discretion of the Commission. As explained in the Communication, the Commission's assessment is that its proposal complies with the principle of subsidiarity enshrined in Article 5(3) TEU. The Commission also announced that the reasoned opinions would be taken into account during the legislative process.

As regards the House of Lords' observations on the timing of the Commission's response to the yellow card procedure and replies to the individual opinions from national Parliaments, the Commission would like to reiterate that its decision to maintain its proposal was the result of a detailed review of the subsidiarity-related arguments contained in the reasoned opinions issued by national Parliaments. The fact that the Commission was able to come to a conclusion under the yellow card procedure within a month demonstrates that the Commission treated the matter as a very high priority.

Regarding the arguments that the Commission has 'further narrowed down the scope of the subsidiarity principle' and '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 that principle', the Commission would like to recall, firstly, that all the reasoned opinions issued

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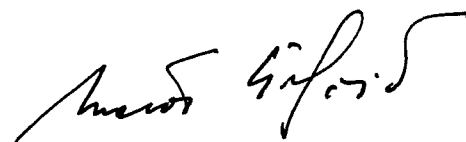
by national Parliaments were considered to be reasoned opinions within the meaning of Article 6 of Protocol No 2. Secondly, as mentioned, the Communication addressed all arguments related to the principle of subsidiarity applying a broad interpretation of the notion of subsidiarity, in the spirit of openness. Subsidiarity, however, has to be distinguished from the principles of conferral and proportionality and other issues of legality in accordance with Article 5 TEU.

Since a number of issues raised by national Parliaments fell outside the scope of the Protocol No 2 procedure, the Commission sent detailed replies on those 'non-subsidiarity' related issues to the Chambers concerned. In that process, the Commission followed the procedure which was communicated to the national Parliaments in the letter of President Barroso of 1 December 2009. It should be underlined that the Commission conducts the dialogue with national Parliaments in full respect of the respective prerogatives of the EU institutions, and of the institutional balance at EU level more generally.

As regards the reference to the House of Lords' report on the role of national Parliaments in the European Union, the Commission has taken note of the report and has addressed a specific reply to House of Lords on that report.

The Commission hopes that these comments address the concerns raised by the House of Lords and looks forward to continuing our political dialogue.

Yours faithfully,



*Maroš Šefčovič
Vice-President*