

ROADMAP

Title of the initiative: **Communication and Report on the results of the implementation of the Services Directive and its "mutual evaluation process"**

Type of initiative (CWP/Catalogue/Comitology): CWP (Non-strategic)

Lead DG: DG MARKT/E1

Expected date of adoption of the initiative (month/year): December 2010

Date of modification:

Version No:

Initial IA screening & planning of further work

A. Context and problem definition

(i) What is the political context of the initiative? (ii) How does this initiative relate to past and possible future initiatives, and to other EU policies?

The process of mutual evaluation, a process of peer review foreseen by the Services Directive, has started in the beginning of 2010. Its importance has been highlighted in the conclusions of the Competitiveness Council on September and November 2009 as well as on those of the ECOFIN Council of September 2010. At the end of the process (by end 2010), the Commission is required by the Directive to present a summary report to the European Parliament and to the Council, accompanied where appropriate by proposals for additional initiatives. The Commission will need to describe the process and its findings, draw conclusions from it and outline a follow up.

What are the main problems identified?

The implementation of the Services Directive should lift a considerable number of barriers to the establishment of service providers and to the cross border provision of services in the Internal Market. Besides having to abolish a number of regulatory barriers, Member States were also required by the Directive to identify specific types of requirements imposed on service providers (such as authorisation schemes, legal form requirements, tariffs, ownership restrictions, etc.), assess whether they are necessary, non-discriminatory and proportionate and amend them, if necessary. Member States can thus maintain different regulatory approaches (provided the different requirements are justified, non-discriminatory and proportionate).

The mutual evaluation process will examine what Member States have done as regards these types of requirements and provide an overview of the results of implementation so as to help assessing whether there is a need for further measures/initiatives.

Who is affected?

Services providers as well as recipients of services are affected by potential remaining obstacles to the Internal Market for services.

(i) Is EU action justified on grounds of subsidiarity? (ii) Why can the objectives of the proposed action not be achieved sufficiently by Member States (necessity test)? (iii) As a result of this, can objectives be better achieved by action by the Community (test of EU Value Added)?

Under the Services Directive, the Commission is under an obligation to present a summary report to the Council and the EP at the end of the "mutual evaluation process" which cannot be achieved through actions by Member States.

B. Objectives of EU initiative

What are the main policy objectives?

The Communication/report will describe the process of mutual evaluation and the state of the internal market after the implementation of the Services Directive and outline a follow up (including whether further action - legislative or not - may need to be considered in certain areas.)

Do the objectives imply developing EU policy in new areas or in areas of strategic importance?

By providing an overview of the state of the Internal Market after the implementation of the Services Directive and identifying whether there is a need for further action the Communication will help completion of the Internal Market for Services.

C. Options

(i) What are the policy options? (ii) What legislative or 'soft law' instruments could be considered?

(iii) Would any legislative initiatives go beyond routine up-date of existing legislation?

The report to the Council and the EP at the end of the "mutual evaluation process" is an obligation for the Commission established in Art. 39 of the Services Directive. The options are therefore limited to whether the report should be presented as a self standing document (taking the form of a Commission staff working paper) or whether it should be framed politically by a Commission Communication.

The proposed solution is to have a (brief) Commission Communication to which the report describing the process of mutual evaluation and its finding will be annexed. This seems the most appropriate given the importance of the mutual evaluation process as a tool to help the development of future policies for the Internal Market, and the very important investment (both political and in terms of time and resources) that a majority of Member States (and the Commission) have devoted to the process. The Communication would contain the most important conclusions to be drawn from the process of "mutual evaluation" and outline a follow up (including as regards areas/issues where further action -whether legislative or not- may be considered).

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

The mutual evaluation exercise is part of DG MARKT's policy to facilitate the freedom of establishment and the freedom to provide services.

Explain how the options respect the proportionality principle

Not applicable

D. Initial assessment of impacts

What are the significant impacts likely to result from each policy option (cf. list of impacts in the Impact Assessment Guidelines pages 32-37), even if these impacts would materialise only after subsequent Commission initiatives?

The aim of this communication is to draw conclusions from the mutual evaluation exercise and outline the follow-up. Its impact will be a political one (policy development).

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No

Could the options have significant impacts on (i) simplification, (ii) administrative burden or

on (iii) relations with third countries?

The report/communication as such is unlikely to have a significant impact on these aspects but any follow up could contribute to administrative simplification.

E. Planning of further impact assessment work

When will the impact assessment work start?

Given the reporting nature of the exercise, no impact assessment is needed.

(i) What information and data are already available? (ii) Will this impact assessment build on already existing impact assessment work or evaluations carried out? (iii) What further information needs to be gathered? (iv) How will this be done (e.g. internally or by an external contractor) and by when? (v) What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

The necessary information is to be found in the reports that Member States have submitted to the Commission to prepare the mutual evaluation process. Further information and clarifications will be received from Member States during the process

Which stakeholders & experts have been/will be consulted, how and at what stage?

As foreseen in the Services Directive, stakeholders will be consulted during the mutual evaluation process (foreseen date is June 2010). Their comments will be reflected in the Communication/report.