



Council of the  
European Union

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**NOTE**

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From: Presidency  
To: Delegations

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Subject: Revised draft Council conclusions on the European Court of Auditors' Special Report No 5/2016 "Has the Commission ensured effective implementation of the Services Directive?"

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Delegations will find in Annex revised draft Council conclusions on the European Court of Auditors' Special Report No 5/2016 "Has the Commission ensured effective implementation of the Services Directive?"

*Revised draft Council conclusions on the European Court of Auditors' Special Report No 5/2016 "Has the Commission ensured effective implementation of the Services Directive?"*

**THE COUNCIL OF THE EUROPEAN UNION:**

1. WELCOMES the Special Report No 5/2016 from the European Court of Auditors (hereafter referred to as “the Court”) entitled “Has the Commission ensured effective implementation of the Services Directive?” and the Commission’s observations.
  2. RECOGNISES that the services market has not achieved its full potential and that the impact on growth and jobs of successful implementation of the Services Directive is potentially very high, given the importance of services for the European economy.
  3. RECALLS in this context the Council Conclusions of February 2016<sup>1</sup>, which highlighted that releasing the untapped potential in services should be prioritised and emphasised that implementation, compliance and enforcement should be further improved, upgraded and intensified, including through the reinforcement of SOLVIT.
  4. RECOGNISES the usefulness of the mutual evaluation exercise and performance checks and ~~in this regard~~ **the importance of ensuring that these are followed up by the Commission and Member States, in particular where remaining unjustified or disproportionate requirements are concerned.** UNDERLINES the importance of further guidance on proportionality- **and in this regard** RECALLS the Council’s repeated invitation to the Commission to take action on proportionality **guidance and** assessment in the context of the Services Directive.
- 4a. ACKNOWLEDGES that availability of sufficiently detailed data is essential for ex-ante and ex-post quantification of the impact of legislation and ENCOURAGES the Commission and Member States to contribute to such data gathering, in line with the Court’s recommendation.**

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<sup>1</sup> Doc. 6260/16

5. AGREES with the importance that the Court attaches to a proper functioning of the Points of Single Contact (PSC) and ACKNOWLEDGES that they are in urgent need of improvement, in line with the PSC Charter.
6. UNDERLINES the importance the Court attaches to the better functioning of the notification procedure. In this context ACKNOWLEDGES the need for Member States to systematically notify new legislation and LOOKS FORWARD to the Commission proposal to further improve the notification system. TAKES NOTE of the Court's recommendation to introduce a standstill period for the notification of draft requirements.
7. STRESSES that consumers should be able to fully benefit from the single market for services without enduring unjustified discrimination on the basis of nationality or place of residence. Therefore ~~AGREES with~~ **TAKES NOTE of** the Court's recommendation to extend the scope of the Consumer Protection Cooperation (CPC) regulation to also cover Article 20 of the Services Directive.
8. AGREES with the Court's recommendation to not delay the starting of an EU pilot where an issue has been identified and TAKES NOTE of the Court's recommendation to share information on the issues resolved via the EU-pilot procedure.
9. SUPPORTS the Court's recommendation to reduce the length of infringement procedures as much as possible. AGREES that the Commission's enforcement actions should be targeting the most economically significant cases, where necessary by referring such cases to the Court of Justice, **and RECALLS that prioritisation of enforcement actions should be done based on transparent and objective criteria.**
10. ENCOURAGES the Member States and the Commission to take into account the Court's recommendations in future work on the implementation of the Services Directive, **including any proposals relevant for services markets following on from the Single Market Strategy.** and expresses its readiness to consider any proposals that the Commission may present in response to this Special Report.