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*Plenary sitting*

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**A8-0396/2017**

8.12.2017

**\*\*\*I**  
**REPORT**

on 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 (COM(2016)0821 – C8-0011/2017 – 2016/0398(COD))

Committee on the Internal Market and Consumer Protection

Rapporteur: Sergio Gutiérrez Prieto

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▯ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on 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 (COM(2016)0821 – C8-0011/2017 – 2016/0398(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0821),
  - having regard to Article 294(2) and Articles 53(1), 62 and 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0011/2017),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the German Bundestag and the German Bundesrat and the French National Assembly and the French Senate, asserting that the draft legislative act does not comply with the principle of subsidiarity,
  - having regard to the opinion of the European Economic and Social Committee of 31 May 2017<sup>1</sup>,
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the report of the Committee on the Internal Market and Consumer Protection (A8-0396/2017),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

### **Amendment 1**

#### **Proposal for a directive Recital 6**

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<sup>1</sup> OJ C 288, 31.8.2017, p. 43.

*Text proposed by the Commission*

(6) The effective enforcement of the rules governing the internal market for services set out in Directive 2006/123/EC should be enhanced by improving the existing notification procedure established by that Directive in respect of national authorisation schemes and certain requirements concerning both access to self-employed activities and their exercise. ***The prevention of the adoption of national provisions establishing requirements and authorisation schemes that would be contrary to Directive 2006/123/EC should be facilitated.*** This Directive is without prejudice to the *Commission's* powers under the Treaties and the Member States' ***obligation to comply with the provisions of Union law.***

*Amendment*

(6) The effective enforcement of the rules governing the internal market for services set out in Directive 2006/123/EC should be enhanced by improving the existing notification procedure established by that Directive in respect of national authorisation schemes and certain requirements concerning both access to self-employed activities and their exercise. ***Dialogue between the Commission and the Member States should be facilitated in order to prevent the adoption of national provisions establishing requirements and authorisation schemes that would be contrary to Directive 2006/123/EC and that would lead to the fragmentation of the Single Market, and in order to minimise the number of new infringement cases.*** This Directive is without prejudice to the powers ***conferred on the Commission and the Court of Justice*** under the Treaties and the Member States' ***rights and obligations flowing therefrom.***

## Amendment 2

### Proposal for a directive

#### Recital 7

*Text proposed by the Commission*

(7) The notification obligation established by this Directive should apply to regulatory measures of Member States, such as laws, regulations, administrative provisions of general nature or any other binding rule of general nature, including rules adopted by professional organisations to regulate in a collective manner access to service activities or the exercise thereof. ***The notification obligation should on the other hand not apply to individual decisions issued by national authorities.***

*Amendment*

(7) The notification obligation established by this Directive should apply to regulatory measures of Member States, such as laws, regulations, administrative provisions of general nature or any other binding rule of general nature, including rules adopted by professional organisations ***or associations*** to regulate in a collective manner access to service activities or the exercise thereof.

### Amendment 3

#### Proposal for a directive

##### Recital 7 a (new)

*Text proposed by the Commission*

*Amendment*

***(7a) The notification obligation established by this Directive should not apply to decisions made in respect of an individual service provider or to draft rules laid down in collective agreements negotiated by social partners which are not considered to be requirements within the meaning of this Directive. In addition, it should not apply to measures repealing authorisation schemes or requirements or to measures implementing binding Union acts where such acts contain precise provisions to be implemented and there is no scope for divergence between Member States in the transposition and implementation of those acts.***

### Amendment 4

#### Proposal for a directive

##### Recital 7 b (new)

*Text proposed by the Commission*

*Amendment*

***(7b) In order to facilitate compliance by Member States with the notification obligation laid down in this Directive, the Commission should provide guidance regarding the practical aspects of the notification procedure, in particular for municipal and local authorities. In order to ensure that the notification obligation on such authorities is proportionate, draft measures implementing authorisation schemes or requirements which have already been notified to the Commission and adopted by the Member State concerned at national level and which do not alter the content of those notified schemes or requirements should not be subject to notification.***

## Amendment 5

### Proposal for a directive Recital 7 c (new)

*Text proposed by the Commission*

*Amendment*

***(7c) Amendments or modifications to draft measures already subject to an ongoing notification procedure, which are introduced by Member States' parliaments at national or regional level in accordance with their parliamentary procedure, should not be covered by the ex-ante notification obligation. However, the Member State concerned should notify such modifications to the Commission without delay, and at the latest two weeks after their adoption.***

## Amendment 6

### Proposal for a directive Recital 8

*Text proposed by the Commission*

*Amendment*

(8) The obligation for Member States to notify draft measures laying down authorisation schemes or requirements referred to in Article 4 of this Directive ***at least three months*** before their adoption is designed to ensure that measures to be adopted comply with Directive 2006/123/EC. In order for the notification procedure to be effective, a consultation on notified measures should take place sufficiently in advance of their adoption. This is appropriate to foster good cooperation and transparency between the Commission and Member States and to further develop exchanges between the Commission and national authorities on new or amended authorisation schemes and certain requirements covered by Directive 2006/123/EC, in accordance with Article

(8) The obligation for Member States to notify draft measures laying down authorisation schemes or requirements referred to in Article 4 of this Directive before their adoption is designed to ensure that measures to be adopted comply with Directive 2006/123/EC. In order for the notification procedure to be effective, a consultation on notified measures should take place sufficiently in advance of their adoption. This is appropriate to foster good cooperation and transparency between the Commission and Member States and to further develop exchanges between the Commission and national authorities on new or amended authorisation schemes and certain requirements covered by Directive 2006/123/EC, in accordance with Article 4(3) of the Treaty on European Union



4(3) of the Treaty on European Union (TEU). With a view to ensuring the effectiveness of the procedure, breach of the obligation to notify or *to refrain from adopting a notified* measure, *including during the period following the receipt of an alert*, should be considered to be a substantial procedural defect of a serious nature as regards its effects vis-à-vis individuals.

(TEU). With a view to ensuring the effectiveness of the procedure, breach of the obligation to notify or *a failure to notify a measure within the time limits laid down in this Directive*, should be considered to be a substantial procedural defect of a serious nature as regards its effects vis-à-vis individuals.

## Amendment 7

### Proposal for a directive

#### Recital 9

##### *Text proposed by the Commission*

(9) In the spirit of transparency and cooperation, where substantive amendments are made to a draft measure that is subject to an ongoing notification procedure under this Directive, the Commission, other Member States and stakeholders should be made aware of such amendments by the notifying Member State in due time. Modifications of merely clerical nature should not be communicated.

##### *Amendment*

(9) In the spirit of transparency and cooperation, where substantive amendments are made to a draft measure that is subject to an ongoing notification procedure under this Directive, the Commission, other Member States and stakeholders should be made aware of such amendments by the notifying Member State in due time *and should be given the opportunity to provide feedback on these amendments. The notification of substantive amendments should not significantly alter the deadlines set for the consultation. In such cases, the notifying Member State should notify those modifications at least one month prior to their adoption.* Modifications of a merely clerical nature should not be communicated.

## Amendment 8

### Proposal for a directive

#### Recital 10

##### *Text proposed by the Commission*

(10) The information to be submitted by the notifying Member State should be

##### *Amendment*

(10) The information to be submitted by the notifying Member State should be

sufficient to assess compliance with Directive 2006/123/EC and, in particular, the proportionality of a notified authorisation scheme or requirement. Therefore, in accordance with the case-law of the Court of Justice of the European Union (CJEU), such information should clarify the public interest objective pursued, **set out** how the notified authorisation scheme or requirement is necessary and justified to meet this objective and **explain** how it is proportionate **in doing so; thus, it** should include explanations on why it is suitable, why it does not go beyond what is necessary and why no alternative **and** less restrictive means **would be** available. **The reasons which may be invoked by the Member State concerned by way of justification should be accompanied by appropriate evidence and by an analysis of the proportionality of the notified measure.**

## Amendment 9

### Proposal for a directive Recital 10 a (new)

*Text proposed by the Commission*

sufficient to assess compliance with Directive 2006/123/EC and, in particular, the proportionality of a notified authorisation scheme or requirement. Therefore, in accordance with the case-law of the Court of Justice of the European Union (CJEU), such information should clarify the public interest objective pursued, **explaining** how the notified authorisation scheme or requirement is necessary and justified to meet this objective and how it is proportionate **for meeting that objective**. Thus, **the notified authorisation scheme or requirement** should include **sufficient** explanations on why it is suitable, why it does not go beyond what is necessary and why no alternative, less restrictive means **are** available.

*Amendment*

**(10a) By way of derogation from the normal notification procedure, it should be possible for Member States, in exceptional cases, to act rapidly when urgent matters arise regarding serious and unforeseeable circumstances relating to public policy, public security, public health or the protection of the environment. That exception should not be used to circumvent the implementation of the notification procedure laid down in this Directive. As a result, Member States should notify all such adopted measures to the Commission, together with their content and the reasons for the urgency that triggered their adoption, without undue delay and in any case not later**

*than the day on which those urgent measures were adopted.*

## Amendment 10

### Proposal for a directive Recital 12

*Text proposed by the Commission*

(12) The notification obligation set out in Directive 2006/123/EC requires Member States to inform the Commission and other Member States of requirements covered by Article 15(2), the third subparagraph of Article 16(1) and the first sentence of Article 16(3) of Directive 2006/123/EC. The application of that Directive has shown that authorisation schemes or requirements related to authorisation schemes, professional liability insurance, guarantees or similar arrangements, and multi-disciplinary restrictions are common and can constitute important barriers in the single market for services. They should hence also be covered by a notification obligation to facilitate the compliance of relevant Member States' draft laws, regulations and administrative provisions with Directive 2006/123/EC. The requirements mentioned in Article 16(2) of Directive 2006/123/EC are covered by the notification obligation to the extent that they fall under Article 16(3).

*Amendment*

(12) The notification obligation set out in Directive 2006/123/EC requires Member States to inform the Commission and other Member States of requirements covered by Article 15(2), the third subparagraph of Article 16(1) and the first sentence of Article 16(3) of Directive 2006/123/EC. The application of that Directive has shown that authorisation schemes or requirements related to authorisation schemes, professional liability insurance, ***professional rules on commercial communication***, guarantees or similar arrangements, and multi-disciplinary restrictions are common and can constitute important barriers in the single market for services. They should hence also be covered by a notification obligation to facilitate the compliance of relevant Member States' draft laws, regulations and administrative provisions with Directive 2006/123/EC. The requirements mentioned in Article 16(2) of Directive 2006/123/EC are covered by the notification obligation to the extent that they fall under Article 16(3).

## Amendment 11

### Proposal for a directive Recital 13

*Text proposed by the Commission*

(13) The present Directive establishes a consultation of three months to allow an

*Amendment*

(13) ***As general rule***, the present Directive establishes a consultation of three

assessment of notified draft measures as well as an effective dialogue with the notifying Member State. In order to make the consultation work in practice and to allow Member States, the Commission *and stakeholders* to effectively provide *their* comments, Member States should notify draft measures at least three months prior to their adoption. Notifying Member States should take into account the comments made on the notified draft measure, in compliance with Union law.

months to allow an assessment of notified draft measures as well as an effective dialogue with the notifying Member State. In order to make the consultation work in practice and to allow Member States *and* the Commission to effectively provide comments *or observations*, Member States should notify draft measures at least three months prior to their adoption. ***Whereas comments relate to the compatibility of the notified measure with the provisions of Directive 2006/123/EC, Member States, the Commission and stakeholders may also share more general observations in order to, inter alia, exchange best practices and strengthen their cooperation and overall exchange of information. Where the notification concerns only modifications to the already notified draft measure under consultation, such a notification of modifications should be subject to a shorter consultation period of one month.*** Notifying Member States should take into account the comments made on the notified draft measure *or modifications*, in compliance with Union law. ***If the notifying Member State decides not to adopt the notified draft measure, it should also be able to withdraw its notification at any time.***

## Amendment 12

### Proposal for a directive Recital 14

#### *Text proposed by the Commission*

(14) Where following the consultation the Commission still has concerns about the compliance with Directive 2006/123/EC of the notified draft measure, it may alert the notifying Member State, giving it the opportunity to bring its draft measure into conformity with EU law. That alert should include *an* explanation of the legal concerns identified by the Commission. Reception of such an alert

#### *Amendment*

(14) Where following the consultation the Commission still has concerns about the compliance with Directive 2006/123/EC of the notified draft measure, it may alert the notifying Member State, giving it the opportunity to ***provide further explanations or*** bring its draft measure into conformity with ***Union*** law. That alert should include ***a detailed*** explanation of the legal concerns identified by the

entails that the notifying Member State shall not adopt the notified measure for three months.

Commission *or other Member States*. Reception of such an alert entails that the notifying Member State shall not adopt the notified *draft* measure for three months.

### Amendment 13

#### Proposal for a directive

##### Recital 15

*Text proposed by the Commission*

(15) Failure to comply with the obligation to notify draft measures *at least three months prior to their adoption and/or to refrain from adopting* the notified *measure during this period and, as the case may be, during the 3 months following the reception of an alert*, should be considered to be a substantial procedural defect of a serious nature as regards its effects vis-à-vis individuals.

*Amendment*

(15) Failure to comply with the obligation to notify draft measures *or modifications to the already notified draft measures or measures that have been adopted in accordance with this Directive within the prescribed* period should be considered to be a substantial procedural defect of a serious nature as regards its effects vis-à-vis individuals.

### Amendment 14

#### Proposal for a directive

##### Recital 16

*Text proposed by the Commission*

(16) To ensure the efficiency, effectiveness and coherence of the notification procedure, the Commission should retain the power to adopt Decisions *requiring* the Member State in question to refrain from adopting notified measures or, if already adopted, to repeal them, where they violate Directive 2006/123/EC.

*Amendment*

(16) To ensure the efficiency, effectiveness and coherence of the notification procedure, *with regard to authorisation schemes or requirements falling under the scope of points (a), (c), (d) and (e) of Article 4, it should be possible for the Commission to adopt Recommendations requesting the Member State in question to adapt the notified measures concerned, to refrain from adopting them or, if they have already been adopted, to repeal them in order to address the serious concerns about the compatibility of such measures with Directive 2006/123/EC. With regard to requirements falling under the scope of point (b) of Article 4, the Commission*

should retain the power to adopt Decisions **requesting** the Member State in question to refrain from adopting notified measures or, if **they have** already **been** adopted, to repeal them, where they violate Directive 2006/123/EC. **Under Article 263 TFEU, the Court of Justice of the European Union has jurisdiction to review the legality of certain acts adopted by the Commission, including actions brought by Member States. Under Article 258 TFEU, if, after giving a Member State the opportunity to submit its observations, the Commission delivers a reasoned opinion to the effect that that Member State has failed to fulfil an obligation under the Treaties, and if the Member State fails to comply with that reasoned opinion, the Commission may bring the matter before the Court of Justice of the European Union.**

## Amendment 15

### Proposal for a directive Recital 17

#### *Text proposed by the Commission*

(17) Interested third parties should be given access to notifications sent by Member States **in order to make them** aware of planned authorisation schemes or certain requirements related to services in markets in which they actually or potentially operate **and to enable them** to provide **comments** thereon.

#### *Amendment*

(17) **In order to promote transparency between Member States and** interested third parties, **interested third parties** should be given access to notifications sent by Member States, **so that they are** aware of planned **or introduced** authorisation schemes or certain requirements related to services in markets in which they actually or potentially operate, **and a possibility** to provide **feedback** thereon. **The Commission should facilitate the possibility to comment on the notifications made by Member States within the consultation period and inform the Member State concerned of relevant feedback, if it considers this to be necessary. The Commission should send the feedback from interested third parties to the Member State concerned only**

*where it considers that the feedback is substantive and would contribute significantly to the Member State's assessment of the measure in question.*

## **Amendment 16**

### **Proposal for a directive**

#### **Article 2 – paragraph 2 – point b**

*Text proposed by the Commission*

(b) 'adoption' means the decision in a Member State making the **law, regulation or administrative provision of a general nature** final **according to** the applicable procedure.

*Amendment*

(b) 'adoption' means the decision in a Member State making the **draft measure** final **in accordance with** the applicable procedure.

## **Amendment 17**

### **Proposal for a directive**

#### **Article 3 – paragraph 1**

*Text proposed by the Commission*

1. Member States shall notify to the Commission any draft measure that introduces new requirements or authorisation schemes referred to in Article 4, or modifies such existing requirements or authorisation schemes.

*Amendment*

1. Member States shall notify to the Commission any draft measure that introduces new requirements or authorisation schemes referred to in Article 4, or **substantially** modifies such existing requirements or authorisation schemes.

## **Amendment 18**

### **Proposal for a directive**

#### **Article 3 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. By way of derogation from paragraph 1, Member States shall not be obliged to notify to the Commission:***

***(a) draft measures that only consist of the repeal of authorisation schemes or existing requirements;***

*(b) draft measures that implement authorisation schemes or requirements which have already been notified to the Commission and adopted by the Member State concerned at national level and that do not alter the scope, content, or make the already adopted authorisation schemes or requirements more restrictive for the establishment or cross-border provision of services;*

*(c) draft measures by means of which Member States comply with binding Union acts governing specific requirements regarding access to or exercise of a service activity, to the extent that those requirements are expressly provided for and the Union acts concerned require their uniform transposition.*

## Amendment 19

### Proposal for a directive Article 3 – paragraph 2

#### *Text proposed by the Commission*

2. Where a Member State modifies a notified draft measure *with the effect of significantly extending* its scope or content, *or* shortening the timetable *originally envisaged* for implementation, or adding requirements or authorisation schemes, *or making those requirements or authorisation schemes more restrictive* for the establishment, or *the* cross-border provision of services, *it* shall notify the *modified draft measure previously notified under paragraph 1 again*, including an explanation of the objective and content *of the modifications*. *In such a case, the previous notification shall be deemed to be withdrawn.*

#### *Amendment*

2. Where a Member State *substantially* modifies a notified draft measure *that is subject to an ongoing notification procedure, by altering* its scope or content, *by* shortening the timetable for implementation, or *by* adding requirements or authorisation schemes for the establishment or cross-border provision of services, *the Member State* shall *amend the initial notification of* the draft measure *and notify the modifications of that draft measure to the Commission*, including an explanation of the objectives and content *thereof*.



## Amendment 20

### Proposal for a directive Article 3 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

**2a.** *Member States shall not be obliged to notify, prior to their adoption, the modifications to a draft measure that is already subject to an ongoing notification procedure, made by a Member Stateparliament at national or regional level, The Member State concerned may adopt such measures as modified and shall notify them to the Commission without delay, and at the latest two weeks after their adoption.*

## Amendment 21

### Proposal for a directive Article 3 – paragraph 3

*Text proposed by the Commission*

*Amendment*

3. Draft measures referred to in **paragraphs 1 and 2** shall be notified to the Commission at least three months prior to their adoption.

3. Draft measures referred to in **paragraph 1** shall be notified to the Commission at least three months prior to their adoption.

*The modifications referred to in paragraph 2 shall be notified to the Commission at least one month prior to their adoption.*

## Amendment 22

### Proposal for a directive Article 3 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

**3a.** *The obligation to notify a draft measure prior to its adoption in accordance with paragraph 3 shall not apply when a Member State has to adopt an urgent measure very quickly due to*

*serious and unforeseeable circumstances relating to public policy, public security, public health or the protection of the environment. The Member State concerned shall notify the Commission of the urgent measure, its content and the reasons for the urgency that triggered its adoption. It shall do so without undue delay, and in any case not later than the day on which that urgent measure is adopted.*

*Upon receipt of the notification of the urgent measure the Commission shall assess if the circumstances leading to the use of the emergency procedure are justified.*

## Amendment 23

### Proposal for a directive Article 3 – paragraph 4

*Text proposed by the Commission*

4. The breach of one of the obligations set out in *Article 3(1), (2) and (3) or in* Article 6(2) shall constitute a substantial procedural defect of a serious nature as regards its effects vis-à-vis individuals.

*Amendment*

4. The breach of one of the obligations set out in *paragraphs 1, 1a, 2, 2a, 3, 3a of this Article and in* Article 6(2) shall constitute a substantial procedural defect of a serious nature as regards its effects vis-à-vis individuals.

## Amendment 24

### Proposal for a directive Article 3 – paragraph 5 – subparagraph 2

*Text proposed by the Commission*

That information shall identify the overriding reason relating to the public interest pursued and *give the reasons* why the notified authorisation scheme or requirement is non-discriminatory *on grounds of nationality or residence* and *why it is* proportionate.

*Amendment*

That information shall identify the overriding reason relating to the public interest pursued, and *provide an explanation* why the notified authorisation scheme or requirement is non-discriminatory, *necessary* and proportionate *with regard to securing the attainment of the objective pursued.*

## **Amendment 25**

### **Proposal for a directive**

#### **Article 3 – paragraph 5 – subparagraph 3**

*Text proposed by the Commission*

*Amendment*

*That information shall include an assessment demonstrating that less restrictive means are not available as well as specific evidence substantiating the arguments put forward by the notifying Member State.*

*deleted*

## **Amendment 26**

### **Proposal for a directive**

#### **Article 4 – paragraph 1 – point e a (new)**

*Text proposed by the Commission*

*Amendment*

*(ea) professional rules on commercial communications as referred to in Article 24(2) of Directive 2006/123/EC*

## **Amendment 27**

### **Proposal for a directive**

#### **Article 5 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

*1. Upon receipt of a notification from a Member State referred to in Article 3(1) and (2), the Commission informs the notifying Member State of the completeness of the notification received.*

*deleted*

## **Amendment 28**

### **Proposal for a directive**

#### **Article 5 – paragraph 2**

*Text proposed by the Commission*

2. ***As from the date of the Commission informing the notifying Member State of the completeness of a notification received***, a consultation of maximum three months shall take place among the notifying Member State, other Member States and the Commission.

*Amendment*

2. ***Once the draft measure has been notified***, a consultation of maximum three months shall take place among the notifying Member State, other Member States and the Commission. ***That consultation shall start on the date that the Commission receives the notification.***

## **Amendment 29**

### **Proposal for a directive Article 5 – paragraph 3**

*Text proposed by the Commission*

3. The Commission and Member States may, within a period of two months as of the beginning of the consultation period referred to in paragraph 2, submit comments to ***the notifying Member State***.

*Amendment*

3. The Commission and Member States may, within a period of two months as of the beginning of the consultation period referred to in paragraph 2, submit ***to the notifying Member State either*** comments to ***the effect that the notified measure might be incompatible with Directive 2006/123/EC or other observations***.

## **Amendment 30**

### **Proposal for a directive Article 5 – paragraph 4**

*Text proposed by the Commission*

4. The notifying Member State shall respond to comments submitted by the Commission or other Member States within one month after their reception ***and prior to the adoption of the notified measure***, either explaining how those comments will be taken into account in the notified measure or indicating the reasons why those comments cannot be taken into account.

*Amendment*

4. The notifying Member State shall respond to comments submitted by the Commission or other Member States within one month after their reception, either explaining how those comments will be taken into account in the notified measure or indicating the reasons why those comments cannot be taken into account.

## Amendment 31

### Proposal for a directive Article 5 – paragraph 5

*Text proposed by the Commission*

5. Where neither the Commission nor other Member States have submitted comments to a notified **draft** measure within the two months referred to in paragraph 3, the consultation period shall end immediately.

*Amendment*

5. Where neither the Commission nor other Member States have submitted comments to a notified measure within the two months referred to in paragraph 3 **and the notifying Member State has not made amendments to the initial notification**, the consultation period shall end immediately. **Where the notification was made in accordance with first subparagraph of Article 3(3), the notifying Member State may then proceed to adopt the draft measure without such adoption constituting a breach of that Article.**

## Amendment 32

### Proposal for a directive Article 5 – paragraph 5 a (new)

*Text proposed by the Commission*

*Amendment*

**5a. A notification in accordance with Article 3(2) shall be subject to a consultation period of one month from the date of its receipt. During that period, the Commission and Member States may submit comments with regard to the compatibility of the notified draft measure with Directive 2006/123/EC or submit other observations.**

## Amendment 33

### Proposal for a directive Article 6 – paragraph 1

*Text proposed by the Commission*

1. Before the closure of the consultation period referred to in Article

*Amendment*

1. Before the closure of the consultation period referred to in Article

5(2), the Commission may alert the notifying Member State of its concerns about the compatibility with Directive 2006/123/EC **of the draft measure notified** and of its intention to adopt a Decision referred to in Article 7.

5(2) **and (5a)**, the Commission may alert the notifying Member State, of its concerns, **which it shall explain in detail**, about the compatibility **of the draft measure notified** with Directive 2006/123/EC and of its intention to adopt a **Recommendation or** Decision referred to in Article 7.

## Amendment 34

### Proposal for a directive Article 6 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

**1a.** *The Commission may, within three months of the modification of the notification provided for in Article 3(2a), issue an alert.*

## Amendment 35

### Proposal for a directive Article 6 – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. Upon receipt of **such** an alert, the notifying Member State shall not adopt the draft measure for a period of three months after the closure of the consultation period.

2. Upon receipt of an alert **in accordance with paragraph 1**, the notifying Member State shall not adopt the draft measure for a period of three months after the closure of the consultation period. **Receipt of an alert shall not prevent the Member State from adopting the corresponding legislation, Regulation or administrative act after the period of three months has passed.**

**Within one month from the receipt of an alert in accordance with paragraphs 1 and 1a, the notifying Member State shall submit to the Commission an explanation of the compatibility of the notified measure with Directive 2006/123/EC, or shall amend or repeal the measure concerned in order to ensure compliance**

*with that Directive.*

## Amendment 36

### Proposal for a directive Article 7 – paragraph 1

*Text proposed by the Commission*

Where the Commission has issued an alert in accordance with Article 6(1), it may, within a period of three months after the date of *the closure of the consultation period referred to in Article 5(2)*, adopt a Decision *finding the draft measure to be incompatible with Directive 2006/123/EC and requiring* the Member State concerned to refrain from adopting the *draft* measure or, *if such measure has been adopted in breach of Article 3(3) or Article 6(2)*, to repeal it.

*Amendment*

Where the Commission has issued an alert in accordance with Article 6(1) *and (1a) in respect of requirements falling within the scope of point (b) of Article 4 and where the Commission continues to have serious concerns about the measure notified in accordance with Article 3(1), (2), (2a) and (3a)*, it may, within a period of three months after the date of *such alert*, adopt a Decision *requesting* the Member State concerned to refrain from adopting the *notified* measure or to repeal it.

*Where the Commission has issued an alert in accordance with Article 6(1) and (1a) on authorisation schemes or requirements that fall within the scope of Article 4(a), (c), (d) and (e) and where the Commission continues to have serious concerns about the measure notified in accordance with Article 3(1), (2), (2a) and (3a), it may, within a period of three months after the date of such alert, adopt a Recommendation requesting the Member State concerned to refrain from adopting the notified measure or to repeal it.*

## Amendment 37

### Proposal for a directive Article 8 – paragraph 1

*Text proposed by the Commission*

The Commission shall publish on a dedicated public website the notifications made by Member States under *Articles* 3(1) and (2) *and* the related adopted

*Amendment*

The Commission shall publish on a dedicated public website the notifications made by Member States under *Article* 3(1) and *modifications to initial notifications*

measures.

*under Article 3(2) and (2a), adopted urgent measures under Article 3(3a), the related adopted measures under Article 3(7), and Recommendations or Decisions adopted under Article 7.*

*The Commission shall give stakeholders the possibility of providing, by electronic means, feedback on the published notifications, or of alerting the Commission of draft measures or adopted measures which have not been notified in accordance with this Directive. Upon receiving such feedback or alerts from stakeholders, the Commission shall inform the Member State concerned without delay.*

## Amendment 38

### Proposal for a directive Article 9 – paragraph 1

*Text proposed by the Commission*

Member States shall *designate a competent* authority responsible at national level for the operation of the notification procedure established by this Directive.

*Amendment*

Member States shall *communicate to the Commission an* authority responsible at national level for the operation of the notification procedure established by this Directive. *That designation shall be without prejudice to the allocation of functions and powers among the authorities within national systems.*

## Amendment 39

### Proposal for a directive Article 11 – paragraph 1

*Text proposed by the Commission*

1. By [36 months after the date for transposition of this Directive] and at the latest every five years thereafter, the Commission shall present a report to the European Parliament, the Council and the European Economic and Social Committee

*Amendment*

1. By [36 months after the date for transposition of this Directive] and at the latest every five years thereafter, the Commission shall present a report to the European Parliament, the Council and the European Economic and Social Committee on the application of this Directive,



on the application of this Directive.

*including an assessment of any improper use to circumvent the application of the notification procedure established in this Directive.*

# EXPLANATORY STATEMENT

## Introduction

On 10 January 2017 the Commission tabled 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. This proposal is a part of a range of actions by the Commission aiming at improvement of functioning of the Single Market in services. It focuses on procedural aspects to improve the implementation and enforcement of the notification obligation established in the Directive 2006/123/EC (the “Services Directive”).

## Context of preparation of the proposal

The existing notification procedure for requirements on the services providers under the Services Directive has not adequately contributed to the Directive’s correct and full implementation, failing to be implemented as procedure. This consequently leads to both consumer and business costs of the fragmented Single Market in services, as well as high administrative costs of infringements for national administrations and the Commission when it takes action (40% of the infringement cases are invoked due to *newly* adopted national regulations non-compliant with the Services Directive).

The proposal is supported by an impact assessment, whereby the Commission concludes that with the existing notification procedure failing to reach its objectives, EU action is considered necessary to address identified shortcomings to turn the notification procedure into an effective and efficient instrument for a better application of the existing Services Directive.

The purpose of this Directive is to ensure the compliance of national rules introducing authorisation schemes or certain requirements with the Services Directive, as applicable under the scope of the latter, and to aim at prevention of infringements.

Therefore, the objectives of this proposal are to increase the efficiency of the notification procedure, improve the quality and content of the notifications submitted, cover additional requirements which the application of the Services Directive has shown can constitute important barriers to the Single Market for services, and to clarify legal consequences of non-notification. The ultimate result would be better implementation and enforcement of the Services Directive as it stands.

## General comments

The Rapporteur welcomes the proposal as part of the Services Package. It amplifies procedural steps of the notification obligation, clarifies procedures and aims at greater transparency in order to improve the implementation of the Services Directive.

## 1. Notification obligation

Whereas the proposal builds on the notification obligation set out in the Services Directive, it provides for a specific obligation for Member States to notify *draft* measures, including those amended by national parliaments in the course of their consideration, together with accompanying information. It also specifies the consequences of not respecting the

notification obligations. In order to make the notification procedure efficient and effective, strict time limits are set. The Rapporteur sees the need to secure the legislating powers of Member States, especially procedures of their national parliaments, therefore proposes changes in this regard.

Moreover, the notification procedure, if applied in absolute terms, would create additional administrative burden that may not be proportionate to the objectives pursued, especially for the municipal and local authorities. To safeguard proportionate procedure with regard to such authorities, the Rapporteur considers that draft measures *implementing* authorisation schemes or requirements which are already notified to the Commission and adopted by that Member State at national level should not be subject to notification.

## **2. National parliaments**

The proposed Directive further establishes a 3-month consultation procedure among the notifying Member State, other Member States and the Commission, allowing to submit comments related to the notified measures. In case the Commission expresses its concerns (“alert”) about the compatibility of the notified draft measure with the Services Directive, the notifying Member State would not adopt the measure in question for a period of 3 months after the closure of the mentioned consultation period. The Commission may in this instance issue its decision and relevant modalities are foreseen, inter alia covering the parliamentary amendments. The Rapporteur considers that, while the power of the Commission to adopt a decision as established in the Services Directive should be maintained, the national parliaments cannot be precluded from adopting the measure in question. This new element in the Commission’s proposal should therefore be dropped and only ex-post actions be foreseen.

## **Conclusions**

The Rapporteur believes that this proposal will lead to better compliance with the notification obligation established by the Services Directive, increase transparency and strengthen dialogue among the Member States and the Commission, and, consequently, improve implementation of that directive.

The Rapporteur also finds that the reinforced approach to notifications taken by the Commission in certain cases could lead to interferences with the national legislating powers and put administrative burden on national administrations, especially local and municipal authorities. In this regard, the Rapporteur sees the need for a number of amendments in order to secure an improved notification procedure that meets the concerns expressed.

## PROCEDURE – COMMITTEE RESPONSIBLE

<b>Title</b>	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			
<b>References</b>	COM(2016)0821 – C8-0011/2017 – 2016/0398(COD)			
<b>Date submitted to Parliament</b>	12.1.2017			
<b>Committee responsible</b> Date announced in plenary	IMCO 19.1.2017			
<b>Committees asked for opinions</b> Date announced in plenary	CONT 19.1.2017	ECON 19.1.2017	EMPL 19.1.2017	ENVI 19.1.2017
	ITRE 19.1.2017	CULT 19.1.2017	JURI 19.1.2017	LIBE 19.1.2017
	PETI 19.1.2017			
<b>Not delivering opinions</b> Date of decision	CONT 24.1.2017	ECON 21.3.2017	EMPL 9.2.2017	ENVI 31.1.2017
	ITRE 28.2.2017	CULT 23.1.2017	JURI 22.3.2017	LIBE 13.2.2017
	PETI 28.2.2017			
<b>Rapporteurs</b> Date appointed	Sergio Gutiérrez Prieto 25.1.2017			
<b>Discussed in committee</b>	8.6.2017	12.7.2017	28.9.2017	11.10.2017
<b>Date adopted</b>	4.12.2017			
<b>Result of final vote</b>	+ : 30 - : 7 0 : 0			
<b>Members present for the final vote</b>	Pascal Arimont, Dita Charanzová, Sergio Gaetano Cofferati, Lara Comi, Daniel Dalton, Nicola Danti, Dennis de Jong, Pascal Durand, Evelyne Gebhardt, Sergio Gutiérrez Prieto, Robert Jarosław Iwaszkiewicz, Liisa Jaakonsaari, Antonio López-Istúriz White, Nosheena Mobarik, Jiří Pospíšil, Virginie Rozière, Christel Schaldemose, Andreas Schwab, Olga Sehnalová, Jasenko Selimovic, Igor Šoltes, Ivan Štefanec, Catherine Stihler, Róza Gräfin von Thun und Hohenstein, Mylène Troszczynski, Anneleen Van Bossuyt, Marco Zullo			
<b>Substitutes present for the final vote</b>	Biljana Borzan, Birgit Collin-Langen, Kaja Kallas, Roberta Metsola, Lambert van Nistelrooij, Sabine Verheyen			
<b>Substitutes under Rule 200(2) present for the final vote</b>	Jonathan Bullock, Rupert Matthews, Bogdan Brunon Wenta, Flavio Zanonato			
<b>Date tabled</b>	8.12.2017			

## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

30	+
ALDE	Dita Charanzová, Kaja Kallas, Jasenko Selimovic
ECR	Daniel Dalton, Rupert Matthews, Nosheena Mobarik, Anneleen Van Bossuyt
PPE	Pascal Arimont, Birgit Collin-Langen, Lara Comi, Antonio López-Istúriz White, Roberta Metsola, Jiří Pospíšil, Andreas Schwab, Róza Gräfin von Thun und Hohenstein, Sabine Verheyen, Bogdan Brunon Wenta, Lambert van Nistelrooij, Ivan Štefanec
S&D	Biljana Borzan, Sergio Gaetano Cofferati, Nicola Danti, Evelyne Gebhardt, Sergio Gutiérrez Prieto, Liisa Jaakonsaari, Virginie Rozière, Christel Schaldemose, Olga Sehnalová, Catherine Stihler, Flavio Zanonato

7	-
EFDD	Jonathan Bullock, Robert Jarosław Iwaszkiewicz, Marco Zullo
ENF	Mylène Troszczynski
GUE/NGL	Dennis de Jong
Verts/ALE	Pascal Durand, Igor Šoltes

0	0

**Key to symbols:**

+ : in favour

- : against

0 : abstention