



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 8 April 2014
(OR. en)**

8385/14

**CO EUR-PREP 16
POLGEN 43
INST 186**

"I/A" ITEM NOTE

From: General Secretariat of the Council

To: Permanent Representatives Committee/Council

Subject: Withdrawal of the Recommendation for a European Council Decision on the examination by a conference of representatives of the governments of the Member States of the amendment to the Treaties proposed by the Czech Government in the form of a Protocol on the application of the Charter of Fundamental Rights of the European Union to the Czech Republic, to be annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and not to convene a Convention

- Follow-up to the Resolution of the Czech Republic

1. By a letter dated 7 March 2014¹, the Czech Republic indicated that after having thoroughly re-examined the Protocol, *inter alia* with due regard to the latest case-law of the Court of Justice of the European Union related to the applicability of the Charter of Fundamental Rights of the EU, the government of the Czech Republic has adopted a Resolution to discontinue the procedure for the conclusion of the Protocol and requested that steps be taken to withdraw the Recommendation of the Council to the European Council to adopt a draft Decision on the examination by a conference of representatives of the Governments of the Member States on the amendment to the Treaties proposed by the Czech Government.

¹ Doc. 8383/14.

2. The background of that process has been as follows:

- On 29 and 30 October 2009, the Heads of State or Government of the 27 Member States of the European Union, meeting within the European Council, agreed that they would, at the time of the conclusion of the next Accession Treaty and in accordance with their respective constitutional requirements, attach the Protocol on the application of the Charter of Fundamental Rights of the European Union to the Czech Republic, to the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU).
- On 5 September 2011, the Czech government, in accordance with the first sentence of Article 48(2) TEU, submitted to the Council a proposal for the amendment of the Treaties in the form of a Protocol on the application of the Charter of Fundamental Rights of the European Union to the Czech Republic.
- On 12 October 2011, in accordance with the third sentence of Article 48(2) TEU, the proposal of the Czech government was submitted by the Council to the European Council. It was also notified to the national parliaments.
- At its meeting of 23 October 2011, the European Council decided, in accordance with the first subparagraph of Article 48(3) TEU, to consult the European Parliament and the Commission on the proposed amendments. The European Council also decided, in accordance with the second subparagraph of Article 48(3) TEU, to request the consent of the European Parliament not to convene a Convention given that, in its view, the convening of such Convention was not justified by the extent of the proposed amendments.
- The European Commission adopted a favourable opinion on 4 May 2012.
- On 22 May 2013 the European Parliament adopted its opinion calling on the European Council not to examine the proposed amendment. At the same time it gave its consent not to convene a Convention, as this was not justified by the extent of the proposed amendments.
- On 25 June 2013², the Council recommended to the European Council to adopt the draft Decision on the examination by a conference of representatives of the governments of the Member States of the amendment to the Treaties proposed by the Czech government.

² Doc. EUCO 132/13

3. Against this background, the Czech government requested by the letter set out in document 8383/14 the discontinuation of the procedure. This request was examined by the ANTICI Group on 8 April 2014 and it was agreed to suggest to withdraw the recommendation to amend the Treaties.
 4. Following the request of the Czech Republic, the Council is invited to withdraw its recommendation of 25 June 2013 for a European Council Decision on the examination by a conference of representatives of the Governments of the Member States of the amendment to the Treaties proposed by the Czech Government in the form of a Protocol on the application of the Charter of Fundamental Rights of the European Union to the Czech Republic, thus bringing an end to the procedure which has become devoid of purpose.
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