



EUROPEAN COMMISSION

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C(2012) 9328 final

Mr Renato SCHIFANI
President of the
Senato della Repubblica
Piazza Madama, 1
IT – 00186 ROMA

Dear President,

The Commission would like to thank the Senato della Repubblica 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}.

The Commission welcomes the Senato della Repubblica's support for the proposed Regulation aiming at providing a secure and convenient comprehensive framework for cross-border electronic identification and trust services.

With regard to the concerns expressed by the Senato della Repubblica on the lack of precision concerning the empowerment of the Commission to adopt delegated acts in certain specific areas, the Commission would like to underline that the aim of the proposed Regulation is to provide a flexible legal instrument to ensure legal certainty in an area which is characterised by frequent and unforeseeable technological developments.

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 responsibility 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.

In addition, the Commission considers the use of delegated acts as the most appropriate instrument to give legal effect to good practices developed and adopted by stakeholders and to ensure their consistent application across the Union.

In this context, a limited duration of the delegation of power to the Commission would make it difficult to attain the primary objective of the Regulation, as foreseeable innovation and technological developments may at any time require appropriate adjustments of the non-essential elements of the legal framework. Moreover, a limited duration for the delegation of

¹ C-355/10, "Schengen Borders Code" (Decision 2010/252/EU of 5.09.2012)

power would be without prejudice to the right of the European Parliament and the Council to revoke it as stated under article 38(3) of the proposed Regulation.

The Commission hopes that these clarifications address the concerns expressed by the Senato della Repubblica and looks forward to continuing our political dialogue in the future.

Yours faithfully,

*Marcoš Šefčovič
Vice-President*