



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: 6.6.2018

**Committee on the Internal Market and Consumer Protection –
Negotiating team**

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 Council ⁴ 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. |

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

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| 4. CT\1172011EN.docx | <p>(4) The Commission has received an increasing number of notifications from Member States regarding newly introduced requirements under Directive 2006/123/EC. However, not all of those national requirements are non-discriminatory with regard to nationality or residence, justified and proportionate, thus resulting in a significant number of structural dialogues launched by the Commission vis-à-vis Member States. This shows that the existing notification procedure is not sufficient to avoid discrimination on the grounds of nationality or residence, unjustified or disproportionate requirements. This is to the detriment of citizens and businesses in the internal market for services. Moreover, it appears that some new or modified requirements related to services falling within the scope of Directive 2006/123/EC have not been notified at all.</p> | <p>(4) The Commission has received an increasing number of notifications from Member States regarding newly introduced requirements under Directive 2006/123/EC. However, not all of those national requirements are non-discriminatory with regard to nationality or residence, justified and proportionate, thus resulting in a significant number of structural dialogues launched by the Commission vis-à-vis Member States. This shows that the existing notification procedure is not sufficient to avoid discrimination on the grounds of nationality or residence, unjustified or disproportionate requirements. This is to the detriment of citizens and businesses in the internal market for services. Moreover, it appears that some new or modified requirements related to services falling within the scope of Directive 2006/123/EC have not been notified at all.</p> | <p>(4) The Commission has received an increasing number of notifications from Member States regarding newly introduced requirements under Directive 2006/123/EC. However, not all of those national requirements are non-discriminatory with regard to nationality or residence, justified and proportionate, thus resulting in a significant number of structural dialogues launched by the Commission vis-à-vis Member States. This shows that the existing notification procedure is not sufficient to avoid discrimination on the grounds of nationality or residence, unjustified or disproportionate requirements. This is to the detriment of citizens and businesses in the internal market for services. Moreover, it appears that some new or modified requirements related to services falling within the scope of Directive 2006/123/EC have not been notified at all.</p> | <p>Green</p> <p>(4) The Commission has received an increasing number of notifications from Member States regarding newly introduced requirements under Directive 2006/123/EC. However, not all of those national requirements are non-discriminatory with regard to nationality or residence, justified and proportionate, thus resulting in a significant number of structural dialogues launched by the Commission vis-à-vis Member States. This shows that the existing notification procedure is not sufficient to avoid discrimination on the grounds of nationality or residence, unjustified or disproportionate requirements. This is to the detriment of citizens and businesses in the internal market for services. Moreover, it appears that some new or modified requirements related to services falling within the scope of Directive 2006/123/EC have not been notified at all.</p> |

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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. |
| 6. | (6) The effective enforcement of the rules governing the internal market for services set out in Directive 2006/123/EC should be enhanced by improving the existing notification procedure established by that Directive in respect of national authorisation schemes and certain requirements concerning both access to self- | (6) The effective enforcement of the rules governing the internal market for services set out in Directive 2006/123/EC should be enhanced by improving the existing notification procedure established by that Directive in respect of national authorisation schemes and certain requirements concerning both access to self- | (6) The effective enforcement of the rules governing the internal market for services set out in Directive 2006/123/EC should be enhanced by improving the existing notification procedure established by that Directive in respect of national authorisation schemes and certain requirements concerning both access to self- | Light Green <i>EP suggestion, to be checked by Council</i> (6) The effective enforcement of the rules governing the internal market for services set out in Directive 2006/123/EC should be enhanced by improving the existing notification procedure established by that Directive in |

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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| | <p>employed activities and their exercise. The prevention of the adoption of national provisions establishing requirements and authorisation schemes that would be contrary to Directive 2006/123/EC should be facilitated. This Directive is without prejudice to the Commission's powers under the Treaties and the Member States' obligation to comply with the provisions of Union law.</p> | <p>employed activities and their exercise. The prevention of <u><i>Dialogue between the Commission and the Member States should be facilitated in order to prevent</i></u> the adoption of national provisions establishing requirements and authorisation schemes that would be contrary to Directive 2006/123/EC should be facilitated <u><i>and that would lead to the fragmentation of the Single Market, and in order to minimise the number of new infringement cases.</i></u> This Directive is without prejudice to the Commission's powers <u><i>conferred on the Commission and the Court of Justice</i></u> under the Treaties and the Member States' <u><i>rights and obligations flowing therefrom</i></u> to comply with the provisions of Union law. <u>[Am. 1]</u></p> | <p>employed activities and their exercise. <u><i>This Directive establishes a procedure for Member States and the Commission to work in partnership to prevent the introduction of discriminatory, unjustified and disproportionate authorisation schemes and/or of certain requirements related to services covered by Directive 2006/123/EC. The authorisation schemes and the requirements covered by this Directive are those which fall within the scope of Directive 2006/123/EC. This Directive does not curtail the sovereign rights of Member States to regulate service activities in line with EU law.</i></u></p> <p>The prevention of the adoption of national provisions establishing requirements and authorisation schemes that would be contrary to Directive 2006/123/EC should be facilitated. This Directive is</p> | <p>respect of national authorisation schemes and certain requirements concerning both access to self-employed activities and their exercise. <u><i>This Directive establishes a procedure for which strengthens the cooperation between Member States and the Commission to work in partnership in order to prevent the introduction of discriminatory, unjustified and disproportionate authorisation schemes and/or of certain requirements related to services covered by Directive 2006/123/EC. The authorisation schemes and the requirements covered by this Directive are those which fall within the scope of Directive 2006/123/EC. This Directive does not curtail affect the sovereign right of Member States to regulate service activities in line with EU law.</i></u></p> <p>The prevention of the adoption of national provisions establishing</p> |

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| | | | without prejudice to the Commission's powers under the Treaties and the Member States' obligation to comply with the provisions of Union law. | requirements and authorisation schemes that would be contrary to Directive 2006/123/EC should be facilitated. This Directive is without prejudice to the Commission's powers under the Treaties and the Member States' obligation to comply with the provisions of Union law. |

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| 7. | <p>(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.</p> | <p>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 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]</p> | <p>(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 other</u> professional organisations, <u>in the exercise of their legal 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 service provider</u> issued by national authorities.</p> | <p>Green</p> <p><i>EP suggestion, to be checked by Council</i></p> <p>(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 other</u> professional organisations, <u>in the exercise of their legal autonomy, entrusted by the Member States</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 draft decisions <u>addressed to a specific service provider</u> issued by national authorities.</p> |
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| 8. | | <p><u>(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.</u> [Am. 3]</p> | <p><u>(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.</u></p> | <p>Yellow EP suggestion to be checked by Council <u>Recital 7a</u> <u>(7a) The notification obligation established by this Directive should not apply to draft measures 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 authorisation schemes or requirements which have already been notified and adopted and that do not alter the scope, content, or make the already adopted authorisation schemes or requirements more restrictive for the establishment or provision of services. The notification obligation should equally not apply to measures implementing binding Union</u></p> |

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| | | | | <p><u>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. This exception should be understood in the light of the case-law of the Court of Justice of the European Union.</u></p> |
| 9. | | <p><u>(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</u></p> | <p><u>(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</u></p> | <p>Yellow <i>To be further discussed Council to make a compromise suggestion concerning urban planning</i></p> <p><u>(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</u></p> |

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| | | <p><u>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]</u></p> | <p><u>planning, building standards as well as administrative penalties imposed for non-compliance with such rules which do not specifically regulate or 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.</u></p> | <p><u>with such rules.</u></p> |

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| 10. | | <p><i><u>(7c) Amendments or modifications to draft measures already subject to an ongoing notification procedure, which are introduced by Member States' parliaments at national or regional level in accordance with their parliamentary procedure, should not be covered by the ex-ante notification obligation. However, the Member State concerned should notify such modifications to the Commission without delay, and at the latest two weeks after their adoption.</u></i></p> <p>[Am. 5]</p> | <p><u>(7c) Directive 2006/123/EC is a horizontal legal instrument which affects a significant number of laws, regulations and administrative provisions at different levels within Member States' government structures. All levels of these structures are already subject to the notification obligation provided for in Directive 2006/123/EC. To facilitate the compliance by relevant authorities with this Directive, the Commission will issue guidance on the practical aspects of the notification procedure in order to maximise the efficiency of that procedure and to limit the administrative burden, including for municipal or local authorities.</u></p> | <p>Yellow</p> <p><i><u>(7c) Amendments or modifications to draft measures already subject to an ongoing notification procedure, which are introduced by Member States' parliaments at national or regional level in accordance with procedures laid down in national law their parliamentary procedure, should not be covered by the obligation to modify an ongoing notification of a draft measure before its adoption. However, the Member State concerned should modify the notification notify such modifications to the Commission without delay, and at the latest two weeks after the adoption.</u></i></p> |
| 11. | <p>(8) The obligation for Member States to notify draft measures laying down authorisation schemes or</p> | <p>(8) The obligation for Member States to notify draft measures laying down authorisation schemes or</p> | <p>(8) The obligation for Member States to notify draft measures laying down authorisation schemes or</p> | <p>Green</p> <p>(8) The obligation for Member States to notify draft measures laying down authorisation schemes or</p> |

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| | <p>requirements referred to in Article 4 of this Directive at least three months before their adoption is designed to ensure that measures to be adopted comply with Directive 2006/123/EC. In order for the notification procedure to be effective, a consultation on notified measures should take place sufficiently in advance of their adoption. This is appropriate to foster good cooperation and transparency between the Commission and Member States and to further develop exchanges between the Commission and national authorities on new or amended authorisation schemes and certain requirements covered by Directive 2006/123/EC, in accordance with Article 4(3) of the Treaty on European Union (TEU). With a view to ensuring the effectiveness of the procedure, breach of the obligation to notify or to refrain from adopting a notified measure, including during the period</p> | <p>requirements referred to in Article 4 of this Directive at least three months before their adoption is designed to ensure that measures to be adopted comply with Directive 2006/123/EC. In order for the notification procedure to be effective, a consultation on notified measures should take place sufficiently in advance of their adoption. This is appropriate to foster good cooperation and transparency between the Commission and Member States and to further develop exchanges between the Commission and national authorities on new or amended authorisation schemes and certain requirements covered by Directive 2006/123/EC, in accordance with Article 4(3) of the Treaty on European Union (TEU). With a view to ensuring the effectiveness of the procedure, breach of the obligation to notify or <i>a failure to notify a</i> to refrain from adopting a notified measure,</p> | <p>requirements referred to in Article 4 of this Directive at least three months before their adoption is designed to ensure that measures to be adopted comply with Directive 2006/123/EC. In order for the notification procedure to be effective, a consultation on notified measures should take place sufficiently in advance of their adoption. This is appropriate to foster good cooperation and transparency between the Commission and Member States and to further develop exchanges between the Commission and national authorities on new or amended authorisation schemes and certain requirements covered by Directive 2006/123/EC, in accordance with Article 4(3) of the Treaty on European Union (TEU). With a view to ensuring the effectiveness of the procedure, breach of the obligation to notify or to refrain from adopting a notified measure, including during the period</p> | <p>requirements referred to in Article 4 of this Directive at least three months before their adoption is designed to ensure that measures to be adopted comply with Directive 2006/123/EC. In order for the notification procedure to be effective, a consultation on notified measures should take place sufficiently in advance of their adoption. This is appropriate to foster good cooperation and transparency between the Commission and Member States and to further develop exchanges between the Commission and national authorities on new or amended authorisation schemes and certain requirements covered by Directive 2006/123/EC, in accordance with Article 4(3) of the Treaty on European Union (TEU). With a view to ensuring the effectiveness of the procedure, breach of the obligation to notify or <i>a failure to notify a</i> to refrain from adopting a notified measure,</p> |

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| | <p>following the receipt of an alert, should be considered to be a substantial procedural defect of a serious nature as regards its effects vis-à-vis individuals.</p> | <p>including during the period following the receipt of an alert <u><i>within the time limits laid down in this Directive</i></u>, should be considered to be a substantial procedural defect of a serious nature as regards its effects vis-à-vis individuals. [Am. 6]</p> | <p>following the receipt of an alert, should be considered to be a substantial procedural defect of a serious nature as regards its effects vis-à-vis individuals.</p> | <p>including during the period following the receipt of an alert <u><i>within the time limits laid down in this Directive</i></u>, should be considered to be a substantial procedural defect of a serious nature as regards its effects vis-à-vis individuals. <i>Failure to comply with the notification obligation, set out in this Directive, could seriously undermine the transparency and the consultation process, which could potentially lead to the creation of unjustified barriers in the single market to the detriment of service providers and recipients of services. Therefore, the effectiveness of the notification procedure should be ensured in compliance with Union law.</i></p> |

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| 12. | <p>(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.</p> | <p>(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 should be given the opportunity to provide feedback on these 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.</u> Modifications of a merely clerical nature should not be communicated. [Am. 7]</p> | <p>(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 this end the notifying Member State should amend the initial notification of the draft measure.</u> Modifications of merely clerical nature should not be communicated.</p> | <p>Yellow To be further discussed</p> |
| 13. | <p>(10) The information to be submitted by the notifying</p> | <p>(10) The information to be submitted by the notifying</p> | <p>(10) The information to be submitted by the notifying</p> | <p>Green 10) The information to be submitted by the notifying</p> |

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| | <p>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.</p> <p>Therefore, in accordance with the case-law of the Court of Justice of the European Union (CJEU), such information should clarify the public interest objective pursued, set out how the notified authorisation scheme or requirement is necessary and justified to meet this objective and explain how it is proportionate in doing so; thus, it should include explanations on why it is suitable, why it does not go beyond what is necessary and why no alternative and less restrictive means would be available. The reasons which may be invoked by the Member State concerned by way of justification should be accompanied by appropriate evidence and by an analysis of the proportionality of</p> | <p>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.</p> <p>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 <u>explaining</u> how the notified authorisation scheme or requirement is necessary and justified to meet this objective and explain how it is proportionate in doing so; <u>for meeting that objective. Thus, it the notified authorisation scheme or requirement should include sufficient</u> 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 <u>are</u> available. The reasons which may be invoked by the Member State concerned by way of justification should be accompanied by</p> | <p>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.</p> <p>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 should be accompanied by appropriate evidence and by an</p> | <p>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.</p> <p>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 a sufficient explanation demonstrating that the notified authorisation scheme or requirement is non-discriminatory, necessary in the sense that it is justified by an overriding reason relating to the public interest and proportionate to meet this objective. The information on the proportionality of the authorisation scheme or requirement should include an explanation as to</i> why it is suitable, why it does not go beyond what is necessary and why no alternative, and less restrictive means would be <i>are</i></p> |

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| | the notified measure. | appropriate evidence and by an analysis of the proportionality of the notified measure. [Am.8] | analysis of the proportionality of the notified measure. | available. The reasons which may be invoked by the Member State concerned by way of justification should be accompanied by appropriate evidence and by an analysis of the proportionality of the notified measure. |

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| 14. | | <p><u>(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]</u></p> | <p><u>(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.</u></p> | <p>Light green <u>(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.</u></p> |

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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 Council ³ 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. |

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. | <p>(12) The notification obligation set out in Directive 2006/123/EC requires Member States to inform the Commission and other Member States of requirements covered by Article 15(2), the third subparagraph of Article 16(1) and the first sentence of Article 16(3) of Directive 2006/123/EC. The application of that Directive has shown that authorisation schemes or requirements related to authorisation schemes, professional liability insurance, guarantees or similar arrangements, and multi-disciplinary restrictions are common and can constitute important barriers in the single market for services. They should hence also be covered by a notification obligation to facilitate the compliance of relevant Member States' draft laws, regulations and administrative provisions with Directive 2006/123/EC. The requirements mentioned in Article 16(2) of Directive 2006/123/EC are covered by the notification obligation to the extent that they fall under Article 16(3).</p> | <p>(12) The notification obligation set out in Directive 2006/123/EC requires Member States to inform the Commission and other Member States of requirements covered by Article 15(2), the third subparagraph of Article 16(1) and the first sentence of Article 16(3) of Directive 2006/123/EC. The application of that Directive has shown that authorisation schemes or requirements related to authorisation schemes, professional liability insurance, <u>professional rules on commercial communication</u>, guarantees or similar arrangements, and multi-disciplinary restrictions are common and can constitute important barriers in the single market for services. They should hence also be covered by a notification obligation to facilitate the compliance of relevant Member States' draft laws, regulations and administrative provisions with Directive 2006/123/EC. The requirements mentioned in Article 16(2) of Directive 2006/123/EC are covered by the notification obligation to the extent that they fall under Article 16(3). [Am. 10]</p> | <p>(12) The notification obligation set out in Directive 2006/123/EC requires Member States to inform the Commission and other Member States of requirements covered by Article 15(2), the third subparagraph of Article 16(1) and the first sentence of Article 16(3) of Directive 2006/123/EC. The application of that Directive has shown that authorisation schemes or requirements related to authorisation schemes, professional liability insurance, guarantees or similar arrangements, and multi-disciplinary restrictions are common and can constitute important significant barriers in the single market for services. They should hence also be covered by a notification obligation to facilitate the compliance of relevant Member States' draft laws, regulations and administrative provisions with Directive 2006/123/EC. The requirements mentioned in Article 16(2) of Directive 2006/123/EC are covered by the notification obligation to the extent that they fall under Article 16(3).</p> | <p>Red</p> <p>PE632.049v01-00</p> |

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| 17. | <p>(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.</p> | <p>(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, and 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 relate to the compatibility of the notified measure with the provisions of Directive 2006/123/EC, Member States, the Commission and stakeholders may also share more general observations in order to, inter alia, exchange best practices and strengthen their cooperation and overall exchange of information. Where the notification concerns only modifications to the already notified draft measure under</u> ^{24/33} <u>consultation, such a notification of modifications should be subject to a shorter consultation period of one month.</u> Notifying Member States should take into account the comments made on</p> | <p>(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 and 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 with the adoption of the notified measure, it shall be possible for that Member State to withdraw its notification related to that measure at any point in time during the notification procedure.</u></p> | <p>Yellow To be further discussed</p> |
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| 18. | <p>(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.</p> | <p>(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 <i>Union</i> law. That alert should include an <i>a detailed explanation of the legal concerns identified by the Commission or other Member States.</i> Reception of such an alert entails that the notifying Member State shall not adopt the notified <i>draft</i> measure for three months. [Am. 12]</p> | <p>(14) Where following the consultation the Commission <u>has issued comments during the consultation period raising</u> still has concerns about the compliance with Directive 2006/123/EC of the notified draft measure <u>with Directive 2006/123/EC,</u> it may alert, <u>before the closure of that period and where such concerns persist, issue a notice to</u> the notifying Member State, giving it the opportunity to <u>provide further explanations or to</u> bring its draft measure into conformity with EU law. That alert <u>notice</u> should include an explanation of the legal concerns identified by the Commission. Reception of such an alert <u>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.</u> entails that the notifying Member State shall not adopt the notified measure for three months.</p> | <p>Red (14)...First part to be further discussed. Last part: Receipt of such a notice allows the notifying Member State and the Commission to continue the dialogue either until the Commission has adopted a decision or recommendation provided for in Article [6] 7 or has informed the notifying Member State of the closure of the notice provided for in paragraph 4. Such notice should not prevent Member States from adoption of the notified measure and at the same time the notifying Member State should continue the dialogue with a view to avoiding the creation of discriminatory, unjustified and disproportionate barriers. This would help ensure reasonable regulatory stability for service providers and recipients.</p> |
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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 <u>or modifications to the already notified measure during this draft measures or measures that have been adopted in accordance with this Directive within the 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) | <i>Deleted</i> |

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| 20. | <p>(16) To ensure the efficiency, effectiveness and coherence of the notification procedure, the Commission should retain the power to adopt Decisions requiring the Member State in question to refrain from adopting notified measures or, if already adopted, to repeal them, where they violate Directive 2006/123/EC.</p> | <p>(16) To ensure the efficiency, effectiveness and coherence of the notification procedure, <u>with regard to authorisation schemes or requirements falling under the scope of points (a), (c), (d) and (e) of Article 4, it should be possible for the Commission to adopt Recommendations requesting the Member State in question to adapt the notified measures concerned, to refrain from adopting them or, if they have already been adopted, to repeal them in order to address the serious concerns about the compatibility of such measures with Directive 2006/123/EC. With regard to requirements falling under the scope of point (b) of Article 4,</u> the Commission should retain the power to adopt Decisions requiring <u>requesting</u> the Member State in question to refrain from adopting notified measures or, if <u>they have</u> already <u>been</u> adopted, to repeal them, where they violate Directive 2006/123/EC. <u>Under Article 263 TFEU, the Court of Justice of</u>^{27/33} <u>the European Union has jurisdiction to review the legality of certain acts adopted by the Commission, including actions brought by Member States. Under Article 258 TFEU if</u></p> | <p>(16) To ensure the efficiency, effectiveness and coherence of the notification procedure, <u>With regard to requirements falling within the scope of Article 4(b),</u> the Commission should retain the power to adopt a D <u>Decisions</u> requiring <u>requesting</u> the Member State in question to refrain from adopting notified measures or, if already adopted, to repeal them, where they violate the <u>Commission still has serious concerns about the compatibility of the notified measures with</u> violate Directive 2006/123/EC.</p> | <p>Yellow To be further discussed in accordance with the articles</p> |
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| 21. | | | <p><u>(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.</u></p> | <p>Yellow To be further discussed</p> |

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| 22. | | | <u>(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.</u> | Yellow To be further discussed |
| 23. | (17) Interested third parties should be given access to notifications sent by Member States in order to make them aware of planned authorisation schemes or certain requirements related to services in markets in which they actually or potentially operate and to enable them to provide comments thereon. | (17) <u>In order to promote transparency between Member States and interested third parties, <i>interested third parties</i> should be given access to notifications sent by Member States in order to make them, <i>so that they are</i> aware of planned <i>or introduced</i> authorisation schemes or certain requirements related to services in markets in which they</u> | (17) <u>A further objective of this Directive is to promote transparency between Member States and interested third parties. The latter Interested third parties should be given access to notifications sent by Member States in order to make them aware of planned authorisation schemes or certain requirements related to services in markets in which they actually</u> | Yellow To be further discussed (article 8) |

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| | | <p>actually or potentially operate and to enable them, <i>and a possibility</i> to provide comments <i>feedback</i> thereon. <i>The Commission should facilitate the possibility to comment on the notifications made by Member States within the consultation period and inform the Member State 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 concerned only where it considers that the feedback is substantive and would contribute significantly to the Member State's assessment of the measure in question.</i> [Am. 15]</p> | <p>or potentially operate and to enable them to provide comments thereon. <u>The Commission should facilitate the possibility for interested third parties to comment on the notifications made by the Member States within the consultation period.</u></p> | |

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

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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 Council ¹ . | (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 (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).

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| 27. | <p>(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.</p> | <p>(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.</p> | <p>(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.</p> | <p>Green</p> <p>(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.</p> |