

# SENATE OF THE ITALIAN REPUBLIC

XVI LEGISLATURE

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## RESOLUTION OF THE FIRST STANDING COMMITTEE

(Constitutional affairs, affairs of the Prime Minister's Office and home affairs, general legal system of the State and the public administration)

(Rapporteur BODEGA)

approved at the session of 18 October 2011

ON THE

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
ON ADMINISTRATIVE COOPERATION  
THROUGH THE INTERNAL MARKET INFORMATION  
SYSTEM ('THE IMI REGULATION') (COM (2011) 522 final)

within the meaning of Article 144(1) and (6) of the Rules of Procedure

Notified to the President's Office on 28 October 2011

TABLE OF CONTENTS

Text of the resolution .....	Page 3
Opinion of the 14th Standing Committee .....	» 4

The Committee,

having examined the proposal for a regulation, declares that it is in favour.

## OPINION OF THE 14TH STANDING COMMITTEE

(EUROPEAN UNION POLICIES)

(Rapporteur: Mauro Maria Marino)

27 October 2011

The Committee, having examined the act,

whereas the act has the main purpose of bringing together in a single legal instrument the rules governing the functioning of the Internal Market Information System (IMI) and of ensuring greater legal *certainty* and a high level of data protection;

having regard to the fact that close collaboration between the authorities of the Member States is essential to ensure better governance of the internal market;

whereas the Internal Market Information System – as a free multilingual IT support service made available to the Member States and hosted centrally by the Commission – is a key tool for cross-border administrative cooperation because it enables the national, regional and local authorities to exchange information (including personal data) fast and securely, overcoming the obstacles arising from language barriers, different working and administrative cultures and the lack of established procedures for cooperation;

whereas the System currently applies to Articles 8, 50, 51 and 56 of Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications; to Chapter VI of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (obligatory use of the IMI); to Article 10 of Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare (which provides for the obligation on the Member States to use the IMI for the exchange of information on the right to exercise the profession of healthcare provider) and, on an experimental basis from 15 May 2011, to Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services;

## XVI LEGISLATURE– DRAFT LEGISLATION AND REPORTS - DOCUMENTS

having regard to the fact that the European Commission considers that the IMI is a vital tool for the practical implementation of the provisions on the completion of the internal market, as referred to in Annex II of the proposal for a regulation;

recalling that the European Data Protection Supervisor has voiced its concerns on several occasions about the absence of an exhaustive legal framework for the protection of data within the IMI system, and the absence of legal certainty caused by that legislative vacuum had hitherto been the main obstacle to its further development, and therefore to creating a genuine ‘face-to-face electronic network for European administrations’;

whereas increased efficiency in the provision of public services for the direct benefit of citizens ensured by the IMI System is a priority, as the European Commission rightly maintained in its communication COM (2011)75 final; ‘Better governance of the Single Market through greater administrative cooperation: A strategy for expanding and developing the Internal Market Information System (“IMI”)

expresses a favourable opinion, within its area of responsibility, and makes the following points:

the legal basis seems to have been correctly identified by the European Commission in Article 114 of the Treaty on the Functioning of the European Union (TFEU) relating to the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market;

the proposal appears to comply with the principle of subsidiarity inasmuch as the purpose of the action to be undertaken, that is to say, the removal of obstacles to cross-border administrative cooperation, cannot be pursued sufficiently by the Member States and requires action at European Union level;

the proposal also appears to comply with the principle of proportionality in that it is in keeping with the objectives pursued;

So far as concerns the substance:

it particularly welcomes the proposal for a regulation of the European Commission intended to give the IMI a certain legal framework, also and above all in the light of the increasing role which that system will play in the practical implementation of European provisions on the completion of the internal market;

it recognises the benefits deriving from the future expansion of the IMI to other aspects of legislative acts concerning the internal market (Annex II of the proposal); it takes the view, however, that that extension is an essential element of the legislative act and, therefore, in accordance with Article 290(1) of the TFEU, may not be governed by the delegated acts procedure, as Article 4 of the proposal for a regulation provides;

## XVI LEGISLATURE– DRAFT LEGISLATION AND REPORTS - DOCUMENTS

it supports the request put forward by several Governments of the Member States, including Italy, within the Council working group responsible, to obtain a written opinion from the Council's Legal Service concerning the question of the adoption by the Commission of delegated acts;

it takes the view, in any event, that the European Commission must state that the list of legislative areas in Annex II, to which the System could extend, is to be considered closed;

it believes, in this respect, that it is appropriate to extend the IMI gradually, to protect the efficiency and economic sustainability of the System at national level;

it particularly welcomes the possible extension of the IMI also to the sector referred to in Commission Recommendation 2001/893/EC of 7 December 2011 on principles for using 'SOLVIT' – the Internal Market Problem Solving Network (Chapters I and II) – which would enable resources to be saved and the IT service provided to citizens to be improved;

it takes the view, with reference to Article 13 of the proposal for a regulation on the basis of which the personal data processed in IMI is to be blocked at the latest eighteen months after the closure of an administrative cooperation procedure, that the period for retention of the data itself must not be more than that strictly necessary for the purposes for which it was exchanged, and therefore no more than six months. It shares the position adopted in Opinion No 7 of 21 September 2007 by the Council working group which brings together delegates from the data protection authorities of the various Member States and confirmed on several occasions by the European Data Protection Supervisor. Any initiatives undertaken by those bodies to restate the importance of maintaining that limit would be welcomed;

it expresses its satisfaction, moreover, that the IMI system provides the possibility to implement in practical terms the alert mechanisms provided for by the 'services directive' where there may be risks caused by economic operators. The extension of that mechanism to the review of the directive on professional qualifications, with particular reference to the healthcare professions, would be considered favourably;

it takes the view, finally, that the support and training at national level provided by the European Commission's Internal Market Directorate-General is invaluable.

As regards the use of the IMI System by Italy:

it points out that the European IMI system and the national systems for exchange of information already existing in Italy for the development of the internal market are complementary, given the supranational nature of the IMI system, made available by the European Commission free of charge;

it takes a positive view of the Government's generally favourable approach to the proposal under consideration;

## XVI LEGISLATURE– DRAFT LEGISLATION AND REPORTS - DOCUMENTS

it takes the view that optimal use of the IMI System in Italy is an essential condition for citizens and undertakings to be able fully to benefit from the opportunities offered by the single market and that making information procedures fluid can only bring benefits to Italy's growth in economic terms. This would therefore justify the investment in human resources necessary by the authorities for the proper functioning of the System;

it considers it appropriate that the European Policies Department of the Prime Minister's Office, in its role as national IMI coordinator (NIMIC), should continue its work involving the central and regional authorities, including delegation of the coordination roles for specific sectors or areas of legislation, or through the registration of an increasing number of authorities, in the knowledge that the development of the IMI system is a priority for the completion of the internal market;

it appreciates the work carried out over the years by the Ministry of Health, to whom the European Policies Department has delegated the role of coordinator in the sector of qualifications of healthcare professionals, and the activities of the Ministry of Labour and Social Policy, with particular reference to its role of coordinator in the legislative area of the transnational posting of workers. Such delegated activities have enabled the two ministries to register and involve in the IMI system other authorities at local level (as in the case of the area labour directorates), a commendable approach which benefits citizens;

it points out how the Italian IMI can attest to its efficiency in those fields of central administration which are in a position to provide answers directly to questions raised by authorities registered in the other Member States. Where such information is the prerogative of the regional or local authorities, however (as in the case of incoming questions referring to the 'services directive'), it would be necessary for those ministries to acquire the status of coordinator for the sector or legislative area of reference, and therefore register those authorities at local level, thus enabling them directly to provide users with the information required;

it appreciates, in addition, the activities of the European Policies Department intended to involve, raise awareness and support the regions, all registered in the System;

it hopes that the Standing Conference for Relations between the State, the Regions and the Autonomous Provinces of Trento and Bolzano is compared with the Region of Sicily, coordinator of the IMI interregional IMI desk, so that the regional IMI network can better develop;

it evaluates positively the action of the Government aimed at making up the considerable backlogs which have built up in relation to the other Member States in registering the competent authorities in the IMI System, which the Internal Market and Services Directorate-General of the European Commission highlighted in its 2010 Report on the status of the implementation of the IMI System;

## XVI LEGISLATURE– DRAFT LEGISLATION AND REPORTS - DOCUMENTS

finally, it stresses that it is imperative that the authorities involved at various levels in the development of the System become aware of the usefulness for Italy of this European information tool, also in view of the considerable impetus which it has had in the other Member States with which Italy is called upon to cooperate more and more frequently.

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