



Legal Service  
Director

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**Note for the attention of Mr Juan Fernando LÓPEZ AGUILAR**  
Chairman of the Committee on Civil Liberties, Justice and Home Affairs  
*(c/o Mr Emilio De Capitani, Head of Unit)*

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**Re : LIBE - Right to interpretation and translation in criminal proceedings - draft Resolution of the Council and the Member State Governments - Article 82(2) TFEU - Article 296, third paragraph, TFEU - duty to refrain from adopting acts not provided for in the legal basis**

By letter of 27 January 2010 (annex), you requested a legal opinion on a number of questions related to the proposal for a directive on the rights to interpretation and to translation in criminal proceedings.

The Legal Service has reached the following conclusions in its opinion, annexed hereto:

- (a) When considering the proposed directive on the rights to interpretation and to translation in criminal proceeding, the European Parliament and the Council are obliged to refrain from adopting acts not provided for in Article 82 TFEU.
- (b) As Article 82(2) TFEU does not provide for the adoption of either resolutions of the Council and the Governments of the Member States or of Council recommendations, the Council should refrain from adopting such acts.
- (c) The purpose of the preamble to a legislative act is to indicate the reasons for its substantive provisions.

- (d) The inclusion in the preamble of the proposed directive of non-legislative provisions such as those expressed in the draft resolution of the Council and of the Governments of the Member States, would contradict both the purpose of the prohibition of Article 296, third paragraph, TFEU and the case-law on the proper scope of the recitals.

The Legal Service remains at your disposal for any further information you may require in this regard.

*(signed)*  
*By the delegation of the Jurisconsult,*  
Ezio PERILLO

Annex