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Skickat:

STOCKHOLMS STAD
Kommunstyrelsen
Registraturet

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Remiss av EU-rättsakter om tjänster

Bilaga till direktiv om ett ramverk för ett elektroniskt europeiskt tjänstekort.pdf; Direktiv om en anmälningsprocedur för tillståndsförfaranden och krav.pdf; Direktiv om ett ramverk för ett elektroniskt europeiskt tjänstekort.pdf; Förordning om att introducera ett elektroniskt europeiskt tjänstekort.pdf; Remissmissiv.pdf

Remiss av EU-rättsakter

Utrikesdepartementet (Enheten för internationell handelspolitik och EU:s inre marknad) översänder härmed Europeiska kommissionens två förslag gällande dels en anmälningsprocedur för tillståndsförfarande och krav relaterade till tjänster (KOM (2016 821), dels införande av ett elektroniskt europeiskt tjänstekort (KOM (2016) 824 och KOM (2016) 823).

Initiativen aviserades i kommissionens Inre marknadsstrategi för varor och tjänster i oktober 2015. Förslaget om en anmälningsprocedur för tillståndsförfaranden och krav relaterade till tjänster syftar till att stärka och effektivisera det redan existerande anmälningsförfarandet under tjänstedirektivet. Förslaget om ett elektroniskt europeiskt tjänstekort syftar till att underlätta tjänsteleverantörers tillträde till andra marknader inom EU genom att ge fullt genomslag för tjänstedirektivets principer. Det handlar bl.a. om administrativa förenklingar genom att endast behöva vända sig till en myndighet i sitt hemland för att t.ex. ansöka om tillstånd i en annan medlemsstat istället för att behöva kontakta flera olika myndigheter i värdlandet. Omfattar endast byggtjänster och affärstjänster.

Bifogade förslag till rättsakter är på engelska. Vi kommer bifoga de svenska språkversionerna när översättning har skett.

Konsekvensutredningar och mer information om förslaget om ett elektroniskt europeiskt tjänstekort finns på följande länk: <http://ec.europa.eu/DocsRoom/documents/20503> och motsvarande information om förslaget om en anmälningsprocedur för tillståndsförfaranden och krav relaterade till tjänster finns på följande länk: <http://ec.europa.eu/DocsRoom/documents/20502>.

I remissen ligger att regeringen vill ha synpunkter på förslaget. **Myndigheter under regeringen** är skyldiga att svara på remissen. En myndighet avgör dock på eget ansvar om den har några synpunkter att redovisa i ett svar. Om myndigheten inte har några synpunkter räcker det att svaret ger besked om detta. För **andra remissinstanser** innebär remissen en inbjudan att lämna synpunkter.

Remissvaren ska inkomma elektroniskt till Utrikesdepartementet, Enheten för internationell handelspolitik och EU:s inre marknad **senast den 22 februari 2017**. Ange diarienummer UD2017/00386/HI. Remissinstanserna ombeds skicka remissvaren per e-post till: ud.imremiss@gov.se och ud.registrator@regeringskansliet.se.

Frågor under remisstiden besvaras av **Ola Brohman**, se kontaktuppgifter nedan.

Vänliga hälsningar,

Ola Brohman

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MEMBER OF THE UN SECURITY COUNCIL 2017–2018



Utrikesdepartementet

*Enheten för internationell handelspolitik och EU:s
inre marknad (UD HI)*

Förslag till Europaparlamentets och rådets förordning om att introducera ett elektroniskt europeiskt tjänstekort (KOM (2016) 824 slutlig), Förslag till Europaparlamentets och rådets direktiv om ett ramverk för ett elektroniskt europeiskt tjänstekort med tillhörande bilaga (KOM (2016) 823 slutlig) samt Förslag till Europaparlamentets och rådets direktiv om en anmälningsprocedur för tillståndsförfaranden och krav relaterade till tjänster (KOM (2016) 821 slutlig)

Remissinstanser:

- 1 Svenska institutet för europapolitiska studier (Sieps)
- 2 Ekobrottsmyndigheten
- 3 Revisorsnämnden
- 4 Kommerskollegium
- 5 Sveriges export- och investeringsråd (Business Sweden)
- 6 Styrelsen för ackreditering och teknisk kontroll (Swedac)
- 7 Läkemedelsverket
- 8 Finansinspektionen
- 9 Kammarkollegiet
- 10 Konsumentverket
- 11 Kronofogdemyndigheten
- 12 Skatteverket
- 13 Fastighetsmäklarinspektionen
- 14 Statskontoret

- 15 Tullverket
- 16 Lunds universitet
- 17 Universitets- och högskolerådet
- 18 Örebro universitet
- 19 Naturvårdsverket
- 20 Bolagsverket
- 21 Boverket
- 22 E-legitimationsnämnden
- 23 Livsmedelsverket
- 24 Regelrådet
- 25 Tillväxtanalys
- 26 Tillväxtverket
- 27 Trafikverket
- 28 Transportstyrelsen
- 29 Patent- och registreringsverket
- 30 Post-och telestyrelsen
- 31 VINNOVA
- 32 Almi Företagspartner AB
- 33 Arbetsmiljöverket
- 34 Almega
- 35 CA-Boden
- 36 Eksjöhus AB
- 37 Enterprise Europe Network
- 38 Facket för försäkring och finans
- 39 FAR
- 40 Folksam
- 41 Företagarna
- 42 International Chamber of Commerce Sverige
- 43 IT & Telekomföretagen
- 44 Jusek

- 45 LO
- 46 Läkemedelsindustriföreningen (LIF)
- 47 Länsförsäkringar AB
- 48 NCC AB
- 49 Näringslivets Regelnämnd
- 50 Näringspunkten
- 51 OBOS Sverige AB
- 52 Peab AB
- 53 Rättighetsalliansen
- 54 SABO
- 55 SACO
- 56 SEK Svensk Elstandard
- 57 SEKO
- 58 Skandinaviska Enskilda Banken (SEB)
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- 60 SRF
- 61 Stockholms Handelskammare
- 62 SUP46
- 63 Svenska Bankföreningen
- 64 Svenska Byggnadsarbetareförbundet
- 65 Svenska Elektrikerförbundet
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- 82 TCO
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Remissvaren ska ha inkommit till Utrikesdepartementet **senast den 22 februari 2017**.

Remissinstanserna ombeds inkomma med svaren per e-post till: ud.imremiss@gov.se med kopia till ud.registrator@regeringskansliet.se. Ange diarienummer UD2017/00386/HI. Vi ser gärna att remissvaren lämnas in i både word- och pdf-format.

I remissen ligger att regeringen vill ha synpunkter på förslagen.

Mer information om förslaget om ett elektroniskt europeiskt tjänstekort finns på följande länk: <http://ec.europa.eu/DocsRoom/documents/20503>. Mer information om förslaget om en anmälningsprocedur för tillståndsförfaranden och krav relaterade till tjänster finns på följande länk: <http://ec.europa.eu/DocsRoom/documents/20502>.

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svaret ger besked om detta. För **andra remissinstanser** innebär remissen en inbjudan att lämna synpunkter.

Råd om hur remissyttranden utformas finns i Statsrådsberedningens promemoria *Svara på remiss – hur och varför* (SB PM 2003:2). Den kan laddas ned från Regeringskansliets webbplats www.regeringen.se.

Frågor under remisstiden besvaras av Ola Brohman, Utrikesdepartementet, Enheten för internationell handelspolitik och EU:s inre marknad, tel. 08-405 11 40 eller e-post ola.brohman@gov.se.



Maria Ramstedt

Kansliråd, chef Inremarknadsgruppen

Enheten för internationell handelspolitik och EU:s inre marknad



Brussels, 10.1.2017
COM(2016) 823 final

2016/0402 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**on the legal and operational framework of the European services e-card introduced by
Regulation[ESC Regulation]....**

(Text with EEA relevance)

{SWD(2016) 437 final}

{SWD(2016) 438 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

With services accounting for around 70% of EU GDP and employment, promoting the competitiveness of EU services markets is central for the creation of jobs and growth in the EU. The Services Directive, adopted in 2006, set general provisions facilitating the establishment of service providers and their ability to offer services cross-border in the single market. The Directive prompted a number of reforms across the EU Member States, adding an estimated 0.9% to the GDP of the EU over ten years.

There is nevertheless still a large potential for growth and jobs that remains to be captured. EU services markets would benefit from faster productivity growth and a more efficient allocation of resources. Cross-border trade and investment in services remain low. Tackling remaining obstacles to more cross-border activities in services will help to strengthen competition, resulting in more choice and better prices for consumers as well as increased innovation. Addressing these barriers under the framework already provided by the Services Directive offers a potential of generating an additional 1.7% to the GDP of the EU.¹ In addition, better functioning services markets will positively affect the competitiveness of industry as the EU manufacturing sector represents an important buyer and final user of services. In fact, services account for 40% in the value of a final manufacturing product in the EU. A competitive manufacturing sector is therefore conditional upon well-functioning services markets.

For these reasons the European Council underlined that "delivering a deeper and fairer Single Market will be instrumental in creating new jobs, promoting productivity and ensuring an attractive climate for investment and innovation".² A better functioning internal market is one of the ten priorities for the European Commission. In its Single Market Strategy adopted in October 2015, the Commission announced a series of actions to make the single market without borders for services a reality.³ The objective is clear: reduce hurdles to make it easier for service providers to pursue new business opportunities, while guaranteeing quality services for consumers. This proposal follows up on the Single Market Strategy.

The Services Directive provides a balanced legal framework to achieve these objectives. It ensures that national regulation is non-discriminatory, justified and proportionate to meet public interest objectives. In addition, it requires Member States to reduce obstacles of administrative nature dissuading in practice service providers to operate cross-border. The Services Directive and the important principles it established will remain unaffected by this proposal.

These principles introduced by the Services Directive have enabled positive progress towards a better functioning of EU services markets. At the same time, obstacles to increased single market integration are still present in a number of key services sectors. This is the case particularly in services sectors such as business services and the construction sector where service providers can often not easily pursue business opportunities in other Member States. They are faced with administrative obstacles when expanding abroad. This was confirmed

¹ European Commission, "Update of the study on the economic impact of the Services Directive", 2015

² European Council Conclusions; 28 June 2016.

³ Communication from the Commission on Upgrading the Single Market: more opportunities for people and business, 28 October 2015.

through extensive contacts with service providers.⁴ This includes a lack of clarity on how to comply with existing rules dissuading companies, notably SMEs, from attempting to exploit business opportunities in other Member States. Service providers find it difficult to obtain information on applicable regulatory requirements and procedures that need to be completed to access another Member State's market. In addition, national rules often account only for national situations without clarifying how they should be applied to service providers from other EU Member States. As a result, service providers trying to establish a permanent presence in another Member State or to provide cross-border services on a temporary basis often find it difficult to understand which rules to apply and how. Administrative formalities in different Member States are often complicated and costly for service providers to complete.

The European services e-card therefore aims to reduce administrative complexity for service providers that want to expand their activities to other Member States. It will at the same time ensure that Member States can apply justified regulation. It would be offered to service providers on a voluntary basis as an alternative route to show compliance with the applicable national rules. It allows service providers to use a fully-electronic EU-level procedure to complete formalities when expanding abroad, hereby offering them increased legal certainty and significantly reducing administrative complexity. Through the e-card they will be able to avoid administrative obstacles such as uncertainty as to which requirements apply, filling-in disparate forms in foreign languages, translating, certifying or authenticating documents and non-electronic procedural steps. Cost savings related to the formalities covered by the e-card procedure would be significant compared to the existing situation, potentially going up to 50% or even more⁵.

Where a service provider plans to provide a service temporarily cross-border, the e-card would be issued by the home Member State. The host Member State would be able to object to issuance of the e-card where the Services Directive already allows them to do so under one of the overriding reasons of public interest listed in Article 16. Once issued, the e-card would allow the service provider to provide services on a temporary cross-border basis in the host Member State. Decision-making powers of host Member States to reject an application for a European services e-card remain accordingly unchanged, in line with Article 16 of the Services Directive.

Where a service provider plans to provide services through a branch, agency or office in another Member State, the e-card is issued by the host Member State. In this case, the service provider would still request the e-card with his home country authorities, who would check that the service provider is established on its territory in line with its applicable rules. But in a second step, the home Member States authorities would initiate a process with the relevant host country administration to allow the latter to decide if the requesting service provider meets its host country regulatory requirements in compliance with the Services Directive. As a result, there would be no unequal treatment between domestic and foreign service providers. Once issued, the e-card would allow its holder to provide services through a secondary establishment (in the form of a branch, agency or office) in the host Member State concerned.

The idea of the European services e-card is similar to the European professional card (EPC), which Member States' authorities are already familiar with. The EPC was made available in January 2016 and there has been a significant take-up by the selected professionals covered, showing that this type of simplification tool provides practical benefits to its users. Both the

⁴ Including nine workshops organised by the Commission with service providers in cross-border regions.

⁵ Commission Staff Working Document, "Impact Assessment accompanying the Proposal for a Directive of the European Parliament and of the Council on the legal and operational framework of the European services e-card", 2017.

European services e-card and the EPC are voluntary electronic procedures running at EU-level. The use of a European services e-card is voluntary for service providers. The home country authority of the applicant acts as the single contact point. In addition, the functioning of both systems relies on pre-defined and binding workflows of cooperation between home and host Member States implemented via the existing Internal Market Information System (IMI). At the same time, both systems have different objectives. The EPC facilitates provision of services across borders through the recognition of professional qualifications for natural persons as workers or self-employed service providers in accordance with the Professional Qualifications Directive (PQD). The European services e-card addresses a much wider range of requirements. It would be available for both natural persons who are self-employed but also for companies who want to provide services in another Member State. In contrast with the EPC, the European services e-card would also offer technical facilities to facilitate administrative formalities related to posting of staff into the territory of those Member States that have communicated to the Commission that they wish to make use of IMI for this purpose. This possibility to make use of IMI will in no way alter the substance of the applicable rules laid down in Directive 2014/67/EU. Rules to facilitate obtaining insurance coverage for services provided across borders are also included.

The e-card would cover requirements falling under the Services Directive and accordingly not areas such as tax, labour and social security. Nevertheless, authorities in Member States shall not require the e-card holders to provide any information which is already contained in the e-card for procedures or formalities imposed on a provider in relation to the award of a public contract, a design contest or a concession, formation of subsidiaries or registration of branches under company law and registration with mandatory social insurance schemes. The European services e-card would apply – in a first stage – to business services and construction services – to the extent the related activities fall already under the Services Directive. Both sectors are of key importance for the EU economy.⁶ Service providers of construction or business services often face high administrative complexity when expanding abroad. In addition, productivity growth over the last decade has been very low in both sectors and there is limited cross-border trade and investment. Increased cross-border competition would help preserve and improve the competitiveness of both sectors.

This proposal also includes review clauses for future consideration of the appropriateness to address regulatory barriers, the effectiveness of the European services e-card and its possible extension to other sectors.

- **Consistency with existing policy provisions in the policy area**

This Directive is presented together with a Regulation. The Directive sets out the legal and operational framework of the European services e-card, regulating inter alia the conditions of eligibility, the competences of the home and the host Member States, the validity of the European services e-card and the conditions for revoking or suspending it. The Regulation sets up tools which are available for service providers throughout the EU. In addition, it facilitates the solution of issues related to insurance coverage of a service provider active cross border.

This Directive fully preserves the existing EU provisions on social issues, employment conditions (in particular posting of workers, workers' rights and the social pillar), health and safety and protection of the environment. It does not change or put into question existing safeguards in this respect. The e-card would provide further information about the company. The Member State's power to carry out on-site inspections would be completely untouched. The rules on posting of workers under Directives 96/71/EC and 2014/67/EU will continue to

⁶ Both sectors together cover about 20% of EU GDP and employment (Eurostat).

apply in the context of the European services e-card but further facilities shall be provided in order to comply with these rules. Where Member States have set up procedures that allow for the declaration relating to the posting of workers pursuant to Article 9 of Directive 2014/67/EU to be completed by electronic means, the European services e-card shall direct the card holder to the relevant national procedures. Providers who hold a European services e-card may also submit this declaration through an electronic platform connected to IMI where a host Member State has communicated to the Commission that this possibility should apply for the posting of workers in its territory.

The proposal for a European services e-card is complementary to other policy initiatives in the context of services announced in the Single Market Strategy to prevent the introduction of barriers to cross-border service provision at national level. In this respect, it is complementary to the Commission proposal [XX] for a Directive reforming the procedure whereby Member States must notify authorisation schemes and requirements related to services.

This proposal will also be complemented by the initiative of the Single Digital Gateway, announced in the Single Market Strategy for 2017. The Gateway, on which a public consultation was conducted in autumn 2016, will address the current information gaps for businesses and citizens by integrating, completing and improving the relevant EU and national-level online information. It will also link up with assistance services. Moreover, it will aim to push the further digitalisation of national procedures relevant for citizens and businesses exercising their Single Market rights. The scope of the Single Digital Gateway is intended to go beyond the sectors covered by the present initiative.

In comparison, the European services e-card should offer a fully harmonised and standardised instrument for cross-border provision of services, reducing compliance costs for specific services markets largely dominated by SMEs. It is serving the objective of administrative simplification with the involvement of the Member State where the service provider comes from but that (home) Member State has no say on what requirements a service provider has to satisfy in other Member States. Under the European services e-card, it is up to the latter to inform of and ensure compliance in the framework of a predefined and fully standardized workflow. The Single Digital Gateway will link up with this procedure and make it easy to find for its beneficiaries.

The implementation of the European services e-card will be fully aligned with the development of the Single Digital Gateway project and respect the principles outlined in the eGovernment action plan (in particular: digital, interoperable, cross-border, once-only and inclusive by default)⁷.

Finally, this proposal is complementary to the enforcement policy of the Commission, which it pursues in parallel, to tackle unjustified or disproportionate national restrictions to the freedom of establishment and the free provision of services.

The implementation of this Directive will be supported by the Internal Market Information System (IMI) established by the IMI Regulation.⁸ IMI can be used by around 5000 authorities since 2011; it is subject to constant user surveys and has proven its potential with the European professional card introduced in January 2016.

⁷ EU eGovernment Action Plan 2016-2020 – Accelerating the digital transformation of government - COM(2016)179.

⁸ Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC (‘the IMI Regulation’) (OJ L 316, 14.11.2012, p. 1).

- **Consistency with other Union policies**

This Directive and the proposed Regulation introducing the European services e-card are fully consistent with a number of other Union policies, in particular other Commission policies on simplification and reduction of administrative burden.

Simplification of formalities regarding documents would follow closely the solutions to be introduced under Regulation (EU) 2016/1191 on the promotion of the free movement of citizens by simplifying the requirements for presenting certain public documents in the European Union.⁹

In the area of recognition of professional qualifications, a similar tool fostering administrative simplification - the above-mentioned European professional card - was introduced in 2013 and is available for a selected number of professions (nurses, pharmacists, physiotherapists, mountain guides and real estate agents) since January 2016. In order to avoid any risk of duplication, the present proposal ensures that professionals who can apply for a European professional card cannot obtain a European services e-card.

In order to avoid any duplication, authorities should make use of all available interconnections of national registers including the interconnection of company registers (BRIS), as required by Directive 2009/101/EC, and of insolvency registers under Regulation (EU) 2015/848 before any other means of obtaining or verifying previously obtained information in the context of a European services e-card.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

This legislative action falls within an area of shared competence in accordance with Article 4(2)(a) TFEU. It aims to facilitate the establishment and the provision of services within the single market, further developing and implementing the general principles of right of establishment and freedom to provide cross-border services enshrined in Articles 49 and 56 TFEU, respectively, as well as in the Services Directive. This Directive is based on Articles 53(1) and 62 TFEU, which are the general legal basis for attaining freedom of establishment and, respectively, the legal basis for provisions concerning access to self-employed activities.

- **Subsidiarity (for non-exclusive competence)**

The overall objective of this legislative proposal is to ensure the smooth functioning of the EU single market for services, which is not limited to the territory of one Member State, but covers the entire territory of the EU. Given the transnational nature of the EU single market, and the necessity to address situations in cross-border contexts in the most coherent manner, making use of an existing IT tool running across the EU – the IMI –, constitutes an efficient response which can only be provided by action at EU-level.

In addition, the Directive provides for rules, in particular those regarding the role of coordinating authorities at Member States level, which leave Member States the responsibility to define the appropriate body to comply with these rules, according to their administrative organisation at national level.

⁹ Regulation (EU) 2016/1191 of the European Parliament and of the Council of 6 July 2016 on promoting the free movement of citizens by simplifying the requirements for presenting certain public documents in the European Union and amending Regulation (EU) No 1024/2012 (OJ L 200, 26.07.2016, p.1).

- **Proportionality**

The measures introduced by this Directive are proportionate to its objective of further integrating the services markets at EU level, by enabling increased market dynamics and cross-border competition. They are also proportionate to the objectives of increasing transparency, reducing costs and simplifying procedures that Member States impose to service providers in cross-border situations. In addition, they build on the IMI, an existing EU-level IT instrument funded by the EU budget and already used by national administrations. The EU-level procedure will only bring limited adjustments to IMI, resulting in limited costs at EU and national level. Such limited costs have been assessed with respect to existing similar procedures, such as the European professional card.

These measures do not extend beyond what is necessary to solve the identified problems and to achieve the identified objectives. Although the EU-level procedure requires an active role of Member States' administrations, the financial efforts to be expected by Member States will be limited through the use of the Internal Market Information system, a platform already existing and set in place with EU funds. In addition, prospects brought by the use of the European services e-card of additional competition in services markets with more market players, and additional turnover, shall have a positive effect on Member States' economies.

The use of a European services e-card will be voluntary for service providers.

- **Choice of the instrument**

This Directive is based on Articles 53 and 62 TFEU, which only allow the EU legislator to adopt Directives. It includes provisions on approximation of legislation of Member States regarding access to certain service activities. In addition, it includes clarification on which are the exact effects of the European services e-card when accessing the market of another Member State.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

In preparation of this proposal, the Commission has carried out an in-depth evaluation of the Services Directive. This evaluation showed that the implementation of the Services Directive has been only partially effective so far. The Services Directive has been able to generate additional growth through Member States' reforms. Nevertheless, service providers in key services sectors (such as business services and construction) still face an important number of barriers. In addition, the system of administrative cooperation between Member States is not delivering all its benefits. An in-depth analysis carried out on the functioning and usability of the Points of Single Contact (PSCs) in 2015 concluded that most PSCs have not yet led to all the expected simplification in administration in terms of providing temporary cross-border services or setting up a business.

- **Stakeholder consultations**

The Commission has carried out several analyses and consultations to gather evidence on the remaining obstacles to a fully functioning Single Market for services, with a greater focus on the practical effects of the provisions on the ground since 2014. Economic assessment has been conducted to evaluate the effects of national reform in services markets and access to insurance for service providers. In addition, stakeholder workshops have been organised as part of the Single Market Forum in 2014, 2015 and 2016. These looked into the challenges of

small and medium-sized enterprises to develop in cross-border regional markets, or into specific challenges in services sectors (in particular business services and construction services) which are hampered by low cross-border trade and investment at the EU level. The contributions and input gathered revealed that despite some progress over the past years, service providers in several economically important sectors still face a range of obstacles when seeking to expand across Member States' borders.

Stakeholders have expressed different views on the possible ways to improve the framework to which the services markets are subject in the EU and at national level. This Directive does not modify any substantive rules on cross-border service provision of services as laid down in the Services Directive, nor any rules related to posting of workers, health and safety or protection of the environment. Stakeholders almost unanimously oppose reopening the Services Directive.

An online public consultation ran from 3 May to 26 July 2016. The consultation gathered further views from stakeholders, as well as first-hand experiences on the remaining barriers in these services sectors in particular, to the cross-border provision of services in the EU.

The results of all these exercises have confirmed that unjustified or disproportionate requirements still persist at national level, to the detriment of service providers and service recipients in the Single Market. In addition, they have given specific indications of what policy responses are expected from stakeholders. The majority of them supported the need to address the remaining barriers to cross-border provision of services, and to facilitate access to insurance coverage in these situations, while maintaining the EU *acquis* on social, employment, health and safety or the environment, and while pursuing an ambitious enforcement policy. In this respect, the Commission has adopted a comprehensive enforcement package in November 2016 to address disproportionate restrictions introduced in the field of services in nine Member States.

This initiative aimed to enhance the development of cross-border services markets has also been supported by the Competitiveness Council in its Conclusions of 29 February 2016 on the Single Market Strategy¹⁰, and by the European Council in its Conclusions of 28 June 2016¹¹. It also obtained support from the European Parliament in its resolution on the Single Market Strategy adopted on 26 May 2016¹².

- **Collection and use of expertise**

The results of a mutual evaluation process with Member States in 2010-11, performance checks carried out in 2011-12 and peer review undertaken in 2012-2013 all contributed to the preparation of this proposal for a Directive. In addition, the results of different public consultations, including the one conducted in summer 2016, have offered a solid basis of expertise.

Furthermore, the Commission relied on regular exchanges at technical level in the context of its Experts Group on the Implementation of the Services Directive.

- **Impact assessment**

An impact assessment was carried out in preparation of this initiative. The resubmitted report takes into account the recommendations made by the Regulatory Scrutiny Board in its initial

¹⁰ [Council Conclusions on "The Single Market Strategy for services and goods", 29 February 2016.](#)

¹¹ [European Council Conclusions, 28 June 2016.](#)

¹² [European Parliament resolution of 26 May 2016 on the Single Market Strategy.](#)

negative opinion of 14 October 2016¹³ as well as the additional points raised by the Board in its final positive opinion of 8 November 2016¹⁴. In particular, the problem description and the scope of the impact assessment have been clarified, the various policy options have been regrouped into clearly recognizable option packages and administrative cost reductions have been estimated with greater precision.

Individual policy options have been considered in the impact assessment and grouped into "packages" of policy options. The following packages of policy options have been examined:

- A first option package would allow the service provider to obtain a certificate regarding legal establishment in the home Member State and confirmation of existing insurance coverage for activities also in the home Member State;
- A second option package would allow the service provider to make use of an EU-level procedure to facilitate access to the market of another Member State, including an advanced electronic mechanism connected to IMI to facilitate compliance with formalities for posted staff which the host Member State can choose to make use of. In addition, it would address practical obstacles related to insurance in cross-border situations;
- A third option package would in addition to package 2 reduce regulatory disparity in a number of key business services (architectural, engineering and accounting services) through harmonisation of a limited number of requirements applicable to service providers in these three services (namely legal form restrictions, requirements laying down the percentage of shareholding that should be reserved for professionals and restrictions to the provision of multidisciplinary activities);
- A fourth option package would in addition to package 3 introduce specific solutions to address the regulatory disparities mentioned above in the case of secondary establishment (branches and agencies), exempting foreign service providers from certain requirements while allowing the host Member State to introduce alternative safeguards.

The first package would generate certain simplification effects which are however more limited compared to the other packages. While both packages 3 and 4 would have even stronger effects than package 2 given that they also address regulatory obstacles (in addition to administrative simplification), the Commission decided to go for package 2, based on the following reasoning: The removal of the most restrictive requirements covered by packages 3 and 4 through targeted enforcement action, complemented by specific recommendations tackling the whole regulatory framework applicable to the profession providing the service, appears more proportionate than a legislative proposal introducing minimum harmonisation for a limited number of requirements in a limited number of services sectors. In addition, Package 4 is discarded also because it would give rise to perceptions of introducing a solution driven by a country of origin approach under which foreign service providers are subject to their home member States legislation only, leading to a reverse discrimination of domestic service providers.

¹³ The main recommendations of the Board in its initial opinion on the impact assessment were to strengthen the problem definition, reconsider the design and articulation of the different options and provide more information on possible costs for Member States and stakeholder views.

¹⁴ http://ec.europa.eu/smart-regulation/impact/ia_carried_out/cia_2016_en.htm.

The package chosen is expected to lead to increased legal certainty and cost savings for service providers going cross-border. It is liable to generate an increase in market dynamics and competition levels, hereby increasing choice and value added for consumers.

- **Regulatory fitness and simplification**

The proposed Directive will contribute to regulatory fitness regarding market access for service providers and simplification by improving the modalities by which service providers are given access to another Member State's market. This does not alter the prerogatives of host Member States under the Services Directive.

- **Fundamental rights**

This proposal promotes rights enshrined in the Charter of Fundamental Rights. More specifically, protection of personal data shall be ensured in line with Article 8 of the Charter. In addition, the main objective of this initiative is to facilitate the right of establishment and the right to provide services in any Member State, as prescribed by Article 15(2) of the Charter, ensuring no discrimination, even indirect, is in place on grounds of nationality (further implementing Article 21(2) of the Charter). Moreover, the EU-level procedure is envisaged to put in place an impartial, fair and reasonably speedy procedure, also in regards to Commission participation, as required by Article 41 of the Charter. Finally, prohibition of abuse of rights, namely of the freedom to provide service, shall be duly considered, as prescribed by Article 54 of the Charter.

4. BUDGETARY IMPLICATIONS

The proposal is expected to have implications for the EU budget to the extent that the future European services e-card will use the Internal Market Information System ("IMI") as its operational backbone. The IMI will have to be adapted to support the European services e-card procedure and storage requirements and supplemented with some additional functions, namely a public interface for service providers, interconnections to other relevant systems, and a back-office functionality for national authorities. This is due to the fact that for the European services e-card purposes IMI will be offered as a tool for the effective exchange of information and mutual assistance between competent authorities within a certain Member State, without prejudice to other solutions put in place by Member States.

The implications for the EU budget will be modest in view of the fact that using the IMI to underpin the European services e-card will provide important economies of scale and scope. In addition, the main existing IMI capabilities and those currently under development are to a large extent compliant with the requirements of the European services e-card. The adaptation and development costs will therefore be substantially reduced.

Any necessary allocations will however be met through redeployment; no budgetary impact is expected on EU budget over and beyond the appropriations already foreseen in the official financial programming of the Commission.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The Directive foresees a first evaluation of the Directive by 36 months after the date for transposition and at the latest every five years thereafter. Member States, service providers, social partners and other stakeholders would also be invited to evaluate the functioning of the initiative. Specific indicators allowing assessing the impacts of the Directive such as the number of service providers using the European services e-card, their experience related to

administrative burden, the speed of the procedures used or the number of information exchanges between Member States will be considered.

- **Explanatory documents (for directives)**

This proposal does not require explanatory documents for the transposition of all the provisions into national law. The Commission will, however, present guidance on the application of all the workflows and administrative facilities under the proposed regulation for introducing the European services e-card. Such guidance will be presented when all the necessary delegated and implementing acts foreseen under this Directive and under the proposed Regulation are in place.

- **Detailed explanation of the specific provisions of the proposal**

The proposal is comprised of the following provisions:

Article 1 states the subject matter as that of laying down a legal and operational framework for the European services e-card, introduced by Regulation ...[ESC Regulation]....., setting out the rules governing access and exercise of service activities by holders of an e-card.

Article 2 sets the scope of this Directive as including the business and construction services listed in its Annex . The Annex excludes activities which are also excluded entirely or partially under Directive 2006/123/EC.

It also states that, similar to Directive 2006/123/EC, this Directive does not affect the definition or organisation of services of general economic interest or the rules governed by competition law. It does also not affect cultural or linguistic diversity or media pluralism. Finally, the Directive does not affect provisions of general criminal law, labour law, tax law or social security law.

As for Directive 2006/123/EC, it is clarified that this Directive shall not apply when it conflicts with other Union acts governing specific aspects of access to or exercise of a service activity in specific sectors or for specific professions. It also underlines that this Directive is without prejudice to Directives 96/71/EC and 2014/67/EU in respect of posting of workers.

Article 3 introduces relevant definitions for the Directive.

Article 4 clarifies the evidentiary value, throughout the Union, of a European services e-card in relation to establishment in the home Member States of the provider, from where it expands operations by making use of the e-card.

Article 5 details the effects of the European services e-card as proof of the ability of the e-card holder to provide services in the territory of the host Member State, either temporarily or through a branch, agency or office located therein. Once an e-card is issued, the e-card prevents the host Member State from imposing on its holder service provision related prior authorisations and prior notification schemes under their national laws; as such prior controls will have taken place through the procedure to issue a European services e-card. The procedure to issue a European services e-card cannot accommodate however prior controls presenting a high degree of complexity or involving selection amongst other businesses. Ex post controls remain in place for e-card holders as for other providers.

Article 6 introduces the obligation on the part of authorities in all Member States, while requiring submission of information in the context of any procedures or formalities, not to require the e-card holders to provide any information which is already contained in the European services e-card.

Article 7 determines the validity of the European services e-card to be indefinite in time, unless suspended, revoked or cancelled, and encompassing all of the territory of the host Member State. Authorisations for additional branches, agencies or offices remain in place in so far as Directive 2006/123/EC allows for them.

Article 8 determines that the application for an e-card should be submitted to the coordinating authority of the home Member State.

Article 9 excludes from eligibility to apply for a European services e-card service those service providers for whom a European professional card has already been introduced.

Article 10 safeguards the right of Member States to invoke those overriding reasons of public interest in accordance with Directive 2006/123/EC.

Article 11 describes the tasks of verification and completion of the application for a European services e-card which the coordinating authority in the home Member State must perform before forwarding such application to its counterpart in the host Member State. It also includes redress mechanisms of action or inaction by the coordinating authority in the home Member State.

Article 12 describes procedural steps for issuing a European services e-card for temporary cross-border services. The coordinating authority informs of applicable requirements in the host Member State once access is granted to the incoming provider or it informs of a well-reasoned decision by a host Member State to object to issuance of the e-card, a decision which binds the coordinating authority in the home Member State. If no objection is notified at the latest within two weeks, an alert is sent and the host Member State has two additional weeks to react. At the end of this period the e-card is issued, expressly or tacitly. The provision includes right of redress against decisions by coordinating authorities of the home or host Member States.

Article 13 describes procedural steps for issuing a European services e-card for providing services through establishment in the form of branches, agencies or offices. The coordinating authority of the host Member State informs of requirements applicable on its territory in order for access to be granted. The applicant needs to prove the necessary compliance. If no decision is taken by the coordinating authority of the host Member State after a proper due process with the applicant and despite of an alert to react, the e-card is issued. The provision includes right of redress against decisions by coordinating authorities of the home or host Member States.

Article 14 introduces a once-only principle at domestic level, under which information and documents in the possession of home Member State authorities need not be supplied again by the applicant for a European services e-card.

Article 15 lists events occurring in the host Member State which must trigger suspension or revocation of a European services e-card.

Article 16 lists events occurring in the home Member State which must trigger suspension or revocation of all European services e-card previously issued for the service provider and service activity in question.

Article 17 sets out the role of home and host Member States in suspending, revoking or, at the request of the e-card holder, cancelling European services e-cards. It introduces a consultation procedure for the e-card holders in question.

Article 18 regulates the exercise of delegation by the Commission as provided for in Articles 12 and 13.

Article 19 defines the Committee assisting the Commission in the adoption of implementing acts and the applicable procedure in accordance with Regulation (EU) 182/2011.

Articles 20 and 21 impose on the Commission monitoring and review obligations on the impact of this Directive

Article 22 deals with transposition and application of the provisions of this Directive. The foreseen dates are the same as those foreseen for the proposed regulation introducing a European services e-card.

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the legal and operational framework of the European services e-card introduced by Regulation[ESC Regulation]....

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 53(1) and 62 thereof,
Having regard to the proposal from the European Commission,
After transmission of the draft legislative act to the national parliaments,
Having regard to the opinion of the European Economic and Social Committee¹⁵,
Having regard to the opinion of the Committee of the Regions¹⁶,
Acting in accordance with the ordinary legislative procedure,
Whereas:

- (1) The Treaty on the Functioning of the European Union (TFEU) guarantees service providers the freedom of establishment in Member States and the freedom to provide services across Member States.
- (2) Directive 2006/123/EC of the European Parliament and of the Council¹⁷ establishes general provisions facilitating the exercise of the freedom of establishment for service providers and the free movement of services. It provides inter alia that Member States should provide for administrative simplification, for instance offering electronic procedures via Points of Single Contact, simplifying existing procedures and the need for certified documents and making best use of a system of tacit approval. The Directive also sets a framework furthering the freedom to provide services on a temporary basis in another Member State.
- (3) Directive 2006/123/EC requires Member States to put in place and keep constantly updated Points of Single Contacts where a service provider wishing to establish or to provide services can find all relevant information about requirements to be complied with and e-procedures in respect of all formalities, authorisation and notifications to go through. However, costly information challenges and difficulties complying with national procedures at a distance remain to date for service providers, namely for sector-related requirements. Cooperation between authorities in different Member States should in principle take place via the Internal Market Information System (IMI),

¹⁵ OJ C , , p. .

¹⁶ OJ C , , p. .

¹⁷ Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ L 376, 27.12.2006, p. 36).

an IT-platform offered for cross-border exchange of information and mutual assistance under that Directive. Despite the fact that authorities sometimes have doubts with regard to the legal establishment of a provider in another Member State, the possibilities for cooperation currently provided in IMI are not exploited to their full potential. Formalities associated with authorisations and notifications often require paper documents to be submitted and to be translated at a significant cost. Information regarding these obstacles is either not available online or is scarce, incomplete, dispersed and difficult to interpret in relation to the particular circumstances of a provider expanding across borders, as national rules often target purely domestic situations. Service providers often risk resubmitting information and documents.

- (4) Requirements remain in place which make expansion of service providers' operations across the internal market burdensome and unappealing, such as multiple and disparate authorisation schemes before different authorities, which, regarding establishment, fail to achieve mutual recognition of conditions previously complied with in other Member States or, regarding temporary cross-border provision of services apply disproportionate or unjustified restrictions. As a consequence, service providers face multiple and disproportionate compliance costs when going cross-border.
- (5) Cross-border trade and cross-border investment in certain business and construction services are particularly low showing a potential for better integration of services markets with significant negative repercussions for the remaining part of the economy. This underperformance leads to situations where the potential for more growth and jobs in the Single Market has not been fully exploited.
- (6) This Directive aims to facilitate the establishment and the free movement of services within the single market, further developing and implementing the general principles of right of establishment and freedom to provide cross-border services enshrined in Articles 49 and 56 TFEU, respectively, as well as in Directive 2006/123/EC. It should be based on Article 53(1) TFEU, concerning freedom of establishment and access to self-employed activities, as well as on Article 62 TFEU, which makes that provision applicable to services.
- (7) In order to make it easier to take up and pursue service activities, this Directive builds upon Directive 2006/123/EC but does in no way amend its rules. The scope of this Directive is even more limited compared to the scope laid down in the Services Directive. It specifically targets business and construction service sectors, where many obstacles to cross-border activities still remain. In addition, cross-border trade and investment in construction and several business services are low and both sectors have seen weak productivity growth over the last decade.
- (8) All matters, activities and fields excluded from the scope of Directive 2006/123/EC should remain excluded from the scope of this Directive. In particular, this Directive does not affect matters, activities and fields such as those deriving from taxation, social security and labour law, including any legal or contractual provision concerning employment conditions, working conditions, including health and safety at work and the relationship between employers and workers. Equally this Directive does not affect the social security legislation of the Member States. This Directive is also without prejudice to any provision stemming from competition law as well as any rule on the applicable law or jurisdiction pursuant to private international law.
- (9) For reasons of coherence, possible conflicts between the present Directive and other EU acts governing specific aspects of access to or exercise of a service activity in a specific sector should be solved as provided for in Article 3 of Directive 2006/123/EC

for conflicts between that Directive and such acts, with the application of those other acts. As a result, the provisions in the present Directive cannot be relied upon in order to justify prior authorisation schemes, prior notification schemes or establishment requirements which are prohibited by other EU acts governing specific aspects of access to or exercise of a service activity in a specific sector such as Directive 2000/31/EC of the European Parliament and of the Council¹⁸. As a further result, this Directive does in no way affect the obligations service providers should respect in accordance with Directive 96/71/EC of the European Parliament and of the Council¹⁹ and Directive 2014/67/EU of the European Parliament and of the Council²⁰.

- (10) This Directive clarifies the conditions under which service providers concerned can benefit from the European services e-card introduced by Regulation ...[ESC Regulation]..., which respective role the home and the host Member State should have and which actions of the home Member State should be accepted by a host Member State. The European services e-card is a voluntary instrument for the service provider.
- (11) This Directive also includes a framework for the validity and the reasons for suspending or revoking a European services e-card throughout the European Union. Whenever a service provider cannot legally continue to provide services across borders, the reason for which it initially applied for an e-card, that same e-card should be suspended or revoked, accordingly.
- (12) The main purpose of the European services e-card is to introduce a uniform and simplified procedure for service providers wishing to expand provision of services across internal market borders. The e-card represents an electronic certificate stating that a service provider is legally established in a Member State (the home Member State). Host Member States where a service provider is interested in expanding to should furthermore not apply, to holders of an e-card, their prior authorisation or notifications schemes put in place under national law to control access to or exercise of service activities, which is already the object of control before issue of a European services e-card.
- (13) The procedure introduced by this Directive seeks to implement general rules and principles of Directive 2006/123/EC in the context of cross-border establishment and temporary provision of certain services.
- (14) Certain requirements and related authorisations and notifications governed by Directive 2006/123/EC should not be the object of controls in the context of issuing a European services e-card given their complexity or the involvement of third actors which the uniform procedural workflow of the European services e-card cannot suitably accommodate. This concerns selection procedures for granting authorisations limited in number and controls of site-specific conditions, be it for the site of actual provision of services or for the site where the provider establishes its operations. Similarly a European services e-card is also not suited to accommodate selection procedures for the performance of public contracts, design contests or concessions.

¹⁸ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce in the internal market (OJ L178, 17.7.2000, p. 1).

¹⁹ Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (OJ L 18, 21.1.1997, p. 1).

²⁰ Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System (‘the IMI Regulation’) (OJ L 159, 28.5.2014, p. 11).

- (15) In the same vein, controls applicable to service providers which are already the object of other horizontal EU legislation should remain excluded. This is the case of requirements and controls related to recognition of professional qualifications under Directive 2005/36/EC of the European Parliament and of the Council²¹, even if mentioned in sector-specific legislation.
- (16) Furthermore, the requirements for service providers who are limited liability companies to disclose certain company information according to Directive 2009/101/EC of the European Parliament and of the Council²² and Council Directive 89/666/EEC²³, and any requirements or controls imposed by national rules on registration of branches of companies registered in another Member State under company law should not be covered by a European services e-card procedure, which is meant to address sector-specific matters in the framework of Directive 2006/123/EC.
- (17) A European services e-card provides several advantages. It offers a proof of legal establishment in the home Member State. As long as a European services e-card remains valid, it should constitute a valid means of proof throughout the EU of legal establishment in the home Member State for the services covered by that e-card. Such proof should even be accepted in a domestic context, across all levels and administrative divisions of public administration. A valid European services e-card includes information which is often required in different contexts, such as controls applicable during or after the performance of services, the award of a public contract, a design contest or a concession, formation of subsidiaries or registration of branches under company law and registration of the service provider with mandatory social insurance schemes. Since that information is already available in a valid European services e-card, Member State authorities should not request this information from e-card holders for these other purposes.
- (18) In addition, Member States should not be allowed to impose on holders of a European services e-card any service provision related authorisation or notification schemes prior to a service provision. Member States should not repeat, wholly or partially, controls previously performed in the context of issuing the European services e-card once provision of services has started in the host Member State. Authorisation or notification schemes such as those deriving from taxation, social security and labour law shall remain applicable as such matters are excluded from the scope of this Directive. Ex-post checks, inspections and investigations initiated by competent authorities should however remain admissible to control service performance, as under current EU Law. If such controls reveal serious breaches of requirements applicable in a host Member State, this could lead to the suspension or revocation of the European services e-card.
- (19) Directive 2013/55/EU, of the European Parliament and of the Council, of 20 November 2013²⁴ introduced a legislative framework for the European professional

²¹ Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22).

²² Directive 2009/101/EC of the European Parliament and of the Council of 16 September 2009 on coordination of safeguards which, for the protection of the interests of members and third parties, are required by Member States of companies within the meaning of the second paragraph of Article 48 of the Treaty, with a view to making such safeguards equivalent (OJ L 258, 1.10.2009, p. 11).

²³ Council Directive 89/666/EEC of 21 December 1989 concerning disclosure requirements in respect of branches opened in a Member State by certain types of company governed by the law of another State (OJ L 395, 30.12.1989, p. 36).

²⁴ Directive 2013/55/EU, of the European Parliament and of the Council, of 20 November 2013, amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation (EU) No

card, meant to grant to professionals who obtain the right to pursue the same profession for which they previously established in a (home) Member State in another (host) Member State, either temporarily or through a secondary establishment. The European services e-card, as a procedure meant for a wide variety of services and not addressing issues related to professional qualifications, should thus not apply to those services for which a specific European professional card was introduced, except if sector-specific requirements and their controls, unrelated to recognition of professional qualifications, are left in place for secondary establishment of a particular profession.

- (20) In order to concentrate actions and decisions within a Member State and facilitate cooperation between different competent authorities in home and host Member States, a coordinating authority in the home Member State and in the host Member State should ultimately be responsible for handling issues related to the European services e-card, thus coordinating the input from the different competent national authorities and acting as a contact point with its counterparts in other Member States. The application for a European services e-card should thus be submitted to the coordinating authority of the home Member State.
- (21) There are two types of European services e-cards offered to service providers: a simpler procedure for temporary cross-border provision of services into other Member States, essentially controlling their previous establishment in the home Member State and allowing a host Member State to object to temporary provision of cross-border services only due to overriding reasons of public interests, and a more complex one, framing the control by host Member States of an economic activity in their territory for an indefinite period through secondary establishment in the form of branches, agencies or offices, in order to ensure, in a simplified workflow, mutual recognition is performed properly and expeditiously.
- (22) The European services e-card is available to providers previously established in a Member State. While subsidiaries of companies from third countries should be able to apply for an e-card, branches, agencies or offices of such companies should not, in accordance with Article 48 of the TFEU which reserves freedom of establishment and free movement of services to companies and firms constituted in accordance with the laws of a Member State and having their registered office, central administration or principal place of business within the Union.
- (23) The European services e-card for secondary establishment should allow for provision of services in the host Member State through branches, agencies but also any form of office located in its territory. However, for the purposes of the European services e-card, secondary establishment should not include provision of services in the host Member State through subsidiaries of companies established in the home Member State. The fact that a subsidiary is a separate legal entity requires more complex controls than those pertaining to provision of services through a branch, agency or office without separate legal personality. The European services e-card procedure is not suited to cover those complex controls.
- (24) The coordinating authority of the home Member State should, upon receiving an application for a European services e-card, complete it and validate its contents in order to accurately demonstrate legal establishment of the provider in its home Member State and describe its circumstances in a manner conducive for host Member State's authorities to pursue their own controls. While inaction on the part of the

1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation') (OJ L 354, 28.12.2013, p. 132).

applicant should lead to a halt in the procedure, inaction on the part of the home Member State's authorities should give way to judicial redress.

- (25) In order to ensure uniform implementation of this Directive in relation to the technical aspects of handling and processing applications for European services e-cards, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council²⁵. These implementing rules should determine the automatic cancellation of an application for a European services e-card if the respective procedure is suspended for a considerable lapse of time due to inaction on the part of the applicant.
- (26) A coordinating authority of the host Member State should provide clarity as to which requirements apply to the incoming service provider, considering the latter is already established in another Member State. The coordinating authority of the host Member State should ensure the provider knows which requirements govern performance of services in the host Member States, including those applicable once it obtains the European services e-card. For establishment, i.e., provision of services through branches, agencies or offices, the identification of applicable requirements by the coordinating authority of the host Member State fulfils a different purpose: it lists the requirements the compliance of which the incoming service provider is required to prove before the e-card can be issued.
- (27) In case a host Member State has put in place a comprehensive and updated information database in its point of single contact, its coordinating authority can simply refer to the relevant webpage from where the information can be retrieved in the context of the European services e-card procedure.
- (28) A European services e-card should not alter the current regulatory environment, under Directive 2006/123/EC and other EU legislation concerned, setting the underlying conditions which a service provider must meet when starting to provide services in a host Member State. Consequently, host Member States should be able, in accordance with current EU Law, to have consideration for compliance with their own requirements by incoming providers before these are allowed to start provision of services in their territory. The procedure for issuing a European services e-card should thus account for a suitable role of control by the host Member State both for temporary cross-border provisions and for establishment.
- (29) For provision of temporary cross-border services, given that Article 16 of Directive 2006/123/EC admits requirements for the generality of services covered by this Directive, host Member States should be allowed to object to the issue of a European services e-card by the home Member State in those cases where the circumstances of the applicant give rise to genuine and sufficiently serious threats to public interests related to public policy, public security, public health or the protection of the environment, in a manner which cannot be suitably and sufficiently addressed by requirements and controls applicable once service provision starts. This should be the case when a prior authorisation scheme or prior notification for temporary provision of the services in question is in place, justified in proportionate terms under one of those four overriding reasons of public interest safeguarded under Article 16 of Directive 2006/123/EC and when the conditions met by the applicant in its home Member State

²⁵ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

cannot be considered equivalent to the ones required in the host Member State for the granting of that prior authorisation. The possibilities and prerogatives of host Member States under Article 16 of Directive 2006/123/EC apply in the context of issuing a European services e-card.

- (30) IMI should enable the Commission to become aware of objections raised by host Member States before the issue of European services e-card procedures for temporary cross-border provision of services, in the context of prior authorisation or prior notification schemes that should also have been previously notified under Directive[forthcoming Notification Directive]..... This information on the effective application of the notified authorisation schemes may be used by the Commission to trigger any enforcement action or to launch any enquiries. It is without prejudice to the rights of applicants to submit a complaint to Commission services alleging a potential breach of EU law by way of the objection in question.
- (31) For establishment, host Member States should be allowed to impose on e-card applicants their own requirements, non-discriminatory, justified under overriding reasons of public interest and proportionate in compliance with Directive 2006/123/EC and other EU legislation concerned. Sector-specific EU legislation governing certain services covered by this Directive, such as services of travel agencies under Directive (EU) 2015/2302, of the European Parliament and of the Council²⁶, and services of installation of energy-related building elements under Directive 2012/27/EU of the European Parliament and of the Council²⁷, in so far as the controls do not pertain to recognition of professional qualifications in the framework of Directive 2005/36/EC, should be taken into consideration.
- (32) Equivalence between requirements of a host Member State and those requirements of the home Member State the applicant has already complied should be an integral part of this assessment. In order to facilitate the assessment of the equivalence of requirements in home and host Member States, where the authority of the host Member State declares its intention to refuse an e-card for establishment, the applicant should have a renewed possibility to prove that it meets the conditions laid down in the prior authorisation or prior notification on the basis of which the authorities of the host Member States base their intention to refuse the e-card, including through requirements to which the applicant is subject in the home Member State and which they deem to be equivalent.
- (33) Host Member States should be allowed to request clarifications or additional information from the home Member State before the issue of a European services e-card, essentially relevant for the assessment of whether there is a justified and proportionate need to object to temporary provision of services by the applicant in its territory or, for establishment, to assess just how many of its regulatory concerns are already suitably addressed by compliance of the applicant with home Member State's requirements. Over time, it is expected that Member States will gain a better knowledge of their respective regulatory frameworks in the sectors covered by the e-

²⁶ Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC (OJ L 326, 11.12.2015, p. 1).

²⁷ Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L315, 14.11.2012, p.1).

card that should lead to enhanced mutual trust and thus allow for a more expedient assessment to the benefit of applicants.

- (34) In order to lay down the procedure for requesting such information, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of specifying the procedural workflow and its impact on the applicable time-limits for decisions to be made in the context of issuing a European services e-card. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (35) The host Member State should no longer control whether the applicant for a European services e-card is legally established in another Member State. Nor should it put into question the veracity and validity of the data and documents included in an application, once validated by the coordinating authority of the home Member State. Conversely, the coordinating authority of the home Member State should not assess whether it issues a European services e-card for temporary cross-border provisions of services based on compliance by the provider of host Member State requirements, rather it should only assess of whether the applicant is legally established in its territory for the provision of the service in question at the time the decision to issue is made.
- (36) Relevant actions and decisions of the coordinating authorities involved in the procedure for issuing the European services e-card, in the host as well as in the home Member State should be subject to judicial remedies in accordance with national law. This should include appropriate remedies in the event of failure to act of the coordinating authority in the home Member State in accordance with the procedure to issue the e-card.
- (37) Prior to the issuance of the European services e-card, a host Member State should be allowed to invoke legitimate policy concerns. Nevertheless, in the interest of allowing for a simplified and swift procedure, the principle of tacit approval should be observed in issuing a European services e-card. That is the general principle introduced under Directive 2006/123/EC. An alert of impending tacit approval and the extension of the applicable deadlines by two additional weeks should ensure that the host Member State has the appropriate time and means to consider applications for a European services e-card. A lack of information from the host Member State on applicable requirements should also not impede automatic issue of a European services e-card.
- (38) Service providers should not be required to provide information and documents which are already in the possession of other authorities in the home Member State, irrespective of administrative levels or divisions. It should also be the case when interconnection of national registers (e.g. central, commercial and companies' registers as required by Directive 2009/101/EC or insolvency registers under Regulation (EU) 2015/848 of the European Parliament and of the Council²⁸) allows for information and documents to be retrieved by the administration of the home Member State from other

²⁸ Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (OJ L 141, 5.6.2016, p.19).

Member States. In all instances when personal data are processed under this Directive, rules on protection of personal data of Directive 95/46/EC of the European Parliament and of the Council²⁹ [, Regulation (EU) 2016/679 of the European Parliament and of the Council³⁰] and national legislation should be observed.

- (39) A service provider should be allowed to apply for a European services e-card in the home Member State and have that application assessed by the host Member State regarding the applicable conditions to provide services through a branch in the territory of that host Member State before that applicant is required to apply for registration of the future branch in that same host Member State. Thus, the applicant will be certain of the applicable sector-specific conditions and ultimately that it complies with them in a manner satisfactory to the host Member State before spending time and resources on requesting the registration of a branch in that host Member State for company law purposes. At the same time, the applicant will need to comply with national rules on registration of branches under company law to provide services through such a branch in compliance with EU law.
- (40) A European services e-card should allow for provision of services throughout the territory of the host Member State. A service provider, once established in a Member State in the form of a branch, agency or office, should not, in principle, need to apply for another e-card in order to expand provision of services already covered by the existing e-card domestically through additional branches, agencies or offices there, as the case may be. However, as Directive 2006/123/EC expressly provides for, authorisations for each individual branch, agency or office may be justified by overriding reasons of public interest. In that case, service providers should continue to have the choice of expanding operations domestically by obtaining those authorisations under national law or applying for additional European services e-cards, for each additional branch, agency or office, as the case may be.
- (41) This Directive should not interfere with the division of regional or local competences within the Member States, including regional and local self-government. This notwithstanding, administrative cooperation between different national authorities within strict time-limits may be necessary in order to meet the obligations laid down in the Directive. In order to help Member States meet their obligations and considering the decentralised structure of many of them, IMI could also be used as a tool for the effective exchange of information and mutual assistance between competent authorities within a certain Member State, without prejudice to other solutions put in place by Member States.
- (42) A European services e-card should be valid for an indefinite period in time, without prejudice to, in relation to temporary cross-border services, the effects of case-by-case derogations in accordance with Directive 2006/123/EC.
- (43) A European services e-card should however be suspended by the issuing coordinating authority if, temporarily, the service provider is banned from providing the services in question. The suspension should last as long as the ban is in place. A European

²⁹ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281 , 23.11.1995, p. 31).

³⁰ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

services e-card should be revoked by the issuing coordinating authority if the conditions for issuing it or for it to remain valid, as a testament of legality of service provision in the host Member State, are no longer met. A final decision establishing that an e-card holder misrepresented him or herself as a service provider and that, under national law of either home or host Member State he or she is considered to be a worker, should lead to the revocation of the European services e-cards in question. Similarly, cases of fraudulent, inaccurate or falsified information or documents used in the context of issuing a European services e-card should impact the validity of the e-card.

- (44) Administrative cooperation between home and host Member State authorities should ensure observance of conditions of validity of a previously issued European services e-card. To further ensure no European services e-card misrepresents the situation of its holder at any given moment, its holder and competent authorities should be obliged to inform the coordinating authority who issued it of changes in the situation of the holder which may impact the validity of the e-card.
- (45) In any case, before adopting the decision to revoke or suspend the e-card, the competent coordinating authority should consult the e-card holder and any decision should be duly justified and subject to appeal, in accordance with the applicable national law of the Member State which issued it. Interim measures signalling a pending procedure for suspension or revocation of a European services e-card should be allowed, signalling a link with alerts triggered under Directive 2006/123/EC.
- (46) In order to ensure uniform conditions for the implementation of this Directive in relation to the technical aspects of processing suspensions, revocations and cancellations of European services e-cards, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.
- (47) The application of this Directive should be monitored and assessed in order to determine its impact on the costs of expanding operations cross-border, particularly in relation to service providers, on consumer perception regarding such providers, particularly those holding a European services e-card, and on competition, prices and quality of services. The effects of the provisions contained in this Directive should be evaluated regularly, in particular in order to assess whether it would be appropriate to introduce a European services e-card for other service activities. This monitoring will take place in cooperation with Member States, social partners and other relevant stakeholders.
- (48) Since the objectives of this Directive cannot be sufficiently achieved by the Member States in view of the complexity and inconsistency of approaches of controlling certain services across Member States but can rather, by reason of enhanced administrative coordination across the Union, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (49) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular, this Directive, through the establishment of the legal and operational framework for the European Service e-card and the coordination of some requirements concerning the freedom of establishment and the provision of services for certain

service, seeks to promote the rights of establishment and the right to provide services in any Member State, preventing any discrimination on grounds of nationality and ensuring impartial, fair and reasonably speed procedure, in accordance with Articles 15, 21 and 41 of the Charter of Fundamental Rights of the European Union, while ensuring full respect of the protection of personal data, including in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council³¹, Directive 95/46/EC [Regulation (EU) No 2016/679], and giving due consideration to the risk of abuse of rights provided for respectively in Articles 8 and 54 of that Charter,

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER I GENERAL PROVISIONS

Article 1

Subject matter

This Directive lays down the legal and operational framework for the European services e-card introduced by Regulation[ESC Regulation].....

Article 2

Scope

1. This Directive applies to the services listed in the Annex.
2. This Directive does not affect the matters mentioned in Article 1(2) to (7) of Directive 2006/123/EC.

It shall not apply to the activities and fields mentioned in Article 2(2) and (3) of Directive 2006/123/EC.

3. If the provisions of this Directive conflict with a provision of another Union act governing specific aspects of access to or exercise of a service activity in specific sectors or for specific professions, the provision of the other Union act shall prevail and shall apply to those specific sectors or professions.

This Directive shall be without prejudice to the rights of workers, the obligations of service providers and related controls in Member States laid down in Directives 96/71/EC and 2014/67/EU.

Article 3

Definitions

For the purposes of this Directive the following definitions shall apply:

1. "home Member State" means the Member State to which a provider addressed the application for a European services e-card;
2. "host Member State" means the Member State in which a provider declared the intention to provide services making use of a European services e-card;

³¹ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

3. "requirement" means a requirement as defined in Article 4 (7) of Directive 2006/123/EC;
4. "coordinating authority" means an authority designated in accordance with Article 17 of Regulation[ESC Regulation].....;
5. "competent authority" means any of the following without prejudice to the third subparagraph of Article 16(5) :
 - (a) a competent authority as defined in Article 4 point 9 of Directive 2006/123/EC;
 - (b) a competent authority as defined in Article 3(1)(d) of Directive 2005/36/EC;
 - (c) any authority or body in charge of a central, commercial or company register in a Member State;
 - (d) any tax authority in a Member State;
6. "public contract" means a contract as defined in Article 2(5) of Directive 2014/24/EU of the European Parliament and of the Council ³²;
7. "design contest" means a design contest as defined in Article 2(21) of Directive 2014/24/EU;
8. "concession" means a concession as defined in Article 5(1) of Directive 2014/23/EU of the European Parliament and of the Council ³³;
9. "authorisation scheme" means an authorisation scheme as defined in Article 4 (6) of Directive 2006/123/EC;
10. "service" means a service as defined in Article 4(1) of Directive 2006/123/EC;
11. "provider" means a provider as defined in Article 4(2) of Directive 2006/123/EC;
12. "Member State of establishment" means a Member State of establishment as defined in Article 4(4) of Directive 2006/123/EC;
13. "establishment" means establishment as defined in Article 4(5) of Directive 2006/123/EC;
14. "notification scheme" means any procedure under which a provider is required to take steps towards a competent authority, giving information or submitting documents concerning access to a service activity or the exercise thereof, without the need for a formal or implied decision by that authority.

CHAPTER II

EUROPEAN SERVICES E-CARD

Article 4

European services e-card as proof of establishment

Member States shall accept a valid European services e-card as proof that its holder is established in the territory of his home Member State and is entitled, in that territory, to provide the service activities covered by the e-card.

³² Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

³³ Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1).

Article 5

Effects of a European services e-card in the host Member State

1. A host Member State shall not impose any prior authorisation scheme, prior notification scheme or an establishment requirement on the holder of a previously issued European services e-card for temporary cross-border provision of services as a condition for such provision of services in its territory.
2. A host Member State shall not impose any prior authorisation scheme or prior notification scheme on the holder of a previously issued European services e-card for establishment as a condition for establishment in its territory through a branch, agency or office located in its territory.
3. A host Member State shall refrain from imposing on holders of a previously issued European services e-card requirements other than those referred to in paragraphs 1 and 2 the compliance of which has been or is deemed to have been verified under Articles 11 to 13.
4. Paragraphs 1, 2 and 3 are without prejudice to:
 - i) requirements imposed on providers in the context of selection procedures of candidates for authorisation schemes limited in number in accordance with EU law;
 - ii) requirements and other obligations, prohibitions, conditions or limits imposed on providers in the context of selection procedures of candidates for the provision of services under a public contract, a design contest or a concession;
 - iii) authorisation schemes, notification schemes or requirements concerning conditions specifically related to the site where the service is provided or to the site where the provider is established;
 - iv) requirements regarding recognition of professional qualifications as provided for by Articles 4 and 4f of Directive 2005/36/EC;
 - v) disclosure obligations as provided for by Article 2 of Directive 2009/101/EC and Article 2 of Directive 89/666/EEC or obligations, prohibitions, conditions or limits imposed by national rules on registration of branches of companies registered in another Member State under company law.
5. Paragraphs 1, 2 and 3 are without prejudice to reporting obligations imposed on the holder of a European services e-card or the performance of checks, inspections or investigations from competent authorities during the provision of the service, in compliance with EU law.

Article 6

Use of information contained in the European services e-card

Authorities in Member States shall not, in the context of any procedures or formalities imposed on a provider in their territory and in accordance with the rules on the protection of personal data as provided for in Directive 95/46/EC [, Regulation (EU) No 2016/679] and national legislation, require the holder of a European services e-card to provide any information which is already contained in the European services e-card, including for:

- (i) the award of a public contract, a design contest or a concession;
- (ii) formation of subsidiaries or registration of branches under company law;

(iii) registration with mandatory social insurance schemes.

Article 7

Validity of a European services e-card

1. A European services e-card for temporary cross-border provision of services concerned by that e-card shall be valid throughout the territory of the host Member State.

A European services e-card for establishment shall be valid, as regards the service activities covered by that e-card, throughout the territory of the host Member State through one or more branches, agencies or offices located in the territory of this Member State except where an authorisation for each additional branch, agency or office is justified in accordance with Article 10(4) of Directive 2006/123/EC.

This shall be without prejudice to the obligation of the holder of a European services e-card to comply with obligations, prohibitions, conditions or limits imposed by national rules on registration of a branch under company law in order to provide services through such branch.

2. A European services e-card shall be valid for an indefinite duration, unless suspended, revoked or cancelled, in accordance with Articles 15 to 17.

This shall be without prejudice to measures put in place in accordance with Article 18 of Directive 2006/123/EC.

CHAPTER III EUROPEAN SERVICES E-CARD SCHEME

Article 8

Application for a European services e-card

Member States shall ensure that providers with establishment in the territory of one Member State shall have the right to submit an application for a European services e-card to the coordinating authority of that same Member State.

The application shall consist of the elements and supporting documents as prescribed by Articles 4 and 5 of Regulation[ESC Regulation].....

Article 9

Eligibility

1. Providers of service activities for which a European professional card for the temporary and occasional provision of services has been introduced, in accordance with Directive 2005/36/EC, shall not be eligible for a European services e-card for the provision of temporary cross-border services.
2. Providers of service activities for which a European professional card for establishment has been introduced, in accordance with Directive 2005/36/EC, shall not be eligible for a European services e-card for establishment. Those providers shall be eligible for a European services e-card as regards requirements and provisions referenced in the second subparagraph of Article 4a(5) of Directive 2005/36 EC.

Article 10

Right of Member States to invoke overriding reasons of public interest

In assessing applications for the European services e-card, Member States shall retain the right to invoke those overriding reasons of public interests recognised under Directive 2006/123/EC, in particular Article 16 thereof, or other acts of EU law.

Article 11

Assessment of the application by the home Member State

1. The coordinating authority of the home Member State shall within one week of having received an application for a European services e-card:
 - (a) examine the application;
 - (b) verify the completeness and accuracy of the information provided;
 - (c) verify whether European services e-cards issued in relation to other home Member States for the same provider and service activity have been revoked or cancelled, or that cancellation has been requested to allow replacement of those e-cards by the European services e-card to which the application refers to;
 - (d) verify the content and validity of accompanying documents, if any, that prove compliance with requirements applicable to the service provision to which the applicant is subject in the home Member State;
 - (e) request supplementing of the application from the applicant, where necessary;
 - (f) complete the application form with the information obtained in accordance with Article 14(2);
 - (g) upload to the electronic platform where the standard form for application is made available the necessary documents, if any, obtained in accordance with Article 14(2).

Where the coordinating authority of the home Member State requests supplementing of the application from the applicant, the time-limit is suspended until that information is provided.

2. The coordinating authority of the home Member State shall, upon completion of the tasks referred to in paragraph 1, communicate without delay the application to the coordinating authority of the host Member State, with information to the applicant.
3. The decisions and actions by the coordinating authority of the home Member State, notified to the applicant through the electronic platform where the standard form for application is made available, or the absence of a decision or action within the time-limit shall be subject to appeal under national law of the home Member State.
4. The Commission shall adopt technical rules for the handling and processing of the application by means of implementing acts. These rules shall include time-limits on the expiration of the application due to inaction of the applicant.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 19(2).

Article 12

Assessment by the host Member State of the application for a European services e-card for the provision of temporary cross-border services

1. Within two weeks from receiving the application the coordinating authority of the host Member State shall examine it and inform the applicant and the home Member State of any requirements applicable to temporary cross-border provisions under the legislation of the host Member State with the exception of those referred to in Article 5(4). In line with the rights of Member States as referred to in Article 10, the coordinating authority of the host Member State may within the same time-limit, decide to object to the issue of the European services e-card by the coordinating authority of the home Member State where it demonstrates that the application of a prior authorisation scheme, prior notification scheme or requirements to the applicant is justified for one of those overriding reasons of public interest set out in Article 16 of Directive 2006/123/EC or is admissible in accordance with other acts of EU law.

The host Member State shall take due account in that assessment of the requirements that the applicant already meets in its home Member States. For the purpose of that assessment and within the above-mentioned time-limit, the coordinating authority of the host Member State shall be allowed to request necessary clarifications or necessary additional information from the home Member State or the applicant which is not yet contained in the application. In that case, the time limit referred to in this paragraph is suspended until the requested necessary clarification or necessary additional information is supplied. The procedure for requesting clarifications or additional information will be laid down by way of the delegated acts referenced in paragraph 4.

An objection to grant a European services e-card may not be based on non-compliance with one of the requirements listed in Article 5(5). The Commission shall have access, via IMI, to the decision of objection by the coordinating authority of the host Member State.

2. Taking into account the rights of Member States as referred to in Article 10, if the coordinating authority of the host Member State does not react within the time-limit referred to in paragraph 1, that time limit shall automatically be extended by two additional weeks and the electronic platform where the application for a European services e-card has been submitted shall issue an alert to the coordinating authority of the host Member State to the effect that failure to react shall imply that there is no objection to the issue of the European services e-card to the applicant.
3. If the host Member State does not object in accordance with paragraph 1, the coordinating authority of the home Member State shall issue the European services e-card without delay upon expiration of the extended time-limit resulting from the application of paragraph 2. In the absence of any objection under the second subparagraph of paragraph 1 and failing a decision by the coordinating authority of the home Member State upon expiration of the extended time-limit resulting from the application of paragraph 2, the European services e-card shall be deemed to have been issued by the home Member State in the terms communicated to the host Member State in accordance with Article 11(2).

Upon receipt of the decision of the host Member State to object under paragraph 1 the home Member State shall refuse, without delay, the application for a European services e-card.

4. The Commission is empowered to adopt delegated acts in accordance with Article 18 in order to specify the procedure for the coordinating authority of the host Member State to request clarifications or additional information from the home Member State or the applicant, and to modify, if necessary, the time-limits laid down in paragraph 1.
5. The decisions and actions of the coordinating authority of the home Member State, notified to the applicant through the electronic platform where the standard form for application is made available, shall be subject to appeal under national law of the home Member State.

The decision by the coordinating authority of the host Member State to object to the issue of the European services e-card, notified to the applicant through the electronic platform where the standard form for application is made available, shall be subject to appeal under national law of the host Member State.

6. The Commission shall adopt technical rules for the handling and processing of the application under paragraphs 1 and 2 by means of implementing acts. These rules shall include time-limits on the expiration of the application due to inaction of the applicant.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 19(2).

Article 13

Assessment by the host Member State of the application for a European services e-card for establishment

1. In the context of a procedure for issuing a European services e-card for establishment in the form of a branch, agency or office, the coordinating authority of the host Member State shall, within four weeks from receiving the application, identify which, if any, prior authorisation scheme or prior notification scheme as referred to in Article 5(2) is applicable, in compliance with EU law, to such establishment. If such a prior authorisation scheme or prior notification scheme has been identified, the host Member State shall also identify the conditions which the applicant is required to comply with, with the exception of those referred to in Article 5(5). The host Member State shall indicate why the application of such a prior authorisation scheme or prior notification scheme is necessary and proportionate for the pursuance of overriding reasons of public interest.

The host Member State shall immediately inform the applicant and the coordinating authority of the home Member State of the prior authorisation or prior notification scheme in question, the conditions which the applicant is required to comply with and of the necessity and proportionality thereof.

2. Taking into account the rights of Member States as referred to in Article 10, if the coordinating authority of the host Member State does not react within the time-limit referred to in paragraph 1, that time limit shall automatically be extended by two additional weeks and the electronic platform where the application for a European services e-card has been submitted shall issue an alert to the coordinating authority of the host Member State to the effect that failure to react shall imply that the European services e-card shall be issued to the applicant.
3. Upon receipt of the reaction by the coordinating authority of the host Member State to the application, the applicant shall be allowed to provide proof of compliance with

the conditions identified by the coordinating authority of the host Member State under the paragraph 1.

The applicant shall describe which specific conditions are complied with by previous compliance with equivalent requirements in the home Member State.

Member States shall ensure that the coordinating authority of the home Member State shall assist the applicant in proving compliance with host Member State conditions, in accordance with Article 14.

4. The coordinating authority of the host Member State shall assess, within one week upon receipt of proof of compliance with the conditions identified in accordance with paragraph 1, whether to issue the European services e-card or reject the application for the European services e-card.

In case the coordinating authority of the host Member State decides to issue the European services e-card, it shall do so without delay.

Alternatively, the coordinating authority of the host Member State may inform the applicant and the coordinating authority of the home Member State of its intention to reject the application, in which case the applicant shall have a week to present its observations.

Upon receipt of the observations of the applicant or, where no observations have been made, upon expiration of the time-limit to present those observations, the coordinating authority of the host Member State shall decide, within one week, whether to issue the European services e-card or reject the application for the European services e-card.

5. The coordinating authority of the host Member State shall be allowed to request necessary clarifications or necessary additional information from the home Member State or the applicant which is not yet contained in the application. In that case, the time limits referred to in paragraphs 1 and 4 are suspended until the requested necessary clarification or necessary additional information is supplied.

Clarifications and additional information shall be requested in accordance with the procedure laid down in accordance with paragraph 7.

6. In case the host Member State, upon expiration of the periods for its reaction mentioned in paragraphs , 2 and 4, does not request compliance with any condition under paragraph 1 or does not take the decision to issue the European services e-card under paragraph 4, the European services e-card shall be deemed to have been issued by the host Member State in the terms communicated to the host Member State in accordance with Article 11(2).

7. The Commission shall be empowered to adopt delegated acts in accordance with Article 18 in order to specify the procedure for the coordinating authority of the host Member State to request clarifications or additional information from the home Member State as referred to in paragraph 5, and to modify if necessary the time-limits mentioned in paragraphs 1 and 4.

8. The decisions and actions by the coordinating authority of the home Member State, notified to the applicant through the electronic platform where the standard form for application is made available, shall be subject to appeal under national law of the home Member State.

The decisions of the coordinating authority of the host Member State to request compliance with conditions under paragraph 1 and its decision on issue of the European services e-card, notified to the applicant through the electronic platform where the standard form for application is made available, shall be subject to appeal under national law of the host Member State.

9. Member States shall not require application for a registration of a branch under company law as a precondition to assess the application for a European services e-card for establishment.

This shall be without prejudice to the obligation of the holder of a European services e-card to comply with national obligations, prohibitions, conditions or limits imposed regarding registration of a branch under company law in order to provide services through such a branch in compliance with EU law.

10. The Commission shall adopt technical rules for the handling and processing of the application under paragraphs 1, 2, 3 and 4 by means of implementing acts. These rules shall include time-limits on the expiration of the application due to inaction of the applicant.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 19(2).

Article 14

Once-only principle in the home Member State

1. Coordinating authorities in the home Member State shall not require providers to provide information and documents which are available to those authorities in accordance with paragraph 2 of this Article or Article 14(3) of Regulation ...[ESC Regulation].... when applying for a European services e-card or to prove compliance, in the context of a European services e-card for establishment, with conditions identified by the coordinating authority of the host Member State in accordance with Article 13(1).
2. The coordinating authority in the home Member State shall obtain the information and documents required for the purposes referred to in paragraph 1 which are available to other authorities in the home Member State or originate from those authorities, in accordance with the rules on the protection of personal data as provided for in Directive 95/46/EC, Regulation (EU) No 2016/679 and national legislation.

Article 15

Suspension and revocation of a European services e-card in relation to a host Member State

1. Member States shall ensure that the coordinating authority who issued a European services e-card suspends its validity or revokes it in case, respectively, of a decision, in accordance with EU law, determining a temporary or permanent ban on provision of the service activities in question by the European services e-card holder in the host Member State.
2. Member States shall ensure that coordinating authorities who issued a European services e-card revoke it in case the e-card holder:

- (i) made use of information or documents in the context of the procedure to issue the e-card which have been ascertained to be fraudulent, inaccurate or falsified by a final decision of either home or host Member State, not subject to appeal under the applicable national law;
- (ii) is subject to a final decision, in compliance with Article 4(5) of Directive 2014/67/EC, not subject to appeal under national law, by the host Member State that it considers the holder of a European services e-card to be a worker and not a self-employed person, in accordance with Article 2(2) of Directive 96/71/EC of the European Parliament and of the Council³⁴;
- (iii) does not meet one or more conditions applicable for temporary cross-border provision as prescribed by the first subparagraph of Article 11(1), the compliance of which, under the national law of the host Member State, is essential to continued legal provision of the services in question in its territory;
- (iv) does not meet one or more conditions imposed in the context of a prior authorisation or prior notification scheme applicable for establishment as prescribed by the first subparagraph of Article 12(1), the compliance of which, under the national law of the host Member State, is essential to continued legal provision of the services in question in its territory.

Article 16

Suspension and revocation of all European services e-cards of a service provider for a certain service activity

1. Member States shall ensure that, in case of a decision, in accordance with EU law, determining a temporary or permanent ban on provision of the service activities by the European services e-card holder in the home Member State, the coordinating authorities who issued a European services e-card suspend the validity of or revoke, respectively, all European services e-cards issued for the same provider and service activity in question.
2. Member States shall ensure that, in case of a decision determining a temporary or permanent ban on provision of the service activities by the European services e-card holder in the host Member State, coordinating authorities who issued a European services e-card suspend the validity of or revoke, respectively, all European services e-cards issued for the same provider and service activity in so far as the national law of the home Member State determines, in accordance with EU law, the suspension or termination of service activities in its territory due to, respectively, the temporary or permanent ban in question in the host Member State.
3. Member States shall ensure coordinating authorities who issued a European services e-card revoke all European services e-cards issued for the same provider and service activities in case that provider:
 - (i) permanently ceases to provide the services in question in the home Member State;
 - (ii) is wound-up and dissolved;
 - (iii) changes its main centre of activities relevant for issue of the e-cards in question from one Member State to another Member State;

³⁴ Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (OJ L 18, 21.1.1997, p. 1).

- (iv) changes its main centre of activities relevant for issue of the e-cards in question to a third country;
- (v) is subject to a final decision not subject to appeal under national law, by the home Member State that it considers the holder of a European services e-card to be a worker and not a self-employed person;
- (vi) is no longer established in the home Member State, for any other reason.

Article 17

Procedure for the suspension, revocation, update and cancellation of European services e-cards

1. A Member State which detects a reason to trigger the suspension or revocation of a European services e-card, in accordance with Articles 15 or 16, occurring in its territory shall communicate via IMI to the holder of the European services e-card in question the motivation therefore and shall give it the opportunity to be heard.

This shall be without prejudice to an alert under Article 32 of Directive 2006/123/EC.

2. Once a Member State concludes on the need to suspend or revoke a European services e-card it shall do so without delay, in case its coordinating authority is the issuing authority of the e-card in question, or it shall communicate without delay to the issuing coordinating authority its conclusion on the need to suspend or revoke the European services e-card in question.

The issuing coordinating authority which receives the communication of a conclusion on the need to suspend or revoke the European services e-card from another Member State shall immediately suspend or revoke the European services e-card in question, as appropriate.

Member States shall ensure that, as soon as the conditions which led to the suspension of a European services e-card are no longer valid, the issuing coordinating authority reactivates, without delay, the suspended European services e-card.

3. A decision to suspend or revoke a European services e-card, notified to the applicant through the electronic platform where the standard form for application is made available, shall be duly motivated and be subject to appeal under national law of the Member State concerned.

The absence of a decision to reactivate a suspended European services e-card in accordance with the last subparagraph of paragraph 2 shall be subject to appeal under national law of the Member State concerned.

This paragraph shall be without prejudice to the second subparagraph of paragraph 2.

4. Member States shall oblige the holder of a European services e-card to inform the coordinating authority which issued its European services e-card of the following:
 - (a) decisions restricting or prohibiting, even temporarily, in either home or host Member State the provision by the holder of the European services e-card of service activities covered by that same e-card;
 - (b) permanent cessation of activities covered by the European services e-card in the territory of the home Member State;

- (c) winding-up and dissolution of the holder of the European services e-card or change of its main centre of activities within the territory of the European Union or to a third country;
 - (d) final decisions not subject to appeal under national law, by either the home or, in compliance with Article 4(5) of Directive 2014/67/EC, by the host Member State that it considers the holder of a European services e-card to be a worker and not a self-employed;
 - (e) any significant change as regards the requirements that the holder of the e-card is subject to in its home Member State to the extent that information on compliance with these requirements had been communicated to the host Member State together with the e-card application;
 - (f) changes in the factual situation or any other elements of information regarding the holder of a European services e-card which are reflected in its content.
5. Coordinating authorities shall exchange information on their own initiative and give assistance to other coordinating authorities in relation to events that have come to their knowledge which may determine a suspension or revocation of the European services e-card in question or the need to otherwise update its content.

Member States shall ensure that their competent authorities inform the coordinating authority they designated in accordance with Article 17 of Regulation ...[ESC Regulation]... of the events listed in paragraph 4 that have come to their knowledge.

In relation to point (d) of paragraph 4, this paragraph shall also apply to competent authorities as defined in Article 2(a) of Directive 2014/67/EU.

This paragraph shall be without prejudice to Article 2 of Directive 2009/101/EC and Article 2 of Directive 89/666/EEC.

6. The holder of a European services e-card may request the cancellation of its previously issued European services e-card to the issuing coordinating authority at any time.
7. The Commission shall adopt technical rules for the processing of suspensions, revocations, updates and cancellations of European services e-cards by means of implementing acts, including provisions on the introduction and withdrawal of alerts of possible suspension and revocation and on the interconnection between these procedures and the alert mechanism set up under Article 32 of Directive 2006/123/EC as well as the interconnection between a valid European services e-card and the procedure for case-by-case derogations in accordance with Article 18 of Directive 2006/123/EC.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 19(2).

CHAPTER IV FINAL PROVISIONS

Article 18 Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 12(4) and Article 13(7) shall be conferred on the Commission for a period of five years from [...]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Article 12(4) and Article 13(7) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 12(4) and Article 13(7) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 19

Committee procedure

1. The Commission shall be assisted by the Committee referred to in Article 40(1) of Directive 2006/123/EC. That Committee shall be a committee within the meaning of Regulation (EU) 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) 182/2011 shall apply.

Article 20

Monitoring of implementation

The Commission, with Member States, social partners and other relevant stakeholders, will establish monitoring arrangements to monitor and assess the implementation and impacts of this Directive, in particular how it impacts freedom of establishment and freedom to provide services across Member States for the service activities covered, namely by reducing costs for providers, enhancing transparency about providers expanding cross-border and increasing competition, and how it impacts prices and quality of the services concerned, considering relevant indicators.

Article 21

Review clause

By [24 months after the date for transposition of this Directive] the Commission shall carry out an assessment of the appropriateness of additional measures to coordinate provisions concerning the freedom of establishment and the freedom to provide services for which a European services e-card has been introduced.

By 36 months after the date for transposition of this Directive and at the latest every five years thereafter, the Commission shall carry out an evaluation of this Directive and submit to the European Parliament and the Council a report on its performance. That report shall consider the need to adapt the procedures for issuing, updating, suspending or revoking a European services e-card taking into account the latest developments in e-Government and shall be included in the report assessing the overall performance of Regulation ...[ESC Regulation]... in line with its Article 19.

Article 22
Transposition

1. Member States shall adopt and publish, by [two years after entry into force of this Directive] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from [two years after entry into force of Regulation[ESC Regulation].....].

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 23
Entry into force

This Directive shall enter into force on the [twentieth] day following that of its publication in the Official Journal of the European Union.

Article 24
Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President



Brussels, 10.1.2017
COM(2016) 823 final

ANNEX 1

ANNEX

to the

**PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF
THE COUNCIL**

**on the legal and operational framework of the European services e-card introduced by
Regulation[ESC Regulation]**

{SWD(2016) 437 final}

{SWD(2016) 438 final}

ANNEX
Services to which this Directive applies

Service activities listed in the statistical classification of economic activities in the European Community (NACE Rev.2) under:

- Section F Construction

Division 41 Construction of buildings

Group 41.1 Development of building projects

Group 41.2 Construction of residential and non-residential buildings

Division 42 Civil engineering

Group 42.1 Construction of roads and railways

Group 42.2 Construction of utility projects

Group 42.9 Construction of other civil engineering projects

Division 43 Specialised construction activities

Group 43.1 Demolition and site preparation

Group 43.2 Electrical, plumbing and other construction installation activities, with the exclusion of installation, servicing, maintenance, repair or decommissioning by natural persons of equipment that contains fluorinated greenhouse gases listed in points (a) to (d) of Article 4(2) of Regulation (EU) 517/2014

Group 43.3 Building completion and finishing

Group 43.9 Other specialised construction activities

- Section J Information and Communication

Division 62 Computer programming, consultancy and related activities

Group 62.0 Computer programming, consultancy and related activities

Division 63 Information service activities, with the exclusion of trust services as defined in Article 3(16) of Regulation (EU) 910/2014

Group 63.1 Data processing, hosting and related activities; web portals

Group 63.9 Other information service activities

- Section M Professional, scientific and technical activities

Division 69 Legal and accounting activities

Group 69.1 Legal activities, with the exclusion of legal services covered by Council Directive 77/249/EEC and Directive 98/5/EC, as well as services by notaries and bailiffs who are appointed by an official act of government

Group 69.2 Accounting, bookkeeping and auditing activities; tax consultancy, with the exclusion of statutory auditing as defined in Article 2(1) of Directive 2006/43/EC

Division 70 Activities of head offices; management consultancy activities

Group 70.1 Activities of head offices

Group 70.2 Management consultancy activities

Division 71 Architectural and engineering activities; technical testing and analysis

Group 71.1 Architectural and engineering activities and related technical consultancy

Division 72 Scientific research and development

Group 72.1 Research and experimental development on natural sciences and engineering

Group 72.2 Research and experimental development on social sciences and humanities

Division 73 Advertising and market research

Group 73.1 Advertising

Group 73.2 Market research and public opinion polling

Division 74 Other professional, scientific and technical activities

Group 74.1 Specialised design activities

Group 74.2 Photographic activities

Group 74.3 Translation and interpretation activities

Group 74.9 Other professional, scientific and technical activities n.e.c.

- Section N Administrative and support service activities

Division 77 Rental and leasing activities

Group 77.1 Renting and leasing of motor vehicles

Group 77.3 Renting and leasing of other machinery, equipment and tangible goods

Group 77.4 Leasing of intellectual property and similar products, except copyrighted works

Division 78 Employment activities

Group 78.1 Activities of employment placement agencies

Group 78.3 Other human resources provision

Division 79 Travel agency, tour operator and other reservation service and related activities

Group 79.1 Travel agency and tour operator activities

Group 79.9 Other reservation service and related activities

Division 80 Security and investigation activities

Group 80.2 Security systems service activities

Group 80.3 Investigation activities

Division 81 Services to buildings and landscape activities

Group 81.1 Combined facilities support activities

Group 81.2 Cleaning activities

Group 81.3 Landscape service activities

Division 82 Office administrative, office support and other business support activities

- Group 82.1 Office administrative and support activities
- Group 82.2 Activities of call centres
- Group 82.3 Organisation of conventions and trade shows
- Group 82.9 Business support service activities n.e.c.



Brussels, 10.1.2017
COM(2016) 821 final

2016/0398 (COD)

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

(Text with EEA relevance)

{SWD(2016) 434 final}

{SWD(2016) 435 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

A deeper and fairer internal market is one of the ten priorities of the European Commission. Building on its strength and exploiting its full potential is key to promoting jobs and growth in the European Union. The Commission in October 2015 adopted a Single Market Strategy with a series of actions to upgrade the single market for more opportunities for people and business, including a legislative proposal to improve the enforcement of the Services Directive by reforming its existing services notification procedure.¹ The European Council called for ambition in delivering the Single Market Strategy² and for the different Single Market strategies to be completed and implemented by 2018, recalling that "better implementation and enforcement of existing legislation will further help to reap the benefits of Europe's Single Market ambitions"³.

It follows from the Services Directive⁴ that certain national rules restricting the freedom of establishment and the freedom to provide services must be non-discriminatory with regard to nationality or residence, proportionate and justified by overriding reasons relating 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, despite efforts undertaken over the past years to improve its implementation, including guidance provided in the Handbook on the implementation of the Services Directive, exchange of experiences and best practices among national administrations and the publication of data on the use of the existing notification procedure by Member States. As a result, 40% of structured dialogues which the Commission had to launch vis-à-vis Member States in 2015 to ensure compliance with the Services Directive concerned newly introduced national measures. Thus, it appears that the existing notification procedure has not adequately contributed to a correct and full implementation of the Services Directive.⁵

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, by establishing a more effective and efficient procedure preventing the adoption by Member States of authorisation schemes or certain requirements not complying with the Services Directive. The provisions of the present Directive do not amend the existing Services Directive beyond the required revision of its specific provisions on notification procedures.

¹ COM(2015) 550 final

² European Council Conclusions 18 December 2015, EUCO 28/15

³ European Council Conclusions 28 June 2016, EUCO 26/16

⁴ Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market *OJ L 376, 27.12.2006, p. 36*

⁵ The full economic potential of the Services Directive of 2.6% EU GDP growth has not been reached. Reforms implemented by Member States in 2006 to 2014 are estimated to yield only around one third of this potential (0.9% EU GDP growth).

More specifically, the objectives of this legislative instrument are to increase the efficiency of the notification procedure, to improve the quality and content of the notifications submitted, to cover additional requirements which the application of the Services Directive has shown can constitute important barriers to the internal market for services, and to enhance effective compliance with the notification obligation.

A more effective, efficient and coherent notification procedure will support Member States and prevent the introduction of discriminatory, unjustified and disproportionate authorisation schemes or requirements related to services covered by Services Directive. Such authorisation schemes or requirements result in a less open and less integrated economy, with higher prices and less choice for consumers. They may also curtail entrepreneurship and investment as they are likely to reduce the number of firms being set up and entering the European market. The proposed legislation is thus expected to contribute to more competitive and integrated services markets in Europe, benefitting consumers and entrepreneurs alike.

- **Consistency with existing policy provisions in the policy area**

This Directive complements the existing notification procedure applicable for goods and information society services established by the Single Market Transparency Directive⁶. The relationship between the two Directives is regulated under both legal instruments.

This Directive also complements existing reporting obligations under the Professional Qualifications Directive⁷. It includes an article clearly defining the relationship between the two legal instruments and the obligations arising thereunder.

This Directive will be implemented using the existing Internal Market Information System established by the IMI Regulation⁸.

- **Consistency with other Union policies**

This Directive is complementary to a number of other policy initiatives related to services announced in the Single Market Strategy and in particular to the Directive on a proportionality test. The latter will set criteria for Member States when preparing proportionality assessments of draft national laws falling under the Professional Qualifications Directive. Some measures falling under the Professional Qualifications Directive also fall under the Services Directive and its notification obligation. In such cases, the information on the proportionality assessment to be provided under the present notification procedure would have to meet the requirements of the Directive on a proportionality test. Consistency between these instruments is being ensured.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The proposal is based on Articles 53(1), 62 and 114 TFEU.

⁶ Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services.

⁷ Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications.

⁸ Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC (‘the IMI Regulation’)(OJ L 316, 14.11.2012, p. 1).

Articles 53(1), 62 and 114 TFEU give the EU the competence to act with regard to the single market for services. EU rules adopted under Articles 53(1) and 62 TFEU should have the objective of coordination of the provisions laid down by law, regulation or administrative action in Member States concerning the taking-up and pursuit of activities as self-employed persons, in order to facilitate those activities. Article 114 TFEU gives the EU under certain conditions the competence to adopt EU legislation for the establishment and the functioning of the single market.

The notification procedure established by the present Directive aims to protect the freedom of establishment and the free provision of services, which are among the foundations of the Union. In particular, it 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.

The notification procedure established by the present Directive allows the assessment of national laws, regulations or administrative provisions and provides for an effective preventive action in case of non-compliance with the relevant provisions of the Services Directive. The Services Directive provides in particular for the conditions of non-discrimination, necessity and proportionality which need to be fulfilled by authorisation schemes and certain requirements related to services in the Member States. It also sets out specific rules related to authorisation schemes (for example as regards procedural guarantees) and to certain requirements (for example insurance requirements).

The notification procedure will have the effect of preventing the introduction of single market barriers resulting from a heterogeneous development of national laws and of contributing to the approximation of national laws, regulations or administrative provisions as regards the services covered by the Services Directive. This will improve the functioning of the EU single market for services and promote job creation and growth.

- **Subsidiarity (for non-exclusive competence)**

The overall objective of this legislative proposal is to ensure the smooth functioning of the EU single market for services, which is not limited to the territory of one Member State, but covers the entire territory of the EU. Given the transnational nature of the EU single market, an efficient and coherent verification of draft national measures with the provisions of the Services Directive, including the management of an appropriate IT tool for that purpose, can only be achieved at EU level. This Directive provides for a notification procedure replacing an already existing notification procedure established by the Services Directive.

- **Proportionality**

The measures introduced by this Directive are proportionate to its objective of a more effective notification procedure for an improved enforcement of the Services Directive. Compared to the existing procedure, this Directive establishes a more clearly described notification obligation that is closer aligned to the scope of the Services Directive, provides for a well-defined and efficient consultation procedure on draft notified measures, makes notifications transparent to stakeholders, specifies and makes coherent the existing possibility for the Commission to adopt Decisions on notified measures and clarifies the legal consequences for non-notification.

These measures do not extend beyond what is necessary to solve the identified problems and to achieve the identified objectives. They do not entail any obligation on service providers.

Nor do they impose any disproportionate costs on Member States: public authorities of the Member States are already obliged to comply with the Services Directive and to notify some measures to the Commission under the Services Directive. The small expected increase in administrative costs for Member States could in practice partially be compensated by a decrease of costs otherwise stemming from infringement cases, the number of which this initiative is supposed to reduce as it aims at avoiding certain barriers in the services sector incompatible with the Services Directive.

- **Choice of the instrument**

The coherent and transparent notification procedure which permits the verification of the compliance of authorisation schemes or requirements with the Services Directive prior to their adoption by Member States requires a legally binding instrument.

The proposal is based on Articles 53(1), 62 and 114 TFEU. By this proposal the Commission puts forward the adoption of a Directive.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

In preparation of this Directive the Commission has carried out an evaluation of the existing notification procedure laid down in the Services Directive. It revealed a number of shortcomings of the existing procedure, in particular as follows: the possibilities for Member States, the Commission and stakeholders to intervene in a proactive manner prior to a national regulation being adopted are limited, the means to address notified requirements falling under this procedure are incoherent, there is a lack of proper proportionality assessments and the legal effects of non-compliance with the notification obligation are not clear. Above all, not all Member States comply with the notification obligation. This is to the detriment of services providers and services recipients and is also liable to make the work of national administrative and judicial authorities more burdensome and complicated.

- **Stakeholder consultations**

The Commission carried out a public consultation of interested stakeholders in preparation of this Directive between January and April 2016. It also organised in-depth discussions with institutional stakeholders (Member States and other EU institutions) directly concerned by the notification procedure and its planned reform. The results of this consultation exercise have been published and are included in the impact assessment.

A large majority of stakeholders that responded to the public consultation supported a legislative proposal to modernise the existing notification procedure under the Services Directive (70% of public authorities; 60% of businesses). Stakeholders gave various reasons: to bring more clarity on which measures are to be notified and when, to introduce the possibility for a national measure to be examined before it is officially adopted, to introduce clear rules in order to ensure compliance by all Member States with the notification obligation, and to make the notifications transparent to the public.

There was widespread support of stakeholders that responded to the public consultation for a legislative proposal clarifying and aligning the steps of the notification procedure (80% of public authorities and 80% of businesses), making notifications transparent (60% of public authorities and 80% of businesses), notifying measures at draft stage (50% of public

authorities; 70% of businesses), providing information on proportionality assessments (60% of public authorities; 50% of businesses), expanding the scope of the notification obligation to other key requirements falling under the Services Directive (60% of public authorities; 75% of businesses), and enhancing compliance of Member States with the notification obligation (80% of public authorities and 80% of businesses).

- **Collection and use of expertise**

The results of a mutual evaluation process with Member States in 2010-11⁹, performance checks carried out in 2011-12¹⁰ and peer review undertaken in 2012-2013¹¹ all contributed to the preparation of this proposal for a Directive.

The Court of Auditors examined the existing notification obligation as part of its assessment of the effective implementation of the Services Directive¹². It identified a number of shortcomings including a lack of clarity of the existing procedure, the absence of an obligation to notify a measure at draft stage and a lack of transparency of the notifications.

- **Impact assessment**

An impact assessment was carried out in preparation of this initiative. Beyond the status quo (baseline scenario), four policy options have been considered in the impact assessment report. 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 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— two sub-options exist in this regard (options 5a & 5b).

The option to include services in the Single Market Transparency Directive was discarded due to the 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.

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.

⁹ COM(2011) 20 final

¹⁰ SWD(2012) 147 final

¹¹ SWD(2013) 402 final

¹² Special report No 5/2016: “Has the Commission ensured effective implementation of the Services Directive?” <http://www.eca.europa.eu/en/Pages/DocItem.aspx?did=35556>

On 24 June 2016, the Regulatory Scrutiny Board issued a positive opinion on the Impact Assessment carried out by the Commission on this initiative. The Board's recommendations to explain in more detail the shortcomings of the existing notification procedure, to improve the justification for the proposed scope of the revised procedure, to explain better how problem definition and options interlink and to spell out in more detail the content of the preferred option and how it would solve the identified problems were fully taken on board.¹³

- **Regulatory fitness and simplification**

The proposed Directive will contribute to regulatory fitness and simplification by improving the uniform enforcement of existing EU legislation in the single market and by assisting in the prevention of the introduction of certain discriminatory, unjustified or disproportionate barriers in the field of services. It will replace the existing notification procedure established by the Services Directive with a clearer, more coherent, effective and efficient procedure. It will contribute to a more stable regulatory environment as it allows the verification of compliance with the Services Directive of authorisation schemes and certain requirements at draft stage and before their adoption, thus minimising the risk of certain national measures not complying with the Services Directive and necessitating further legal adaptations.

- **Fundamental rights**

This proposal promotes rights enshrined in the Charter of Fundamental Rights and in particular in Article 16 on freedom to conduct a business.

4. BUDGETARY IMPLICATIONS

The proposal has no impact on the European Union budget.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The Directive foresees a Commission report on the results of the application of the Directive every three years.

- **Explanatory documents**

This proposal does not require explanatory documents for the transposition into national law given that it introduces limited changes to an already existing notification procedure established by the Services Directive. The Commission may, however, where necessary present guidance on the application of the revised notification procedure.

- **Detailed explanation of the specific provisions of the proposal**

Article 1 specifies the subject matter and the scope of the proposed Directive. The aim of the Directive is to ensure the compliance with the Services Directive of Member States' laws, regulations or administrative provisions introducing authorisation schemes or certain requirements falling under the scope of the Services Directive. The services sectors covered by this Directive are thus those covered by the Services Directive.

¹³ The results of the public consultation, evaluation report, impact assessment and opinion of the Regulatory Scrutiny Board can be found under http://ec.europa.eu/smart-regulation/impact/ia_carried_out/cia_2016_en.htm#grow

Article 2 lays down the relevant definitions, in line with both, the definitions under the Treaty as interpreted by the CJEU, and the Services Directive.

Article 3 builds on the notification obligation set out in the Services Directive. It provides for a specific and unconditional obligation for Member States. It also specifies which measures need to be notified and when, what accompanying information must be submitted as part of any notification and the consequences of not respecting certain obligations under this Directive. In order to make the notification procedure efficient and effective and in the interest of all parties concerned, the applicable time limits are set out both in Article 3 and in Article 5. To avoid legal uncertainty and to ensure the smooth operation of the procedure, such time limits start running once the notification has been declared to be complete.

Article 4 specifies which requirements and authorisation schemes falling under the scope of Directive 2006/123/EC are covered by the notification obligation. It 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.

Article 5 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 need for speed and efficiency must be reconciled with the need for the parties involved to be in a position to make in-depth and constructive comments and for the notifying Member State to address the concerns raised. All parties must implement the procedure in a spirit of sincere cooperation and respect for the other parties' legitimate needs, in the interest of the smooth and effective operation of the notification procedure.

Under Article 6 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 pursuant to Article 7, and in line with the existing provision in the Services Directive, 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.

Article 8 provides for transparency to third parties of notified draft measures, accompanying information and the final adopted measures. Given their knowledge of the markets concerned and the impact of laws, regulations and administrative provisions on them, it is important that third parties can be informed of notified draft measures.

Article 9 provides for the designation of an authority in each Member State responsible at national level for the functioning of the notification procedure laid down in the present Directive.

Article 10 clarifies the relationship between this Directive and Directive (EU) 2015/1535 as well as Directive 2005/36/EC.

Article 11 establishes a periodic review of the application of the Directive.

Article 12 provides for amendments of the Directive 2006/123/EC.

Article 13 provides for an amendment of the Annex to Regulation (EU) No 1024/2012.

Article 14 specifies the period for the transposition of the Directive by Member States.

Article 15 deals with entry into force and application.

Article 16 specifies the addresses of the Directive.

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

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 53(1), 62 and 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹⁴,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The Treaty on the Functioning of the European Union (TFEU) guarantees to service providers the freedom of establishment in other Member States and the freedom to provide services between Member States.
- (2) Directive 2006/123/EC of the European Parliament and of the Council¹⁵ specifies the content of the freedom of establishment and the freedom to provide services as regards certain services. It 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 and proportionate.
- (3) Directive 2006/123/EC provides for an obligation for Member States to assess and adapt their legislation on authorisation schemes and certain requirements related to services, in order to bring it in conformity with the rules laid down in that Directive. Furthermore, with a view to facilitating the verification of future compliance by Member States, Directive 2006/123/EC provides for an obligation for Member States to notify new laws, regulations or administrative provisions which set out certain new requirements falling within the scope of that Directive, or any substantive changes to such requirements.

¹⁴ OJ C , , p. .

¹⁵ Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ L 376, 27.12.2006, p. 36).

- (4) The Commission has received an increasing number of notifications from Member States regarding newly introduced requirements under Directive 2006/123/EC. However, not all of those national requirements are non-discriminatory with regard to nationality or residence, justified and proportionate, thus resulting in a significant number of structural dialogues launched by the Commission vis-à-vis Member States. This shows that the existing notification procedure is not sufficient to avoid discrimination on the grounds of nationality or residence, unjustified or disproportionate requirements. This is to the detriment of citizens and businesses in the internal market for services. Moreover, it appears that some new or modified requirements related to services falling within the scope of Directive 2006/123/EC have not been notified at all.
- (5) For these reasons the Commission, in its Single Market Strategy¹⁶, announced an initiative to improve compliance with Directive 2006/123/EC, by reforming the notification procedure provided under it.
- (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.
- (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.
- (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 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.
- (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

¹⁶ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Upgrading the Single Market: More opportunities for people and business (COM (2015) 550 final).

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.

- (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.
- (11) 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 of the European Parliament and of the Council¹⁷ should continue to be used under this Directive.
- (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).
- (13) The present Directive establishes a consultation of three 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, 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.
- (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 entails that the notifying Member State shall not adopt the notified measure for three months.

¹⁷ Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC ('the IMI Regulation')(OJ L 316, 14.11.2012, p. 1).

- (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.
- (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.
- (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.
- (18) This Directive does not affect the obligations of Member States to notify the requirements related to information society services under Directive (EU) 2015/1535. In order to avoid duplications of notifications, a notification carried out under that Directive and in compliance with the relevant obligations laid down in this Directive should be deemed to equally fulfil the notification obligation established under this Directive.
- (19) For the same reason, a notification completed under this Directive should be deemed to fulfil the reporting obligations of Member States under Article 59(5) of Directive 2005/36/EC of the European Parliament and of the Council¹⁸.
- (20) As a consequence of the establishment of the notification procedure provided for in this Directive, the provisions of Directive 2006/123/EC concerning notification procedures should be deleted. Regulation (EU) 1024/2012 should be amended accordingly.
- (21) Since the objective of this Directive, namely establishing a notification procedure for the better enforcement of Directive 2006/123/EC facilitating the freedom of establishment for services providers and the freedom to provide services in the single market, cannot be sufficiently achieved by action at the level of Member States alone and can by reason of its scale and effect be better achieved at the Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality this Directive does not go beyond what is necessary in order to achieve its objective.

¹⁸ Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22).

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Subject matter and scope

This Directive lays down rules on the notification by Member States of draft laws, regulations or administrative provisions introducing new, or amending existing authorisation schemes and certain requirements falling under the scope of Directive 2006/123/EC.

Article 2

Definitions

For the purpose of this Directive, the definitions set out in Article 4(1), (2), (3) and (5) to (9) of Directive 2006/123/EC and in Article 5 second paragraph of Regulation (EU) No 1024/2012 shall apply.

In addition, the following definitions shall apply:

- (a) 'draft measure' means a text laying down an authorisation scheme or a requirement, within the meaning of Article 4(6) and (7) of Directive 2006/123/EC, respectively, formulated with the view of having it enacted as a law, regulation or administrative provision of a general nature, the text being at the stage of preparation at which substantive amendments can still be made by the notifying Member State;
- (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.

Article 3

Notification obligation

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.
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.
3. Draft measures referred to in paragraphs 1 and 2 shall be notified to the Commission at least three months prior to their adoption.
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.
5. Member States shall, as part of any notification, provide information demonstrating the compliance of the notified authorisation scheme or requirement with Directive 2006/123/EC.

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.

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.

6. In the notification, the Member State concerned shall also communicate the text of the legislative or regulatory provision that underlies the notified draft measure.
7. Member States concerned shall communicate the adopted measure within two weeks following its adoption.
8. For the purpose of the notification procedure established by this Directive and to ensure the exchange of information between the notifying Member State, other Member States and the Commission, the Internal Market Information System set out in Regulation (EU) No 1024/2012 shall be used.

Article 4

Authorisation schemes and requirements subject to the notification obligation

Member States shall notify the following authorisation schemes and requirements:

- (a) authorisation schemes within the meaning of Article 9(1) of Directive 2006/123/EC;
- (b) requirements referred to in Article 15(2) of Directive 2006/123/EC;
- (c) requirements affecting the freedom to provide services referred to in the third subparagraph of Article 16(1) and in the first sentence of Article 16(3) of Directive 2006/123/EC;
- (d) requirement to subscribe to a professional liability insurance, guarantee or similar arrangement as referred to in Article 23 of Directive 2006/123/EC;
- (e) requirement to exercise a given specific activity exclusively or which restricts the exercise jointly or in partnership of different activities as referred to in Article 25 of Directive 2006/123/EC.

Article 5

Consultation

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.
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.
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.

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.
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.

Article 6

Alert

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.
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.

Article 7

Decision

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.

Article 8

Information to the public

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 measures.

Article 9

Designation of competent authority

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

Article 10

Link to other notification or reporting mechanisms

1. Where a Member State is required to notify a measure under Article 3 of this Directive and under Article 5(1) of Directive (EU) 2015/1535, a notification carried out under that Directive and which complies with the obligations laid down in paragraphs 3, 5, 6 and 7 of Article 3 of this Directive shall be deemed to have

satisfied also the notification obligation established under Article 3(1) and (2) of this Directive.

2. Where a Member State is required to notify a measure under Article 3 of this Directive and to inform the Commission in accordance with Article 59(5) of Directive 2005/36/EC, that notification shall be deemed to have satisfied also the information obligation set out in Article 59(5) of Directive 2005/36/EC.

Article 11

Report and review

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.
2. Following the report referred to in paragraph 1, the Commission shall regularly evaluate this Directive and submit the evaluation results to the European Parliament, the Council and the European Economic and Social Committee.
3. Where appropriate, the reports referred to in paragraphs 1 and 2 shall be accompanied by relevant proposals.

Article 12

Amendments to Directive 2006/123/EC

Directive 2006/123/EC is amended as follows:

1. Article 15(7) is deleted with effect from [one day after the deadline for the transposition].
2. In Article 39(5), the second and third subparagraphs are deleted with effect from [one day after the deadline for the transposition].

Article 13

Amendments to Regulation (EU) No 1024/2012

The Annex to Regulation (EU) No 1024/2012 is amended as follows:

1. point 1 is replaced by the following:

"1. Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market: Chapter VI.";

2. the following point 11 is added:

"11. Directive (EU) XXXX/XXXX of the European Parliament and of the Council of XX on the enforcement of the Directive 2006/123/EC on services in the internal market, laying down a notification procedure for authorisations 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, unless a notification, as provided for in that Directive, is made in accordance with Directive (EU) 2015/1535.".

Article 14

Transposition

1. Member States shall adopt and publish, by [calendar date one year as from the date of the entry into force of that Directive] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive.

The provisions adopted to transpose this Directive shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of those provisions.
3. Member States shall apply those provisions from [calendar date one year as from the date of the entry into force of that Directive + one day].

Article 15

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 16

Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President



Brussels, 10.1.2017
COM(2016) 823 final

2016/0402 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**on the legal and operational framework of the European services e-card introduced by
Regulation[ESC Regulation]....**

(Text with EEA relevance)

{SWD(2016) 437 final}

{SWD(2016) 438 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

With services accounting for around 70% of EU GDP and employment, promoting the competitiveness of EU services markets is central for the creation of jobs and growth in the EU. The Services Directive, adopted in 2006, set general provisions facilitating the establishment of service providers and their ability to offer services cross-border in the single market. The Directive prompted a number of reforms across the EU Member States, adding an estimated 0.9% to the GDP of the EU over ten years.

There is nevertheless still a large potential for growth and jobs that remains to be captured. EU services markets would benefit from faster productivity growth and a more efficient allocation of resources. Cross-border trade and investment in services remain low. Tackling remaining obstacles to more cross-border activities in services will help to strengthen competition, resulting in more choice and better prices for consumers as well as increased innovation. Addressing these barriers under the framework already provided by the Services Directive offers a potential of generating an additional 1.7% to the GDP of the EU.¹ In addition, better functioning services markets will positively affect the competitiveness of industry as the EU manufacturing sector represents an important buyer and final user of services. In fact, services account for 40% in the value of a final manufacturing product in the EU. A competitive manufacturing sector is therefore conditional upon well-functioning services markets.

For these reasons the European Council underlined that "delivering a deeper and fairer Single Market will be instrumental in creating new jobs, promoting productivity and ensuring an attractive climate for investment and innovation".² A better functioning internal market is one of the ten priorities for the European Commission. In its Single Market Strategy adopted in October 2015, the Commission announced a series of actions to make the single market without borders for services a reality.³ The objective is clear: reduce hurdles to make it easier for service providers to pursue new business opportunities, while guaranteeing quality services for consumers. This proposal follows up on the Single Market Strategy.

The Services Directive provides a balanced legal framework to achieve these objectives. It ensures that national regulation is non-discriminatory, justified and proportionate to meet public interest objectives. In addition, it requires Member States to reduce obstacles of administrative nature dissuading in practice service providers to operate cross-border. The Services Directive and the important principles it established will remain unaffected by this proposal.

These principles introduced by the Services Directive have enabled positive progress towards a better functioning of EU services markets. At the same time, obstacles to increased single market integration are still present in a number of key services sectors. This is the case particularly in services sectors such as business services and the construction sector where service providers can often not easily pursue business opportunities in other Member States. They are faced with administrative obstacles when expanding abroad. This was confirmed

¹ European Commission, "Update of the study on the economic impact of the Services Directive", 2015

² European Council Conclusions; 28 June 2016.

³ Communication from the Commission on Upgrading the Single Market: more opportunities for people and business, 28 October 2015.

through extensive contacts with service providers.⁴ This includes a lack of clarity on how to comply with existing rules dissuading companies, notably SMEs, from attempting to exploit business opportunities in other Member States. Service providers find it difficult to obtain information on applicable regulatory requirements and procedures that need to be completed to access another Member State's market. In addition, national rules often account only for national situations without clarifying how they should be applied to service providers from other EU Member States. As a result, service providers trying to establish a permanent presence in another Member State or to provide cross-border services on a temporary basis often find it difficult to understand which rules to apply and how. Administrative formalities in different Member States are often complicated and costly for service providers to complete.

The European services e-card therefore aims to reduce administrative complexity for service providers that want to expand their activities to other Member States. It will at the same time ensure that Member States can apply justified regulation. It would be offered to service providers on a voluntary basis as an alternative route to show compliance with the applicable national rules. It allows service providers to use a fully-electronic EU-level procedure to complete formalities when expanding abroad, hereby offering them increased legal certainty and significantly reducing administrative complexity. Through the e-card they will be able to avoid administrative obstacles such as uncertainty as to which requirements apply, filling-in disparate forms in foreign languages, translating, certifying or authenticating documents and non-electronic procedural steps. Cost savings related to the formalities covered by the e-card procedure would be significant compared to the existing situation, potentially going up to 50% or even more⁵.

Where a service provider plans to provide a service temporarily cross-border, the e-card would be issued by the home Member State. The host Member State would be able to object to issuance of the e-card where the Services Directive already allows them to do so under one of the overriding reasons of public interest listed in Article 16. Once issued, the e-card would allow the service provider to provide services on a temporary cross-border basis in the host Member State. Decision-making powers of host Member States to reject an application for a European services e-card remain accordingly unchanged, in line with Article 16 of the Services Directive.

Where a service provider plans to provide services through a branch, agency or office in another Member State, the e-card is issued by the host Member State. In this case, the service provider would still request the e-card with his home country authorities, who would check that the service provider is established on its territory in line with its applicable rules. But in a second step, the home Member States authorities would initiate a process with the relevant host country administration to allow the latter to decide if the requesting service provider meets its host country regulatory requirements in compliance with the Services Directive. As a result, there would be no unequal treatment between domestic and foreign service providers. Once issued, the e-card would allow its holder to provide services through a secondary establishment (in the form of a branch, agency or office) in the host Member State concerned.

The idea of the European services e-card is similar to the European professional card (EPC), which Member States' authorities are already familiar with. The EPC was made available in January 2016 and there has been a significant take-up by the selected professionals covered, showing that this type of simplification tool provides practical benefits to its users. Both the

⁴ Including nine workshops organised by the Commission with service providers in cross-border regions.

⁵ Commission Staff Working Document, "Impact Assessment accompanying the Proposal for a Directive of the European Parliament and of the Council on the legal and operational framework of the European services e-card", 2017.

European services e-card and the EPC are voluntary electronic procedures running at EU-level. The use of a European services e-card is voluntary for service providers. The home country authority of the applicant acts as the single contact point. In addition, the functioning of both systems relies on pre-defined and binding workflows of cooperation between home and host Member States implemented via the existing Internal Market Information System (IMI). At the same time, both systems have different objectives. The EPC facilitates provision of services across borders through the recognition of professional qualifications for natural persons as workers or self-employed service providers in accordance with the Professional Qualifications Directive (PQD). The European services e-card addresses a much wider range of requirements. It would be available for both natural persons who are self-employed but also for companies who want to provide services in another Member State. In contrast with the EPC, the European services e-card would also offer technical facilities to facilitate administrative formalities related to posting of staff into the territory of those Member States that have communicated to the Commission that they wish to make use of IMI for this purpose. This possibility to make use of IMI will in no way alter the substance of the applicable rules laid down in Directive 2014/67/EU. Rules to facilitate obtaining insurance coverage for services provided across borders are also included.

The e-card would cover requirements falling under the Services Directive and accordingly not areas such as tax, labour and social security. Nevertheless, authorities in Member States shall not require the e-card holders to provide any information which is already contained in the e-card for procedures or formalities imposed on a provider in relation to the award of a public contract, a design contest or a concession, formation of subsidiaries or registration of branches under company law and registration with mandatory social insurance schemes. The European services e-card would apply – in a first stage – to business services and construction services – to the extent the related activities fall already under the Services Directive. Both sectors are of key importance for the EU economy.⁶ Service providers of construction or business services often face high administrative complexity when expanding abroad. In addition, productivity growth over the last decade has been very low in both sectors and there is limited cross-border trade and investment. Increased cross-border competition would help preserve and improve the competitiveness of both sectors.

This proposal also includes review clauses for future consideration of the appropriateness to address regulatory barriers, the effectiveness of the European services e-card and its possible extension to other sectors.

- **Consistency with existing policy provisions in the policy area**

This Directive is presented together with a Regulation. The Directive sets out the legal and operational framework of the European services e-card, regulating inter alia the conditions of eligibility, the competences of the home and the host Member States, the validity of the European services e-card and the conditions for revoking or suspending it.. The Regulation sets up tools which are available for service providers throughout the EU. In addition, it facilitates the solution of issues related to insurance coverage of a service provider active cross border.

This Directive fully preserves the existing EU provisions on social issues, employment conditions (in particular posting of workers, workers' rights and the social pillar), health and safety and protection of the environment. It does not change or put into question existing safeguards in this respect. The e-card would provide further information about the company. The Member State's power to carry out on-site inspections would be completely untouched. The rules on posting of workers under Directives 96/71/EC and 2014/67/EU will continue to

⁶ Both sectors together cover about 20% of EU GDP and employment (Eurostat).

apply in the context of the European services e-card but further facilities shall be provided in order to comply with these rules. Where Member States have set up procedures that allow for the declaration relating to the posting of workers pursuant to Article 9 of Directive 2014/67/EU to be completed by electronic means, the European services e-card shall direct the card holder to the relevant national procedures. Providers who hold a European services e-card may also submit this declaration through an electronic platform connected to IMI where a host Member State has communicated to the Commission that this possibility should apply for the posting of workers in its territory.

The proposal for a European services e-card is complementary to other policy initiatives in the context of services announced in the Single Market Strategy to prevent the introduction of barriers to cross-border service provision at national level. In this respect, it is complementary to the Commission proposal [XX] for a Directive reforming the procedure whereby Member States must notify authorisation schemes and requirements related to services.

This proposal will also be complemented by the initiative of the Single Digital Gateway, announced in the Single Market Strategy for 2017. The Gateway, on which a public consultation was conducted in autumn 2016, will address the current information gaps for businesses and citizens by integrating, completing and improving the relevant EU and national-level online information. It will also link up with assistance services. Moreover, it will aim to push the further digitalisation of national procedures relevant for citizens and businesses exercising their Single Market rights. The scope of the Single Digital Gateway is intended to go beyond the sectors covered by the present initiative.

In comparison, the European services e-card should offer a fully harmonised and standardised instrument for cross-border provision of services, reducing compliance costs for specific services markets largely dominated by SMEs. It is serving the objective of administrative simplification with the involvement of the Member State where the service provider comes from but that (home) Member State has no say on what requirements a service provider has to satisfy in other Member States. Under the European services e-card, it is up to the latter to inform of and ensure compliance in the framework of a predefined and fully standardized workflow. The Single Digital Gateway will link up with this procedure and make it easy to find for its beneficiaries.

The implementation of the European services e-card will be fully aligned with the development of the Single Digital Gateway project and respect the principles outlined in the eGovernment action plan (in particular: digital, interoperable, cross-border, once-only and inclusive by default)⁷.

Finally, this proposal is complementary to the enforcement policy of the Commission, which it pursues in parallel, to tackle unjustified or disproportionate national restrictions to the freedom of establishment and the free provision of services.

The implementation of this Directive will be supported by the Internal Market Information System (IMI) established by the IMI Regulation.⁸ IMI can be used by around 5000 authorities since 2011; it is subject to constant user surveys and has proven its potential with the European professional card introduced in January 2016.

⁷ EU eGovernment Action Plan 2016-2020 – Accelerating the digital transformation of government - COM(2016)179.

⁸ Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC (‘the IMI Regulation’) (OJ L 316, 14.11.2012, p. 1).

- **Consistency with other Union policies**

This Directive and the proposed Regulation introducing the European services e-card are fully consistent with a number of other Union policies, in particular other Commission policies on simplification and reduction of administrative burden.

Simplification of formalities regarding documents would follow closely the solutions to be introduced under Regulation (EU) 2016/1191 on the promotion of the free movement of citizens by simplifying the requirements for presenting certain public documents in the European Union.⁹

In the area of recognition of professional qualifications, a similar tool fostering administrative simplification - the above-mentioned European professional card - was introduced in 2013 and is available for a selected number of professions (nurses, pharmacists, physiotherapists, mountain guides and real estate agents) since January 2016. In order to avoid any risk of duplication, the present proposal ensures that professionals who can apply for a European professional card cannot obtain a European services e-card.

In order to avoid any duplication, authorities should make use of all available interconnections of national registers including the interconnection of company registers (BRIS), as required by Directive 2009/101/EC, and of insolvency registers under Regulation (EU) 2015/848 before any other means of obtaining or verifying previously obtained information in the context of a European services e-card.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

This legislative action falls within an area of shared competence in accordance with Article 4(2)(a) TFEU. It aims to facilitate the establishment and the provision of services within the single market, further developing and implementing the general principles of right of establishment and freedom to provide cross-border services enshrined in Articles 49 and 56 TFEU, respectively, as well as in the Services Directive. This Directive is based on Articles 53(1) and 62 TFEU, which are the general legal basis for attaining freedom of establishment and, respectively, the legal basis for provisions concerning access to self-employed activities.

- **Subsidiarity (for non-exclusive competence)**

The overall objective of this legislative proposal is to ensure the smooth functioning of the EU single market for services, which is not limited to the territory of one Member State, but covers the entire territory of the EU. Given the transnational nature of the EU single market, and the necessity to address situations in cross-border contexts in the most coherent manner, making use of an existing IT tool running across the EU – the IMI –, constitutes an efficient response which can only be provided by action at EU-level.

In addition, the Directive provides for rules, in particular those regarding the role of coordinating authorities at Member States level, which leave Member States the responsibility to define the appropriate body to comply with these rules, according to their administrative organisation at national level.

⁹ Regulation (EU) 2016/1191 of the European Parliament and of the Council of 6 July 2016 on promoting the free movement of citizens by simplifying the requirements for presenting certain public documents in the European Union and amending Regulation (EU) No 1024/2012 (OJ L 200, 26.07.2016, p.1).

- **Proportionality**

The measures introduced by this Directive are proportionate to its objective of further integrating the services markets at EU level, by enabling increased market dynamics and cross-border competition. They are also proportionate to the objectives of increasing transparency, reducing costs and simplifying procedures that Member States impose to service providers in cross-border situations. In addition, they build on the IMI, an existing EU-level IT instrument funded by the EU budget and already used by national administrations. The EU-level procedure will only bring limited adjustments to IMI, resulting in limited costs at EU and national level. Such limited costs have been assessed with respect to existing similar procedures, such as the European professional card.

These measures do not extend beyond what is necessary to solve the identified problems and to achieve the identified objectives. Although the EU-level procedure requires an active role of Member States' administrations, the financial efforts to be expected by Member States will be limited through the use of the Internal Market Information system, a platform already existing and set in place with EU funds. In addition, prospects brought by the use of the European services e-card of additional competition in services markets with more market players, and additional turnover, shall have a positive effect on Member States' economies.

The use of a European services e-card will be voluntary for service providers.

- **Choice of the instrument**

This Directive is based on Articles 53 and 62 TFEU, which only allow the EU legislator to adopt Directives. It includes provisions on approximation of legislation of Member States regarding access to certain service activities. In addition, it includes clarification on which are the exact effects of the European services e-card when accessing the market of another Member State.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

In preparation of this proposal, the Commission has carried out an in-depth evaluation of the Services Directive. This evaluation showed that the implementation of the Services Directive has been only partially effective so far. The Services Directive has been able to generate additional growth through Member States' reforms. Nevertheless, service providers in key services sectors (such as business services and construction) still face an important number of barriers. In addition, the system of administrative cooperation between Member States is not delivering all its benefits. An in-depth analysis carried out on the functioning and usability of the Points of Single Contact (PSCs) in 2015 concluded that most PSCs have not yet led to all the expected simplification in administration in terms of providing temporary cross-border services or setting up a business.

- **Stakeholder consultations**

The Commission has carried out several analyses and consultations to gather evidence on the remaining obstacles to a fully functioning Single Market for services, with a greater focus on the practical effects of the provisions on the ground since 2014. Economic assessment has been conducted to evaluate the effects of national reform in services markets and access to insurance for service providers. In addition, stakeholder workshops have been organised as part of the Single Market Forum in 2014, 2015 and 2016. These looked into the challenges of

small and medium-sized enterprises to develop in cross-border regional markets, or into specific challenges in services sectors (in particular business services and construction services) which are hampered by low cross-border trade and investment at the EU level. The contributions and input gathered revealed that despite some progress over the past years, service providers in several economically important sectors still face a range of obstacles when seeking to expand across Member States' borders.

Stakeholders have expressed different views on the possible ways to improve the framework to which the services markets are subject in the EU and at national level. This Directive does not modify any substantive rules on cross-border service provision of services as laid down in the Services Directive, nor any rules related to posting of workers, health and safety or protection of the environment. Stakeholders almost unanimously oppose reopening the Services Directive.

An online public consultation ran from 3 May to 26 July 2016. The consultation gathered further views from stakeholders, as well as first-hand experiences on the remaining barriers in these services sectors in particular, to the cross-border provision of services in the EU.

The results of all these exercises have confirmed that unjustified or disproportionate requirements still persist at national level, to the detriment of service providers and service recipients in the Single Market. In addition, they have given specific indications of what policy responses are expected from stakeholders. The majority of them supported the need to address the remaining barriers to cross-border provision of services, and to facilitate access to insurance coverage in these situations, while maintaining the EU *acquis* on social, employment, health and safety or the environment, and while pursuing an ambitious enforcement policy. In this respect, the Commission has adopted a comprehensive enforcement package in November 2016 to address disproportionate restrictions introduced in the field of services in nine Member States.

This initiative aimed to enhance the development of cross-border services markets has also been supported by the Competitiveness Council in its Conclusions of 29 February 2016 on the Single Market Strategy¹⁰, and by the European Council in its Conclusions of 28 June 2016¹¹. It also obtained support from the European Parliament in its resolution on the Single Market Strategy adopted on 26 May 2016¹².

- **Collection and use of expertise**

The results of a mutual evaluation process with Member States in 2010-11, performance checks carried out in 2011-12 and peer review undertaken in 2012-2013 all contributed to the preparation of this proposal for a Directive. In addition, the results of different public consultations, including the one conducted in summer 2016, have offered a solid basis of expertise.

Furthermore, the Commission relied on regular exchanges at technical level in the context of its Experts Group on the Implementation of the Services Directive.

- **Impact assessment**

An impact assessment was carried out in preparation of this initiative. The resubmitted report takes into account the recommendations made by the Regulatory Scrutiny Board in its initial

¹⁰ [Council Conclusions on "The Single Market Strategy for services and goods", 29 February 2016.](#)

¹¹ [European Council Conclusions, 28 June 2016.](#)

¹² [European Parliament resolution of 26 May 2016 on the Single Market Strategy.](#)

negative opinion of 14 October 2016¹³ as well as the additional points raised by the Board in its final positive opinion of 8 November 2016¹⁴. In particular, the problem description and the scope of the impact assessment have been clarified, the various policy options have been regrouped into clearly recognizable option packages and administrative cost reductions have been estimated with greater precision.

Individual policy options have been considered in the impact assessment and grouped into "packages" of policy options. The following packages of policy options have been examined:

- A first option package would allow the service provider to obtain a certificate regarding legal establishment in the home Member State and confirmation of existing insurance coverage for activities also in the home Member State;
- A second option package would allow the service provider to make use of an EU-level procedure to facilitate access to the market of another Member State, including an advanced electronic mechanism connected to IMI to facilitate compliance with formalities for posted staff which the host Member State can choose to make use of. In addition, it would address practical obstacles related to insurance in cross-border situations;
- A third option package would in addition to package 2 reduce regulatory disparity in a number of key business services (architectural, engineering and accounting services) through harmonisation of a limited number of requirements applicable to service providers in these three services (namely legal form restrictions, requirements laying down the percentage of shareholding that should be reserved for professionals and restrictions to the provision of multidisciplinary activities);
- A fourth option package would in addition to package 3 introduce specific solutions to address the regulatory disparities mentioned above in the case of secondary establishment (branches and agencies), exempting foreign service providers from certain requirements while allowing the host Member State to introduce alternative safeguards.

The first package would generate certain simplification effects which are however more limited compared to the other packages. While both packages 3 and 4 would have even stronger effects than package 2 given that they also address regulatory obstacles (in addition to administrative simplification), the Commission decided to go for package 2, based on the following reasoning: The removal of the most restrictive requirements covered by packages 3 and 4 through targeted enforcement action, complemented by specific recommendations tackling the whole regulatory framework applicable to the profession providing the service, appears more proportionate than a legislative proposal introducing minimum harmonisation for a limited number of requirements in a limited number of services sectors. In addition, Package 4 is discarded also because it would give rise to perceptions of introducing a solution driven by a country of origin approach under which foreign service providers are subject to their home member States legislation only, leading to a reverse discrimination of domestic service providers.

¹³ The main recommendations of the Board in its initial opinion on the impact assessment were to strengthen the problem definition, reconsider the design and articulation of the different options and provide more information on possible costs for Member States and stakeholder views.

¹⁴ http://ec.europa.eu/smart-regulation/impact/ia_carried_out/cia_2016_en.htm.

The package chosen is expected to lead to increased legal certainty and cost savings for service providers going cross-border. It is liable to generate an increase in market dynamics and competition levels, hereby increasing choice and value added for consumers.

- **Regulatory fitness and simplification**

The proposed Directive will contribute to regulatory fitness regarding market access for service providers and simplification by improving the modalities by which service providers are given access to another Member State's market. This does not alter the prerogatives of host Member States under the Services Directive.

- **Fundamental rights**

This proposal promotes rights enshrined in the Charter of Fundamental Rights. More specifically, protection of personal data shall be ensured in line with Article 8 of the Charter. In addition, the main objective of this initiative is to facilitate the right of establishment and the right to provide services in any Member State, as prescribed by Article 15(2) of the Charter, ensuring no discrimination, even indirect, is in place on grounds of nationality (further implementing Article 21(2) of the Charter). Moreover, the EU-level procedure is envisaged to put in place an impartial, fair and reasonably speedy procedure, also in regards to Commission participation, as required by Article 41 of the Charter. Finally, prohibition of abuse of rights, namely of the freedom to provide service, shall be duly considered, as prescribed by Article 54 of the Charter.

4. BUDGETARY IMPLICATIONS

The proposal is expected to have implications for the EU budget to the extent that the future European services e-card will use the Internal Market Information System ("IMI") as its operational backbone. The IMI will have to be adapted to support the European services e-card procedure and storage requirements and supplemented with some additional functions, namely a public interface for service providers, interconnections to other relevant systems, and a back-office functionality for national authorities. This is due to the fact that for the European services e-card purposes IMI will be offered as a tool for the effective exchange of information and mutual assistance between competent authorities within a certain Member State, without prejudice to other solutions put in place by Member States.

The implications for the EU budget will be modest in view of the fact that using the IMI to underpin the European services e-card will provide important economies of scale and scope. In addition, the main existing IMI capabilities and those currently under development are to a large extent compliant with the requirements of the European services e-card. The adaptation and development costs will therefore be substantially reduced.

Any necessary allocations will however be met through redeployment; no budgetary impact is expected on EU budget over and beyond the appropriations already foreseen in the official financial programming of the Commission.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The Directive foresees a first evaluation of the Directive by 36 months after the date for transposition and at the latest every five years thereafter. Member States, service providers, social partners and other stakeholders would also be invited to evaluate the functioning of the initiative. Specific indicators allowing assessing the impacts of the Directive such as the number of service providers using the European services e-card, their experience related to

administrative burden, the speed of the procedures used or the number of information exchanges between Member States will be considered.

- **Explanatory documents (for directives)**

This proposal does not require explanatory documents for the transposition of all the provisions into national law. The Commission will, however, present guidance on the application of all the workflows and administrative facilities under the proposed regulation for introducing the European services e-card. Such guidance will be presented when all the necessary delegated and implementing acts foreseen under this Directive and under the proposed Regulation are in place.

- **Detailed explanation of the specific provisions of the proposal**

The proposal is comprised of the following provisions:

Article 1 states the subject matter as that of laying down a legal and operational framework for the European services e-card, introduced by Regulation ...[ESC Regulation]....., setting out the rules governing access and exercise of service activities by holders of an e-card.

Article 2 sets the scope of this Directive as including the business and construction services listed in its Annex . The Annex excludes activities which are also excluded entirely or partially under Directive 2006/123/EC.

It also states that, similar to Directive 2006/123/EC, this Directive does not affect the definition or organisation of services of general economic interest or the rules governed by competition law. It does also not affect cultural or linguistic diversity or media pluralism. Finally, the Directive does not affect provisions of general criminal law, labour law, tax law or social security law.

As for Directive 2006/123/EC, it is clarified that this Directive shall not apply when it conflicts with other Union acts governing specific aspects of access to or exercise of a service activity in specific sectors or for specific professions. It also underlines that this Directive is without prejudice to Directives 96/71/EC and 2014/67/EU in respect of posting of workers.

Article 3 introduces relevant definitions for the Directive.

Article 4 clarifies the evidentiary value, throughout the Union, of a European services e-card in relation to establishment in the home Member States of the provider, from where it expands operations by making use of the e-card.

Article 5 details the effects of the European services e-card as proof of the ability of the e-card holder to provide services in the territory of the host Member State, either temporarily or through a branch, agency or office located therein. Once an e-card is issued, the e-card prevents the host Member State from imposing on its holder service provision related prior authorisations and prior notification schemes under their national laws; as such prior controls will have taken place through the procedure to issue a European services e-card. The procedure to issue a European services e-card cannot accommodate however prior controls presenting a high degree of complexity or involving selection amongst other businesses. Ex post controls remain in place for e-card holders as for other providers.

Article 6 introduces the obligation on the part of authorities in all Member States, while requiring submission of information in the context of any procedures or formalities, not to require the e-card holders to provide any information which is already contained in the European services e-card.

Article 7 determines the validity of the European services e-card to be indefinite in time, unless suspended, revoked or cancelled, and encompassing all of the territory of the host Member State. Authorisations for additional branches, agencies or offices remain in place in so far as Directive 2006/123/EC allows for them.

Article 8 determines that the application for an e-card should be submitted to the coordinating authority of the home Member State.

Article 9 excludes from eligibility to apply for a European services e-card service those service providers for whom a European professional card has already been introduced.

Article 10 safeguards the right of Member States to invoke those overriding reasons of public interest in accordance with Directive 2006/123/EC.

Article 11 describes the tasks of verification and completion of the application for a European services e-card which the coordinating authority in the home Member State must perform before forwarding such application to its counterpart in the host Member State. It also includes redress mechanisms of action or inaction by the coordinating authority in the home Member State.

Article 12 describes procedural steps for issuing a European services e-card for temporary cross-border services. The coordinating authority informs of applicable requirements in the host Member State once access is granted to the incoming provider or it informs of a well-reasoned decision by a host Member State to object to issuance of the e-card, a decision which binds the coordinating authority in the home Member State. If no objection is notified at the latest within two weeks, an alert is sent and the host Member State has two additional weeks to react. At the end of this period the e-card is issued, expressly or tacitly. The provision includes right of redress against decisions by coordinating authorities of the home or host Member States.

Article 13 describes procedural steps for issuing a European services e-card for providing services through establishment in the form of branches, agencies or offices. The coordinating authority of the host Member State informs of requirements applicable on its territory in order for access to be granted. The applicant needs to prove the necessary compliance. If no decision is taken by the coordinating authority of the host Member State after a proper due process with the applicant and despite of an alert to react, the e-card is issued. The provision includes right of redress against decisions by coordinating authorities of the home or host Member States.

Article 14 introduces a once-only principle at domestic level, under which information and documents in the possession of home Member State authorities need not be supplied again by the applicant for a European services e-card.

Article 15 lists events occurring in the host Member State which must trigger suspension or revocation of a European services e-card.

Article 16 lists events occurring in the home Member State which must trigger suspension or revocation of all European services e-card previously issued for the service provider and service activity in question.

Article 17 sets out the role of home and host Member States in suspending, revoking or, at the request of the e-card holder, cancelling European services e-cards. It introduces a consultation procedure for the e-card holders in question.

Article 18 regulates the exercise of delegation by the Commission as provided for in Articles 12 and 13.

Article 19 defines the Committee assisting the Commission in the adoption of implementing acts and the applicable procedure in accordance with Regulation (EU) 182/2011.

Articles 20 and 21 impose on the Commission monitoring and review obligations on the impact of this Directive

Article 22 deals with transposition and application of the provisions of this Directive. The foreseen dates are the same as those foreseen for the proposed regulation introducing a European services e-card.

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the legal and operational framework of the European services e-card introduced by Regulation[ESC Regulation]....

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 53(1) and 62 thereof,
Having regard to the proposal from the European Commission,
After transmission of the draft legislative act to the national parliaments,
Having regard to the opinion of the European Economic and Social Committee¹⁵,
Having regard to the opinion of the Committee of the Regions¹⁶,
Acting in accordance with the ordinary legislative procedure,
Whereas:

- (1) The Treaty on the Functioning of the European Union (TFEU) guarantees service providers the freedom of establishment in Member States and the freedom to provide services across Member States.
- (2) Directive 2006/123/EC of the European Parliament and of the Council¹⁷ establishes general provisions facilitating the exercise of the freedom of establishment for service providers and the free movement of services. It provides inter alia that Member States should provide for administrative simplification, for instance offering electronic procedures via Points of Single Contact, simplifying existing procedures and the need for certified documents and making best use of a system of tacit approval. The Directive also sets a framework furthering the freedom to provide services on a temporary basis in another Member State.
- (3) Directive 2006/123/EC requires Member States to put in place and keep constantly updated Points of Single Contacts where a service provider wishing to establish or to provide services can find all relevant information about requirements to be complied with and e-procedures in respect of all formalities, authorisation and notifications to go through. However, costly information challenges and difficulties complying with national procedures at a distance remain to date for service providers, namely for sector-related requirements. Cooperation between authorities in different Member States should in principle take place via the Internal Market Information System (IMI),

¹⁵ OJ C , , p. .

¹⁶ OJ C , , p. .

¹⁷ Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ L 376, 27.12.2006, p. 36).

an IT-platform offered for cross-border exchange of information and mutual assistance under that Directive. Despite the fact that authorities sometimes have doubts with regard to the legal establishment of a provider in another Member State, the possibilities for cooperation currently provided in IMI are not exploited to their full potential. Formalities associated with authorisations and notifications often require paper documents to be submitted and to be translated at a significant cost. Information regarding these obstacles is either not available online or is scarce, incomplete, dispersed and difficult to interpret in relation to the particular circumstances of a provider expanding across borders, as national rules often target purely domestic situations. Service providers often risk resubmitting information and documents.

- (4) Requirements remain in place which make expansion of service providers' operations across the internal market burdensome and unappealing, such as multiple and disparate authorisation schemes before different authorities, which, regarding establishment, fail to achieve mutual recognition of conditions previously complied with in other Member States or, regarding temporary cross-border provision of services apply disproportionate or unjustified restrictions. As a consequence, service providers face multiple and disproportionate compliance costs when going cross-border.
- (5) Cross-border trade and cross-border investment in certain business and construction services are particularly low showing a potential for better integration of services markets with significant negative repercussions for the remaining part of the economy. This underperformance leads to situations where the potential for more growth and jobs in the Single Market has not been fully exploited.
- (6) This Directive aims to facilitate the establishment and the free movement of services within the single market, further developing and implementing the general principles of right of establishment and freedom to provide cross-border services enshrined in Articles 49 and 56 TFEU, respectively, as well as in Directive 2006/123/EC. It should be based on Article 53(1) TFEU, concerning freedom of establishment and access to self-employed activities, as well as on Article 62 TFEU, which makes that provision applicable to services.
- (7) In order to make it easier to take up and pursue service activities, this Directive builds upon Directive 2006/123/EC but does in no way amend its rules. The scope of this Directive is even more limited compared to the scope laid down in the Services Directive. It specifically targets business and construction service sectors, where many obstacles to cross-border activities still remain. In addition, cross-border trade and investment in construction and several business services are low and both sectors have seen weak productivity growth over the last decade.
- (8) All matters, activities and fields excluded from the scope of Directive 2006/123/EC should remain excluded from the scope of this Directive. In particular, this Directive does not affect matters, activities and fields such as those deriving from taxation, social security and labour law, including any legal or contractual provision concerning employment conditions, working conditions, including health and safety at work and the relationship between employers and workers. Equally this Directive does not affect the social security legislation of the Member States. This Directive is also without prejudice to any provision stemming from competition law as well as any rule on the applicable law or jurisdiction pursuant to private international law.
- (9) For reasons of coherence, possible conflicts between the present Directive and other EU acts governing specific aspects of access to or exercise of a service activity in a specific sector should be solved as provided for in Article 3 of Directive 2006/123/EC

for conflicts between that Directive and such acts, with the application of those other acts. As a result, the provisions in the present Directive cannot be relied upon in order to justify prior authorisation schemes, prior notification schemes or establishment requirements which are prohibited by other EU acts governing specific aspects of access to or exercise of a service activity in a specific sector such as Directive 2000/31/EC of the European Parliament and of the Council¹⁸. As a further result, this Directive does in no way affect the obligations service providers should respect in accordance with Directive 96/71/EC of the European Parliament and of the Council¹⁹ and Directive 2014/67/EU of the European Parliament and of the Council²⁰.

- (10) This Directive clarifies the conditions under which service providers concerned can benefit from the European services e-card introduced by Regulation ...[ESC Regulation]..., which respective role the home and the host Member State should have and which actions of the home Member State should be accepted by a host Member State. The European services e-card is a voluntary instrument for the service provider.
- (11) This Directive also includes a framework for the validity and the reasons for suspending or revoking a European services e-card throughout the European Union. Whenever a service provider cannot legally continue to provide services across borders, the reason for which it initially applied for an e-card, that same e-card should be suspended or revoked, accordingly.
- (12) The main purpose of the European services e-card is to introduce a uniform and simplified procedure for service providers wishing to expand provision of services across internal market borders. The e-card represents an electronic certificate stating that a service provider is legally established in a Member State (the home Member State). Host Member States where a service provider is interested in expanding to should furthermore not apply, to holders of an e-card, their prior authorisation or notifications schemes put in place under national law to control access to or exercise of service activities, which is already the object of control before issue of a European services e-card.
- (13) The procedure introduced by this Directive seeks to implement general rules and principles of Directive 2006/123/EC in the context of cross-border establishment and temporary provision of certain services.
- (14) Certain requirements and related authorisations and notifications governed by Directive 2006/123/EC should not be the object of controls in the context of issuing a European services e-card given their complexity or the involvement of third actors which the uniform procedural workflow of the European services e-card cannot suitably accommodate. This concerns selection procedures for granting authorisations limited in number and controls of site-specific conditions, be it for the site of actual provision of services or for the site where the provider establishes its operations. Similarly a European services e-card is also not suited to accommodate selection procedures for the performance of public contracts, design contests or concessions.

¹⁸ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce in the internal market (OJ L178, 17.7.2000, p. 1).

¹⁹ Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (OJ L 18, 21.1.1997, p. 1).

²⁰ Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System (‘the IMI Regulation’) (OJ L 159, 28.5.2014, p. 11).

- (15) In the same vein, controls applicable to service providers which are already the object of other horizontal EU legislation should remain excluded. This is the case of requirements and controls related to recognition of professional qualifications under Directive 2005/36/EC of the European Parliament and of the Council²¹, even if mentioned in sector-specific legislation.
- (16) Furthermore, the requirements for service providers who are limited liability companies to disclose certain company information according to Directive 2009/101/EC of the European Parliament and of the Council²² and Council Directive 89/666/EEC²³, and any requirements or controls imposed by national rules on registration of branches of companies registered in another Member State under company law should not be covered by a European services e-card procedure, which is meant to address sector-specific matters in the framework of Directive 2006/123/EC.
- (17) A European services e-card provides several advantages. It offers a proof of legal establishment in the home Member State. As long as a European services e-card remains valid, it should constitute a valid means of proof throughout the EU of legal establishment in the home Member State for the services covered by that e-card. Such proof should even be accepted in a domestic context, across all levels and administrative divisions of public administration. A valid European services e-card includes information which is often required in different contexts, such as controls applicable during or after the performance of services, the award of a public contract, a design contest or a concession, formation of subsidiaries or registration of branches under company law and registration of the service provider with mandatory social insurance schemes. Since that information is already available in a valid European services e-card, Member State authorities should not request this information from e-card holders for these other purposes.
- (18) In addition, Member States should not be allowed to impose on holders of a European services e-card any service provision related authorisation or notification schemes prior to a service provision. Member States should not repeat, wholly or partially, controls previously performed in the context of issuing the European services e-card once provision of services has started in the host Member State. Authorisation or notification schemes such as those deriving from taxation, social security and labour law shall remain applicable as such matters are excluded from the scope of this Directive. Ex-post checks, inspections and investigations initiated by competent authorities should however remain admissible to control service performance, as under current EU Law. If such controls reveal serious breaches of requirements applicable in a host Member State, this could lead to the suspension or revocation of the European services e-card.
- (19) Directive 2013/55/EU, of the European Parliament and of the Council, of 20 November 2013²⁴ introduced a legislative framework for the European professional

²¹ Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22).

²² Directive 2009/101/EC of the European Parliament and of the Council of 16 September 2009 on coordination of safeguards which, for the protection of the interests of members and third parties, are required by Member States of companies within the meaning of the second paragraph of Article 48 of the Treaty, with a view to making such safeguards equivalent (OJ L 258, 1.10.2009, p. 11).

²³ Council Directive 89/666/EEC of 21 December 1989 concerning disclosure requirements in respect of branches opened in a Member State by certain types of company governed by the law of another State (OJ L 395, 30.12.1989, p. 36).

²⁴ Directive 2013/55/EU, of the European Parliament and of the Council, of 20 November 2013, amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation (EU) No

card, meant to grant to professionals who obtain the right to pursue the same profession for which they previously established in a (home) Member State in another (host) Member State, either temporarily or through a secondary establishment. The European services e-card, as a procedure meant for a wide variety of services and not addressing issues related to professional qualifications, should thus not apply to those services for which a specific European professional card was introduced, except if sector-specific requirements and their controls, unrelated to recognition of professional qualifications, are left in place for secondary establishment of a particular profession.

- (20) In order to concentrate actions and decisions within a Member State and facilitate cooperation between different competent authorities in home and host Member States, a coordinating authority in the home Member State and in the host Member State should ultimately be responsible for handling issues related to the European services e-card, thus coordinating the input from the different competent national authorities and acting as a contact point with its counterparts in other Member States. The application for a European services e-card should thus be submitted to the coordinating authority of the home Member State.
- (21) There are two types of European services e-cards offered to service providers: a simpler procedure for temporary cross-border provision of services into other Member States, essentially controlling their previous establishment in the home Member State and allowing a host Member State to object to temporary provision of cross-border services only due to overriding reasons of public interests, and a more complex one, framing the control by host Member States of an economic activity in their territory for an indefinite period through secondary establishment in the form of branches, agencies or offices, in order to ensure, in a simplified workflow, mutual recognition is performed properly and expeditiously.
- (22) The European services e-card is available to providers previously established in a Member State. While subsidiaries of companies from third countries should be able to apply for an e-card, branches, agencies or offices of such companies should not, in accordance with Article 48 of the TFEU which reserves freedom of establishment and free movement of services to companies and firms constituted in accordance with the laws of a Member State and having their registered office, central administration or principal place of business within the Union.
- (23) The European services e-card for secondary establishment should allow for provision of services in the host Member State through branches, agencies but also any form of office located in its territory. However, for the purposes of the European services e-card, secondary establishment should not include provision of services in the host Member State through subsidiaries of companies established in the home Member State. The fact that a subsidiary is a separate legal entity requires more complex controls than those pertaining to provision of services through a branch, agency or office without separate legal personality. The European services e-card procedure is not suited to cover those complex controls.
- (24) The coordinating authority of the home Member State should, upon receiving an application for a European services e-card, complete it and validate its contents in order to accurately demonstrate legal establishment of the provider in its home Member State and describe its circumstances in a manner conducive for host Member State's authorities to pursue their own controls. While inaction on the part of the

1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation') (OJ L 354, 28.12.2013, p. 132).

applicant should lead to a halt in the procedure, inaction on the part of the home Member State's authorities should give way to judicial redress.

- (25) In order to ensure uniform implementation of this Directive in relation to the technical aspects of handling and processing applications for European services e-cards, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council²⁵. These implementing rules should determine the automatic cancellation of an application for a European services e-card if the respective procedure is suspended for a considerable lapse of time due to inaction on the part of the applicant.
- (26) A coordinating authority of the host Member State should provide clarity as to which requirements apply to the incoming service provider, considering the latter is already established in another Member State. The coordinating authority of the host Member State should ensure the provider knows which requirements govern performance of services in the host Member States, including those applicable once it obtains the European services e-card. For establishment, i.e., provision of services through branches, agencies or offices, the identification of applicable requirements by the coordinating authority of the host Member State fulfils a different purpose: it lists the requirements the compliance of which the incoming service provider is required to prove before the e-card can be issued.
- (27) In case a host Member State has put in place a comprehensive and updated information database in its point of single contact, its coordinating authority can simply refer to the relevant webpage from where the information can be retrieved in the context of the European services e-card procedure.
- (28) A European services e-card should not alter the current regulatory environment, under Directive 2006/123/EC and other EU legislation concerned, setting the underlying conditions which a service provider must meet when starting to provide services in a host Member State. Consequently, host Member States should be able, in accordance with current EU Law, to have consideration for compliance with their own requirements by incoming providers before these are allowed to start provision of services in their territory. The procedure for issuing a European services e-card should thus account for a suitable role of control by the host Member State both for temporary cross-border provisions and for establishment.
- (29) For provision of temporary cross-border services, given that Article 16 of Directive 2006/123/EC admits requirements for the generality of services covered by this Directive, host Member States should be allowed to object to the issue of a European services e-card by the home Member State in those cases where the circumstances of the applicant give rise to genuine and sufficiently serious threats to public interests related to public policy, public security, public health or the protection of the environment, in a manner which cannot be suitably and sufficiently addressed by requirements and controls applicable once service provision starts. This should be the case when a prior authorisation scheme or prior notification for temporary provision of the services in question is in place, justified in proportionate terms under one of those four overriding reasons of public interest safeguarded under Article 16 of Directive 2006/123/EC and when the conditions met by the applicant in its home Member State

²⁵ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

cannot be considered equivalent to the ones required in the host Member State for the granting of that prior authorisation. The possibilities and prerogatives of host Member States under Article 16 of Directive 2006/123/EC apply in the context of issuing a European services e-card.

- (30) IMI should enable the Commission to become aware of objections raised by host Member States before the issue of European services e-card procedures for temporary cross-border provision of services, in the context of prior authorisation or prior notification schemes that should also have been previously notified under Directive[forthcoming Notification Directive]..... This information on the effective application of the notified authorisation schemes may be used by the Commission to trigger any enforcement action or to launch any enquiries. It is without prejudice to the rights of applicants to submit a complaint to Commission services alleging a potential breach of EU law by way of the objection in question.
- (31) For establishment, host Member States should be allowed to impose on e-card applicants their own requirements, non-discriminatory, justified under overriding reasons of public interest and proportionate in compliance with Directive 2006/123/EC and other EU legislation concerned. Sector-specific EU legislation governing certain services covered by this Directive, such as services of travel agencies under Directive (EU) 2015/2302, of the European Parliament and of the Council²⁶, and services of installation of energy-related building elements under Directive 2012/27/EU of the European Parliament and of the Council²⁷, in so far as the controls do not pertain to recognition of professional qualifications in the framework of Directive 2005/36/EC, should be taken into consideration.
- (32) Equivalence between requirements of a host Member State and those requirements of the home Member State the applicant has already complied should be an integral part of this assessment. In order to facilitate the assessment of the equivalence of requirements in home and host Member States, where the authority of the host Member State declares its intention to refuse an e-card for establishment, the applicant should have a renewed possibility to prove that it meets the conditions laid down in the prior authorisation or prior notification on the basis of which the authorities of the host Member States base their intention to refuse the e-card, including through requirements to which the applicant is subject in the home Member State and which they deem to be equivalent.
- (33) Host Member States should be allowed to request clarifications or additional information from the home Member State before the issue of a European services e-card, essentially relevant for the assessment of whether there is a justified and proportionate need to object to temporary provision of services by the applicant in its territory or, for establishment, to assess just how many of its regulatory concerns are already suitably addressed by compliance of the applicant with home Member State's requirements. Over time, it is expected that Member States will gain a better knowledge of their respective regulatory frameworks in the sectors covered by the e-

²⁶ Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC (OJ L 326, 11.12.2015, p. 1).

²⁷ Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L315, 14.11.2012, p.1).

card that should lead to enhanced mutual trust and thus allow for a more expedient assessment to the benefit of applicants.

- (34) In order to lay down the procedure for requesting such information, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of specifying the procedural workflow and its impact on the applicable time-limits for decisions to be made in the context of issuing a European services e-card. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (35) The host Member State should no longer control whether the applicant for a European services e-card is legally established in another Member State. Nor should it put into question the veracity and validity of the data and documents included in an application, once validated by the coordinating authority of the home Member State. Conversely, the coordinating authority of the home Member State should not assess whether it issues a European services e-card for temporary cross-border provisions of services based on compliance by the provider of host Member State requirements, rather it should only assess of whether the applicant is legally established in its territory for the provision of the service in question at the time the decision to issue is made.
- (36) Relevant actions and decisions of the coordinating authorities involved in the procedure for issuing the European services e-card, in the host as well as in the home Member State should be subject to judicial remedies in accordance with national law. This should include appropriate remedies in the event of failure to act of the coordinating authority in the home Member State in accordance with the procedure to issue the e-card.
- (37) Prior to the issuance of the European services e-card, a host Member State should be allowed to invoke legitimate policy concerns. Nevertheless, in the interest of allowing for a simplified and swift procedure, the principle of tacit approval should be observed in issuing a European services e-card. That is the general principle introduced under Directive 2006/123/EC. An alert of impending tacit approval and the extension of the applicable deadlines by two additional weeks should ensure that the host Member State has the appropriate time and means to consider applications for a European services e-card. A lack of information from the host Member State on applicable requirements should also not impede automatic issue of a European services e-card.
- (38) Service providers should not be required to provide information and documents which are already in the possession of other authorities in the home Member State, irrespective of administrative levels or divisions. It should also be the case when interconnection of national registers (e.g. central, commercial and companies' registers as required by Directive 2009/101/EC or insolvency registers under Regulation (EU) 2015/848 of the European Parliament and of the Council²⁸) allows for information and documents to be retrieved by the administration of the home Member State from other

²⁸ Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (OJ L 141, 5.6.2016, p.19).

Member States. In all instances when personal data are processed under this Directive, rules on protection of personal data of Directive 95/46/EC of the European Parliament and of the Council²⁹ [, Regulation (EU) 2016/679 of the European Parliament and of the Council³⁰] and national legislation should be observed.

- (39) A service provider should be allowed to apply for a European services e-card in the home Member State and have that application assessed by the host Member State regarding the applicable conditions to provide services through a branch in the territory of that host Member State before that applicant is required to apply for registration of the future branch in that same host Member State. Thus, the applicant will be certain of the applicable sector-specific conditions and ultimately that it complies with them in a manner satisfactory to the host Member State before spending time and resources on requesting the registration of a branch in that host Member State for company law purposes. At the same time, the applicant will need to comply with national rules on registration of branches under company law to provide services through such a branch in compliance with EU law.
- (40) A European services e-card should allow for provision of services throughout the territory of the host Member State. A service provider, once established in a Member State in the form of a branch, agency or office, should not, in principle, need to apply for another e-card in order to expand provision of services already covered by the existing e-card domestically through additional branches, agencies or offices there, as the case may be. However, as Directive 2006/123/EC expressly provides for, authorisations for each individual branch, agency or office may be justified by overriding reasons of public interest. In that case, service providers should continue to have the choice of expanding operations domestically by obtaining those authorisations under national law or applying for additional European services e-cards, for each additional branch, agency or office, as the case may be.
- (41) This Directive should not interfere with the division of regional or local competences within the Member States, including regional and local self-government. This notwithstanding, administrative cooperation between different national authorities within strict time-limits may be necessary in order to meet the obligations laid down in the Directive. In order to help Member States meet their obligations and considering the decentralised structure of many of them, IMI could also be used as a tool for the effective exchange of information and mutual assistance between competent authorities within a certain Member State, without prejudice to other solutions put in place by Member States.
- (42) A European services e-card should be valid for an indefinite period in time, without prejudice to, in relation to temporary cross-border services, the effects of case-by-case derogations in accordance with Directive 2006/123/EC.
- (43) A European services e-card should however be suspended by the issuing coordinating authority if, temporarily, the service provider is banned from providing the services in question. The suspension should last as long as the ban is in place. A European

²⁹ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281 , 23.11.1995, p. 31).

³⁰ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

services e-card should be revoked by the issuing coordinating authority if the conditions for issuing it or for it to remain valid, as a testament of legality of service provision in the host Member State, are no longer met. A final decision establishing that an e-card holder misrepresented him or herself as a service provider and that, under national law of either home or host Member State he or she is considered to be a worker, should lead to the revocation of the European services e-cards in question. Similarly, cases of fraudulent, inaccurate or falsified information or documents used in the context of issuing a European services e-card should impact the validity of the e-card.

- (44) Administrative cooperation between home and host Member State authorities should ensure observance of conditions of validity of a previously issued European services e-card. To further ensure no European services e-card misrepresents the situation of its holder at any given moment, its holder and competent authorities should be obliged to inform the coordinating authority who issued it of changes in the situation of the holder which may impact the validity of the e-card.
- (45) In any case, before adopting the decision to revoke or suspend the e-card, the competent coordinating authority should consult the e-card holder and any decision should be duly justified and subject to appeal, in accordance with the applicable national law of the Member State which issued it. Interim measures signalling a pending procedure for suspension or revocation of a European services e-card should be allowed, signalling a link with alerts triggered under Directive 2006/123/EC.
- (46) In order to ensure uniform conditions for the implementation of this Directive in relation to the technical aspects of processing suspensions, revocations and cancellations of European services e-cards, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.
- (47) The application of this Directive should be monitored and assessed in order to determine its impact on the costs of expanding operations cross-border, particularly in relation to service providers, on consumer perception regarding such providers, particularly those holding a European services e-card, and on competition, prices and quality of services. The effects of the provisions contained in this Directive should be evaluated regularly, in particular in order to assess whether it would be appropriate to introduce a European services e-card for other service activities. This monitoring will take place in cooperation with Member States, social partners and other relevant stakeholders.
- (48) Since the objectives of this Directive cannot be sufficiently achieved by the Member States in view of the complexity and inconsistency of approaches of controlling certain services across Member States but can rather, by reason of enhanced administrative coordination across the Union, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (49) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular, this Directive, through the establishment of the legal and operational framework for the European Service e-card and the coordination of some requirements concerning the freedom of establishment and the provision of services for certain

service, seeks to promote the rights of establishment and the right to provide services in any Member State, preventing any discrimination on grounds of nationality and ensuring impartial, fair and reasonably speed procedure, in accordance with Articles 15, 21 and 41 of the Charter of Fundamental Rights of the European Union, while ensuring full respect of the protection of personal data, including in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council³¹, Directive 95/46/EC [Regulation (EU) No 2016/679], and giving due consideration to the risk of abuse of rights provided for respectively in Articles 8 and 54 of that Charter,

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER I GENERAL PROVISIONS

Article 1

Subject matter

This Directive lays down the legal and operational framework for the European services e-card introduced by Regulation[ESC Regulation].....

Article 2

Scope

1. This Directive applies to the services listed in the Annex.
2. This Directive does not affect the matters mentioned in Article 1(2) to (7) of Directive 2006/123/EC.

It shall not apply to the activities and fields mentioned in Article 2(2) and (3) of Directive 2006/123/EC.

3. If the provisions of this Directive conflict with a provision of another Union act governing specific aspects of access to or exercise of a service activity in specific sectors or for specific professions, the provision of the other Union act shall prevail and shall apply to those specific sectors or professions.

This Directive shall be without prejudice to the rights of workers, the obligations of service providers and related controls in Member States laid down in Directives 96/71/EC and 2014/67/EU.

Article 3

Definitions

For the purposes of this Directive the following definitions shall apply:

1. "home Member State" means the Member State to which a provider addressed the application for a European services e-card;
2. "host Member State" means the Member State in which a provider declared the intention to provide services making use of a European services e-card;

³¹ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

3. "requirement" means a requirement as defined in Article 4 (7) of Directive 2006/123/EC;
4. "coordinating authority" means an authority designated in accordance with Article 17 of Regulation[ESC Regulation].....;
5. "competent authority" means any of the following without prejudice to the third subparagraph of Article 16(5) :
 - (a) a competent authority as defined in Article 4 point 9 of Directive 2006/123/EC;
 - (b) a competent authority as defined in Article 3(1)(d) of Directive 2005/36/EC;
 - (c) any authority or body in charge of a central, commercial or company register in a Member State;
 - (d) any tax authority in a Member State;
6. "public contract" means a contract as defined in Article 2(5) of Directive 2014/24/EU of the European Parliament and of the Council ³²;
7. "design contest" means a design contest as defined in Article 2(21) of Directive 2014/24/EU;
8. "concession" means a concession as defined in Article 5(1) of Directive 2014/23/EU of the European Parliament and of the Council ³³;
9. "authorisation scheme" means an authorisation scheme as defined in Article 4 (6) of Directive 2006/123/EC;
10. "service" means a service as defined in Article 4(1) of Directive 2006/123/EC;
11. "provider" means a provider as defined in Article 4(2) of Directive 2006/123/EC;
12. "Member State of establishment" means a Member State of establishment as defined in Article 4(4) of Directive 2006/123/EC;
13. "establishment" means establishment as defined in Article 4(5) of Directive 2006/123/EC;
14. "notification scheme" means any procedure under which a provider is required to take steps towards a competent authority, giving information or submitting documents concerning access to a service activity or the exercise thereof, without the need for a formal or implied decision by that authority.

CHAPTER II

EUROPEAN SERVICES E-CARD

Article 4

European services e-card as proof of establishment

Member States shall accept a valid European services e-card as proof that its holder is established in the territory of his home Member State and is entitled, in that territory, to provide the service activities covered by the e-card.

³² Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

³³ Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1).

Article 5

Effects of a European services e-card in the host Member State

1. A host Member State shall not impose any prior authorisation scheme, prior notification scheme or an establishment requirement on the holder of a previously issued European services e-card for temporary cross-border provision of services as a condition for such provision of services in its territory.
2. A host Member State shall not impose any prior authorisation scheme or prior notification scheme on the holder of a previously issued European services e-card for establishment as a condition for establishment in its territory through a branch, agency or office located in its territory.
3. A host Member State shall refrain from imposing on holders of a previously issued European services e-card requirements other than those referred to in paragraphs 1 and 2 the compliance of which has been or is deemed to have been verified under Articles 11 to 13.
4. Paragraphs 1, 2 and 3 are without prejudice to:
 - i) requirements imposed on providers in the context of selection procedures of candidates for authorisation schemes limited in number in accordance with EU law;
 - ii) requirements and other obligations, prohibitions, conditions or limits imposed on providers in the context of selection procedures of candidates for the provision of services under a public contract, a design contest or a concession;
 - iii) authorisation schemes, notification schemes or requirements concerning conditions specifically related to the site where the service is provided or to the site where the provider is established;
 - iv) requirements regarding recognition of professional qualifications as provided for by Articles 4 and 4f of Directive 2005/36/EC;
 - v) disclosure obligations as provided for by Article 2 of Directive 2009/101/EC and Article 2 of Directive 89/666/EEC or obligations, prohibitions, conditions or limits imposed by national rules on registration of branches of companies registered in another Member State under company law.
5. Paragraphs 1, 2 and 3 are without prejudice to reporting obligations imposed on the holder of a European services e-card or the performance of checks, inspections or investigations from competent authorities during the provision of the service, in compliance with EU law.

Article 6

Use of information contained in the European services e-card

Authorities in Member States shall not, in the context of any procedures or formalities imposed on a provider in their territory and in accordance with the rules on the protection of personal data as provided for in Directive 95/46/EC [, Regulation (EU) No 2016/679] and national legislation, require the holder of a European services e-card to provide any information which is already contained in the European services e-card, including for:

- (i) the award of a public contract, a design contest or a concession;
- (ii) formation of subsidiaries or registration of branches under company law;

(iii) registration with mandatory social insurance schemes.

Article 7

Validity of a European services e-card

1. A European services e-card for temporary cross-border provision of services concerned by that e-card shall be valid throughout the territory of the host Member State.

A European services e-card for establishment shall be valid, as regards the service activities covered by that e-card, throughout the territory of the host Member State through one or more branches, agencies or offices located in the territory of this Member State except where an authorisation for each additional branch, agency or office is justified in accordance with Article 10(4) of Directive 2006/123/EC.

This shall be without prejudice to the obligation of the holder of a European services e-card to comply with obligations, prohibitions, conditions or limits imposed by national rules on registration of a branch under company law in order to provide services through such branch.

2. A European services e-card shall be valid for an indefinite duration, unless suspended, revoked or cancelled, in accordance with Articles 15 to 17.

This shall be without prejudice to measures put in place in accordance with Article 18 of Directive 2006/123/EC.

CHAPTER III EUROPEAN SERVICES E-CARD SCHEME

Article 8

Application for a European services e-card

Member States shall ensure that providers with establishment in the territory of one Member State shall have the right to submit an application for a European services e-card to the coordinating authority of that same Member State.

The application shall consist of the elements and supporting documents as prescribed by Articles 4 and 5 of Regulation[ESC Regulation].....

Article 9

Eligibility

1. Providers of service activities for which a European professional card for the temporary and occasional provision of services has been introduced, in accordance with Directive 2005/36/EC, shall not be eligible for a European services e-card for the provision of temporary cross-border services.
2. Providers of service activities for which a European professional card for establishment has been introduced, in accordance with Directive 2005/36/EC, shall not be eligible for a European services e-card for establishment. Those providers shall be eligible for a European services e-card as regards requirements and provisions referenced in the second subparagraph of Article 4a(5) of Directive 2005/36 EC.

Article 10

Right of Member States to invoke overriding reasons of public interest

In assessing applications for the European services e-card, Member States shall retain the right to invoke those overriding reasons of public interests recognised under Directive 2006/123/EC, in particular Article 16 thereof, or other acts of EU law.

Article 11

Assessment of the application by the home Member State

1. The coordinating authority of the home Member State shall within one week of having received an application for a European services e-card:
 - (a) examine the application;
 - (b) verify the completeness and accuracy of the information provided;
 - (c) verify whether European services e-cards issued in relation to other home Member States for the same provider and service activity have been revoked or cancelled, or that cancellation has been requested to allow replacement of those e-cards by the European services e-card to which the application refers to;
 - (d) verify the content and validity of accompanying documents, if any, that prove compliance with requirements applicable to the service provision to which the applicant is subject in the home Member State;
 - (e) request supplementing of the application from the applicant, where necessary;
 - (f) complete the application form with the information obtained in accordance with Article 14(2);
 - (g) upload to the electronic platform where the standard form for application is made available the necessary documents, if any, obtained in accordance with Article 14(2).

Where the coordinating authority of the home Member State requests supplementing of the application from the applicant, the time-limit is suspended until that information is provided.

2. The coordinating authority of the home Member State shall, upon completion of the tasks referred to in paragraph 1, communicate without delay the application to the coordinating authority of the host Member State, with information to the applicant.
3. The decisions and actions by the coordinating authority of the home Member State, notified to the applicant through the electronic platform where the standard form for application is made available, or the absence of a decision or action within the time-limit shall be subject to appeal under national law of the home Member State.
4. The Commission shall adopt technical rules for the handling and processing of the application by means of implementing acts. These rules shall include time-limits on the expiration of the application due to inaction of the applicant.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 19(2).

Article 12

Assessment by the host Member State of the application for a European services e-card for the provision of temporary cross-border services

1. Within two weeks from receiving the application the coordinating authority of the host Member State shall examine it and inform the applicant and the home Member State of any requirements applicable to temporary cross-border provisions under the legislation of the host Member State with the exception of those referred to in Article 5(4). In line with the rights of Member States as referred to in Article 10, the coordinating authority of the host Member State may within the same time-limit, decide to object to the issue of the European services e-card by the coordinating authority of the home Member State where it demonstrates that the application of a prior authorisation scheme, prior notification scheme or requirements to the applicant is justified for one of those overriding reasons of public interest set out in Article 16 of Directive 2006/123/EC or is admissible in accordance with other acts of EU law.

The host Member State shall take due account in that assessment of the requirements that the applicant already meets in its home Member States. For the purpose of that assessment and within the above-mentioned time-limit, the coordinating authority of the host Member State shall be allowed to request necessary clarifications or necessary additional information from the home Member State or the applicant which is not yet contained in the application. In that case, the time limit referred to in this paragraph is suspended until the requested necessary clarification or necessary additional information is supplied. The procedure for requesting clarifications or additional information will be laid down by way of the delegated acts referenced in paragraph 4.

An objection to grant a European services e-card may not be based on non-compliance with one of the requirements listed in Article 5(5). The Commission shall have access, via IMI, to the decision of objection by the coordinating authority of the host Member State.

2. Taking into account the rights of Member States as referred to in Article 10, if the coordinating authority of the host Member State does not react within the time-limit referred to in paragraph 1, that time limit shall automatically be extended by two additional weeks and the electronic platform where the application for a European services e-card has been submitted shall issue an alert to the coordinating authority of the host Member State to the effect that failure to react shall imply that there is no objection to the issue of the European services e-card to the applicant.
3. If the host Member State does not object in accordance with paragraph 1, the coordinating authority of the home Member State shall issue the European services e-card without delay upon expiration of the extended time-limit resulting from the application of paragraph 2. In the absence of any objection under the second subparagraph of paragraph 1 and failing a decision by the coordinating authority of the home Member State upon expiration of the extended time-limit resulting from the application of paragraph 2, the European services e-card shall be deemed to have been issued by the home Member State in the terms communicated to the host Member State in accordance with Article 11(2).

Upon receipt of the decision of the host Member State to object under paragraph 1 the home Member State shall refuse, without delay, the application for a European services e-card.

4. The Commission is empowered to adopt delegated acts in accordance with Article 18 in order to specify the procedure for the coordinating authority of the host Member State to request clarifications or additional information from the home Member State or the applicant, and to modify, if necessary, the time-limits laid down in paragraph 1.
5. The decisions and actions of the coordinating authority of the home Member State, notified to the applicant through the electronic platform where the standard form for application is made available, shall be subject to appeal under national law of the home Member State.

The decision by the coordinating authority of the host Member State to object to the issue of the European services e-card, notified to the applicant through the electronic platform where the standard form for application is made available, shall be subject to appeal under national law of the host Member State.

6. The Commission shall adopt technical rules for the handling and processing of the application under paragraphs 1 and 2 by means of implementing acts. These rules shall include time-limits on the expiration of the application due to inaction of the applicant.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 19(2).

Article 13

Assessment by the host Member State of the application for a European services e-card for establishment

1. In the context of a procedure for issuing a European services e-card for establishment in the form of a branch, agency or office, the coordinating authority of the host Member State shall, within four weeks from receiving the application, identify which, if any, prior authorisation scheme or prior notification scheme as referred to in Article 5(2) is applicable, in compliance with EU law, to such establishment. If such a prior authorisation scheme or prior notification scheme has been identified, the host Member State shall also identify the conditions which the applicant is required to comply with, with the exception of those referred to in Article 5(5). The host Member State shall indicate why the application of such a prior authorisation scheme or prior notification scheme is necessary and proportionate for the pursuance of overriding reasons of public interest.

The host Member State shall immediately inform the applicant and the coordinating authority of the home Member State of the prior authorisation or prior notification scheme in question, the conditions which the applicant is required to comply with and of the necessity and proportionality thereof.

2. Taking into account the rights of Member States as referred to in Article 10, if the coordinating authority of the host Member State does not react within the time-limit referred to in paragraph 1, that time limit shall automatically be extended by two additional weeks and the electronic platform where the application for a European services e-card has been submitted shall issue an alert to the coordinating authority of the host Member State to the effect that failure to react shall imply that the European services e-card shall be issued to the applicant.
3. Upon receipt of the reaction by the coordinating authority of the host Member State to the application, the applicant shall be allowed to provide proof of compliance with

the conditions identified by the coordinating authority of the host Member State under the paragraph 1.

The applicant shall describe which specific conditions are complied with by previous compliance with equivalent requirements in the home Member State.

Member States shall ensure that the coordinating authority of the home Member State shall assist the applicant in proving compliance with host Member State conditions, in accordance with Article 14.

4. The coordinating authority of the host Member State shall assess, within one week upon receipt of proof of compliance with the conditions identified in accordance with paragraph 1, whether to issue the European services e-card or reject the application for the European services e-card.

In case the coordinating authority of the host Member State decides to issue the European services e-card, it shall do so without delay.

Alternatively, the coordinating authority of the host Member State may inform the applicant and the coordinating authority of the home Member State of its intention to reject the application, in which case the applicant shall have a week to present its observations.

Upon receipt of the observations of the applicant or, where no observations have been made, upon expiration of the time-limit to present those observations, the coordinating authority of the host Member State shall decide, within one week, whether to issue the European services e-card or reject the application for the European services e-card.

5. The coordinating authority of the host Member State shall be allowed to request necessary clarifications or necessary additional information from the home Member State or the applicant which is not yet contained in the application. In that case, the time limits referred to in paragraphs 1 and 4 are suspended until the requested necessary clarification or necessary additional information is supplied.

Clarifications and additional information shall be requested in accordance with the procedure laid down in accordance with paragraph 7.

6. In case the host Member State, upon expiration of the periods for its reaction mentioned in paragraphs , 2 and 4, does not request compliance with any condition under paragraph 1 or does not take the decision to issue the European services e-card under paragraph 4, the European services e-card shall be deemed to have been issued by the host Member State in the terms communicated to the host Member State in accordance with Article 11(2).

7. The Commission shall be empowered to adopt delegated acts in accordance with Article 18 in order to specify the procedure for the coordinating authority of the host Member State to request clarifications or additional information from the home Member State as referred to in paragraph 5, and to modify if necessary the time-limits mentioned in paragraphs 1 and 4.

8. The decisions and actions by the coordinating authority of the home Member State, notified to the applicant through the electronic platform where the standard form for application is made available, shall be subject to appeal under national law of the home Member State.

The decisions of the coordinating authority of the host Member State to request compliance with conditions under paragraph 1 and its decision on issue of the European services e-card, notified to the applicant through the electronic platform where the standard form for application is made available, shall be subject to appeal under national law of the host Member State.

9. Member States shall not require application for a registration of a branch under company law as a precondition to assess the application for a European services e-card for establishment.

This shall be without prejudice to the obligation of the holder of a European services e-card to comply with national obligations, prohibitions, conditions or limits imposed regarding registration of a branch under company law in order to provide services through such a branch in compliance with EU law.

10. The Commission shall adopt technical rules for the handling and processing of the application under paragraphs 1, 2, 3 and 4 by means of implementing acts. These rules shall include time-limits on the expiration of the application due to inaction of the applicant.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 19(2).

Article 14

Once-only principle in the home Member State

1. Coordinating authorities in the home Member State shall not require providers to provide information and documents which are available to those authorities in accordance with paragraph 2 of this Article or Article 14(3) of Regulation ...[ESC Regulation].... when applying for a European services e-card or to prove compliance, in the context of a European services e-card for establishment, with conditions identified by the coordinating authority of the host Member State in accordance with Article 13(1).
2. The coordinating authority in the home Member State shall obtain the information and documents required for the purposes referred to in paragraph 1 which are available to other authorities in the home Member State or originate from those authorities, in accordance with the rules on the protection of personal data as provided for in Directive 95/46/EC, Regulation (EU) No 2016/679 and national legislation.

Article 15

Suspension and revocation of a European services e-card in relation to a host Member State

1. Member States shall ensure that the coordinating authority who issued a European services e-card suspends its validity or revokes it in case, respectively, of a decision, in accordance with EU law, determining a temporary or permanent ban on provision of the service activities in question by the European services e-card holder in the host Member State.
2. Member States shall ensure that coordinating authorities who issued a European services e-card revoke it in case the e-card holder:

- (i) made use of information or documents in the context of the procedure to issue the e-card which have been ascertained to be fraudulent, inaccurate or falsified by a final decision of either home or host Member State, not subject to appeal under the applicable national law;
- (ii) is subject to a final decision, in compliance with Article 4(5) of Directive 2014/67/EC, not subject to appeal under national law, by the host Member State that it considers the holder of a European services e-card to be a worker and not a self-employed person, in accordance with Article 2(2) of Directive 96/71/EC of the European Parliament and of the Council³⁴;
- (iii) does not meet one or more conditions applicable for temporary cross-border provision as prescribed by the first subparagraph of Article 11(1), the compliance of which, under the national law of the host Member State, is essential to continued legal provision of the services in question in its territory;
- (iv) does not meet one or more conditions imposed in the context of a prior authorisation or prior notification scheme applicable for establishment as prescribed by the first subparagraph of Article 12(1), the compliance of which, under the national law of the host Member State, is essential to continued legal provision of the services in question in its territory.

Article 16

Suspension and revocation of all European services e-cards of a service provider for a certain service activity

1. Member States shall ensure that, in case of a decision, in accordance with EU law, determining a temporary or permanent ban on provision of the service activities by the European services e-card holder in the home Member State, the coordinating authorities who issued a European services e-card suspend the validity of or revoke, respectively, all European services e-cards issued for the same provider and service activity in question.
2. Member States shall ensure that, in case of a decision determining a temporary or permanent ban on provision of the service activities by the European services e-card holder in the host Member State, coordinating authorities who issued a European services e-card suspend the validity of or revoke, respectively, all European services e-cards issued for the same provider and service activity in so far as the national law of the home Member State determines, in accordance with EU law, the suspension or termination of service activities in its territory due to, respectively, the temporary or permanent ban in question in the host Member State.
3. Member States shall ensure coordinating authorities who issued a European services e-card revoke all European services e-cards issued for the same provider and service activities in case that provider:
 - (i) permanently ceases to provide the services in question in the home Member State;
 - (ii) is wound-up and dissolved;
 - (iii) changes its main centre of activities relevant for issue of the e-cards in question from one Member State to another Member State;

³⁴ Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (OJ L 18, 21.1.1997, p. 1).

- (iv) changes its main centre of activities relevant for issue of the e-cards in question to a third country;
- (v) is subject to a final decision not subject to appeal under national law, by the home Member State that it considers the holder of a European services e-card to be a worker and not a self-employed person;
- (vi) is no longer established in the home Member State, for any other reason.

Article 17

Procedure for the suspension, revocation, update and cancellation of European services e-cards

1. A Member State which detects a reason to trigger the suspension or revocation of a European services e-card, in accordance with Articles 15 or 16, occurring in its territory shall communicate via IMI to the holder of the European services e-card in question the motivation therefore and shall give it the opportunity to be heard.

This shall be without prejudice to an alert under Article 32 of Directive 2006/123/EC.

2. Once a Member State concludes on the need to suspend or revoke a European services e-card it shall do so without delay, in case its coordinating authority is the issuing authority of the e-card in question, or it shall communicate without delay to the issuing coordinating authority its conclusion on the need to suspend or revoke the European services e-card in question.

The issuing coordinating authority which receives the communication of a conclusion on the need to suspend or revoke the European services e-card from another Member State shall immediately suspend or revoke the European services e-card in question, as appropriate.

Member States shall ensure that, as soon as the conditions which led to the suspension of a European services e-card are no longer valid, the issuing coordinating authority reactivates, without delay, the suspended European services e-card.

3. A decision to suspend or revoke a European services e-card, notified to the applicant through the electronic platform where the standard form for application is made available, shall be duly motivated and be subject to appeal under national law of the Member State concerned.

The absence of a decision to reactivate a suspended European services e-card in accordance with the last subparagraph of paragraph 2 shall be subject to appeal under national law of the Member State concerned.

This paragraph shall be without prejudice to the second subparagraph of paragraph 2.

4. Member States shall oblige the holder of a European services e-card to inform the coordinating authority which issued its European services e-card of the following:
 - (a) decisions restricting or prohibiting, even temporarily, in either home or host Member State the provision by the holder of the European services e-card of service activities covered by that same e-card;
 - (b) permanent cessation of activities covered by the European services e-card in the territory of the home Member State;

- (c) winding-up and dissolution of the holder of the European services e-card or change of its main centre of activities within the territory of the European Union or to a third country;
 - (d) final decisions not subject to appeal under national law, by either the home or, in compliance with Article 4(5) of Directive 2014/67/EC, by the host Member State that it considers the holder of a European services e-card to be a worker and not a self-employed;
 - (e) any significant change as regards the requirements that the holder of the e-card is subject to in its home Member State to the extent that information on compliance with these requirements had been communicated to the host Member State together with the e-card application;
 - (f) changes in the factual situation or any other elements of information regarding the holder of a European services e-card which are reflected in its content.
5. Coordinating authorities shall exchange information on their own initiative and give assistance to other coordinating authorities in relation to events that have come to their knowledge which may determine a suspension or revocation of the European services e-card in question or the need to otherwise update its content.

Member States shall ensure that their competent authorities inform the coordinating authority they designated in accordance with Article 17 of Regulation ...[ESC Regulation]... of the events listed in paragraph 4 that have come to their knowledge.

In relation to point (d) of paragraph 4, this paragraph shall also apply to competent authorities as defined in Article 2(a) of Directive 2014/67/EU.

This paragraph shall be without prejudice to Article 2 of Directive 2009/101/EC and Article 2 of Directive 89/666/EEC.

6. The holder of a European services e-card may request the cancellation of its previously issued European services e-card to the issuing coordinating authority at any time.
7. The Commission shall adopt technical rules for the processing of suspensions, revocations, updates and cancellations of European services e-cards by means of implementing acts, including provisions on the introduction and withdrawal of alerts of possible suspension and revocation and on the interconnection between these procedures and the alert mechanism set up under Article 32 of Directive 2006/123/EC as well as the interconnection between a valid European services e-card and the procedure for case-by-case derogations in accordance with Article 18 of Directive 2006/123/EC.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 19(2).

CHAPTER IV

FINAL PROVISIONS

Article 18

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 12(4) and Article 13(7) shall be conferred on the Commission for a period of five years from [...]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Article 12(4) and Article 13(7) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 12(4) and Article 13(7) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 19

Committee procedure

1. The Commission shall be assisted by the Committee referred to in Article 40(1) of Directive 2006/123/EC. That Committee shall be a committee within the meaning of Regulation (EU) 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) 182/2011 shall apply.

Article 20

Monitoring of implementation

The Commission, with Member States, social partners and other relevant stakeholders, will establish monitoring arrangements to monitor and assess the implementation and impacts of this Directive, in particular how it impacts freedom of establishment and freedom to provide services across Member States for the service activities covered, namely by reducing costs for providers, enhancing transparency about providers expanding cross-border and increasing competition, and how it impacts prices and quality of the services concerned, considering relevant indicators.

Article 21

Review clause

By [24 months after the date for transposition of this Directive] the Commission shall carry out an assessment of the appropriateness of additional measures to coordinate provisions concerning the freedom of establishment and the freedom to provide services for which a European services e-card has been introduced.

By 36 months after the date for transposition of this Directive and at the latest every five years thereafter, the Commission shall carry out an evaluation of this Directive and submit to the European Parliament and the Council a report on its performance. That report shall consider the need to adapt the procedures for issuing, updating, suspending or revoking a European services e-card taking into account the latest developments in e-Government and shall be included in the report assessing the overall performance of Regulation ...[ESC Regulation]... in line with its Article 19.

Article 22
Transposition

1. Member States shall adopt and publish, by [two years after entry into force of this Directive] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from [two years after entry into force of Regulation[ESC Regulation].....].

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 23
Entry into force

This Directive shall enter into force on the [twentieth] day following that of its publication in the Official Journal of the European Union.

Article 24
Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President



Brussels, 10.1.2017
COM(2016) 824 final

2016/0403 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

introducing a European services e-card and related administrative facilities

(Text with EEA relevance)

{SWD(2016) 439 final}

{SWD(2016) 442 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

With services accounting for around 70% of EU GDP and employment, promoting the competitiveness of EU services markets is central for the creation of jobs and growth in the EU. The Services Directive, adopted in 2006, set general provisions facilitating the establishment of service providers and their ability to offer services cross-border in the single market. The Directive prompted a number of reforms across the EU Member States, adding an estimated 0.9% to the GDP of the EU over ten years.

There is nevertheless still a large potential for growth and jobs that remains to be captured. EU services markets would benefit from faster productivity growth and a more efficient allocation of resources. Cross-border trade and investment in services remain low. Tackling remaining obstacles to more cross-border activities in services will help to strengthen competition, resulting in more choice and better prices for consumers as well as increased innovation. Addressing these barriers under the framework already provided by the Services Directive offers a potential of generating an additional 1.7% to the GDP of the EU.¹ In addition, better functioning services markets will positively affect the competitiveness of industry as the EU manufacturing sector represents an important buyer and final user of services. In fact, services account for 40% in the value of a final manufacturing product in the EU. A competitive manufacturing sector is therefore conditional upon well-functioning services markets.

For these reasons the European Council underlined that "delivering a deeper and fairer Single Market will be instrumental in creating new jobs, promoting productivity and ensuring an attractive climate for investment and innovation".² A better functioning internal market is one of the ten priorities for the European Commission. In its Single Market Strategy adopted in October 2015, the Commission announced a series of actions to make the single market without borders for services a reality.³ The objective is clear: reduce hurdles to make it easier for service providers to pursue new business opportunities, while guaranteeing quality services for consumers. This proposal follows up on the Single Market Strategy.

The Services Directive provides a balanced legal framework to achieve these objectives. It ensures that national regulation is non-discriminatory, justified and proportionate to meet public interest objectives. In addition, it requires Member States to reduce obstacles of administrative nature dissuading in practice service providers to operate cross-border. The Services Directive and the important principles it established will remain unaffected by this proposal.

These principles introduced by the Services Directive have enabled positive progress towards a better functioning of EU services markets. At the same time, obstacles to increased single market integration are still present in a number of key services sectors. This is the case particularly in several business services and the construction sector where service providers can often not easily pursue business opportunities in other Member States. They are faced

¹ European Commission, "Update of the study on the economic impact of the Services Directive", 2015

² European Council Conclusions; 28 June 2016.

³ Communication from the Commission on Upgrading the Single Market: more opportunities for people and business, 28 October 2015.

with administrative obstacles when expanding abroad. This was confirmed through extensive contacts with service providers.⁴

Service providers face administrative complexity when going cross-border. This includes a lack of clarity on how to comply with existing rules dissuading companies, notably SMEs, from attempting to exploit business opportunities in other Member States. Service providers find it difficult to obtain information on applicable regulatory requirements and procedures that need to be completed to access another Member State's market. In addition, national rules often account only for national situations without clarifying how they should be applied to service providers from other EU Member States. As a result, service providers trying to establish a permanent presence in another Member State or to provide cross-border services on a temporary basis often find it difficult to understand which rules to apply and how. Administrative formalities in different Member States are often complicated and costly for service providers to complete.

The European services e-card therefore aims to reduce administrative complexity for service providers that want to expand their activities to other Member States. It will at the same time ensure that Member States can apply justified regulation. It would be offered to service providers on a voluntary basis as an alternative route to show compliance with the applicable national rules. It allows service providers to use a fully-electronic EU-level procedure to complete formalities when expanding abroad, hereby offering them increased legal certainty and significantly reducing administrative complexity. Through the e-card they will be able to avoid administrative obstacles such as uncertainty as to which requirements apply, filling-in disparate forms in foreign languages, translating, certifying or authenticating documents and non-electronic procedural steps. Cost savings related to the formalities covered by the e-card procedure would be significant compared to the existing situation, potentially going up to 50% or even more.⁵

Where a service provider plans to provide a service temporarily cross-border, the e-card would be issued by the home Member State. The host Member States would be able to object to issuance of the e-card where the Services Directive already allows them to do so under one of the overriding reasons of public interest listed in Article 16. Once issued, the e-card would allow the service provider to provide services on a temporary cross-border basis in the host Member State. Decision-making powers of host Member States to reject an application for a European services e-card remain accordingly unchanged, in line with Article 16 of the Services Directive.

Where a service provider plans to provide services through a branch, agency or office in another Member State, the e-card is issued by the host Member State. In this case the service provider would still request the e-card with his home country authorities, who would check that the service provider is established on its territory in line with its applicable rules. But in a second step, the home Member States authorities would initiate a process with the relevant host country administration to allow the latter to verify if the requesting service provider meets its host country regulatory requirements in compliance with the Services Directive. As a result, there would be no unequal treatment between domestic and foreign service providers. Once issued, the e-card would allow its holder to provide services through a secondary establishment (in the form of a branch, agency or office) in the host Member State concerned.

⁴ Including 9 workshops organised by the Commission with service providers in cross-border regions.

⁵ Commission Staff Working Document, "Impact Assessment accompanying the Proposal for a Regulation of the European Parliament and of the Council introducing a European services e-card and related administrative facilities", 2017.

The idea of the European services e-card is similar to the European professional card (EPC), which Member States' authorities are already familiar with. The EPC was made available in January 2016 and there has been a significant take-up by the selected professionals covered, showing that this type of simplification tool provides practical benefits to its users. Both the European services e-card and the EPC are voluntary electronic procedures running at EU-level. The use of a European services e-card is voluntary for service providers. The home country authority of the applicant acts as the single contact point. In addition, the functioning of both systems relies on pre-defined and binding workflows of cooperation between home and host Member States implemented via the existing Internal Market Information System (IMI) established by the IMI Regulation⁶.

At the same time, both systems have different objectives. The EPC facilitates provision of services across borders through the recognition of professional qualifications for natural persons as workers or self-employed service providers in accordance with the Professional Qualifications Directive (PQD).

The European services e-card addresses a much wider range of requirements. It would be available for both natural persons who are self-employed but also for companies who want to provide services in another Member State. In contrast with the EPC, the European services e-card would also offer technical facilities to facilitate compliance with administrative formalities related to posting of staff into the territory of those Member States that have communicated to the Commission that they wish to make use of IMI for this purpose. This possibility to make use of IMI will in no way alter the substance of the applicable rules laid down in Directive 2014/67/EU. Rules to facilitate obtaining insurance coverage for services provided across borders are also included.

The e-card would cover requirements falling under the Services Directive and accordingly not areas such as tax, labour and social security. Nevertheless, authorities in Member States shall not require the e-card holder to provide any information which is already contained in the e-card for procedures or formalities imposed on a provider in relation to the award of a public contract, a design contest or a concession, formation of subsidiaries or registration of branches under company law and registration with mandatory social insurance schemes.

The European services e-card would apply – in a first stage – to business services and construction services – to the extent the related activities fall already under the Services Directive. Both sectors are of key importance for the EU economy.⁷ Service providers of construction or business services often face high administrative complexity when expanding abroad. In addition, productivity growth over the last decade has been very low in both sectors and there is limited cross-border trade and investment. Increased cross-border competition would help preserve and improve the competitiveness of both sectors.

This proposal also includes review clauses for future consideration of the effectiveness of the European service e-card, including as regards compliance with the formalities necessary for the posting of workers and taking account of the experience of those Member States that may have opted for the possibility provided for in Article 6(3) of this draft Regulation to allow for the relevant formalities to be carried out through an electronic platform connected to IMI.

⁶ Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC (‘the IMI Regulation’) (OJ L 316, 14.11.2012, p. 1)

⁷ Both sectors cover about 20% of EU GDP and employment - Eurostat

- **Consistency with existing policy provisions in the policy area**

This Regulation is presented together with a Directive. The Regulation introduces the European services e-card without modifying the underlying EU rules. It sets up tools which are available for service providers throughout the EU. In addition, it facilitates the solution of issues related to insurance coverage of a service provider active cross border. The Directive sets out the legal and operational framework of the European services e-card, regulating inter alia the conditions of eligibility, the competences of the home and the host Member States, the validity of the European service e-card and the conditions for revoking or suspending it.

This Regulation fully preserves the existing EU provisions on social issues, employment conditions (in particular posting of workers, workers' rights and the social pillar), health and safety and protection of the environment. It does not change or put into question existing safeguards in this respect. The e-card would provide further information about the company. The Member State's power to carry out on-site inspections would be completely untouched. The rules on posting of workers under Directives 96/71/EC and 2014/67/EU will continue to apply in the context of the European services e-card but further facilities shall be provided in order to comply with these rules. Where Member States have set up procedures that allow for a declaration relating to the posting of workers pursuant to Article 9 of Directive 2014/67/EU to be completed by electronic means, the European services e-card shall direct the card holder to the relevant national procedures. Providers who hold a European services e-card may also submit this declaration through an electronic platform connected to IMI where a host Member State has communicated to the Commission that this possibility should apply for the posting of workers in its territory.

The proposal for a European services e-card is complementary to other policy initiatives in the context of services announced in the Single Market Strategy to prevent the introduction of barriers to cross-border service provision at national level. In this respect, it is complementary to the Commission proposal [XX] for a Directive reforming the procedure by which Member States must notify authorisation schemes and requirements related to services.

This proposal will also be complemented by the initiative of the Single Digital Gateway, announced in the Single Market Strategy for 2017. The Gateway, on which a public consultation was conducted in autumn 2016, will address the current information gaps for businesses and citizens by integrating, completing and improving the relevant EU and national-level online information. It will also link up with assistance services. Moreover, it will aim to push the further digitalisation of national procedures relevant for citizens and businesses exercising their Single Market rights. The scope of the Single Digital Gateway is intended to go beyond the sectors covered by the present initiative.

In comparison, the European services e-card should offer a fully harmonised and standardised instrument for cross-border provision of services, reducing compliance costs for specific services markets largely dominated by SMEs. It is serving the objective of administrative simplification with the involvement of the Member State where the service provider comes from but that (home) Member State has no say on what requirements a service provider has to satisfy in other Member States. Under the European services e-card, it is up to the latter to inform of and ensure compliance in the framework of a predefined and fully standardized workflow. The Single Digital Gateway will link up with this procedure and make it easy to find for its beneficiaries.

The implementation of the European services e-card will be fully aligned with the development of the Single Digital Gateway project and respect the principles outlined in the

eGovernment action plan (in particular: digital, interoperable, cross-border, once-only and inclusive by default)⁸.

Finally, this proposal is complementary to the enforcement policy of the Commission, which it pursues in parallel, to tackle unjustified or disproportionate national restrictions to the freedom of establishment and the free provision of services.

The implementation of this Regulation will be supported by the Internal Market Information System (IMI) established by the IMI Regulation.⁹ IMI can be used by around 5000 authorities since 2011; it is subject to constant user surveys and has proven its potential with the European professional card introduced in January 2016.

- **Consistency with other Union policies**

The proposal for a European services e-card under this regulation and the proposed directive are fully consistent with a number of other Union policies, in particular with those pursuing the same objectives of administrative simplification and reducing requirements to service providers.

Simplification of formalities regarding documents would follow closely the solutions to be introduced under the Regulation (EU) 2016/1191 on the promotion of the free movement of citizens by simplifying the requirements for presenting certain public documents in the European Union¹⁰.

In the area of recognition of professional qualifications, a similar tool fostering administrative simplification - the above-mentioned European professional card - was introduced in 2013 and is available for a selected number of professions (nurses, pharmacists, physiotherapists, mountain guides and real estate agents) since January 2016. In order to avoid any risk of duplications, the present proposal ensures that professionals who can apply for a European professional card cannot obtain a European services e-card.

In the context of the European services e-card procedure, coordinating authorities and competent authorities shall make use of all available interconnections of national registers including the interconnection of company registers (BRIS), as required by Directive 2009/101/EC, and of insolvency registers under Regulation (EU) 2015/848 before any other means of obtaining or verifying previously obtained information for the purposes of this procedure.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

This legislative action falls within the area of shared competence in accordance with article 4(2)(a) TFEU. It aims to facilitate establishment and the provisions of services by the adoption of measures on approximation of the provisions laid down by law which have as

⁸ EU eGovernment Action Plan 2016-2020 – Accelerating the digital transformation of government - COM(2016)179.

⁹ Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC (‘the IMI Regulation’) (OJ L 316, 14.11.2012, p. 1)

¹⁰ Regulation (EU) 2016/1191 of the European Parliament and of the Council of 6 July 2016 on promoting the free movement of citizens by simplifying the requirements for presenting certain public documents in the European Union and amending Regulation (EU) No 1024/2012 (OJ L 200, 26.07.2016, p.1)

their object the functioning of the internal Market. This Regulation is based on Article 114 TFEU which is the general legal basis for adoption of such measures.

- **Subsidiarity (for non-exclusive competence)**

The overall objective of this legislative proposal is to ensure the smooth functioning of the EU single market for services, which is not limited to the territory of one Member State, but covers the entire territory of the EU. Given the transnational nature of the EU single market, and the necessity to address situations in cross-border contexts in the most coherent manner, making use of an existing IT tool running across the EU – the IMI –, constitutes an efficient response which can only be provided by action at EU-level.

- **Proportionality**

The measures introduced by this Regulation are proportionate to its objective of further integrating the services markets at EU level, by enabling increased market dynamics and cross-border competition. They are also proportionate to the objectives of increasing transparency, reducing costs and simplifying procedures that Member States impose to service providers in cross-border situations, in particular in the procedures for the posting of staff and regarding professional liability insurance. In addition, it builds on the IMI, an existing EU-level IT instrument funded by the EU budget and already used by national administrations. The EU-level procedure will only bring limited adjustments to IMI, resulting in limited costs at EU and national level. Such limited costs have been assessed with respect to existing similar procedures, such as the European professional card.

These measures do not extend beyond what is necessary to solve the identified problems and to achieve the identified objectives. Although the EU-level procedure requires an active role of Member State's administrations, the financial efforts to be expected by Member States will be limited through the use of the Internal Market Information system, a platform already existing and set in place with EU funds. In addition, prospects brought by the use of the European services e-card of additional competition in services markets with more market players, and additional turnover, shall have a positive effect on Member States' economies.

The use of a European services e-card will be voluntary for service providers.

- **Choice of the instrument**

This Regulation is based on article 114 TFEU. It includes provisions to facilitate the exercise of secondary establishment and freedom to provide services and temporary cross-border situations. Building on this Treaty provision, the Regulation also introduces practical tools regarding professional liability insurance which service providers are seeking for their activities abroad.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

In preparation of this proposal, the Commission has carried out an in-depth evaluation of the Services Directive. This evaluation showed that the implementation of the Services Directive has been only partially effective so far. The Services Directive has been able to generate additional growth through Member States' reforms. Nevertheless, service providers in key services sectors (such as business services and construction) still face an important number of barriers. In addition, the system of administrative cooperation between Member States is not delivering all its benefits. An in-depth analysis carried out on the functioning and usability of

the PSCs concluded that most PSCs have not yet led to all the expected simplification in administration in terms for providing temporary cross-border services or setting up a business.

In addition, evaluation from the Commission revealed that Member States take a very heterogeneous approach as regards insurance obligations and access to insurance for provision of services, making it difficult and costly for service providers to contract insurance coverage for cross-border provision of services, in particular in business services and construction.

All these remaining obstacles are to the detriment of the development of more cross-border trade and investment in the field of services.

- **Stakeholder consultations**

The Commission has carried out several analyses and consultations to gather evidence on the remaining obstacles to a fully functioning Single Market for services, with a greater focus on the practical effects of the provisions on the ground. Economic assessment has been conducted to evaluate the effects of national reform in services markets and access to insurance for service providers. In addition, stakeholder workshops have been organised as part of the Single Market Forum in 2014, 2015 and 2016. These looked into the challenges of small and medium-sized enterprises to develop in cross-border regional markets, or into specific challenges in services sectors (in particular business services and construction services) which are hampered by low cross-border trade and investment at the EU level. The contributions and input gathered revealed that despite some progress over the past years, service providers in several economically important sectors still face a range of obstacles when seeking to expand across Member States' borders.

Stakeholders have expressed different views on the possible ways to improve the framework to which the services markets are subject in the EU and at national level. Stakeholders almost unanimously oppose reopening the Services Directive. This Regulation does not modify any substantive rules on cross-border service provision of services as laid down in the Services Directive, nor any rules related to posting of workers, health and safety or protection of the environment.

An online public consultation ran from 3 May to 26 July 2016. The consultation gathered further views from stakeholders, as well as first-hand experiences on the remaining barriers in these services sectors in particular, to the cross-border provision of services in the EU.

The Commission also gathered views from stakeholders at several occasions on problems faced by service providers in obtaining insurance cover when providing services in another Member State on a temporary basis, in particular via two public consultations in 2013 and in 2015.

The results of all these exercises have confirmed that unjustified or disproportionate requirements still persist at national level, to the detriment of service providers and service recipients in the Single Market. In addition, they have given specific indications of what policy responses are expected from stakeholders. The majority of them supported the need to address the remaining barriers to cross-border provision of services, and to facilitate access to insurance coverage in these situations, while maintaining the EU acquis on social, employment, health and safety or the environment, and while pursuing an ambitious enforcement policy. In this respect, the Commission has adopted a comprehensive enforcement package in November 2016 to address disproportionate restrictions introduced in the field of services in nine Member States.

This initiative aimed to enhance the development of cross-border services markets was also supported by the Competitiveness Council in its Conclusions of 29 February 2016 on the Single Market Strategy¹¹ and by the European Council in its Conclusions of 28 June 2016¹². It has also been supported by the European Parliament in its report on the Single Market Strategy adopted on 26 May 2016¹³.

- **Collection and use of expertise**

The results of a mutual evaluation process with Member States in 2010-11, performance checks carried out in 2011-12 and peer review undertaken in 2012-2013 all contributed to the preparation of this proposal for a Regulation. In addition, the results of different public consultations, including the one conducted in summer 2016, have offered a solid basis of expertise.

On insurance aspects, the outcome of the public consultation launched in 2013 on difficulties faced by service providers in obtaining insurance coverage in cross-border contexts, and in December 2015 for a possible Green Paper on retail financial services, have also been taken into account. This last consultation also dealt with specific issues related to access to professional indemnity insurance in a cross-border context. In addition, regular discussions have been held with representatives of the insurance sector.

The Commission has carried out multiple workshops with stakeholders, in particular social partners, gathering expertise on difficulties encountered due to important administrative requirements across Member States. Data has also been gathered through external studies and reports. Furthermore, the Commission relied on regular exchanges at technical level in the context of its Experts Group on the Implementation of the Services Directive.

- **Impact assessment**

An impact assessment was carried out in preparation of this initiative. The resubmitted report takes into account the recommendations made by the Regulatory Scrutiny Board in its initial negative opinion of 14 October 2016¹⁴ as well as the additional points raised by the Board in its final positive opinion of 8 November 2016¹⁵. In particular, the problem description and the scope of the impact assessment have been clarified, the various policy options have been regrouped into clearly recognizable option packages and administrative cost reductions have been estimated with greater precision.

Individual policy options have been considered in the impact assessment and grouped into "packages" of policy options. The following packages of policy options have been examined:

- A first option package would allow the service provider to obtain a certificate regarding legal establishment in the home Member State and confirmation of existing insurance coverage for activities also in the home Member State;
- A second option package would allow the service provider to make use of an EU-level procedure to facilitate access to the market of another Member State, including an advanced electronic mechanism connected to IMI to facilitate compliance with formalities for posted staff which the host Member State can

¹¹ [Council Conclusions on "The Single Market Strategy for services and goods", 29 February 2016.](#)

¹² [European Council Conclusions, 28 June 2016.](#)

¹³ [European Parliament resolution of 26 May 2016 on the Single Market Strategy.](#)

¹⁴ The main recommendations of the Board in its initial opinion on the impact assessment were to strengthen the problem definition, reconsider the design and articulation of the different options and provide more information on possible costs for Member States and stakeholder views.

¹⁵ http://ec.europa.eu/smart-regulation/impact/ia_carried_out/cia_2016_en.htm

choose to make use of. In addition, it would address practical obstacles related to insurance in cross-border situations;

- A third option package would in addition to package 2 reduce regulatory disparity in a number of key business services (architectural, engineering and accounting services) through harmonisation of a limited number of requirements applicable to service providers in these three services (namely legal form restrictions, requirements laying down the percentage of shareholding that should be reserved for professionals and restrictions to the provision of multidisciplinary activities);
- A fourth option package would in addition to package 3 introduce specific solutions to address the regulatory disparities mentioned above in the case of secondary establishment (branches and agencies), exempting foreign service providers from certain requirements while allowing the host Member State to introduce alternative safeguards.

The first package would generate certain simplification effects which are however more limited compared to the other packages. While both packages 3 and 4 would have even stronger effects than package 2 given that they also address regulatory obstacles (in addition to administrative simplification), the Commission decided to go for package 2, based on the following reasoning: The removal of the most restrictive requirements covered by packages 3 and 4 through targeted enforcement action, complemented by specific recommendations tackling the whole regulatory framework applicable to the profession providing the service, appears more proportionate than a legislative proposal introducing minimum harmonisation for a limited number of requirements in a limited number of services sectors. In addition, Package 4 is discarded also because it would give rise to perceptions of introducing a solution driven by a country of origin approach under which foreign service providers are subject to their home member States legislation only, leading to a reverse discrimination of domestic service providers.

The package chosen is expected to lead to increased legal certainty and cost savings for service providers going cross-border. It is liable to generate an increase in market dynamics and competition levels, hereby increasing choice and value added for consumers.

- **Regulatory fitness and simplification**

The proposal for a regulation introducing a European services e-card will contribute to regulatory fitness regarding market access for service providers and simplification by improving the modalities by which service providers are given access to another Member State's market. This does not alter the prerogatives of host Member States under the Services Directive.

- **Fundamental rights**

This proposal promotes rights enshrined in the Charter of Fundamental Rights. More specifically, protection of personal data shall be ensured in line with Article 8 of the Charter. In addition, the main objective of this initiative is to facilitate the rights of establishment and the right to provide services in any Member State, as prescribed by Article 15(2) of the Charter, ensuring no discrimination, even indirect, is in place on grounds of nationality (further implementing Article 21(2) of the Charter). Moreover, the EU-level procedure is envisaged to put in place an impartial, fair and reasonably speedy procedure, also in regards to Commission participation, as required by Article 41 of the Charter. Finally, prohibition of abuse of rights, namely of the freedom to provide service, shall be duly considered, as prescribed by Article 54 of the Charter.

4. BUDGETARY IMPLICATIONS

The proposal is expected to have implications for the EU budget to the extent that the future European services e-card will use the Internal Market Information System ("IMI") as its operational backbone. The IMI will have to be adapted to support the European services e-card procedure and storage requirements and supplemented with some additional functions, namely a public interface for service providers, interconnections to other relevant systems, and a back-office functionality for national authorities. This is due to the fact that for the European services e-card purposes IMI will be offered as a tool for the effective exchange of information and mutual assistance between competent authorities within a certain Member State, without prejudice to other solutions put in place by Member States. The implications for the EU budget will be modest in view of the fact that using the IMI to underpin the European services e-card will provide important economies of scale and scope. In addition, the main existing IMI capabilities and those currently under development are to a large extent compliant with the requirements of the European services e-card. The adaptation and development costs will therefore be substantially reduced.

Any necessary allocations will however be met through redeployment; no budgetary impact is expected on EU budget over and beyond the appropriations already foreseen in the official financial programming of the Commission.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

An evaluation of this Regulation is foreseen for every five years after implementation of the European services e-card. This evaluation shall also include an assessment of the cooperation between coordinating authorities in Member States, and shall consider the need to adapt the procedures for the European services e-card in light of the latest developments in e-Government. Member States, service providers, social partners and other stakeholders would also be invited to evaluate the functioning of the initiative. Specific indicators allowing assessing the impacts of the Regulation such as the number of service providers using the European services e-card, their experience related to administrative burden, the speed of the procedures used or the number of information exchanges between Member States will be considered.

Given that a review of certain aspects of Directive 2014/67/EU is foreseen for June 2019, the potential of the facilities to be offered under Article 6 should be reassessed as part of that review. The review shall take account of the experience of those Member States that may have opted for the possibility foreseen in Article 6(3) of this draft Regulation to allow for formalities for the posting of workers to be carried out through the electronic platform connected to IMI.

- **Detailed explanation of the specific provisions of the proposal**

Article 1 specifies the subject matter of the proposed Regulation, which introduces the European services e-card and related administrative facilities which can be used by providers to provide services across the borders. It also clarifies that the coordination of national provisions necessary to make available such an e-card is laid down in Directive (ESC) to be adopted at the same time.

Article 2 defines the scope of the activities for which the European service e-card is available, as well as the specific activities, fields and matters which are not covered by the e-card, following the pattern of Directive 2006/123/EC.

It also states that, similarly to Directive 2006/123/EC, this Regulation does not affect the definition or organisation of services of general economic interest or the rules governed by competition law. It does also not affect cultural or linguistic diversity or media pluralism. Finally, the Regulation does not affect provisions of general criminal law, labour law, tax law or social security law.

As is the case for Directive 2006/123/EC, it is clarified that this Regulation shall not apply when it conflicts with other Union acts governing specific aspects of access to or exercise of a service activity in specific sectors or for specific sectors or specific professions.

Article 3 contains the relevant definitions for the Regulation.

Article 4 defines the essential elements of applications for the European services e-card, which should be the same throughout the EU, and confers implementing powers to the Commission to specify the standard form and technical details as well as delegated powers to further specify the type of supporting information and, under exceptional circumstances justifying their need, documents to be provided in the application.

Article 5 establishes an obligation imposed on insurance distributors and bodies appointed by a Member State to provide compulsory insurance, to deliver an insurance certificate upon request of their policyholders. It also defines the essential elements of such certificate and envisages the possibility for the Commission to define a standard form through implementing acts.

Articles 6 allows holders of a European services e-card to fulfil the formalities for secondment of staff pursuant to Directive 2005/36/EC through an electronic platform connected to IMI under the coordination of the coordinating authority in the home Member State. For posting of workers pursuant to Directive 96/71/EC and 2014/67/EC the same possibility applies in relation to those Member States that communicate to the Commission that this possibility should apply for the posting of workers in their territories. In addition, where Member States have set up procedures that allow for the declaration relating to the posting of workers pursuant to Article 9 of Directive 2014/67/EU to be completed by electronic means, the electronic platform connected to IMI shall direct the card holder to the relevant national procedures.

Article 7 allows applicants of a European services e-card to fulfil the formalities necessary for the free movement of self-employed pursuant to Directive 2005/36/EC, through an electronic platform connected to IMI, under the coordination of the coordinating authority in the home Member State. It also allows for replacing the attestations on professional qualifications required pursuant to Directive 2005/36/EC with a completed application form for a European services e-card.

Article 8 establishes that the procedures for applications, issuance, update, suspension, revocation and cancellation of European services e-cards shall be fully electronic and available through an electronic platform connected to IMI, without prejudice to the internal procedural workflow between the coordinating authorities and the competent authorities in the Member States. It also confers implementing powers to the Commission to adopt technical specifications for the abovementioned electronic procedures.

Article 9 provides for common rules concerning the form and language of documents to be submitted in the context of the procedure for the European service e-card. It also confers implementing powers to the Commission to adopt technical rules for translation of information and of documents used in the context of the procedure for the European service e-card. .

Article 10 defines principles clarifying which fees may be charged by home and host Member State, which shall not exceed the costs which Member States directly incur. It also confers on the Commission implementing powers to lay down technical rules on the payment modalities and procedures.

Article 11 establishes an obligation on insurance distributors to issue upon request of a policyholder a statement relating to third party liability claims concerning the activities of the policyholder. It also empowers the Commission to adopt implementing rules on a standard format of the statement.

Article 12 requires insurance distributors and bodies appointed by a Member State to provide compulsory insurance, to take duly into account in a non-discriminatory manner the statement of claims presented by a provider in their acceptance policy and calculation of premiums.

Article 13 requires professional organisations offering group cover related to professional indemnity insurance to their members or other specific service providers to grant access to it on non-discriminatory terms to providers from other Member States who express an interest, including to holders of a European services e-card.

Article 14 provides for a mutual obligation of exchange of information among coordinating authorities involved. Implementing powers are also conferred to the Commission to define technical details for processing such exchange of information.

Article 15 regulates the exercise of delegation by the Commission as provided for in Article 4.

Article 16 defines the Committee assisting the Commission in the adoption of implementing acts and the applicable procedure in accordance with Regulation (EU) 182/2011.

Article 17 provides for an obligation on Member States to designate the coordinating authority empowered to perform the tasks foreseen in the Regulation and the Directive setting out an operational framework for a European services e-card, communicate it to the Commission and register it in IMI.

Articles 18 and 19 impose on the Commission monitoring and review obligations on the impact of this Regulation on the freedom of establishment and freedom to provide services across Member States. It also refers to the review of the facilities offered under Article 6 as part of the review under Directive 2014/67/EU.

Article 20 provides for the amendment to Regulation (EU) No 1024/2012 on IMI in order to include the European services e-card into the scope of that Regulation.

Article 21 deals with entry into force and application. The relevant dates are adapted to the dates proposed for the Directive.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

introducing a European services e-card and related administrative facilities

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹⁶,

Having regard to the opinion of the Committee of the Regions¹⁷,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The Treaty on the Functioning of the European Union (TFEU) guarantees service providers the freedom of establishment in Member States and the freedom to provide services across Member States.
- (2) Directive 2006/123/EC of the European Parliament and of the Council¹⁸ establishes general provisions facilitating the exercise of the freedom of establishment of service providers and the free movement of services. It provides inter alia that Member States should provide for administrative simplification, such as making use of Points of Single Contact, as well as accepting equivalent professional indemnity insurance that service providers already hold in their home Member State.
- (3) Directive 2006/123/EC requires Member States to put in place and keep constantly updated Points of Single Contacts where a service provider wishing to establish or to provide services can find all relevant information about requirements to be complied with and e-procedures in respect of all formalities, authorisations and notifications to go through. However, costly information challenges and difficulties complying with national procedures at a distance remain to date for service providers, namely for sector-related requirements. Cooperation between the administrations of different Member States should in principle take place via the Internal Market Information System (IMI), an IT-platform offered for cross-border exchange of information and mutual assistance between authorities in different Member States under that Directive.

¹⁶ OJ C , , p. .

¹⁷ OJ C , , p. .

¹⁸ Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ L 376, 27.12.2006, p. 36).

Despite the fact that authorities sometimes have doubts with regard to the legal establishment of a provider in another Member State, the possibilities for cooperation currently provided in IMI are not exploited to their full potential.

- (4) Requirements remain in place which make expansion of service providers' operations across the internal market burdensome and unappealing, such as multiple and disparate authorisation schemes before different authorities and, which, regarding establishment, fail to achieve mutual recognition of conditions previously complied with in other Member States or, regarding temporary cross-border provision of services apply disproportionate or unjustified restrictions. As a consequence, service providers face multiple and disproportionate compliance costs when going cross-border.
- (5) Formalities associated with authorisations and notifications often require paper forms to be filled in and paper documents to be submitted, to be translated at significant cost, which must even comply with particular form requirements such as certification or authentication. Information regarding these obstacles is either not available online or is scarce, incomplete, dispersed and difficult to interpret in relation to the particular circumstances of a provider expanding across borders, as they often target purely domestic situations. Service providers often risk resubmitting information and documents and undergoing duplication of controls with different authorities in the same Member State. Significant translation costs work also as an important disincentive for companies to take the first steps when going cross-border.
- (6) Cross-border trade and cross-border investment in certain business and construction services are particularly low showing a potential for better integration of services markets with significant negative repercussions for the remaining part of the economy. This underperformance leads to situations where the potential for more growth and jobs in the Single Market has not been fully exploited.
- (7) Addressing remaining obstacles to more cross-border activities in services will help to strengthen competition, resulting in more choice and better prices for consumers as well as more competitive services sectors creating new jobs, promoting productivity and ensuring a more attractive climate for investment and innovation.
- (8) This Regulation aims to facilitate the freedom of establishment and the free movement of services within the single market in areas already covered by Directive 2006/123/EC through the adoption of further measures on approximation of provisions which have as their object the establishment and functioning of the internal market. It should be based on Article 114 of the TFUE.
- (9) In view of this, the present Regulation introduces a European services e-card which should facilitate certain service providers to expand service provision across internal market borders, either in the form of temporary provision of services or via secondary establishment through branches, agencies or offices.
- (10) In so doing, this Regulation specifically targets business and construction service sectors included in scope of Directive ...[ESC Directive]... which face some of the most stringent regulatory and administrative barriers to cross-border expansion and consequently have an unexploited potential for internal market integration.
- (11) All matters, activities and fields excluded from the scope of Directive 2006/123/EC should remain excluded from the scope of this Regulation. In particular, this Regulation does not affect matters, activities and fields such as those deriving from taxation, social security and labour law, including any legal or contractual provision concerning employment conditions, working conditions, including health and safety at

work and the relationship between employers and workers. Equally this Regulation does not affect the social security legislation of the Member States. This Regulation is also without prejudice to any provision stemming from competition law as well as any rule on the applicable law or jurisdiction pursuant to private international law.

- (12) For reasons of coherence, possible conflicts between the present Regulation and other EU acts governing specific aspects of access or exercise of a service activity in a specific sector should be solved as provided for in Article 3 of Directive 2006/123/EC for conflicts between that Directive and such acts, with the application of those other acts. As a result, the provisions in the present Regulation cannot be relied upon in order to justify prior authorisation schemes, prior notification schemes or establishment requirements which are prohibited by other EU acts governing specific aspects of access or exercise of a service activity in a specific sector such as Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000¹⁹. As a further result, this Regulation does in no way affect the obligations service providers should respect in accordance with Directive 96/71/EC of the European Parliament and of the Council²⁰ and Directive 2014/67/EU of the European Parliament and of the Council²¹.
- (13) A European services e-card should be introduced as a voluntary alternative to service providers. Service providers should continue to enjoy the possibility of demonstrating compliance with applicable requirements when expanding operations across borders in the context of other authorisations and notifications introduced under the national law of the Member States concerned. A service provider should always be able to choose not to apply for a European services e-card.
- (14) The European services e-card should be fully electronic, rely almost exclusively on data provided by reliable sources, limit the use of documents to the minimum necessary and allow for multilingual processing to avoid translation costs. In order to make the procedure fully electronic and allow for administrative cooperation between home and host Member States. The Internal Market Information system set up by Regulation (EU) No 1024/2012 of the European Parliament and of the Council²² should be used under this Regulation. A specific electronic platform should be developed for the purpose of issuing, updating, suspending, revoking or cancelling European services e-cards, as well as to make valid European services e-cards electronically available to their holders and to competent authorities.
- (15) In order to submit an application for a European services e-card, a harmonised multilingual form should be made available ensuring that the elements necessary for identification of the provider and of the services for which the e-card is requested, as well as for the assessment of specific requirements applicable to the services at stake,

¹⁹ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce in the internal market (OJ L178, 17.7.2000, p. 1)

²⁰ Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (OJ L 18, 21.1.1997, p. 1)

²¹ Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System (‘the IMI Regulation’) (OJ L 159, 28.5.2014, p. 11)

²² Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC (‘the IMI Regulation’) (OJ L 316, 14.11.2012, p. 1)

such as those regarding proof of its establishment in the home Member State, good repute or insurance coverage, are included and thus made available to coordinating authorities in both home and host Member States.

- (16) The power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to specify the details of the information to be contained in the standard application form and the documents to be included in the application as supporting evidence. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (17) During the implementation of this Regulation, Member States should inform and update the Commission of procedures imposed under national law on incoming cross-border providers wishing to provide services temporarily or through a branch, agency or office, including the information and documents to which those procedures pertain, to allow for the preparation of application forms. In order to ensure uniform implementation concerning the necessary information to be provided for the application of the European service e-card, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council²³.
- (18) Description of the terms of coverage of a mandatory or voluntary insurance included in written contracts might be difficult to find. Insurance distributors, as well as bodies appointed by a Member State to provide compulsory insurance, should therefore provide a description of the core elements of coverage to their client in the format of an insurance certificate. This certificate should be annexed to the application form. In order to ensure uniform implementation of this part of the Regulation, implementing powers should be conferred on the Commission to adopt a harmonised format for the certificates. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.
- (19) Holders of a European services e-card may want to second staff into the territory of the host Member State. When doing so, service providers may be subject to requirements, such as prior declarations addressed to the host Member State, necessary for the protection of posted workers. The European Services e-card will in no way affect the content of such declarations and the responsibilities by the host Member State in that regard.
- (20) An electronic platform connected to IMI, to be developed by the Commission, should be made available to European services e-card holders to facilitate compliance with those formalities which, as the case may be, need to be completed with the host Member State. These formalities concern in particular the possible obligation of declarations in advance of professional qualifications of workers that should be carried

²³ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13)

out in accordance with Directive 2005/36/EC of the European Parliament and of the Council²⁴.

- (21) As regards the prior declaration that may be required under Article 9 of Directive 2014/67/EU of the European Parliament and of the Council²⁵, the electronic platform connected to IMI should direct holders of a European services e-card to electronic national procedures put in place in the host Member State where the workers will be posted, wherever such national procedures allow for the electronic submission of the above-mentioned prior declaration.
- (22) The electronic platform connected to IMI should be made available by the Commission to those Member States that have previously communicated to the Commission their intention to make use of this possibility. Where Member States decide to allow for the use of IMI for the sending of the prior declaration in relation to workers posted in their territory, holders of a European services e-card shall be able to submit a declaration as referred to in Article 9 of Directive 2014/67/EU directly to the competent authority in the host Member State as defined in Article 2(a) of Directive 2014/67/EU, through the electronic platform connected to IMI. To that end, a host Member State should provide all the elements required in accordance with point a) of paragraph 1 and paragraph 2 of Article 9 of Directive 2014/67/EU as the basis for a multi-lingual form to be submitted for the declaration of posted workers on its territory. The Commission should publish this form in the Official Journal and make it available in the electronic platform connected to IMI. The relevant information with regard to the elements required should be available for the host Member State concerned in full compliance with the language requirements set out in Article 9(1)(a) of Directive 2014/67/EU. The experience of these Member States with the use of the electronic platform connected to IMI should be part of the assessment foreseen in the second subparagraph of Article 19 of this Regulation.
- (23) In order to ensure uniform implementation of this Regulation in relation to procedures to issue and update of a European services e-card, as well for formalities regarding secondment of staff and movement of self-employed other than the one referred to in the preceding recital, implementing powers should be conferred on the Commission to adopt rules on electronic processing of those procedures. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.
- (24) Domestic administrative procedures supporting the procedures governed by this Regulation should be electronic if the Member States in question so decide. Member States could however make use of the Internal Market Information system set up by Regulation (EU) No 1024/2012 for domestic purposes of administrative cooperation.
- (25) Procedures for issuing, updating, suspending or revoking a European services e-card should make use of documents only in exceptional circumstances, when more detailed information is absolutely essential. In any case, all of such documents should be used and accepted in simple form.

²⁴ Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005, on the recognition of professional qualifications (OJ L255, 30.9.2005)

²⁵ Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation') (OJ L 159, 28.5.2014, p. 11)

- (26) EU law may allow, in the context of formalities for secondment of staff as regulated professionals or movement of self-employed in relation to control of professional qualifications, for documents to be submitted in special form, for example as certified or authenticated documents. Such certification and authentication, once performed in the Member State of original issue of the document in question, should be accepted throughout the EU.
- (27) Certified translation of documents should not be required under this Regulation. The electronic platforms dealing with procedures should provide for a technical solution to translate their content. In order to ensure uniform implementation of this part of the Regulation implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council. Rules on translation of documents in the context of posting of workers and application for attestations regarding their social security contributions should not be covered by this Regulation.
- (28) Member States are entitled to charge fees only to the extent of the specific costs borne to carry out the procedure. Costs borne already by the budget of the Union should not give rise to fees charged by Member States. Member States should communicate their fees charged to the Commission through IMI and publish such information. Given that IMI is in essence offering all necessary facilities, Member States should, inter alia, not charge fees to update, suspend, revoke or cancel a European services e-card. In order to ensure uniform implementation of the provisions on the payment of fees, implementing powers should be conferred on the Commission to adopt rules on payment modalities and processing. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.
- (29) This Regulation builds on enhanced administrative cooperation between home and host Member States, which should include exchanges of information and use of interconnected national registers to obtain or verify previously obtained information such as registers required under Directive 2009/101/EC of the European Parliament and of the Council²⁶ or under Regulation (EU) 2015/848 of the European Parliament and of the Council²⁷. In order to ensure uniform implementation of the handling and processing of exchanges of information and mutual assistance implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.
- (30) Service providers obliged to acquire professional liability insurance in Member States where they have not been active often have difficulty demonstrating their claims history regarding cover obtained elsewhere. Claims histories are an essential element to insurance distributors in ascertaining and assessing the risk profile of a potential client. Demonstration is difficult due to poor communication between insurance distributors across internal market borders but also to disparities in describing the track-record of an insured party, even within the same Member State. Insurance distributors and bodies appointed by a Member State to provide compulsory insurance

²⁶ Directive 2009/101/EC of the European Parliament and the Council of 16 September 2009 on coordination of safeguards which, for the protection of the interests of members and third parties, are required by Member States of companies within the meaning of the second paragraph of Article 48 of the Treaty, with a view to making such safeguards equivalent (OJ L 258, 1.10.2009, p. 11)

²⁷ Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (OJ L 141, 5.6.2015, p.19)

cover should therefore be obliged to issue a statement relating to the third party liability claims which can then be used across borders and even domestically, should a service provider change insurance distributor.

- (31) In order to ensure uniform implementation of this Regulation in relation to the presentation of the description of liabilities, implementing powers to adopt rules on the standardised presentation format of that statement should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.
- (32) A statement relating to claims history should be instrumental in allowing insurance distributors and bodies appointed by a Member State to provide compulsory indemnity insurance to ban discriminatory practices towards cross-border providers of which information is more scarce and difficult to obtain. The same non-discrimination principle should apply to professional organisations who offer group cover to their members or other service providers.
- (33) A single coordinating authority should be designated by each Member State to carry out the tasks provided for in this Regulation, without prejudice to the competences set out in applicable national legislation. Such authorities should be registered as a competent authority in the Internal Market Information system for the purposes of Regulation (EU) 1024/2012 and communicated to the Commission.
- (34) The application of this Regulation should be monitored and assessed in order to determine its impact on the costs of expanding operations cross-border, increased transparency about cross-border providers, competition, prices and quality of the services provided. The effects of this Regulation and the practical functioning of the cooperation between coordinating authorities should be evaluated regularly. This monitoring will happen in cooperation with Member States, social partners and other relevant stakeholders.
- (35) In order to adapt the functioning of IMI to the tasks conferred by this Regulation, Regulation (EU) No 1024/2012 should be amended accordingly.
- (36) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States in view of the risk of complexity and inconsistency of regulatory approaches of certain services across Member States but can rather, by reason of enhanced administrative coordination and harmonisation across the Union, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (37) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular, this Regulation, through the introduction of the European services e-card and related administrative facilities and procedures, seeks to promote the rights of establishment and the right to provide services in any Member State, preventing any discrimination on grounds of nationality and ensuring impartial, fair and reasonably speed procedure, in accordance with Articles 15, 21 and 41 of the Charter of Fundamental Rights of the European Union, while ensuring full respect of the protection of personal data, including in accordance with Regulation (EC) No 45/2001

of the European Parliament and of the Council²⁸, and giving due consideration to the risk of abuse of rights provided for respectively in Articles 8 and 54 of that Charter.

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation introduces a European services e-card and related administrative facilities, which shall be made available throughout the European Union to providers of services willing to avail themselves of that e-card.

In order to make available such a European services e-card to take up and pursue activities as a service provider, the necessary coordination of provisions laid down by law, regulation or administrative action in a Member State is laid down in Directive[ESC Directive]....

Article 2

Scope

1. This Regulation applies to the services listed in the Annex of Directive [ESC Directive].
2. This Regulation does not affect the matters mentioned in Article 1(2) to (7) of Directive 2006/123/EC.

It shall not apply to the activities and fields mentioned in Article 2(2) and (3) of Directive 2006/123/EC.

3. If the provisions of this Regulation conflict with the provision of another Union act governing specific aspects of access to or exercise of a service activity in specific sectors or for specific professions, the provision of the other Union act shall prevail and shall apply to those specific sectors or professions.

This Regulation, in particular its Chapter III, shall be without prejudice to the rights of workers, the obligations of service providers and related controls in Member States laid down in Directives 96/71/EC and 2014/67/EU.

Article 3

Definitions

For the purposes of this Regulation the following definitions shall apply:

1. "information on the good repute of a provider" means information as referred to in Article 33 (1) of Directive 2006/123/EC;

²⁸ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1)

2. "electronic document" means an electronic document as defined in Article 3(35) of Regulation (EU) 910/2014 of the European Parliament and of the Council²⁹;
3. "IMI" means the Internal Market Information System established by Regulation (EC) 1024/2012;
4. "public document" means any document issued by the authorities of a Member State in accordance with its national law relating to issues relevant for procedures governed by this Regulation as follows:
 - (a) documents emanating from an authority or an official connected with the courts or tribunals of a Member State, including those emanating from a public prosecutor, a clerk of a court or a judicial officer ('huissier de justice');
 - (b) administrative documents;
 - (c) notarial acts;
 - (d) official certificates which are placed on documents signed by persons in their private capacity, such as official certificates recording the registration of a document or the fact that it was in existence on a certain date and official and notarial authentications of signatures;
 - (e) documents drawn up by the diplomatic or consular agents of a Member State acting in the territory of any State in their official capacity, where such documents have to be presented in the territory of another Member State or to the diplomatic or consular agents of another Member State acting in the territory of a third State.
5. "legalisation" means the formality for certifying the authenticity of a public office holder's signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which it bears;
6. "apostille formality" means the formality that may be required in order to certify the authenticity of the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which it bears issued by the competent authority of the State from which the document emanates provided for by the Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents (Apostille Convention);
7. "certified copy" means a copy of an original document which is signed and attested to be an accurate and complete reproduction of that original document by an authority, empowered to do so under national law;
8. "certified translation" means a translation carried out by a person qualified to do so under the law of a Member State;
9. "professional liability insurance" means professional liability insurance as defined in the last indent of Article 23(5) of Directive 2006/123/EC.
10. "service" shall mean a service as defined in Article 4(1) of Directive 2006/123/EC;
11. "provider" shall mean a provider as defined in Article 4(2) of Directive 2006/123/EC;

²⁹ Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73)

12. "Member State of establishment" means a Member State of establishment as defined in Article 4(4) of Directive 2006/123/EC;
13. "establishment" means establishment as defined in Article 4(5) of Directive 2006/123/EC;
14. "home Member State" means the Member State to which a provider addressed the application for a European services e-card;
15. "host Member State" means the Member State in which a provider declared the intention to provide services making use of a European services e-card;
16. "requirement" means a requirement as defined in Article 4(7) of Directive 2006/123/EC ;
17. "coordinating authority" means an authority designated in accordance with Article 17;
18. "competent authority" means any of the following:
 - (i) a competent authority as defined in Article 4 point 9 of Directive 2006/123/EC;
 - (ii) a competent authority as defined in Article 3(1)(d) of Directive 2005/36/EC;
 - (iii) any authority or body in charge of central, commercial or company register in a Member State;
 - (iv) any tax authority in a Member State;
19. "insurance distributor" means insurance distributor as defined in point (8) of Article 2(1) of Directive (EU) 2016/97 of the European Parliament and of the Council³⁰,

CHAPTER II

PROCEDURE TO ISSUE A EUROPEAN SERVICES E-CARD

Article 4

Application for a European services e-card

1. Providers may choose to apply for a European services e-card.

Any applications for a European services e-card shall be submitted in an electronic platform connected to IMI using a multilingual standard form.

The standard form shall consist of the following elements:

 - (a) identification of the provider, including, where applicable, registration numbers in central, commercial or company registers and for tax and social security purposes;
 - (b) identification of the service activity, the host Member State, the type of European services e-card envisaged;
 - (c) indication whether provision of information society services are envisaged;

³⁰ Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (recast) (OJ L 26, 2.2.2016, p. 19)

(d) information pertaining to establishment of the provider in the home Member State in relation to the service activity identified in accordance with (b), including the date of initial establishment and identification of other Member States of establishment;

(e) requirements to which the applicant is subject for the provision of the service in its home Member State, such as qualifications or certifications;

(f) information on the good repute of the provider;

(g) information on any existing professional indemnity insurance of the provider in relation to professional liability in the territory of the home Member State, including information on the cover for activities carried out in the territory of other Member States, as appropriate;

(h) a reference to previously issued European services e-cards for the same provider and service activity as identified in accordance with (a) and (b).

2. The Commission shall specify how the information referred to in points (a) to (h) above is to be presented in the standard form and lay down the technical details of the standard form throughout the European Union, by way of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16(2).

The application shall include all the necessary supporting documents, uploaded by the applicant into the electronic platform where the standard form for application is made available.

3. The Commission is empowered to adopt delegated acts in accordance with Article 15 in order to further specify:

a) details of the information elements of the standard form listed to in letters paragraph 1, points (a) to (h), which shall be contained in the standard form;

b) further documents or categories of documents that are exceptionally required to be included as supporting evidence.;

4. Member States shall provide to the Commission with all information on the procedural steps related to requirements imposed on providers for the provision of services through a branch, agency or office and for temporary cross-border provision of service activities falling under Directive ...[ESC Directive]....., necessary for the development of the standard application forms, describing the information and documents the presentation of which is required under national law of the provider in relation to all applicable requirements, through IMI by [9 months after entry into force of this Regulation] to the extent that the information was not contained in the notification of the requirement itself already submitted under Articles 15(7) and 39(5) of Directive 2006/123/EC.

5. Member States shall communicate via IMI to the Commission changes to the information previously communicated to the Commission in accordance with paragraph 4 prior to entry into force of the legislation in question.

Article 5
Insurance certificate

1. Where information on insurance cover is entered into the standard form, in accordance with point (g) of the third subparagraph of Article 4(1), a corresponding insurance certificate shall be attached to the application form.

The insurance distributor or the body appointed by a Member State to provide compulsory insurance shall provide the certificate to the applicant upon request.

The insurance certificate shall contain information about the existence of professional liability insurance for the services concerned, including the territorial scope of such cover in other Member States, the insured risks, the duration, the insured sums per claim and for all claims in a year, and possible exclusions.

2. The Commission may adopt a harmonised format for the insurance certificate as referred to in the second subparagraph of paragraph 1 by means of an implementing act.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16(2).

CHAPTER III
FORMALITIES FOR SECONDMENT OF STAFF
AND MOVEMENT OF SELF-EMPLOYED

Article 6
Formalities for seconded staff

1. Providers who hold a European services e-card may submit a declaration in advance as referred to in Article 7 of Directive 2005/36/EC in relation to the professional qualifications of the staff they intend to second to the host Member State, in connection with the service activity for which the e-card applies, to the competent authority in the host Member State as defined in point (ii) of Article 3(18) of this Regulation, through an electronic platform connected to IMI.

The preceding subparagraph shall not apply to declarations in advance in relation to professional qualifications of regulated professions:

(i) with public health and safety implications which do not benefit from automatic recognition under Chapters II, III or IIIA of Title III of Directive 2005/36/EC;

(ii) for which a European Professional card has been introduced, in accordance with Directive 2005/36/EC.

The declaration in relation to the professional qualifications of seconded staff shall be submitted as a multilingual form and supporting documents as required by paragraphs (1) and (2) of Article 7 of Directive 2005/36/EC

A declaration communicated in accordance with this paragraph shall constitute a declaration as referred to in Article 7 of Directive 2005/36/EC.

2. Providers who hold a European services e-card and intend to post workers in connection with the service activity in question to a host Member State shall submit any declaration pursuant to Article 9 of Directive 2014/67/EU following the procedures established by Member States to that effect.

Where Member States have set up procedures that allow for the declaration relating to the posting of workers pursuant to Article 9 of Directive 2014/67/EU to be completed by electronic means, the electronic platform connected to IMI referred to in paragraph 1 shall direct the card holder to the relevant national procedures.

3. Providers who hold a European services e-card may also submit a declaration pursuant to Article 9 of Directive 2014/67/EU, relating to the workers that they intend to post to the host Member State in connection with the service activity for which the card applies, to the competent authority in the host Member State as defined in Article 2(a) of Directive 2014/67/EU through the electronic platform connected to IMI referred to in paragraph 1 where a host Member State has communicated to the Commission that this possibility should apply for the posting of workers in its territory.

To make use of the possibility provided for in the first subparagraph, a host Member State shall provide all the elements required in accordance with point a) of paragraph 1 and paragraph 2 of Article 9 of Directive 2014/67/EU as the basis for a multilingual form to be submitted for the declaration of posted workers on its territory. The Commission shall publish this form in the Official Journal and make it available in the electronic platform connected to the IMI. The relevant information with regard to the elements required shall be available for the host Member State concerned in full compliance with the language requirements set out in Article 9(1)(a) of Directive 2014/67/EU.

A declaration communicated in accordance with the first and second subparagraph shall constitute a valid declaration for the purpose of point a) of paragraph 1 and of paragraph 2 of Article 9 of Directive 2014/67/EU, without prejudice to other administrative requirements or control measures imposed by the host Member State in accordance with Article 9 of that Directive.

A host Member State may notify the Commission that it does no longer wish to apply the possibility provided for in the first subparagraph.

4. The Commission is empowered to adopt technical rules by means of implementing acts concerning the design of the multilingual form referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 16(2).

Article 7

Formalities for movement of self-employed

1. Providers who are natural persons and apply for a European services e-card may submit a declaration in advance in relation to their own professional qualifications in an electronic platform connected to IMI under the same conditions as prescribed by paragraph 1 of Article 6 in relation to their workers.

Regarding declarations in advance in relation to the professional qualifications of the provider, the attestations referred to in points b) and d) of Article 7(2) of Directive 2005/36/EC shall be replaced by the completed application form for a European services e-card, communicated to the host Member State in accordance with Article 11 of Directive [ESC Directive]....., proving establishment of the provider.

2. A declaration communicated in accordance with paragraph 1 shall constitute the declaration in advance under Article 7 of Directive 2005/36/EC.

3. The Commission may adopt technical rules by means of implementing acts concerning the design of the multilingual form referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 16(2).

CHAPTER IV

GENERAL PROVISIONS ON THE PROCEDURES OF THE EUROPEAN SERVICES E-CARD

Article 8

Electronic procedures

1. Providers shall have the right to fully electronic handling and processing of the procedures for the application, issue and update of a European services e-card as well as to fully electronic formalities in accordance with Articles 6(1), 6(3) and 7.

Those electronic procedures and formalities shall be made available by the Commission in an electronic platform connected to IMI.

Member States shall determine whether the procedural workflows between their coordinating authorities and their competent authorities involved in the European services e-card procedures and formalities for secondment of staff and movement of self-employed in accordance with Articles 6 and 7 shall be electronic or not.

2. The Commission shall adopt technical specifications for the electronic handling and processing of the procedures referred to in paragraph 1 by means of implementing acts, including measures to ensure the integrity, confidentiality and accuracy of the information, as well as the conditions and the procedures for the holder of a European services e-card to download such information, to allow third parties to access such information and for those third parties to verify that same information.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16(2).

3. The coordinating authorities of Member States shall inform the public about the functioning and the value added of the European services e-card and the formalities for secondment of staff and movement of self-employed in accordance with Articles 6(1) and 7.

Article 9

Form of documents and translation

1. In the context of procedures to issue, update, suspend or revoke a European services e-card competent authorities of Member States shall accept documents in a simple copy form and shall not request that documents submitted to them are subject to legalisation, apostille formalities, certification or authentication.
2. In so far as a special form of documents used for the purposes of formalities for secondment of staff and movement of self-employed in accordance with Articles 6 (1) and 7, is required, in accordance with EU Law, competent authorities of Member States as defined in point (ii) of Article 3(19) shall accept:

(a) public documents, certified documents and their certified copies exempt from the apostille formality and from all forms of legalisation;

(b) documents certified or authenticated in the Member State of original issue, in accordance with its laws, regulations or administrative provisions or practice, as certified or authenticated;

(c) certified copies made in any Member State, in accordance with the laws of the Member State where certification was performed.

3. A certified translation shall not be requested for documents used in the context of procedures to issue, update, suspend or revoke a European services e-card or in the context of formalities for secondment of staff and movement of self-employed in accordance with Articles 6 (1) and 7. This shall not affect the right of Member States to require non-certified translations of documents in one of their official languages, in accordance with EU law.
4. The Commission shall adopt technical rules for automatic translation of information and documents in the context of procedures to issue, update, suspend or revoke a European services e-card or in the context of formalities for secondment of staff and movement of self-employed in accordance with Articles 6(1) and 7 by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination referred to in Article 16(2).

Article 10

Fees for issuing a European services e-card and regarding formalities for secondment of staff and movement of self-employed

1. Any fees charged in the context of a procedure to issue a European services e-card shall be reasonable and proportionate and shall not exceed the cost directly ensuing from the specific work related to the procedure.

Providers shall have the right to be reimbursed of fees paid in advance to either home or host Member State in relation to applications that have not been examined, verified and completed by Member States in accordance with Article 11(1) of Directive[ESC Directive].....

No fees shall be charged regarding:

- (a) the procedures to update, suspend, revoke or cancel a European services e-card;
- (b) the provision of additional information by the e-card holder in accordance with Article 17(4) of...[Directive];
- (c) formalities introduced in accordance with Articles 6 (1) and 7 for secondment of staff and movement of self-employed.

2. Member States shall communicate the fees and payment modalities introduced under this Article to the Commission through IMI by [2 years after entry into force of this Regulation] at the latest and shall publish this information appropriately.

3. The Commission shall adopt technical rules regarding payment modalities and processing by means of implementing acts.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16(2).

CHAPTER V

PROFESSIONAL LIABILITY INSURANCE

Article 11

Statement relating to third party liability claims

1. An insurance distributor shall issue, within 15 days of receiving a request to this effect from the policyholder, a statement concerning the third party liability claims related to his activities covered by the contract of professional liability insurance, during the preceding years of the contractual relationship up to a maximum of 5 years, or to the absence of such claims, describing the liabilities arising from provision of the services in question which were the object of a claim.
2. The Commission may adopt rules on the standardised presentation format of the statement referred to in paragraph 1 by means of implementing acts.
Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16(2).

Article 12

Obligations for insurance distributors

Insurance distributors and bodies appointed by a Member State to provide compulsory insurance shall duly take into account in the acceptance policy and in the calculation of premiums, in a non-discriminatory manner, the experience of the provider as reflected in the claims statement issued in accordance with Article 11, as presented by the provider.

Article 13

Obligations for professional organisations

Professional organisations, including competent authorities as defined in points (i) and (ii) of Article 3(18), which offer group cover related to professional liability insurance to their members or to providers of services under specific conditions, shall ensure access to such cover, under the same conditions in a non-discriminatory manner, to providers of services from other Member States which express an interest in benefiting from such group cover.

CHAPTER VI

FINAL PROVISIONS

Article 14

Exchange of information and mutual assistance

1. Coordinating authorities and competent authorities in different Member States shall exchange information and give each other mutual assistance in the context of a procedure to issue suspend, revoke or cancel a European services e-card as well as in the update of the information contained therein. This obligation shall also apply in the context of formalities in accordance with Articles 6 (1) and 7 for secondment of staff and movement of self-employed, in relation to competent authorities as defined in point (ii) of Article 3(19).
2. Coordinating authorities and competent authorities shall make use of all available interconnections of national registers with a view to obtaining or verifying previously obtained information in the context of the procedures referred to in the preceding

paragraph 1, including the interconnection of central, commercial and company registers under Directive 2009/101/EC and of insolvency registers under Regulation (EU) 2015/848.

3. The Commission shall adopt technical rules for the handling and processing of exchanges of information and mutual assistance referred to in paragraphs 1 and 3 by means of implementing acts. This shall be without prejudice to the functioning of the interconnection systems referred to in paragraph 2 of this Article and their respective technical specifications.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16(2).

Article 15

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 4(3), shall be conferred on the Commission for a period of five years from [...]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Article 4(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 4(3) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 16

Committee procedure

1. The Commission shall be assisted by the Committee referred to in Article 40(1) of Directive 2006/123/EC. That Committee shall be a committee within the meaning of Regulation (EU) 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) 182/2011 shall apply.

Article 17

Designation and role of coordinating authorities

1. For the purposes of this Regulation, each Member State shall designate one coordinating authority, empowered to perform the tasks assigned to them in accordance with this Regulation.
2. Member States shall communicate the identity of the coordinating authorities designated in accordance with paragraph 1 to the Commission by [9 months after entry into force of this Regulation] at the latest and register it in IMI in accordance with Article 5(f) of Regulation (EU) 1024/2012.
3. This Article shall not call into question the allocation of the competences, at local or regional level, of the Member States.

Article 18

Monitoring of implementation

The Commission, with Member States, social partners and other relevant stakeholders, will establish monitoring arrangements to monitor the implementation and the impacts of this Regulation, in particular its impacts on the freedom of establishment and freedom to provide services across Member States for the services covered, with regard to costs for providers of expanding operations cross-border, enhancing transparency about cross-border providers, increasing competition and how it impacts prices and quality of those services concerned, considering relevant indicators.

Article 19

Review clause

By 60 months after entry into force of this Regulation and at the latest every five years thereafter, the Commission shall carry out an evaluation of this Regulation and submit to the European Parliament and the Council a report on its performance, including an analysis of the impact on administrative burden incurred upon by service providers active across borders. This report shall also include an assessment of any practical experience relevant to cooperation between coordinating authorities. This report shall contain an assessment of the appropriateness of introducing a European services e-card for other service activities. It shall contain an evaluation of Directive[ESC Directive]...in line with its Article 21.

The Commission shall, as part of the report provided for in paragraph 1 of Article 24 of Directive 2014/67/EU, assess whether and to what extent the electronic platform connected to IMI referred to in Article 6 of this Regulation could facilitate compliance with formalities necessary for the posting of workers pursuant to Article 9 of Directive 2014/67/EU. That assessment shall take account of the experience of Member States that may have opted for making use of the electronic platform connected to IMI pursuant to paragraph 3 of Article 6 of this Regulation.

Article 20

Amendment to Regulation (EU) No 1024/2012

In the Annex to Regulation (EU) No 1024/2012 the following point is added:

"9. Regulation (EU) of the European Parliament and of the Council of introducing a European services e-card and related administrative facilities."

Article 21
Entry into force

This Regulation shall enter into force on the [twentieth] day following that of its publication in the *Official Journal of the European Union*.

Article 4(1) to (3), Article 5(1), Article 6(1), (2), (3) and (4) , Article 7(1) and (2), Article 8(1), Article 9(1), (2) and (3), Article 10(1) and Article 14(1), (2) and (3) shall apply from [two years after entry into force] of this Regulation.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

- 1.1. Title of the proposal/initiative
- 1.2. Policy area(s) concerned in the ABM/ABB structure
- 1.3. Nature of the proposal/initiative
- 1.4. Objective(s)
- 1.5. Grounds for the proposal/initiative
- 1.6. Duration and financial impact
- 1.7. Management mode(s) planned

2. MANAGEMENT MEASURES

- 2.1. Monitoring and reporting rules
- 2.2. Management and control system
- 2.3. Measures to prevent fraud and irregularities

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

- 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected
- 3.2. Estimated impact on expenditure
 - 3.2.1. *Summary of estimated impact on expenditure*
 - 3.2.2. *Estimated impact on operational appropriations*
 - 3.2.3. *Estimated impact on appropriations of an administrative nature*
 - 3.2.4. *Compatibility with the current multiannual financial framework*
 - 3.2.5. *Third-party contributions*
- 3.3. Estimated impact on revenue

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Regulation of the European Parliament and of the Council introducing a European services e-card and related administrative facilities

1.2. Policy area(s) concerned in the ABM/ABB structure³¹

Title 02: Internal market, industry, entrepreneurship and SMEs

Activity 02 03: Internal market for goods and services

1.3. Nature of the proposal/initiative

The proposal/initiative relates to a **new action announced under the Single Market Strategy**

The proposal/initiative relates to a **new action following a pilot project/preparatory action**³²

The proposal/initiative relates to **the extension of an existing action**

The proposal/initiative relates to **an action redirected towards a new action**

1.4. Objective(s)

1.4.1. *The Commission's multiannual strategic objective(s) targeted by the proposal/initiative*

DG GROW Strategic Plan for 2016-2020 identifies a deeper and fairer internal market with a strengthened industrial base as a Commission priority. In its Communication on Single Market Strategy "Upgrading the Single Market: more opportunities for people and business" (COM(2015) 550 final), the Commission announced legislative initiatives aimed at removing barriers in the services market.

In that context, the Single Market Strategy proposed the launch of a European services e-card ("services passport") to increase certainty and reduce barriers for service providers who want to access other EU markets in order to expand their activities. This announcement has been welcomed by the European Council in its June 2016 conclusions.

The general objectives of this initiative are to enhance market integration in business services and construction and improve productivity growth in both sectors.

1.4.2. *Specific objective(s) and ABM/ABB activity(ies) concerned*

Specific objectives

Specific objectives of this proposal are to:

- make it easier and less costly for companies to provide services in other Member States,

³¹ ABM: activity-based management; ABB: activity-based budgeting.

³² As referred to in Article 54(2)(a) or (b) of the Financial Regulation.

- enable more confidence in the market towards foreign service providers by increasing transparency and available information;
- enable increased market dynamics and competition leading to more choice and value added for consumers.

In order to achieve these objectives, we envisage the following activities:

1. reduce the administrative burden through an EU-level procedure with a public interface allowing service providers to complete formalities online;
2. connect the home Member State and the host Member State via an IT-platform at the European level. To this end, the IMI system will serve as a back-office functionality for national authorities. It should be further developed to support the functioning of the European Services e-card.

ABM/ABB activity(ies) concerned

Chapter 02 03: Internal market for goods and services

1.4.3. *Expected result(s) and impact*

Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.

The proposal building on the directive having introduced the European Services e-card will provide for:

1. A reduction in administrative burden for service providers that want to provide services in other Member States given that they would be able to use a simplified electronic procedure to complete formalities and enjoy transparency with respect to the processing of requests. This will allow them to save time and costs when going providing services cross-border or setting up a secondary establishment;
2. Reduction of the administrative burden for national authorities, including facilitating increased cooperation between different Member States;
3. Cost savings by building on an existing IT tool (the Internal Market Information system – called IMI thereafter) in new areas so as to benefit from economies of scale and of scope (instead of developing a new single-purpose tool). Competent authorities are already registered with IMI.

1.4.4. *Indicators of results and impact*

Specify the indicators for monitoring implementation of the proposal/initiative.

The proposal will contribute to a more effective implementation of the Services Directive, notably for business and construction services.

Its direct impact could be measured using the following indicators:

- The number of service providers that would use the European services e-card (and accompanying formalities for secondment of staff or movement of self-employed);
- Experience of service providers on ease of completing the electronic procedures offered;
- The average speed of the procedures offered;
- Number of information exchanges between Member States;
- Experience of those Member States that shall make use of the possibility granted by Article 6(3) of the Regulation with regard to the above criteria

1.5. **Grounds for the proposal/initiative**

1.5.1. *Requirement(s) to be met in the short or long term*

The proposal will reduce administrative burden and increase legal certainty for service providers that want to start provision of services in another Member State both on a temporary basis and in the case of secondary establishment. In addition, it will inspire more confidence in the market towards service providers by increasing transparency and available information.

The European services e-card would also present certain benefits to Member States' authorities. Firstly, it would facilitate the workload of the competent authorities in both the host and the home Member State by replacing conventional paperwork with an electronic workflow. This workflow would be highly standardised and automatic translation facilities will be offered. Secondly, formalities will be streamlined under one electronic application instead of several parallel workflows that exist today.

This will be achieved by setting up a single EU-level procedure based on a common pan-European IT platform (the IMI system). This system is developed, managed and funded by the Commission already for years. Member States already have the experience with the system, as more than 5,000 competent authorities are already registered with IMI since 2011.

1.5.2. Added value of EU involvement

Potential national or regional solutions for administrative simplification would differ across Member States in terms of costs savings and in terms of effectiveness. EU action would ensure that service providers can benefit from a less divergent approach across Member States when expanding across borders.

Given the nature of IMI as a centralised communication tool developed and hosted by the Commission, it will facilitate the introduction and the smooth running of the issuance of European services e-card as well as an efficient system of cooperation between Member States. The European services e-card (on the basis of the IMI system) would also allow to overcome certain obstacles such as translation costs for companies. The Commission will offer IMI as a free IT platform to Member States that wish to make use of it for the electronic submission of prior declarations of workers that are posted in their territory. It will also make IMI available for domestic exchanges related to the European services e-card where Member States so wish.

1.5.3. Lessons learned from similar experiences in the past

The IMI system itself has proved an effective and reliable tool in other areas. The European Professional Card (EPC) procedure for the recognition of professional qualifications – introduced in 2013 by amending Directive 2005/36/EC – is a good example.

The EPC facilitates the recognition of professional qualifications for selected professionals. It is a centrally provided EU-level procedure with a clearly defined procedure run within the IMI system. The obligations of Member States in the procedural workflow are set out in detail, thus overcoming the ambiguity of more general rules. It provides a targeted solution underpinned by specific rules on practical issues such as documents, deadlines for treating applications and tacit approval in case host country authorities do not take a final decision within deadline. In this way, the EPC provides an easier, quicker and more transparent way to have qualifications recognised.

Since the EPC was made available in January 2016, more than 560 EPCs have already been issued (as of 20 October 2016). The take-up of the EPC has been significant, reflecting a high demand among professionals who can currently benefit thereof (nurses, physiotherapists, mountain guides, real estate agents and pharmacists).

1.5.4. Compatibility and possible synergy with other appropriate instruments

There are a number of forthcoming initiatives of the Commission which also aim at introducing electronic procedures or facilities, for which synergies are foreseen to the extent possible. These include initiatives on the interconnection of company registers (BRIS), interconnection of insolvency registers, and the extension of the Mini One Stop Shop for VAT. BRIS will be operational as of mid-2017 and offer wider access to company data. It will be complemented by an interconnection of the Insolvency

Registers as from 2019. VAT MOSS will reduce costs for foreign service providers in the area of VAT formalities as of 2021 onwards.

These initiatives are all complementary to the European services e-card. In addition, synergies will be sought. For example, information available via BRIS (and also the interconnection of insolvency registers) should be used if technically feasible by coordinating authorities to complete the application for a ESC or cross-check information.

1.6. Duration and financial impact

- Proposal/initiative of **limited duration**
 - Proposal/initiative in effect from [DD/MM]YYYY to [DD/MM]YYYY
 - Financial impact from YYYY to YYYY
- Proposal/initiative of **unlimited duration**

Implementation with a start-up period from 2018 to 2021, followed by full-scale operation. The hosting, operational and maintenance costs are included in the relevant costs for the operation of the IMI system.

1.7. Management mode(s) planned³³

- Direct management** by the Commission
 - by its departments, including by its staff in the Union delegations;
 - by the executive agencies
- Shared management** with the Member States
- Indirect management** by entrusting budget implementation tasks to:
 - third countries or the bodies they have designated;
 - international organisations and their agencies (to be specified);
 - the EIB and the European Investment Fund;
 - bodies referred to in Articles 208 and 209 of the Financial Regulation;
 - public law bodies;
 - bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;
 - bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;
 - persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

³³ Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: http://www.cc.cec/budg/man/budgmanag/budgmanag_en.html

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

The Commission is reporting on the development and performance of IMI via the on-line Single Market Scoreboard. The use of IMI for European services e-card requests will be adequately reported in that context. In addition, a report on IMI data protection issues, including security, will be submitted to the European Data Protection Supervisor periodically.

After the European services e-card has been introduced, the future legal instruments will also foresee a review after 5 years.

2.2. Management and control system

2.2.1. Risk(s) identified

The general risk that can be identified is the non-adoption by service providers of the European Services e-card facility. I.e. the risk that the European Services e-card is fully developed and operational but meets with little or no demand. Another risk is that competent authorities might find adaptation difficult and might not provide adequate resources to process requests properly and in a timely fashion.

One of the main characteristics of the proposal is that the European Services e-card will be based on IMI functionalities. The general risk framework of IMI, including operational risks, have been identified in the context of the Regulation (EU) No 1024/2012 ("IMI Regulation"). The Commission is the 'system owner' of IMI, and is responsible for its daily operation, maintenance and development. The system is developed and hosted by an internal supplier which ensures a high level of business continuity. In the context of the introduction of the European Services e-card, there are also risks related to data protection issues.

2.2.2. Information concerning the internal control system set up

Addressing the general risks as identified under section 2.2.1 above, the Commission will provide assistance (e.g., workshops, etc.) to all stakeholders (e.g., Member States authorities, professional bodies etc.) and actively promote the introduction and use of the new system. Member States will also be required to promote the benefits of the proposed tool.

Regarding the operational aspects of the European services e-card, in particular the public interface, the back office as well as the notification facility, these are linked to the operation of IMI and have to be considered in the context of overall IMI internal control setup, as foreseen under IMI Regulation. The IMI Steering committee is responsible for high-level monitoring and control. Regular meetings and reporting instruments facilitate close monitoring of the IT development and maintenance work.

In addition, pursuant to Article 21 of the IMI Regulation from 2012, the European Data Protection Supervisor ensures that personal data processing by the Commission in IMI is carried out in accordance with the applicable rules. The national data protection authorities will monitor the processing of personal data by the competent authorities at Member State level.

2.2.3. *Estimate of the costs and benefits of the controls and assessment of the expected level of risk of error*

The general risks will be addressed by the relevant measures, including providing assistance and information to the stakeholders concerned.

The operation of the European Services e-card will be based on IMI functionalities and will be covered by the existing system of management and control for IMI. It is considered that the proposal will not lead to an increased risk of error.

2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures.

For the purposes of combating fraud, corruption and any other illegal activity, the provisions normally applicable to the activities of the Commission, including Regulation (EU, EURATOM) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF), will apply in the context of IMI without any restriction

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number [Heading.....]	Diff./Non-diff. ³⁴	from EFTA countries ³⁵	from candidate countries ³⁶	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
1A	02.03.04 Internal market governance tools	Diff	YES	NO	NO	NO

³⁴ Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.

³⁵ EFTA: European Free Trade Association.

³⁶ Candidate countries and, where applicable, potential candidates from the Western Balkans.

3.2. Estimated impact on expenditure

The allocations indicated in this section will be met through redeployment; no budgetary impact is expected on EU budget over and beyond the appropriations already foreseen in the official financial programming of the Commission.

3.2.1. Summary of estimated impact on expenditure

EUR

Heading of multiannual financial framework	1A	Competitiveness for growth and jobs
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DG: GROW			2018	2019	2020	2021	TOTAL
• Operational appropriations							
02.03.04	Commitments	(1)	310,000	945,000	945,000	0	2,200,000
	Payments	(2)	310,000	945,000	945,000	0	2,200,000
Number of budget line	Commitments	(1a)					
	Payments	(2a)					
Appropriations of an administrative nature financed from the envelope of specific programmes ³⁷							
Number of budget line		(3)	0	0	0	0	0
TOTAL appropriations for DG GROW	Commitments	=1+1a +3	310,000	945,000	945,000	0	2,200,000
	Payments	=2+2a +3	310,000	945,000	945,000	0	2,200,000
• TOTAL operational appropriations							
	Commitments	(4)	310,000	945,000	945,000	0	2,200,000
	Payments	(5)	310,000	945,000	945,000	0	2,200,000

³⁷ Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

• TOTAL appropriations of an administrative nature financed from the envelope for specific programmes		(6)	0	0	0	0	0
TOTAL appropriations under HEADING 1A of the multiannual financial framework	Commitments	=4+ 6	310,000	945,000	945,000	0	2,200,000
	Payments	=5+ 6	310,000	945,000	945,000	0	2,200,000

Heading of multiannual financial framework	5	‘Administrative expenditure’
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EUR

		2018	2019	2020	2021	TOTAL
DG: GROW						
• Human resources		303,600	427,800	427,800	358,800	1,518,000
• Other administrative expenditure		0	0	0	0	0
TOTAL DG GROW	Appropriations	303,600	427,800	427,800	358,800	1,518,000

TOTAL appropriations under HEADING 5 of the multiannual financial framework	(Total commitments = Total payments)	303,600	427,800	427,800	358,800	1,518,000
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EUR

		2018	2019	2020	2021	TOTAL
TOTAL appropriations under HEADINGS 1 to 5 of the multiannual financial framework	Commitments	613,600	1,372,800	1,372,800	358,800	3,718,000
	Payments	613,600	1,372,800	1,372,800	358,800	3,718,000

Estimated impact on operational appropriations

The proposal/initiative requires the use of operational appropriations, as explained below:

Commitment appropriations in EUR

Indicate objectives and outputs ↓	Type ³⁸	Average cost	2018		2019		2020		2021		TOTAL	
			No	Cost	No	Cost	No	Cost	No	Cost	Total No	Total cost
SPECIFIC OBJECTIVE No 1 ³⁹ Reduce the administrative burden												
- Output	Public interface			200,000		600,000		600,000		0		1,400,000
Subtotal for specific objective No 1				200,000		600,000		600,000		0		1,400,000
SPECIFIC OBJECTIVE No 2 Back-office functionality												
- Output	Back-office functionality			110,000		345,000		345,000		0		800,000
Subtotal for specific objective No 2				110,000		345,000		345,000		0		800,000
TOTAL COST				310,000		945,000		945,000		0		2,200,000

³⁸ Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

³⁹ As described in point 1.4.2. 'Specific objective(s)...'

3.2.2. Estimated impact on appropriations of an administrative nature

3.2.2.1. Summary

- The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR

	2018	2019	2020	2021	TOTAL
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HEADING 5 of the multiannual financial framework					
Human resources	303,600	427,800	427,800	358,800	1,518,000
Other administrative expenditure					
Subtotal HEADING 5 of the multiannual financial framework	303,600	427,800	427,800	358,800	1,518,000

Outside HEADING 5⁴⁰ of the multiannual financial framework					
Human resources					
Other expenditure of an administrative nature					
Subtotal outside HEADING 5 of the multiannual financial framework					

TOTAL	303,600	427,800	427,800	358,800	1,518,000
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The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG. Any impact stemming from the implementation of the proposed decisions on the number of staff or the level of appropriations will be covered by redeployment of the existing resources.

3.2.2.2. Estimated requirements of human resources

- The proposal/initiative does not require the use of human resources.
- The proposal/initiative requires the use of human resources, as explained below:
- Estimate to be expressed in full time equivalent units

	2018	2019	2020	2021
• Establishment plan posts (officials and temporary staff)				
XX 01 01 01 (Headquarters and Commission's	2.2	3.1	3.1	2.6

⁴⁰ Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

Representation Offices)					
XX 01 01 02 (Delegations)					
XX 01 05 01 (Indirect research)					
10 01 05 01 (Direct research)					
• External staff (in Full Time Equivalent unit: FTE)⁴¹					
XX 01 02 01 (AC, END, INT from the 'global envelope')					
XX 01 02 02 (AC, AL, END, INT and JED in the delegations)					
XX 01 04 yy ⁴²	- at Headquarters				
	- in Delegations				
XX 01 05 02 (AC, END, INT - Indirect research)					
10 01 05 02 (AC, END, INT - Direct research)					
Other budget lines (specify)					
TOTAL		2.2	3.1	3.1	2.6

– **XX** is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG. Any impact stemming from the implementation of the proposed decisions on the number of staff or the level of appropriations will be covered by redeployment of the existing resources.

Description of tasks to be carried out:

Officials and temporary staff	<u>Supporting the adoption of related implementing acts, Project management, Business analysis and implementation support activities.</u>
External staff	

⁴¹ AC= Contract Staff; AL = Local Staff; END= Seconded National Expert; INT = agency staff; JED= Junior Experts in Delegations.

⁴² Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

3.2.3. *Compatibility with the current multiannual financial framework*

- The proposal/initiative is compatible with the current multiannual financial framework.
- The proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.
- The proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework.

3.2.4. *Third-party contributions*

- The proposal/initiative does not provide for co-financing by third parties.
- The proposal/initiative provides for the co-financing estimated below.

3.3. Estimated impact on revenue

- The proposal/initiative has no financial impact on revenue.
- The proposal/initiative has the following financial impact:
 - on own resources
 - on miscellaneous revenue