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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**Delivering the benefits of the single market through enhanced administrative
cooperation**

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Progress Report on the Internal Market Information System (IMI)

(Text of EEA relevance)

1. INTRODUCTION

European citizens and businesses benefit every day from the many attractive opportunities offered by the single market. They can sell their services or products across borders, or to set up local establishments in other markets. Citizens can have access to and benefit from services offered in other Member States. A citizen may want to work in another EU Member State as a pharmacist, a dentist or a teacher and can do so, because their professional qualifications are recognised.

This is what the single market is all about – an area without barriers in which business can prosper, people are able to achieve their ambitions, and where effort and dynamism bring rewards. The single market is one of the key building blocks of the European economy. It has delivered benefits linked to growth and employment, as well as consumer choice and competitiveness. **But the single market can only make its full contribution if the legislation works as intended.**

Free movement of goods, services, people and capital rests on a legal framework consisting of direct application of Treaty rules, harmonised European rules, and national rules. The task of implementing and ensuring compliance with these rules lies, in practice, with a large number of public and other authorities in the 27 EU Member States and the 3 EFTA countries participating in the European Economic Area (EEA).

Lack of trust and confidence in the legal framework and in supervision in other Member States has resulted in a multiplication of rules and a duplication of controls for cross-border activities. This has been one of the main challenges to the smooth functioning of the single market to date.

Member State authorities need to cooperate closely and to build trust in each others' systems. This would ensure not only the effective supervision of service providers but also help to avoid the multiplication of controls many citizens, businesses and service providers encounter. Effective cooperation and mutual trust, however, can only be established on the basis of regular contact and easy access to information.

Organising the network needed to fully exploit the benefits of internal market legislation is a big challenge because there are a wide variety of competent

authorities operating at local, regional and national level. The increased number of languages and complexity following enlargement have made this challenge even greater and increased the need for an information system to support networking between Member States.

It is up to Member States to ensure that internal market law works effectively on their territories. But they need the tools to work together and with the Commission in order to ensure that the full benefits of the legal framework are delivered for citizens and businesses. The Internal Market Information system (IMI) has been developed both in response to that need and to the legal obligation set out in the Services Directive to establish an electronic system for the exchange of information between Member States.¹

IMI will enable Member States to fulfil their legal obligations to exchange information. It will also allow new forms of administrative cooperation which would not be possible without the support of an electronic information system. It is designed to be an efficient and effective means to lower the unit cost of the communication between Member States which needs to take place in order to implement internal market legislation properly. IMI will thus contribute to creating the environment of trust and confidence needed to ensure that the single market functions smoothly and delivers its benefits.

2. LEGAL AND POLITICAL CONTEXT

In March 2006 Member States endorsed a proposal to develop IMI. This decision was taken in the light of the importance of administrative cooperation for a dynamic single market, as recognised in the Lisbon Strategy which states that "[...] these measures taken together with [...] the directive on services and enhanced administrative co-operation between Member States, would help to create a new business and employment dynamic in the EU".²

IMI will also help to improve the application of Community law at national level, and thus contribute to the EU Better Regulation agenda.³ IMI should also be seen in the context of the i2010 eGovernment Action Plan⁴ and its objective of "making efficiency and effectiveness a reality".

IMI is a multilingual tool built for an EU with 27 Member States and 23 official languages. Whilst multilingualism can be a source of benefits and richness, it also

¹ See: Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market, OJ L 2006/376, p. 36, Article 34(1).

² See: Communication from the European Commission to the Spring European Council COM (2006) 30 final *"Time to move up a gear – the new partnership for growth and jobs"*, p. 18.

³ See: Communication from the European Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions COM (2006) 689 *"A strategic review of Better Regulation in the European Union"*, p. 3.

⁴ See: Communication from the European Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, COM (2006) 173 *"i2010 eGovernment Action Plan: Accelerating eGovernment in Europe for the Benefits of All"*, p. 6.

presents a number of challenges.⁵ By using new technologies supported by human and automatic translation services, IMI is a good example of concrete measures that the EU can take to minimise these obstacles and to close the communication gap between administrations in Europe.

In the context of modernising the governance of the single market to match the needs of the 21st century, as set out in the Single Market Review presented by the Commission in November 2007, **IMI will support a more effective, decentralised, networked-based approach to cross-border cooperation.**⁶

IMI has been designed as a tool to support administrative cooperation for the body of internal market legislation in general. In a first stage it will be used for the new Professional Qualifications Directive (2005/36/EC)⁷ and the Services Directive (2006/123/EC)⁸.

The development of IMI as well as the required accompanying measures such as training workshops and e-learning material are financed by the IDABC programme, which promotes European eGovernment services.⁹ The total financing which has been allocated by the programme to IMI amounts to €1.82 million.

3. HOW IT WORKS

The Internal Market Information system (IMI) is an electronic tool that provides a system for the exchange of information so that Member States can engage in more effective day-to-day co-operation in the implementation of Internal Market legislation. IMI supports competent authorities in Member States by helping them overcome important practical barriers to communication such as differences in administrative and working cultures, different languages and a lack of clearly identified partners in other Member States. Its aim is to increase efficiency and effectiveness in day-to-day co-operation between Member States.

IMI is a secure internet application available to all 30 EEA country administrations. It supports all official EU languages and provides a means of exchanging information between administrations throughout the EEA. No prior knowledge of the administrative structure in another Member State is required in order to use IMI.

IMI makes available to competent authorities in Member States a simple tool to find authorities in other Member States and to send them a request for information

⁵ See: Communication from the European Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, COM (2008) 566 *"Multilingualism: an asset for Europe and a shared commitment"*.

⁶ See: Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, *"A single market for 21st century Europe"*, COM (2007) 724, p. 12-14.

⁷ Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, OJ L 2005/255, p. 22. (Art 8, 50 and 56 in particular).

⁸ Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market, OJ L 2006/376, p. 36. (Art 28-36 in particular).

⁹ Decision 2004/387/EC of the European Parliament and the Council of 21 April 2004 on the interoperable delivery of pan-European eGovernment services to public administrations, businesses and citizens (IDABC), OJ L 2004/144 as corrected by OJ 181, (18.5.2004) p. 25.

through a structured set of questions, which are based on specific areas of EU legislation. The questions have been pre-translated into all official languages by the European Commission translation services, thus providing reliable and legally valid language support.

4. KEY PRINCIPLES

The development of IMI is based on three key principles:

- It does not impose additional administrative cooperation obligations on Member States beyond those already contained in the relevant Internal Market legislation;
- It provides the flexibility to respect the diverse administrative structures and cultures in Europe;
- It is a single system based on reusable building blocks. It is designed to be able to support many pieces of Internal Market legislation and will thus avoid a proliferation of information systems.

5. BENEFITS

IMI helps to deliver the benefits of the single market through enhanced administrative cooperation in the following ways:

- Member States manage a **single relationship with a network** instead of 29 bilateral relationships;
- Member States communicate using a clear, **transparent and agreed working method**;
- Member States can **locate the relevant discussion partner** in another Member State;
- **Language problems are reduced** through structured and pre-translated screen information combined with informal assistance through automatic translation of free text¹⁰;
- Areas of administrative cooperation which were **previously impossible now become feasible**;
- **Resources and time are saved** in exchanging information with other Member States;
- **Service quality is improved** through increased transparency and predictability;

¹⁰ IMI offers a link to the European Commission automatic translation service (ECMT). This tool offers some assistance to users in understanding any free text comments entered in relation to an IMI request. ECMT supports a limited number of language pairs. ECMT translations cannot be relied upon for legal purposes. Users are thus advised at their discretion to consider seeking official and professional translation support, whenever necessary.

By using a series of generic, reusable building blocks, specific applications for new directives can be added to IMI with minimal additional costs (provided that no complex new workflows are required). As such, IMI avoids unnecessary duplication, it reduces cost and it allows the creation of a genuine network for information exchange.

6. DATA PROTECTION

As IMI is used for the exchange of personal data, a high level of data protection is important. Relevant data protection legislation fully applies to IMI.¹¹ IMI helps to ensure compliance with this legislation, when national administrations are required to exchange personal data because it provides a clear framework for what information can be exchanged, with whom and under what circumstances. A specific Commission Decision also lays down the functions, rights and obligations of the IMI actors in relation to data protection.¹² This Decision translates the functioning of IMI into legal terms.

The Article 29 Data Protection Working Party, which brings together national Data Protection Authorities and the European Data Protection Supervisor (EDPS), has delivered an opinion on how to best ensure the compliance of IMI with the relevant data protection legislation.¹³

The EDPS has in addition drawn up an opinion on the Commission IMI Decision¹⁴. Considering that the scope and usage of IMI will expand in the future, the EDPS believes that it will be necessary to provide for specific data protection safeguards in legally binding Community legislation which goes beyond the existing applicable data protection legislation. The EDPS agrees however that some experience with the practical usage of IMI may be necessary before deciding additional specific rules. The Commission has therefore decided to take a step by step approach.

In a first step the Commission will draw up guidelines on IMI and data protection for the competent authorities that will use IMI. Such guidelines would be in the form of a Commission Recommendation to be adopted early 2009 and would complement the Commission IMI Decision by explaining how the existing data protection rules can best be applied when competent authorities use IMI. The Commission will evaluate the practical effect of these guidelines, in cooperation with the European Data Protection Supervisor, in order to assess the need for additional legally binding Community legislation.

¹¹ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, OJ L 1995/281, p. 31; Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, OJ 2001/8, p. 1.

¹² Commission Decision of 12 December 2007 concerning the implementation of the Internal Market Information System (IMI) as regards the protection of personal data, OJ 2008/13, p. 18.

¹³ Article 29 Data Protection Working Party, Opinion 7/2007 on data protection issues related to the Internal Market Information System (WP140, 01911/07), 21.09.2007.

¹⁴ Opinion of the European Data Protection Supervisor on the Commission Decision of 12 December 2007 concerning the implementation of the Internal Market Information System (IMI) as regards the protection of personal data (2008/49/EC), 22.02.2008.

7. STATE OF PLAY

Since March 2006 Member States and the Commission have been working together intensively through the Internal Market Advisory Committee in order to agree on the detailed requirements for IMI. This process is in itself a good example of the new working relationships and new approaches that are needed in order to deliver results in a more decentralised and network-based single market. The benefits of a system like IMI can only be made available through such a partnership approach.¹⁵

IMI was launched in November 2007 in support of the administrative cooperation provisions of the new Professional Qualifications Directive. Initially, Member States concentrated on identifying and registering relevant competent authorities for the use of IMI. By February 2008 it was considered that a sufficient critical mass of competent authorities had been registered in order to start a pilot project for the exchange of information. The pilot project was limited to four professions (doctors, pharmacists, physiotherapists and accountants). All 30 EEA countries took part in the pilot project.

The purpose of the Professional Qualifications pilot was to assess whether IMI is fit for purpose. It also gave Member States the opportunity to test the appropriate organisational structures to support a larger-scale use of IMI in future. In June 2008, the Commission launched an evaluation exercise of the pilot project, based on statistical data and feedback from IMI users.

Users of the system confirm that IMI is easy to use and fit for the purpose of supporting cross border administrative cooperation. Usage levels increased during the pilot project and indicate that competent authorities understand the added value to be gained from using IMI.¹⁶ Feedback was particularly positive about the language support and the ability to search for competent authorities. However, further development of the system will be necessary to meet all Member State requirements.

8. NEXT STEPS

The Commission considers that the results of the pilot project on the Professional Qualifications Directive indicate that **IMI provides the support needed to enhance administrative cooperation and should be considered as an operational system** for that Directive. In order to manage the transition from a pilot system to an operational system efficiently, in a first step it should be expanded to the remaining five professions (nurses, dental practitioners, veterinary surgeons, midwives and architects) to which the principle of automatic recognition applies. In addition, two more professions under the general recognition system will be selected. Once the system is functioning adequately for all these professions it should be progressively opened to further professions on a demand-led basis.

¹⁵ See: Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, *"A single market for 21st century Europe"*, COM (2007) 724, p. 12-14.

¹⁶ All feedback is based on input received from Member States. For details on the Professional Qualifications Pilot Project, see accompanying Commission Staff Working Document.

The Administrative Cooperation chapter of the Services Directive contains detailed provisions for mutual assistance between Member States and on how that mutual assistance will be organised.¹⁷ Thus Article 28.6 of the Services Directive requires that Member States supply the information requested by other Member States or the Commission by electronic means and within the shortest possible period. And Article 34.1 of the Services Directive further requires that the Commission shall, in cooperation with Member States, establish an electronic system for the exchange of information between Member States, taking into account existing systems.

IMI has been established by the Commission and Member States to support the required exchange of information. A large number of competent authorities at local, regional and national level will need to exchange information related to the Services Directive. For that reason the Commission and the Member States are preparing an IMI pilot project for the Services Directive. **The Services Directive pilot project will start in January 2009 and continue until 28 December 2009, at which date IMI must be fully operational for the Services Directive.**

On the basis of a Commission Recommendation¹⁸ endorsed by Council Conclusions¹⁹, consideration is currently being given to examine the possibility of using an information exchange system for supporting enhanced administrative cooperation necessary to improve the practical implementation of Directive 96/71/EC²⁰ concerning the posting of workers in the framework of provision of services.

9. CHALLENGES

9.1.1. *Preconditions for a successful roll-out of IMI*

Whilst the Commission will provide support, the principal responsibility for the implementation and the smooth running of IMI lies with the Member States. Each has to decide on the most suitable way in which to set up and manage IMI in its national context. The effort needed to do so should be seen in the context of the benefits available.²¹ The pilot project on Professional Qualifications has shown that important preconditions have to be met:

- Member States need to understand the flexibility IMI offers in order to find the most suitable fit between their administrative structures and the IMI system;

¹⁷ Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market, OJ L 2006/376, p. 36. (Art 28-36 in particular).

¹⁸ See: Commission Recommendation of 3 April 2008 on enhanced administrative cooperation in the context of the posting of workers in the framework of the provision of services (OJ C 89).

¹⁹ The Council invites the Commission "to set up, as soon as possible, an operational task force, first of all to carry out preliminary examinations in order to develop possible options for a specific information exchange system and, secondly, to provide advice on the most appropriate and cost-effective technical support for the information exchange system, including the possibility of using a specific application of the Internal Market Information System (IMI)", Council Conclusions of 9 June 2008 (9935/08, SOC 316), p. 3.

²⁰ See: OJ L 18, 21.1.1997, p. 1-6.

²¹ See section 5 of this Communication.

- A sufficient critical mass of competent authorities needs to be registered as users of IMI;
- Adequate measures need to be taken to raise awareness and deliver training to competent authorities.

Meeting these preconditions will be essential in order to successfully manage the transition to a fully operational system, both in support of the Professional Qualifications Directive and the Services Directive.

It is clear that the main challenge in implementing IMI and creating a functioning cooperation network across the EU is not technical but organisational. In order for IMI to deliver the expected benefits in terms of enhanced administrative cooperation, **it is not enough just to build a computer system. Additional accompanying measures are needed for a successful roll-out.** In particular, competent authorities will need to be aware of the benefits that IMI delivers and how to use the system in conformity with relevant community acts, as well as data protection legislation. Based on their experiences with the Professional Qualifications Directive pilot project, **Member States have singled out training and awareness-raising as the most critical success factor for IMI.**

9.1.2. *Mutual assistance and administrative cooperation under the Services Directive*

Technical

The IMI application needs to be further developed to be able to support the mutual assistance provisions of the Services Directive. The Services Directive does not only require standard day-to-day information exchanges which re-use the workflows developed for the Professional Qualifications Directive, but also foresees new specific workflows such as a procedure for making use of the case-by-case derogation²² and the alert mechanism²³. The specific adjustments required for the Services Directive are currently being developed in close cooperation with Member States.

As the anticipated volume of authorities using IMI for the Services Directive is significantly higher than for Professional Qualifications, work is also ongoing to allow authorities to self-register in IMI. The Commission also intends to provide an interface for Member States who already have national online databases of competent authorities and who wish to transfer this data into IMI.

Organisational

Training and awareness-raising will be crucial for the correct implementation of the administrative cooperation provisions of the Services Directive. Mutual assistance under the Services Directive will involve a large number of competent authorities. These authorities operate at national, regional and in some cases local level. This is

²² See: Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market, OJ L 2006/376, p. 36, Articles 18 and 35.

²³ See: Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market, OJ L 2006/376, p. 36, Articles 29 and 32.

likely to translate into a substantial and diverse pool of IMI end-users. They all need to understand how IMI can support them in day-to-day administrative cooperation.

The key challenge is to ensure that at the beginning of 2010 a substantial number of competent authorities are equipped to use IMI for the mutual assistance provisions of the Services Directive. An IMI Services Directive pilot project will therefore run throughout 2009. The purpose of the pilot project is to ensure that a critical mass of competent authorities are registered, that the appropriate organisational structures are in place and that all Member States are able to use IMI for the mutual assistance obligations of the Services Directive by 28 December 2009 (deadline for the implementation of the Directive).

The Commission believes that the current level of investment in training and awareness needs to be intensified in order to bring about the desired outcomes. The IMI Services Directive pilot project will be an important opportunity to explore different potential approaches to training and awareness and to assess the most effective means to support competent authorities in their use of IMI. In 2009, the Commission will carry out an ex-ante evaluation to look at different options and to assess whether there is a need to set up a possible multi-annual training and exchange programme for the administrative cooperation provisions of the Services Directive.²⁴

10. CONCLUSION

Enhanced cross border cooperation is increasingly important for the functioning of the single market. This is reflected by the inclusion of specific and sometimes detailed provisions for such cooperation in Internal Market legislation. The duty to implement these provisions falls on a very large number of authorities operating at local, regional and national level. In a European Union of 27 Member States and 23 official languages this cooperation can only work satisfactorily if it is organised and supported through a network.

The IMI pilot project has demonstrated that the **Commission needs to play an important enabling role in the organisation of network-based, decentralised cooperation between Member States.** One of the unique advantages of IMI is that it enables and supports cooperation between authorities at all levels of government. It offers the flexibility to reflect the many different administrative models that exist across Europe.

Feedback from the competent authorities using IMI indicates that the system is easy to use and helps ensure faster and clearer cross border communication. This enables competent authorities to take more informed decisions quickly, thus providing a better service to citizens and businesses and reducing the costs associated with delays. The Commission considers that the pilot project on the Professional Qualifications Directive has shown that IMI is fit for purpose. It therefore takes the view that IMI should be considered operational for the Professional Qualifications

²⁴ Article 34.3 of the Services Directive (2006/123/EC) explicitly states that *"the Commission shall assess the need to establish a multiannual programme in order to organise relevant exchanges of officials and training"*.

Directive. **The Commission invites Member States to take the measures needed to progressively extend the use of IMI to further professions.**

In parallel, IMI will provide the required electronic system to support the very specific obligations of administrative cooperation set out in the Services Directive. The system for the Services Directive needs to be fully tested and working by the 28 December 2009 transposition date. For that reason **the Commission invites Member States to make the preparations required to participate fully and actively in the pilot project for the use of IMI for the Services Directive from the beginning of 2009** in order to be ready to comply with their mutual assistance obligations by the transposition date.

This Communication has highlighted a number of important preconditions that have to be met in order to ensure that IMI can deliver the expected benefits. The IMI pilot project has shown the importance of adequate levels of administrative capacity both at EU and at national level. That includes IT infrastructures and skills, better internal communication and networking as well as adequate training and awareness-raising.

In terms of training and awareness-raising, there is an urgent need to scale up activities. Competent authorities who are potential users of IMI need to understand their mutual assistance obligations and they need to be aware of the support IMI offers and of how it works in practice. The Commission will continue to provide support to Member States in the area of training and awareness-raising, in the form of training workshops and e-learning material.

The progressive expansion of IMI to further professions and its use for the Services Directive will lead to a significant increase in system usage. As the system grows, the critical success factors outlined above will become even more important. **The Commission therefore invites Member States to take the necessary steps, including in particular training and awareness-raising actions, to ensure the successful roll out of the Internal Market Information system.**