The implementation of the Services Directive 2006/123/EC

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The European Parliament,

— having regard to Article 3 of the Treaty on the European Union,

— having regard to Articles 9, 49 and 56 of the Treaty on the Functioning of the European Union,

— having regard to the Charter of Fundamental Rights of the European Union,

— having regard to Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (1),

— having regard to the Commission's information note of 18 May 2010 for the meeting of the Competitiveness Council, on the state of implementation of the Services Directive,

— having regard to the Commission Communication 'Towards a Single Market Act' (COM(2010)0608),

— having regard to the report to the President of the Commission entitled 'A new strategy for the single market',

— having regard to its resolution of 20 May 2010 on delivering a single market for consumers and citizens (2),

— having regard to Rule 48 and Rule 119(2) of its Rules of Procedure,

— having regard to the report of the Committee on the Internal Market and Consumer Protection and the opinions of the Committee on Economic and Monetary Affairs, the Committee on Employment and Social Affairs and the Committee on Regional Development (A7-0012/2011),

A. whereas the Services Directive aims to complete the internal market for services while safeguarding a high level of quality and social cohesion,

B. whereas the Services Directive is an instrument for the growth of the European Union and whereas its implementation should come within the framework of the Europe 2020 strategy and the Single Market Act,

C. whereas freedom to provide services is enshrined in the Treaties,

D. whereas transposition of the Services Directive is a major challenge for the Member States, public administrations and local authorities in view of its provisions on the right of establishment and freedom to provide services, and of the establishment of ‘points of single contact’ to provide assistance to service providers, in particular SMEs,

E. whereas the Directive’s impact on the economy, businesses and citizens cannot be evaluated until it has been fully and properly transposed in all of the EU Member States,

F. whereas the quality of implementation of the Directive by the Member States is just as vital as compliance with the deadlines for implementing it,

G. whereas the Services Directive makes it significantly easier for self-employed persons and small and medium-sized companies in particular to pursue their activities, develop new areas of business and also recruit new staff in other Member States,

H. whereas activities covered by the Services Directive account for 40% of EU GDP and jobs and are therefore a crucial sector for economic growth and in the fight against unemployment; whereas the objective of the Services Directive is to unlock the enormous economic and job-creation potential of the European internal market in services, estimated at 0.6-1.5% of EU GDP; whereas, further, the Services Directive aims to achieve objectives listed in Article 3 TFEU,

I. whereas a more dynamic and labour-intensive service sector could help sustain growth,

1. Draws attention to the unprecedented public and political debate on the Services Directive and the key role of the European Parliament in that negotiation; therefore considers that Parliament should provide effective monitoring of the process of implementation of the Directive by the Member States; asks the Commission to regularly inform Parliament of the state of transposition;

2. Emphasises that the Services Directive is an essential step towards a true single market for services, which should enable enterprises, and SMEs in particular, to provide citizens with better services at a competitive price throughout the internal market; considers, however, that after full transposition it is crucial that a comprehensive assessment should be carried out of the impact of the Services Directive;

3. Welcomes the fact that implementation of the Services Directive is creating unprecedented momentum for modernisation throughout the Member States in the form of new methods of working and evaluation; underlines the key role of the social partners and professional organisations in the transposition process; asks the Commission to fully involve the latter in the mutual evaluation phase;

4. Notes that most of the Member States have favoured transposition through ‘horizontal’ legislation; observes, however, that the method of transposition depends on the specific nature of the internal organisation of Member States; calls, accordingly, on the Member States concerned to ensure greater transparency, particularly by improving the involvement of the national parliaments in the production of correlation tables;

5. Recalls that the implementation of the Services Directive must not be viewed by most Member States simply as a matter of processing, whereby rules and special provisions will be abolished mechanically and horizontally, but rather as an opportunity to update and simplify legislation and substantively to restructure the services economy, taking into account the objectives of safeguarding the public interest, as also set out in the Directive itself;
6. Considers that for service providers to properly enjoy the benefits of the Services Directive, its full and timely implementation, both legal and operational, should be ensured in all Member States;

7. Invites the Commission to closely monitor the application of the Directive in all Member States and to issue regular implementation reports; considers that these reports should take into account the real medium- and long-term effects of the Directive on employment in the EU;

8. Hopes that the Services Directive will genuinely have a positive impact by creating decent, sustainable, quality jobs and improving the quality and safety of services provided;

9. Acknowledges the potential of the Services Directive for the further integration of the EU economy and the re-launch of the single market, by fostering economic prosperity and competitiveness and contributing to employment and job creation, as services account for a significant share of GDP and employment in the EU; takes the view that the correct and speedy implementation of the Directive in all Member States is an important condition for the attainment of the objectives of cohesion and regional policy and that it can enhance the mutually reinforcing relationship between the internal market and cohesion policy and contribute to achieving the objectives of the EU 2020 strategy, while serving to eliminate existing single market fatigue in the services sector;

10. Hopes that the aims of the Directive may start to be achieved in the near future and that the whole of the EU and its regions may benefit, thus contributing to real economic, social and territorial cohesion;

11. Calls on the Commission to monitor effectively, and assess from the outset, the impact of the Directive on the regions, and to ensure effective coordination of all policies connected with the implementation of the Directive; calls on the Commission to support an information campaign for local and regional authorities concerning the implementation of the Directive, so as to facilitate the achievement of its objectives;

12. Expects that the Directive may in fact bring about a reduction in administrative burdens and cases of legal uncertainty, especially those affecting SMEs, which predominate in the field of services; considers that the reduction of administrative burdens will also facilitate the development of additional services in rural, remote and outermost areas;

13. Advocates the implementation of national strategies to support innovative SMEs, which are most affected by the consequences of the economic and financial crisis;

**Evaluation process**

14. Considers that the process of screening national legislation governing freedom of establishment and freedom to provide services is a pillar of the Directive; notes that the process must allow for the modernisation of authorisation schemes and requirements on freedom of establishment and freedom to provide services, in order to facilitate the cross-border provision of services;

15. Believes that mutual evaluation significantly contributes to the quality and effectiveness of internal market regulation, since the systematic evaluation and associated monitoring of transposition prompt national authorities to address the issue of EU requirements and their domestic transposition;

16. Calls on the Commission and the Member States to work together in order to further promote the development of the internal market for services on the basis of the mutual evaluation process that is provided for in the Services Directive and that is currently being transposed by the Member States;

17. Points out that the Member States can maintain their authorisation schemes and certain requirements only in cases where these are clearly necessary, proportionate and non-discriminatory; emphasises that in this connection the Member States have maintained a number of authorisation schemes by making them more accessible and more transparent to service providers; regrets that some Member States have not been more ambitious and have not fully used the potential of the Services Directive in terms of administrative and regulatory simplification;
18. Underlines the difficulties encountered with recognising professional qualifications, in particular in the medical sector; points out that the Services Directive cannot apply to provisions already covered by the sectoral directives; asks the Commission to clarify this situation as part of a review of the Directive on professional qualifications;

19. Draws attention to the specific nature of the provisions on the right of establishment and those on the temporary provision of services in another Member State; asks the Commission to take full account of that specific nature in its evaluation;

20. Calls on the Commission and the Member States to put an end to unjustified discrimination against consumers on the grounds of nationality or residence by ensuring the effective implementation of Article 20(2) of the Services Directive, as well as the proper enforcement by national authorities and courts of the national provisions implementing this non-discrimination rule in the legal systems of Member States; recalls that Article 20(2) is not intended to prevent differences in treatment in general conditions based on objective considerations, such as distance involved or the higher costs caused by the provision of the service to recipients in other Member States;

21. Emphasises that the screening process undertaken within the context of the Directive involves a substantial amount of work for the national administrations and the workload must be taken into account when evaluating transposition;

22. Notes the Member States' efforts to implement the mutual evaluation process; considers that the evaluation process is an important tool in determining how implementation of the Directive is progressing in Member States; considers that the state of progress with the process does not yet allow its effectiveness to be evaluated; stresses that the process in question must examine whether the rules in force in Member States correspond to the specifications of the internal market and do not create new obstacles; wishes the Commission to carry out a thorough investigation of the potential of this new method in the context of the Single Market Act;

23. Regrets the fact that the European Parliament and national parliaments are not more involved in the mutual evaluation process;

24. Calls on the Commission, with reference to the cross-border provision of services, to identify problem occupations and sectors and to conduct a detailed assessment of the applicable legislation and the causes of the problems;

Points of single contact (PSCs)

25. Considers that setting up the PSCs is an essential part of effective implementation of the Directive; recognises that the Directive requires a substantial effort by the Member States in financial, technical and organisational terms; draws attention to the need to involve social partners and business associations in this;

26. Calls on the Member States to develop the PSCs into comprehensive eGovernment portals for service providers wanting to set up a business or provide cross-border services; calls on the Member States to continue improving the accessibility of PSCs, including by allowing procedures and formalities to be completed through PSCs remotely, by electronic means, as well as the quality and relevance of the information and procedures available to its users, in particular SMEs, including information and the completion of procedures under labour and tax law in force in the Member State that is of relevance to service providers, such as procedures related to VAT and social security registration; calls on the Commission and the Member States to ensure that all information given by PSCs is also available in languages other than national, taking into consideration especially the languages of neighbouring countries;

27. Calls on the Member States to enhance the availability of electronic procedures, including a translation of all relevant forms; calls on the Member States to offer tracking facilities for PSCs' users enabling them to check the progress of ongoing procedures;

28. Recognises the problems encountered with the functioning of the PSCs related to proof of identity, use of e-signatures and submission of original documents or certified copies, especially in the cross-border context; asks the Commission to propose measures to resolve these issues in order to enable SMEs to benefit from the single market and avoid any legal and technical uncertainties;
29. Stresses that it is particularly important with a view to user-friendliness to clarify which requirements apply to the permanent establishment of a business as opposed to the temporary cross-border provision of services;

30. Regrets that the advice offered by PSCs does not yet reach prospective service providers and that information on how to contact PSCs is not widely known; calls on the Commission to earmark appropriate funds in its draft budget for 2012 to launch a major Europe-wide PSC promotion campaign to raise awareness of what PSCs can offer service providers; calls on the Commission and the Member States, in cooperation with all stakeholders, to launch well-targeted promotion, information and training campaigns as soon as possible; invites the Commission and the Member States to improve the visibility and recognisability of the eu-go domain and to feature case studies of businesses using the PSCs and the benefits they have derived;

31. Believes that a dialogue and an exchange of best practices between Member States are very important if the PSCs are to improve and develop; stresses the need for urgent action in those countries in which PSCs either do not yet exist or are not operating properly; urges most Member States to redouble their efforts to allow the completion of all procedures and formalities through the PSCs;

32. Calls on the Member States to ensure that national PSC websites make available the new information obligations which are required of service providers for the benefit of consumers;

33. Calls on the Member States to provide the Commission on a regular basis with the comparable statistical data required to evaluate the functioning of the PSCs and their impact at national and European level, in particular as regards the provision of cross-border services; calls on the Commission to lay down clear criteria for the evaluation of the PSCs; considers that these criteria should be based on both quantitative and qualitative indicators;

34. Notes that some Member States need to address a number of legal and technical issues in order to allow for the cross-border use of PSCs; calls on those Member States to take the necessary measures with particular attention to the recognition of electronic signatures; calls on the Commission to pursue ongoing efforts to enhance interoperability and mutual recognition of electronic procedures and take the required supportive measures to facilitate the cross-border use of the PSCs; recommends that the Commission should make a direct electronic link to the Member States’ PSCs available to service providers in all the EU official languages;

35. Calls on the Member States and the Commission to increase efforts to ensure full electronic interoperability of the PSCs; stresses the link with proposal 22 of the Single Market Act on e-signatures, e-authentication and e-identification;

36. Recalls that Member States have an obligation to carry out a risk assessment to ensure that businesses do not encounter excessive burdens when wishing to complete their procedures electronically; invites the Commission to assess the possibilities for businesses to use their own national means of electronic ID/authentication if they make use of the PSCs in other Member States;

37. Considers that, in the light of the complexity of the legislation, each citizen must be able to consult the relevant authorities in order to obtain a precise reply to his/her questions; considers that the concept of advance administrative rulings should therefore be developed in the area of labour law and in the area of social security in order to combat legal uncertainty; considers, furthermore, that, in order to ensure transparency, the decisions taken should be published;

**Administrative cooperation**

38. Draws attention to the importance of the provisions on administrative cooperation and mutual assistance; considers that implementing those provisions is a condition for ensuring there is effective monitoring of service providers and a high level of quality and safety for services in the European Union;

39. Welcomes the growing number of enrolments by the competent national authorities for monitoring of services through the internal market information system (IMI), thus permitting the direct, rapid and effective exchange of information; considers that the IMI can be used for other relevant directives;
40. Believes that the Internal Market Information System and the points of single contact – because they demand a great effort of administrative cooperation between all the authorities involved – may pave the way for further interoperability and networking at national, regional and local level across the EU; considers that the establishment of rules and procedures regarding the operation thereof must allow for a degree of flexibility in accordance with regional diversity at EU level and that, for this purpose, any measures should be adopted in partnership and after genuine debate at local and regional level;

41. Considers it useful to establish cooperation within a European network formed by the Member States' public authorities and to set up an interchange of information on the reliability of service providers, with a view to eliminating additional controls applied to cross-border activities;

42. Underlines the need to develop training schemes for the officials of national and regional administrations responsible for monitoring services; recognises the efforts Member States have already made to that effect and calls on Member States to further consolidate the national IMI networks by continuously monitoring their practical working and ensuring adequate training; recalls that the sustainable success of IMI depends on adequate investment at Community level; therefore calls on the Commission to set up a multiannual programme for that purpose and to bring to bear all the resources required for its smooth operation;

43. Takes the view that administrative procedures must become more efficient; considers that it would be useful in this connection to establish close cooperation between the points of single contact so that they can exchange experiences in the field of cross-border services in the various regions of Europe;

Scope

44. Recalls that the Directive excludes a number of fields from its scope, including non-economic services of general interest, healthcare services and most social services; notes that the Directive does not apply to labour law and does not affect Member States' social security legislation either;

45. Notes the discussions in some Member States on the services excluded from the scope of the Directive; notes that the majority of Member States did not encounter significant problems during the implementation of the Services Directive with regard to its scope; points out that such services were excluded because of their specific nature and that, in some cases, they may require a sectoral Community legislative framework; notes that the Commission communication entitled 'Towards a Single Market Act' includes a commitment to bring forward, in 2011, a set of measures relating to services of general interest;

46. Calls for proper and thorough monitoring of the application of the restrictions provided for in the Directive in respect of services of general economic interest, while respecting the division of competences with the Member States; points out that the Directive does not affect the freedom of Member States to define, in accordance with EU law, what they consider to be services of general economic interest, how those services should be organised and financed in compliance with the rules on state aid, and to what specific obligations they should be subject;

47. Calls for greater account to be taken of the basic principle of local self-government when implementing the Directive, and for bureaucratic administrative burdens and restrictions on local-level decision-making powers with regard to services of general economic interest to be avoided insofar as possible;

48. Considers that the additional measures needed to complete the internal market in services must be fully included in the discussion under way on the Single Market Act;

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49. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.