

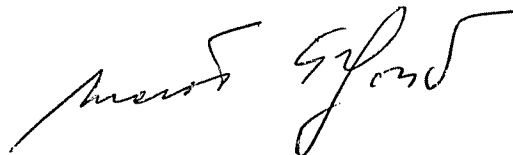
Brussels, 22 NOV. 2010  
C/2010/ 8136

Dear President,

*The Commission thanks the Czech Senate for its comments on the Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions : Delivering an Area of Freedom, Security and Justice for European Citizens - Action Plan implementing the Stockholm Programme {COM(2010) 171}.*

*I enclose the Commission's response and hope you will find this a valuable contribution to your own deliberations.*

*Yours faithfully,*



*Mr. Přemysl Sobotka  
President of the Senate of  
the Parliament of the Czech Republic  
[reakcekomise@senat.cz](mailto:reakcekomise@senat.cz)*

## **COMMENTS OF THE EUROPEAN COMMISSION ON AN OPINION FROM THE CZECH SENATE**

### **COM(2010)171 - COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS "DELIVERING AN AREA OF FREEDOM, SECURITY AND JUSTICE FOR EUROPE'S CITIZENS -ACTION PLAN IMPLEMENTING THE STOCKHOLM PROGRAMME"**

In the Commission Communication on the Stockholm Action Plan, which translates the objectives of the Stockholm Programme into concrete actions, the Commission reiterated the need for the Union to “ensure that the fundamental right to data protection is consistently applied” and to “strengthen the EU stance in protecting the personal data of the individual in the context of all EU policies, including law enforcement and crime prevention, as well as in international relations”.

The European Commission is currently reviewing the data protection legal framework with a view to modernizing it in order to meet the challenges resulting from globalisation, and from the use of new technologies. Another objective is to improve current data protection legislation as well as the effective application of data protection principles without creating unnecessary administrative burden. The same data protection principles should apply – no matter whether data are processed for commercial or public enforcement purposes, except where specific rules, exceptions and derogations are necessary to meet the specificities of police cooperation and criminal justice.

One of the goals is to strengthen the implementation and effective enforcement of the rules for the protection of personal data. A crucial issue is to better harmonise the application of these rules, in particular by providing clarifications and more detailed provisions, as appropriate.

The Commission takes note of the Czech Senate's position on international agreements. The Commission takes the view that under the legal framework of the Lisbon Treaty, the conclusion on behalf of the EU of international agreements such as those regarding the transfer of PNR, is governed by the procedure provided for in Article 218 of the Treaty of Functioning of the European Union.

The Commission takes note of the Czech Senate's reservations concerning the possibility of granting third country nationals legally residing in the EU rights similar to those of EU citizens. The Commission would like to underline that the Stockholm Programme provides that the EU must ensure fair treatment of third-country nationals who reside legally on the territory of its Member States and that a more vigorous integration policy should aim at granting rights and obligations comparable to those of EU citizens. This is also reflected in the Action Plan which states that the EU must strive for a uniform level of rights and obligations for legal immigrants comparable to that of EU citizens. This is no more than a reflection of Article 79(1) of the Treaty on the Functioning of the European Union, which provides for fair treatment of third country nationals residing legally in the Member States.

The Commission would like Eurojust to become a central player in the European judicial area and in supporting judicial cooperation. The main priority is to ensure the full implementation of the recent amendment of the 2008 Eurojust Decision. The Commission has begun an in-depth analysis of how to improve Eurojust's efficiency, in line with the Treaty, by providing it with powers to directly initiate any investigations, and rendering its internal structure more efficient. A study on the necessary provisions for the involvement of the European Parliament and national Parliaments in the evaluation of Eurojust's activities is under way.

Article 86 of the Treaty provides for the establishment of a European Public Prosecutor's Office "*from Eurojust*", in order to combat crimes affecting the financial interests of the Union. As the Commission announced in the Action Plan implementing the Stockholm Programme, it will prepare the establishment of a European Public Prosecutor's Office from Eurojust in 2013, with the authority to investigate, prosecute and bring to justice offences against the Union's financial interests. In doing so, the Commission will further reflect on the cooperation with all the actors involved, including the European Anti-Fraud Office (OLAF).

With regard to the Czech Senate's opinion on the **Frontex** agency, the Commission would like to refer to its detailed answer provided to the Czech Senate on 28 October 2010.<sup>1</sup>

In relation to the Czech Senate's comment about the envisaged Regulation on **Europol**, the Commission points out that in accordance with article 88 paragraph 3 of the TFEU, Europol cannot be entrusted with any coercive power. In that sense, Europol will remain very much distinct from national police forces, which can exercise a whole range of coercive measures. In addition, in line with the same provision, any operational action by Europol will have to be carried out in liaison and in agreement with the authorities of the Member States or States whose territory is concerned.

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<sup>1</sup>Reply to the opinion of the Czech Senate on Commission proposal COM(2010)61 – FRONTEX has been provided by the Commission on 28 October 2010 (our ref. C/2010/7311).