

Courtesy translation



THE SENATE
OF THE PARLIAMENT OF THE CZECH REPUBLIC
11TH TERM

489th

RESOLUTION OF THE SENATE

Delivered on the 17th session held on 15th August 2018

Senate Print no. N 147/11, COM(2018) 277 - Proposal for a Regulation of the European Parliament and of the Council on streamlining measures for advancing the realisation of the trans-European transport network

The Senate

I.

1. Agrees

that it is necessary to advance the construction of the trans-European transport network; it notes, however, that completion of transport infrastructure connected to it, with sufficient capacity, is also highly important;

2. Reminds the Government

that it reiterates the need to reduce administrative barriers to investment, particularly in the construction sector (e.g. Resolution No. 453 of 18 July 2018 on the Recommendation for a Council Recommendation on the 2018 National Reform Programme of the Czech Republic and delivering the Council Opinion on the 2018 Convergence Program of the Czech Republic);

3. Has come, however, to the conclusion,

that the Proposal for a Regulation, with the exception of provisions related to co-operation on cross-border projects, does not comply, for the reasons stated in Part II.1. to II.7 of this Resolution, with the principle of subsidiarity (Article 5(3) of the Treaty on European Union);

4. Adopts

therefore a Reasoned Opinion on the incompatibility of the proposal for a Regulation with the principle of subsidiarity in accordance with Article 6 of the Protocol on the Application of the Principles of Subsidiarity and Proportionality attached to the Treaties;

II.

1. Is of the opinion

that Article 172 of the Treaty on the Functioning of the EU, which is the legal basis of the proposal, does not confer upon the Union the competence to regulate permit granting procedures, such as spatial planning and construction procedures, in Member States;

2. Points out

that the existence of Union competence is a necessary precondition for the compliance of its action with the principle of subsidiarity; if appropriate competence to act is not conferred upon the Union in the Treaties, it violates the principle of conferral of powers (Article 5(2) of the Treaty on European Union) and thus the principle of subsidiarity;

3. Considers furthermore

that the Proposal, contrary to Article 5 of the Protocol on the Application of the Principles of Subsidiarity and Proportionality, does not contain a detailed statement making it possible to appraise compliance with the principles of subsidiarity and proportionality; an argument based on a mere difference in national legislation is not convincing, as it is not proven that this difference is a significant cause of the delay;

4. Believes

that there are a number of causes of problems with the implementation of major infrastructure projects, including demanding requirements arising from EU law as well as the need to respect the procedural rights of all stakeholders;

5. Points out

that the Commission's proposal to address the problem by adjusting deadlines for administrative decision-making and integrating all procedures into a single, comprehensive decision does not take into account the complexity, logical succession and interdependence of the actions necessary to implement the projects that will affect the permit granting procedures regardless of any formal changes;

6. Has serious doubts

whether the mere setting of new deadlines, the obligation of the "most rapid treatment legally possible" to be given to these projects and imposing obligations on administrative authorities using vague terms such as the "mature project" or concepts without a clearly defined scope such as "permit granting procedure", will in fact advance the realisation of the TEN-T projects; i.e. whether the proposal is at all capable of achieving the declared objectives;

7. Is of the opinion

that the current situation can be improved rather by the exchange of good practice between Member States and targeted legislative changes at national level, as well as reducing administrative burden arising from EU legislation applied in the permit granting procedures;

8. Finds out for these reasons

that the submitted proposal cannot achieve the objectives better than an action at Member State level;

9. Thus urges the Government

with a view to meet the deadlines for TEN-T completion, to identify obstacles and to urgently adopt necessary measures to increase the effectiveness of permit granting and related procedures;

III.

1. Requests

the Government to inform the Senate about the way this resolution was taken into account and about further development of negotiations once the political agreement of the required number of Member States on the main elements of the proposal is reached, or at an earlier time, should the results of negotiations in the Council begin to depart considerably from the position of the Czech Republic expressed in the General Position of the Government;

2. Authorises

the President of the Senate to forward this reasoned opinion to the presidents of the European Commission, the European Parliament and the Council.

Milan Štěch
sign manual
President of the Senate

Jiří Dušek
sign manual
Senate Verifier