

COMPETITIVENESS COUNCIL

Presidency Compromise Text REV 1 (29 May 2006, 20h00)

Additions to the Presidency text in doc. 9683/06 are underlined

Amended proposal for a Directive of the European Parliament and of the Council on Services in the Internal Market

- (6e) This Directive aims at creating a legal framework to ensure the freedom of establishment and the free movement of services between the Member States and does not harmonise or prejudice criminal law. However, Member States may not restrict the freedom to provide services by applying criminal law provisions which specifically affect the access to or the exercise of a service activity in circumvention of the rules laid down in this Directive.
- (13) There is already a considerable body of Community law on service activities. This Directive builds on, and thus complements, the Community acquis. Conflicts between this Directive and other Community instruments have been identified and are provided for in this Directive, including by means of derogations. However, it is necessary to provide a rule for any residual and exceptional cases where there is a conflict between a provision of this Directive and a provision of another Community instrument. The existence of such a conflict should be determined in compliance with the rules of the Treaty on the right of establishment and the free movement of services. ~~A conflict between a provision of the Directive and a future Community instrument should be avoided in the drafting and negotiation of such an instrument.~~
- (39c) (new) The provisions of this Directive do not preclude the application by a Member State of rules on employment conditions. Rules laid down by law, regulation or administrative provisions should, in accordance with the Treaty, be justified for reasons relating to the protection of workers and be non-discriminatory, necessary, and proportionate, as interpreted by the Court of Justice, and be in compliance with other relevant Community law.
- (62a) It is necessary to provide in this Directive for certain rules on a high quality of services ensuring in particular information and transparency requirements. These rules should apply both in cases of cross border provision of services between Member States and in cases of services provided in a Member State by a service provider established there without imposing unnecessary burdens on small and medium-sized enterprises. They do not in any way prevent Member States from applying, in conformity with this Directive and other Community law, additional or different quality requirements.

Art. 1(5) This Directive does not affect Member States' rules of criminal law. However, Member States may not restrict the freedom to provide services by applying criminal law provisions which specifically regulate or affect access to or exercise of a service activity in circumvention of the rules laid down in this Directive.

Art. 2(2)(ci) the services provided by notaries, ^{and} bailiffs ~~and solicitors at the appeal courts,~~
who are appointed by an official act of government.

+ Correct recital 10 y to correspond to this

Art. 9(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.

Art. 41(5). By (date of transposition*) at the latest Member States shall present a report to the Commission on ^{THE} national requirements whose application could fall under Article 16 (1) third sub-paragraph and Article 16(3) first sentence, providing reasons why they consider that the application of those requirements fulfil the criteria referred to in Article 16 (1) third sub-paragraph and Article 16(3) first sentence.

Thereafter, Member States shall transmit to the Commission any changes in their requirements, including new requirements, as referred to above, together with the reasons for them.

The Commission shall communicate the transmitted requirements to other Member States. Such transmission shall not prevent the adoption by Member States of the provisions in question.

The Commission shall on an annual basis thereafter provide analyses and orientations on the application of these provisions in the context of this Directive.

Art. 45(1) Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with the provisions of this Directive by * (3 years) at the latest.

They shall forthwith communicate to the Commission the text of those provisions [...].

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.

Services Directive

MINUTES STATEMENTS FROM THE COMMISSION

1. "The Commission confirms that in Article 13.2 of the Directive on Services in the Internal Market the words " shall not exceed the cost of the procedure" may be interpreted as including costs incurred in the management, control and enforcement of the authorisation scheme".
2. "The Commission confirms that in Recital 20b, protection of minors may be read as including the promotion of children's welfare and development".
3. "Before the end of 2007, the Commission will present a report on barriers to marketing and advertising in the EU. If necessary, the Commission will take appropriate measures to overcome barriers to the freedom to provide services".

COMMISSION DECLARATION RELATING TO ARTICLE 41

"By one year before the date of transposition, at the latest, the Commission will provide assistance to Member States on the implementation of this Directive including the procedures laid down in Article 41(1) to (5)".

Services Directive

COUNCIL DECLARATION

"The Council declares that the support to persons in need referred to in Recital 10h includes the assistance to, and accompanying measures for, the unemployed".
