EUROPEAN COMMISSION

Brussels, 27.02.2019
C(2019) 906 final

Dear President,

The Commission would like to thank the Senát for its Opinions on the proposals for

- *a Multiannual Financial Framework for the period 2021-2027 {COM(2018) 321 and COM (2018) 322},*
- *a system of own resources of the European Union {COM(2018) 325, COM (2018) 326, COM (2018) 327 and COM (2018) 328}, and*
- *a regulation on the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States {COM(2018) 324}.*

The following reply covers all three Opinions.

Multiannual Financial Framework for the period 2021-2027

Between 2 May and 14 June 2018, the Commission presented a comprehensive package for the Multiannual Financial Framework 2021-2027, including sectoral legislative proposals for programmes supporting and implementing European policies. The Commission proposals aim to better align the Union budget with the Union's priorities, with an increased focus on the areas where the budget of the European Union can make the biggest difference in terms of value added and on strengthening European Union's spending's effectiveness and efficiency.

In the preparation of its proposals, the Commission has built on the open and inclusive debate, launched in March 2017 with the White Paper on the Future of Europe and in June 2017 with the Reflection Paper on the Future of EU Finances.

The Commission believes its proposals are pragmatic and realistic, strongly geared toward the top political priorities agreed by Leaders in Bratislava and Rome on the future of Europe. They aim to show how the European Union can respond in a fair and balanced way to existing and emerging challenges, combining additional efforts with the necessary budgetary rigour, to move forward together with confidence to deliver on our common agenda.

Mr Jaroslav KUBERA
President of the Senát
Valdštejnské naměsti 17/4
CZ – 118 01 PRAGUE

In this context, the Commission welcomes the support from the Senát on a number of important elements of the Commission's proposals, in particular as regards the focus on European value added, the need for enhanced flexibility and simplification in the management of European Union's Funds, and the financing of new priorities such as research and innovation.

Regarding cohesion policy, the relative per capita gross domestic product remains the predominant criterion for the allocation of funds in the method proposed by the Commission. The allocation method aims to reflect how disparities have evolved over the past years and also includes new criteria to better consider the socio-economic situation in the Member States targeting resources to regions where support is most needed. It ensures a fair treatment for all, and provides for a 'safety net' to avoid too abrupt changes in Member States' allocations from which the Czech Republic is benefiting.

The Commission notes the Senát's reservations with regard to lower European Union co-financing rates, which had been increased in a time of economic crisis to ensure the continuity of investment in regions hit hard by the crisis. A decrease is now being proposed to reflect the improvement of budgetary conditions across the European Union. The decrease should also contribute to greater "ownership" on the part of beneficiaries and should maintain if not increase the overall volume of public investments in key sectors of European Union's importance. It also helps ensure a European Union cohesion policy for ***all*** *regions even in times of Brexit-induced cuts to the Union's budget.*

The Commission would like to underline that in relation to European Public Administration, its proposal keeps the ceilings for administration constant in real terms compared to 2020. Administration represents in the Commission proposal less than 7% of the total Multiannual Financial Framework. While all institutions will continually seek to make the most of synergies and efficiency gains, and deliver value for money to the European Union's tax-payer, it is important to bear in mind the current and future savings generated by the very significant reform initiated in 2013 and still ongoing in some respects. In order to deliver on the essential functions of the Union, it is appropriate and important to provide the resources for an efficient and agile civil service, capable of attracting talented people from all Member States to work for the benefit of all Europeans.

System of own resources

The proposal for a system of own resources of the European Union aims at modernising and simplifying the funding for the Union's budget. Building on recommendations from the High-Level Group on the "Future Financing of the EU", the Commission proposes to maintain the Own Resource based on Gross National Income as the main and balancing revenue source for the Union's budget. Furthermore, it proposes to simplify the current Value Added Tax based Own Resource and to introduce a basket of new Own Resources that is linked to the Union's political priorities.

The proposed basket of new Own Resources includes:

- *20% of the revenues from the Emissions Trading System. However, to ensure fairness, the auctioning of emission allowances distributed to low income Member States, like the Czech Republic, for the purpose of solidarity, growth and interconnection will be shielded from the Own Resource;*
- *A 3% call rate applied to the new Common Consolidated Corporate Tax Base (to be phased in once the necessary legislation has been adopted);*
- *A national contribution calculated on the amount of non-recycled plastic packaging waste in each Member State (EUR 0.80 per kilo).*

These new Own Resources will represent about 12% of the total Union budget. The Commission would like to point out that the Own Resources and their implementing rules have been designed to rely on existing policy frameworks in order to limit the administrative burden for collection and compliance.

The Commission takes good note of the resolution of the Czech Senate on these proposed own resources and on the current legal architecture of the system. The Commission hopes that the proposals for the new Own Resource linked to the Common Consolidated Corporate Tax Base respond to the first point of the Senate's resolution, which stresses the benefits of multinational companies.

Taken as a whole, the new Own Resources System will be better aligned with European Union policy objectives and Member States' economic performance and business cycles. This should serve to strengthen fiscal coherence between the European Union level and the Member States.

<u>Rule of law in the Member States</u>

The Commission would like to thank the Senát for its appreciation of the Commission's endeavour to introduce measures to protect the Union's budget and the taxpayers' money in case of generalised deficiencies as regards the rule of law in the Member States.

It is important to recall that the Union has other instruments allowing it to take action in case of generalised deficiencies as regards the rule of law, even if these deficiencies do not directly endanger the Union's financial interest; in particular, the procedure established in Article 7 of the Treaty on European Union and the infringement procedure. Union legislation can make the Member States' entitlement to Union financing conditional on their compliance with certain obligations. The breach of those obligations can lead to financial consequences, which do not constitute a sanction. This conditionality does not amount to a circumvention of a Treaty procedure if the two procedures – quoting from the jurisprudence of the Court of Justice of the European Union - 'are independent of each other because they pursue different aims and are governed by different rules'. This case law is fully applicable to the relationship between the proposed Regulation and Article 7 of the Treaty on European Union. The proposal and Article 7 of the Treaty on European Union are governed by different rules and there is no formal connection between them.

In order to avoid irreparable damage to the European Union's financial interests, it should be possible to have a swift adoption of proposed measures. To facilitate the adoption of decisions which are required to protect the financial interests of the Union, reversed qualified majority voting should be used (Recital 15).

To use the procedure, it is not sufficient that a generalised deficiency concerning the rule of law is present. Article 3(1) requires that generalised deficiency affects or risks affecting the principles of sound financial management or the Union's financial interests. That means that the link between the generalised deficiencies and the protection of the Union's budget must actually be established for the start of the procedure and for the adoption of measures "in concreto". When applying the mechanism, there will always be the need for a concrete assessment of the situation and for a finding based on arguments and evidence. For the Commission, it is not necessary to make this standard of proof explicit.

The Commission hopes that its proposals provide a solid basis for the negotiations to come and looks forward to a constructive and positive debate with the Czech government and with the Senát on the next Multiannual Financial Framework. It hopes that these clarifications address the issues raised by the Senát and looks forward to continuing our political dialogue in the future.

Yours faithfully,

Frans Timmermans *First Vice-President*	*Günther H. Oettinger* *Member of the Commission*