



Council of the
European Union

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From: Presidency
To: Permanent Representatives Committee/Council

Subject: **Council Conclusions on the ECA Special Report no 5/2016 "Has the Commission ensured effective implementation of the Services Directive?"** (*Non-legislative activity*)
- Adoption

1. On 16 March 2016 the European Court of Auditors' Special Report No 5/2016 entitled "Has the Commission ensured effective implementation of the Services Directive" was published¹.
2. This Special Report was presented by the Court of Auditors to the Competitiveness and Growth Working Party in the presence of the Commission on 11 April 2016. At this occasion delegations had a general exchange of view on the content of the report and its findings.
3. Based on the findings of the Special report the Presidency prepared draft Council conclusions which have been examined by the Working Party on 21 April 2016.

¹ OJ C 100, 16.3.2016, p. 3. The report is available in all official languages and can be accessed for consultation or downloading on the Court's website: <http://eca.europa.eu>.

4. Delegations were asked on 2 May 2016 to indicate their possible reservations to the draft Council conclusions by 4 May 2016. One delegation made a reservation, however in the meantime withdrew it.

5. The Permanent Representatives Committee is therefore invited to recommend to the Council to adopt, as an "A" item of its agenda, the draft Council conclusions on the European Court of Auditors' Special Report No 5/2016 "Has the Commission ensured effective implementation of the Services Directive?".

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. WELCOMES in this context the fact that the Commission has dedicated significant resources and efforts throughout the implementation process of the Services Directive in order to provide assistance to the Member States and to ensure coordination at EU level.
3. RECOGNISES that the Single Market for services has nevertheless 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.
4. RECALLS in this context the Council Conclusions of February 2016², 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.

² Doc. 6260/16

5. RECOGNISES the usefulness of the mutual evaluation exercise and performance checks and the importance of ensuring a proper follow up, in particular where remaining unjustified or disproportionate requirements are concerned. In this regard UNDERLINES the importance of further guidance on proportionality and RECALLS the Council's repeated invitation to the Commission to provide such guidance and to focus further actions on proportionality assessment and on the application of the freedom to provide services clause under the Services Directive.
6. ACKNOWLEDGES that availability of sufficiently detailed data early in the legislative procedure is essential for assessing the impact of legislation.
7. AGREES with the importance that the Court attaches to a proper functioning of the Points of Single Contact (PSC) and in this context RECALLS the Council's view that they are in urgent need of improvement, in line with the PSC Charter.³
8. 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 all new requirements as well as changes in existing requirements 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.

³ Doc. 6260/16

9. 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 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.
10. UNDERLINES the Court's view that the EU Pilot is a useful tool for cooperation between Member States and the Commission, AGREES with the Court's recommendation not to 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.
11. 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. In this context, INVITES the Commission to come forward with further information on the realisation of its smart enforcement strategy.
12. ENCOURAGES the Member States and the Commission to take into account the Court's recommendations in future work on the Single Market for services, and expresses its readiness to consider future proposals that the Commission may present in response to this Special Report, including relevant proposals following on from the Single Market Strategy.
