

Comparative Table on the Directive of Services in the Internal Market

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
Article 1 - Subject matter	Article 1 - Subject matter	Article 1 - Subject matter	
<p>This Directive establishes general provisions facilitating exercise of the freedom of establishment for service providers and the free movement of services.</p>	<p><i>1. This Directive establishes general provisions facilitating exercise of the freedom of establishment for service providers and the free movement of services, while maintaining a high quality of services.</i></p> <p><i>2. This Directive shall not deal with the liberalisation of services of general economic interest reserved to public or private entities nor with the privatisation of public entities providing services.</i></p> <p><i>This Directive does not deal with the abolition of monopolies providing services nor aids granted by the Member States which are covered by common rules on competition.</i></p> <p><i>This Directive does not affect the freedom of Member States to define, in conformity with Community law, what they consider to be services of general economic interest, how those services should be organised and financed and what specific obligations they should be subject to.</i></p> <p><i><u>3. This Directive does not affect public healthcare services and access to public funding by health care providers.</u></i></p> <p><i>4. This Directive shall not affect measures taken at Community or national level to</i></p>	<p><u>1.</u> This Directive establishes general provisions facilitating the exercise of the freedom of establishment for service providers and the free movement of services, while maintaining a high quality of services.</p> <p><i>2. This Directive <u>does</u> not deal with the liberalisation of services of general economic interest, reserved to public or private entities, nor with the privatisation of public entities providing services.</i></p> <p><i>3. This Directive does not deal with the abolition of monopolies providing services nor with aids granted by Member States which are covered by Community rules on competition.</i></p> <p><i>This Directive does not affect the freedom of Member States to define, in conformity with Community law, what they consider to be services of general economic interest, how those services should be organised and financed, <u>in compliance with the State Aid rules</u>, and what specific obligations they should be subject to.</i></p> <p><i>4. This Directive <u>does</u> not affect measures taken at Community level or at national</i></p>	

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
	<p><i>protect or promote cultural or linguistic diversity or media pluralism.</i></p> <p><i>5. This Directive does not affect the Member States' rules of criminal law.</i></p> <p><u><i>6. This Directive does not affect services pursuing a social welfare objective.</i></u></p> <p><i>7. This Directive shall not apply to or affect labour law, i.e any legal or contractual provision concerning employment conditions, working conditions, including health and safety at work, and the relationships between employers and workers. In particular it shall fully respect the right to negotiate, conclude, extend and enforce collective agreements, and the right to strike and to take industrial action according to the rules governing industrial relations in Member States. Nor shall it affect national social security legislation in the Member States.</i></p> <p><i>8. This Directive shall not be interpreted as affecting in any way the exercise of fundamental rights as recognised in the Member States and by the Charter of fundamental rights of the European Union, including the right to take industrial action.</i></p>	<p><i>level, <u>in conformity with Community law</u>, in order to protect or promote cultural or linguistic diversity or media pluralism.</i></p> <p><i>5. This Directive does not affect Member States' rules of criminal law.</i></p> <p><i>6. This Directive <u>does not affect</u> labour law, that is any legal or contractual provision concerning employment conditions, working conditions, including health and safety at work, and the relationship between employers and workers, <u>which Member States apply in compliance with Community law</u>. Equally this Directive does not affect the social security legislation of the Member States, <u>as referred to in Article 4 of Regulation (EEC) N° 1408/71 on the coordination of social security systems</u>.</i></p> <p><i>7. This Directive <u>does not affect</u> the exercise of fundamental rights as recognised in the Member States and by the Charter of Fundamental Rights of the European Union, including the right <u>to negotiate, conclude and enforce collective agreements and to take industrial action</u>.</i></p>	

COMMENT

The Commission's text has not incorporated the amendment referring to services pursuing social welfare objectives and accordingly, it has opted for the exclusion of only few social services from the scope in Article 2. Furthermore, the Commission has sorted out an inconsistency which rose after Parliament's vote regarding healthcare services. The Commission has thus opted for a total carve-out of these services from the proposal, by not including Parliament's amendment to Article 1 in favour of Parliament's amendment to Article 2. Finally, some

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<i>redrafting has been done to the exclusion of labour law from the scope.</i>			
Article 2 - Scope	Article 2 - Scope	Article 2 - Scope	
<p>1. This Directive shall apply to services supplied by providers established in a Member State.</p> <p>2. This Directive shall not apply to the following activities:</p> <p>(a) financial services as defined in Article 2(b) of Directive 2002/65/EC;</p> <p>(b) electronic communications services and networks, and associated facilities and services, with respect to matters covered by Directives 2002/19/EC², 2002/20/EC³, 2002/21/EC⁴, 2002/22/EC⁵ and 2002/58/EC⁶ of the European Parliament and of the Council;</p>	<p><i>(a) services of general interest as defined by the Member States;</i></p> <p><i>(b) services of a banking, credit, insurance, occupational or personal pension, investment or payment nature and, more generally, the activities listed in Annex I to Directive 2000/12/EC;</i></p> <p>(c) electronic communications services and networks, and associated facilities and services, with respect to matters covered by or referred to in Directives 2002/19/EC⁷, 2002/20/EC⁸, 2002/21/EC⁹, 2002/22/EC¹⁰ and 2002/58/EC¹¹;</p>	<p>1. This Directive shall apply to services supplied by providers established in a Member State.</p> <p>2. This Directive shall not apply to the following activities:</p> <p>(-a) <i>services of general interest;</i></p> <p>(a) <u>financial services, such as banking, credit, insurance and re-insurance, occupational or personal pensions, securities, investment, funds, payment, investment advice, including the services listed in Annex I to Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions¹;</u></p> <p>(b) electronic communications services and networks, and associated facilities and services, with respect to matters covered by Directives 2002/19/EC¹², 2002/20/EC¹³, 2002/21/EC¹⁴, 2002/22/EC¹⁵ and 2002/58/EC¹⁶ of the European Parliament and of the Council ;</p>	

¹ OJ L 126, 26.5.2000, p. 1. as last amended by Commission Directive 2004/69/EC (OJ L 125, 28.4.2004, p. 44).

² OJ L 108, 24.4.2002, p. 7.

³ OJ L 108, 24.4.2002, p. 21.

⁴ OJ L 108, 24.4.2002, p. 33.

⁵ OJ L 108, 24.4.2002, p. 51.

⁶ OJ L 201, 31.7.2002, p. 37.

⁷ Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive) (OJ L 108, 24.4.2002, p. 7).

⁸ Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive) (OJ L 108, 24.4.2002, p. 21).

⁹ Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) (OJ L 108, 24.4.2002, p. 33).

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>(c) transport services to the extent that they are governed by other Community instruments the legal basis of which is Article 71 or Article 80(2) of the Treaty.</p>	<p>(d) transport services, <i>including urban transport, taxis and ambulances;</i></p> <p>(e) <i>port services;</i></p> <p>(see point j)</p> <p><u>(f) legal services to the extent that they are governed by other Community instruments, including Council Directive 77/249/EEC of 22 March 1977 to facilitate the effective exercise by lawyers of freedom to provide services¹⁷ and Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained¹⁸;</u></p> <p>(g) <i>healthcare, whether or not it is provided via healthcare facilities, and regardless of the ways in which it is organised and financed at national level or whether it is public or private;</i></p>	<p>(c) transport services <u>and transport related services falling within the scope of title V of the EC Treaty;</u></p> <p>(ca) <i>port services;</i></p> <p>(cb) <i>services of temporary work agencies;</i></p> <p>(cc) <i>healthcare services whether or not they are provided via healthcare facilities, and regardless of the ways in which they are organised and financed at national level or whether they are public or private;</i></p>	

¹⁰ Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) (OJ L 108, 24.4.2002, p. 51).

¹¹ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).

¹² OJ L 108, 24.4.2002, p. 7.

¹³ OJ L 108, 24.4.2002, p. 21.

¹⁴ OJ L 108, 24.4.2002, p. 33.

¹⁵ OJ L 108, 24.4.2002, p. 51.

¹⁶ OJ L 201, 31.7.2002, p. 37.

¹⁷ OJ L 78, 26.3.1977, p. 17. Directive as last amended by 2003 Act of Accession.

¹⁸ OJ L 77, 14.3.1998, p. 36. Directive as amended by 2003 Act of Accession.

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>3. This Directive does not apply to the field of taxation, with the exception of Articles 14 and 16 to the extent that the restrictions identified therein are not covered by a Community instrument on tax harmonisation.</p>	<p><i>(h) social services such as social housing services, childcare and family services;</i></p> <p><i>(i) audiovisual services, whatever their mode of production, distribution and transmission, including radio broadcasting and the cinema;</i></p> <p><i>(j) temporary work agencies;</i></p> <p><i>(k) security services;</i></p> <p><i>(l) gambling activities that involve wagering a stake with pecuniary value in games of chance, including lotteries, casinos and betting transactions;</i></p> <p><i>(m) <u>professions</u> and activities that are <u>permanently or temporarily</u> connected with the exercise of official authority in a Member State, <u>particularly that of notary</u>.</i></p> <p><i>(see point h)</i></p> <p><i>(see point k)</i></p> <p>3. This Directive does not apply to the field of taxation.</p>	<p><i>(see point cg)</i></p> <p><i>(cd) audiovisual services, whatever their mode of production, distribution and transmission, including radio broadcasting and the cinema;</i></p> <p><i>(see point cb)</i></p> <p><i>(see point ch)</i></p> <p><i>(ce) gambling activities which involve wagering a stake with pecuniary value in games of chance, including lotteries, gambling in casinos and betting transactions;</i></p> <p><i>(cf) activities which are connected with the exercise of official authority as set out in Article 45 of the Treaty;</i></p> <p><i>(cg) social services <u>relating to</u> social housing, childcare and support of families and persons in need;</i></p> <p><i>(ch) private security services.</i></p> <p>3. This Directive does not apply to the field of taxation.</p>	
COMMENT			

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<i>The Commission's text has incorporated all Parliaments' exclusions, except legal services provided by lawyers and notaries. As regards services of general interest, the Commission has specified that only non-economic services of general interest would be excluded from the scope. Furthermore, the revised text has narrowed down the exclusion of social services to those relating to social housing, childcare and support of families in need.</i>			
Article 3 - Relationship with other provisions of Community law	Article 3 - Relationship with other provisions of Community law	Article 3 - Relationship with other provisions of Community law	
Member States shall apply the provisions of this Directive in compliance with the rules of the Treaty on the right of establishment and the free movement of services.	<p><i>1. If the provisions of this Directive come into conflict with other Community rules governing specific aspects of access to and the exercise of a service activity in specific sectors or for specific professions, those other rules shall prevail and shall apply to the specific sectors or professions involved. These rules include, in particular:</i></p> <p><i>(a) Directive 96/71/EC;</i></p> <p><i>(b) Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and members of their families moving within the Community²⁰;</i></p> <p><i>(c) Directive 89/552/EEC;</i></p> <p><i>(d) Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of</i></p>	<p><i>If the provisions of this Directive conflict with a provision of another Community 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 Community act shall prevail and shall apply to those specific sectors or professions. These include:</i></p> <p><i>(a) Directive 96/71/EC <u>concerning the posting of workers in the framework of the provision of services</u>¹⁹;</i></p> <p><i>(b) Council Regulation (EEC) 1408/71 on the application of social security schemes to employed persons, to self-employed persons and members of their families moving within the Community²¹;</i></p> <p><i>(c) Directive 89/552/EEC <u>concerning the pursuit of television broadcasting activities</u>²²;</i></p> <p><i>(d) Directive 2005/36/EC²⁴ concerning the recognition of professional qualifications;</i></p>	

¹⁹ OJ L 18, 21.1.1997, p.1

²⁰ *OJ L 149, 5.7.1971, p. 2. Regulation as last amended by Regulation (EC) No 631/2004 of the European Parliament and of the Council (OJ L 100, 6.4.2004, p. 1).*

²¹ OJ L 149, 5.7.1971, p.2, as last amended by Regulation (EC) 647/2005, OJ L 117, 4.5.2005, p.1.

²² OJ L 298, 17.10.1998, p.23, as last amended by Directive 97/36/EC, OJ L 202, 30.7.1997, p.60.

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
Application of this Directive shall not prevent the application of provisions of other Community instruments as regards the services governed by those provisions.	<p><i>professional qualifications</i>²³.</p> <p>2. This Directive shall be without prejudice to private international law, in particular private international law governing contractual and non-contractual obligations (Rome I and Rome II).</p> <p>3. This exclusion of contractual and non-contractual obligations means that the consumer in any case benefits from the protection granted to him by the consumer legislation in force in his Member State.</p>	<p>2. This Directive does not affect rules of private international law, in particular rules governing the law applicable to contractual and non contractual obligations. <u>As a consequence, consumer will, in principle, benefit from the protection granted to them by the consumer protection rules laid down in the consumer legislation in force in his Member State.</u></p> <p>3. Member States shall apply the provisions of this Directive in compliance with the rules of the Treaty on the right of establishment and the free movement of services.</p>	
<p style="text-align: center;">COMMENT</p> <p><i>The revised text establishes that the Services Directive is a complementary element to other Community instruments. In addition, Article 3 provides for a rule to solve any residual conflicts between this Directive and other Community instruments since conflicts between this Directive and other Community instruments would be identified and solved in this Directive by means of derogations. Furthermore, the paragraphs regarding private international law and consumer protection legislation have not been included in Article 3 of the Commission's text. Instead, new recitals 45, alongside Article 17(20), state that the contractual or extra-contractual obligations of the service provider shall be determined by Community instruments of private international law. New Recital 46(a) states that the exclusion of private international law from the rule of the freedom to provide services, means that the consumer will in principle benefit from the consumer protection rules laid down in the contract law legislation in his member state.</i></p>			
Article 4 - Definitions	Article 4 - Definitions	Article 4 - Definitions	
For the purposes of this Directive, the following definitions shall apply: <p>(1) "service" means any self-employed economic activity, as referred to in Article 50 of the Treaty, consisting in the provision of a service for consideration;</p>	For the purposes of this Directive, the following definitions shall apply: <p>(1) "service" means any self-employed economic activity, as referred to in Article 50 of the Treaty, <u>normally provided for remuneration, which constitutes consideration for the service in question</u></p>	For the purposes of this Directive, the following definitions shall apply: <p>(1) "service" means any self-employed economic activity, <i>normally provided for remuneration</i>, as referred to in Article 50 of the Treaty;</p>	

²⁴ OJ L 255, 30.9.2005, p.22.

²³ ***OJ L 255, 30.9.2005, p. 22.***

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>(2) "provider" means any natural person who is a national of a Member State, or any legal person, who offers or provides a service;</p> <p>(3) "recipient" means any natural or legal person who, for professional or non-professional purposes, uses, or wishes to use, a service;</p> <p>(4) "Member State of origin" means the Member State in whose territory the provider of the service concerned is established;</p> <p>(5) "establishment" means the actual pursuit of an economic activity, as referred to in</p>	<p><u>and is normally agreed upon by the provider and the recipient of the service;</u></p> <p><u>(2) "public service obligations" means specific requirements that are imposed by public authorities on the provider of the service in order to ensure that certain public interest objectives are met;</u></p> <p><u>(3) "services of general economic interest" means services which are qualified as such by the Member State and which are subject to specific public service obligations which have been assigned to the provider by the Member State concerned to meet certain public interest objectives;</u></p> <p>(4) "provider" means any natural person who is a national of a Member State, or any legal person, <i>formed in accordance with the law of that Member State</i>, who offers or provides a service;</p> <p>(5) "recipient" means any natural <i>person</i> or legal person <i>established in a Member State</i> who, for professional or non-professional purposes, uses, or wishes to use, a service;</p> <p>(6) "Member State of origin" means the Member State in whose territory the provider of the service concerned is established;</p> <p>(7) "establishment" means the actual pursuit of an economic activity, as referred to in</p>	<p>(2) "provider" means any natural person who is a national of a Member State, or any legal person, <u>as referred to in Article 48 of the Treaty, established in a Member State</u>, who offers or provides a service;</p> <p>(3) "recipient" means any natural <i>person who is a national of a Member State or who benefits from rights conferred upon him by Community acts</i>, or any legal person, <u>as referred to in Article 48 of the Treaty, established in a Member State</u> who, for professional or non-professional purposes, uses, or wishes to use, a service;</p> <p>(4) "Member State of <u>establishment</u>" means the Member State in whose territory the provider of the service concerned is established;</p> <p>(5) "establishment" means the actual pursuit of an economic activity, as referred to in</p>	

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>Article 43 of the Treaty, through a fixed establishment of the provider for an indefinite period;</p> <p>(6) "authorisation scheme" means any procedure under which a provider or recipient is in effect required to take steps in order to obtain from a competent authority a formal decision, or an implied decision, concerning access to a service activity or to the exercise thereof;</p> <p>(7) "requirement" means any obligation, prohibition, condition or limit provided for in the laws, regulations or administrative provisions of the Member States or in consequence of case-law, administrative practice or the rules of professional bodies, or the collective rules of professional associations or other professional organisations, adopted in the exercise of their legal autonomy;</p>	<p>Article 43 of the Treaty, <i>for an indefinite period and through a fixed establishment of the provider with an adequate infrastructure from where the business of providing services is actually carried out</i>;</p> <p>(8) "authorisation scheme" means any procedure under which a provider or recipient is in effect required to take steps in order to obtain from a competent authority a formal decision, or an implied decision, concerning access to a service activity or to the exercise thereof;</p> <p>(9) "requirement" means any obligation, prohibition, condition or limit provided for in the laws, regulations or administrative provisions of the Member States or in consequence of case-law, administrative practice or the rules of professional bodies, or the collective rules of professional associations or other professional organisations, adopted in the exercise of their legal autonomy; <i>rules laid down by collective agreements shall not be seen as requirements within the meaning of this Directive</i>;</p> <p>(10) "overriding reasons relating to the public interest" covers inter alia the following grounds: <i>the protection of public policy, public security, public safety, public health, preserving the financial equilibrium of the social security system, including maintaining balanced medical care available to all, the protection of consumers, recipients of services and workers, fairness of trade transactions, combating fraud, the protection of the</i></p>	<p>Article 43 of the Treaty, <i>by the provider for an indefinite period and through a stable infrastructure from where the business of providing services is actually carried out</i>;</p> <p>(6) "authorisation scheme" means any procedure under which a provider or recipient is in effect required to take steps in order to obtain from a competent authority a formal decision, or an implied decision, concerning access to a service activity or to the exercise thereof;</p> <p>(7) "requirement" means any obligation, prohibition, condition or limit provided for in the laws, regulations or administrative provisions of the Member States or in consequence of case-law, administrative practice the rules of professional bodies, or the collective rules of professional associations or other professional organisations, adopted in the exercise of their legal autonomy; <i>rules laid down in collective agreements negotiated by the social partners shall not as such be seen as requirements within the meaning of this Directive</i>;</p> <p>(7a) "overriding reasons relating to the public interest" means reasons <u>recognised as such in the case law of the Court of Justice</u>, including the following grounds: <i>public policy; public security; public safety; public health; preserving the financial equilibrium of the social security system; the protection of consumers, recipients of services and workers; fairness of trade transactions; combating fraud; the protection of the environment and the urban</i></p>	

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>(8) "competent authority" means any body or authority which has a supervisory or regulatory role in a Member State in relation to service activities, including, in particular, administrative authorities, professional bodies, and those professional associations or other professional organisations which, in the exercise of their legal autonomy, regulate in a collective manner access to service activities or the exercise thereof;</p> <p>(9) "coordinated field" means any requirement applicable to access to service activities or to the exercise thereof;</p> <p>(10) "hospital care" means medical care which can be provided only within a medical infrastructure and which normally requires the accommodation therein of the person receiving the care, the name, organisation and financing of that infrastructure being irrelevant for the purposes of classifying such care as hospital care;</p> <p>(11) "Member State of posting" means the Member State in whose territory a provider posts a worker in order to provide services there;</p>	<p><i>environment including the urban environment, the health of animals, intellectual property, the conservation of the national historic and artistic heritage <u>or</u> social policy objectives and cultural policy objectives;</i></p> <p>(11) "competent authority" means any body or authority which has a supervisory or regulatory role in a Member State in relation to service activities, including, in particular, administrative authorities, <u>public establishments</u>, professional bodies, and those professional associations or other professional organisations which, in the exercise of their legal autonomy, regulate in a collective manner access to service activities or the exercise <i>thereof</i>;</p> <p>(12) "<i>Member State of destination</i>" means the Member State <i>where a service is provided and performed cross-border, without the need for establishment, by a provider established in another Member State</i>;</p>	<p><i>environment; the health of animals; intellectual property; the conservation of the national historic and artistic heritage; social policy objectives and cultural policy objectives;</i></p> <p>8) "competent authority" means any body or authority which has a supervisory or regulatory role in a Member State in relation to service activities, including, in particular, administrative authorities, professional bodies, and those professional associations or other professional organisations which, in the exercise of their legal autonomy, regulate in a collective manner access to service activities or the exercise thereof;</p> <p><u><i>deleted</i></u></p> <p><u><i>deleted</i></u></p> <p>(11) "<i>Member State where the service is supplied</i>" means the Member State <i>where the service is performed by a service provider established in another Member State</i>;</p>	

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>(12) "lawful employment" means the salaried activity of a worker, performed in accordance with the national law of the Member State of origin of the provider;</p> <p>(13) "regulated profession" means a professional activity or a group of professional activities, access to which or pursuit of which, or one of the modes of pursuing which, is conditional, directly or indirectly, upon possession of specific professional qualifications, pursuant to laws, regulations or administrative provisions;</p> <p>(14) "commercial communication" means any form of communication designed to promote, directly or indirectly, the goods, services or image of an undertaking, organisation or person engaged in commercial, industrial or craft activity or practising a regulated profession. The following do not in themselves constitute commercial communications:</p> <p>(a) information enabling direct access to the activity of the undertaking, organisation or person, including in particular a domain name or an electronic-mailing address;</p> <p>(b) communications relating to the goods,</p>	<p><u>(13) "worker" means a physical person who is to be regarded as a worker under the national legislation, collective agreements and/or established practice of the Member State where the service is provided;</u></p> <p>(14) "<i>regulated</i> profession" means a professional activity or a group of professional activities, <i>as referred to in Article 3(1)(a) of Directive 2005/36/EC</i>;</p> <p>(15) "commercial communication" means any form of communication designed to promote, directly or indirectly, the goods, services or image of an undertaking, organisation or person engaged in commercial, industrial or craft activity or practising a regulated profession. The following do not in themselves constitute commercial communications:</p> <p>(a) information enabling direct access to the activity of the undertaking, organisation or person, including in particular a domain name or an electronic-mailing address;</p> <p>(b) communications relating to the goods,</p>	<p><u>deleted</u></p> <p>(13) "regulated profession" means a professional activity or a group of professional activities <i>as referred to in Article 3(1)(a) of Directive 2005/36/EC of the European Parliament and of the Council on the recognition of professional qualifications</i>²⁵.</p> <p>(14) "commercial communication" means any form of communication designed to promote, directly or indirectly, the goods, services or image of an undertaking, organisation or person engaged in commercial, industrial or craft activity or practising a regulated profession. The following do not in themselves constitute commercial communications:</p> <p>(a) information enabling direct access to the activity of the undertaking, organisation or person, including in particular a domain name or an electronic-mailing address;</p> <p>(b) communications relating to the goods,</p>	

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
services or image of the undertaking, organisation or person, compiled in an independent manner, particularly when provided for no financial consideration.	services or image of the undertaking, organisation or person, compiled in an independent manner, particularly when provided for no financial consideration.	services or image of the undertaking, organisation or person, compiled in an independent manner, particularly when provided for no financial consideration.	

COMMENT

The following definitions have not been incorporated in the Commission's text: public service obligation, service of general economic interest and worker. Other modifications introduced are merely of a legal nature.

Article 5 - Simplification of procedure	Article 5 - Simplification of procedure	Article 5 - Simplification of procedure	
<p>1. Member States shall simplify the procedures and formalities applicable to access to a service activity and to the exercise thereof.</p> <p>2. Where Member States require a provider or recipient to supply a certificate, attestation or any other document proving that a requirement has been satisfied, they shall accept any document from another Member State which serves an equivalent purpose or from which it is clear that the requirement in question has been satisfied. They may not require that a document from another Member State be produced in its original form, or as a certified copy or as a certified translation, save in the cases</p>	<p>1. Member States shall <i>authenticate and, if appropriate</i>, simplify the procedures and formalities applicable to access to a service activity and to the exercise thereof <i>if and to the extent that it constitutes an obstacle to market access.</i></p> <p><i>2. Member States, in conjunction with the Commission, shall introduce, where appropriate and feasible, harmonised European forms. Those forms shall be equivalent to certificates, attestations and any other documents concerning establishment which demonstrate that a requirement has been met in the Member State of destination.</i></p> <p>3. Where Member States require a provider or recipient to supply a certificate, attestation or any other document proving that a requirement has been satisfied, they shall accept any document from another Member State which serves an equivalent purpose or from which it is clear that the requirement in question has been satisfied. They may not require that a document from another Member State be produced in its original form, or as a certified copy or as a certified translation, save in the cases</p>	<p>1. Member States shall <i>examine and, if need be</i>, simplify the procedures and formalities applicable to access to a service activity and to the exercise thereof.</p> <p><i>1a. The Commission may introduce harmonised forms at Community level, in accordance with the procedure referred to in Article 42 (2). These forms shall be equivalent to certificates, attestations and any other documents required of a service provider.</i></p> <p>2. Where Member States require a provider or recipient to supply a certificate, attestation or any other document proving that a requirement has been satisfied, they shall accept any document from another Member State which serves an equivalent purpose or from which it is clear that the requirement in question has been satisfied. They may not require that a document from another Member State be produced in its original form, or as a certified copy or as a certified translation, save in the cases provided for in other Community</p>	

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>provided for in other Community instruments or where such a requirement is objectively justified by an overriding reason relating to the public interest.</p> <p>3. Paragraph 2 shall not apply to the documents referred to in Article 46 of Directive .././EC of the European Parliament and of the Council²⁶ or in Article 45(3) of Directive .././EC of the European Parliament and of the Council²⁷.</p>	<p>provided for in other Community instruments or where such a requirement <i>is justified</i> by an overriding reason relating to the public interest, <u>including public order and security. These provisions shall not affect the right of Member States to require translations of documents in their own official languages.</u></p> <p>4. Paragraph 3 shall not apply to the documents referred to in Article 50 of Directive 2005/36/EC, in Article 45(3) of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, supply contracts and public service contracts²⁸, in Article 3(2) of Directive 98/5/EC, in Directive 2003/58/EC of the European Parliament and of the Council of 15 July 2003 amending Council Directive 68/151/EEC, as regards disclosure requirements in respect of certain types of companies²⁹ or in Eleventh 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 State³⁰.</p>	<p>instruments or where such a requirement is justified by an overriding reason relating to the public interest including public order and security.</p> <p><u>The first subparagraph shall not affect the right of Member States to require non-certified translations of documents in one of their official languages.</u></p> <p>3. Paragraph 2 shall not apply to the documents referred to in Article 50 of Directive 2005/36/EC³¹ of the European Parliament and of the Council on the recognition of professional qualifications, in Articles 45(3), 46, 49 and 50 of Directive 2004/18/EC³² of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, supply contracts and public service contracts, in Article 3(2) of Directive 98/5/EC³³ of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained; in Council Directive 68/151/EEC³⁴ as amended by Directive 2003/58/EC³⁵ of the European Parliament and of the Council of 15 July</p>	

²⁶ [Proposal for a Directive of the European Parliament and of the Council on the recognition of professional qualifications.]

²⁷ [Proposal for a Directive of the European Parliament and of the Council on the coordination of procedures for the award of public works, supply and service contracts.]

²⁸ *OJ L 134, 30.4.2004, p. 114.*

²⁹ *OJ L 221, 4.9.2003, p. 13.*

³⁰ *OJ L 395, 30.12.1989, p. 36.*

³¹ *OJ L 255, 30.9.2005, p.22.*

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
		<i>2003, as regards disclosure requirements in respect of certain types of companies and in the Eleventh Council Directive 89/666/EEC³⁶ 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.</i>	
<p style="text-align: center;">COMMENT</p> <p style="text-align: center;"><i>According to the revised text, Member States would need to examine and if necessary, simplify their procedures and formalities. Parliament's amendment to introduce European harmonised forms has been retained by the Commission, which would be responsible for its introduction in accordance with comitology procedures.</i></p>			
Article 6 - Single points of contact	Article 6 - Points of Single Contacts	Article 6 - Points of Single Contacts	
Member States shall ensure that, by 31 December 2008 at the latest, it is possible for a service provider to complete the following procedures and formalities at a contact point known as a "single point of contact":	<i>1.</i> Member States shall ensure that, <i>by ...</i> [*] at the latest, it is possible for a <i>provider</i> to complete the following procedures and formalities <i>in accordance with the provisions of this Chapter and Chapter III at contact points</i> known as <i>"points of single contact"</i> :	1. Member States shall ensure that, <i>by three years after the entry into force of this Directive</i> at the latest, it is possible for a service provider to complete the following procedures and formalities <i>in accordance with the provisions of this Chapter and Chapter II a</i> at contact points known as <i>points of single contact</i> :	
(a) all procedures and formalities needed for access to his service activities, in particular, all necessary declarations, notifications or applications for authorisation from the competent authorities, including applications for inclusion in a register, a roll or a database, or for registration with a	(a) all procedures and formalities needed for access to his service activities, in particular, all necessary declarations, notifications or applications for authorisation from the competent authorities, including applications for inclusion in a register, a roll or a database, or for registration with a	a) all procedures and formalities needed for access to his service activities, in particular, all necessary declarations, notifications or applications for authorisation from the competent authorities, including applications for inclusion in a register, a roll or a database, or for registration with a professional body or	

³² OJ L 134, 30.4.2004, p. 114

³³ OJ L 77, 14.3.1998, p.36.

³⁴ OJ L 65, 14.3.68, p. 8

³⁵ OJ L 221, 4.9.2003, p. 13

³⁶ OJ L 395, 30.12.89, p.36.

^{*} *Three years after the date of entry into force of this Directive.*

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>professional body or association;</p> <p>(b) any applications for authorisation needed to exercise his service activities.</p>	<p>professional body or association;</p> <p>(b) any applications for authorisation needed to exercise his service activities.</p> <p><u><i>2. If a pro forma registration is required by a Member State, the Member State concerned shall ensure that, by ...* at the latest, pro forma registration with the point of single contact is available by electronic means and does not delay or in any way complicate the provision of the services in question and does not entail any additional expense for the provider.</i></u></p> <p><u><i>3. The Commission shall coordinate the points of single contact by establishing a European point of single contact.</i></u></p> <p><i>4. The establishment of the point of single contact shall be without prejudice to the allocation of functions and powers among the authorities within national systems.</i></p>	<p>association;</p> <p>b) any applications for authorisation needed to exercise his service activities.</p> <p><i>2. The establishment of points of single contact shall be without prejudice to the allocation of functions and powers among the authorities within national systems.</i></p>	
<p style="text-align: center;">COMMENT</p> <p><i>The Commission has not retained neither Parliament's amendments regarding electronic pro forma registration via the points of single contacts nor the creation of a European point of single contact. Nevertheless, the Commission's text has taken into account Parliament's amendment whereby the points of single contact should apply both to the freedom of establishment and to the free movement of services.</i></p>			
<p>Article 7 - Right to Information</p>	<p>Article 7 - Right to Information</p>	<p>Article 7 - Right to Information</p>	
<p>1. Member States shall ensure that the following information is easily accessible to providers and recipients through the single points of contact:</p>	<p>1. Member States shall ensure that the following information is easily accessible to providers and recipients through the <i>points of single</i> contact:</p>	<p>1. Member States shall ensure that the following information is easily accessible to providers and recipients through the <i>points of single contact</i>:</p>	

* *Three years after the date of entry into force of this Directive.*

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>(a) requirements applicable to providers established in their territory, in particular those requirements concerning the procedures and formalities to be completed in order to access and to exercise service activities;</p> <p>(b) the contact details of the competent authorities enabling the latter to be contacted directly, including the particulars of those authorities responsible for matters concerning the exercise of service activities;</p> <p>(c) the means of and conditions for accessing public registers and databases on providers and services;</p> <p>(d) the means of redress available in the event of dispute between the competent authorities and the provider or the recipient, or between a provider and a recipient or between providers;</p> <p>(e) the contact details of the associations or organisations, other than the competent authorities, from which providers or recipients may obtain practical assistance.</p> <p>2. Member States shall ensure that it is possible for providers and recipients to receive, at their request, assistance from the competent authorities, consisting in information on the way in which requirements referred to in point (a) of paragraph 1 are generally interpreted and applied.</p>	<p>(a) requirements applicable to providers established in their territory, in particular those requirements concerning the procedures and formalities to be completed in order to access and to exercise service activities;</p> <p>(b) the contact details of the competent authorities enabling the latter to be contacted directly, including the particulars of those authorities responsible for matters concerning the exercise of service activities;</p> <p>(c) the means of and conditions for accessing public registers and databases on providers and services;</p> <p>(d) the means of redress <i>which are generally</i> available in the event of dispute between the competent authorities and the provider or the recipient, or between a provider and a recipient or between providers;</p> <p>(e) the contact details of the associations or organisations, other than the competent authorities, from which providers or recipients may obtain practical assistance.</p> <p>2. Member States shall ensure that it is possible for providers and recipients to receive, at their request, assistance from the competent authorities, consisting in information on the way in which requirements referred to in <i>paragraph 1(a)</i> are generally interpreted and applied. <i>Where appropriate, such advice shall include a simple step-by-step guide. The information shall be provided in plain and intelligible language.</i></p>	<p>(a) requirements applicable to providers established in their territory, in particular those requirements concerning the procedures and formalities to be completed in order to access and to exercise service activities;</p> <p>(b) the contact details of the competent authorities enabling the latter to be contacted directly, including the particulars of those authorities responsible for matters concerning the exercise of service activities;</p> <p>(c) the means of and conditions for accessing public registers and databases on providers and services;</p> <p>(d) the means of redress <i>which are generally</i> available in the event of dispute between the competent authorities and the provider or the recipient, or between a provider and a recipient or between providers;</p> <p>(e) the contact details of the associations or organisations, other than the competent authorities, from which providers or recipients may obtain practical assistance.</p> <p>2. Member States shall ensure that it is possible for providers and recipients to receive, at their request, assistance from the competent authorities, consisting in information on the way in which requirements referred to in point (a) of paragraph 1 are generally interpreted and applied. <i>Where appropriate, such advice shall include a simple step-by-step guide. The information shall be provided in plain and intelligible language.</i></p>	

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>3. Member States shall ensure that the information and assistance referred to in paragraphs 1 and 2 are provided in a clear and unambiguous manner, that they are easily accessible at a distance and by electronic means, and that they are kept up-to-date.</p> <p>4. Member States shall ensure that the single points of contact and the competent authorities respond as quickly as possible to any request for information or assistance as referred to in paragraphs 1 and 2 and, in cases where the request is faulty or unfounded, inform the applicant accordingly without delay.</p> <p>5. Member States shall implement paragraphs 1 to 4 by 31 December 2008 at the latest.</p> <p>6. Member States and the Commission shall take accompanying measures in order to encourage single points of contact to make the information provided for in paragraphs 1 and 2 available in other Community languages.</p>	<p>3. Member States shall ensure that the information and assistance referred to in paragraphs 1 and 2 are provided in a clear and unambiguous manner, that they are easily accessible, <i>inter alia</i> at a distance and by electronic means, and that they are kept up-to-date.</p> <p>4. Member States shall ensure that the <i>points of single</i> contact and the competent authorities respond as quickly as possible to any request for information or assistance as referred to in paragraphs 1 and 2 and, in cases where the request is faulty or unfounded, inform the applicant accordingly without delay.</p> <p>5. Member States shall implement paragraphs 1 to 4 <i>by ...</i>* at the latest.</p> <p>6. Member States and the Commission <i>shall encourage points of single</i> contact to make the information provided for in <i>this Article</i> available in other Community languages <i>as far as this is compatible with their legislation on the use of languages</i>.</p> <p>7. <i>The obligation for competent authorities to assist providers and recipients does not require these authorities to provide legal advice in individual cases but concerns only general information on the way in which requirements are usually interpreted or applied.</i></p>	<p>3. Member States shall ensure that the information and assistance referred to in paragraphs 1 and 2 are provided in a clear and unambiguous manner, that they are easily accessible at a distance and by electronic means, and that they are kept up-to-date.</p> <p>4. Member States shall ensure that the <i>points of single contact</i> and the competent authorities respond as quickly as possible to any request for information or assistance as referred to in paragraphs 1 and 2 and, in cases where the request is faulty or unfounded, inform the applicant accordingly without delay.</p> <p>5. Member States shall implement paragraphs 1 to 4 by three years after the entry into force of this Directive at the latest.</p> <p>6. Member States and the Commission shall <u>take accompanying measures in order to</u> encourage <i>points of single contact</i> to make the information provided for in <i>this article</i> available in other Community languages <i>as far as this is compatible with their legislation on the use of languages</i>.</p> <p>7. <i>The obligation for competent authorities to assist providers and recipients does not require these authorities to provide legal advice in individual cases but concerns only general information on the way in which requirements are usually interpreted or applied.</i></p>	

* *Three years after the date of entry into force of this Directive.*

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p style="text-align: center;">COMMENT</p> <p style="text-align: center;"><i>Parliament's amendments have been fully taken into account.</i></p>			
Article 8 - Procedures by Electronic Means	Article 8 - Procedures by Electronic Means	Article 8 - Procedures by Electronic Means	
<p>1. Member States shall ensure that, by 31 December 2008 at the latest, all procedures and formalities relating to access to a service activity and to the exercise thereof may be easily completed, at a distance and by electronic means, at the relevant single point of contact and with the relevant competent authorities.</p> <p>2. Paragraph 1 shall not apply to the inspection of premises on which the service is provided or of equipment used by the provider, or to physical examination of the capability of the provider.</p> <p>3. The Commission shall, in accordance with the procedure referred to in Article 42(2), adopt detailed rules for the implementation of paragraph 1 with a view to facilitating the interoperability of information systems and use of procedures by electronic means between Member States.</p>	<p>1. Member States shall ensure that, <i>by ...</i> * at the latest, all procedures and formalities relating to access to a service activity and to the exercise thereof may be easily completed, <i>inter alia</i> at a distance and by electronic means, at the relevant <i>point of single</i> contact and with the relevant competent authorities.</p> <p>2. Paragraph 1 shall not apply to the inspection of premises on which the service is provided or of equipment used by the provider, or to physical examination of the capability of the provider. <u><i>Nor shall it apply to any requirement for the provision of original documentation in compliance with Article 5. Neither shall paragraph 1 apply to those procedures which, for overriding reasons relating to the public interest, require the physical presence of the applicant.</i></u></p> <p>3. The Commission shall <i>ensure</i> interoperability of information systems and use of procedures by electronic means between Member States. <u><i>The procedure referred to in Article 39(2) shall apply.</i></u></p>	<p>1. Member States shall ensure that, <i>by three years after the entry into force of this Directive at the latest</i>, all procedures and formalities relating to access to a service activity and to the exercise thereof may be easily completed, at a distance and by electronic means, at the relevant <i>point of single contact</i> and with the relevant competent authorities.</p> <p>2. Paragraph 1 shall not apply to the inspection of premises on which the service is provided or of equipment used by the provider or to physical examination of the capability of the provider.</p> <p>3. The Commission shall in accordance with the procedure referred to in Article 42(2) adopt detailed rules for the implementation of paragraph 1 with a view to facilitating the interoperability of information systems and use of procedures by electronic means between Member States.</p>	

* *Three years after the date of entry into force of this Directive.*

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p style="text-align: center;">COMMENT</p> <p style="text-align: center;"><i>Only amendment to Paragraph 2 has not been incorporated in the revised text</i></p>			
Article 9 - Authorisation Schemes	Article 9 - Authorisation Schemes	Article 9 - Authorisation Schemes	
<p>1. Member States shall not make access to a service activity or the exercise thereof subject to an authorisation scheme unless the following conditions are satisfied:</p> <p>(a) the authorisation scheme does not discriminate against the provider in question;</p> <p>(b) the need for an authorisation scheme is objectively justified by an overriding reason relating to the public interest;</p> <p>(c) the objective pursued cannot be attained by means of a less restrictive measure, in particular because an <i>a posteriori</i> inspection would take place too late to be genuinely effective.</p> <p>2. In the report referred to in Article 41, Member States shall identify their authorisation schemes and give reasons showing their compatibility with paragraph 1.</p> <p>3. This Section shall not apply to authorisation schemes which are either imposed or permitted by other Community</p>	<p>1. Member States <i>may</i> make access to a service activity or the exercise thereof subject to an authorisation scheme <i>if</i> the following conditions are satisfied:</p> <p>(a) the authorisation scheme does not discriminate against the provider in question;</p> <p>(b) the need for an authorisation scheme <i>is justified</i> by an overriding reason relating to the public interest;</p> <p>(c) the objective pursued cannot be attained by means of a less restrictive measure, in particular because an <i>a posteriori</i> inspection would take place too late to be genuinely <i>effective</i>.</p> <p><u>2. Paragraph 1 shall not apply to authorisation schemes which are either imposed or permitted by other Community instruments.</u></p> <p><i>Paragraph 1 shall not apply to aspects of authorisation schemes that are subject to harmonisation under other Community</i></p>	<p>1. Member States shall not make access to a service activity or the exercise thereof subject to an authorisation scheme unless the following conditions are satisfied:</p> <p>(a) the authorisation scheme does not discriminate against the provider in question;</p> <p>(b) the need for an authorisation scheme is justified by an overriding reason relating to the public interest;</p> <p>(c) the objective pursued cannot be attained by means of a less restrictive measure, in particular because an <i>a posteriori</i> inspection would take place too late to be genuinely effective.</p> <p><u>2. In the report referred to in Article 41, Member States shall identify their authorisation schemes and give reasons showing their compatibility with paragraph 1.</u></p> <p>3. This section shall not apply to those aspects of authorisation schemes which are subject to harmonisation under other</p>	

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
instruments.	<i>instruments.</i>	Community instruments.	
<p style="text-align: center;">COMMENT</p> <p style="text-align: center;"><i>The revised text has reintroduced paragraph 2, which was deleted by Parliament. Paragraph 3 has been redrafted on the basis of Parliament's amendments.</i></p>			
Article 10 - Conditions for the granting of authorisation	Article 10 - Conditions for the granting of authorisation	Article 10 - Conditions for the granting of authorisation	
<p>1. Authorisation schemes shall be-based on criteria which preclude the competent authorities from exercising their power of assessment in an arbitrary or discretionary manner.</p> <p>2. The criteria referred to in paragraph 1 must be:</p> <p>(a) non-discriminatory;</p> <p>(b) objectively justified by an overriding reason relating to the public interest;</p> <p>(c) proportionate to that public interest objective;</p> <p>(d) precise and unambiguous;</p> <p>(e) objective;</p> <p>(f) made public in advance.</p> <p>3. The conditions for granting authorisation for a new establishment shall not-duplicate requirements and controls which are equivalent or essentially comparable as regards their purpose, to which the provider</p>	<p>1. Authorisation schemes shall be based on criteria which preclude the competent authorities from exercising their power of assessment in an arbitrary or discretionary manner.</p> <p>2. The criteria referred to in paragraph 1 must be:</p> <p>(a) non-discriminatory;</p> <p>(b) <i>justified</i> by an overriding reason relating to the public interest;</p> <p>(c) proportionate to that public interest objective;</p> <p>(d) precise and unambiguous;</p> <p>(e) objective;</p> <p>(f) made public in advance;</p> <p><i>(g) transparent and accessible.</i></p> <p>3. The conditions for granting authorisation for a new establishment shall not duplicate requirements and controls which are equivalent or essentially comparable as regards their purpose, to which the provider</p>	<p>1. Authorisation schemes shall be based on criteria which preclude the competent authorities from exercising their power of assessment in an arbitrary or discretionary manner.</p> <p>2. The criteria referred to in paragraph 1 must be:</p> <p>(a) non-discriminatory;</p> <p>(b) justified by an overriding reason relating to the public interest;</p> <p>(c) proportionate to that public interest objective;</p> <p>(d) precise and unambiguous;</p> <p>(e) objective;</p> <p>(f) made public in advance.</p> <p><i>(fa) transparent and accessible.</i></p> <p>3. The conditions for granting authorisation for a new establishment shall not duplicate requirements and controls which are equivalent or essentially comparable as regards their purpose, to which the provider</p>	

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>is already subject in another Member State or in the same Member State. The contact points referred to in Article 35 and the provider shall assist the competent authority by providing any necessary information on those requirements.</p> <p>4. The authorisation shall enable the provider to have access to the service activity, or to exercise that activity, throughout the national territory, including by setting up agencies, subsidiaries, branches or offices, except where an authorisation for each individual establishment is objectively justified by an overriding reason relating to the public interest.</p> <p>5. The authorisation shall be granted as soon as it has been established, in the light of an appropriate examination, that the conditions for authorisation have been met.</p> <p>6. Any refusal or other response from the competent authorities, including withdrawal of an authorisation, shall be fully reasoned, in particular with regard to the provisions of this Article, and shall be open to challenge before the courts.</p>	<p>is already subject in another Member State or in the same Member State. The <u>points of single contact</u> and the provider shall assist the competent authority by providing any necessary information on those requirements. <i>In assessing whether conditions are equivalent or essentially comparable, their effect and the effectiveness of their enforcement shall be considered, besides their objective and purpose.</i></p> <p>4. The authorisation shall enable the provider to have access to the service activity, or to exercise that activity, throughout the national territory, including by setting up agencies, subsidiaries, branches or offices, except where an authorisation for each individual establishment <i>or an authorisation that is restricted to a specific part of the national territory is justified</i> by an overriding reason relating to the public interest.</p> <p>5. The authorisation shall be granted as soon as it has been established, in the light of an appropriate examination, that the conditions for authorisation have been met.</p> <p>6. <u>Except where authorisation has been granted, any other</u> response from the competent authorities, including <u>the refusal or</u> withdrawal of an authorisation, shall be fully reasoned, in particular with regard to the provisions of this Article, and shall be open to challenge before the courts.</p> <p><i>7. This Article shall not call into question the allocation of the competences, at local or regional level, of the Member State</i></p>	<p>is already subject in another Member State or in the same Member State. The <u>contact points</u> referred to in Article 33 and the provider shall assist the competent authority by providing any necessary information on those requirements. <i>In assessing whether conditions are equivalent or essentially comparable, their effect and the effectiveness of their enforcement shall be considered, besides their objective and purpose.</i></p> <p>4. The authorisation shall enable the provider to have access to the service activity, or to exercise that activity, throughout the national territory, including by setting up agencies, subsidiaries, branches or offices, except where an authorisation for each individual establishment <i>or a limitation of the authorisation to a certain part of the territory</i> is justified by an overriding reason relating to the public interest.</p> <p>5. The authorisation shall be granted as soon as it has been established, in the light of an appropriate examination, that the conditions for authorisation have been met.</p> <p>6. <u>Any refusal or</u> other response from the competent authorities, including the refusal or withdrawal of an authorisation, shall be fully reasoned, in particular with regard to the provisions of this Article, and shall be open to challenge before the courts.</p> <p><i>7. This Article shall not call into question the allocation of the competences, at local or regional level, of the Member States'</i></p>	

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
	<i>authorities that grant such authorisation.</i>	<i>authorities that grant such authorisation.</i>	
<p style="text-align: center;">COMMENT</p> <p style="text-align: center;"><i>Parliament's amendments have been taken into account.</i></p>			
Article 11 - Duration of authorisation	Article 11 - Duration of authorisation	Article 11 - Duration of authorisation	
<p>1. An authorisation granted to a provider shall not be for a limited period, except in cases where:</p> <p>(a) the authorisation is being automatically renewed;</p> <p>(b) the number of available authorisations is limited;</p> <p>(c) a limited authorisation period can be objectively justified by an overriding reason relating to the public interest.</p> <p>2. Paragraph 1 shall not concern the maximum period during which the provider must actually commence his activity after receiving authorisation.</p> <p>3. Member States shall require the provider to inform the relevant single point of contact provided for in Article 6 of any change in his situation which is likely to affect the efficiency of supervision by the competent authority, including, in particular, the creation of subsidiaries whose activities fall within the scope of the authorisation system, or which results in the conditions for authorisation no longer being met, or which affects the accuracy of information available to a recipient.</p>	<p>1. An authorisation granted to a provider shall not be for a limited period, except in cases where:</p> <p>(a) the authorisation is being automatically renewed <i>or is subject only to the continued fulfilment of requirements</i>;</p> <p>(b) the number of available authorisations is limited <i>by an overriding reason relating to the public interest</i>;</p> <p>(c) a limited authorisation period can <i>be justified</i> by an overriding reason relating to the public interest.</p> <p>2. Paragraph 1 shall not concern the maximum period during which the provider must actually commence his activity after receiving authorisation.</p> <p>3. Member States shall require <i>a</i> provider to inform the relevant <i>point of single</i> contact provided for in Article 6 of <i>the following changes</i>:</p> <p>- the creation of subsidiaries whose</p>	<p>1. An authorisation granted to a provider shall not be for a limited period, except in cases where:</p> <p>(a) the authorisation is being automatically renewed <i>or is subject only to the continued fulfilment of requirements</i>;</p> <p>(b) the number of available authorisations is limited <i>by an overriding reason relating to the public interest; or</i></p> <p>(c) a limited authorisation period can be justified by an overriding reason relating to the public interest.</p> <p>2. Paragraph 1 shall not concern the maximum period during which the provider must actually commence his activity after receiving authorisation.</p> <p>3. Member States shall require a provider to inform the relevant <i>point of single contact</i> provided for in Article 6 <i>of the following changes</i>:</p> <p>- <i>the creation of subsidiaries whose</i></p>	

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
	<p>activities fall within the scope of the authorisation system;</p> <p>- <i>changes in his situation</i> which results in the conditions for authorisation no longer being <i>met</i>.</p> <p>4. This Article shall be without prejudice to Member States' ability to revoke authorisations, <i>especially</i> when the conditions for authorisation are no longer met.</p>	<p><i>activities fall within the scope of the authorisation system;</i></p> <p>- <i>changes in his situation which result in the conditions for authorisation no longer being met.</i></p> <p>4. This Article shall be without prejudice to the Member States' ability to revoke authorisations, when the conditions for authorisation are no longer met.</p>	
<p style="text-align: center;">COMMENT</p> <p style="text-align: center;"><i>Parliament's amendments have been all taken into account.</i></p>			
Article 12 - Selection from among several candidates	Article 12 - Selection from among several candidates	Article 12 - Selection from among several candidates	
<p>1. Where the number of authorisations available for a given activity is limited because of the scarcity of available natural resources or technical capacity, Member States shall apply a selection procedure to potential candidates which provides full guarantees of impartiality and transparency, including, in particular, adequate publicity about the launch of the procedure.</p> <p>2. In the cases referred to in paragraph 1, authorisation must be granted for an appropriate limited period and may not be open to automatic renewal, nor confer any other advantage on the provider whose authorisation has just expired or on any person having any particular links with that provider.</p>	<p>1. Where the number of authorisations available for a given activity is limited because of the scarcity of available natural resources or technical capacity, Member States shall apply a selection procedure to potential candidates which provides full guarantees of impartiality and transparency, including, in particular, adequate publicity about the launch of the procedure and its completion.</p> <p>2. In the cases referred to in paragraph 1, authorisation must be granted for an appropriate limited period and may not be open to automatic renewal, nor confer any other advantage on the provider whose authorisation has just expired or on any person having any particular links with that provider.</p> <p>3. Without prejudice to Articles 9 and 10, Member States may take into account, in</p>	<p>1. Where the number of authorisations available for a given activity is limited because of the scarcity of available natural resources or technical capacity, Member States shall apply a selection procedure to potential candidates which provides full guarantees of impartiality and transparency, including, in particular, adequate publicity about the launch of the procedure, <u>the conduct thereof and its completion</u>.</p> <p>2. In the cases referred to in paragraph 1, authorisation must be granted for an appropriate limited period and may not be open to automatic renewal, nor confer any other advantage on the provider whose authorisation has just expired or on any person having any particular links with that provider.</p> <p>3. <u>Subject to paragraph 1 and to Articles 9 and 10, Member States may take into</u></p>	

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
	<i>applying their selection procedure, considerations of public health, the health and safety of employees or self-employed persons, the protection of the environment, the preservation of the cultural heritage and <u>the furtherance of any public policy goal which is not in conflict with the Treaty.</u></i>	<i>account, in establishing the rules for the selection procedure, considerations of public health, social policy objectives, the health and safety of employees or self-employed persons, the protection of the environment, the preservation of the cultural heritage and <u>other overriding reasons relating to of public interest, in conformity with Community law .</u></i>	
<p style="text-align: center;">COMMENT</p> <p style="text-align: center;"><i>Parliament's amendments have been taken into account.</i></p>			
Article 13 - Authorisation Procedures	Article 13 - Authorisation Procedures	Article 13 - Authorisation Procedures	
<p>1. Authorisation procedures and formalities shall be clear, made public in advance and such as to provide interested parties with a guarantee that their application will be dealt with objectively and impartially.</p> <p>2. Authorisation procedures and formalities shall not be dissuasive and shall not unduly complicate or delay the provision of the service. They shall be easily accessible and any charges which the relevant parties may incur from their application shall be proportionate to the cost of the authorisation procedures in question.</p> <p>3. Authorisation procedures and formalities shall provide interested parties with a guarantee that their applications will be processed as quickly as possible and, in any event, within a reasonable period which is fixed and published in advance.</p> <p>4. Failing a response within the time</p>	<p>1. Authorisation procedures and formalities shall be clear, made public in advance and such as to provide <i><u>those involved</u></i> with a guarantee that their application will be dealt with objectively and impartially.</p> <p>2. Authorisation procedures and formalities shall not be dissuasive and shall not unduly complicate or delay the provision of the service. They shall be easily accessible and any charges which <u>the relevant parties</u> may incur from their application shall be proportionate to the cost of the authorisation procedures in question and shall not exceed the authorisation cost.</p> <p>3. Authorisation procedures and formalities shall provide interested parties with a guarantee that their applications will be processed as quickly as possible and, in any event, within a reasonable period which is fixed and published in advance. <i>The period shall run only from the time when all the documentation has been submitted.</i></p> <p>4. <u>Member States shall ensure that</u></p>	<p>1. Authorisation procedures and formalities shall be clear, made public in advance and such as to provide <i><u>the applicants</u></i> with a guarantee that their application will be dealt with objectively and impartially.</p> <p>2. Authorisation procedures and formalities shall not be dissuasive and shall not unduly complicate or delay the provision of the service. They shall be easily accessible and any charges which <i><u>the applicants</u></i> may incur from their application shall be proportionate to the cost of the authorisation procedures in question <i>and shall not exceed the cost of the procedure.</i></p> <p>3. Authorisation procedures and formalities shall provide applicants with a guarantee that their application will be processed as quickly as possible and, in any event, within a reasonable period which is fixed and published in advance. <i>The period shall run only from the time when all documentation has been submitted.</i></p> <p>4. <u>Failing</u> a response within the time period</p>	

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>period set in accordance with paragraph 3, authorisation shall be deemed to have been granted. Different arrangements may nevertheless be put in place in respect of certain specific activities, where objectively justified by overriding reasons relating to the public interest.</p> <p>5. All applications for authorisation shall be acknowledged as quickly as possible. The acknowledgement must specify the following:</p> <p>(a) the period for response referred to in paragraph 3;</p> <p>(b) the available means of redress;</p> <p>(c) a statement that in the absence of a response within the period specified, the authorisation shall be deemed to have been granted.</p> <p>6. In the case of an incomplete application or where an application is rejected on the grounds that it fails to comply with the required procedures or formalities, the persons having an interest in the matter must be informed as quickly as possible of the need to supply any additional documentation.</p>	<p><u>applicants receive</u> a response within the time period set in accordance with <i>paragraph 3</i>.</p> <p>5. <u>On request by the applicant, an application</u> for authorisation shall be acknowledged as quickly as possible. The acknowledgement must <i>specify the</i> period for response referred to in <i>paragraph 3</i>.</p> <p>6. In the case of an incomplete <i>application</i>, <i>the</i> persons having an interest in the matter must be informed as quickly as possible of the need to supply any additional documentation, <i>as well as of any possible effects on the period for response referred to in paragraph 3</i>.</p> <p>7. <i>When a request is rejected because it fails to comply with the required procedures or formalities, those involved must be informed of the rejection as quickly as possible.</i></p>	<p>set in accordance with paragraph 3, authorisation shall be deemed to have been granted. Different arrangements may nevertheless be put in place in respect of certain specific activities, where justified by overriding reasons relating to the public interest.</p> <p>5. All applications for authorisation shall be acknowledged as quickly as possible. The acknowledgement must specify the following:</p> <p>(a) <u>the period for response referred to in paragraph 3;</u></p> <p>(b) <u>the available means of redress;</u></p> <p>(c) <u>a statement that in the absence of a response within the period specified, the authorisation shall be deemed to have been granted.</u></p> <p>6. In the case of an incomplete application the <u>applicant</u> must be informed as quickly as possible of the need to supply any additional documentation, <i>as well as any possible effects on the reasonable period of processing referred to in paragraph 3</i>.</p> <p>7. <i>When a request is rejected because it fails to comply with the required procedures or formalities, the applicant must be informed of the rejection as quickly as possible.</i></p>	

COMMENT

Despite Parliament's amendment, the revised text has reintroduced the original text of the proposal whereby authorisation would be granted if the regulating authority fails to respond within a certain time. The original text of paragraph 5 has also been reintroduced.

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
Article 14 - Prohibited requirements	Article 14 - Prohibited requirements	Article 14 - Prohibited requirements	
<p>Member States shall not make access to or the exercise of a service activity in their territory subject to compliance with any of the following:</p> <p>(1) discriminatory requirements based directly or indirectly on nationality or, in the case of companies, the location of the registered office, including in particular:</p> <p>(a) nationality requirements for the provider, his staff, persons holding the share capital or members of the provider's management or supervisory bodies;</p> <p>(b) a requirement that the provider, his staff, persons holding the share capital or members of the provider's management or supervisory bodies be resident within the territory.</p> <p>(2) a prohibition on having an establishment in more than one Member State or on being entered in the registers or enrolled with professional bodies or associations of more than one Member State;</p> <p>(3) restrictions on the freedom of a provider to choose between a principal or a secondary establishment, in particular an obligation on the provider to have his principal establishment in their territory, or restrictions on the freedom to choose between establishment in the form of an agency, branch or subsidiary;</p> <p>(4) conditions of reciprocity with the</p>	<p>Member States shall not make access to or the exercise of a service activity in their territory subject to compliance with any of the following:</p> <p>(1) discriminatory requirements based directly or indirectly on nationality or, in the case of companies, the location of the registered office, including in particular:</p> <p>(a) nationality requirements for the provider, his staff, persons holding the share capital or members of the provider's management or supervisory bodies;</p> <p>(b) a requirement that the provider, his staff, persons holding the share capital or members of the provider's management or supervisory bodies be resident within the territory.</p> <p>(2) a prohibition on having an establishment in more than one Member State or on being entered in the registers or enrolled with professional bodies or associations of more than one Member State;</p> <p>(3) restrictions on the freedom of a provider to choose between a principal or a secondary establishment, in particular an obligation on the provider to have his principal establishment in their territory, or restrictions on the freedom to choose between establishment in the form of an agency, branch or subsidiary;</p> <p>(4) conditions of reciprocity with the</p>	<p>Member States shall not make access to or the exercise of a service activity in their territory subject to compliance with any of the following:</p> <p>(1) discriminatory requirements based directly or indirectly on nationality or, in the case of companies, the location of the registered office, including in particular:</p> <p>(a) nationality requirements for the provider, his staff, persons holding the share capital or members of the provider's management or supervisory bodies;</p> <p>(b) a requirement that the provider, his staff, persons holding the share capital or members of the provider's management or supervisory bodies be resident within the territory.</p> <p>(2) a prohibition on having an establishment in more than one Member State or on being entered in the registers or enrolled with professional bodies or associations of more than one Member State;</p> <p>(3) restrictions on the freedom of a provider to choose between a principal or a secondary establishment, in particular an obligation on the provider to have his principal establishment in their territory, or restrictions on the freedom to choose between establishment in the form of an agency, branch or subsidiary;</p> <p>(4) conditions of reciprocity with the</p>	

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>Member State in which the provider already has an establishment, save in the case of conditions of reciprocity provided for in Community instruments concerning energy;</p> <p>(5) the case-by-case application of an economic test making the granting of authorisation subject to proof of the existence of an economic need or market demand, or an assessment of the potential or current economic effects of the activity, or an assessment of the appropriateness of the activity in relation to the economic planning objectives set by the competent authority;</p> <p>(6) the direct or indirect involvement of competing operators, including within consultative bodies, in the granting of authorisations or in the adoption of other decisions of the competent authorities, with the exception of professional bodies and associations or other organisations acting as the competent authority;</p> <p>(7) an obligation to provide or participate in a financial guarantee or to take out insurance from a service-provider or body established in their territory;</p>	<p>Member State in which the provider already has an establishment, save in the case of conditions of reciprocity provided for in Community instruments concerning energy;</p> <p>(5) the case-by-case application of an economic test making the granting of authorisation subject to proof of the existence of an economic need or market demand, or an assessment of the potential or current economic effects of the activity, or an assessment of the appropriateness of the activity in relation to the economic planning objectives set by the competent authority; <i>this prohibition does not concern planning requirements which do not pursue economic aims but serve overriding reasons relating to the public interest;</i></p> <p>(6) the direct or indirect involvement of competing operators, including within consultative bodies, in the granting of authorisations or in the adoption of other decisions of the competent authorities, with the exception of professional bodies and associations or other organisations acting as the competent authority; <i>this prohibition does not concern the consultation of organisations such as chambers of commerce or social partners on matters other than individual applications for authorisation;</i></p> <p>(7) an obligation to provide or participate in a financial guarantee or to take out insurance from a service-provider or body established in their territory. <i>This does not affect the possibility for Member States to require financial guarantees as <u>such</u> nor,</i></p>	<p>Member State in which the provider already has an establishment, save in the case of conditions of reciprocity provided for in Community instruments concerning energy;</p> <p>(5) the case-by-case application of an economic test making the granting of authorisation subject to proof of the existence of an economic need or market demand, or an assessment of the potential or current economic effects of the activity, or an assessment of the appropriateness of the activity in relation to the economic planning objectives set by the competent authority; <i>this prohibition does not concern planning requirements which do not pursue economic aims but serve overriding reasons relating to the public interest;</i></p> <p>(6) the direct or indirect involvement of competing operators, including within consultative bodies, in the granting of authorisations or in the adoption of other decisions of the competent authorities, with the exception of professional bodies and associations or other organisations acting as the competent authority; <i>this prohibition does not concern the consultation of organisations such as chambers of commerce or social partners on matters other than individual applications for authorisation;</i></p> <p>(7) an obligation to provide or participate in a financial guarantee or to take out insurance from a service-provider or body established in their territory. <i>This does not affect the possibility for Member States to require financial guarantees as such, nor</i></p>	

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>(8) an obligation to have been entered, for a given period, in the registers held in their territory or to have exercised the activity for a given period in their territory.</p>	<p><u>subject always to compliance with the principles of non-prevention, non-restriction and non-distortion of competition in the internal market and of non-discrimination on grounds of nationality, does it prevent, without prejudice to Article 29(4), a requirement by a Member State that insurance be taken out through or from undertakings to which it has granted special or exclusive rights, nor does it affect requirements relating to the participation in a collective compensation fund, for instance for members of professional bodies or organisations;</u></p> <p>(8) an obligation to have been pre-registered in the registers held in their territory or to have previously exercised the activity in their territory.</p>	<p><i>does it affect requirements relating to the participation in a collective compensation fund, for instance for members of professional bodies or organisations;</i></p> <p>(8) an obligation to have been pre-registered, for a given period, in the registers held in their territory or to have previously exercised the activity <u>for a given period</u> in their territory.</p>	
COMMENT			
Article 15 - Requirements to be evaluated	Article 15 - Requirements to be evaluated	Article 15 - Requirements to be evaluated	
<p>1. Member States shall examine whether, under their legal system, any of the requirements listed in paragraph 2 are imposed and shall ensure that any such requirements are compatible with the conditions laid down in paragraph 3. Member States shall adapt their laws, regulations or administrative provisions so as to make them compatible with those conditions.</p> <p>2. Member States shall examine</p>	<p>1. Member States shall examine whether, under their legal system, any of the requirements listed in paragraph 2 are imposed and shall ensure that any such requirements are compatible with the conditions laid down in paragraph 3. Member States shall adapt their laws, regulations or administrative provisions so as to make them compatible with those conditions.</p> <p>2. Member States shall examine</p>	<p>1. Member States shall examine whether, under their legal system, any of the requirements listed in paragraph 2 are imposed and shall ensure that any such requirements are compatible with the conditions laid down in paragraph 3. Member States shall adapt their laws, regulations or administrative provisions so as to make them compatible with those conditions.</p> <p>2. Member States shall examine</p>	

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>whether their legal system makes access to a service activity or the exercise of it subject to compliance with any of the following non-discriminatory requirements:</p> <p>(a) quantitative or territorial restrictions, in particular in the form of limits fixed according to population, or of a minimum geographical distance between service-providers;</p> <p>(b) an obligation on a provider to take a specific legal form, in particular to be a legal person, to be a company with individual ownership, to be a non-profit making organisation or a company owned exclusively by natural persons;</p> <p>(c) requirements which relate to the shareholding of a company, in particular an obligation to hold a minimum amount of capital for certain service activities or to have a specific professional qualification in order to hold capital in or to manage certain companies;</p> <p>(d) requirements, other than those concerning professional qualifications or provided for in other Community instruments, which reserve access to the service activity in question to particular providers by virtue of the specific nature of the activity;</p> <p>(e) a ban on having more than one establishment in the territory of the same State;</p>	<p>whether their legal system makes access to a service activity or the exercise of it subject to compliance with any of the following non-discriminatory requirements:</p> <p>(a) quantitative or territorial restrictions, in particular in the form of limits fixed according to population, or of a minimum geographical distance between service-providers;</p> <p>(b) an obligation on a provider to take a specific legal <i>form</i>;</p> <p>(c) requirements which relate to the shareholding of a <i>company</i>;</p> <p>(d) requirements, other than those concerning <i>matters covered by Title II of Directive 2005/36/EC</i> or provided for in other Community instruments, which reserve access to the service activity in question to particular providers by virtue of the specific nature of the activity;</p> <p>(e) a ban on having more than one establishment in the territory of the same <i>Member State</i>;</p>	<p>whether their legal system makes access to a service activity or the exercise of it subject to compliance with any of the following non-discriminatory requirements:</p> <p>(a) quantitative or territorial restrictions in particular in the form of limits fixed according to population, or of a minimum geographical distance between service-providers;</p> <p>(b) an obligation on a provider to take a specific legal form;</p> <p>(c) requirements which relate to the shareholding of a company;</p> <p>(d) requirements, other than those concerning <i>matters covered by Directive 2005/36/EC³⁷ on the recognition of</i> professional qualifications or provided for in other Community instruments, which reserve access to the service activity in question to particular providers by virtue of the specific nature of the activity;</p> <p>(e) a ban on having more than one establishment in the territory of the same State;</p>	

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>(f) requirements fixing a minimum number of employees;</p> <p>(g) fixed minimum and/or maximum tariffs with which the provider must comply;</p> <p>(h) prohibitions and obligations with regard to selling below cost and to sales;</p> <p>(i) requirements that an intermediary provider must allow access to certain specific services provided by other service-providers;</p> <p>(j) an obligation on the provider to supply other specific services jointly with his service.</p> <p>3. Member States shall verify that requirements referred to in paragraph 2 satisfy the following conditions:</p> <p>(a) non-discrimination: requirements must be neither directly nor indirectly discriminatory according to nationality or, with regard to companies, according to the location of the registered office;</p> <p>(b) necessity: requirements must be objectively justified by an overriding reason relating to the public interest;</p> <p>(c) proportionality: requirements must be suitable for securing the attainment of the objective pursued; they must not go beyond what is necessary to attain that objective; and it must not be possible to replace those requirements with other, less restrictive measures which attain the same result.</p> <p>4. In the mutual evaluation report</p>	<p>(f) requirements fixing a minimum number of employees;</p> <p>(g) fixed minimum and/or maximum tariffs with which the provider must comply;</p> <p>(h) an obligation on the provider to supply other specific services jointly with his service.</p> <p>3. Member States shall verify that requirements referred to in paragraph 2 satisfy the following conditions:</p> <p>(a) non-discrimination: requirements must be neither directly nor indirectly discriminatory according to nationality or, with regard to companies, according to the location of the registered office;</p> <p>(b) necessity: requirements must be justified by an overriding reason relating to the public interest;</p> <p>(c) proportionality: requirements must be suitable for securing the attainment of the objective pursued; they must not go beyond what is necessary to attain that objective; and it must not be possible to replace those requirements with other, less restrictive measures which attain the same result.</p> <p>4. In the mutual evaluation report</p>	<p>(f) requirements fixing a minimum number of employees;</p> <p>(g) fixed minimum and/or maximum tariffs with which the provider must comply;</p> <p><i>deleted</i></p> <p><i>deleted</i></p> <p>(j) an obligation on the provider to supply other specific services jointly with his service.</p> <p>3. Member States shall verify that requirements referred to in paragraph 2 satisfy the following conditions:</p> <p>(a) non-discrimination: requirements must be neither directly nor indirectly discriminatory according to nationality or, with regard to companies, according to the location of the registered office;</p> <p>(b) necessity: requirements must be justified by an overriding reason relating to the public interest;</p> <p>(c) proportionality: requirements must be suitable for securing the attainment of the objective pursued; they must not go beyond what is necessary to attain that objective; and it must not be possible to replace those requirements with other, less restrictive measures which attain the same result.</p> <p>4. In the mutual evaluation report</p>	

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>provided for in Article 41, Member States shall specify the following:</p> <p>(a) the requirements that they intend to maintain and the reasons why they consider that those requirements comply with the conditions set out in paragraph 3;</p> <p>(b) the requirements which have been abolished or made less stringent.</p> <p>5. From the date of entry into force of this Directive, Member States shall not introduce any new requirement of a kind listed in paragraph 2, unless that requirement satisfies the conditions laid down in paragraph 3 and the need for it arises from new circumstances.</p> <p>6. Member States shall notify to the Commission any new laws, regulations or administrative provisions which set requirements as referred to in paragraph 5, together with the reasons for those requirements. The Commission shall communicate the provisions concerned to the other Member States. Such notification shall not prevent the adoption by Member States of the provisions in question. Within a period of 3 months from the date of notification, the Commission shall examine the compatibility of any new requirements with Community law and, as the case may be, shall adopt a decision requesting the Member State in question to refrain from adopting them or to abolish them.</p>	<p>provided for in <i>Article 38</i>, Member States shall specify the following:</p> <p>(a) the requirements that they intend to maintain and the reasons why they consider that those requirements comply with the conditions set out in paragraph 3;</p> <p>(b) the requirements which have been abolished or made less stringent.</p> <p>5. <i>Paragraphs 1 to 4 do not apply to legislation in the field of services of general economic interest and social insurance schemes, including compulsory health insurance schemes.</i></p>	<p>provided for in <u>Article 41</u>, Member States shall specify the following:</p> <p>(a) the requirements that they intend to maintain and the reasons why they consider that those requirements comply with the conditions set out in paragraph 3;</p> <p>(b) the requirements which have been abolished or made less stringent.</p> <p>5. <u>From the date of entry into force of this Directive, Member States shall not introduce any new requirement of a kind listed in paragraph 2, unless that requirement satisfies the conditions laid down in paragraph 3 and the need for it arises from new circumstances.</u></p> <p>6. <u>Member States shall notify to the Commission any new laws, regulations or administrative provisions which set requirements as referred to in paragraph 5, together with the reasons for those requirements. The Commission shall communicate the provisions concerned to the other Member States. Such notification shall not prevent the adoption by Member States of the provisions in question. Within a period of 3 months from the date of notification, the Commission shall examine the compatibility of any new requirements with Community law and, as the case may be, shall adopt a decision requesting the Member State in question to refrain from adopting them or to abolish them.</u></p>	
COMMENT			

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
Article 16 - Country of origin principle	Article 21 - Freedom to provide Services	Article 16 - Freedom to provide Services	
<p>(1) Member States shall ensure that providers are subject only to the national provisions of their Member State of origin which fall within the coordinated field. Paragraph 1 shall cover national provisions relating to access to and the exercise of a service activity, in particular those requirements governing the behaviour of the provider, the quality or content of the service, advertising, contracts and the provider's liability.</p> <p>(2) The Member State of origin shall be responsible for supervising the provider and the services provided by him, including services provided by him in another Member State.</p> <p>(3) Member States may not, for</p>	<p>1. Member States shall <i>respect the right of providers to provide a service in a Member State other than that in which they are established.</i> <i>The Member State in which the service is provided shall ensure free access to and free exercise of a service activity within its territory.</i></p> <p><i>Member States shall not make access to or exercise of a service activity in their territory subject to compliance with any requirements which do not respect the following principles:</i></p> <p>(a) <i>non-discrimination: the requirement may be neither directly nor indirectly discriminatory with regard to nationality or, in the case of legal persons, with regard to the Member State in which they are established;</i></p> <p>(b) <i>necessity: the requirement must be justified for reasons of public policy or public security or the protection of the health and the environment; and</i></p> <p>(c) <i>proportionality: the requirement must be suitable for securing the attainment of the objective pursued and must not go beyond what is necessary to attain that objective.</i></p> <p>2. Member States may not restrict the</p>	<p><i>1. Member States shall respect the right of service providers to provide services in a Member State other than that in which they are established.</i> <i>The Member State in which the service is provided shall ensure free access to and free exercise of a service activity within its territory.</i></p> <p><i>Member States shall not make access to or exercise of a service activity in their territory subject to compliance with any requirements which do not respect the following principles:</i></p> <p>(a) <i>non-discrimination: the requirement may be neither directly nor indirectly discriminatory with regard to nationality or, in the case of legal persons, with regard to the Member State in which they are established;</i></p> <p>(b) <i>necessity: the requirement must be justified for reasons of public policy or public security or the protection of the health and the environment; and</i></p> <p>(c) <i>proportionality: the requirement must be suitable for securing the attainment of the objective pursued and must not go beyond what is necessary to attain that objective.</i></p> <p>2. Member States may not restrict the</p>	

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>reasons falling within the coordinated field, restrict the freedom to provide services in the case of a provider established in another Member State, in particular, by imposing any of the following requirements:</p> <p>(a) an obligation on the provider to have an establishment in their territory;</p> <p>(b) an obligation on the provider to make a declaration or notification to, or to obtain an authorisation from, their competent authorities, including entry in a register or registration with a professional body or association in their territory;</p> <p>(c) an obligation on the provider to have an address or representative in their territory or to have an address for service at the address of a person authorised in that territory;</p> <p>(d) a ban on the provider setting up a certain infrastructure in their territory, including an office or chambers, which the provider needs to supply the services in question;</p> <p>(e) an obligation on the provider to comply with requirements, relating to the exercise of a service activity, applicable in their territory;</p> <p>(f) the application of specific contractual arrangements between the provider and the recipient which prevent or restrict service provision by the self-employed;</p> <p>(g) an obligation on the provider to possess an identity document issued by its competent authorities specific to the exercise of a service activity;</p> <p>(h) requirements which affect the use of equipment which is an integral part of the</p>	<p>freedom to provide services in the case of a provider established in another Member State, in particular, by imposing any of the following:</p> <p>(a) an obligation on the provider to have an establishment in their territory;</p> <p>(b) an obligation on the provider to obtain an authorisation from, their competent authorities, including entry in a register or registration with a professional body or association in their territory, <i>except where provided for in this Directive or other instruments of Community law</i>;</p> <p>(c) a ban on the provider setting up a certain infrastructure in their territory, including an office or chambers, which the provider needs to supply the services in question;</p> <p>(d) the application of specific contractual arrangements between the provider and the recipient which prevent or restrict service provision by the self-employed;</p> <p>(e) an obligation on the provider to possess an identity document issued by its competent authorities specific to the exercise of a service activity;</p> <p>(f) requirements, <i>other than those necessary for health and safety at work</i>,</p>	<p>freedom to provide services in the case of a provider established in another Member State by imposing any of the following requirements:</p> <p>(a) an obligation on the provider to have an establishment in their territory;</p> <p>(b) an obligation on the provider to obtain an authorisation from, their competent authorities, including entry in a register or registration with a professional body or association in their territory, <i>except where provided for in this Directive or other instruments of Community law</i>;</p> <p>(c) a ban on the provider setting up a certain infrastructure in their territory, including an office or chambers, which the provider needs to supply the services in question;</p> <p>(d) the application of specific contractual arrangements between the provider and the recipient which prevent or restrict service provision by the self-employed;</p> <p>(e) an obligation on the provider to possess an identity document issued by its competent authorities specific to the exercise of a service activity;</p> <p>(f) requirements, <i>unless those necessary for health and safety at work</i>,</p>	

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>service provided;</p> <p>(i) restrictions on the freedom to provide the services referred to in Article 20, the first subparagraph of Article 23(1) or Article 25(1).</p>	<p>which affect the use of equipment <i>and material</i> which <i>are</i> an integral part of the service provided;</p> <p>(g) restrictions on the freedom to provide services referred to in Article 24.</p> <p>3. <i>These provisions do not prevent the Member State to which the provider moves from imposing requirements with regard to the provision of a service activity, where they are justified for reasons of public policy, public security, environmental protection and public health. Nor do they prevent Member States from applying, in conformity with Community law, their rules on employment conditions, including those laid down in collective agreements.</i></p> <p>4. <i>By ...* at the latest, the Commission shall, after consultation of the Member States and the social partners at European level, submit to the European Parliament and the Council a report on the application of this Article, in which it shall consider the need to propose harmonisation measures regarding service activities covered by this Directive.</i></p>	<p>which affect the use of equipment <i>and material</i> which are an integral part of the service provided;</p> <p>(g) restrictions on the freedom to provide the services referred to in Article 20.</p> <p>3. <i>The Member State to which the service provider moves shall not be prevented from imposing requirements with regard to the provision of a service activity, where they are justified for reasons of public policy, public security, public health or the protection of the environment, and in accordance with paragraph 1. Nor shall that Member State be prevented from applying, in conformity with Community law, its rules on employment conditions, including those laid down in collective agreements.</i></p> <p>4. <i>By five years after the entry into force of this Directive at the latest, the Commission shall, after consultation of the Member States and the social partners at Community level, submit to the European Parliament and the Council a report on the application of this article, in which it shall consider the need to propose harmonisation measures regarding service activities covered by this Directive.</i></p>	
COMMENT			
Article 17 - General derogations from the country of origin principle	Article 22 - General derogations	Article 17 - <u>Additional</u> derogations <u>from the freedom to provide services</u>	

* Five years after the date of entry into force of this Directive.

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>Article 16 shall not apply to the following:</p> <p>(1) postal services within the meaning of point (1) of Article 2 of Directive 97/67/EC of the European Parliament and the Council;</p> <p>(2) electricity distribution services within the meaning of point (5) of Article 2 of Directive 2003/54/EC of the European Parliament and of the Council;</p> <p>(3) gas distribution services within the meaning of point (5) of Article 2 of Directive 2003/55/EC of the European Parliament and of the Council;</p> <p>(4) water distribution services;</p> <p>(5) matters covered by Directive 96/71/EC;</p>	<p>Article 21 shall not apply to the following:</p> <p>(1) Services of general economic interest which are provided in another Member State, inter alia:</p> <p>(a) postal services <i>covered by</i> Directive 97/67/EC of the European Parliament and the Council <i>of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service</i>³⁸;</p> <p>(b) electricity <i>transmission, distribution and supply</i> services within the meaning of Article 2 of Directive 2003/54/EC of the European Parliament and of the Council <i>of 26 June 2003 concerning common rules for the internal market in electricity</i>⁴⁰;</p> <p>(c) gas <i>transmission, distribution, supply and storage services</i> within the meaning of Article 2 of Directive 2003/55/EC of the European Parliament and of the Council <i>of 26 June 2003 concerning common rules for the internal market in natural gas</i>⁴²;</p> <p>(d) water distribution <i>and supply services and waste water services;</i></p> <p>(e) the treatment of waste;</p> <p>(2) matters covered by Directive 96/71/EC;</p>	<p>Article 16 shall not apply <i>to:</i></p> <p><i>1) Services of general economic interest which are provided in another Member State, inter alia:</i></p> <p><i>(a) in the postal sector,</i> services <i>covered by</i> Directive 97/67/EC³⁹ of the European Parliament and of the Council;</p> <p><i>(b) in the electricity sector,</i> services <i>covered by</i> Directive 2003/54/EC⁴¹ of the European Parliament and of the Council;</p> <p><i>(c) in the gas sector,</i> services <i>covered by</i> Directive 2003/55/EC⁴³ of the European Parliament and of the Council;</p> <p><i>(d)</i> water distribution <i>and supply services and waste water services;</i></p> <p><i>(e) treatment of waste;</i></p> <p>(5) matters covered by Directive 96/71/EC⁴⁴ <i>of the European Parliament and the Council concerning the posting of</i></p>	

³⁸ OJ L 15, 21.1.1998, p. 14. *Directive as last amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).*

³⁹ OJ L 15, 21.1.1998, p. 14.

⁴⁰ OJ L 176, 15.7.2003, p. 37.

⁴¹ OJ L 176, 15.7.2003, p. 37.

⁴² OJ L 176, 15.7.2003, p. 57.

⁴³ OJ L 176, 15.7.2003, p. 57.

⁴⁴ OJ L 18, 21.1.1997, p.1.

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>(6) matters covered by Directive 95/46/EC of the European Parliament and of the Council;</p> <p>(7) matters covered by Council Directive 77/249/EEC;</p> <p>(8) the provisions of Article [...] of Directive .../.../EC on the recognition of professional qualifications;</p> <p>(9) the provisions of Regulation (EEC) No 1408/71 determining the applicable legislation;</p> <p>(10) the provisions of Directive .../.../EC of the European Parliament and the Council [on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, amending Regulation (EEC) 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC,</p>	<p>(3) matters covered by Directive 95/46/EC of the European Parliament and of the Council <i>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</i>⁴⁵;</p> <p>(4) <i>the activity of judicial recovery of debts</i>;</p> <p>(5) <i>as regards professional qualifications, the provisions of Directive 2005/36/EC, including requirements in the Member States where the service is provided which reserve an activity to a particular profession</i>;</p> <p>(6) the provisions of Regulation (EEC) No 1408/71 determining the applicable legislation;</p> <p>(7) <i>as regards administrative formalities concerning the free movement of persons and their residence</i>, the provisions of Directive 2004/38/EC of the European Parliament and the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States⁵⁰ that lay down the</p>	<p><i>workers in the framework of the provision of services</i>;</p> <p>(6) matters covered by Directive 95/46/EC of the European Parliament and of the Council <i>on the protection of individuals with regard to the processing of personal data and on the free movement of such data</i>⁴⁶;</p> <p>(7) <u>matters covered by Council Directive 77/249/EEC</u>⁴⁷ <i>to facilitate the effective exercise by lawyers of freedom to provide services</i>;</p> <p>(7a) <i>the activity of judicial recovery of debts</i>;</p> <p>(8) <u>matters covered by title II of Directive 2005/36/EC</u>⁴⁸ <i>on the recognition of professional qualifications, as well as requirements in the Member State where the service is provided which reserve an activity to a particular profession</i>;</p> <p>(9) <u>matters covered by Regulation (EEC) n° 1408/71 on the coordination of social security systems</u>⁴⁹;</p> <p>(10) <i>as regards administrative formalities concerning the free movement of persons and their residence, matters covered by the provisions of Directive 2004/38/EC</i>⁵¹ of the European Parliament and the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, that lay down the</p>	

⁴⁵ OJ L 281, 23.11.1995, p. 31. Directive as amended by Regulation (EC) No 1882/2003.

⁴⁶ OJ L 281, 28.11.1995, p. 1.

⁴⁷ OJ L 78, 26.3.1977, p.17.

⁴⁸ OJ L 255, 30.9.2005, p.22.

⁴⁹ OJ L 149, 5.7.1971, p. 2. Regulation as last amended by Regulation (EC) N° 647/2005, OJ L 117, 4.5.2005 p. 1

⁵⁰ OJ L 158, 30.4.2004, p. 77.

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>90/364/EEC, 90/365/EEC and 93/96/EEC], that lay down the administrative formalities that beneficiaries must undertake before the competent authorities of the host Member States;</p> <p>(11) in the case of the posting of third country nationals, the requirement for a short stay visa imposed by the Member State of posting, subject to the conditions set out in Article 25(2);</p> <p>(12) the authorisation regime provided for in Articles 3 and 4 of Council Regulation (EEC) No 259/93;</p> <p>(13) copyright, neighbouring rights, rights covered by Council Directive 87/54/EEC⁵⁴ and by Directive 96/9/EC of the European Parliament and of the Council⁵⁵ as well as industrial property rights;</p>	<p>administrative formalities that beneficiaries must undertake before the competent authorities of the <i>Member State of destination</i>;</p> <p>(8) <i>as regards the shipment of waste</i>, the authorisation regime provided for in Articles 3 and 4 of Council Regulation (EEC) No 259/93 <i>of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community</i>⁵²;</p> <p>(9) copyright, neighbouring rights, rights covered by Council Directive 87/54/EEC <i>of 16 December 1986 on the legal protection of topographies of semiconductor products</i>⁵⁶ and by Directive 96/9/EC of the European Parliament and of the Council <i>of 11 March 1996 on the legal</i></p>	<p>administrative formalities that beneficiaries must undertake before the competent authorities of the <i>Member State where the service is provided</i>;</p> <p>(11) <i>as regards third country nationals who move to another Member State in the context of the provision of a service the possibility for Member States to require visa or residence permits for third country nationals who are not covered by the mutual recognition regime provided for in Article 21 of the Convention implementing the Schengen Agreement or the possibility to oblige third country nationals to report to the competent authorities of the Member State in which the service is provided on or after their entry</i>;</p> <p>(12) the authorisation regime provided for in Articles 3 and 4 of Council Regulation (EEC) No 259/93 <i>of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community</i>⁵³;</p> <p>(13) copyright, neighbouring rights, rights covered by Council Directive 87/54/EEC⁵⁸ and by Directive 96/9/EC of the European Parliament and of the Council⁵⁹ as well as industrial property rights;</p>	

⁵¹ OJ L 158, 30.4.2004, p.77.

⁵² OJ L 30, 6.2.1993, p. 1. *Regulation as last amended by Commission Regulation (EC) No 2557/2001 (OJ L 349, 31.12.2001, p. 1).*

⁵³ OJ L 30, 6.2.1993, p. 1. *Regulation as last amended by Commission Regulation (EC) No 2557/2001 (OJ L 349, 31.12.2001, p.1).*

⁵⁴ OJ L 24, 27.1.1987, p. 36.

⁵⁵ OJ L 77, 27.3.1996, p. 20.

⁵⁶ OJ L 24, 27.1.1987, p. 36.

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>(14) acts requiring by law the involvement of a notary;</p> <p>(15) statutory audit;</p> <p>(16) services which, in the Member State to which the provider moves temporarily in order to provide his service, are covered by a total prohibition which is justified by reasons relating to public policy, public security or public health;</p> <p>(17) specific requirements of the Member State to which the provider moves, that are directly linked to the particular characteristics of the place where the service is provided and with which compliance is indispensable for reasons of public policy or public security or for the protection of public health or the environment;</p> <p>(18) the authorisation system applicable</p>	<p><i>protection of databases</i>⁵⁷ as well as industrial property rights;</p> <p>(10) statutory audit;</p> <p><i>deleted</i></p> <p>(11) <i>services which, in the Member State to which the provider moves in order to provide his service, are prohibited, when this prohibition is justified by reasons relating to public policy, public security or public health;</i></p> <p>(12) specific requirements of the Member State to which the provider moves, that are directly linked to the particular characteristics of the place where the service is provided, <i>to the particular risk created by the service at the place where the service is provided or to health and safety at the work place</i>, and with which compliance is indispensable for reasons of public policy or public security or for the protection of public health or the environment;</p>	<p>(14) acts requiring by law the involvement of a notary;</p> <p>(15) <u><i>matters covered by Directive .../.../EC on statutory audit of annual accounts and consolidated accounts and amending Council Directives 78/660/EEC⁶⁰ and 83/349/EEC⁶¹</i></u>;</p> <p><i>deleted</i></p> <p><i>deleted</i></p> <p><i>deleted</i></p>	

⁵⁸ OJ L 24, 27.1.1987, p. 36.

⁵⁹ OJ L 77, 27.3.1996, p. 20.

⁵⁷ OJ L 77, 27.3.1996, p. 20.

⁶⁰ OJ L 222, 14.8.1978, p.11.

⁶¹ OJ L 193, 18.7.1983, p.1.

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>to the reimbursement of hospital care;</p> <p>(19) the registration of vehicles leased in another Member State;</p> <p>(20) the freedom of parties to choose the law applicable to their contract;</p> <p>(21) contracts for the provision of services concluded by consumers to the extent that the provisions governing them are not completely harmonised at Community level;</p> <p>(22) the formal validity of contracts creating or transferring rights in immovable property, where contracts are subject, under the law of the Member State in which the property is located, to imperative formal requirements;</p> <p>(23) the non-contractual liability of a provider in the case of an accident involving a person and occurring as a consequence of the service provider's activities in the Member State to which he has moved temporarily.</p>	<p>(13) the registration of vehicles leased in another Member State;</p> <p>(14) <i>all provisions of international private law, particularly those dealing with contractual and non-contractual obligations, including the form of contracts.</i></p>	<p>(19) the registration of vehicles leased in another Member State;</p> <p>(20) <u>provisions regarding contractual and non-contractual obligations, including the form of contracts, determined pursuant to the rules of private international law.</u></p>	
COMMENT			
Article 18 - Transitional derogations from the country of origin principle	<i>Article 18 has been deleted (COM text)</i>	<i>Article 18 has been deleted (COM text)</i>	
<p>1. Article 16 shall not apply for a transitional period to the following:</p> <p>(a) the way in which cash-in-transit services are exercised;</p> <p>(b) gambling activities which involve wagering a stake with pecuniary value in games of chance, including lotteries and</p>			

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>betting transactions;</p> <p>(c) access to the activity of judicial recovery of debts.</p> <p>2. The derogations referred to in points (a) and (c) of paragraph 1 of this Article shall not apply after the date of application of the harmonisation instruments referred to in Article 40(1) or in any case after 1 January 2010.</p> <p>3. The derogation referred to in point (b) of paragraph 1 of this Article shall not apply after the date of application of the harmonisation instrument referred to in Article 40(1)(b).</p>			
<i>COMMENT</i>			
Article 19 - Case-by-case derogations from the country of origin principle	Article 23 - Case-by-case <i>derogations</i>	Article <u>19</u> - Case-by-case <i>derogations</i>	
<p>1. By way of derogation from Article 16, and in exceptional circumstances only, a Member State may, in respect of a provider established in another Member State, take measures relating to any of the following:</p> <p>(a) the safety of services, including aspects related to public health;</p> <p>(b) the exercise of a health profession;</p> <p>(c) the protection of public policy, notably aspects related to the protection of minors.</p> <p>2. The measures provided for in paragraph 1 may be taken only if the mutual assistance procedure laid down in Article 37 is complied with and all the following conditions are fulfilled:</p> <p>(a) the national provisions in accordance with which the measure is taken</p>	<p>1. By way of derogation from Article 21, and in exceptional circumstances only, a Member State may, in respect of a provider established in another Member State, take measures relating to any of the following:</p> <p>(a) the safety of services, including aspects related to public health;</p> <p>(b) the exercise of a health profession;</p> <p>(c) the protection of public policy, notably aspects related to the protection of minors.</p> <p>2. The measures provided for in paragraph 1 may be taken only <i>if the</i> following conditions are fulfilled:</p> <p>(a) the national provisions in accordance with which the measure is taken</p>	<p>1. By way of derogation from Article <u>16</u>, and in exceptional circumstances only, a Member State may, in respect of a provider established in another Member State, take measures relating to the safety of services.</p> <p><u><i>deleted</i></u></p> <p><u><i>deleted</i></u></p> <p><u><i>deleted</i></u></p> <p>2. The measures provided for in paragraph 1 may be taken only if the <u>mutual assistance procedure laid down in Article 37 is complied with and all</u> <i>the following conditions are fulfilled:</i></p> <p>(a) the national provisions in accordance with which the measure is taken</p>	

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>have not been subject to Community harmonisation in the fields referred to in paragraph 1;</p> <p>(b) the measures provide for a higher level of protection of the recipient than would be the case in a measure taken by the Member State of origin in accordance with its national provisions;</p> <p>(c) the Member State of origin has not taken any measures or has taken measures which are insufficient as compared with those referred to in Article 37(2);</p> <p>(d) the measures are proportionate.</p> <p>3. Paragraphs 1 and 2 shall be without prejudice to provisions, laid down in Community instruments, which guarantee the freedom to provide services or which allow derogations therefrom.</p>	<p>have not been subject to Community harmonisation in the fields referred to in paragraph 1;</p> <p>(b) the measures provide for a higher level of protection of the recipient than would be the case in a measure taken by the Member State of origin in accordance with its national provisions;</p> <p>(c) the Member State of origin has not taken any measures or has taken measures which are insufficient as compared with those referred to in Article 18(2);</p> <p>(d) the measures are proportionate.</p> <p>3. Paragraphs 1 and 2 shall be without prejudice to provisions, laid down in Community instruments, which guarantee the freedom to provide services or which allow derogations therefrom.</p>	<p>have not been subject to Community harmonisation in the fields referred to in paragraph 1;</p> <p>(b) the measures provide for a higher level of protection of the recipient than would be the case in a measure taken by the Member State of origin in accordance with its national provisions;</p> <p>(c) the Member State of origin has not taken any measures or has taken measures which are insufficient as compared with those referred to in Article <u>37(2)</u>;</p> <p>(d) the measures are proportionate.</p> <p>3. Paragraphs 1 and 2 shall be without prejudice to provisions, laid down in Community instruments, which guarantee the freedom to provide services or which allow derogations therefrom.</p>	
COMMENT			
Article 20 - Prohibited restrictions	Article 24 - Prohibited restrictions	Article <u>20</u> - Prohibited restrictions	
<p>Member States may not impose on a recipient requirements which restrict the use of a service supplied by a provider established in another Member State, in particular the following requirements:</p> <p>(a) an obligation to obtain authorisation from or to make a declaration to their competent authorities;</p> <p>(b) limits on tax deductibility or on the grant of financial assistance by reason of the fact that the provider is established in another Member State or by reason of the location of the place at which the service is provided;</p> <p>(c) requirements which subject the</p>	<p>Member States may not impose on a recipient requirements which restrict the use of a service supplied by a provider established in another Member State, in particular the following requirements:</p> <p>(a) an obligation to obtain authorisation from or to make a declaration to their competent authorities;</p> <p>(b) limits <u>on tax deductibility</u> or on the grant of financial assistance by reason of the fact that the provider is established in another Member State or by reason of the location of the place at which the service is provided;</p> <p>(c) requirements which subject the</p>	<p>(a) an obligation to obtain authorisation from or to make a declaration to their competent authorities;</p> <p>(b) limits on the grant of financial assistance by reason of the fact that the provider is established in another Member State or by reason of the location of the place at which the service is provided;</p> <p>(c) requirements which subject the</p>	

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
recipient to discriminatory or disproportionate taxes on the equipment necessary to receive a service at a distance from another Member State.	recipient to discriminatory or disproportionate taxes on the equipment necessary to receive a service at a distance from another Member State.	recipient to discriminatory or disproportionate taxes on the equipment necessary to receive a service at a distance from another Member State.	
<i>COMMENT</i>			
Article 21 - Non-discrimination	Article 25 - Non-discrimination	Article <u>21</u> - Non-discrimination	
<p>1. Member States shall ensure that the recipient is not made subject to discriminatory requirements based on his nationality or place of residence.</p> <p>2. Member States shall ensure that the general conditions of access to a service, which are made available to the public at large by the provider, do not contain discriminatory provisions relating to the nationality or place of residence of the recipient, but without precluding the possibility of providing for differences in the conditions of access where those differences are directly justified by objective criteria.</p>	<p>1. Member States shall ensure that the recipient is not made subject to discriminatory requirements based <u>solely</u> on his nationality or place of residence.</p> <p>2. Member States shall ensure that the general conditions of access to a service, which are made available to the public at large by the provider, do not contain discriminatory provisions relating <u>solely</u> to the nationality or place of residence of the recipient, but without precluding the possibility of providing for differences in the conditions of access where those differences are directly justified by objective criteria.</p>	<p>1. Member States shall ensure that the recipient is not made subject to discriminatory requirements based on his nationality or place of residence.</p> <p>2. Member States shall ensure that the general conditions of access to a service, which are made available to the public at large by the provider, do not contain discriminatory provisions relating to the nationality or place of residence of the recipient, but without precluding the possibility of providing for differences in the conditions of access where those differences are directly justified by objective criteria.</p>	
<i>COMMENT</i>			
Article 22 - Assistance for recipients	Article 26 - Assistance for recipients	Article <u>22</u> - Assistance for recipients	
<p>1. Member States shall ensure that recipients can obtain, in their Member State of residence, the following information:</p> <p>(a) information on the requirements applicable in other Member States relating to access to and exercise of service activities, in particular those relating to</p>	<p>1. Member States shall ensure that recipients can obtain <i>via the points of single contact</i>:</p> <p>(a) information on the requirements applicable in other Member States relating to access to and exercise of service activities, in particular those relating to consumer</p>	<p>1. Member States shall ensure that recipients can obtain <i>via the points of single contact</i>:</p> <p>(a) information on the requirements applicable in other Member States relating to access to and exercise of service activities, in particular those relating to consumer</p>	

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>consumer protection;</p> <p>(b) information on the means of redress available in the case of a dispute between a provider and a recipient;</p> <p>(c) the contact details of associations or organisations, including Euroguichets and the contact points of the European extra-judicial network (EEJ-net), from which providers or recipients may obtain practical assistance.</p> <p>2. Member States may confer responsibility for the task referred to in paragraph 1 to single points of contact or to any other body, such as Euroguichets, the contact points of the European extra-judicial network (EEJ-net), consumer associations or Euro Info Centres.</p> <p>By the date specified in Article 45 at the latest, Member States shall communicate to the Commission the names and contact details of the designated bodies. The Commission shall transmit them to all Member States.</p> <p>3. In order to be able to send the information referred to in paragraph 1, the</p>	<p>protection;</p> <p>(b) general information on the means of redress available in the case of a dispute between a provider and a recipient;</p> <p>(c) the contact details of associations or organisations from which providers or recipients may obtain practical assistance.</p> <p><i>Where appropriate, advice from the competent authorities shall include a simple step-by-step guide.</i></p> <p><i>Information and assistance shall be provided in a clear and unambiguous manner, shall be easily accessible at a distance including by electronic means, and shall be kept up-to-date.</i></p> <p>2. Member States may confer responsibility for the task referred to in paragraph 1 to any other body, such as Euroguichets, the contact points of the <u>European extra-judicial network (EEJ-net)</u>, consumer associations or Euro Info Centres.</p> <p>By ...; at the latest, Member States shall communicate to the Commission the names and contact details of the designated bodies. The Commission shall transmit them to all Member States.</p> <p>3. In order to be able to send the information referred to in paragraph 1, the</p>	<p>protection;</p> <p>(b) general information on the means of redress available in the case of a dispute between a provider and a recipient;</p> <p>(c) the contact details of associations or organisations, including the contact points <u>of the European Consumer Centres Network (ECC-Net)</u>, from which providers or recipients may obtain practical assistance.</p> <p><i>Where appropriate, advice from the competent authorities shall include a simple step-by-step guide.</i></p> <p><i>Information and assistance shall be provided in a clear and unambiguous manner, shall be easily accessible at a distance including by electronic means, and shall be kept up-to-date.</i></p> <p>2. Member States may confer responsibility for the task referred to in paragraph 1 to <u>points of single contact</u> or to any other body, such as the contact points of <u>the European Consumer Centres Network (ECC-Net)</u>, consumer associations or Euro Info Centres.</p> <p>By the date specified in Article 45 at the latest, Member States shall communicate to the Commission the names and contact details of the designated bodies. The Commission shall transmit them to all Member States.</p> <p>3. In order to be able to send the information referred to in paragraph 1, the</p>	

; *Three years after the date of entry into force of this Directive.*

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>relevant body approached by the recipient shall contact the relevant body for the Member State concerned. The latter shall send the information requested as soon as possible. Member States shall ensure that those bodies give each other mutual assistance and shall put in place all possible measures for effective cooperation.</p> <p>4. The Commission shall, in accordance with the procedure referred to in Article 42(2), adopt measures for the implementation of paragraphs 1, 2 and 3, specifying the technical mechanisms for the exchange of information between the bodies of the various Member States and, in particular, the interoperability of information systems.</p>	<p>relevant body approached by the recipient shall contact the relevant body for the Member State concerned. The latter shall send the information requested as soon as possible. Member States shall ensure that those bodies give each other mutual assistance and shall put in place all possible measures for effective cooperation.</p> <p>4. The Commission shall, in accordance with the procedure referred to in Article 39(2), adopt measures for the implementation of paragraphs 1, 2 and 3, specifying the technical mechanisms for the exchange of information between the bodies of the various Member States and, in particular, the interoperability of information systems.</p>	<p>relevant body approached by the recipient shall contact the relevant body for the Member State concerned. The latter shall send the information requested as soon as possible. Member States shall ensure that those bodies give each other mutual assistance and shall put in place all possible measures for effective cooperation.</p> <p>4. The Commission shall, in accordance with the procedure referred to in Article 42(2), adopt measures for the implementation of paragraphs 1, 2 and 3, specifying the technical mechanisms for the exchange of information between the bodies of the various Member States and, in particular, the interoperability of information systems.</p>	
COMMENT			
Article 23 - Assumption of health care costs	<i>Deleted</i>	<i>Deleted</i>	
<p>1. Member States may not make assumption of the costs of non-hospital care in another Member State subject to the granting of an authorisation, where the cost of that care, if it had been provided in their territory, would have been assumed by their social security system.</p> <p>The conditions and formalities to which the receipt of non-hospital care in their territory is made subject by Member States, such as the requirement that a general practitioner be consulted prior to consultation of a specialist, or the terms and conditions relating to the assumption of the costs of certain types of dental care, may be</p>			

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>imposed on a patient who has received non-hospital care in another Member State.</p> <p>2. Member States shall ensure that authorisation for assumption by their social security system of the cost of hospital care provided in another Member State is not refused where the treatment in question is among the benefits provided for by the legislation of the Member State of affiliation and where such treatment cannot be given to the patient within a time frame which is medically acceptable in the light of the patient's current state of health and the probable course of the illness.</p> <p>3. Member States shall ensure that the level of assumption by their social security system of the costs of health care provided in another Member State is not lower than that provided for by their social security system in respect of similar health care provided in their territory.</p> <p>4. Member States shall ensure that their authorisation systems for the assumption of the costs of health care provided in another Member State are in conformity with Articles 9, 10, 11 and 13.</p>			
COMMENT			
Article 24 - Specific provisions on the posting of workers	<i>Deleted</i>	<i>Deleted</i>	
<p>1. Where a provider posts a worker to another Member State in order to provide a service, the Member State of posting shall carry out in its territory the checks, inspections and investigations necessary to ensure compliance with the employment</p>			

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>and working conditions applicable under Directive 96/71/EC and shall take, in accordance with Community law, measures in respect of a service provider who fails to comply with those conditions.</p> <p>However, the Member State of posting may not make the provider or the posted worker subject to any of the following obligations, as regards the matters referred to in point (5) of Article 17:</p> <p>(a) to obtain authorisation from, or to be registered with, its own competent authorities, or to satisfy any other equivalent requirement;</p> <p>(b) to make a declaration, other than declarations relating to an activity referred to in the Annex to Directive 96/71/EC which may be maintained until 31 December 2008;</p> <p>(c) to have a representative in its territory;</p> <p>(d) to hold and keep employment documents in its territory or in accordance with the conditions applicable in its territory.</p> <p>2. In the circumstances referred to in paragraph 1, the Member State of origin shall ensure that the provider takes all measures necessary to be able to communicate the following information, both to its competent authorities and to those of the Member State of posting, within two years of the end of the posting:</p> <p>(a) the identity of the posted worker;</p> <p>(b) his position and the nature of the tasks attributed to him,</p> <p>(c) the contact details of the recipient,</p> <p>(d) the place of posting,</p>			

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>(e) the start and end dates for the posting,</p> <p>(f) the employment and working conditions applied to the posted worker;</p> <p>In the circumstances referred to in paragraph 1, the Member State of origin shall assist the Member State of posting to ensure compliance with the employment and working conditions applicable under Directive 96/71/EC and shall, on its own initiative, communicate to the Member State of posting the information specified in the first subparagraph where the Member State of origin is aware of specific facts which indicate possible irregularities on the part of the provider in relation to employment and working conditions.</p>			
COMMENT			
Article 25 - Posting of third country nationals	<i>Deleted</i>	<i>Deleted</i>	
<p>1. Subject to the possibility of derogation as referred to in paragraph 2, where a provider posts a worker who is a national of a third country to the territory of another Member State in order to provide a service there, the Member State of posting may not require the provider or the worker posted by the latter to hold an entry, exit, residence or work permit, or to satisfy other equivalent conditions.</p> <p>2. Paragraph 1 does not prejudice the possibility for Member States to require a short-term visa for third country nationals who are not covered by the mutual recognition regime provided for in Article</p>			

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>21 of the Convention implementing the Schengen Agreement.</p> <p>3. In the circumstances referred to in paragraph 1, the Member State of origin shall ensure that a provider posts only a worker who is resident in its territory in accordance with its own national rules and who is lawfully employed in its territory. The Member State of origin shall not regard a posting made in order to provide a service in another Member State as interrupting the residence or activity of the posted worker and shall not refuse to readmit the posted worker to its territory on the basis of its national rules.</p> <p>The Member State of origin shall communicate to the Member State of posting, upon its request and in the shortest possible time, information and guarantees regarding compliance with the first subparagraph and shall impose the appropriate penalties in cases of non-compliance.</p>			
COMMENT			
	Article 27 - Assistance for providers		
	<p><i>1. Member States shall ensure that, by ...* at the latest, it is possible for a provider to complete all procedures and formalities needed, in accordance with this Directive, for the exercise of his service activities in another Member State, with the point of single contact.</i></p>		

* *Three years after the date of entry into force of this Directive.*

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
	2. <i>Articles 6 to 8 shall apply accordingly.</i>		
<i>COMMENT</i>			
Article 26 - Information on providers and their services	Article 28 - Information on providers and their services	Article <u>26</u> - Information on providers and their services	
<p>1. Member States shall ensure that providers make the following information available to the recipient:</p> <p>(a) the name of the service provider, the geographic address at which he is established, and the details which enable him to be contacted rapidly and communicated with directly and, as the case may be, by electronic means;</p> <p>(b) where the provider is registered in a trade or other similar public register, the name of that register and the provider's registration number, or equivalent means of identification in that register;</p> <p>(c) where the activity is subject to an authorisation scheme, the particulars of the relevant competent authority or the single point of contact;</p> <p>(d) where the provider exercises an activity which is subject to VAT, the identification number referred to in Article 22(1) of Directive 77/388/EEC;</p>	<p>1. <u><i>The Commission and the</i></u> Member States shall ensure that providers make the following information available to the recipient, <u><i>to the European point of single contact and to the points of single contact in the Member States of destination:</i></u></p> <p>(a) the name of the <i>provider, his legal form if he is a legal person</i>, the geographic address at which he is established, and the details which enable him to be contacted rapidly and communicated with directly and, as the case may be, by electronic means;</p> <p>(b) where the provider is registered in a trade or other similar public register, the name of that register and the provider's registration number, or equivalent means of identification in that register;</p> <p>(c) where the activity is subject to an authorisation scheme, the particulars of the relevant competent authority or the <i>point of single</i> contact;</p> <p>(d) where the provider exercises an activity which is subject to VAT, the identification number referred to in Article 22(1) of <u><i>Sixth Council</i></u> Directive</p>	<p>1. Member States shall ensure that providers make the following information available to the recipient:</p> <p>a) the name of the service provider, <i>his legal status and form</i>, the geographic address at which he is established, and the details which enable him to be contacted rapidly and communicated with directly and, as the case may be, by electronic means;</p> <p>(b) where the provider is registered in a trade or other similar public register, the name of that register and the provider's registration number, or equivalent means of identification in that register;</p> <p>(c) where the activity is subject to an authorisation scheme, the particulars of the relevant competent authority or the <u>single point of contact</u>;</p> <p>(d) where the provider exercises an activity which is subject to VAT, the identification number referred to in Article 22(1) of Directive 77/388/EEC⁶³;</p>	

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>(e) in the case of the regulated professions, any professional body or similar institution with which the provider is registered, the professional title and the Member State in which that title has been granted;</p> <p>(f) the general conditions and clauses, if any, used by the provider;</p> <p>(g) contractual clauses concerning the law applicable to the contract and/or the competent courts.</p> <p>2. Member States shall ensure that the information referred to in paragraph 1, according to the provider's preference:</p> <p>(a) is supplied by the provider on his own initiative;</p> <p>(b) is easily accessible to the recipient at the place where the service is provided or the contract concluded;</p> <p>(c) can be easily accessed by the</p>	<p><i>77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes - Common system of value added tax: uniform basis of assessment</i>⁶²;</p> <p>(e) in the case of the regulated professions, any professional body or similar institution with which the provider is registered, the professional title and the Member State in which that title has been granted;</p> <p>(f) the general conditions and clauses, if any, used by the provider;</p> <p>(g) contractual clauses concerning the law applicable to the contract and/or the competent courts;</p> <p><i>(h) where professional liability insurance or an equivalent guarantee is compulsory, the details referred to in Article 29(1), with particular reference to details of the insurer or guarantor, of the professional and geographical coverage and proof of being up to date with payments to the insurer.</i></p> <p>2. Member States shall ensure that the information referred to in paragraph 1, according to the provider's preference:</p> <p>(a) is supplied by the provider on his own initiative;</p> <p>(b) is easily accessible to the recipient at the place where the service is provided or the contract concluded;</p> <p>(c) can be easily accessed by the</p>	<p>(e) in the case of the regulated professions, any professional body or similar institution with which the provider is registered, the professional title and the Member State in which that title has been granted;</p> <p>(f) the general conditions and clauses, if any, used by the provider;</p> <p>(g) contractual clauses concerning the law applicable to the contract and/or the competent courts.</p> <p>2. Member States shall ensure that the information referred to in paragraph 1, according to the provider's preference:</p> <p>(a) is supplied by the provider on his own initiative;</p> <p>(b) is easily accessible to the recipient at the place where the service is provided or the contract concluded;</p> <p>(c) can be easily accessed by the</p>	

⁶² OJ L 145, 13.6.1977, p. 1. Directive as last amended by Directive 2006/18/EC (OJ L 51, 22.2.2006, p. 12).

Original Proposal of the European Commission (COM(2004)0002	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>recipient electronically by means of an address supplied by the provider;</p> <p>(d) appears in any information documents supplied to the recipient by the provider, setting out a detailed description of the service he provides.</p> <p>3. Member States shall ensure that, at the recipient's request, providers supply the following additional information:</p> <p>(a) the main features of the service;</p> <p>(b) the price of the service or, if an exact price cannot be given, the method for calculating the price so that the recipient can check it, or a sufficiently detailed estimate;</p> <p>(c) the legal status and form of the provider;</p> <p>(d) as regards the regulated professions, a reference to the professional rules applicable in the Member State of origin and how to access them.</p> <p>4. Member States shall ensure that the information which a provider must supply in accordance with this Chapter is made available or communicated in a clear and unambiguous manner, and in good time before conclusion of the contract or, where there is no written contract, before the service is provided.</p> <p>5. The information requirements laid down in this Chapter are in addition to requirements already provided for in Community law and do not prevent Member States from imposing additional information requirements applicable to providers established in their territory.</p> <p>6. The Commission may, in accordance with the procedure referred to in Article 42(2), specify the content of the</p>	<p>recipient electronically by means of an address supplied by the provider;</p> <p>(d) appears in any information documents supplied to the recipient by the provider, setting out a detailed description of the service he provides.</p> <p>3. Member States shall ensure that, at the recipient's request, providers supply the following additional information:</p> <p>(a) the main features of the service;</p> <p>(b) the price of the service or, if an exact price cannot be given, the method for calculating the price so that the recipient can check it, or a sufficiently detailed estimate;</p> <p>(c) the legal status and form of the provider;</p> <p>(d) as regards the regulated professions, a reference to the professional rules applicable in the Member State of origin and how to access them.</p> <p>4. Member States shall ensure that the information which a provider must supply in accordance with this Chapter is made available or communicated in a clear and unambiguous manner, and in good time before conclusion of the contract or, where there is no written contract, before the service is provided.</p> <p>5. The information requirements laid down in this Chapter are in addition to requirements already provided for in Community law and do not prevent Member States from imposing additional information requirements applicable to providers established in their territory.</p> <p>6. The Commission may, in accordance with the procedure referred to in Article 39(2), specify the content of the</p>	<p>recipient electronically by means of an address supplied by the provider;</p> <p>(d) appears in any information documents supplied to the recipient by the provider, setting out a detailed description of the service he provides.</p> <p>3. Member States shall ensure that, at the recipient's request, providers supply the following additional information:</p> <p>(a) the main features of the service;</p> <p>(b) the price of the service or, if an exact price cannot be given, the method for calculating the price so that the recipient can check it, or a sufficiently detailed estimate;</p> <p><u>deleted</u></p> <p>(d) as regards the regulated professions, a reference to the professional rules applicable in the Member State of origin and how to access them.</p> <p>4. Member States shall ensure that the information which a provider must supply in accordance with this Chapter is made available or communicated in a clear and unambiguous manner, and in good time before conclusion of the contract or, where there is no written contract, before the service is provided.</p> <p>5. The information requirements laid down in this Chapter are in addition to requirements already provided for in Community law and do not prevent Member States from imposing additional information requirements applicable to providers established in their territory.</p> <p>6. The Commission may, in accordance with the procedure referred to in Article 42(2), specify the content of the</p>	

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
information provided for in paragraphs 1 and 3 of this Article according to the specific nature of certain activities and may specify the practical means of implementing paragraph 2.	information provided for in paragraphs 1 and 3 <i>according</i> to the specific nature of certain activities and may specify the practical means of implementing paragraph 2.	information provided for in paragraphs 1 and 3 <u>of this Article</u> according to the specific nature of certain activities and may specify the practical means of implementing paragraph 2.	
<i>COMMENT</i>			
Article 27 - Professional insurance and guarantees	Article 29 - Professional insurance and guarantees	Article <u>27</u> - Professional <u>liability</u> insurance and guarantees	
1. Member States shall ensure that providers whose services present a particular risk to the health or safety of the recipient, or a particular financial risk to the recipient, are covered by professional indemnity insurance appropriate to the nature and extent of the risk, or by any other guarantee or compensatory provision which is equivalent or essentially comparable as regards its purpose.	1. Member States <i>may require</i> that providers whose services present a <i>direct and</i> particular risk to the health or safety of the recipient <i>or a third person</i> , or <i>to the</i> financial <i>security of</i> the recipient, <i>or an environmental risk</i> , are <i>obliged to take out</i> professional indemnity insurance <i>adequate</i> to the nature and extent of the risk, or <i>to provide some</i> other <i>guarantee which</i> is equivalent or essentially comparable as regards its purpose. <i>The professional indemnity insurance or guarantee shall also cover risks presented by such services where they are provided in other Member States.</i> 2. <i>Member States may require that, where the provider first moves from one Member State to another in order to provide services, he shall inform the competent authority in the Member State of destination in advance by way of a written declaration including the details of any insurance cover or other means of personal or collective protection with regard to professional liability. Such declaration</i>	1. Member States <i>may ensure</i> that providers whose services present a <i>direct and</i> particular risk to the health or safety of the recipient <i>or a third person</i> , or <i>to the</i> financial <i>security of</i> the recipient, <i>subscribe to</i> professional <i>liability</i> insurance <i>appropriate</i> to the nature and extent of the risk, or <i>to provide any</i> guarantee <i>or similar arrangement</i> which is equivalent or essentially comparable as regards its purpose. <i>The professional liability insurance or other guarantee shall cover risks presented by such services when they are provided in other Member States in the same way as when they are provided in the Member State of establishment of the service provider.</i>	

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>2. Member States shall ensure that providers supply a recipient, at his request, with information on the insurance or guarantees referred to in paragraph 1, and in particular the contact details of the insurer or guarantor and the territorial coverage.</p> <p>3. When a provider establishes himself in their territory, Member States may not require professional insurance or a financial guarantee from the provider where he is already covered by a guarantee which is equivalent, or essentially comparable as regards its purpose, in another Member State in which the provider is already established.</p> <p>Where equivalence is only partial, Member States may require a supplementary guarantee to cover those aspects not already covered.</p> <p>4. Paragraphs 1, 2 and 3 do not affect professional insurance or guarantee</p>	<p><i>shall be renewed once a year if the provider intends to provide temporary or occasional services in that Member State during that year. The provider may supply the declaration by any means.</i></p> <p>3. Member States shall ensure that providers supply a <i>recipient with</i> information on the insurance or guarantees referred to in paragraph 1, and in particular the contact details of the insurer or guarantor and the territorial coverage.</p> <p>4. When a provider establishes himself in their territory <u>or provides services</u>, Member States may not require professional insurance or a <u>financial</u> guarantee from the provider where he is already covered by a guarantee which is equivalent, or essentially comparable as regards its purpose, in another Member State in which the provider is already established.</p> <p><i>Where a Member State requires insurance against financial risks arising from professional liability, that Member State shall accept, from a provider established in another Member State, as sufficient evidence an attestation of such insurance issued by a bank or insurance undertaking in the Member State where the provider is established.</i></p> <p>Where equivalence is only partial, Member States may require a supplementary guarantee to cover those aspects not already covered.</p> <p>5. Paragraphs <i>1 to 4</i> do not affect professional insurance or guarantee</p>	<p>2. Member States shall ensure that providers supply a recipient, <u>at his request</u>, with information on the insurance or guarantees referred to in paragraph 1, and in particular the contact details of the insurer or guarantor and the territorial coverage.</p> <p>3. When a provider establishes himself in their territory, Member States may not require professional <u>liability</u> insurance or a guarantee from the provider where he is already covered by a guarantee which is equivalent, or essentially comparable as regards its purpose <u>and the coverage it provides in terms of the insured risk, the insured sum or a ceiling for the guarantee and possible exclusions from the coverage</u>, in another Member State in which the provider is already established.</p> <p>Where equivalence is only partial, Member States may require a supplementary guarantee to cover those aspects not already covered.</p>	

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>arrangements provided for in other Community instruments.</p> <p>5. For the implementation of paragraph 1, the Commission may, in accordance with the procedure referred to in Article 42(2), establish a list of services which exhibit the characteristics referred to in paragraph 1 and establish common criteria for defining, for the purposes of the insurance or guarantees referred to in that paragraph, what is appropriate to the nature and scope of the risk.</p>	<p>arrangements provided for in other Community instruments.</p> <p>6. For the implementation of paragraph 1, the Commission may, in accordance with the procedure referred to in Article 39(2), establish a list of services which exhibit the characteristics referred to in paragraph 1 and establish common criteria for defining, for the purposes of the insurance or guarantees referred to in that paragraph, what is <i>adequate</i> to the nature and <i>extent</i> of the risk.</p>	<p>5. For the implementation of paragraph 1, the Commission may, in accordance with the procedure referred to in Article 42(2), establish a list of services which exhibit the characteristics referred to in paragraph 1 and establish common criteria for defining, for the purposes of the insurance or guarantees referred to in that paragraph, what is <u>appropriate</u> to the nature and <u>scope</u> of the risk. <u><i>In accordance with the procedure referred to in Article 42 (2) the Commission may also establish a procedure which would, in the event of verifiable failure of the insurance market to provide adequate insurance and subject to specific conditions including notification to the Commission, allow Member States for a limited period of time to replace the obligation in this Article by an information requirement.</i></u></p> <p>6. <u><i>For the purpose of this Article</i></u></p> <p><u><i>-"direct and particular risk" means a risk arising directly from the delivery of the service;</i></u></p> <p><u><i>-"health and safety" means, in relation to a recipient or a third person, the prevention of death or serious personal injury;</i></u></p> <p><u><i>-"professional liability insurance" means insurance taken out by a provider in respect of potential liabilities to recipients and, where applicable, third parties arising out of the provision of the service.</i></u></p>	
COMMENT			

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
Article 28 - After-sales guarantees	Article 30 - After-sales guarantees	Article 28 - After-sales guarantees	
<p>1. Member States shall ensure that providers supply a recipient, at his request, with information on the existence or otherwise of an after-sales guarantee, on its content and on the essential criteria for its application, in particular, its period of validity and territorial cover.</p> <p>2. Member States shall ensure that the information referred to in paragraph 1 appears in any information documents supplied by providers, setting out a detailed description of the services offered.</p> <p>3. Paragraphs 1 and 2 do not affect the regulation of after-sales guarantees provided for in other Community instruments.</p>	<p>Member States shall ensure that providers supply a recipient, at his request, with information on the existence or otherwise of an after-sales guarantee, on its content and on the essential criteria for its application, in particular, its period of validity and territorial cover.</p>	<p>1. Member States shall ensure that providers supply a recipient, at his request, with information on the existence or otherwise of an after-sales guarantee, on its content and on the essential criteria for its application, in particular, its period of validity and territorial cover.</p> <p><u>2. Member States shall ensure that the information referred to in paragraph 1 appears in any information documents supplied by providers, setting out a detailed description of the services offered.</u></p> <p><u>3. Paragraphs 1 and 2 do not affect the regulation of after-sales guarantees provided for in other Community instruments.</u></p>	
<i>COMMENT</i>			
Article 29 - Commercial communications by the regulated professions	Article 31 - Commercial communications by the regulated professions	Article 29 - Commercial communications by the regulated professions	
<p>1. Member States shall remove all total prohibitions on commercial communications by the regulated professions.</p> <p>2. Member States shall ensure that commercial communications by the regulated professions comply with professional rules, in conformity with Community law, which relate, in particular, to the independence, dignity and integrity of the profession, as well as to professional</p>	<p>1. Member States shall remove all total prohibitions on commercial communications by the regulated professions.</p> <p>2. Member States shall ensure that commercial communications by the regulated professions comply with professional rules, in conformity with Community law, which relate, in particular, to the independence, dignity and integrity of the profession, as well as to professional</p>	<p>1. Member States shall remove all total prohibitions on commercial communications by the regulated professions.</p> <p>2. Member States shall ensure that commercial communications by the regulated professions comply with professional rules, in conformity with Community law, which relate, in particular, to the independence, dignity and integrity of the profession, as well as to professional secrecy, in a manner</p>	

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
secrecy, in a manner consonant with the specific nature of each profession.	secrecy, in a manner consonant with the specific nature of each profession.	consonant with the specific nature of each profession. <u><i>Professional rules on commercial communications must be non-discriminatory, justified by an overriding reason relating to the public interest and proportionate.</i></u>	
COMMENT			
Article 30 - Multidisciplinary activities	Article 32 - Multidisciplinary activities	Article 30 - Multidisciplinary activities	
<p>1. Member States shall ensure that providers are not made subject to requirements which oblige them to exercise a given specific activity exclusively or which restrict the exercise jointly or in partnership of different activities.</p> <p>However, the following providers may be made subject to such requirements:</p> <p>(a) the regulated professions, in so far as is justified in order to guarantee compliance with the rules governing professional ethics and conduct, which vary according to the specific nature of each profession;</p> <p>(b) providers of certification, accreditation, technical monitoring, test or trial services in so far as is justified in order to ensure their independence and impartiality.</p> <p>2. Where multidisciplinary activities are authorised, Member States shall ensure the following:</p> <p>(a) that conflicts of interest and</p>	<p>1. Member States shall ensure that providers are not made subject to requirements which oblige them to exercise a given specific activity exclusively or which restrict the exercise jointly or in partnership of different activities.</p> <p>However, the following providers may be made subject to such requirements:</p> <p>(a) the regulated professions, in so far as is justified in order to guarantee compliance with the rules governing professional ethics and conduct, which vary according to the specific nature of each profession;</p> <p>(b) providers of certification, accreditation, technical monitoring, test or trial services in so far as is justified in order to ensure their independence and impartiality.</p> <p>2. Where multidisciplinary activities are authorised, Member States shall ensure the following:</p> <p>(a) that conflicts of interest and</p>	<p>1. Member States shall ensure that providers are not made subject to requirements which oblige them to exercise a given specific activity exclusively or which restrict the exercise jointly or in partnership of different activities.</p> <p>However, the following providers may be made subject to such requirements:</p> <p>(a) the regulated professions, in so far as is justified in order to guarantee compliance with the rules governing professional ethics and conduct, which vary according to the specific nature of each profession, <u><i>and it is necessary to ensure their independence and impartiality;</i></u></p> <p>(b) providers of certification, accreditation, technical monitoring, test or trial services in so far as is justified in order to ensure their independence and impartiality.</p> <p>2. Where multidisciplinary activities <u><i>between service providers referred to in paragraph 1 (a) and (b)</i></u> are authorised, Member States shall ensure the following:</p> <p>(a) that conflicts of interest and</p>	

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>incompatibilities between certain activities are prevented;</p> <p>(b) that the independence and impartiality required for certain activities is secured;</p> <p>(c) that the rules governing professional ethics and conduct for different activities are compatible with one another, especially as regards matters of professional secrecy.</p> <p>3. Member States shall ensure that providers supply the recipient, at his request, with information on their multidisciplinary activities and partnerships and on the measures taken to avoid conflicts of interest. That information shall be included in any information document in which providers give a detailed description of their services.</p> <p>4. In the report referred to in Article 41, Member States shall indicate which providers are subject to the requirements laid down in paragraph 1, the content of those requirements and the reasons for which they consider them to be justified.</p>	<p>incompatibilities between certain activities are prevented;</p> <p>(b) that the independence and impartiality required for certain activities is secured;</p> <p>(c) that the rules governing professional ethics and conduct for different activities are compatible with one another, especially as regards matters of professional secrecy.</p> <p>3. Member States shall ensure that providers supply the recipient, at his request, with information on their multidisciplinary activities and partnerships and on the measures taken to avoid conflicts of interest. That information shall be included in any information document in which providers give a detailed description of their services.</p>	<p>incompatibilities between certain activities are prevented;</p> <p>(b) that the independence and impartiality required for certain activities is secured;</p> <p>(c) that the rules governing professional ethics and conduct for different activities are compatible with one another, especially as regards matters of professional secrecy.</p> <p>3. Member States shall ensure that providers supply the recipient, at his request, with information on their multidisciplinary activities and partnerships and on the measures taken to avoid conflicts of interest. That information shall be included in any information document in which providers give a detailed description of their services.</p> <p>4. <u>In the report referred to in Article 41, Member States shall indicate which providers are subject to the requirements laid down in paragraph 1, the content of those requirements and the reasons for which they consider them to be justified.</u></p>	
COMMENT			
Article 31 - Policy on quality of services	Article 33 - Policy on quality of services	Article <u>31</u> - Policy on quality of services	
<p>1. Member States shall, in cooperation with the Commission, take accompanying measures to encourage providers to take action on a voluntary basis in order to ensure the quality of service provision, in particular through use of one of the following methods:</p>	<p>1. Member States shall, in cooperation with the Commission, take accompanying measures to encourage providers to take action on a voluntary basis in order to ensure the quality of service provision, in particular through use of one of the following methods:</p>	<p>1. Member States shall, in cooperation with the Commission, take accompanying measures to encourage providers to take action on a voluntary basis in order to ensure the quality of service provision, in particular through use of one of the following methods:</p>	

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>(a) by having their activities certified or assessed by independent bodies;</p> <p>(b) by drawing up their own quality charter or participating in quality charters or labels drawn up by professional bodies at Community level.</p> <p>2. Member States shall ensure that information on the significance of certain labels and the criteria for applying labels and other quality marks relating to services can be easily accessed by recipients and providers.</p> <p>3. Member States shall, in cooperation with the Commission, take accompanying measures to encourage professional bodies, as well as chambers of commerce and craft associations, within Member States to cooperate at Community level in order to promote the quality of service provision, especially by making it easier to assess a provider's competence.</p> <p>4. Member States shall, in cooperation with the Commission, take accompanying measures to encourage the development of independent assessments in relation to the quality and defects of service provision, and in particular the development at Community level of comparative trials or testing and the communication of the results.</p> <p>5. Member States and the Commission shall encourage the development of voluntary European standards with the aim of facilitating compatibility between services supplied by providers in different Member States, information to the recipient and the quality</p>	<p>(a) by having their activities certified or assessed by independent bodies;</p> <p>(b) by drawing up their own quality charter or participating in quality charters or labels drawn up by professional bodies at Community level.</p> <p>2. Member States shall ensure that information on the significance of certain labels and the criteria for applying labels and other quality marks relating to services can be easily accessed by recipients and providers.</p> <p>3. Member States shall, in cooperation with the Commission, take accompanying measures to encourage professional bodies, as well as chambers of commerce and craft associations, within Member States to cooperate at Community level in order to promote the quality of service provision, especially by making it easier to assess a provider's competence.</p> <p>4. Member States shall, in cooperation with the Commission, take accompanying measures to encourage the development of independent assessments in relation to the quality and defects of service provision, and in particular the development at Community level of comparative trials or testing and the communication of the results.</p> <p>5. Member States shall, <i>in cooperation with</i> the Commission, encourage the development of voluntary European standards with the aim of facilitating compatibility between services supplied by providers in different Member States, information to the recipient and the</p>	<p>(a) by having their activities certified or assessed by independent bodies;</p> <p>(b) by drawing up their own quality charter or participating in quality charters or labels drawn up by professional bodies at Community level.</p> <p>2. Member States shall ensure that information on the significance of certain labels and the criteria for applying labels and other quality marks relating to services can be easily accessed by recipients and providers.</p> <p>3. Member States shall, in cooperation with the Commission, take accompanying measures to encourage professional bodies, as well as chambers of commerce and craft associations <u>and consumer associations</u>, within Member States to cooperate at Community level in order to promote the quality of service provision, especially by making it easier to assess a provider's competence.</p> <p>4. Member States shall, in cooperation with the Commission, take accompanying measures to encourage the development of independent assessments, <u>notably by consumer associations</u>, in relation to the quality and defects of service provision, and in particular the development at Community level of comparative trials or testing and the communication of the results.</p> <p>5. Member States, <i>in cooperation with</i> the Commission, shall encourage the development of voluntary European standards with the aim of facilitating compatibility between services supplied by providers in different Member States, information to the recipient and the quality of</p>	

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
of service provision.	quality of service provision.	service provision.	
<i>COMMENT</i>			
Article 32 - Settlement of disputes	Article 34 - Settlement of disputes	Article 32 - Settlement of disputes	
<p>1. Member States shall take the general measures necessary to ensure that providers supply a postal address, fax number or e-mail address to which all recipients, including those resident in another Member State, can send a complaint or a request for information on the service provided.</p> <p>2. Member States shall take the general measures necessary to ensure that providers respond to the complaints referred to in paragraph 1 in the shortest possible time and make best efforts to find appropriate solutions.</p> <p>3. Member States shall take the general measures necessary to ensure that providers are obliged to demonstrate compliance with the obligations laid down in this Directive as to the provision of information and to demonstrate that the information is accurate.</p> <p>4. Where a financial guarantee is required for compliance with a judicial decision, Member States shall recognise equivalent guarantees lodged with a provider or body established in another Member State.</p>	<p>1. Member States shall take the general measures necessary to ensure that providers supply a postal address, fax number or e-mail address and a telephone number to which all recipients, including those resident in another Member State, can send a complaint or a request for information on the service provided. Providers shall supply their legal address if this is not their usual address for correspondence.</p> <p>2. Member States shall take the general measures necessary to ensure that providers respond to the complaints referred to in paragraph 1 in the shortest possible time and make best efforts to find satisfactory solutions.</p> <p>3. Member States shall take the general measures necessary to ensure that providers are obliged to demonstrate compliance with the obligations laid down in this Directive as to the provision of information and to demonstrate that the information is accurate</p> <p>4. Where a financial guarantee is required for compliance with a judicial decision, Member States shall recognise equivalent guarantees lodged with a provider or body established in another Member State.</p>	<p>1. Member States shall take the general measures necessary to ensure that providers supply <u>contact details, in particular</u> a postal address, fax number or e-mail address and a phone number to which all recipients, including those resident in another Member State, can send a complaint or a request for information <u>about</u> the service provided. <i>Providers shall supply their legal address if this is not their usual address for correspondence.</i></p> <p>2. Member States shall take the general measures necessary to ensure that providers respond to the complaints referred to in paragraph 1 in the shortest possible time and make best efforts to find satisfactory solutions.</p> <p>3. Member States shall take the general measures necessary to ensure that providers are obliged to demonstrate compliance with the obligations laid down in this Directive as to the provision of information and to demonstrate that the information is accurate.</p> <p>4. Where a financial guarantee is required for compliance with a judicial decision, Member States shall recognise equivalent guarantees lodged <u>by a credit institution or insurer</u> established in another Member State. <u>Such credit institutions must be authorised in a Member State in</u></p>	

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>5. Member States shall take the general measures necessary to ensure that providers who are subject to a code of conduct, or are members of a trade association or professional body, which provides for recourse to a non-judicial means of dispute settlement, inform the recipient accordingly, and mention that fact in any document which presents their services in detail, specifying how to access detailed information on the characteristics of and conditions for the use of such a mechanism.</p>	<p>5. Member States shall take the general measures necessary to ensure that providers who are subject to a code of conduct, or are members of a trade association or professional body, which provides for recourse to a non-judicial means of dispute settlement, inform the recipient accordingly, and mention that fact in any document which presents their services in detail, specifying how to access detailed information on the characteristics of and conditions for the use of such a mechanism.</p>	<p><u>accordance with Directive 2000/12/EC⁶⁴ relating to the taking up and pursuit of the business of credit institutions and such insurers in accordance, as appropriate, with Directive 73/239/EEC⁶⁵ on taking up and pursuit of the business of direct insurance other than life insurance and Directive 2002/83/EC⁶⁶ concerning life insurance.</u></p> <p>5. Member States shall take the general measures necessary to ensure that providers who are subject to a code of conduct, or are members of a trade association or professional body, which provides for recourse to a non-judicial means of dispute settlement, inform the recipient accordingly, and mention that fact in any document which presents their services in detail, specifying how to access detailed information on the characteristics of and conditions for the use of such a mechanism.</p>	
COMMENT			
<p>Article 33 - Information on the good repute of providers</p>	<p>Article 35 - Information on the good repute of providers</p>	<p>Article <u>36a</u> - Information on the good repute of providers</p>	
<p>1. Member States shall, at the request of a competent authority in another Member State, supply information on criminal</p>	<p>1. Member States shall, at the request of a competent authority in another Member State, supply information on criminal</p>	<p>1. Member States shall, at the request of a competent authority in another Member State, supply information, <u>in conformity with</u></p>	

64 OJ L 126, 26.5.2000, p.1.

65 OJ L 228, 16.8.1973, p.3.

66 OJ L 345, 19.12.2002, p.1.

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>convictions, penalties, administrative or disciplinary measures and decisions concerning insolvency or bankruptcy involving fraud, taken by their competent authorities in respect of the provider, which are liable to bring into question either his ability to conduct his business or his professional reliability.</p> <p>2. The Member State which supplies the information referred to in paragraph 1 shall at the same time specify whether a particular decision is final or whether an appeal has been lodged in respect of it, in which case the Member State in question should provide an indication of the date when the decision on appeal is expected.</p> <p>Moreover, that Member State shall specify the provisions of national law pursuant to which the provider was found guilty or penalised.</p> <p>3. Implementation of paragraph 1 must comply with the rights guaranteed to persons found guilty or penalised in the Member States concerned, especially as regards the protection of personal data.</p>	<p>convictions, penalties, administrative or disciplinary measures and decisions concerning insolvency or bankruptcy involving fraud, taken by their competent authorities in respect of the provider, which are <i>of direct relevance to his competence</i> or professional reliability.</p> <p><i>A request made pursuant to this paragraph must be duly substantiated, in particular as regards the reasons for the request for information.</i></p> <p>2. The Member State which supplies the information referred to in paragraph 1 shall <u>at the same time</u> specify whether a particular decision is final or whether an appeal has been lodged in respect of it, in which case the Member State in question should provide an indication of the date when the decision on appeal is expected.</p> <p>Moreover, that Member State shall specify the provisions of national law pursuant to which the provider was found guilty or penalised.</p> <p>3. Implementation of <i>paragraphs 1 and 2</i> must comply with <i>provisions on the protection of personal data</i> and the rights guaranteed to persons found guilty or penalised, <i>including by professional associations</i>, in the Member States concerned. <i>Any information in question which is public shall be easily accessible to consumers.</i></p>	<p><u><i>their national law, on disciplinary or administrative actions or criminal sanctions and decisions</i></u> concerning insolvency or bankruptcy involving fraud, taken by their competent authorities in respect of the provider, <u><i>directly relevant to the service provider's competence</i></u> or professional reliability. <u><i>The Member State which supplies the information shall inform the service provider thereof.</i></u></p> <p><i>A request made pursuant to paragraph 1 must be duly substantiated, in particular as regards the reasons for the request for information.</i></p> <p>2. <u><i>Sanctions and actions referred to in paragraph 1 shall only be communicated if a final decision has been taken. With regard to other decisions</i></u> referred to in paragraph 1, the Member State which supplies the information shall specify whether a particular decision is final or whether an appeal has been lodged in respect of it, in which case the Member State in question should provide an indication of the date when the decision on appeal is expected.</p> <p>Moreover, that Member State shall specify the provisions of national law pursuant to which the provider was found guilty or penalised.</p> <p>3. Implementation of <i>paragraphs 1 and 2</i> must comply with <u><i>rules on the provision of personal data and with</i></u> rights guaranteed to persons found guilty or penalised in the Member States concerned, <i>including by professional bodies</i>. <i>Any information in question which is public shall be accessible to consumers.</i></p>	

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<i>COMMENT</i>			
Article 34 - Effectiveness of supervision	Article 28 - Information on providers and their services	Article 26 - Information on providers and their services	
<p>1. Member States shall ensure that the powers of monitoring and supervision provided for in national law in respect of the provider and the activities concerned are also exercised where a service is provided in another Member State.</p> <p>2. Member States shall ensure that providers supply their competent authorities with all the information necessary for monitoring their activities.</p>			
<i>COMMENT</i>			
Article 35 - Mutual assistance	Article 28 - Information on providers and their services	Article 26 - Information on providers and their services	
<p>1. In accordance with Article 16, Member States shall give each other mutual assistance and shall put in place all possible measures for effective cooperation with one another in order to ensure the supervision of providers and the services they provide.</p> <p>2. For the purposes of paragraph 1, Member States shall designate one or more points of contact, the contact details of which shall be communicated to the other Member States and the Commission.</p> <p>3. Member States shall supply the information requested by other Member States or the Commission by electronic</p>			

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>means and within the shortest possible period of time.</p> <p>Upon becoming aware of any unlawful conduct by a provider, or of specific acts, that are likely to cause serious damage in a Member State, Member States shall inform the Member State of origin, within the shortest possible period of time.</p> <p>Upon becoming aware of any unlawful conduct by a provider who is likely to provide services in other Member States, or of specific acts, that could cause serious damage to the health or safety of persons, Member States shall inform all other Member States and the Commission within the shortest possible period of time.</p> <p>4. The Member State of origin shall supply information on providers established in its territory when requested to do so by another Member State and in particular confirmation that a service provider is established in its territory and exercising his activities in a lawful manner;</p> <p>The Member State of origin shall undertake the checks, inspections and investigations requested by another Member State and shall inform the latter of the results and, as the case may be, of the measures taken.</p> <p>5. In the event of difficulty in meeting a request for information, the Member State in question shall rapidly inform the requesting Member State with a view to finding a solution.</p> <p>6. Member States shall ensure that registers in which providers have been entered, and which may be consulted by the competent authorities in their territory, may also be consulted, in accordance with the same conditions, by the equivalent</p>			

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
competent authorities of the other Member States.			
<i>COMMENT</i>			
Article 36 - Mutual assistance in the event of the temporary movement of the provider	Article 28 - Information on providers and their services	Article 26 - Information on providers and their services	
<p>1. In respect of the matters covered by Article 16, where a provider moves temporarily to another Member State in order to provide a service without being established there, the competent authorities of that Member State shall participate in the supervision of the provider in accordance with paragraph 2.</p> <p>2. At the request of the Member State of origin, the competent authorities referred to in paragraph 1 shall carry out any checks, inspections and investigations necessary for ensuring effective supervision by the Member State of origin. In so doing, the competent authorities shall act to the extent permitted by the powers vested in them in their Member State.</p> <p>On their own initiative, those competent authorities may conduct checks, inspections and investigations on the spot, provided that those checks, inspections or investigations meet the following conditions:</p> <p>(a) they consist exclusively in the establishment of facts and do not give rise to any other measure against the provider, subject to the possibility of case-by-case derogations as provided for in Article 19;</p> <p>(b) they are not discriminatory and are not motivated by the fact that the provider is</p>			

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>established in another Member State;</p> <p>(c) they are objectively justified by an overriding reason relating to the public interest and are proportionate to the objective pursued.</p>			
COMMENT			
Article 37 - Mutual assistance in the event of case-by-case derogations from the country of origin principle	Article 28 - Information on providers and their services	Article 26 - Information on providers and their services	
<p>1. Where a Member State intends to take a measure pursuant to Article 19, the procedure laid down in paragraphs 2 to 6 of this Article shall apply without prejudice to proceedings before the courts.</p> <p>2. The Member State referred to in paragraph 1 shall ask the Member State of origin to take measures with regard to the service provider, supplying all relevant information on the service in question and the circumstances of the case.</p> <p>The Member State of origin shall check, within the shortest possible period of time, whether the provider is operating lawfully and verify the facts underlying the request. It shall inform the requesting Member State within the shortest possible period of time of the measures taken or envisaged or, as the case may be, the reasons why it has not taken any measures.</p> <p>3. Following communication by the Member State of origin as provided for in the second subparagraph of paragraph 2, the requesting Member State shall notify the Commission and the Member State of origin of its intention to take measures,</p>			

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>stating the following:</p> <p>(a) the reasons why it believes the measures taken or envisaged by the Member State of origin are inadequate;</p> <p>(b) the reasons why it believes the measures it intends to take fulfil the conditions laid down in Article 19.</p> <p>4. The measures may not be taken until fifteen working days after the date of notification provided for in paragraph 3.</p> <p>5. Without prejudice to the possibility for the requesting Member State to take the measures in question upon expiry of the period specified in paragraph 4, the Commission shall, within the shortest possible period of time, examine the compatibility with Community law of the measures notified.</p> <p>Where the Commission concludes that the measure is incompatible with Community law, it shall adopt a decision asking the Member State concerned to refrain from taking the proposed measures or to put an end to the measures in question as a matter of urgency.</p> <p>6. In the case of urgency, a Member State which intends to take a measure may derogate from paragraphs 3 and 4. In such cases, the measures shall be notified within the shortest possible period of time to the Commission and the Member State of origin, stating the reasons for which the Member State considers that there is urgency.</p>			
COMMENT			

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
Article 38 - Implementing measures	Article 28 - Information on providers and their services	Article 26 - Information on providers and their services	
In accordance with the procedure referred to in Article 42(2), the Commission shall adopt the implementing measures necessary for the implementation of this Chapter, specifying the time-limits provided for in Articles 35 and 37 and the practical arrangements for the exchange of information by electronic means between the single points of contact, and in particular the interoperability provisions for information systems.			
<i>COMMENT</i>			
Article 39 - Codes of conduct at Community level	Article 28 - Information on providers and their services	Article 26 - Information on providers and their services	
<p>1. Member States shall, in cooperation with the Commission, take accompanying measures to encourage the drawing up of codes of conduct at Community level, in conformity with Community law, in particular in the following areas:</p> <p>(a) the content of and detailed rules for commercial communications relating to regulated professions, as appropriate to the specific nature of each profession;</p> <p>(b) the rules of professional ethics and conduct of the regulated professions which aim in particular at ensuring, as appropriate to the specific nature of each profession, independence, impartiality and professional secrecy;</p> <p>(c) the conditions to which the activities of estate agents are subject.</p>			

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>2. Member States shall ensure that the codes of conduct referred to in paragraph 1 are accessible at a distance, by electronic means and transmitted to the Commission.</p> <p>3. Member States shall ensure that providers indicate, at the recipient's request, or in any information documents which present their services in detail, any codes of conduct to which they are subject and the address at which these codes may be consulted by electronic means, specifying the language versions available.</p> <p>4. Member States shall take accompanying measures to encourage professional bodies, organisations and associations to implement at national level the codes of conduct adopted at Community level.</p>			
<i>COMMENT</i>			
Article 40 - Additional harmonisation	Article 28 - Information on providers and their services	Article 26 - Information on providers and their services	
<p>1. The Commission shall assess, by [one year after the entry into force of this Directive] at the latest, the possibility of presenting proposals for harmonisation instruments on the following subjects:</p> <p>(a) the detailed rules for the exercise of cash-in-transit services;</p> <p>(b) gambling activities which involve wagering a stake with pecuniary value in games of chance, including lotteries and betting transactions, in the light of a report by the Commission and a wide consultation of interested parties;</p>			

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>(c) access to the activity of judicial recovery of debts.</p> <p>2. In order to ensure the proper functioning of the internal market for services, the Commission shall assess the need to take additional initiatives or to present proposals for legislative instruments, particularly in relation to the following:</p> <p>(a) matters which, having been the subject of case-by-case derogations, have indicated the need for harmonisation at Community level;</p> <p>(b) matters covered by Article 39 for which it has not been possible to finalise codes of conduct before the date of transposition or for which such codes are insufficient to ensure the proper functioning of the internal market;</p> <p>(c) matters identified through the mutual evaluation procedure laid down in Article 41;</p> <p>(d) consumer protection and cross-border contracts.</p>			
<i>COMMENT</i>			
Article 41 - Mutual evaluation	Article 28 - Information on providers and their services	Article 26 - Information on providers and their services	
<p>1. By the [date of transposition] at the latest, Member States shall present a report to the Commission, containing the information specified in the following provisions:</p> <p>(a) Article 9(2), on authorisation systems;</p> <p>(b) Article 15(4), on requirements to</p>			

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>be evaluated;</p> <p>(c) Article 30(4), on multidisciplinary activities.</p> <p>2. The Commission shall forward the reports provided for in paragraph 1 to the Member States, which shall submit their observations on each of the reports within six months. Within the same period, the Commission shall consult interested parties on those reports.</p> <p>3. The Commission shall present the reports and the Member States' observations to the Committee referred to in Article 42(1), which may make observations.</p> <p>4. In the light of the observations provided for in paragraphs 2 and 3, the Commission shall, by 31 December 2008 at the latest, present a summary report to the European Parliament and to the Council, accompanied where appropriate by proposals for additional initiatives.</p>			
<i>COMMENT</i>			
Article 42 - Committee	Article 28 - Information on providers and their services	Article 26 - Information on providers and their services	
<p>1. The Commission shall be assisted by a Committee, consisting of representatives of the Member States and chaired by the Commission representative.</p> <p>2. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply, in accordance with the provisions of Article 8 of that Decision.</p> <p>3. The Committee shall adopt its</p>			

Original Proposal of the European Commission (COM(2004)0002	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
rules of procedure.			
<i>COMMENT</i>			
Article 43 - Report	Article 28 - Information on providers and their services	Article 26 - Information on providers and their services	
Following the summary report referred to in Article 41(4), the Commission shall, every three years, present to the European Parliament and to the Council a report on the application of this Directive, accompanied, where appropriate, by proposals for its amendment.			
<i>COMMENT</i>			
Article 44 - Amendment of Directive 1998/27/EC	Article 28 - Information on providers and their services	Article 26 - Information on providers and their services	
In the Annex to Directive 1998/27/EC, the following point shall be added: "13. Directive.././EC of the European Parliament and of the Council of ... on services in the internal market (OJ L [...], [...], p. [...])".			
<i>COMMENT</i>			
Article 45	Article 28 - Information on providers and their services	Article 26 - Information on providers and their services	
1. Member States shall bring into force the laws, regulations and administrative provisions necessary to			

Original Proposal of the European Commission (COM(2004)0002)	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position
<p>comply with this Directive by [2 years after the entry into force] at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.</p> <p>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.</p> <p>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.</p>			
<i>COMMENT</i>			
Article 46	Article 28 - Information on providers and their services	Article 26 - Information on providers and their services	
This Directive shall enter into force on the day following that of its publication in the <i>Official Journal of the European Union</i> .			
<i>COMMENT</i>			
Article 47	Article 28 - Information on providers and their services	Article 26 - Information on providers and their services	
This Directive is addressed to the Member States.			

Original Proposal of the European Commission (COM(2004)0002	European Parliament's Position adopted at first reading on 16 February 2006	Modified Proposal of the European Commission	Council Common Position