



**THE SENATE
OF THE PARLIAMENT OF THE CZECH REPUBLIC
9TH TERM
33rd**

RESOLUTION OF THE SENATE

delivered on the 2nd meeting held on 5th December 2012

**on the Proposal for a Regulation of the European Parliament and of the Council
establishing a framework for managing financial responsibility linked to investor-state
dispute settlement tribunals established by international agreements to which the
European Union is party
(Senate Press no. N 173/08)**

The Senate

I.

1. Welcomes

the presentation of the proposal for a Regulation since it has already mentioned the need for apportionment of financial responsibility in the field of international investment protection in its Resolution No. 575 of 27th October 2010 on the communication from the Commission named "Towards a comprehensive European international investment policy";

2. Is convinced

that clarifying the allocation of financial responsibility can contribute to overall higher transparency of the investor protection system and to higher legal certainty of international investors from third countries when engaging in foreign direct investments in the European Union;

II.

1. Regards

as appropriate the proposed basic principle for the allocation of financial responsibility between the European Union and the Member States that consists in attributing the responsibility to the actor which has afforded the treatment in dispute;

2. Adds, however,

that it is essential to ensure equal position of the Member States and the Commission in the course of dispute proceedings, mainly with respect to situations in which the Commission acts as a respondent and the dispute concerns treatment afforded by a Member State;

3. Believes

that when the financial responsibility is to be borne by a Member State, then the Member State concerned should have the opportunity to become direct respondent in the proceedings;

4. Considers

the term "overriding interests of the Union" too vague, while decisive for conferring certain decision-making powers on the Commission, for instance in the event of concluding settlement agreements without the consent of the Member State concerned according to Article 13(3), and therefore requests its clarification;

III.

1. Requests

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

Jan Látka
sign manual
Senate Verifier