



EUROPEAN COMMISSION

Brussels, 12.12.2011
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Dear President,

The Commission would like to thank the Czech Senate for its Opinion on the Commission Proposal {COM (2010) 708} 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 .

It has taken note of the position expressed therein and would like to provide the following reply to the key issues raised.

The Commission agrees with the Czech Senate that a change of mandate of the Agency would only be possible through a change of Council Regulation 168/2007. However, the Commission Proposal to amend the Agency's Multi-annual Framework is not changing this mandate. It aims at reflecting the disappearance of the third-pillar structure following the entry into force of the Lisbon Treaty. Council Regulation 168/2007 should now be read as enabling the Agency to carry out its tasks within the scope of EU law, which now includes judicial cooperation in criminal matters and police cooperation.

The Commission Proposal is based on Article 352 of the Treaty on the Functioning of the European Union due to the impossibility to use Article 5(1) of Council Regulation 168/2007 following the ruling of the ECJ in case C-133/06 prohibiting the use of secondary legal bases. In the absence of a more specific legal basis, the amendment of the Multi-annual Framework of the Agency can only be achieved using the legal base of the Agency's founding Regulation.

The Commission hopes that the above explanations are helpful and looks forward to continuing the political dialogue with the Czech Senate on this and other European matters.

Yours faithfully,

*Maroš Šefčovič
Vice-President*

*Mr. Milan Štěch
President of the Senate
of the Parliament of the Czech Republic*

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