



**THE SENATE
OF THE PARLIAMENT OF THE CZECH REPUBLIC
8TH TERM**

148TH

RESOLUTION OF THE SENATE

Delivered on the 6th session held on 16 March 2011

**on the Proposal for a Council Decision amending Decision (2008/203/EC) of 28 February 2008 implementing Regulation (EC) No 168/2007 as regards the adoption of a Multi-annual Framework for the European Union Agency for Fundamental Rights for 2007-2012
(Senate Press no. N 022/08)**

The Senate

I.

1. **States,**
based on the arguments mentioned hereinafter, that the current proposal as submitted by the Commission embodies significant deficiencies of formal character;
2. **Supports**
the reserved position of the Government of the Czech Republic towards material enlargement of competence of the Agency into the areas of judicial cooperation in criminal matters and police cooperation;

II.

1. **Is of the opinion**
that the newly established competence implied by the change of the primary law does not automatically constitute a base for enlargement of the scope of operation of the previously adopted acts of secondary law, where in every case the will of the Union legislator, expressed in accordance with the procedures foreseen by the Lisbon Treaty, is necessary;
2. **Recalls**
the unsuccessful negotiations on the proposal for a Council Decision based on Articles 30, 31 and 34(2)(c) of the then in force EU Treaty, during which some Member States expressed negative positions towards the possibility that the areas

of judicial cooperation in criminal matters and police cooperation would fall into the scope of operation of the Agency;

3. Assumes

that a change of the mandate of the Agency would only be possible through a change of the establishing act (Council Regulation No 168/2007) while at the same time it is necessary to ensure that both the current legal framework of the Agency and its eventual changes are in compliance with the conferral of competence resulting from the primary law of the EU and the related case law of the Court of Justice of the EU;

4. Identifies

in this respect with the opinion of the Legal Service of the Council (Council Document No 6138/11);

5. Does not support,

however, the possibility of adoption and change of the multi-annual framework of the Agency through implementing acts based on Article 291 of the Treaty on Functioning of the EU as one of options of a future solution;

6. Expresses

further its belief that the complementary character of the empowering provision embedded in Article 352 of the Treaty on Functioning of the European Union, that enables certain activity of the Union in a situation where Member States have not conferred, in the framework of policies, defined by the constituting treaties, competence to the bodies of the Union, always requires compelling evidence of necessity of the adoption of such a regulation;

7. Lacks

in the proposal of the Commission sufficient evaluation of the financial impacts that the broadening of the competence of the Agency would bring about;

III.

1. Requests

the Government to inform the Senate about the way this position was taken into account and to provide the Senate with further information on the proceeding of negotiations;

2. Authorises

the President of the Senate to forward this resolution to the European Commission.

Milan Štěch
sign manual
President of the Senate

Josef Táborský
sign manual
Senate Verifier