



EUROPEAN COMMISSION

Brussels, 12.03.2013
C(2012) 260 final

Mr Georg KEUSCHNIGG
President of the Bundesrat
Dr. Karl Renner-Ring 3
A – 1017 WIEN

Dear President,

The Commission would like to thank the Bundesrat for its Opinion on the proposal for a Regulation on "electronic identification and trust services for electronic transactions in the internal market" {COM(2012) 238 final} aimed at supporting the development of electronic transactions in the European Union, and apologises for the delay in replying.

With regard to the observations and concerns expressed by the Bundesrat on the use of delegated acts to further specify the essential security requirements set out in articles 15, 20, and 28 of the proposed Regulation, the Commission would like to emphasise the importance of having, in view of the objectives pursued by the draft Regulation, a flexible legal instrument to ensure legal certainty in an area which is characterised by frequent and unforeseeable technological developments.

In this context, the proposed Regulation provides for a set of minimum rules and principles designed to withstand future legal challenges and so to ensure the proper functioning of the legislative act. It does not detail those non-essential elements of general application which are considered to be of a more technical nature and do not require political choices falling within the responsibilities of the European Union legislature as underlined by the Court of Justice in a recent judgement¹, and that may need regular updates to take into account the fast evolution of technology and practices.

The Commission would also like to underline that article 290 of the Lisbon Treaty and the "Common Understanding on delegated acts of March 2011 between the European Parliament, the Council, and the Commission" provide for cooperation and control mechanisms ensuring Member States' close involvement in the elaboration and adoption of delegated acts.

¹ C-355/10, "Schengen Borders Code", 5.09.2012, p. 65.

The Commission hopes that these clarifications address the concerns raised by the Bundesrat and looks forward to continuing our political dialogue in the future.

Yours faithfully,

*Maroš Šefčovič
Vice-President*