

SENATE OF THE REPUBLIC

17th PARLIAMENTARY TERM

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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 MIGLIAVACCA)

approved at the session of 26 June 2013

ON THE

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON PROMOTING THE FREE MOVEMENT OF CITIZENS AND BUSINESSES BY SIMPLIFYING THE ACCEPTANCE OF CERTAIN PUBLIC DOCUMENTS IN THE EUROPEAN UNION AND AMENDING REGULATION (EU) No 1024/2012 (COM (2013) 228 final)

under Article 144(1) and (6) of the Rules of Procedure

Communicated to the Office of the Prime Minister on 2 July 2013

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The Committee, having examined the proposal for a Regulation,

whereas:

the proposal aims to eliminate red tape and administrative obstacles to the full enjoyment of free movement of EU citizens and the internal market freedoms of EU businesses;

the proposal is one of the key initiatives in the European Year of Citizens 2013, and its purpose is to allow the Union's citizens and businesses to enjoy in full their inherent rights as European citizens and the rights associated with the internal market;

numerous factors have given rise to the need for EU action: the increased intra-EU mobility of Union citizens and businesses facing the administrative formalities specified and the associated time and money costs; indirect discrimination against nationals of other Member States as against a Member State's own nationals in cross-border situations; the fragmented legal framework at EU and international level as regards legalisation, apostilles, administrative cooperation and the movement of documents;

in their documents concerning the proposal, sent to Parliament under Law No 234 of 2012, the Ministry of the Interior and Ministry of Justice welcome the simplification measures envisaged but would like to see some improvements in the wording of the proposal during negotiations,

gives a favourable opinion on the proposal, within its sphere of competence, while commenting as follows:

the legal basis selected is the right one, namely Article 21(2) of the Treaty on the Functioning of the European Union (TFEU), which authorises the European Parliament and the Council to adopt provisions with a view to facilitating the exercise of EU citizens' right to 'move and reside freely within the territory of the Member States', together with Article 114(1) TFEU (the Union adopts measures for the establishment and functioning of the internal market, in accordance with the relevant provisions of the Treaties), which sets out the provisions applicable for achievement of the objectives set out in Article 26(2) TFEU ('The internal market shall comprise an area without internal

frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of the Treaties');

the proposal complies with the principle of subsidiarity

(1) in terms of the need for action by the EU institutions in the short and medium term, since it proposes reducing the practical problems caused by the administrative formalities specified, in particular by cutting the related red tape, costs and delays, reducing translation costs related to the free circulation of public documents within the EU, simplifying the fragmented legal framework regulating the circulation of public documents between the Member States, ensuring a more effective level of detection of fraud and forgery of public documents and eliminating risks of discrimination among Union citizens and businesses;

(2) in terms of added value for the Union, since a directly applicable simplifying measure is to be adopted containing horizontal principles on the free circulation of public documents between the Member States that would help Union citizens and businesses to use different categories of public documents in cross-border situations without disproportionate, burdensome and costly administrative formalities;

the proposal also complies with the principle of proportionality since it is consistent with the objectives pursued, as it confines itself to abolishing or simplifying the administrative formalities specified;

such practical simplification of the existing administrative formalities associated with the cross-border acceptance of certain public documents is necessary for free movement in the internal market as the authenticity of public documents needs to be established without recourse to outdated administrative formalities. However, to pre-empt fraud, in cases of reasonable doubt about the authenticity of documents, it is important to set up an effective mechanism for administrative cooperation between Member States, operating above all preventively. The Committee also calls on the Government to check compliance with the principle of reciprocity in the implementation of the proposed Regulation.

OPINION OF THE 14th STANDING COMMITTEE (EUROPEAN UNION POLICIES)

(Rapporteur: Giovanni MAURO)

26 June 2013

The Committee, having examined the proposal,

whereas:

the proposal aims to eliminate red tape and administrative obstacles to the full enjoyment of free movement of EU citizens and the internal market freedoms of EU businesses;

the proposal is one of the key initiatives in the European Year of Citizens 2013, and its purpose is to allow the Union's citizens and businesses to enjoy in full their inherent rights as European citizens and the rights associated with the internal market;

numerous factors have given rise to the need for EU action: the increased intra-EU mobility of Union citizens and businesses facing the administrative formalities specified and the associated time and money costs; indirect discrimination against nationals of other Member States as against a Member State's own nationals in cross-border situations; the fragmented legal framework at EU and international level as regards legalisation, apostilles, administrative cooperation and the movement of documents;

in their documents concerning the proposal, sent to Parliament under Law No 234 of 2012, the Ministry of the Interior and Ministry of Justice welcome the simplification measures envisaged but would like to see some improvements in the wording of the proposal during negotiations,

comments favourably on the proposal, for matters within its remit, highlighting the following points:

the legal basis selected is the right one, namely Article 21(2) TFEU, which authorises the European Parliament and the Council to adopt provisions with a

view to facilitating the exercise of EU citizens' right to 'move and reside freely within the territory of the Member States', together with Article 114(1) TFEU (the Union adopts measures for the establishment and functioning of the internal market, in accordance with the relevant provisions of the Treaties), which sets out the provisions applicable for achievement of the objectives set out in Article 26(2) TFEU ('The internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of the Treaties');

the proposal complies with the principle of subsidiarity

(1) in terms of the need for action by the EU institutions in the short and medium term, since it proposes reducing the practical problems caused by the administrative formalities specified, in particular by cutting the related red tape, costs and delays, reducing translation costs related to the free circulation of public documents within the EU, simplifying the fragmented legal framework regulating the circulation of public documents between the Member States, ensuring a more effective level of detection of fraud and forgery of public documents and eliminating risks of discrimination among Union citizens and businesses;

(2) in terms of added value for the Union, since a directly applicable simplifying measure is to be adopted containing horizontal principles on the free circulation of public documents between the Member States that would help Union citizens and businesses to use different categories of public documents in cross-border situations without disproportionate, burdensome and costly administrative formalities;

the proposal also complies with the principle of proportionality since it is consistent with the objectives pursued, as it confines itself to abolishing or simplifying the administrative formalities specified;

such practical simplification of the existing administrative formalities associated with the cross-border acceptance of certain public documents is necessary for free movement in the internal market as the authenticity of public documents needs to be established without recourse to outdated administrative formalities. However, to pre-empt fraud, in cases of reasonable doubt about the authenticity of documents, it is important to set up an effective mechanism for administrative cooperation between Member States,

operating above all preventively, limiting the cases in which recourse must be had to the 'central authority' (which would have to be designated under the Regulation) responsible for providing additional information. In this connection one should not underestimate the impact that the proposed measures will have on the Department of Internal and Territorial Affairs at the Ministry of the Interior and, above all, on the organisation of municipal authorities, which are responsible for the issue of many of the documents concerned and for checking their authenticity.