

EU Committee of the Federal Council on 6 April 2010

Statement by the Committee

on COM (2010) 82 final Proposal for a Directive of the European Parliament and of the Council on the right to interpretation and translation in criminal proceedings (27797/EU XXIV. GP) (deadline for opinion 10 May 2010)

Reasoned opinion

The EU Committee of the Federal Council discussed the contents of COM (2010) 82 final Proposal for a Directive of the European Parliament and of the Council on the right to interpretation and translation in criminal proceedings (27797/EU XXIV. GP) at a public session on 6 April 2010 and comes to the following conclusion:

A. Opinion

The proposal by the Commission is not compatible with the subsidiarity principle. The initiative by the Member States PE-CONS 1/10 for a Proposal for a Directive of the European Parliament and of the Council on the right to interpretation and translation in criminal proceedings (25797/EU XXIV.GP), by contrast, is compatible with the subsidiarity principle.

B. Reasons

1. The Committee welcomes the fact that the Commission has provided fully detailed and clearly comprehensible explanations regarding compatibility with the subsidiarity principle.
2. The proposal is incompatible with the subsidiarity principle, however, in particular because it attempts without a coercive necessity to harmonise the different criminal proceedings systems in the Member States, in this way imposing completely different additional financial burdens on them. The applicability of article 82 paragraph 3 of the Treaty on the Functioning of the European Union needs at all events to be verified. In particular, the Member States should be allowed at their discretion in the application of social criteria—in the case of a freely elected defence lawyer, for example—to pay for the costs only to the extent that the suspect or accused person cannot pay them himself/herself. In the interests of the subsidiarity principle, a binding list of procedural documents to be translated and the compulsory translation of communication between the defence lawyer and the suspect or accused person should not therefore be required.
3. Reference is also made to the opinion of 3 September 2009 on COM (2009) 338 final Proposal by the Commission for a Council Framework Decision on the right to interpretation and to translation in criminal proceedings.
4. The Committee supports the initiative of the Member States PE-CONS 1/10 (25797/EU XXIV.GP) on the same subject.