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NOTE

from:	General Secretariat of the Council
to:	Council
Subject:	Competitiveness Council 25-26 May 2010 Services Directive - State of play on implementation of the Services Directive

Delegations will find attached a note from the Commission.

MEETING OF THE COMPETITIVENESS COUNCIL**25-26 MAY 2010**

STATE OF IMPLEMENTATION OF THE SERVICES DIRECTIVE

Information note from the Commission services

The implementation of the Services Directive is a vast exercise which calls for an unprecedented effort. It concerns a large variety of economic activities (about 40% of EU GDP), requires important legislative changes in all Member States and the undertaking of a number of ambitious projects, such as the setting up of the "Points of Single Contact". The three year implementation period ended on 28 December 2009.

Beginning of March 2010 the Commission presented to the Competitiveness Council its first overall assessment of the state of implementation after the expiry of the transposition deadline. This assessment was summarised in an information note¹, which aimed at providing a general overview of progress achieved in the main strands of implementation work.

The objective of the present note is to give a short update of the situation as it stands in May 2010 and to highlight the need for urgent action where required. As was already the case in the previous assessment, the information provided seeks to be of a factual nature and it does not pretend to be exhaustive. An in-depth assessment of all aspects of implementation and their quality in the 27 Member States is ongoing and will continue in the following months. Where necessary, the Commission will take appropriate action to ensure the completeness and good quality of implementation of the Directive.

¹ See Information note by the Commission services: "Services Directive - State of play of transposition" (Council document nr. 6817/10 of 26 February 2010).

WHERE DO THINGS STAND?

1. The adoption of implementing legislation

Most Member States have opted for the adoption of one horizontal law to implement the general principles and obligations established in the Directive. An alternative and equally valid approach is to implement such general principles and obligations on the basis of several acts. In addition, all Member States needed to modify/abolish existing laws and regulations to ensure their conformity with the Directive.

"Horizontal legislation"

- 20 Member States have by now adopted their horizontal legislation. Since end February 2010, 7 Member States adopted their horizontal laws - Belgium, Greece, Italy, Latvia, Poland, Slovakia and Slovenia. Previously horizontal laws had already been adopted by the following 13 countries: Bulgaria, the Czech Republic, Denmark, Estonia, Finland, Hungary, Lithuania, Malta, the Netherlands, Romania, Spain, Sweden and the UK.
- In 3 Member States the horizontal legislation is still being discussed in Parliament: Austria, Cyprus and Luxembourg.
- In 2 Member States – Ireland and Portugal- the drafting of the horizontal legislation still does not seem to have been finalised.
- Of the 2 Member States that opted to include the general principles of the Directive in several acts (France and Germany), work seems to have been finalised in Germany and is still ongoing in France.

"Specific legislation"

This adaptation of existing laws to ensure their compliance with the Directive is the most complex part of the implementation process.

There are now 12 Member States who have indicated to the Commission that they have completed their changes in sector specific legislation. Since end February, 4 additional Member States have indicated this to the Commission: Finland, Poland, Spain and Slovakia. The following 8 Member States had indicated previously that they had concluded this part of the implementation process: Bulgaria, the Czech Republic, Denmark, Estonia, Hungary, Malta, the Netherlands and Sweden.

As regards the remaining countries, Germany and Italy have almost concluded the adoption of changes in sector specific legislation (some legislation at regional level seems to be still pending in both countries). France still has some proposals pending in Parliament and the UK also has legislation pending.

Romania has made significant progress in recent months by adopting several legislative changes and by putting a number of additional proposals before Parliament. In Lithuania most of the proposed changes in sector specific legislation are before the Parliament. In Latvia a number of changes have already been adopted but the process of adapting the sector-specific legislation is ongoing and a number of changes are in preparation. Belgium has already adopted a number of changes at federal and regional level but there are still a significant number of changes in preparation.

In the remaining 7 Member States - Austria, Cyprus, Greece, Ireland, Luxembourg, Portugal, and Slovenia - the drafting of the required changes to sector specific legislation seems to have accumulated a significant delay.

2. The setting up of the "Points of Single Contact"(PSCs)

The "Points of Single Contact" (PSCs) are meant to become one of the most visible benefits of the Services Directive. They should allow providers to obtain all relevant information and complete the required procedures through a single access point, without having to contact a whole range of administrative bodies or professional organisations. Furthermore, according to the Directive, completion of these procedures must be possible by electronic means, including across borders.

A solid basis of PSCs -a so-called "first generation" of PSCs- now appears to be in place in 22 Member States¹. These online portals provide businesses with extensive information as to the procedures and requirements they need to comply with. Out of these 22 national PSC solutions, 14 appear to allow for the actual online completion of procedures, to varying degrees² (while the remaining 8 PSCs seem to be limited to the provision of information).

Compared to the situation earlier this year, the most notable progress has been made in Poland, where a PSC website offering extensive information is now available (completion of procedures does not yet seem to be possible).

The situation does not seem to have changed significantly in the five remaining Member States – Greece, Italy, Romania, Slovakia and Slovenia - where no such PSC solutions appear to be available yet.

3. Administrative cooperation and use of the Internal Market Information System

The Commission has developed, in close cooperation with the Member States, a specific application of the "Internal Market Information System" (IMI) to enable Member States to comply with the administrative cooperation obligations foreseen in the Services Directive. The setting-up of an operational system of direct cooperation between authorities required Member States to deploy considerable efforts to registering and training a substantive number of competent authorities.

At the end of April 2010, more than 4600 authorities were registered in the IMI system to deal with issues relating to the Services Directive. This means that more than 400 additional authorities have been added to the system compared to the previous assessment (where the number of registered authorities already stood at an impressive 4200). In terms of authority registrations, a solid network for administrative appears to be in place in the large majority of Member States.

¹ AT, BE, BG, CY, CZ, DE, DK, EE, ES, FI, FR, HU, IE, LV, LT, LU, MT, NL, PL, PT, SE, UK.

² AT, CZ, DK, EE, FI, FR, DE, HU, LT, NL, PT, ES, SE, UK.

The situation is more difficult to assess with respect to the active use of the system. In the first four months of 2010, around 50 exchanges of information have taken place between Member States' authorities, involving around half of the Member States. This figure may appear relatively small compared to the large number of authorities registered in the system, but it seems clear that authorities need to get used to their new obligations of cooperation and that training efforts need to be pursued and, in many cases, enhanced in the Member States.

WHAT REMAINS TO BE DONE? PRIORITIES FOR ACTION

Despite progress realised in recent months in several areas and Member States, as set out above, the key priorities identified in the previous assessment remain largely valid:

- In the case of *Ireland and Portugal* it is essential to finalise the drafting of the horizontal implementing laws. It is equally urgent to finalise the drafting of all required changes in existing legislation in the case of *Austria, Cyprus, Greece, Ireland, Luxembourg, Portugal* and *Slovenia*.
- In the area of the Points of Single Contact, urgent action is required in those countries where either the PSCs are still missing or they are clearly insufficient in their functions (*Greece, Italy, Romania, Slovakia, and Slovenia*). Equally, most Member States need to step up efforts to allow for the completion of all procedures and formalities through the PSCs.

In addition, it is important to pursue and, in many cases, intensify efforts to register and train competent authorities for the use of the IMI application for services. To ensure the active use of the IMI system it is crucial that competent authorities are aware of their cooperation obligations.