



EUROPEAN COMMISSION

*Brussels, 20.10.2017
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Dear President,

The Commission would like to thank the Bundesrat for its Opinion on the proposal for a Regulation of the European Parliament and of the Council on establishing a single digital gateway to provide information, procedures, assistance and problem-solving services and amending Regulation (EU) No 1024/2012 {COM(2017) 256 final}.

The Commission welcomes the Bundesrat's general support of the initiative, which was announced in the Communication 'A Digital Single Market Strategy for Europe' {COM(2015) 192 final} 19 May 2015 as part of the E-government Action Plan 2016-2020. The objective of the initiative is to reduce additional administrative burden on citizens and businesses that operate or wish to operate in other Member States in full compliance with national rules and procedures, to eliminate discrimination and to ensure the functioning of the internal market with regard to provision of information, procedures, assistance and problem-solving services.

As concerns the Bundesrat's observations on the subsidiarity principle, Member States' right to organise their own administration and the legal basis, the Commission generally believes that the problem of insufficient cross-border access to national information and procedures can only be addressed by an EU-wide legal instrument. Other existing EU Single Market legislation (e.g. the Directives on Services, Professional Qualifications and Public Procurement) include very similar provisions requiring Member States to offer information and procedures online.

As far as Member States' right to self-organisation is concerned, the proposal only provides for the digitisation of the so-called front office, i.e. the interaction between the users (citizens or businesses) and the public authority. It does not cover any back office interactions within the public administration. The simplest way of complying with the requirement would be to offer an online form for users to initiate procedures and submit the required information.

*Ms Malu DREYER
President of the Bundesrat
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The Commission believes that for the front office digitalisation of the procedures in the fields of social security and free movement of citizens, Articles 21(2) and 48 (in addition to Article 114(1) of the Treaty on the Functioning of the European Union) provide a sufficient legal basis. In that regard, the proposal does not affect the substantive provisions of the procedures concerned, nor the competence for such procedures within the national administration (see Article 5(5) and recital 20 of the proposal).

The Commission acknowledges the specific German situation, where the federal structure and the competence for many procedures at regional and local level may lead to a potentially larger implementation effort than for centrally organised Member States. However, the Commission believes that the planned German "portal union" may contribute to solving this problem in an effective and cost efficient way.

In response to the more technical comments in the Opinion, the Commission would like to refer the Bundesrat to the attached annex.

The Commission hopes that the clarification provided in this reply addresses sufficiently the main issues raised by the Bundesrat and looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Elżbieta Bieńkowska
Member of the Commission*

ANNEX

The Commission has carefully considered each of the issues raised by the Bundesrat in its Opinion and is pleased to offer the following clarifications:

As concerns the proposal for a Regulation in general

General Observations

Payment of translations

In Article 28(1)(c) of the proposal, the Commission has proposed that the general EU budget covers the translation costs of a maximum volume per Member States. It believes that this cannot be an unlimited volume, for budgeting reasons but also because this would be a disincentive to Member States for keeping texts short and simple. Member States that would not improve the quality of their information would receive more funding than those that put an effort into being more user-friendly. In any case, the planned envelope is sufficiently generous to cover the equivalent of about 500 pages of information per Member State per year.

Implementation costs

The proposed Regulation only requires Member States to digitise the front office, and not the often much more complex back office. The Commission cost calculation for the digitisation effort of the 13 procedures, which makes up the largest part of the national costs, was based on the higher end of cost figures submitted to the Commission for procedures already digitised by the Member States. Several Member States have presented much lower cost figures, especially when they had used generic IT solutions such as form generators.

The initial investment costs would be more than offset within a year by the very important administrative savings generated by offering information and procedures online. The cost/benefit figures collected from Member States and included in the Impact Assessment accompanying this proposal, demonstrate this very clearly.

Providing access to assistance and problem-solving services

According to the Bundesrat, the proposed Regulation would oblige authorities to provide access to assistance and problem-solving services, e.g. Points of Single Contact. However, this requirement with regard to the Points of Single Contact already exists. All the services listed in Annex III to the proposal already exist and have an EU legal basis, and the Single Digital Gateway common user interface would link to them, and make them findable via the assistance service finder. In addition, national coordinators may provide links to other assistance and problem solving services offered by competent authorities, and may propose the inclusion of a link to assistance or problem solving services provided by private or semi-private entities. The inclusion of these additional national services would be voluntary, not a mandatory requirement on Member States.

As concerns the details of the proposed Regulation

Article 5 – access to procedures in combination with Annex II

According to Article 5(4) of the proposal, Member States may request users to appear in person whenever this is "strictly necessary" and "objectively justified". Widening the exception to cases that are not "strictly necessary" and "objectively justified" would undermine one of the objectives of this initiative to enable users to complete certain core procedures fully online.

Article 5(2) and Annex II: 'general registration of business activity' procedure

Company or firm constitution has been excluded from the scope, but the mere act of registering in the commercial register, once the company is established and if this is a separate step, is not excluded. One difficulty in defining the expected output arises from the fact that procedures are very different in Member States, and the expected output will need to make sense to all. To ensure clarity, further refining of the drafting may be needed following discussions in the European Parliament and in Council.

Article 10 – quality requirements with regard to online procedures

The Commission thanks the Bundesrat for this comment and which it will take into account in any further redrafting following discussions in the European Parliament and in Council.

Article 12 – cross-border exchange of evidence between competent authorities

The Commission is convinced that the introduction of the "once only principle" would not lead to an additional administrative burden for national authorities. On the contrary, experience in Member States that have implemented a once-only approach shows that it greatly reduces the administrative burden both for citizens and businesses and for public authorities. In any case, the secondary act that is envisaged for implementing the technical solution would be accompanied by a separate impact assessment. The suggested solution would also respect personal data protection rules. The user would need to explicitly request the cross-border exchange of his evidence (Article 12(4)), and would have the possibility to preview the evidence to be exchanged (Article 12(2)(e)).

Article 14 – quality monitoring

The Commission would like to point out that the national coordinators would be responsible for quality monitoring of the national services for which relevant national (including regional and local) authorities are responsible, and the Commission for the services under its responsibility. This means that quality monitoring competences are allocated on the basis of responsibility and are not "mixed".

Article 24 – national coordinators

The aim of having one national coordinator is to simplify exchanges between the Commission and Member States, by having one interlocutor in charge of national coordination per country. Member States are free to organise their representation in the way that best suits their national structure, for instance through a rotating system or by organising meetings among state coordinators. Similar approaches based on a single national coordinator already exist for instance for the Internal Market Information system.

Article 32 – Market Information System (IMI)

The Commission thanks the Bundesrat for this comment which it will take into account in any further redrafting following discussions in the European Parliament and in Council.

Article 37 – entry into force

The two-year period for implementation is based on the required time for the deployment of the technical solutions underpinning the initiative. In the ongoing discussions with the European Parliament and the Council, the Commission will look very carefully at any real practical problems this deadline may cause for Member States, with a view to ensuring that the deadlines eventually agreed will be ambitious, but realistic.