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*Mr Milan ŠTĚCH
President of the Senát
Valdštejnské náměstí 17/4
CZ – 118 01 PRAGUE 1*

Dear President,

The Commission would like to thank the Senát for its Opinion concerning the Proposal for a Council Directive amending Directive 2009/71/EURATOM establishing a Community framework for the nuclear safety of nuclear installations {COM(2013) 715 final}.

As confirmed on many occasions by the Heads of State and Government of the Member States, nuclear safety is an absolute priority for the European Union. In its conclusions of 24-25 March 2011, the European Council recalled that the energy mix is the competence of Member States, and called for work on nuclear safety to be taken forward as a matter of priority on, inter alia, the implementation and continuous improvement of the highest standards for nuclear safety in the EU.

The Fukushima nuclear accident of 11 March 2011 in Japan showed the importance of having in place the measures needed to minimise risk and guarantee the most robust levels of nuclear safety. Consequently, in the aftermath of the accident the EU initiated the comprehensive risk & safety assessments of nuclear power plants (referred to as 'Stress Tests'). The European Council also mandated the Commission, in the above-mentioned Conclusions, to "review the existing legal and regulatory framework for the safety of nuclear installations" and to "propose by the end of 2011 any improvements that may be necessary". The European Parliament (EP) has also repeatedly called for a regulatory review with a view to improving nuclear safety standards in the EU¹.

Following the European Council's mandate, the Commission thus engaged in an extensive process of analysis and consultation with a view to identifying potential areas of legislative improvement.

The adoption of the current Nuclear Safety Directive (NSD) in 2009 was a key advancement in the construction of a European nuclear safety area. The NSD drew on the technical work of the Western Union's Nuclear Regulators' Association (WENRA) and enshrined in European legislation the principles of the main international instruments available, namely

¹ Resolution of 5 July 2011 on energy infrastructure priorities for 2020 and beyond and Resolution of 6 July 2011 on the Commission Work Programme 2012

the obligations resulting from the Convention on Nuclear Safety and the safety work carried out by the International Atomic Energy Agency (IAEA). In so doing, it allowed the EU to become the first major regional nuclear actor to have an advanced legally binding regulatory framework as regards nuclear safety. Nevertheless, both the Fukushima accident as well as the subsequent Stress Tests have identified new key risk contributors in the area of nuclear safety which the current NSD, by limiting itself to core requirements only, does not sufficiently address. Consequently, the current European legislative framework needed to be revised so as to reflect the latest state of knowledge about nuclear safety issues worldwide and in the EU and the lessons learned post- Fukushima.

The aspect of enforceability of safety measures is particularly important in the light of Fukushima as well as the Stress Tests, which showed that not all the lessons learned from accidents decades ago have been taken up and sufficiently enforced. Moreover, the April 2012 European Nuclear Safety Regulators Group (ENSREG) Stress Tests Peer Review report recognised that there are continued differences between Member States in ensuring comprehensive and transparent identification and management of key safety issues².

The current proposal is based on various sources of expertise, such as the International Atomic Energy Agency and the Western European Nuclear Regulators Association. It also takes into account the key input of ENSREG, the views expressed by the European Parliament³, the European Economic and Social Committee, the public⁴ and various other stakeholders, such as the European social partners for the electricity industry, experts in the field of radiation protection as well as operators and vendors of nuclear power plants. Furthermore, it takes account of issues arising from the prima facie check of the transposition measures of the existing NSD at Member State level.

The proposal does not interfere with the prerogative of Member States to decide on their energy mix. The provisions on peer review would not undermine state sovereignty in this field. The new provisions would only extend the scope of the already existing⁵ peer reviews to nuclear installations. They are based on the principles of enhanced cooperation and coordination between Member States. The European peer reviews serve as an excellent means of building confidence and trust in the identification and management of safety issues in the EU, with the aim of developing and exchanging experience and ensuring highest safety standards.

The proposed directive is under discussion in both the Council and the European Parliament which thus have the opportunity to present their views and shape the final legislative text.

² Peer review report, Stress tests performed on European nuclear power plants: http://www.ensreg.eu/sites/default/files/EU%20Stress%20Test%20Peer%20Review%20Final%20Report_0.pdf

³ European Parliament resolution on risk and safety assessments ('stress tests') of nuclear power plants in the European Union and related activities (2012/2830(RSP)).

⁴ In line with its general principles of consultation and dialogue, the Commission launched an (on-line) public consultation open from 21 December 2011 to 29 February 2012.

⁵ The concept of peer reviews is not new; it already exists in the current NSD as well as Directive 2011/70/Euratom establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste.

The Commission hopes that these clarifications address the concerns raised by the Senát and looks forward to continuing our political dialogue in the future.

Yours faithfully,

*Maroš Šefčovič
Vice-President*