

**Speech of the President of the Senate of the Parliament
of the Czech Republic Mr. Milan Stech**

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Honorable Speakers, ladies and gentlemen, dear guests.

1) Let me first express my pleasure of being at this meeting, which I hope will bring many benefits. I would also like to thank our Lithuanian hosts for the excellent organization of this conference. It is actually a continuation of their well and professionally managed Presidency in the Council of the European Union in the 2nd half of last year.

2) Thank you also for giving me the opportunity to say a few words, not only on my own behalf, but especially on behalf of the Senate of the Parliament of the Czech Republic. Before I directly address the topic of this panel, let me first make a few general remarks which, however, also relate to the principle of subsidiarity.

3) I am pleased to say that the rudder of the Czech foreign policy is turned towards the European Union in a manner which it has not been throughout our existing membership in the structures of this natural strategic partner. In less than a month, we will commemorate already the 10th anniversary of our accession to the EU, along with nine other countries. However, there is no reason not to refer to some specific areas where the EU still has certain room for improvement.

4) I believe that it is unnecessary to centrally regulate relatively marginal matters. For example, the September's planned regulation of input power of vacuum cleaners; or the well known prohibition of the manufacturing and import of the traditional light bulbs. They did not have to become a part of the EU agenda. It is practically impossible to justify these steps to our citizens, that is those people we should think about in the first place.

5) I also worry about the bloated administratively demanding measures. It is no accident that almost three quarters of the EU population consider the EU to be profusely bureaucratic. It is unnecessary to place this easy-to-use ammunition into the hands of eurosceptics. The Senate of the Parliament of the Czech Republic often points out in its resolutions on European documents that even the necessary and meaningful EU initiatives often entail challenging administration and that reduces their overall effect.

6) I often hear the opinion that the so-called democratic deficit still permeates the European Union. The institutional changes brought by the Lisbon Treaty, are actually insufficient on their own. It is necessary to be in daily contact with citizens to explain European policies and to defend them. Only then can we prevent that the campaigns prior to the European Parliament elections would be based on anti-Europeanism and purely national issues.

7) And what is the role of national parliaments? The subsidiarity principle has been incorporated in European law since the Maastricht Treaty. The real impact of this principle, however, remains negligible for many reasons. Therefore, in preparation for the Treaty establishing a Constitution for Europe, it was proposed that national parliaments should monitor the adherence to the principle of subsidiarity. It is their jurisdiction which is most affected by any infringement of this principle. This effort resulted in the Protocol on the Application of Principles of Subsidiarity and Proportionality, annexed to the Lisbon Treaty, which will complete its fifth year in effect the coming December.

8) This Protocol allows national parliaments to submit a reasoned opinion on draft legislative acts of the Commission. It also introduced the so-called yellow and orange cards, where the Commission is required to review its proposal if a certain number of votes of national parliaments is achieved, and then the Commission must decide again whether it wants to maintain, amended or withdraw this proposal. National parliaments became quickly familiar with this new procedure. The number of reasoned opinions slightly increased each year and in 2013, according to unofficial statistics, the number will be close to 90.

9) However, national parliaments see the reasoned opinions as ineffective for influencing the European legislative process. This is shown, inter alia, in studies carried out in the framework of the Conference of Parliamentary Committees for EU Affairs, known as COSAC and in the European Parliament as well as in various contributions and suggestions of individual national parliaments. For many parliaments the result does not match the effort that is required to process and adopt a reasoned opinion in due time and to coordinate efforts among parliaments. The criticism is often aimed at the quality and substance of justifications of legislative proposals presented by the Commission and at the Commission's responses to the reasoned opinions.

10) Two yellow cards have been issued so far. The first card was issued for the draft regulation on the exercise of the right to collective action in the context of freedom of establishment and freedom to provide services, known as Monti II. The second card was issued for the draft regulation on the European Public Prosecutor. In the first case, the Commission withdrew the proposal because it was clear that it would not pass the European Parliament and the Council. The Commission, however, rejected the arguments of national parliaments regarding the conflict with the principle of subsidiarity and did not cope with

those arguments. In the second case, the Commission decided to pursue the proposal, noting that it is possible to eventually adopt it in the form of enhanced cooperation.

11) The subsidiarity control mechanism should be understood as a structured dialogue between the Commission and national parliaments. Its purpose is to influence the European legislative process in the event that a substantial part of the parliaments have similar objections of fundamental nature concerning a proposal presented by the Commission. This, however, requires that the actors react to each other in good faith. It remains a question whether this has always been the case.

12) In this respect, the Senate of the Parliament of the Czech Republic stressed out, in its resolution on the Commission's Annual Reports on relations with national parliaments on subsidiarity and proportionality for the year 2012, that a substantive dialogue with the Commission requires the most accurate and clear formulation of concrete suggestions, comments and arguments in the national parliaments resolutions. The Senate furthermore agreed with the Commission, that it is appropriate that national parliaments pay attention already to the Commission's pre-legislative consultation documents that initiate a debate about the appropriateness of new regulation at European level, particularly the so called Green Papers and White Papers.

13) In the pre-legislative stage, the Commission presents a range of options for further action, and therefore, there is much greater scope to influence its policy than when the Commission has already issued a draft legislative act. Although it is not possible to adopt reasoned opinions on these documents, it is possible in the course of discussing these documents to take a position on what action of the Commission would the national parliament consider to be most appropriate, also with regard to the principle of subsidiarity.

14) Therefore the Senate of the Parliament of the Czech Republic discusses both the draft legislative acts and the consulting and information documents of the Commission. The Senate communicates with the government about these documents and it is also involved in the political dialogue with the Commission. In the years 2010-2013 only, the Senate sent 182 resolutions to the Commission relating to documents or packages of documents. This is the third highest number among the parliamentary chambers of EU member states. Unfortunately, the Senate often receives from the Commission only a very vague "diplomatic" response to its specific comments and that does not benefit any substantive debate on European policy.

15) In conclusion, I would like to note that although the practice of national parliaments and of the Commission is still settling, the subsidiarity control mechanism is not sufficiently effective and efficient in involving national parliaments in the monitoring of European

policies. It is therefore appropriate to consider its reform. However, any specific solution will need to be adopted only after a broad discussion. Now we are just at its beginning. Some national parliaments have already informally proposed the following possible changes: an extension of the deadline for submitting a reasoned opinion from 8 weeks to a longer period, extending the range of control also to the principle of proportionality and the issue of the Union's competencies, reducing the quorum for the yellow and orange card, or also the introduction of the so-called red card.

16) It is also possible to consider a completely new instrument, which is informally known as the "green card". This would involve the possibility for a group of national parliaments to invite the European Commission to submit a legislative proposal and the Commission would be obliged to at least respond to this invitation. The green card would make the national parliaments cooperate closer and to seek common topics. It would allow closer integration of citizens with the European policy and it could serve as a tool that will allow national parliaments to influence European policy collectively and transparently. Individual initiatives could be presented and discussed for example in COSAC and each parliament would subsequently decide whether they wish to join the initiative or not. This tool would be more constructive in comparison with the subsidiarity control mechanism. However, the Commission's attitude would again be decisive - that is whether the Commission would not apply the whole procedure only in a purely formal manner. In this regard, existing experience with the European citizens' initiative offers some hope.

17) Thank you for your attention and I look forward to our discussion and exchange of ideas on this topic.