



**THE SENATE  
OF THE PARLIAMENT OF THE CZECH REPUBLIC  
8<sup>TH</sup> TERM**

**614<sup>th</sup>**

**RESOLUTION OF THE SENATE**

delivered on the 22<sup>nd</sup> meeting held on 24<sup>th</sup> May 2012

**on the new framework for data protection (Senate Presses no. N 144/08 and N 145/08)**

**The Senate**

**I.**

**Welcomes**

the effort of the European Commission to improve the quality of the Europe-wide framework for data protection, as the current framework is inadequate, mainly with regard to the rapid technological development;

**II.**

**1. States**

that the Commission did not provide sufficient reasoning for the necessity of adopting the general rules on data protection in the form of regulation instead of the current directive, mainly with regard to the fact that the proposal for the regulation does not bring about a clarification or simplification of the rules, that is necessary for a uniform application in the Member States of the EU;

**2. Does not consider appropriate**

the non-systematic approach of the European Commission towards the regulation of personal data protection in the area of police and judicial cooperation in criminal matters, for the following reasons:

- the proposed directive substitutes the framework decision of the Council 2008/977/JHA, that is in use only since the end of 2010, thus, it has not been possible so far to objectively evaluate its impact on practice and to consider its deficiencies while preparing the new legal rules;
- the proposed directive does not cover other partial regulations on data protection in the area of the former third pillar; those are to be examined while the directive

is implemented, which would probably lead to another large novelization of the rules in a few years;

**3. Is convinced**

that in the framework of justice cooperation in criminal matters only the cases with cross-border dimension (those where there is cooperation between Member States) fall within the scope of EU law and that Article 16 (2) of the Treaty on the Functioning of the EU, stating that the Union institutions have the competence to lay down the rules on personal data processing solely in areas falling within the scope of the EU law, should be interpreted this way;

**4. Is of the opinion**

that the proposal for the directive is in breach of the principle of conferral set in Article 5 (2) of the Treaty on European Union, as it lacks legal base in regard of personal data processing in cases of criminal proceedings without cross-border elements, that is, fully intrastate cases;

**5. Considers appropriate**

that the explanatory memorandum be more detailed and better clarify the legal regulation when such an important, and to its addressees not easily comprehensible, regulation is proposed;

**6. Warns**

that the proposals encumber extensive administrative burden on its addressees and the added value justifying this burden is not always evident;

**III.**

**1. Requests**

the Government to inform the Senate about the way this position was taken into account and to provide the Senate with further information on the proceeding of negotiations;

**2. Authorises**

the President of the Senate to forward this Resolution to the European Commission.

Milan Štěch  
sign manual  
President of the Senate

Stanislav Juránek  
sign manual  
Senate Verifier