



Council of the
European Union

Brussels, 13 January 2017
(OR. en)

Interinstitutional File:
2016/0398 (COD)

5278/17
ADD 2

COMPET 21
MI 31
ETS 2
DIGIT 5
SOC 15
EMPL 11
CONSOM 10
CODEC 34
IA 6

COVER NOTE

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 12 January 2017

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

No. Cion doc.: SWD(2016) 435 final

Subject: COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY
OF THE IMPACT ASSESSMENT Accompanying the document Proposal
for a Directive of the European Parliament and of the Council on the
enforcement of the Directive 2006/123/EC on services in the internal
market, laying down a notification procedure for authorisation schemes and
requirements related to services, and amending Directive 2006/123/EC
and Regulation (EU) No 1024/2012 on administrative cooperation through
the Internal Market Information System

Delegations will find attached document SWD(2016) 435 final.

Encl.: SWD(2016) 435 final



Brussels, 10.1.2017
SWD(2016) 435 final

COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Accompanying the document

Proposal for a

Directive of the European Parliament and of the Council on the enforcement of the Directive 2006/123/EC on services in the internal market, laying down a notification procedure for authorisation schemes and requirements related to services, and amending Directive 2006/123/EC and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System

{COM(2016) 821 final}

{SWD(2016) 434 final}

Executive Summary Sheet

Impact assessment for the Proposal for a Directive of the European Parliament and of the Council on the enforcement of the Directive 2006/123/EC on services in the internal market, laying down a notification procedure for authorisation schemes and requirements related to services, and amending Directive 2006/123/EC and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System

A. Need for action

Why? What is the problem being addressed?

To avoid the introduction of unjustified and disproportionate national regulatory measures, the Services Directive includes a procedure whereby Member States must notify the introduction of/or changes to regulatory measures. The procedure was designed to ensure the compliance of new/changed national regulatory measures with the Services Directive. The existing procedure, however, has several important shortcomings, which render it ineffective. Many Member States fail to notify new or changed regulatory measures, only notify already adopted measures, or do not supply necessary information. The scope of the notification obligation excludes some key requirements covered by the Services Directive. The consequences of non-notification are not clear.

What is this initiative expected to achieve?

The objective of this initiative is to contribute to more competitive and integrated services markets through an improved application of the Services Directive and by preventing the introduction of unjustified and disproportionate regulatory barriers contradicting the Services Directive and hampering the freedom of establishment and the freedom to provide services cross-border.

What is the value added of action at the EU level?

Reforming an existing notification procedure established at EU level to improve compliance with the EU Services Directive is possible only through action at EU level. In the single market, any regulatory requirement adopted by one Member State impacts the single market as a whole as it may create obstacles to any services provider seeking to establish in that Member State (domestic or foreign) or seeking to offer cross-border services.

B. Solutions

What legislative and non-legislative policy options have been considered? Is there a preferred choice or not? Why?

Beyond the status quo (baseline scenario), four policy options have been considered in addition to two options which have been discarded. The option to include services in the Single Market Transparency Directive was discarded due to fact that the regulation of goods and services in EU law differs fundamentally. The option to merge the obligation under the Professional Qualifications Directive with the notification obligation of the Services Directive was not considered given that the two Directives differ in scope and subject-matter.

Non-legislative guidelines (option 2) could help to clarify the current procedure and obligations stemming from it, but could not change the design of the existing procedure to make it more effective and efficient.

A legislative initiative could encompass several options. It could aim to increase the effectiveness, content and quality of the notification procedure, introducing the obligation to notify draft legal acts, making the system transparent, clarifying steps and tasks in the procedure and improving the quality of the information submitted as part of a notification (option 3). To make it more effective and relevant, the notification obligation could be extended in scope to cover important regulatory requirements falling under the Services

<p>Directive but not the existing notification obligation (option 4). And it could additionally include instruments to enhance the compliance of Member States with the notification obligation by spelling out legal consequences of non-notification – two sub-options exist in this regard (options 5a & 5b).</p> <p>The preferred choice is a combination of options 3, 4 and 5a. This would allow best for the identified shortcomings to be addressed and would establish an effective and efficient notification procedure with only a small increase in administrative costs for national public authorities and the Commission.</p>
<p>Who supports which option?</p>
<p>The baseline scenario (option 1) has been discarded by nearly all stakeholders, who instead consider necessary action at EU level to improve the current notification obligation. Option 2 has met limited support as stakeholders prefer a more comprehensive reform of the existing procedure requiring a legislative instrument. Stakeholders welcome the measures contained in option 3, but do not regard it sufficient and would like to see the scope of the notification obligation better aligned with the requirements of the Services Directive. Stakeholders support clearer legal consequences of non-notification.</p>
<p style="text-align: center;">C. Impacts of the preferred option</p>
<p>What are the benefits of the preferred option?</p>
<p>The preferred option would turn the existing notification procedure into an effective tool to improve the application of the Services Directive leading to more competitive and integrated EU services markets. The reformed procedure would prevent the introduction of unjustified and disproportionate regulatory measures that are not complying with the Services Directive. It would do so by increasing the effectiveness of the notification procedure, improving the quality and content of notifications submitted, aligning the notification obligation closer to the scope of the Services Directive and enhancing compliance with the notification obligations.</p>
<p>What are the costs of the preferred option?</p>
<p>The preferred option would lead to some increase of administrative costs for national public authorities and the Commission due to the larger scope of regulatory measures to be notified, the obligation to notify acts at draft stage necessitating re-notifications where substantive changes are made to the notified draft act, and transparency for stakeholders. At the same time, as a result of improved compliance of national regulatory measures with the Services Directive, the number of legal enforcement actions against Member States would decrease, reducing the administrative costs associated to such actions.</p>
<p>How will businesses, SMEs and micro-enterprises be affected?</p>
<p>The preferred option does not entail obligations for business and therefore will not impose administrative costs upon them. Yet, businesses will benefit from less unjustified and disproportionate regulatory barriers hampering the establishment of services providers and the cross-border provision of services. Transparency of notifications will mean businesses have more information on new/changed regulatory requirements and the opportunity to comment on draft measures.</p>
<p>Will there be significant impacts on national budgets and administrations?</p>
<p>No.</p>
<p>Will there be other significant impacts?</p>
<p>No.</p>
<p style="text-align: center;">D. Follow up</p>
<p>When will the policy be reviewed?</p>
<p>A report on the application of the revised notification procedure is foreseen every three years.</p>