European Parliament 2014-2019



2016/0398(COD)

11.12.2018

COLUMN TABLE FOR INTERINSTITUTIONAL NEGOTIATIONS

Proposal for a directive of the European Parliament and of the Council on the enforcement of the Directive 2006/123/EC on services in the internal market, laying down a notification procedure for authorisation schemes and requirements related to services, and amending Directive 2006/123/EC and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System (COM(2016)0821 – C8-0011/2017 – 2016/0398(COD))

Date of the trilogue: 26.4.2018

Committee on the Internal Market and Consumer Protection – Negotiating team

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PE632.047v01-00

Proposal for a directive of the European Parliament and the Council On the enforcement of the Directive 2006/123/EC on services in the internal market, laying down a notification procedure for authorisation schemes and requirements related to services, and amending Directive 2006/123/EC and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System COM (2016) 821 final - 2016/0398 (COD)

PART 1: RECITALS

Cell in green: The text can be deemed as already agreed Cell in yellow: The issue needs further discussion at technical level Cell in red: The issue needs further discussion in depth at the trilogue meetings

Note:

Differences between the EP's position and the Commission's proposal are highlighted in Bold/Italics. Differences between the Council's position and the Commission's proposal are highlighted in Bold/Italics. Modifications by lawyer-linguists are in Italics. Deletions are not marked. Compromise wording is in Bold/Italics/Underline.

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| 1. | (1) The Treaty on the Functioning of the European Union (TFEU) guarantees to service providers the freedom of establishment in other Member States and the freedom to provide services between Member States. | (1) The Treaty on the Functioning of the European Union (TFEU) guarantees to service providers the freedom of establishment in other Member States and the freedom to provide services between Member States. | (1) The Treaty on the Functioning of the European Union (TFEU) guarantees to service providers the freedom of establishment in other Member States and the freedom to provide services between Member States. | Green (1) The Treaty on the Functioning of the European Union (TFEU) guarantees to service providers the freedom of establishment in other Member States and the freedom to provide services between Member States. |

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| 2. | (2) Directive 2006/123/EC of the European Parliament and of the Council ¹ specifies the content of the freedom of establishment and the freedom to provide services as regards certain services. It provides, inter alia, that authorisation schemes and certain types of requirements related to services must be non- discriminatory with regard to nationality or residence, justified by an overriding reason related to the public interest and proportionate. | (2) Directive 2006/123/EC of the European Parliament and of the Council ² specifies the content of the freedom of establishment and the freedom to provide services as regards certain services. It provides, inter alia, that authorisation schemes and certain types of requirements related to services must be non- discriminatory with regard to nationality or residence, justified by an overriding reason related to the public interest and proportionate. | (2) Directive 2006/123/EC of the European Parliament and of the Council ³ specifies the content of the freedom of establishment and the freedom to provide services as regards certain services. It provides, inter alia, that authorisation schemes and certain types of requirements related to services must be non- discriminatory with regard to nationality or residence, justified by an overriding reason related to the public interest and proportionate. | Green (2) Directive 2006/123/EC of the European Parliament and of the Council⁴ specifies the content of the freedom of establishment and the freedom to provide services as regards certain services. It provides, inter alia, that authorisation schemes and certain types of requirements related to services must be non-discriminatory with regard to nationality or residence, justified by an overriding reason related to the public interest and proportionate. |

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¹ Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ L 376, 27.12.2006, p. 36).

² Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ L 376, 27.12.2006, p. 36).

³ Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ L 376, 27.12.2006, p. 36).

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

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| 3. | (3) Directive 2006/123/EC | (3) Directive 2006/123/EC | (3) Directive 2006/123/EC | (3) Directive 2006/123/EC |
| | provides for an obligation for |
| | Member States to assess and |
| | adapt their legislation on |
| | authorisation schemes and certain |
| | requirements related to services, |
| | in order to bring it in conformity |
| | with the rules laid down in that |
| | Directive. Furthermore, with a |
| | view to facilitating the |
| | verification of future compliance |
| | by Member States, Directive |
| | 2006/123/EC provides for an |
| | obligation for Member States to |
| | notify new laws, regulations or |
| | administrative provisions which | administrative provisions which | administrative provisions which | administrative provisions which |
| | set out certain new requirements |
| | falling within the scope of that |
| | Directive, or any substantive |
| | changes to such requirements. |

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| 4. | (4) The Commission has | (4) The Commission has | (4) The Commission has | Green |
| | received an increasing number of | received an increasing number of | received an increasing number of | |
| | notifications from Member States | notifications from Member States | notifications from Member States | (4) The Commission has |
| | regarding newly introduced | regarding newly introduced | regarding newly introduced | received an increasing number of |
| | requirements under Directive | requirements under Directive | requirements under Directive | notifications from Member States |
| | 2006/123/EC. However, not all | 2006/123/EC. However, not all | 2006/123/EC. However, not all | regarding newly introduced |
| | of those national requirements | of those national requirements | of those national requirements | requirements under Directive |
| | are non-discriminatory with | are non-discriminatory with | are non-discriminatory with | 2006/123/EC. However, not all |
| | regard to nationality or residence, | regard to nationality or residence, | regard to nationality or residence, | of those national requirements |
| | justified and proportionate, thus | justified and proportionate, thus | justified and proportionate, thus | are non-discriminatory with |
| | resulting in a significant number | resulting in a significant number | resulting in a significant number | regard to nationality or residence, |
| | of structural dialogues launched | of structural dialogues launched | of structural dialogues launched | justified and proportionate, thus |
| | by the Commission vis-à-vis | by the Commission vis-à-vis | by the Commission vis-à-vis | resulting in a significant number |
| | Member States. This shows that | Member States. This shows that | Member States. This shows that | of structural dialogues launched |
| | the existing notification | the existing notification | the existing notification | by the Commission vis-à-vis |
| | procedure is not sufficient to | procedure is not sufficient to | procedure is not sufficient to | Member States. This shows that |
| | avoid discrimination on the | avoid discrimination on the | avoid discrimination on the | the existing notification |
| | grounds of nationality or | grounds of nationality or | grounds of nationality or | procedure is not sufficient to |
| | residence, unjustified or | residence, unjustified or | residence, unjustified or | avoid discrimination on the |
| | disproportionate requirements. | disproportionate requirements. | disproportionate requirements. | grounds of nationality or |
| | This is to the detriment of | This is to the detriment of | This is to the detriment of | residence, unjustified or |
| | citizens and businesses in the | citizens and businesses in the | citizens and businesses in the | disproportionate requirements. |
| | internal market for services. | internal market for services. | internal market for services. | This is to the detriment of |
| | Moreover, it appears that some | Moreover, it appears that some | Moreover, it appears that some | citizens and businesses in the |
| | new or modified requirements | new or modified requirements | new or modified requirements | internal market for services. |
| | related to services falling within | related to services falling within | related to services falling within | Moreover, it appears that some |
| | the scope of Directive | the scope of Directive | the scope of Directive | new or modified requirements |
| | 2006/123/EC have not been | 2006/123/EC have not been | 2006/123/EC have not been | related to services falling within |
| | notified at all. | notified at all. | notified at all. | the scope of Directive |
| CT\11 | 72008EN.docx | 7/2 | 9 | 2006/123peG3paye7pot been notified at all. |

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| 5. | (5) For these reasons the Commission, in its Single Market Strategy ¹ , announced an initiative to improve compliance with Directive 2006/123/EC, by reforming the notification procedure provided under it. | (5) For these reasons the Commission, in its Single Market Strategy ² , announced an initiative to improve compliance with Directive 2006/123/EC, by reforming the notification procedure provided under it. | (5) For these reasons the Commission, in its Single Market Strategy ³ , announced an initiative to improve compliance with Directive 2006/123/EC, by reforming the notification procedure provided under it. | Green (5) For these reasons the Commission, in its Single Market Strategy ⁴ , announced an initiative to improve compliance with Directive 2006/123/EC, by reforming the notification procedure provided under it. |

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¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Upgrading the Single Market: More opportunities for people and business (COM (2015) 550 final).

² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Upgrading the Single Market: More opportunities for people and business (COM (2015) 550 final).

³ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Upgrading the Single Market: More opportunities for people and business (COM (2015) 550 final).

⁴ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Upgrading the Single Market: More opportunities for people and business (COM (2015) 550 final).

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| 6. | (6) The effective enforcement of the rules governing the internal market for services set out in | (6) The effective enforcement of the rules governing the internal market for services set out in | (6) The effective enforcement of the rules governing the internal market for services set out in | Light Green EP suggestion, to be checked by Council |
| | Directive 2006/123/EC should be enhanced by improving the existing notification procedure | Directive 2006/123/EC should be enhanced by improving the existing notification procedure | Directive 2006/123/EC should be enhanced by improving the existing notification procedure | (6) The effective enforcement of the rules governing the internal market for services set out in |
| | established by that Directive in respect of national authorisation | established by that Directive in respect of national authorisation | established by that Directive in respect of national authorisation | Directive 2006/123/EC should be enhanced by improving the |
| | schemes and certain requirements concerning both access to self- | schemes and certain requirements concerning both access to self- | schemes and certain requirements concerning both access to self- | existing notification procedure established by that Directive in |
| | employed activities and their exercise. The prevention of the | employed activities and their exercise. The prevention | employed activities and their exercise. This Directive | respect of national authorisation schemes and certain requirements |
| | adoption of national provisions establishing requirements and | of <u>Dialogue between the</u> <u>Commission and the Member</u> | <u>establishes a procedure for</u> <u>Member States and the</u> | concerning both access to self- employed activities and their |
| | authorisation schemes that would be contrary to Directive | <u>States should be facilitated in</u> <u>order to prevent</u> the adoption of | <u>Commission to work in</u> partnership to prevent the | exercise. <u>This Directive</u> establishes a procedure for |
| | 2006/123/EC should be facilitated. This Directive is | national provisions establishing requirements and authorisation | <u>introduction of discriminatory,</u> unjustified and | which <mark>strengthens the</mark> cooperation between Member |
| | without prejudice to the | schemes that would be contrary | disproportionate authorisation | States and the Commission to |
| | Commission's powers under the | to Directive 2006/123/EC should | schemes and/or of certain | work in partnership in order to |
| | Treaties and the Member States' | be facilitated and that would lead | requirements related to | prevent the introduction of |
| | obligation to comply with the | to the fragmentation of the | services covered by Directive | discriminatory, unjustified and |
| | provisions of Union law. | <u>Single Market, and in order to</u> | <u>2006/123/EC. The</u> | disproportionate authorisation |
| | | minimise the number of new | authorisation schemes and the | schemes and/or of certain |
| | | infringement cases. This | requirements covered by this | requirements related to |
| | | Directive is without prejudice to | Directive are those which fall | services covered by Directive |
| | | the Commission's powers | within the scope of Directive | 2006/123/EC. The authorisation |
| | | conferred on the Commission | 2006/123/EC. This Directive | schemes and the requirements |
| CT\11 | 72008EN.docx | and the Court of Justice under | does not curtail the sovereign | covered by this Directive are |
| 01(11 | | the Treaties and the Member 9/2 | ⁹ rights of Member States to | those which fall within the scope of Directive 2006/123/EC. |
| | | States' <i>rights and</i> obligations <i>flowing therefrom</i> to comply | <u>regulate service activities in</u> line with EU law. | This Directive does not curtail |
| | | with the provisions of Union law. | inte with EU law. | affect the sovereign right of |
| | | [Am. 1] | The prevention of the adoption of | Member States to regulate |
| | | | national provisions establishing | service activities in line with |
| | | | requirements and authorisation | FUlow |

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| 7. | (7) The notification obligation established by this Directive should apply to regulatory measures of Member States, such as laws, regulations, administrative provisions of general nature or any other binding rule of general nature, including rules adopted by professional organisations to regulate in a collective manner access to service activities or the exercise thereof. The notification obligation should on the other hand not apply to individual decisions issued by national authorities. | The notification obligation established by this Directive should apply to regulatory measures of Member States, such as laws, regulations, administrative provisions of general nature or any other binding rule of general nature, including rules adopted by professional organisations <u>or</u> <u>associations</u> to regulate in a collective manner access to service activities or the exercise thereof. The notification obligation should on the other hand not apply to individual decisions issued by national authorities. [Am. 2] | (7) The notification obligation established by this Directive should apply to regulatory measures of Member States, such as laws, regulations, administrative provisions of <u>a</u> general nature or any other binding rule of <u>a</u> general nature, including rules adopted by <u>professional associations or</u> <u>other</u> professional organisations, <u>in the exercise of their legal</u> <u>autonomy</u> , to regulate in a collective manner access to service activities or the exercise thereof. The notification obligation should on the other hand not apply to individual decisions <u>addressed to a specific</u> <u>service provider</u> issued by national authorities. | Green EP suggestion, to be checked by Council (7) The notification obligation established by this Directive should apply to regulatory measures of Member States, such as laws, regulations, administrative provisions of <u>a</u> general nature or any other binding rule of <u>a</u> general nature, including rules adopted by professional associations or other professional organisations, in the exercise of their legal autonomy, entrusted by the Member States to regulate in a collective manner access to service activities or the exercise thereof. The notification obligation should on the other hand not apply to individual draft decisions <u>addressed to a</u> <u>specific service provider</u> issued by national authorities. |
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| 8. CT\11720 | 08EN.docx | (7a) The notification obligation established by this Directive should not apply to decisions made in respect of an individual service provider or to draft rules laid down in collective agreements negotiated by social partners which are not considered to be requirements within the meaning of this Directive. In addition, it should not apply to measures repealing authorisation schemes or requirements or to measures implementing binding Union acts where such acts contain precise provisions to be implemented and there is no scope for divergence between Member States in the transposition and implementation of those acts. [Am. 3] | (7a) The notification obligation should not apply to measures completely repealing authorisation schemes or requirements or to measures implementing authorisation schemes or requirements, which have already been notified, and which do not extend the scope or content, or make them more restrictive for the establishment, or the cross- border provision of services. The notification obligation should equally not apply to measures implementing binding Union acts in the Member State, when such acts contain uniform provisions to be implemented and when there is no scope for divergence of Member States' rules which may result in barriers to the Single Market. This exception should be understood in the light of the case-law of the Court of Justice of the European Union. | YellowEP suggestion to be checked byCouncilRecital 7a(7a) The notification obligationestablished by this Directiveshould not apply to draftmeasures laid down in collectiveagreements negotiated by socialpartners which are notconsidered to be requirementswithin the meaning of thisDirective. In addition, it shouldnot apply to measures repealingauthorisation schemes orrequirements, or to measuresimplementing authorisationschemes or requirements whichhave already been notified andadopted and that do not alter thescope, content, or make thealready adopted authorisationschemes or requirements morerestrictive for the establishmentor provision of services. Thenotification obligation shouldequally not apply to measuresimplementing binding Unionacts where such acts containprecise provision 500 |
| | | | | <i>implemented and there is no scope for divergence between N</i> <u>Member States in the</u> |
| | | | | transposition and implementation of those acts. |

implementation of those acts. This expontion should be

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| 9. | | (7b) In order to facilitate compliance by Member States with the notification obligation laid down in this Directive, the Commission should provide guidance regarding the practical aspects of the notification procedure, in particular for municipal and local authorities. In order to ensure that the notification obligation on such authorities is proportionate, draft measures implementing authorisation schemes or requirements which have already been notified to the Commission and adopted by the Member State concerned at national level and which do not alter the content of those notified schemes or requirements should not be subject to notification. [Am. 4] | (7b) The notification obligation should also not apply to rules laid down in collective agreements negotiated by social partners which shall not be considered as requirements within the meaning of this Directive. This Directive applies only to requirements which affect the access to, or the exercise of, a service activity. Therefore, it does not apply to requirements, such as road traffic rules, rules concerning the development or use of land, town and country planning, building standards as well as administrative penalties imposed for non-compliance with such rules which do not specifically affect the service activity but have to be respected by providers in the course of carrying out their economic activity in the same way as by individuals acting in their private capacity. | Yellow To be further discussed Council to make a compromise suggestion concerning urban planning (7b) This Directive does not apply to requirements, which do not specifically regulate or specifically affect the service activity, such as road traffic rules, rules concerning the development or use of land, town and country planning, building standards as well as administrative penalties imposed for non-compliance with such rules. |
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| 10. | | (7c) Amendments or | (7c) Directive 2006/123/EC is | Yellow |
| | | modifications to draft measures | <u>a horizontal legal instrument</u> | <u>(7c) Amendments or</u> |
| | | already subject to an ongoing | which affects a significant | modifications to draft measures |
| | | notification procedure, which | number of laws, regulations | already subject to an ongoing |
| | | are introduced by Member | and administrative provisions | notification procedure, which |
| | | States' parliaments at national | at different levels within | are introduced by Member |
| | | or regional level in accordance | Member States' government | States' parliaments at national |
| | | with their parliamentary | structures. All levels of these | <u>or regional level in accordance</u> |
| | | procedure, should not be | structures are already subject | <u>with procedures laid down in</u> |
| | | covered by the ex-ante | to the notification obligation | <mark>national law</mark> their parliamentary |
| | | notification obligation. | provided for in Directive | procedure , <mark>should not be</mark> |
| | | However, the Member State | 2006/123/EC. To facilitate the | <u>covered by the obligation to</u> |
| | | concerned should notify such | <u>compliance by relevant</u> | <u>modify an ongoing notification</u> |
| | | modifications to the Commission | authorities with this Directive, | <u>of a draft measure before its</u> |
| | | without delay, and at the latest | the Commission will issue | adoption. However, the Member |
| | | two weeks after their adoption. | guidance on the practical | State concerned should modify |
| | | [Am. 5] | aspects of the notification | <u>the notification</u> notify such |
| | | | procedure in order to maximise | modifications to the Commission |
| | | | the efficiency of that procedure | without delay, and at the latest |
| | | | and to limit the administrative | two weeks after the adoption. |
| | | | burden, including for | |
| | | | municipal or local authorities. | |
| | | | | |
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| 11. CT\11 | (8) The obligation for Member States to notify draft measures laying down authorisation schemes or requirements referred to in Article 4 of this Directive at least three months before their adoption is designed to ensure that measures to be adopted comply with Directive 2006/123/EC. In order for the notification procedure to be effective, a consultation on notified measures should take place sufficiently in advance of their adoption. This is appropriate to foster good cooperation and transparency between the Commission and Member States and to further develop exchanges between the Commission and national authorities on new or amended authorisation schemes and certain requirements covered by Directive 2006/123/EC, in accordance with Article 4(3) of the Treaty on European Union (TEU). With a view to ensuring the effectiveness of the 2008ENtee breach of the obligation to notify or to refrain from adopting a notified measure, including during the period following the receipt of an alert, should be considered to be a | obligation to notify or <u>a failure</u> to notify a to refrain from adopting a notified-measure, including during the period following the receipt of an | (8) The obligation for Member States to notify draft measures laying down authorisation schemes or requirements referred to in Article 4 of this Directive at least three months before their adoption is designed to ensure that measures to be adopted comply with Directive 2006/123/EC. In order for the notification procedure to be effective, a consultation on notified measures should take place sufficiently in advance of their adoption. This is appropriate to foster good cooperation and transparency between the Commission and Member States and to further develop exchanges between the Commission and national authorities on new or amended authorisation schemes and certain requirements covered by Directive 2006/123/EC, in accordance with Article 4(3) of the Treaty on European Union (TEU). With a view to ensuring the effectiveness of the obligation to notify or to refrain from adopting a notified measure, including during the period following the receipt of an alert, should be considered to be a | Light Green (8) The obligation for Member States to notify draft measures laying down authorisation schemes or requirements referred to in Article 4 of this Directive at least three months before their adoption is designed to ensure that measures to be adopted comply with Directive 2006/123/EC. In order for the notification procedure to be effective, a consultation on notified measures should take place sufficiently in advance of their adoption. This is appropriate to foster good cooperation and transparency between the Commission and Member States and to further develop exchanges between the Commission and national authorities on new or amended authorisation schemes and certain requirements covered by Directive 2006/123/EC, in accordance with Article 4(3) of the Treaty on European Union (TEU). With a view to ensuring the effect progress of the obligation to notify or <u>a fairer</u> adopting a notified measures, including during the period following the period |
| | substantial procedural defect of a | alartwithin the time limits laid | substantial propadural defect of a | following the receipt of an |

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| 12. | (9) In the spirit of transparency and cooperation, where substantive amendments are made to a draft measure that is subject to an ongoing notification procedure under this Directive, the Commission, other Member States and stakeholders should be made aware of such amendments by the notifying Member State in due time. Modifications of merely clerical nature should not be communicated. | (9) In the spirit of transparency and cooperation, where substantive amendments are made to a draft measure that is subject to an ongoing notification procedure under this Directive, the Commission, other Member States and stakeholders should be made aware of such amendments by the notifying Member State in due time <u>and</u> should be given the opportunity to provide feedback on these amendments. The notification of substantive amendments should not significantly alter the deadlines set for the consultation. In such cases, the notifying Member State should notify those modifications at least one month prior to their adoption. Modifications of a merely clerical nature should not be communicated. [Am. 7] | (9) In the spirit of transparency and cooperation, where substantive <u>modifications</u> amendments are made to a draft measure that is subject to an ongoing notification procedure under this Directive, the Commission, other Member States and stakeholders should be made aware of such amendments <u>modifications</u> by the notifying Member State in due time. <u>To</u> <u>this end the notifying Member</u> <u>State should amend the initial</u> <u>notification of the draft</u> <u>measure</u> . Modifications of merely clerical nature should not be communicated. | Yellow To be further discussed |

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| 13. CT\11 | (10) The information to be submitted by the notifying Member State should be sufficient to assess compliance with Directive 2006/123/EC and, in particular, the proportionality of a notified authorisation scheme or requirement. Therefore, in accordance with the case-law of the Court of Justice of the European Union (CJEU), such information should clarify the public interest objective pursued, set out how the notified authorisation scheme or requirement is necessary and justified to meet this objective and explain how it is proportionate in doing so; thus, it should include explanations on why it is suitable, why it does not go beyond what is necessary and why no alternative and less restrictive means would be available. The reasons which may be invoked by the Member State concerned by way of justification should be accompanied by appropriate evidence and by an 2008EN of the proportionality of the notified measure. | (10) The information to be submitted by the notifying Member State should be sufficient to assess compliance with Directive 2006/123/EC and, in particular, the proportionality of a notified authorisation scheme or requirement. Therefore, in accordance with the case-law of the Court of Justice of the European Union (CJEU), such information should clarify the public interest objective pursued, set out <i>explaining</i> how the notified authorisation scheme or requirement is necessary and justified to meet this objective and <i>explain</i> -how it is proportionate in doing so; <i>for</i> <i>meeting that objective</i> . Thus, it <i>the notified authorisation</i> <i>scheme or requirement</i> should include <i>sufficient</i> explanations on why it is suitable, why it does not go beyond what is necessary and why no alternative, and-less restrictive means would be are available. The reasons which may be invoked by the Member State concerned by way of justificatioff/2 should be accompanied by appropriate evidence and by an analysis of the proportionality of the notified measure. [Am.8] | (10) The information to be submitted by the notifying Member State should be sufficient to assess compliance with Directive 2006/123/EC and, in particular, the proportionality of a notified authorisation scheme or requirement. Therefore, in accordance with <u>the obligations under Directive 2006/123/EC and</u> the case-law of the Court of Justice of the European Union (CJEU), such information should clarify the public interest objective pursued, set out how the notified authorisation scheme or requirement is necessary and justified to meet this objective and explain how it is proportionate in doing so.; thus, it should include explanations on why it is suitable, why it does not go beyond what is necessary and why no alternative and less restrictive means would be available. The reasons which may be invoked by the Member State concerned by way of justification ⁹ should be accompanied by an analysis of the proportionality of the notified measure. | Green 10) The information to be submitted by the notifying Member State should be sufficient to assess compliance with Directive 2006/123/EC and, in particular, the proportionality of a notified authorisation scheme or requirement. Therefore, in accordance with <i>Directive 2006/123/EC and</i> the case-law of the Court of Justice of the European Union (CJEU), such information should <i>include</i> <i>a sufficient explanation</i> <i>demonstrating that the notified</i> <i>authorisation scheme or</i> <i>requirement is non</i> - <i>discriminatory, necessary in the</i> <i>sense that it is justified by an</i> <i>overriding reason relating to the</i> <i>public interest and proportionate</i> <i>to meet this objective. The</i> <i>information on the</i> <i>proportionality of the</i> <i>authorisation scheme or</i> <i>requirement should include</i> an explanation <i>as to</i> why it is suitable, why it does not go beyond what is not go hat not go h |

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| 14. | | (10a) By way of derogation from the normal notification procedure, it should be possible for Member States, in exceptional cases, to act rapidly when urgent matters arise regarding serious and unforeseeable circumstances relating to public policy, public security, public health or the protection of the environment. That exception should not be used to circumvent the implementation of the notification procedure laid down in this Directive. As a result, Member States should notify all such adopted measures to the Commission, together with their content and the reasons for the urgency that triggered their adoption, without undue delay and in any case not later than the day on which those urgent measures were adopted. [Am. 9] | (10a) Member States should not be precluded from acting in a very short space of time for urgent reasons occasioned by serious and unforeseeable circumstances, relating to the protection of public policy, public security, public health or the protection of the environment. This derogation from the notification procedure due to urgent reasons shall not be used to circumvent the application of the notification procedure established under this Directive. | (10a) By way of derogation from the normal notification procedure, it should be possible for Member States, in exceptional cases, to act rapidly when urgent matters arise regarding serious and unforeseeable circumstances relating to public policy, public security, public health or the protection of the environment. That exception should not be used to circumvent the implementation of the notification procedure laid down in this Directive. As a result, Member States should notify all such adopted measures to the Commission, together with their content and the reasons for the urgency that triggered their adoption, without undue delay and in any case not later than 3 days after the adoption of the urgent measures. |

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| 15. | (11) In order to ensure an effective exchange of information between the Member States and the Commission, the Internal Market Information System set up by Regulation (EU) No 1024/2012 of the European Parliament and of the Council ¹ should continue to be used under this Directive. | (11) In order to ensure an effective exchange of information between the Member States and the Commission, the Internal Market Information System set up by Regulation (EU) No 1024/2012 of the European Parliament and of the Council ² should continue to be used under this Directive. | (11) In order to ensure an effective exchange of information between the Member States and the Commission, the Internal Market Information System set up by Regulation (EU) No 1024/2012 of the European Parliament and of the Council³ should continue to be used under this Directive. | Green (11) In order to ensure an effective exchange of information between the Member States and the Commission, the Internal Market Information System set up by Regulation (EU) No 1024/2012 of the European Parliament and of the Council ⁴ should continue to be used under this Directive. |

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

² Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC ('the IMI Regulation')(OJ L 316, 14.11.2012, p. 1).

³ Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC ('the IMI Regulation')(OJ L 316, 14.11.2012, p. 1).

⁴ Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC ('the IMI Regulation')(OJ L 316, 14.11.2012, p. 1).

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| 16. | (12) The notification | (12) The notification | (12) The notification | Red |
| 10. | obligation set out in Directive | obligation set out in Directive | obligation set out in Directive | |
| | 2006/123/EC requires Member | 2006/123/EC requires Member | 2006/123/EC requires Member | |
| | States to inform the Commission | States to inform the Commission | States to inform the Commission | |
| | and other Member States of | and other Member States of | and other Member States of | |
| | requirements covered by Article | requirements covered by Article | requirements covered by Article | |
| | 15(2), the third subparagraph of | 15(2), the third subparagraph of | 15(2), the third subparagraph of | |
| | Article 16(1) and the first | Article 16(1) and the first | Article 16(1) and the first | |
| | sentence of Article 16(3) of | sentence of Article 16(3) of | sentence of Article 16(3) of | |
| | Directive 2006/123/EC. The | Directive 2006/123/EC. The | Directive 2006/123/EC. The | |
| | application of that Directive has | application of that Directive has | application of that Directive has | |
| | shown that authorisation schemes | shown that authorisation schemes | shown that authorisation schemes | |
| | or requirements related to | or requirements related to | or requirements related to | |
| | authorisation schemes, | authorisation schemes, | authorisation schemes , | |
| | professional liability insurance, | professional liability insurance, | professional liability insurance, | |
| | guarantees or similar | professional rules on | guarantees or similar | |
| | arrangements, and multi- | commercial communication, | arrangements, and multi- | |
| | disciplinary restrictions are | guarantees or similar | disciplinary restrictions are | |
| | common and can constitute | arrangements, and multi- | common and can constitute | |
| | important barriers in the single | disciplinary restrictions are | important significant barriers in | |
| | market for services. They should | common and can constitute | the single market for services. | |
| | hence also be covered by a | important barriers in the single | They should hence also be | |
| | notification obligation to | market for services. They should | covered by a notification | |
| | facilitate the compliance of | hence also be covered by a | obligation to facilitate the | |
| | relevant Member States' draft | notification obligation to | compliance of relevant Member | |
| | laws, regulations and | facilitate the compliance of | States' draft laws, regulations and | |
| | administrative provisions with | relevant Member States' draft | administrative provisions with | |
| | Directive 2006/123/EC. The | laws, regulations and | Directive 2006/123/EC. The | |
| | requirements mentioned in | administrative provisions with | requirements mentioned in | DE (22.047.01.00 |
| CI/II | 720108EN f6(2) of Directive | Directive 2006/123/EC. The ^{19/2} | ⁹ Article 16(2) of Directive | PE632.047v01-00 |
| | 2006/123/EC are covered by the | requirements mentioned in | 2006/123/EC are covered by the | <u> </u> |
| | notification obligation to the | Article 16(2) of Directive | notification obligation to the | EN |
| | extent that they fall under Article | 2006/123/EC are covered by the | extent that they fall under Article | |
| | 16(3). | notification obligation to the | 16(3). | |
| | | extent that they fall under Article | | |
| | | 16(2) [Am 10] | | |

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| 17. | (13) The present Directive establishes a consultation of three months to allow an assessment of notified draft measures as well as an effective dialogue with the notifying Member State. In order to make the consultation work in practice and to allow Member States, the Commission and stakeholders to effectively provide their comments, Member States should notify draft measures at least three months prior to their adoption. Notifying Member States should take into account the comments made on the notified draft measure, in compliance with Union law. | (13) <u>As general rule</u> , the present Directive establishes a consultation of three months to allow an assessment of notified draft measures as well as an effective dialogue with the notifying Member State. In order to make the consultation work in practice and to allow Member States , <u>and</u> the Commission and stakeholders to effectively provide their comments or observations, Member States should notify draft measures at least three months prior to their adoption. <u>Whereas comments</u> <u>relate to the compatibility of the</u> <u>notified measure with the</u> <u>provisions of Directive</u> <u>2006/123/EC, Member States,</u> <u>the Commission and</u> <u>stakeholders may also share</u> <u>more general observations in</u> <u>order to, inter alia, exchange</u> <u>best practices and strengthen</u> <u>their cooperation and overall</u> | (13) The present Directive establishes a consultation of three months to allow <u>for</u> an assessment of notified draft measures as well as <u>for</u> an effective dialogue with the notifying Member State. In order to make the consultation work in practice and to allow Member States <u>and</u> the Commission and stakeholders to effectively provide their comments, Member States should notify draft measures at least three months prior to their adoption. Notifying Member States should take into account the comments made on the notified draft measure, in compliance with Union law. <u>Where the notifying Member State decides not to proceed</u> with the adoption of the <u>notified measure, it shall be</u> <u>possible for that Member State</u> <u>to withdraw its notification</u> <u>related to that measure at any</u> | Yellow To be further discussed |
| CT\11 | 172008EN.docx | exchange of information. Where the notification concerns only modifications to the already notified draft measure under consultation, such a notification of modifications should be subject to a shorter consultation period of one month. Notifying Member States should take into | point in time during the notification procedure. | PE632.047v01-00 |

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| 18. CT\11 | (14) Where following the consultation the Commission still has concerns about the compliance with Directive 2006/123/EC of the notified draft measure, it may alert the notifying Member State, giving it the opportunity to bring its draft measure into conformity with EU law. That alert should include an explanation of the legal concerns identified by the Commission. Reception of such an alert entails that the notifying Member State shall not adopt the notified measure for three months. 72008EN.docx | (14) Where following the consultation the Commission still has concerns about the compliance with Directive 2006/123/EC of the notified draft measure, it may alert the notifying Member State, giving it the opportunity to <i>provide further explanations or</i> bring its draft measure into conformity with EU-Union law. That alert should include an a detailed explanation of the legal concerns identified by the Commission or other Member States. Reception of such an alert entails that the notifying Member State shall not adopt the notified draft measure for three months. [Am. 12] | (14) Where following the consultation the Commission has issued comments during the consultation period raising still has concerns about the compliance with Directive 2006/123/EC of the notified draft measure with Directive 2006/123/EC, it may alert, before the closure of that period and where such concerns persist, issue a notice to the notifying Member State, giving it the opportunity to provide further explanations or to bring its draft measure into conformity with EU law. That alert notice should include an explanation of the legal concerns identified by the Commission. Reception of such an alert a notice allows the notifying Member State and the Commission to continue the dialogue. Such notice should not prevent Member States from adopting the notified measure. entails that the notifying Member State shall not 9 adopt the notified measure for | PE632.047v01-00 |
| | | | three months. | EN |

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| 19. | (15) Failure to comply with the obligation to notify draft measures at least three months prior to their adoption and/or to refrain from adopting the notified measure during this period and, as the case may be, during the 3 months following the reception of an alert, should be considered to be a substantial procedural defect of a serious nature as regards its effects vis-à-vis individuals. | (15) Failure to comply with the obligation to notify draft measures at least three months prior to their adoption and/or to refrain from adopting or <u>modifications to</u> the <u>already</u> notified measure during this <u>draft</u> <u>measures or measures that have</u> <u>been adopted in accordance with</u> <u>this Directive within the</u> <u>prescribed</u> period-and, as the case may be, during the 3 months following the reception of an alert, should be considered to be a substantial procedural defect of a serious nature as regards its effects vis-à-vis individuals. [Am. 13] | (15) Failure to comply with the obligation to notify draft measures at least three months prior to their adoption and/or to refrain from adopting the notified measure during this period and, as the case may be, during the 3 months following the reception of an alert, should be considered to be a substantial procedural defect of a serious nature as regards its effects vis-à-vis individuals. (DELETED) | Deleted |

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| 20. | (16) To ensure the efficiency, | (16) To ensure the efficiency, | (16) To ensure the efficiency, | Yellow The first state of the s |
| | effectiveness and coherence of | effectiveness and coherence of | effectiveness and coherence of | To be further discussed in |
| | the notification procedure, the | the notification procedure, with | the notification procedure, With | accordance with the articles |
| | Commission should retain the | regard to authorisation schemes | regard to requirements falling | |
| | power to adopt Decisions | or requirements falling under | within the scope of Article 4(b), | |
| | requiring the Member State in | the scope of points (a), (c), (d) | the Commission should retain the | |
| | question to refrain from adopting | and (e) of Article 4, it should be | power to adopt <u>a</u> D d ecision s | |
| | notified measures or, if already | possible for the Commission to | requiring requesting the Member | |
| | adopted, to repeal them, where | adopt Recommendations | State in question to refrain from | |
| | they violate Directive | requesting the Member State in | adopting notified measures or, if | |
| | 2006/123/EC. | question to adapt the notified | already adopted, to repeal them, | |
| | | measures concerned, to refrain | where they violate the | |
| | | from adopting them or, if they | Commission still has serious | |
| | | have already been adopted, to | <u>concerns about the</u> | |
| | | repeal them in order to address | compatibility of the notified | |
| | | the serious concerns about the | measures with violate Directive | |
| | | compatibility of such measures | 2006/123/EC. | |
| | | with Directive 2006/123/EC. | | |
| | | With regard to requirements | | |
| | | falling under the scope of point | | |
| | | (b) of Article 4, the Commission | | |
| 1 | | should retain the power to adopt | | |
| l | | Decisions requiring requesting | | |
| l | | the Member State in question to | | |
| | | refrain from adopting notified | | |
| | | measures or, if <i>they have</i> already | | |
| | | been adopted, to repeal them, | | |
| | | where they violate Directive | | |
| | | 2006/123/EC. Under Article 263 | | |
| CT\11 | 72008EN.docx | TFEU, the Court of Justice of 23/2 | 9 | PE632.047v01-00 |
| | | the European Union has | | |
| | | jurisdiction to review the legality | | EN |
| | | of certain acts adopted by the | | |
| | | Commission, including actions | | |
| l | | brought by Member States. | | |
| | | Under Article 250 TEFU if | | |

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| 21. | | | (16a) When adopting a decision, the Commission shall ensure that the Member State to which that decision is addressed has the opportunity to inform the Commission of its position on the concerns raised on the compatibility of the measure with Directive 2006/123/EC. Decisions are subject to the control of the legality by the Court of Justice of the European Union, according to the powers conferred to the Court by the Treaties. | Yellow To be further discussed |

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| 22. | | | (16b) With regard to authorisation schemes; requirements affecting the freedom to provide services and multi-disciplinary restrictions, the Commission should be given the possibility to adopt recommendations requesting the Member State in question to adapt the notified measures in order to address the serious concerns about the compatibility of those measures with Directive 2006/123/EC. | Yellow To be further discussed |

| 23. (17) Interested third parties (17) <u>In order to promote</u> (17) <u>A further objective of</u> Yellow To be further discusse | |
|---|--|
| should be given access to notifications sent by Member States in order to make them aware of planned authorisation schemes or certain requirements related to services in markets in which they actually or potentially operate and to enable them to provide comments thereon. It is therested third parties states in order to make them, so that they are aware of planned or introduced authorisation schemes or certain requirements related to services in markets in which they actually or potentially operate and to enable them, and a possibility to provide comments thereon. The Commission should facilitate the possibility to provide comments thereon. The Commission should facilitate the possibility to comment on the notifications made by Member States within the consultation period and inform the Member States concerned of relevant feedback, if it considers this to be necessary. The Commission should send the feedback from interested third parties to the Member State's assessment feedback is substantive and would contribute significantly to the Member State's assessment feedback is substantive and would contribute significantly to the Member State's assessment feedback is assessment for the mather is assessment for the member State's assessment for the should be and the feedback from interested third parties to file mather is assessment for the should be and the feedback from interested third parties to is the consultation period. PE632.047v0 | |

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| 24. | (18) This Directive does not | (18) This Directive does not | (18) This Directive does not | (18) This Directive does not |
| | affect the obligations of Member | affect the obligations of Member | affect the obligations of Member | affect the obligations of Member |
| | States to notify the requirements | States to notify the requirements | States to notify the requirements | States to notify the requirements |
| | related to information society | related to information society | related to information society | related to information society |
| | services under Directive (EU) | services under Directive (EU) | services under Directive (EU) | services under Directive (EU) |
| | 2015/1535. In order to avoid | 2015/1535. In order to avoid | 2015/1535. In order to avoid <u>the</u> | 2015/1535. In order to avoid <u>the</u> |
| | duplications of notifications, a | duplications of notifications, a | duplication s of notifications, a | duplication s of notifications, a |
| | notification carried out under that | notification carried out under that | notification carried out under that | notification carried out under that |
| | Directive and in compliance with | Directive and in compliance with | Directive and in compliance with | Directive and in compliance with |
| | the relevant obligations laid | the relevant obligations laid | the relevant obligations laid | the relevant obligations laid |
| | down in this Directive should be | down in this Directive should be | down in this Directive should be | down in this Directive should be |
| | deemed to equally fulfil the | deemed to equally fulfil the | deemed to equally fulfil the | deemed to equally fulfil the |
| | notification obligation | notification obligation | notification obligation | notification obligation |
| | established under this Directive. | established under this Directive. | established under this Directive. | established under this Directive. |

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| 25. | (19) For the same reason, a notification completed under this Directive should be deemed to fulfil the reporting obligations of Member States under Article 59(5) of Directive 2005/36/EC of the European Parliament and of the Council¹. | (19) For the same reason, a notification completed under this Directive should be deemed to fulfil the reporting obligations of Member States under Article 59(5) of Directive 2005/36/EC of the European Parliament and of the Council ² . | (19) For the same reason, a notification completed under this Directive should be deemed to fulfil the reporting obligations of Member States under Article 59(5) of Directive 2005/36/EC of the European Parliament and of the Council ³ . | Green (19) For the same reason, a notification completed under this Directive should be deemed to fulfil the reporting obligations of Member States under Article 59(5) of Directive 2005/36/EC of the European Parliament and of the Council ⁴ . |
| 26. | (20) As a consequence of the establishment of the notification procedure provided for in this Directive, the provisions of Directive 2006/123/EC concerning notification procedures should be deleted. Regulation (EU) 1024/2012 should be amended accordingly. | (20) As a consequence of the establishment of the notification procedure provided for in this Directive, the provisions of Directive 2006/123/EC concerning notification procedures should be deleted. Regulation (EU) 1024/2012 should be amended accordingly. | (20) As a consequence of the establishment of the notification procedure provided for in this Directive, the provisions of Directive 2006/123/EC concerning notification procedures should be deleted. Regulation (EU) 1024/2012 should be amended accordingly. | Green (20) As a consequence of the establishment of the notification procedure provided for in this Directive, the provisions of Directive 2006/123/EC concerning notification procedures should be deleted. Regulation (EU) 1024/2012 should be amended accordingly. |

¹ Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22). ² Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications

² Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22).

³ Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22).

⁴ Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22). CT\1172008EN.docx 28/29 PE632.047v01-00

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| 27. | (21) Since the objective of this Directive, namely establishing a notification procedure for the better enforcement of Directive 2006/123/EC facilitating the freedom of establishment for services providers and the freedom to provide services in the single market, cannot be sufficiently achieved by action at the level of Member States alone and can by reason of its scale and effect be better achieved at the Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality this Directive does not go beyond what is necessary in order to achieve its objective. | (21) Since the objective of this Directive, namely establishing a notification procedure for the better enforcement of Directive 2006/123/EC facilitating the freedom of establishment for services providers and the freedom to provide services in the single market, cannot be sufficiently achieved by action at the level of Member States alone and can by reason of its scale and effect be better achieved at the Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality this Directive does not go beyond what is necessary in order to achieve its objective. | (21) Since the objective of this Directive, namely, establishing a notification procedure for the better enforcement of Directive 2006/123/EC facilitating the freedom of establishment for services providers and the freedom to provide services in the single market, cannot be sufficiently achieved by action at the level of Member States alone and can by reason of its scale and effect be better achieved at the Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality this Directive does not go beyond what is necessary in order to achieve its objective. | Green (21) Since the objective of this Directive, namely, establishing a notification procedure for the better enforcement of Directive 2006/123/EC facilitating the freedom of establishment for services providers and the freedom to provide services in the single market, cannot be sufficiently achieved by action at the level of Member States alone and can by reason of its scale and effect be better achieved at the Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality this Directive does not go beyond what is necessary in order to achieve its objective. |