Services in the internal market: notification procedure for authorisation schemes and requirements related to services

2016/0398(COD) - 10/01/2017 - Legislative proposal

PURPOSE: to lay down a notification procedure for the better enforcement of the Services Directive in order to facilitate the freedom of establishment for services providers and the freedom to provide services in the single market.

PROPOSED ACT: Directive of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: Directive 2006/123/EC of the European Parliament and of the Council provides, inter alia, that authorisation schemes and certain types of requirements related to services must be non-discriminatory with regard to nationality or residence, justified by an overriding reason related to the public interest.

To make sure that new measures imposed by Member States actually fulfil these conditions and thus facilitate the competitiveness and integration of the single market in services, the Services Directive provides that Member States shall notify to the Commission new or changed authorisation schemes or certain new or changed requirements falling under the Directive.

Commission assessments have shown, however, that the current notification procedure under the Services Directive does not always achieve its objective. The Commission therefore presents a self-standing legislative instrument modernising the current notification procedure under the Services Directive in order to improve the enforcement of the existing provisions of that Directive.

This proposal is included in the continuation of the Single Market Strategy.

The European Council called for ambition in delivering the Single Market Strategy and for the different Single Market strategies to be completed and implemented by 2018.

IMPACT ASSESSMENT: the preferred choice is a combination of options to use a legislative initiative to enable identified shortcomings to be addressed and establish an effective and efficient notification procedure with only a small increase in administrative costs for national public authorities and the Commission.

CONTENT: the notification procedure established by the proposed Directive aims to ensure that certain national restrictions to the freedom of establishment and to the freedom to provide services will comply with the Services Directive, contributing to its better enforcement.

Notification obligation: Member States shall notify to the Commission any draft measure that introduces new requirements or authorisation schemes, or modifies such existing requirements or authorisation schemes.

The proposal also provides that Member States have to notify authorisation schemes, certain establishment requirements, certain requirements affecting the freedom to provide services and requirements concerning professional liability insurance and multidisciplinary activities.

Consultation, alert and Decision: the proposal establishes a consultation period of three months following the notification of a draft measure. The Commission and other Member States have a maximum of two months to comment on a notified measure, followed by a maximum of one month for the notifying Member State to respond to such comments.

The Commission may issue an alert to the notifying Member State where after assessing the notified measure it has concerns about its compliance with the Services Directive. The issuing of an alert implies that the Member State concerned shall not adopt the notified measure at issue for three months.

After an alert has been issued, the Commission may adopt a legally binding Decision finding the notified measure to be incompatible with the Services Directive and requesting the notifying Member State to refrain from adopting it.

Information to the public: the proposal provides for transparency to third parties of notified draft measures, accompanying information and the final adopted measures.

In order to ensure an effective exchange of information between the Member States and the Commission, the Internal Market Information System set up by Regulation (EU) No 1024/2012 (IMI Regulation) of the European Parliament and of the Council should continue to be used under this Directive.