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Mr Milan ŠTĚCH
President of the Senate of the
Parliament of the Czech Republic
Valdštejnské náměstí 17/4
CZ – 118 01 PRAHA 1

Dear President,

The Commission would like to thank the Senate of the Czech Republic for its Opinion on the European Commission's Green Paper 'Strengthening mutual trust in the European judicial area - A Green Paper on the application of EU criminal justice legislation in the field of detention' {COM (2011) 327 final}, and apologises for the delay in replying.

As regards the main issues raised in the Senate's submission, the Commission would like to briefly address the following considerations:

A Green Paper is of its nature a wide-ranging exercise as its aim is to stimulate debate and launch a public consultation at European level on a particular topic, inviting interested parties, individuals and organizations, to contribute with views and information to a discussion document. In its Resolution on a roadmap for strengthening procedural rights of suspected or accused persons in criminal proceedings adopted in 2009, the Council invited the Commission to present a Green Paper on pre-trial detention. This Paper - which is part of the Commission's procedural rights package - is the Commission's reply to the Council's request. The Stockholm Programme¹ called on the Commission to reflect on detention and related issues, considering how to "strengthen mutual trust and render more efficient the principle of mutual recognition in the area of detention" and promoting "the exchange of best practices" in the area. The European Parliament has repeatedly² urged the Commission to take action for the construction of an EU criminal justice area to be developed through, inter alia, minimum standards for prison and detention conditions and a common set of prisoners' rights in the EU.

¹ Council of the European Union, Brussels, 2 December 2009, doc. 17024/09, CO EUR-PREP 3, JAI 896, POLGEN 229.

² See European Parliament resolution of 25 November 2009 on the Communication from the Commission – An area of freedom, security and justice serving the citizen – Stockholm programme, [P7_TA(2009)0090]; Written Declaration on infringement of the fundamental rights of detainees, from MEPs - 06/2011, 14.02.2011; European Parliament resolution of 15 December 2011 on detention conditions in the EU [P7_TA(2011)0585].

In line with these mandates, this Green Paper aims at exploring the extent to which detention issues impact on mutual trust and consequently on mutual recognition and judicial cooperation generally within the European Union. It focuses on the link between mutual recognition and detention conditions.

With respect to the ongoing implementation process of Framework Decision 2008/947/JHA on probation measures and alternative sanctions and of Framework Decision 2008/909/JHA on custodial sentences, the Commission organised on 20 March 2012 a meeting of Member States experts on the implementation of these European instruments to improve mutual knowledge on national detention measures as well as to identify legislative and practical difficulties in the implementation process.

The Commission will decide whether further action is required in this area at the EU level after the assessment of the implementation of the existing instruments and the analysis of the contributions to the Green Paper.

The Commission appreciates the comments given by the Czech Republic Senate and takes note of the suggestion to largely limit future legislative proposals in the area to problems which are directly related to criminal proceedings, such as the review of the grounds for pre-trial detention or the maximum length of detention.

I look forward to further continuing the political dialogue with the Senate on this important subject.

Yours faithfully,

*Maroš Šefčovič
Vice-President*