

Brussels,
PH/2008/

Dear President,

Thank you for forwarding to the Commission the 510th Resolution of the Czech Senate on the Commission's proposal for a Regulation of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents.

I note that the Senate welcomes the Commission's efforts to enhance transparency of the European institutions. However, there is some concern with regard to specific elements of the proposal which are being perceived as a step backwards. I take the opportunity to provide the Czech Senate with some clarifications regarding the issues raised in the Resolution.

The definition of the concept of "document" in the proposal remains very wide. It is not intended to restrict the number of documents falling within the scope of the Regulation. On the one hand, it defines the point in time when a document drawn up by an institution becomes a "document" in the meaning of the Regulation. As long as a document is in progress, it is not yet a "document"; it is a "document" once it has been finalised by its author and sent to its internal or external recipients or, if it has not been sent to recipients, once it has been "otherwise registered", e.g. deposited in the relevant case file. On the other hand, the new definition encompasses data held in electronic databases, which often do not fit in the traditional definition of documents, such as ranges of figures in numerical databases.

All documents drawn up or received in the course of a legislative procedure are documents falling within the scope of the Regulation. Moreover, the Commission proposes that such documents should be made public more pro-actively. This proposal is in line with the judgment of the Court of Justice in the *Turco and Kingdom of Sweden v Council* case.

The Resolution further points to the interaction between the proposed Regulation on public access and the legal instruments dealing with the protection of personal data. The Commission is aware of the need for consistency between transparency and data protection. It will carefully take into consideration the opinion of the European Data Protection Supervisor in this regard.

Mr Přemysl Sobotka
President of the Senate of
the Czech Republic

Finally, the Senate calls for improvements to the registers, including their interconnection. The Commission supports this idea and has agreed with the European Parliament and the Council to set up a working party with a view to create a common portal for access to the registers of the three institutions. This would be particularly useful as regards documents established and exchanged in the framework of the legislative process. The Commission considers that much progress can be made without a need to amend the Regulation on this point.

The Commission will review its proposal in due course, in the light of the evolution of the discussions during the legislative process. At that time, it will consider how the current text can be improved.

I take this opportunity to thank the Senate of the Czech Republic for its constructive participation in the debate on the issue of public access to documents of the institutions, which touches upon fundamental rights of citizens.

Yours sincerely,

Margot WALLSTRÖM
Vice-President of the European Commission