Procedure file

Basic information

INI - Own-initiative procedure	2011/2085(INI)	Procedure completed
Mutual evaluation process of the Services Directive See also Directive 2006/123/EC 2004/0001(COD) Subject 2.40 Free movement of services, freedom to provide 3.40.18 Services sector		

Key players

European Parliament	Committee responsible	Rapporteur	Appointed
	IMCO Internal Market and Consumer Protection		14/04/2011
		PPE HANDZLIK Małgorzata	
		Shadow rapporteur	
		S&D GEBHARDT Evelyne	
		ALDE MANDERS Antonius	
		Verts/ALE CANFIN Pascal	
		ECR HARBOUR Malcolm	
		EFD SALVINI Matteo	
	Committee for opinion	Rapporteur for opinion	Appointed
	ECON Economic and Monetary Affairs	The committee decided not to give an opinion.	
	EMPL Employment and Social Affairs		09/06/2011
		PPE ENGEL Frank	
	ENVI Environment, Public Health and Food Safety	The committee decided not to give an opinion.	
	ITRE Industry, Research and Energy	The committee decided not to give an opinion.	
	REGI Regional Development	The committee decided not to give an opinion.	
	CULT Culture and Education	The committee decided not to give an opinion.	
	JURI Legal Affairs	The committee decided not to give an opinion.	
European Commission	Commission DG	Commissioner	
	Financial Stability, Financial Services and Capital Markets Union	BARNIER Michel	

Key events

27/01/2011	Non-legislative basic document published	COM(2011)0020	Summary
12/05/2011	Committee referral announced in Parliament		
26/09/2011	Vote in committee		Summary
04/10/2011	Committee report tabled for plenary	A7-0324/2011	
24/10/2011	Debate in Parliament		
25/10/2011	Results of vote in Parliament		
25/10/2011	Decision by Parliament	T7-0456/2011	Summary
25/10/2011	End of procedure in Parliament		

Technical information

Procedure reference	2011/2085(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative
	See also Directive 2006/123/EC 2004/0001(COD)
Legal basis	Rules of Procedure EP 54
Stage reached in procedure	Procedure completed
Committee dossier	IMCO/7/05959

Documentation gateway

Non-legislative basic document		COM(2011)0020	27/01/2011	EC	Summary
Committee draft report		PE467.251	22/06/2011	EP	
Amendments tabled in committee		PE469.896	19/07/2011	EP	
Committee opinion	EMPL	PE469.763	13/09/2011	EP	
Committee report tabled for plenary, single reading		A7-0324/2011	04/10/2011	EP	
Text adopted by Parliament, single reading		T7-0456/2011	25/10/2011	EP	Summary
Commission response to text adopted in plenary		SP(2012)28	22/02/2012	EC	

Mutual evaluation process of the Services Directive

PURPOSE: build on the results of the mutual evaluation process of the Services Directive in order to improve the operation of the single market for services.

BACKGROUND: services are the driving force of the EU economy. Services account for over two-thirds of EU GDP and employment, and have been the source of all net job creation in recent years. Furthermore, approximately 75% of services trade concerns the supply of services to other businesses in almost any sector of the European economy, in particular industry.

However, the Single Market for services is not yet deliveringits full potential. Services still represent only around one-fifth of total intra-EU trade. The absence of dynamism in intra-EU services trade becomes clear when mirrored against EU's global trade in services. Today only about 8% of European SMEs do business in other Member States.

The recently adopted Commission Communication "Towards a Single Market Act" stressed the need to further deepen the Single Market for services and to build on the results of the "mutual evaluation" process provided for in the Services Directive.

Overall, conservative estimates predict that the implementation of the Services Directive has the potential to bring about economic gains of up

to EUR 140 billion, representing up to 1.5% growth of EU GDP. In short, the EU economy urgently needs a more integrated, deepened Single Market for services.

CONTENT: in this Communication, the Commission presents the main results of the "mutual evaluation" process and builds on them to move on to a new phase in the building up of a Single Market for services where the benefits of the Services Directive are consolidated and complemented by a set of further actions.

1) the key findings of the process of mutual evaluation: the adoption and subsequent implementation of theServices Directive has been a crucial milestone in improving the functioning of the Single Market for services. It has done so by removing unjustified barriers, simplifying the regulatory framework and helping modernise public administrations. Yet more remains to be done. The main problems problems still needing to be resolved are the following:

- a number of EU rules adopted over the years to help the functioning of the Single Market for services are not being used to their full extent and are, at times, implemented or applied inconsistently;
- some of the remaining difficulties result from the wide use by Member States of the possibility to reserve certain service activities for certain operators. There are 800 different activities in the EU that are considered to be regulated professions in one or more Member States and are reserved for providers with specific qualifications;
- questions have been raised related to legal form requirements (for instance, restrictions as to the legal forms available to operators taking up certain activities such as a prohibition on providers of crafts services to take the form of limited liability companies) and capital ownershiprequirements (for instance, obligations to have specific qualifications in order to hold share capital in companies providing certain services such as the rule that one must be a qualified tax advisor to hold capital in a company offering tax advice services);
- lastly, insurance obligations are often imposed on cross-border service providers by the Member State where the service is provided, disregarding the fact that the provider may already be adequately insured in its place of establishment.

2) Actions for further deepening the single market for services: the key findings of the mutual evaluation demonstrate that the Commission needs to take further steps to enable the European economy to fully benefit from the potential of the Single Market for services.

As a matter of priority, the Commission will continue and step up work with Member States on an individual basis so as to achieve a complete and correct transposition and implementation of the Services Directive in all Member States. In the first half of 2011, the Commission will carry out a series of bilateral meetings with those Member States where there are strong indications of incorrect or incomplete implementation of the Services Directive. When needed, formal enforcement measures will be taken.

In parallel, a first economic assessment of the actual implementation of the Directive and of its impact on the functioning of the services markets will be carried out by the Commission in 2011

In addition, the Commission , building on the acquis, will take, a number of additional measures to take the Single Market for services forward.

A single market ?performance check? for services: in 2011, based on Member States' input as to the specific sectors that should be examined, the Commission will launch the ?performance check? of the Single Market for services. The aim will be to finalise it within one year with a view to report on the results to the European Parliament and to the Council and, if required, propose further measures by the end of 2012.

Tackling remaining regulatory barriers: the Commission will i) launch an assessment of the issue of reserves of activity focussing in particular on areas where the link with the professional qualification required warrants further discussion; ii) launch an assessment to better understand the manner in which restrictions on capital ownership and legal form affect certain services sectors and to gather evidence on the economic effects of these rules; iii) examine the difficulties the difficulties for cross-border service providers resulting from insurance requirements. The Commission will decide by 2012 on possible specific initiatives.

Targeted actions to make the Single Market for services a more concrete reality on the ground:in order to ensure that the freedom to provide services clause in Article 16 of the Services Directive is applied properly and consistently in all Member States, the Commission will closely monitor its application and discuss its findings with all Member States. It will issue annual guidance on the application by Member States of the freedom to provide services clause and the evolution of cross-border service provision in the Single Market. To avoid the appearance of new regulatory barriers, the Commission will work with Member States to consolidate the notification system in the Services Directive and to help providing guidance to national administrations as to its operation. Lastly, to help service providers, in particular SMEs, to enforcetheir rights in the Single Market, the Commission will assess the effectiveness of means of redress available at national level to service providers for breach of their Single Market rights by national administrations and decide on next steps by the end of 2012.

Mutual evaluation process of the Services Directive

The Committee on the Internal Market and Consumer Protection adopted an own-initiative report by Ma?gorzata HANDZLIK (EPP, PL) on the Mutual Evaluation Process of the Services Directive, in response to the Commission Communication on the subject.

The report welcomes the Commission's Communication and highlights the fact that a functioning Single Market in services is a prerequisite for generating growth, decent employment and innovation in Europe and for maintaining Europe's competitive role on the world stage.

Members consider that the first priority for the creation of a Single Market in Services is the full and complete implementation of the Services Directive in all Member States and setting up fully operational Points of Single Contact. They call therefore for consideration to be given to supplying the information at the Points of Single Contact in English as well as in the local language for the benefit of service providers and service users from other Member States, and whether an electronic signature could be used by service providers and users.

Experiences with the Mutual Evaluation Process: the committee deplores the delays in the implementation of the Services Directive in some Member States and considers that these have had an impact on the process of mutual evaluation. However, it considers that the mutual evaluation process has proved to be a worthwhile exercise:

- while the timing of the mutual evaluation process was challenging, it helped to maintain momentum after the implementation of the Directive;
- it enabled a better understanding of the remaining barriers and the situation in each Member State on the part of the European Commission and the Member States;

- it was key in clarifying certain ambiguous situations still prevalent in the provision of services both at national and cross-border level, such as the mutual recognition of professional qualifications and insurance obligations imposed on cross-border service providers;
- the exercise has contributed to the development of a 'European spirit' among national administrations and enabled Member States' administrations to get to know each other better.

Improving the functioning of the Internal Market for Services: Members take the view that the mutual evaluation process in the Services Directive is an important instrument for identifying further initiatives aimed at improving the functioning of the internal market in services. They urge the Commission to keep Parliament informed about the progress and outcomes of the dialogue held with Member States on the implementation of the Services Directive, and to take further enforcement measures when deemed necessary.

The report welcomes the internal market performance check initiative and calls on the Commission to involve the European Parliament closely in the performance check initiative.

Members take the view that many national barriers still remain in place, slowing in particular growth in professional business-to-business services. The report calls on Member States:

- to ensure that new and remaining requirements are non-discriminatory, necessary and proportionate;
- to ensure complete and proper implementation of the provisions of the Services Directive which were not included in the mutual evaluation process, such as the Points of Single Contact.

The Commission, in turn is asked to:

- concentrate its efforts on unjustified or disproportionate requirements which should be abolished in order to guarantee the smooth functioning of the Single Market;
- continue and step up work with Member States on an individual basis so as to achieve a complete and correct transposition and implementation of the Services Directive in all Member States;
- undertake a comprehensive assessment of the state of play on the provision of cross-border services in the EU including the reasons explaining the moderate growth rate in this sector;
- pay careful attention to the regular checks and evaluations of the work of the Points of Single Contact in Member States.

The Mutual Evaluation Process as a tool: Members reiterate their support for the use of mutual evaluation in other policy areas, where appropriate. They suggest that a ?light-touch? mutual evaluation to be considered and where appropriate introduced for the mutual evaluation of policy areas covered by ?horizontal? directives under which Member States have retained significant scope for manoeuvre, with a view to obtaining more uniform legislation, creating better relations and mutual understanding between Member States, and preventing ?gold plating?.

Underlining that ?cluster discussions? should remain the central element of the mutual evaluation process, Members ask the Commission to increase transparency by informing the European Parliament on the contents and progress of discussions between Member States and by presenting regular reports throughout the different stages of mutual evaluation.

Mutual evaluation process of the Services Directive

The European Parliament adopted a resolution on the Mutual Evaluation Process of the Services Directive, in response to the Commission Communication on the subject.

The resolution states that services still represent only around one-fifth of total intra-EU trade while accounting for over two thirds of the EU GDP and employment. Activities covered by the Services Directive account for 40% of EU GDP and jobs. However, they also represent some of the most important untapped potential for economic growth and job creation in the EU, since many obstacles to trade in services still exist in the Internal Market.

In this context, Parliament welcomes the Commission's Communication and highlights the fact that a functioning Single Market in services is a prerequisite for generating growth, decent employment and innovation in Europe and for maintaining Europe's competitive role on the world stage.

Members consider that the first priority for the creation of a Single Market in Services is the full and complete implementation of the Services Directive in all Member States and setting up fully operational Points of Single Contact. They call therefore for consideration to be given to supplying the information at the Points of Single Contact in English as well as in the local language for the benefit of service providers and service users from other Member States, and whether an electronic signature could be used by service providers and users.

Experiences with the Mutual Evaluation Process: Parliament deplores the delays in the implementation of the Services Directive in some Member States and considers that these have had an impact on the process of mutual evaluation. However, it considers that the mutual evaluation process has proved to be a worthwhile exercise:

- while the timing of the mutual evaluation process was challenging, it helped to maintain momentum after the implementation of the Directive;
- it enabled a better understanding of the remaining barriers and the situation in each Member State on the part of the European Commission and the Member States;
- it was key in clarifying certain ambiguous situations still prevalent in the provision of services both at national and cross-border level, such as the mutual recognition of professional qualifications and insurance obligations imposed on cross-border service providers;
- the exercise has contributed to the development of a 'European spirit' among national administrations and enabled Member States' administrations to get to know each other better.

Member States and the Commission are called upon to initiate a dialogue on which barriers are permitted and which are not.

Improving the functioning of the Internal Market for Services: Members take the view that the mutual evaluation process in the Services Directive is an important instrument for identifying further initiatives aimed at improving the functioning of the internal market in services. They urge the Commission to keep Parliament informed about the progress and outcomes of the dialogue held with Member States on the implementation of the Services Directive, and to take further enforcement measures when deemed necessary.

The resolution welcomes the internal market performance check initiative and calls on the Commission to involve the European Parliament closely in the performance check initiative.

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- to ensure that new and remaining requirements are non-discriminatory, necessary and proportionate;
- to ensure complete and proper implementation of the provisions of the Services Directive which were not included in the mutual evaluation process, such as the Points of Single Contact.

The Commission, in turn is asked to:

- concentrate its efforts on unjustified or disproportionate requirements which should be abolished in order to guarantee the smooth functioning of the Single Market;
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The Mutual Evaluation Process as a tool: Parliament reiterates its support for the use of mutual evaluation in other policy areas, where appropriate. It suggests that a ?light-touch? mutual evaluation to be considered and where appropriate introduced for the mutual evaluation of policy areas covered by ?horizontal? directives under which Member States have retained significant scope for manoeuvre, with a view to obtaining more uniform legislation, creating better relations and mutual understanding between Member States, and preventing ?gold plating?.

Underlining that ?cluster discussions? should remain the central element of the mutual evaluation process, Members ask the Commission to increase transparency by informing the European Parliament on the contents and progress of discussions between Member States and by presenting regular reports throughout the different stages of mutual evaluation.