Implementation of the Services Directive

Abstract

This study analyses the current state of implementation of the Services Directive in the Member States, including the progress made in adopting new legislation and screening and adapting existing legislation, the establishment of Points of Single Contact and administrative cooperation between the Member States.
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LIST OF ABBREVIATIONS

CA  Competent Authority
IMI  Internal Market Information system
IPM  Interactive Policy Making
MS  Member State
PSC  Point of Single Contact
EXECUTIVE SUMMARY

The Services Directive contributes to administrative and regulatory simplification and modernisation. This is achieved not only through the screening of the existing legislation, adoption and amendment of relevant legislation, but also through long-term projects: setting up the Points of Single Contact and ensuring administrative cooperation. Implementation of the Directive has been significantly delayed in a number of Member States (MS) in relation to the original deadline for implementation of the Directive of 28 December 2009. In the context of existing difficulties with the implementation of the Directive, the objective of this briefing note is to assess the current state of affairs regarding;

- Screening of the existing legislation, adoption of changes to existing legislation, adoption of new legislation.
- Establishment of, and issues related to, Points of Single Contacts (PSC);
- Mutual assistance, administrative cooperation and mutual evaluation;
- The scope of the directive in terms of exemptions and how it interacts with existent Community law.

The briefing note covers these questions in depth for seven MS: France, Germany, Italy, Luxembourg, Poland, Portugal, and Sweden. For the remaining MS, only selected questions are covered.

Overall, the study concludes that the screening of legislation has been completed in all Member States covered in this report. The majority of MS are expecting the complete adoption of all changes to existing legislation or the adoption of new legislation by the end of 2010. Single Points of Contact have been established in all Member States but two, in the majority providing information in at least one foreign language, this being mostly English. More than half of the PSCs provide for the completion of all procedures and formalities on-line. With regards to the mutual assistance and administrative cooperation the study shows that the technical system (IMI – the Internal Market Information System) is up and running in most Member States examined for this report. However, the volume of mutual assistance remains low.

The key findings for each of the overall questions are as follows:

**Screening of the existing legislation, adoption of changes to existing legislation, adoption of new legislation:**

As regards the status of the implementation of horizontal and specific legislation in the group of countries lagging behind in the Commission’s Status note from May 2010, progress have been achieved by some of the MS which have either fully adopted the horizontal legislation or the specific legislation. At the same time, however, other MS are still experiencing delays resulting in a somewhat blurred overall picture as regards the status of EU level implementation. It should furthermore be noted that the lack of progress is experienced primarily at national level and not at the regional level. Delays in the adoption of legislation are mainly due to the administrative coordination effort or the sheer amount of legal acts to be amended, as well as political events like elections at federal and regional level that are delaying the legislative process. In a couple of cases, political confrontations or deadlocks because of political blocking at national level are hampering the transposition process.

**Stakeholders** have been extensively involved in the implementation process everywhere. Mostly, this has taken the form of involvement of social partners – trade unions, employers’
associations – and other interest organisations via meetings, roundtable events, or in some cases a more informal “open door” policy.

Turning to authorisation schemes, the number of abolished schemes is quite low – in several countries no schemes have been abolished at all. Where changes are made, Member States tend to replace authorisation schemes with less restrictive measures rather than abolish them completely.

The principle of tacit authorisation has generally been (or will be) implemented in all investigated Member States, with the possible exception of Luxembourg where a reversal of the principle has been proposed as an amendment to the draft horizontal legislation which was already before parliament. In several Member States (France, Italy, Portugal) the principle of tacit authorisation was easily implemented since it was already found in national legislation in one form or other.

Points of Single Contact (PSC):

Almost all MS have established their PSCs, with the exception of Slovenia and Romania. More than two-thirds of the MS based their PSC on an already existing structure, either an existing e-government portal, or networks of existing physical offices. Five MS created their PSC from scratch.

The majority of the MS have PSCs that are essentially electronic. Nine MS run PSCs that are completely electronic, while 15 MS have both electronic PSCs and physical PSC offices. The relationship between the two elements vary; in some cases, the physical PSC works as a helpdesk to ensure that the electronic PSC functions properly, whereas in other cases the electronic PSCs function as additions to physical offices that offer advice and support to the companies.

The majority of the MS also provide the electronic PSC in other languages than the national language(s) - usually English and, in some cases, additional languages which are particularly relevant due to their specific situation. Member States that only provide information in their national languages are mostly English- or French-speaking, as well as a few of the new MS (several of which have plans to provide full or partial English language facilities).

In terms of the services provided (information vs. completion of procedures and formalities), only a minority of the MS provide information only. 14 MS provide for the completion of all procedures and formalities on-line, whereas another five provide for selected procedures to be completed on-line.

The main challenges encountered in relation to completion of procedures and formalities online include legal issues (delays in the implementation of the Directive, specific constraints posed by legislative acts); technical issues such as systems interoperability and issues related to electronic signatures; co-operation issues that arise from the increased requirements for co-ordination and exchange of information between authorities; and issues relating to the need for promotion towards the “customers”, in order to increase the use of the PSC by the service providers.

In the vast majority of the interviewed MS some kind of cooperation between the PSCs and other authorities is established.

As regards the regional-national set-up, there are three main groups of MS. The first group of MS have established PSCs at the regional level and combined it with a national website that leads onto the different PSCs in the regions. The second – and largest - group is made up of MS with only one PSC. The last group consists of the few MS which have not entirely committed to a specific structure.
Mutual assistance/administrative co-operation and mutual evaluation:

Although the participation of authorities in the mutual assistance through the IMI varies significantly between Member States, the volume of mutual assistance can overall be assessed as low. However, the system has been operational for less than a year, and an increase in the use of IMI can be expected once more users of IMI are aware of and familiar with the possibilities of the system.

As regards the function and effectiveness of the mutual evaluation, it gave the opportunity for some Member States to discuss some open issues in a broader forum. Overall, however, the mutual evaluation was not reported as having a significant effect on the transposition of the Services Directive, mainly because of the timing - most of the adaptations of legislation had taken place before the evaluation process was initiated.

Scope of the directive:

Overall, MS did not report severe problems with regards to the scope and the relationship to other community law provisions when implementing the Services Directive.

The main issue experienced by most MS concerned the demarcation between the Services Directive and the Directive on the recognition of professional qualifications. However, in none of the consulted Member States has the implementation of the Services Directive into the national legislation been hampered because of these delimitation issues.
INTRODUCTION

1.1. Background

One of the main aims of the Services Directive is to create a genuine internal market for services. Especially in times of economic and financial crisis the Services Directive might play an important role by reinvigorating the economy and boosting the internal market. Moreover, the Services Directive also guarantees a wider choice for consumers and supports SMEs. However, for the Services Directive to deliver its goals two elements are essential: strong political backing and deployment of sufficient human and financial resources during the implementation.

The Services Directive contributes to administrative and regulatory simplification and modernisation. This is achieved not only through the screening of the existing legislation, adoption and amendment of relevant legislation, but also through long-term projects: setting up the Points of Single Contact and ensuring administrative cooperation. Moreover, for the first time in the history of the implementation of the directive the mutual evaluation exercise has been introduced.

Implementation of the Directive has been significantly delayed in a number of Member States in relation to the original deadline for implementation of the Directive of 28 December 2009. The most recent overview of the status of implementation of the Services Directive was provided in an information note from the Commission Services to the Council on the "State of play on implementation of the Services Directive" in connection with the meeting of the Competitiveness Council on 25-26 May 2010¹ (hereinafter referred to as "The Commission information note of 18 May 2010"). This showed that although progress had been made, there was a need for urgent action in several Member States.

1.2. Objective and scope of the study

1.2.1. Objectives

In order to provide input for an analysis of the issue of the implementation of the Services Directive (to evaluate the progress achieved and to identify the challenges that still remain) this briefing note assesses the following questions:

Screening of the existing legislation, adoption of changes to existing legislation, adoption of new legislation:

- How was the Services Directive implemented on the national and on regional levels? Has this process already been completed?
- How were various stakeholders (service providers, representatives of trade unions, employers' associations and consumer organisations) involved in the implementation?
- What types of authorisation schemes have been abolished? In what areas? How many authorisation schemes were abolished?
- In what areas have the authorisation schemes been replaced by less restrictive measures? What means are commonly considered to be less restrictive?

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- Has tacit authorization been introduced? Within what time limits authorisation is normally considered as granted?
- What most important requirements have been evaluated under Art. 15?
- What requirements apply for service providers under Art. 16? What requirements have been abolished?
- What requirements apply for multidisciplinary activities? In which areas?

**Points of single contact (PSCs):**
- Has the PSC been established? Was the existing structure used, or did it have to be created from scratch? Are the PSCs essentially electronic or are there physical offices as well?
- Is the PSC available in any foreign language? If there are physical offices: does the staff speak at least one foreign language? If the PSC is electronic: does it provide a research mechanism in at least one foreign language?
- Does the PSC provide information only, or does it also provide for the completion of all the relevant procedures and formalities? What are the major challenges with regard to the ensuring the completion of the necessary procedures and formalities?
- Do PSCs cooperate with other authorities? Are they interdependent with other authorities?
- What are the differences between the PSCs set up on a regional or national levels, depending on the state structure (e.g. in some federal states there is a website that then leads onto various different contact points)? What are the potential effects on business establishment and procedures due to this structure of the PSCs.

**Mutual assistance/administrative cooperation:**
- How many and which authorities have been registered?
- How many exchanges of information have taken place? On which subjects? Have the exchanges been successful (i.e. necessary information received)? What is the time frame for replying?
- Have there been any trainings or exchanges of officials in charge of implementation of mutual assistance organized? Have they been successful? Are new trainings necessary?
- The role of the Internal Market Information System with regard to administrative cooperation should be assessed. To what extent is it used by competent authorities to exchange information? Have any problems or barriers been encountered?

**Mutual evaluation:**
- Has this exercise been effective? Did it improve/contribute to the better implementation of the Services Directive?

**Scope**
- Did the Member States encounter problems with regard to the scope of the Directive, especially with regard to the exemptions provided in Article 2, and with regard to the relationship of the Directive with other provisions of Community law as provided in Article 3.
1.2.2. Scope and data collection

Seven Member States were selected for in-depth coverage of the questions outlined above: France, Germany, Italy, Luxembourg, Poland, Portugal, and Sweden.

The data collection for these countries consisted of in-depth interviews with selected officials in each of these MS, including at regional level (selected regions) for Germany and Italy\(^2\). Interviews were carried out in the national languages.

For the main parts of question 1 (Screening of the existing legislation, adoption of changes to existing legislation, adoption of new legislation) and question 2 (Points of single contact) shorter interviews via telephone or e-mail interviews were conducted with additional Member States which were identified as significantly delayed in the Commission’s note of 18 May - Austria, Cyprus, Greece, Ireland, Slovenia (France and Germany being covered by in-depth interviews as indicated above). The focus of these interviews was on an update of the status, in order to establish to what extent there has been progress since May.

For the remaining Member States, updates on status have taken place by sending out a short e-mail questionnaire (in English) specifically focusing on the questions regarding Points of Single Contact, supplemented with some desk research.

Table 1 provides an overview of the geographical coverage of different questions. In total, 24 Member States\(^3\) provided information in the form of interviews or responses to the questionnaire, cf. the lists of interviewees and MS consulted through questionnaires in the annexes of this report. This was supplemented with desk research. For one Member State (Romania), very little information was provided, and desk research did not yield any usable information. Thus, this report delivers information on 26 Member States. A list of the written sources is included in the “References” list, also found in the annexes.

<table>
<thead>
<tr>
<th>Member State</th>
<th>Screening of changes to and adoption of new legislation</th>
<th>Points of single contact (PSCs)</th>
<th>Mutual assistance/administrative cooperation</th>
<th>Mutual evaluation</th>
<th>Scope</th>
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<td>Austria</td>
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\(^2\) In some cases, the answers were provided in writing. Follow up calls or additional emails were sent in cases where the provided information was unclear or missing.

\(^3\) No information was made available from, Estonia (no contact details available), Romania (request confirmed, but almost no information provided) and United Kingdom (no contact details available).
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<th>Points of single contact (PSCs)</th>
<th>Mutual assistance/administrative cooperation</th>
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<td>United Kingdom</td>
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2. Screening and changing existing legislation and adopting new legislation

In this chapter, an updated status of implementation is provided for a number of Member States, with particular focus on those which were lagging behind at the time of the Commission stocktaking in May.

According to the Commission information note of 18 May 2010, by that date 20 Member States had adopted their horizontal legislation. The remaining 7 Member States were Austria, Cyprus and Luxembourg, where the horizontal legislation was still being discussed in Parliament; Ireland and Portugal, where the drafting of the horizontal legislation was not finalised; and France and Germany which had opted to include the general principles of the Directive in several acts.

As regards the adaptation of existing laws to ensure their compliance with the Directive, 12 Member States had by that date indicated to the Commission that they had completed their changes in sector specific legislation: Bulgaria, the Czech Republic, Denmark, Estonia, Finland, Hungary, Malta, the Netherlands, Poland, Spain, Slovakia, and Sweden. The remaining 15 Member States were at different stages of the process, with some Member States being close to completion and others experiencing serious delays.

Overall, the Commission concluded in their information note that the key priorities for this part of the process remained for Austria, Cyprus, Greece, Ireland, Luxembourg, Portugal and Slovenia to finalise the drafting of all required changes in existing legislation. Of these, Ireland and Portugal also needed urgently to finalise the drafting of the horizontal implementing laws.

More recently, the Commission on 24 June 2010 sent out a reasoned opinion to those Member States who have not yet notified the Commission of the adoption of all the regulatory changes required by the Directive – namely Austria, Belgium, Cyprus, France, Germany, Greece, Ireland, Luxembourg, Portugal, Romania, Slovenia and the United Kingdom. This common citation of the 12 listed Member States should however not conceal the fact that the status of implementation differs significantly between the countries. While e.g. Germany has only minor legislative adaptation on regional level still pending before the adoption of all regulatory changes can be notified, Luxembourg has experienced a major further delay (cf. Section 2.1).

2.1. Current status of implementation

In the table below, an overview is provided of the status in the Member States investigated in the course of the present study at the time of data collection (August/September 2010). This will be further elaborated in the following sections.

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4 Press release IP/10/821, „Services Directive: good progress on implementation, but more needs to be done“, European Commission, Brussels, 24 June 2010.
Table 2 Overview - status of implementation in investigated Member States

<table>
<thead>
<tr>
<th>Member State</th>
<th>Status on adopting of horizontal legislation</th>
<th>Status on adopting changes to specific legislation</th>
<th>Expected date for completion of transposition</th>
<th>Specific aspects</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>Under discussion in Parliament</td>
<td>Completed on national level; regional changes to specific legislation almost finalised. Full transposition expected by end 2010</td>
<td>Expected before end 2010</td>
<td></td>
</tr>
<tr>
<td>Cyprus</td>
<td>Adopted Ο περί της Ελευθερίας Εγκατάστασης Παρόχων Υπηρεσιών και της Ελεύθερης Κυκλοφορίας των Υπηρεσιών Νόμος του 2010 (Ν. 76(I)/2010)</td>
<td>Ongoing</td>
<td>Finalised (see specific aspects for explanation)</td>
<td>The horizontal law safeguards that its provisions, except where it is provided otherwise, prevail over the provisions of any other legislation in the Republic of Cyprus. Therefore the amendment of sector specific legislation is not directly necessary for compliance with the Services Directive</td>
</tr>
<tr>
<td>France</td>
<td>Not applicable (no horizontal framework)</td>
<td>The adoption of changes to specific legislation is still ongoing.</td>
<td>Undetermined, but expected within the near future</td>
<td></td>
</tr>
<tr>
<td>Germany</td>
<td>Not applicable (no horizontal framework)</td>
<td>Almost all changes adopted, tracking list of open issues on regional level is kept and followed up by Ministry of Finance and Technology</td>
<td>End 2010</td>
<td>Adoption on regional level almost completed. Finalisation expected end 2010</td>
</tr>
<tr>
<td>Ireland</td>
<td>Implementation ongoing</td>
<td>Possible changes to existing legislation are still being discussed.</td>
<td>Expected adoption before end of 2010</td>
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<td>Italy</td>
<td>Adopted: 26 March</td>
<td>Adopted: 26 March</td>
<td>Finalized</td>
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<td>Member State</td>
<td>Status on adopting of horizontal legislation</td>
<td>Status on adopting changes to specific legislation</td>
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<tr>
<td>Luxembourg</td>
<td>Ongoing. Further delay envisaged.</td>
<td>Adoption of changes to existing legislation still ongoing.</td>
<td>Unknown</td>
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<tr>
<td>Poland</td>
<td>Adopted 4 April 2010</td>
<td>Adopted 4 April 2010</td>
<td>Finalized</td>
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</table>
| Portugal     | Adopted (Decreto-Lei n.º 92/2010, 26 July 2010) | Adopted:  
- Change to Art.4, Code of enterprises  
- Changes to 6 sectoral regimes included in the horizontal legislation in the environmental area  
- Change to sectoral schemes pertaining to the provision of services by Official Industrial Property Agents and their deputies. |                 |                 |
| Slovenia     | Adopted (Zakon o storitvah na notranjem trgu (ZSNT), Uradni list RS, št. 21/2010, z dne 15 March 2010) | Ongoing | Expected end 2010 | So far, no specific legislation has been adopted. |

2.1.1. Status at national level

In this section, the status of the legislation at national level in each of the countries investigated for this study is outlined.
Of the 12 Member States that have been addressed by the Commission’s reasoned opinion (see above), Austria, Cyprus, France, Germany, Greece, Ireland, Luxembourg, Portugal and Slovenia were covered by this study with an analysis of the status of implementation.

Of these, the majority – Cyprus, France, Germany, Greece, Ireland, Portugal and Slovenia – have adopted or are currently adopting the required legislative changes, although with a different level of completion. Nonetheless all of the countries expect that the adoption of all required changes (or at least the majority, e.g. Greece) will be achieved by the end of 2010. Delays in the adoption of the relevant legislation is in these Member States mainly due to the administrative coordination effort or the sheer amount of legal acts to be amended, as well as political events like elections on federal and regional level that are delaying the legislative process. Political confrontations or deadlocks because of political blocking do not seem to be a challenge in these countries.

Austria and Luxembourg, on the contrary, are confronted with severe problems in the political and legislative process which are hampering the implementation of the Services Directive. This is clearly demonstrated in the case of Austria, where a final date of implementation cannot be indicated until political agreement is achieved and the opposition party terminates its blockade position.

The detailed situation in the investigated Member States is as follows:

In Austria, the horizontal legislation has been implemented in a federal act, the so-called “Dienstleistungsgesetz” or Services Directive Act. This act is however still pending in Parliament due to the blockade position of the opposition party. The reason for the blockade of this law is a so-called “Kompetenzklausel” that requires a two third majority. This provision would allow the federal level to regulate areas related to the implementation of the Services Directive which according to the constitution fall under the legislative powers of the Länder (amongst others the implementation of the Single Point of Contact). The conflict is detached from the transposition of the Services Directive and has solely internal political reasons. The directive is virtually implemented and put into force. Although the legal basis is missing, Single Points of Contact are installed and de facto working, though not in a legally binding manner. All changes to specific legislation, which are not affected by the “Kompetenzklausel”, have been adopted at the federal level.

In Cyprus the House of Representatives has approved a horizontal legislation entitled “Freedom of Establishment of Service Providers and Free Movement of Services Law of 2010 (N.76(I)/2010)” that entered into force on 16 July 2010. The said Law transposed the Services Directive into the national body of law. Sector specific legislation is being prepared and submitted to the House of Representatives for approval but any delay in its approval should not be of any concern, as section 5(3) of the horizontal Law 76(I)/2010 safeguards that its provisions, except where it is provided otherwise, prevail over the provisions of any other legislation in the Republic of Cyprus. Therefore the amendment of sector specific legislation is not directly necessary for compliance with the Services Directive. With the entry into force of the horizontal law, the Cypriot legislation is compatible with the EU legislation and any provisions of the sectoral legislation that are contrary to the provisions of Directive 2006/123/EC shall be considered as not applicable. Consequently, the amendment of the sectoral legislation is carried out for the purpose of safeguarding...
cohesion with the horizontal law and introducing provisions which are allowed, but not required, by the Services Directive (e.g., in cases where this is justified by overriding reasons relating to the public interest, sector specific legislation has been amended to provide that failing a response within the time period specified, authorisation shall not be deemed to have been granted).

France\(^8\) was one of two Member States that opted for an inclusion of the general principles of the Services Directive in several acts rather than a single horizontal framework (the other being Germany). This will on the one hand be achieved through targeted amendments in existing legislation. On the other hand three new main pieces of legislation have been adopted in this matter:

- The law for the reform of the consular network, the trade network, the craft network and the network for services (« La loi relative aux réseaux consulaires, au commerce, à l'artisanat et aux services »)
- The law on sports agencies (« La loi encadrant la profession d'agent sportif »)
- The law on the modernization of agriculture (« La loi de modernisation de l'agriculture et de la pêche »)

However, there are still two main pieces of legislation, namely the law on the simplification and the improvement of the quality of legislation (« La loi de simplification et d'amélioration de la qualité du droit ») and the law on voluntary sales cooperations (« La loi sur les sociétés de ventes volontaires ») that have not yet been adopted. The adoption of these two pieces of legislation is expected to be completed before the end of this year. The two pieces of legislation are currently with the Parliament and the concrete adoption is expected any time. One of the chambers has already provided its approval.

In Germany\(^9\), the screening of legislation is finalized. Like France, Germany has chosen the non-horizontal implementation and has decided to implement the Directive by way of amendments to existing (in many cases sector-specific) legislation without adopting specific horizontal framework legislation. However, Germany has adopted new general procedural instruments in the Administrative Procedures Act (Verwaltungsverfahrensgesetz), in particular for the points of single contact and the rules on administrative cooperation.

12,544 municipalities had to check their laws and statutes for compliance. Almost all required amendments and changes on national and regional level have been concluded. Smaller non-core areas are still open for final implementation (as an example, the PSC has to be implemented in the respective laws for the insolvency administrators).

The reasons for the delay in completing the implementation are, on the one hand, elections on federal level (Parliamentary Elections 2009) and several Länder parliaments. On the other hand, long processes of coordination between the parliament and the Federal Council of Germany also hamper the implementation of several acts. In addition, implementation in several existing acts means that it often happens that not only the parts of a law relevant to the Services Directive are changed but that other topics are also amended at the same time. These topics might be politically controversial and therefore lead to a longer process of coordination between parliament and the Federal Council, affecting also the implementation of the Services Directive relevant adaptations.

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\(^8\) State of play on implementation of the Services Directive, European Commission, 2010;
Mapping the Implementation of the Services Directive in EU Member-States, Eurochambres Policy Survey, 2010;
Interview with: Head of Mission to the General Economic and Financial Audit, Ministère de l'Economie, de l'Industrie et de l'Emploi.

\(^9\) Interview with the Head of Divisions "Service Industries", Federal Ministry of Economics and Technology;
Antwort der Bundesregierung auf die Kleine Anfrage der Abgeordneten Alexander Ulrich, Sevim Dagdelen, Dr. Diether Dehm, weiterer Abgeordneter und der Fraktion DIE LINKE, Umsetzung der Dienstleistungsrichtlinie in Deutschland, 16.02.2010;
The Federal Ministry of Finance and Technology maintains a list that displays the open implementation acts. It is regularly updated and the Länder are asked for their current status. The final adaptation of all open changes to legislation is expected for the end of 2010.

**Greece**\(^{10}\) has adopted the horizontal legislation (Law 3844/2010) and the affected Ministries are reviewing appropriate legislative changes, as required. Meetings have already taken place between the ministries of Finance and of Trade (retail trade), Tourism, Culture (education), and Industry (construction). The result from those meetings was that necessary Ministerial decisions will be ready by end of September 2010 and a first draft of new legislation by the end of October\(^{11}\).

**Ireland**\(^{12}\) has not yet finalised the implementation of the horizontal framework law\(^{13}\). Existing legislation is currently being screened in order to avoid a possible conflict between current legislation and the Services Directive’s purposes. The final implementation is expected to be completed this year (the expected date was September 2010). Moreover, the Irish government plans to amend certain sector specific changes in the legislation where this proves to be necessary. However, the government has not yet decided which business areas would be affected by these measures.

The explanation for the delay in implementation is the technical examination of the effects of the Directive and the necessary involvement of certain Divisions and Departments in Ireland. The reason behind this is the cross-cutting and far-reaching nature of the Directive. Additionally, the drafting of the legislation has also been a very lengthy process in Ireland. However, the drafting of the legislation has currently been finalised and the last necessary preparations are being taken in order to give effect to the Directive in national law.

In **Italy**\(^{14}\), the Directive was implemented at national level by a Legislative Decree (Decreto Legislativo 26 Marzo 2010, n. 59) which came into force 8 May 2010 with the exception of some specific aspects. It includes, in a single measure, both general provisions and sector-specific amendments to existing legislation. The general rules of the Legislative Decree are valid throughout the country and are thus also mandatory for any regional legislation.

The legislation on points of single contact has been approved and should be released shortly in the Official Journal of the Italian Republic. New legislation to further liberalization is likely to be adopted after the introduction of new rules on economic measures, currently under discussion.\(^{15}\)

**Luxembourg**\(^{16}\) has experienced a major further delay. Political and legislative deadlocks are the reason for the delay of implementation. The adoption of the framework law has been initiated in March 2009 but had not been announced by the State Council until March 2010. Since the obligatory decision of the State Council is required by the Constitution, the

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\(^{11}\) Written answers from Head of Dept., Ministry of Finance, EU Affairs Directorate, Economic Policy of EU Dept. (ECO/FIN).

\(^{12}\) Interview with: Expert Internal Market Unit, Department of Enterprise, Trade and Innovation Paper on mutual evaluation, Ireland, Irish government, 2010; Mapping the Implementation of the Services Directive in EU Member-States, Eurochambres Policy Survey, 2010.

\(^{13}\) Details not provided by interviewee before publication on the Ministry website.

\(^{14}\) Written statement from: Coordinator Service I, Ufficio II – Mercato interno e competitività, Dipartimento Politiche Comunitarie, Presidenza del Consiglio dei Ministri.

\(^{15}\) Written statement from: Coordinator Service I, Dipartimento Politiche Comunitarie.

\(^{16}\) Written statement from: Rédacteur principal Direction du marché intérieuret de la consommation, Ministère de l’Economie et du Commerce extérieur.
legislative procedure has been delayed by 12 months. Certain changes in sector specific laws and regulations are intended (e.g. Projet de loi règlement l’accès aux professions d’artisan, de commerçant, d’industriel ainsi qu’a certaines professions libérales-Projet n°6158) to transpose some dispositions of the service directive. A legislative reform project of the law of Establishment (parliamentary document 6158) has been adopted this summer in 2010 in order to make the law consistent notably with the dispositions of the Services Directive. The law of Establishment in Luxembourg is by nature horizontal and covers therefore most of the activities covered by the Services Directive. The full adoption will not be completed before the end of this year. An implementation in the foreseeable future is therefore unlikely.

Poland\(^\text{17}\) has finalised the process of implementation. The Act on providing services on the territory of the Republic of Poland (Ustawa o świadczeniu usług na terytorium Rzeczypospolitej Polskiej) was adopted as a horizontal measure on 4 March 2010. On the same day a number of changes were adopted to specific legislation.

The Act sets out general rules prescribed by the Directive and introduces amendments to a number of specific acts regulating various service activities. The Act also amends the Act of 2 July 2004 on freedom of economic activity by implementing certain general principles stemming from the Directive. Also rules related to the point of single contact and the provisions of Article 5(3), 10(4) and 13 including the principle of tacit consent were transposed. In total, 27 acts of law were changed due to the implementation of the Services Directive.

Portugal\(^\text{18}\) has implemented the directive through horizontal legislation in the form of the Decree-Law 92/2010 which was adopted on 26 July 2010, establishing the provisions applicable to all service activities in general. The legislative changes required as part of the transposition of the Directive were integrated in chapter VIII of this Decree-law. Additionally, further legislative changes were processed through several other draft sectoral legal documents which cover a series of specific legal dispositions applied to several service areas.

The involvement of 11 Ministries is cited as the main reason for the delays registered as well as the long time of discussion that the implementing act was subjected to by the Presidency of the Council of Ministers. There has been a period of roughly one year between the submission of the draft legislation by the entity coordinating the transposition of the Directive to the Presidency of the Council of Ministers and its approval by the latter.

Additionally, in what concerns the sectoral amendments, rather than only aligning national legislation with the provisions of the Services Directive, the Presidency of the Council of Ministers also provided suggestions to further improve or simplify all sectoral regimes. That means that provisions which go beyond the scope of the Services Directive were also taken into consideration, causing a higher effort for coordination. This approach is related to the process of administrative reform and simplification initiated in 2006 with the Simplex programme, which is still under implementation.

Slovenia\(^\text{19}\) has adopted its horizontal legislation, but so far no sectoral level legislation has been passed. However, the adoption of the main part of the required legislative changes is expected with 2010. The reason for the delay is an objection raised by the legal office with regards to provisions considered in the horizontal legal diploma, and the consequent refusal to change the sector legislation. Therefore, provisions with regards to cross-border services will be have to be implemented through changes to the existing sector-specific legislation.

\(^{17}\) Interview with: Expert for PSC, Department of Economic Regulations Ministry of Economy; Paper on mutual evaluation_Poland, Government of the Republic of Poland, 2009/201.

\(^{18}\) Written statement from: Expert for PSC, Directorate-General of Economic Activities, Ministry of Economy, Innovation and Development.

\(^{19}\) Written statement from: Expert for PSC, Ministry of Economy.
In **Sweden**\(^{20}\), both the horizontal and the specific legislation were adopted in November 2009, after which no further amendments have been made. The directive was implemented at national level through a horizontal law (Lag (2009:1078) om tjänster på den inre marknaden), an implementing ordinance (Förordning (2009:1078) om tjänster på den inre marknaden) and amendments to 13 sector specific legislations.

### 2.1.2. Status at regional level

In Member States like **Austria**, **Germany** and **Italy** where the Länder and Regions have significant legislative powers, the required changes to legislation have been adopted or are expected to be finalised before the end of 2010. Single regions in Italy like Sicily have chosen to apply the national Legislative Decree instead of adopting a regional law.

The detailed situation in the investigated Member States is as follows:

**In Austria**\(^{21}\) legislative powers are divided between the central government (federal level) and the regional level (Länder) in accordance with the Austrian federal constitution. The existing body of Austrian legislation had to be checked at all levels for compatibility with the Services Directive. At the regional level, adoption of changes to specific legislation has been finalized in most Länder. Some legislative acts are still pending in the Länder parliaments due to recent or upcoming elections. The legislative process is always delayed before and shortly after elections. Nevertheless, all required changes are expected to be adopted before the end of 2010.

The situation is similar in **Germany**\(^{22}\), where legislative responsibilities are also divided by the Constitution between the Federation and the Länder (states) which have wide-ranging legislative powers in numerous fields of law. In addition, local authorities and certain professional organisations (chambers) also have certain regulatory powers, e.g. to adopt statutes or by-laws on the basis of legislation. On this background, all levels, i.e. the Federation, the Länder, the municipalities and the chambers, have screened their legislation to verify its compliance with the Services Directive.

Adoption of changes to specific legislation has been finalized in most Länder. Some legislative acts are still pending, but all required changes are expected to be adopted before the end of 2010. The latest surveys among the Länder indicated that a number of adaptations will be finalized in October 2010.

**In Greece**\(^{23}\) screening and the consequent amendment of the existing legislation are the responsibility of the national government. Local authorities will therefore have to implement the new legislation which will be adopted at national level.

**In Italy**\(^{24}\), the regions have exclusive legislative power concerning certain service activities, such as trade, crafts and tourism. The State, to protect competition or establish basic standards of civil and social services, can legislate on matters of exclusive regional

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\(^{20}\) Interview: Deputy Director and Desk Officer, Ministry of Foreign Affairs, Dept. for the EU internal market.


\(^{24}\) Paper on mutual evaluation_Italy; Italian Government, 2009/2010.
Nearly all regions have initiated projects to implement the Services Directive by measures modifying regional legislation (in sectors not already conforming to the Directive). The recent regional government elections (28/29 March 2010) delayed the approval of these rules in some regions.26

Eight regions (Abruzzi, Emilia-Romagna, Friauli, Piemont, Province of Trento, Umbria, Aosta Valley and Venetia) implemented the directive by one regional law (legge regionale)27, two regions (Lombardy and Marche)28) adopted sectoral legislation, Campania29 implemented the directive by regional regulation and Apulia is about to do so. The other regions have prepared draft legislation (disegno di legge) for the implementation.30 Sicily will not transpose the Services Directive by regional legislation but apply the national Legislative Decree no. 59/2010.31

In Member States with fewer (or no) legislative powers devolved to the regional level, the adoptions of new or amended legislation do not involve the regional level. This is for instance the case in France32 and in Poland33, where representatives of self governing bodies and organs of local public administration may enact acts of local law, but only on the basis of generally binding acts, meaning that the local law need to be in strict agreement with the binding act. Therefore screening of the legislation was done at national level only.

In Ireland34, the regional level is governed by national laws that are accompanied by bylaws at the local authority level. With regards to the implementation of the Services Directive, the transposition only affects the national level. Subsequent to the completion of the horizontal legislation, it will be determined whether or not certain amendments are necessary at the regional level.

2.2. Involvement of stakeholders

Stakeholders have been extensively involved in the implementation process everywhere. Mostly, this has taken the form of involvement of social partners via meetings, roundtable events, or a more informal “open door” policy. In some cases, broader public consultations have taken place through making the material available on the internet and inviting the public to comment. In all investigated Member States the labour and trade unions as well as the chambers of commerce have been consulted throughout the implementation phase.

Often involved were also the association of cities (Germany, Austria and Italy) and the liberal professions associations.

While some of the analysed countries started the involvement of stakeholders as early as 2004 (Ireland) or intensively involved stakeholder groups from a very early stage of the negotiation process in the Council up until the adoption of the directive was finalized...
(Sweden\textsuperscript{35}), most of the Member States set up the first regular meetings of steering and consultation groups in 2008 or 2009 (Austria, Germany, Italy, Poland and Portugal).

The situation in the investigated Member States is as follows:

Austria\textsuperscript{36} has a long tradition of social partnership. This partnership includes the Federal Chamber of Labour, the Austrian Chamber of Agriculture, the Austrian Federation of Trade Unions (ÖGB) and the Austrian Federal Economic Chamber. This system does not have a basis in the constitution or a separate law, but is organised on a voluntary, informal basis. The four partners of this partnership have been involved in the implementation process of the Services Directive through their participation in the regular meetings of the implementation groups (consisting of the Federal Ministries, the Länder, the Association of cities and the Association of Municipalities) as well as in bilateral meetings. 7 Meetings of the implementation group took place between 4 April 2008 and 4 December 2008. A meeting solely with the social partners took place 29 May 2008.

In France\textsuperscript{37}, the ministries in charge of the implementation have met professional organisations, trade unions and representatives of regulated professions. Concerning the specific case of regulated professions, it has been an obligation for these to consult the organisation responsible for the implementation. The organisation responsible for the implementation has also met representatives of employers and employees within the “Committee for social dialogue concerning European and international questions” («Comité pour les dialogues sociales pour des questions européens et internationales »).

In Germany\textsuperscript{38} the Federal Ministry of Finance and Technology established three implementation groups together with the Länder. These groups dealt with the three different aspects of the Services Directive: PSC, Screening of legislation and Administrative cooperation (IMI). The groups met at least every 6 weeks within the first years. They invited and involved the umbrella organisations (chambers, communal head organisations, liberal professions) representing the service economy. Also involved were labour and trade unions, the political parties in parliament and the different departments.

The coordination group (different from the implementation groups) within the Ministry also includes some representatives of the Länder and the umbrella organisations. These representatives are also involved in the discussions about evaluations in the context of the implementation. Officials of the Ministry were also attending an implementation group organised by the trade and labour unions. Additionally, events on the screening of the legislation, the implementation of the PSC (22 September 2009) and an expert meeting on the status of implementation (the latter organised by the Ministry of Labour and Social Affairs) were held and the above listed stakeholders involved. The Ministry has informed the above listed stakeholders in writing about the ongoing public consultation carried out by the European Commission and encouraged them to participate.

On regional level, besides the political stakeholders like departments of ministries, all Länder have involved the chambers of craft, chambers of commerce and industry, labour unions, German association of cities, German Rural District Association, the liberal professions association, etc.

\textsuperscript{35} Interview with: Deputy Director and Desk Office, Ministry of Foreign Affairs, Dept. for the EU internal market.
\textsuperscript{36} Expert for the Services Directive in the Department for Regional Economic Policy and Internal Domestic Market, Ministry of Economics, Family and Youth; Website of Point of Single Contact Austria: http://www.eap.gv.at.
\textsuperscript{37} Interview with: Head of Mission to the General Economic and Financial Audit, Ministère de l’Economie, de l’Industrie et de l’Emploi.
\textsuperscript{38} Interview with the Head of Divisions "Service Industries", Federal Ministry of Economics and Technology; Homepage Federal Ministry of Economics and Technology: http://www.dienstleisten-leichtgemacht.de/DLR/Navigation/umsetzung,did=313950.html; Replies from all 16 Länder on mini-emailsurvey.
In **Ireland**\(^{39}\), various stakeholders have been intensively involved in the implementation of the Services Directive. The involvement of stakeholders began in 2004 when the draft version of the Directive was first published, and high-level interaction between different Ministries, competent authorities, social partners and stakeholders took place. The number of bodies contacted was approximately 100. The period between the publication of the Draft Version and the adoption of the Directive has been filled with a high number of meetings, the majority of these with different Government Departments because of the cross-cutting and technical nature of the Directive. Additionally, meetings have also taken place with employers’ organisations, organisations representing the professions and the trade union side. Meetings were initiated by the Ministry of Enterprise, Trade and Innovation, by other Ministries affected, or by stakeholders.

Some meetings were organized in the form of presentations where the Ministry explained the content and the details of the Directive followed by Q&A sessions. Other meetings took the form of discussions. Formal inter-ministerial arrangements were put in place to coordinate the Government's position on the draft Directive. The draft Directive was discussed in both Houses of the Parliament and by a Parliamentary Committee.

After the adoption of the Directive, a Consultation Document has been published in August 2009 laying down the transposition of the Directive as well as a draft Regulatory Impact Analysis on the Directive in March 2009. The interaction with stakeholders has been continued during the transposition phase. Nevertheless, the vast majority of discussions have taken place with other Ministries. These discussions especially cover aspects relating to the Points of Single Contact and the Internal Market Information System. The two topics are the most important ones in the discussions with Ministries and competent authorities.

**Italy’s**\(^{40}\) screening process of existing legislation was coordinated by the Department for the Coordination of EU Politics (Dipartimento Politiche Comunitarie) of the Presidency of the Minister Council. With ministerial Decree of 23 September 2009 Minister Ronchi set up a "round table" (tavolo tecnico di confronto), consisting of representatives of all concerned ministries and representatives of the associations for each sector particularly concerned by the directive. This working group was set up to study in depth the results of the screening and to examine proposals to implement the directive together with the stakeholders. Five round table conferences were held in October 2009. Furthermore, the Department for the Coordination of EU Politics installed an electronic post box open to the public for providing views on the implementation of the directive.

At regional level, similar processes took place in the two analysed regions. In the process of preparing the sectoral regional law no. 27/2010 on commerce the region Marche involved all social partners and stakeholders in the following way:

- Meetings with the trade associations of various sectors (commerce, commerce in public areas, petrol, newspaper kiosks, sales stalls for grocery and beverages);
- Meetings with the trade unions especially regarding the aspect of opening hours and urban planning for the huge sales structures and commercial centers;
- Technical meetings with representatives of the municipalities and the provinces;
- Meetings with the industrial associations in terms of localisation of the huge sales structures;
- Assembly CAL (comitato autonomie locali) – committee of local authorities – with representatives of all local entities (municipalities, provinces);
- Assembly CREL where the representatives of artisans, retailers, trade unionists, industrialists and farmers participate.\(^{41}\)

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\(^{39}\) Interview with: Expert Internal Market Unit, Department of Enterprise, Trade and Innovation

\(^{40}\) Article “Tavolo tecnico di confronto” (cf. reference list).

\(^{41}\) Interview with: Head of Commerce and Consumer Protection, Region Marche.
In Abruzzi, the competent regional departments involved all relevant social partners and stakeholders (such as travel agencies, municipalities, trade associations, etc.) through several meetings. The entire process was coordinated by the department “Presidency Affairs” (“Affari della Presidenza). The department submitted the draft regional law no. 5/2010 to the Regions-Local authorities Conference in order to receive its opinion.\textsuperscript{42}

The process of consultation with stakeholders in Poland\textsuperscript{43} began in March 2008. It was a complex process in which consultation took place on all principles of the horizontal law and also the draft of the horizontal law. In total, 149 organisations (services providers, other entrepreneurs, representatives of trade unions and employers organisations, etc.) contributed to the process.

There were different forms of consultations: meetings, conferences, consultation of documents as well as information on the webpage of the Ministry of Economy. Two large events were held, the first one in March 2008, and the second in August 2009. A lot of smaller meetings with representatives of different sectors, such as lawyers (October 2009), patent agents, tax advisors (participation in tax advisors conference spring 2008), real estate agents (real estate conference in July 2009) were organised. The consultation process has not ended yet. Still more meetings for exchanging information are held - 4 meetings already in 2010, with more planned for the year.

The main trade unions (i.e NSZZ “Solidarność”, Związek Rzemiosła Polskiego, Forum Związków Zawodowych) and associations of employers were consulted (PKPP “Lewiatan”, Business Centre Club, Konfederacja Pracodawców Polskich). Moreover associations in certain sectors were consulted, i.e legal and fiscal services, real estate services, tourism services. Also consultations with consumer’s organizations (i.e Stowarzyszenie Konsumentów Polskich, Krajowa Federacja Konsumentów) took place.

Stakeholders were recruited and invited for the conferences, but the door was open for everyone willing to participate. Consultation was done during the whole process of implementation. The consultation of stakeholders is a normal procedure foreseen in the Polish legal system, according to law i.e. the law about trade unions (Journal of Laws of 2001, No. 79, item 854 as amended) or the law about organisations of employers (Journal of Laws of 1991, No. 55, item 235 as amended). Thus, the government has a legal obligation to consult the social partners.

In Portugal\textsuperscript{44}, consultation of stakeholders was undertaken during the drafting process and particularly included associations of a horizontal nature such as the Chamber of Commerce and Industry, the Confederation of Portuguese Industry, the Portuguese Industrial Association, the Portuguese Confederation of Commerce and Services, consumer protection associations and the Portuguese Data Protection Commission. Furthermore, sector-specific associations such as e.g. wholesale and retail trade, construction and tourism were contacted, in addition to a number of professional associations particularly from the industrial sector. The number of sector specific organisms contacted was not fully comprehensive, but took into particular consideration the importance of these sectors both to the Portuguese economy, as well as its representativeness in terms of the service providers registered in Portugal. Lastly, UGT, a confederation of trade unions, was also consulted and its viewpoints and suggestions discussed during the drafting stages of the horizontal law.

The process of consultation took place in different stages. Initially, the associations and social partners quoted above participated with observations in the elaboration of the draft

\textsuperscript{42} Interview with: Head of Service "EU affairs and inter-institutional cooperation", Region Abruzzi.

\textsuperscript{43} Written statement from: Expert for PSC, Department of Economic Regulations Ministry of Economy;

\textsuperscript{44} Written statement from: Expert for PSC, Directorate-General of Economic Activities, Ministry of Economy, Innovation and Development.
horizontal law. Secondly, all were invited to participate in two seminars that took place in 2009 (in Oporto and Lisbon) and a seminar organised for 2010 in Oporto. All three seminars represented an occasion for stakeholders to make their own presentations about the subject, pose questions and discuss main implications. Furthermore, the draft was made available on the coordinating authority’s web page and subjected to public consultation.

The involvement of stakeholders in Sweden\textsuperscript{45} took place partly through consultation group meetings and stakeholder mailings, partly through a formal referral round before the proposition was put together.

A wide number of stakeholders, including academic scholars, industry representatives, the social partners and consumer organizations, were intensively involved through a consultation group from a very early stage of the negotiation process in the European Council up until the adoption of the directive was finalized. Furthermore, meetings with stakeholders are still taking place, also after the adoption of the directive, for the purpose of monitoring the situation and to receive feedback on new issues as regards the implementation of the new legislation etc.

During the EU council negotiation phase, consultations with stakeholders took place when new suggestions were being brought up and, during the implementation phase, approximately four times per year. The composition of stakeholder groups participating in a specific meeting was based on the subject being brought to discussion at that very meeting. Since the whole group was not included in every meeting held, the interviewee preferred not to give an estimate of the total number of meetings. In addition to meetings, stakeholders were contacted and asked to respond to mailings.

In Sweden, the preparation of a law or amendments to existing laws must be preceded by a three month long public inquiry during which all relevant governmental institutions contacted must submit their positions/comments and non-governmental organisations may submit their positions/comments. During this procedure, 177 stakeholders were given the opportunity to submit their answers out of which 124 took the opportunity to do so.

\textsuperscript{45} Interview with: Deputy Director and Desk Office, Ministry of Foreign Affairs, Dept. for the EU internal market.
2.3. **Authorisation schemes**

The Services Directive obliges Member States to review and evaluate all their authorisation schemes concerning access to a service activity or the exercise thereof and abolish them or replace them by less restrictive means (such as simple declarations), where they are unnecessary or otherwise disproportionate. Remaining schemes are to be rendered clearer and more transparent (e.g. conditions have to be made public in advance; criteria have to be clear and non-discriminatory). Furthermore, authorisations have in principle to be granted for an indefinite period and be valid throughout the national territory.\(^{46}\)

The following sections outline the steps that have been taken in the investigated Member States regarding authorisation schemes, including abolishment or replacement with less restrictive requirements, and tacit authorisation.

It should be kept in mind that most of the interviewees found it difficult to provide an exhaustive list of the abolished authorisation schemes.

2.3.1. **Abolishment of authorisation schemes**

As regards the number and types of authorisation schemes that have been abolished in the Member States, it is difficult to establish an overview. If any common trend can be identified, it is that the number of abolished schemes is quite low – in several countries no schemes are abolished at all. However, a full overview is lacking in several countries and in most cases the process has not yet been completed.

In **Austria**,\(^{47}\) there is no authorisation regime for most commercial activities so that the need for adaptation due to the directive is assessed as rather low by the federal authorities.

**France**\(^{48}\) cannot provide an overview (number) of authorisation schemes that were abolished, since there are no statistics on this specific topic. Authorisation schemes that could not be justified with the aspects put forward in the Services Directive or were identified as being unnecessary or not appropriate have been abolished. Examples include abolishment of authorisation schemes applicable to hotel establishment or authorisation to private attestations of climate organisations.

Likewise, **Germany**\(^{49}\) could not provide an overview or an estimate of how many authorisation schemes have been abolished. As previously mentioned, there are 12,544 German municipalities involved and a huge number of legislative acts that had to be evaluated. The interviewee at federal level did not expect anyone to have a complete overview of all abolished or replaced authorisation schemes.

However, the most important changes at federal level were identified as the abolishment of the general notification obligation applicable to a wide variety of services set out in the general trade regulation (Gewerbeordnung) act as well as the abolishment of the obligation to obtain an authorisation applicable to any kind of itinerant trade.

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\(^{46}\) [http://ec.europa.eu/internal_market/services/services-dir/guides_en.htm](http://ec.europa.eu/internal_market/services/services-dir/guides_en.htm)

\(^{47}\) Paper on mutual evaluation_Austria, Federal Chancellery Austria, 2009.

\(^{48}\) Interview with: Head of Mission to the General Economic and Financial Audit, Ministère de l'Economie, de l'Industrie et de l'Emploi.

The delay experienced in Ireland concerning the overall implementation of the Services Directive spills over into the process of abolishing and replacing authorisation schemes, which has also not been finalised. Thus, it is not possible to name neither the areas where authorisation schemes have been abolished nor the number of schemes that will be abolished. According to the Irish authorities, the number of authorisation schemes that are subject to abolition is likely to be very small, if any at all.

In Italy, at national level the screening process particularly applied to the Ministry of Education, University and Research, the Ministry of Internal Affairs, the Ministry for Economic Development, and the Ministry of Justice. Environmental and agricultural legislation was screened only to a very low extent. During the screening process 300 authorisation schemes/processes were identified. While none of these schemes were abolished, numerous schemes have been replaced by less restrictive measures (cf. Below).

At regional level the administration of all regions except Sicily and Molise participated in the screening process. In Umbria 60 authorisation schemes/processes were identified, in Piedmont 50. Concrete data is available neither as regards the numbers of identified schemes for the other regions nor as regards the numbers of abolished schemes. However it can be assumed that the numbers are in the same range. In Marche, 24 authorisation schemes have been identified in the area of commerce of which 8 were abolished and the 16 schemes maintained were converted to less restrictive measures (cf. Below).

A general reform of the "establishment" authorisation in Luxembourg - amended “establishment” law of 28 December 1988 - is ongoing. Luxembourg has submitted a draft law to parliament to adapt this law according to the Services Directive’s requirements. The legislative reform project covering the law of Establishment (parliamentary document 6158) has been adopted in summer 2010 in order to make the law consistent notably with the dispositions of the Services Directive. The law of Establishment in Luxembourg is by nature horizontal and covers therefore most of the activities covered by the Services Directive. However, in principle Luxembourg wants to maintain the system of prior authorisation for all activities covered by this law. Luxembourg is planning to amend the specific law regulating the opening of large retail outlets, which currently makes the granting of a permit subject to an “economic needs test”. Further details were not provided by the authorities at the time of this study.

In Poland there are, according to the regulation of the Act of 2 July 2004 on freedom of business activity (Journal of Laws of 2007, No. 155, item 1095 as amended), 7 kinds of activities which require concession. Moreover, in 34 acts of specific sectoral law, which regulates different sectors, there is an obligation of prior authorisation. However, some of these sectors are not covered within the scope of the Services Directive, for example services of banks, gambling, transport, assurance, and investment funds.

Regarding the Services Directive, Poland completed the process of implementation, including changes in sectoral legislation. The main changes concerning authorisation affect the area of plant protection (replacement of the ex-ante control with ex-post control). Overall 6 types of authorisation schemes in the area have been changed.

50 Interview with: Expert Internal Market Unit, Department of Enterprise, Trade and Innovation Paper on mutual evaluation, Ireland, Irish government, 2010.
51 Article “Audizione del Ministro Ronchi”, third paragraph (cf. reference list).
52 Interview with: Head of Commerce and Consumer Protection, Region Marche.
54 Written statement from: Expert for PSC, Departament of Economic Regulations Ministry of Economy;
In addition, the Polish government works on a project concerning the reduction of administrative barriers. The scope of the changes and legislation covered by that act is broader than the scope of the Services Directive. It includes changes in legislation which regulates all forms of economic activity, not only the provision of services.

The Presidency of the Council of Ministers in Portugal announced in August 2010 that a legal proposal will be submitted to the national Parliament, encompassing the "Licenciamento Zero" programme, which was formulated with the objective of simplifying all the procedural obligations related with the establishment and functioning of several economic activities in Portugal. According to the proposal submitted for discussion in the national Parliament, the several existing licence regimes and respective bureaucratic obligations imposed on service providers (such as validations, authorisations, authentications, certifications and registering of economic activities) which are considered superfluous will be eliminated. They will however be replaced by a simple registration and as such this proposal cannot be said to constitute a complete abolishment (the proposal will thus be discussed further in the following section).

As regards the issue of abolishment of authorisation schemes, it is important to note that Swedish legislation already prior to the implementation to a large extent fulfilled the requirements of the Services Directive. Since the Swedish constitution stipulates freedom of trade (18-20 §§ regeringsformen), the point of departure has always been that there should be no or few formal obstacles for business operators intending to provide services. As very few service sectors have been regulated in Sweden from the beginning, almost no authorisation schemes have been abolished as a consequence of the introduction of the Services Directive.

Only one abolished authorisation scheme has been identified: the lottery act (Lotterilagen (1994:100)). The regulation on skill machines have been removed from the lottery act meaning that the act will not be affected by the Services Directive. Authorisation is therefore no longer needed for providing game machines in which it is not possible to win money, but only objects such as teddy bears, chocolate etc.

2.3.2. Replacement of authorisation schemes with less restrictive measures

As was also the case of abolishment of authorisation schemes (above), when it comes to the replacement of such schemes with less restrictive measures, it is difficult to identify a common trend regarding which areas or sectors are involved; the examples provided by the Member States are scattered across many different sectors, although trade/retail and tourism are among the sectors that come up more than once. The less restrictive means applied tend to be the replacement of authorisation procedures with simple(r) notification, declaration, or registration procedures, usually taking immediate effect, and shifting the control function of the authorities from ex ante to ex post.

France replaced authorisation schemes with declarations in several sectors, e.g. in the toys sector. Likewise, the complex authorisation scheme that was applicable for travel agencies has been replaced by registration. In the retail sector France has identified procedures and criteria in which facilities with a surface area of less than 1000 m² are not subject to authorisation.

55 http://www.portugal.gov.pt/pt/GC18/PrimeiroMinistro/Noticias/Pages/20100826_PM_Not_Licenciamento_Zero.a spx
56 Interview with: Deputy Director and Desk Office, Ministry of Foreign Affairs, Dept. for the EU internal market.
57 Interview with: Head of Mission to the General Economic and Financial Audit, Ministère de l’Economie, de l'Industrie et de l'Emploi.
As mentioned above, no authorisation schemes were abolished in **Italy** at national level, but numerous schemes have been replaced by less restrictive measures. The most affected sectors are trade and tourism, both under the competence of the regions. Many authorisation schemes have been transformed into “Start up activity notifications with immediate effect”\(^{58}\), allowing the service to be started from the date of submission of the notification, others have been simplified and converted to “Deferred start up activity notifications”\(^{59}\), allowing the service to be started after a period of thirty days from the date of submission of the notification to the competent authority, representing the two procedures commonly considered to be less restrictive than an authorisation scheme.

Legislative Decree 59/2010 requires that access to service activities should not be subject to an authorisation scheme but to a “start up activity notification with immediate effect”, if not specified differently.\(^{60}\) According to the state legislation and to the majority of regional laws this procedure applies to activities such as small-scale retailers, vending machine sales, mail orders, telemarketing, door to door sales, hairdressing, beauticians, laundries, etc.\(^{61}\) Different procedures for the access to these activities may exist in some regional legislation.

In the Region Marche in the area of commerce, as mentioned above, 16 of the 24 identified authorisation schemes were maintained but converted into “Start up activity notifications with immediate effect”, in particular regarding corner shops, vending machines, door-to-door selling, mail-order selling, sales of newspapers and journals, sales of grocery and beverages, sales of fuels.\(^{62}\) In the Region Abruzzi “Start up activity notifications with immediate effect” were introduced by Regional Law no. 5/2010 in particular in the following areas: inscription of tourism professionals (such as technical directors of the business, ski instructors, mountain guides) to the register (replacement of explicit authorisation), start up of ski schools and excursion providers (replacement of explicit authorisation), start up of bed & breakfasts and travel agencies (replacement of explicit authorisation), corner shops, door-to-door selling, mail-order selling and special sales forms (replacement of “Deferred start up activity notifications”).\(^{63}\)

In **Luxembourg**\(^{64}\) a law following the reform on provisions of cabarets and nightclubs (parliamentary document 6184) has been adopted in springtime 2010 in order to abolish the quantitative and territorial restrictions of the freedom of Establishment of alcohol selling pub companies. Another legislative project also having been adopted in summer 2010 (parliamentary document 6162) introduces a provision on the freedom to provide services to the (non-profit) organizations dedicated to social, family and therapeutic activities. A general authorisation system concerning the electricity grid access for electricians has been abolished by law of 20 July 2010 modifying the amended law of 20 May 2008 on the establishment of a Luxembourg Institute of Standardisation, Accreditation, Safety and Quality of Products and Services.

One example was mentioned in the case of **Poland**\(^{65}\) where, in the area of plant protection, an authorisation scheme has been changed. The former ex ante control has been replaced by an ex post control. It is now a less burdensome authorisation scheme, where procedures for the issuance of permit have been replaced with procedures for entry in the register.

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\(^{58}\) Dichiarazione d’inizio attività semplice/immediata (DIA).

\(^{59}\) Dichiarazione d’inizio attività differita (DIA differita).


\(^{62}\) Excerpt from interview, Head of Commerce and Consumer Protection, Region Marche.

\(^{63}\) Excerpt from interview with Head of Service “EU affairs and inter-institutional cooperation”, Region Abruzzi.

\(^{64}\) Written statement from: Rédacteur principal, Direction du marché intérieur et de la consommation, Ministère de l’Économie et du Commerce extérieur.

\(^{65}\) Interview with: Expert for PSC, Department of Economic Regulations Ministry of Economy; Paper on mutual evaluation_Poland, Government of the Republic of Poland, 2009/201.
As mentioned above, the replacement of authorisation schemes in Portugal is proposed in the Decree-Law "Licenciamento Zero" due to be put before the Parliament in the coming months (autumn 2010). The rationale of this proposal is based on facilitating the establishment of enterprises and economic activities via an online platform, where the service provider will be able to register itself. The electronic platform proposed (http://www.portaldaempresa.pt) is already active and particularly functions as the PSC for Portugal. It is intended that the requirements imposed on service providers to obtain prior declarations will be replaced by the mere act of registering a service activity and respective service provider. This will enable the almost immediate possibility to provide a service, subsequent to the online registration of that activity. However, it is foreseen that both the existing sanctioning schemes as well as the level of scrutiny of service providers will be reinforced. This reinforcement is possible because the resources invested in the execution of prior controls can be shifted towards the scrutiny of registered service providers and complements this with the introduction of more severe sanctioning mechanisms.

Areas in which authorisation schemes will be replaced by a (self-) registration include commerce, and food and beverage establishments. Additionally, other authorization schemes to which the registration proposed in the "Licencing Zero" will not be applicable are also going to be revoked. These concern service activities in the fields of:

- Operation of amusement machines servicers
- Agencies and ticket brokers for public performances
- Service providers conducting auctions

Despite the reduction of many authorisation schemes, a few economic activities such as those which imply health and safety obligations will maintain a stricter licensing regime.

The provisions included in this legislative proposal contribute significantly to facilitating the access to service activities in Portugal. Nonetheless, it is noted that this initiative is interpreted as a pilot project, whose success can determine the application of similar measures to other service activities.

In Sweden only one example could be provided: In the foreign branch offices act (Lagen (1992:160) om utländska filialer), a discriminatory requirement, as can be found in Article 14 I b, was identified and removed. Authorisation has become less restrictive in the sense that it is no longer a requirement for EU Citizens / companies to be residents in Sweden, i.e. having a permanent address on Swedish territory, to provide services to the Swedish market.

2.3.3. Tacit authorisation

The Services Directive introduces the principle of tacit authorisation by the competent authorities i.e. that, failing a response after a certain period of time has elapsed, authorisation is deemed to have been granted (Article 13, par. 4).

The principle of tacit authorisation has generally been (or will be) introduced in the Member States selected for examination on this issue, with the notable exception of Luxembourg, cf. Below. In several Member States (France, Italy, Portugal) the principle was already found in national legislation in one form or other. Time limits for tacit authorisation vary between 1 and 4 months.

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66 Austria, France, Germany, Cyprus, Greece, Ireland, Italy, Luxembourg, Poland, Portugal, Slovenia and Sweden.
In **Austria**\(^\text{67}\), tacit authorisation is stipulated in the Services Directive Act (§ 12) that is pending in Parliament. The planned regulation provides for an Opt-In provision, allowing the Länder to install a tacit authorisation in their administrative regulations. Not all Länder have made use of this option so far. The Länder Salzburg, Steiermark and Vienna implemented a corresponding regulation in their regional legislation. However, as the national act does not make any specific provisions regarding the time limit within which the tacit authorisation should be granted, the timeframe varies from Land to Land and even from legal act to legal act within one Land. As a guiding principle it can be stated that the general timeframe lies between 2 and 4 months.

Tacit authorisation already existed in **France**\(^\text{68}\) in some specific legislation. France faced certain difficulties with the mapping of the criteria in Article 13 of the Directive which deals with authorisation procedures. As a result, the principles have been changed and tacit authorisation has been inserted. For travel agencies France insured tacit authorisation with a time limit of one month.

In **Germany**\(^\text{69}\), Article 42a of the Administrative Procedures Act (Verwaltungsvorschriftsgesetz) stipulates a general tacit authorisation. The recommended time limit is three months; however, the Länder can deviate from this principle. Discussions in the Länder tend to hover around whether two or three months should be taken into the specific legislation. The majority of time limits appear to be three months within which the authorisation is granted.

For the specific case of **Ireland**\(^\text{70}\), the introduction of tacit authorisation will be completed with the implementation of the horizontal measure. There is no time limit provided or granted currently.

Tacit consent was already present in **Italian** legislation before the implementation of the Services Directive. It refers to the procedure mentioned previously, the “Deferred start up activity notification”. Under this procedure an application is considered as being granted if the authorities do not rule within 30 resp. 60 days of the submission of the application\(^\text{71}\). It covers activities such as commercial and business brokers, maritime brokers, hotels, etc.

In **Luxembourg**\(^\text{72}\), the principle of tacit authorisation has become a key sticking point, contributing to the further delay of the implementation of the directive, as described in section 2.1.1, above. The original draft law included a provision for tacit authorisation as granted after a 3 months period. This principle has been proposed to be amended as to provide for the contrary principle, namely that silence (no answer) means refusal in all cases. The proposed amendment means that the horizontal legislation cannot yet be passed (and this is not expected before the end of 2010).

In **Poland**\(^\text{73}\), tacit authorisation has been introduced in two forms. In cases of authorisation (ex-ante control) the time frame is normally 30 days. In cases of

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\(^{67}\) Paper on mutual evaluation _Austria_, Federal Chancellery Austria, 2009; Expert for the Services Directive in the Department for Regional Economic Policy and Internal Domestic Market, Ministry of Economics, Family and Youth.

\(^{68}\) Interview with: Head of Mission to the General Economic and Financial Audit, Ministère de l’Economie, de l’Industrie et de l’Emploi.


\(^{70}\) Interview with: Expert Internal Market Unit, Department of Enterprise, Trade and Innovation

\(^{71}\) Article 17 of Legislative Decree 26/03/2010, no. 59 and Article 19 par. 2, first phrase of Law 07/08/1990, no. 241.


\(^{73}\) Written statement Expert for PSC, Departament of Economic Regulations Ministry of Economy.
notifications a competent authority has 7 days to register an entrepreneur. If a competent authority does not register an entrepreneur within this time, the entrepreneur may start his activity after 14 days, counted from the day he submitted the application.

Provisions for tacit authorization in Portugal were already stipulated by the national Código do Procedimento Administrativo\(^{74}\) and are included in the horizontal legislation implementing the Services Directive. With regards to the sectoral level legislation, this is not yet decided, but it is foreseen by the coordinating entity that the principle of tacit authorization will be introduced here as well.

In terms of time limits, the 90 days deadline stipulated by the Código do Procedimento Administrativo is generally applicable. Other deadlines are specific to the service area concerned and depend on the pertinent sectoral level legislation, but in general all of the concerned deadlines have been reduced.

In Sweden\(^{75}\) tacit authorisation has been introduced in a number of sectors, for example regulation on animal protection and car rental. The time limit for authorisation depends on the type of legislation and service sector, thus it is difficult to indicate a general time limit. The interviewee expected the tacit authorisation to be of minor importance in Sweden since the administrative law (Förvaltningslagen (1986:223)) stipulates that all administrative matters, appeals, applications etc. are to be treated promptly. Hence, a situation where a person apply for permission without receiving an answer and therefore get a tacit authorisation should in general not take place in Sweden.

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\(^{75}\) Interview with: Deputy Director and Desk Office, Ministry of Foreign Affairs, Dept. for the EU internal market.
2.4. Requirements to be evaluated (Article 15)

Article 15 of the Services Directive obliges the MS to examine whether any of a number of requirements are imposed in their legislation, and to ensure that any such requirements satisfy the principles of non-discrimination, necessity, and proportionality – i.e. the requirements can be retained if found to be compatible with the Directive. The requirements covered by this article include:

- a) Quantitative or territorial restrictions,
- b) Obligations to take a specific legal form
- c) Requirements related to the shareholding of a company
- d) Reserving access to a particular service activity to particular providers
- e) A ban on having more than one establishment in the territory of the same state
- f) Fixing a minimum number of employees
- g) Fixed minimum and/or maximum tariffs, and
- h) Obligation for the provider to supply other specific services jointly with his service

In several of the studied Member States, more or less all these requirements were evaluated. Those that are most frequently reported as important include quantitative or territorial restrictions, obligations to take a specific legal form, and fixed minimum and/or maximum tariffs.

The Member States had to report electronically via the IPM-System (Interactive Policy Making)76 with regards to all restrictions evaluated under Article 15, 16 and 25 that were maintained. The Member States also had to provide the reasons for each decision to maintain a requirement. As the number of reports (datasets) to the IMP extend into the thousands (e.g. Germany reported 14,300 datasets) a full analysis of the requirements evaluated under these Articles cannot be provided and the study has to rely on the information available from desk research and interviews with officials.

Austria77 could not point to specific requirements as being more important than others (all should be evaluated)78.

In Germany79 the most important requirements that have been evaluated under Article 15 and that have been maintained are the restriction to natural persons for insolvency administrators, the requirements for equity stakeholders and majority holdings in companies of attorneys and patent attorneys, the independence of the insolvency administrator from creditors and debtors and requirements fixing a minimum number of employees (e.g. in cases of sewage examination). All these requirements and restrictions have been maintained because of the overriding reasons of upholding the orderly administration of justice and the protection of creditors and consumers as well as recipients of services, workers, environment and the urban environment.

The main requirements that have been evaluated in France80 were related to shareholding restrictions as well as specific quantitative and territorial restrictions. A number of requirements identified have been abolished. For example, in the case of the Law of the Modernisation of the Economy81 the rules concerning shareholding have been adapted, with

76 http://ec.europa.eu/yourvoice/ipm/index_en.htm
78 The interviewee was not prepared to provide further details, and no written documentation on the issue could be found.
79 Summary of screening of Art. 15 reports (maintained requirements) – GERMANY; provided by Federal Ministry of Economics and Technology.
81 La loi de modernisation d’économie, No 2008-776 of 4 August 2008
particular provisions opening up shareholding requirements regarding the capital of companies for the exercise of liberal professions (sociétés d’exercice libéral, SEL), a reform of retail planning and the abolition of the authorisation requirement to open hotel establishments.

As part of the screening process in Ireland\(^{82}\), the screening process under Article 15 did not result in any requirements being abolished.

Italy\(^{83}\) abolished quantitative and territorial restrictions which existed in national and/or regional legislation (at least in some regions) with respect to outlets serving food and beverages; petrol stations; beauticians; and travel agencies. However, such restrictions still apply to the establishment of newspaper shops.

Obligations imposed on service providers to take a specific legal form and requirements relating to the shareholding of companies have been maintained by Italy in particular in the area of regulated professions (“liberal” professions such as architects, engineers, accountants, lawyers, etc., can be exercised only by natural persons or by partnerships fully owned by professionals). In Abruzzi, in the field of tourism, certain requirements for handicrafts businesses and owners of an agro-tourism business were maintained.\(^{84}\)

Minimum and fixed tariffs have been evaluated and abolished in a cross-cutting way in the area of regulated professions while maximum tariffs still apply to services provided by lawyers and, in some regions at least (as e.g. in Abruzzi), to tourists and mountain guides and ski instructors.\(^{85}\) However, the minimum and fixed fees had already been repealed in 2006. Concerning the maximum mandatory rates, as agreed with the Commission representatives, the decision of the Court of Justice in Case C-565/08, appealed on 19 December 2008 by the European Commission against the Italian Republic, is awaited.

Requirements imposing a minimum number of employees, and prohibitions to have more than one establishment applying to ski schools were abolished in some regions. As regards the obligation imposed on service providers to supply other services jointly with their service, some Italian regions (as Umbria and Abruzzi) have abolished obligations that were imposed on petrol stations to sell also “non-oil” products.\(^{86}\)

Concerning letters c), d) and e) of Article 15 there are no results from the screening process.

Poland\(^{87}\) evaluated requirements regarding
- quantitative or territorial limitations (limitations on wholesale and retail trade in alcohol beverage, which were retained),
- maximum or minimum rates (for services involving the retention of personal and payroll files of employees, and for services involving collective management of copyrights and related rights, both of which were retained),
- obligation to adopt certain legal forms (in the area of copyrights, retained, and in the area of storing personal and payroll files of the employees, amended).

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\(^{82}\) Interview with: Expert Internal Market Unit, Department of Enterprise, Trade and Innovation.

\(^{83}\) Most of the information in this section as regards Italy stems from the Paper on mutual evaluation – Italy (cf. reference list). Additional sources are indicated where relevant.

\(^{84}\) Interview with: Head of Service “EU affairs and inter-institutional cooperation, Region Abruzzi.

\(^{85}\) Interview with: Head of Service “EU affairs and inter-institutional cooperation, Region Abruzzi.

\(^{86}\) Interview with: Head of Service “EU affairs and inter-institutional cooperation, Region Abruzzi.

\(^{87}\) Written statement from: Expert for PSC, Department of Economic Regulations Ministry of Economy.
All requirements considered in Article 15 have been evaluated in Portugal\(^{88}\) and will be subject to modifications. However, these modifications have not yet been approved and thus it is not yet certain that all of the requirements mentioned below will be modified. The most important requirements evaluated were:

- abolition of territorial restrictions for driving schools, and sale of tickets for public events or shows
- abolition of the requirement as to specific legal form for a long list of establishments, and
- repeal of the requirements as to shareholding for travel and tourism agencies and tour guides.

During the screening process in Sweden\(^{89}\), very few Article 15 requirements were identified which is, as previously mentioned, a consequence of the Swedish freedom of trade. In the Customs act (tullagen (2000:1281) however, the Article 15 II b requirement “obligations to take a specific legal form” was identified. Previously, the Customs act stipulated that only a legal person could be responsible for transferring and receiving data through the customs’ data system. This requirement has been adjusted so that it is now possible for both legal and natural persons to perform these tasks.

### 2.5. Freedom to provide services (Article 16)

Article 16 of the Services Directive prohibits Member States from restricting the freedom of providers established in another Member State to provide services by imposing any of the following requirements:

1. obligating the provider to have an establishment in their territory
2. obligating the provider to obtain an authorisation/registration (except where provided for in the Directive or other Community law)
3. banning the provider from setting up infrastructure in their territory (incl. An office) which the provider needs to supply his services
4. application of specific contractual arrangements which limit service provision by the self-employed
5. obligating the provider to possess an identity document specific to the exercise of a service activity
6. requirements, except where necessary for health and safety at work, which affect the use of equipment and materials which are an integral part of the service provided,
7. restrictions on the freedom to provide services referred to in Article 19.

With respect to this Article it is, again, difficult to establish general patterns. The same limitations as for Article 15 apply (see above). The type of requirement most frequently referred to under Article 16 is the obligation to obtain an authorisation, registration or similar. Here, there are examples both of requirements that are maintained, and requirements that have been abolished.

Generally, France\(^{90}\) has abolished those obligations to obtain an authorisation where the measure could either not be justified or where these measures were considered as not proportionate and not necessary. In specific areas, for example applying to travel agencies

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\(^{88}\) Written statement from: Expert for PSC, Directorate-General of Economic Activities, Ministry of Economy, Innovation and Development.

\(^{89}\) Interview with: Deputy Director and Desk Office, Ministry of Foreign Affairs, Dept. for the EU internal market.

or the retail sector, France has opted for less restrictive measures relating to declarations or registrations.

For Germany\(^1\), an overview cannot be established due to the high number of IPM entries (see above), however some examples of the requirements falling within the scope of Article 16 can be provided. As a result of the screening under Article 16, there have been derogations for temporary service providers in the context of the Trade Regulation Act: No more registration for a trade activity or permit for itinerant trade is needed for service activities within the scope of the Services Directive.

An example at Länder level is the notification requirement for structural inspection engineers and structural inspectors of the first submission of construction plans (an obligation on a service provider to make a declaration to or to notify a competent authority in its territory). Since structural inspection engineers and structural inspectors inspect and certify compliance with construction regulations on their own responsibility, it is necessary for them to have appropriate qualifications in the interest of a uniform level of protection. There is no equally suitable means, since a single notification is the mildest means.

Ireland\(^2\) has not yet abolished any existing rules nor introduced any new requirements under Article 16, par. 3.

In Italy\(^3\), at national level as well as in the regions Marche and Abruzzi, only few requirements applying to service providers under Article 16 have been identified during the screening process. Based on the learning of the peer review process conducted in Brussels (cf. Chapter 4.2), a new research on Article 16 has been organised at national and regional level.

The Act of 4 March 2010 on providing services in the territory of Poland\(^4\) includes a general clause pursuant to which service providers from EU and EEA countries who exercise freedom to provide services in Poland do not need to register with the Register of Business Activity (natural persons) or with the National Court Register (entrepreneurs). In addition, temporary service providers may be made subject to a duty to obtain a certificate, concession, license, permit, consent, or entry in the register of regulated activity or any other appropriate register only in case sector specific regulations impose such an obligation for reasons of public order, public safety, public health or the protection of the environment.

Authorisations are required for certain categories of cross-border service providers. These include, for instance: tour operators and travel agents, providers of training for aviation personnel, operators of extractive waste disposal facilities, providers of services consisting in repairing and modernising technical equipment, providers of postal services other than universal services, providers of services related to trade, packaging and use of plant protection products.

Providers of training for various categories of drivers and candidates for drivers (such as driving schools) even if they operate cross-border must possess infrastructure in the territory of Poland. This requirement has been reported by Poland as falling within the category of requirements on having an establishment in Poland.

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\(^1\) Summary of screening of Art. 16 reports (maintained requirements) – GERMANY; provided by Federal Ministry of Economics and Technology.

\(^2\) Interview with: Expert Internal Market Unit, Department of Enterprise, Trade and Innovation.

\(^3\) Written statement from: Coordinator Service I, Dipartimento Politiche Comunitarie; excerpts from interviews with Head of Service "EU affairs and inter-institutional cooperation", Region Abruzzi, and Head of Commerce and Consumer Protection, Region Marche.

\(^4\) Written statement from: Expert for PSC, Department of Economic Regulations Ministry of Economy;
For Portugal\textsuperscript{95}, it was mentioned that Article 16 is only applicable to the authorisation of the service activity in itself and not to the service provider’s infrastructure or premises. In terms of abolished requirements, these mainly concern service providers from other Member States since the certification of the effective capacity claimed by service providers can now be done via administrative cooperation, namely the IMI. Currently, a legislative proposal is being considered which concerns:

**Applicable requirements**

- a) obligation of the service provider to submit a specific declaration in advance (not comparable to an authorisation), to begin the activity.
- b) requirements affecting the use of equipment and material which are an integral part of the service provided but which do not relate to health and safety at work
- c) requirements relating to equivalent professional liability insurance and guarantees applicable to the established provider, which are also considered applicable to Prestação de Serviços Transfronteiras” (Cross-border service provision – PST) – cf. Article 23 of the Directive (notwithstanding the reference to mutual recognition in Article 23(2) of the Directive with regards to freedom of establishment, by analogy)

Abolition of the obligation to provide an identity document specifically for the purpose of pursuing services activities (cf. Article 16(2)(e) of the Directive) for:

- Exercise of activity as stall holder, sprayers and technicians dealing with plant health products, and estate agent activities.

In Sweden, requirements under Article 16 which are still applicable concern a range of service sectors that are associated with different kinds of health and safety risks such as fire, explosions, animal welfare etc.

Requirements have been abolished in the following acts:

1. The travel guarantees Act (Resegarantilagen (1972:204)) has been supplemented with a provision stating that the requirement to provide guarantees for trips other than package tours does not apply to business operators established in an EEA state. In short, this concerns a requirement for financial guarantees which will no longer be applicable to business operators from an EEA country.
2. Terms of contract between tradesmen Act (Lagen (1984:292) om avtalsvillkor mellan näringsidkare) has been supplemented with a provision stating that this act does not apply to business operators established in an EEA country and who temporarily provide services in Sweden.\textsuperscript{96}
3. Temporary sales act (Lagen (1990:1183) om tillfällig försäljning) will be supplemented with a provision stating that an information requirement does not apply to business operators established in an EEA country and who temporarily provide services in Sweden.\textsuperscript{97}
4. Distance and doorstep sales act (Distans- och hemförsäljningslagen (2005:59)) is no longer applicable to business operators from an EEA country and who temporarily provide services in Sweden.\textsuperscript{98}
5. Marketing act (Marknadsföringslagen (2008:486)) has been supplemented with a provision stating that certain requirements regarding marketing is not applicable to business operators established in an EEA country and who temporarily provide services in Sweden.\textsuperscript{98}

\textsuperscript{95} Written statement from: Expert for PSC, Directorate-General of Economic Activities, Ministry of Economy, Innovation and Development.

\textsuperscript{96} Regeringens proposition (2008/09:287) om genomförandet av Tjänstedirektivet, p. 124

\textsuperscript{97} Regeringens proposition (2008/09:287) om genomförandet av Tjänstedirektivet, p. 130

\textsuperscript{98} Regeringens proposition (2008/09:287) om genomförandet av Tjänstedirektivet, p. 131
2.6. Requirements for multidisciplinary activities (Article 25)

Article 25 obliges the Member States to ensure that providers are not subjected to requirements obliging them to exercise their service activity exclusively or which restrict the exercise of different activities jointly, or in partnership. However, the regulated professions and providers of certification, accreditation, technical monitoring, test or trial services may be subjected to such requirements in order to ensure their independence and impartiality.

The requirements applied by the Member States for multidisciplinary activities seem overall to be relatively few in number. The regulated professions seem to be the subject of most limitations and requirements, in particular as regards lawyers and accountants, but also patent agents, tax consultants, and real estate agents are among the professions where requirements are set up, primarily to avoid conflicts of interest. Furthermore, a relatively small number of technical professions, especially those that involve inspection or related activities, are subject to requirements that mainly relate to exercising their activity exclusively. Similar requirements apply to some providers of certification and similar services.

Overall it can be stated that requirements, where applicable, mainly concern prevention of conflict of interests and ensuring neutrality in certain sectors.

Austria has reported few requirements or prohibitions for multidisciplinary activities. For regulated professions such requirements have been reported concerning the activity of a legal person who operates a clearing house for transactions and pricing of energy on the basis of a concession. In the area of certification, accreditation, technical monitoring and testing services requirements related to multidisciplinary activities, requirements have been reported in the areas of private calibration services, certification of construction products as well as certification of gambling machines.

The overall intent of these requirements is the avoidance of conflicts of interests. For example, an accredited test and supervisory organization in the field of structural engineering cannot at the same time issue a so-called proof of compliance of certain building products.

In France, a requirement that travel agents exercise their activity exclusively has been abolished. A series of service activities are subject to incompatibility rules, such as land surveyors, vehicle assessors, specialists determining whether a property is fit for sale, technical lift and construction inspection, and metrology.

As regards regulated professions, Germany has notified restrictions to multidisciplinary activities for lawyers, patent agents, auditors and veterinarians. The Federal Code for the Legal Profession imposes a requirement on attorneys with respect to cooperation with providers of other professional services (a restriction to the exercise of a service activity jointly or in partnership in the field of regulated professions). Similar requirements can be found in the Tax Consultancy Act and the Auditors Act.

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99 Paper on mutual evaluation_Austria, Federal Chancellery Austria, 2009; Expert for the Services Directive in the Department for Regional Economic Policy and Internal Domestic Market, Ministry of Economics, Family and Youth1
100 Paper on mutual evaluation_Austria, provided by the Austrian Government.
102 Summary of screening of Art. 25 reports (maintained requirements) - GERMANY; provided by Federal Ministry of Economics and Technology; Paper on mutual evaluation_Germany, Federal Government of Germany, 2009/2010.
As regards certification, technical monitoring etc. services, Germany has notified restrictions on multidisciplinary activities for structural inspectors/structural inspection engineers. These are generally prohibited from serving as experts or engineers on projects in which they have been involved in respect of planning or execution.

The current status in Ireland\textsuperscript{103} is comparable to that for Articles 15 and 16. It remains to be seen what issues, if any, will arise when the horizontal legislation comes into effect. Thus, no details can be provided with regard to the requirements applying for multidisciplinary activities.

In Italy\textsuperscript{104} requirements on multidisciplinary activities exist in particular in the area of regulated professions. Specific incompatibility rules apply, for example, to accountants, lawyers, and employment consultants which cannot exercise a number of other activities in addition to their profession. Furthermore, they can only supply multidisciplinary activities to users if they are established in partnerships or professional associations.

In Poland\textsuperscript{105}, only a few regulations of this type were found, mostly in the area of regulated professions. The specific regulations were changed after the act of providing services on the territory of Poland came into force. This includes provisions for lifting restrictions for lawyers, legal advisors, foreign lawyers, tax advisors and patent agents to establish a joint enterprise. Poland has now replaced the restriction for representatives of these professions allowing them to offer joint services. However, certain restrictions still apply with regard to composition of partners or with regard to the shareholding in such enterprises (e.g. in case of patent agents' office in the form of partnership, at least half of the partners must be patent agents).

In Portugal\textsuperscript{106}, the regulation and definition of requirements for multidisciplinary activities normally involves professional councils (advocacy, medicine, notaries, etc). In Portugal the existing requirements applied for the case of regulated professions, involving the supervision of any of the nine existing professional councils will be maintained.

The existing requirements on multidisciplinary activities are:

- Operation of the gas distribution networks and branches – operators cannot be inspectors
- Co-generation energy auditors – various conflicts identified
- Tourist information professionals cannot own undertakings related to the tourist industry
- Inspectors of installations covered by the European Emissions Licences – operators banned from consulting, to be verified in the 3 preceding years.
- Estate agent activities – other (commercial or professional) service activities which are banned (changes to listed conflicts pending)
- Pursuing an activity as a lawyer – conflict with a number of service activities
- Legal consultancy by non-lawyers - conflict with a number of service activities
- Pursuing an activity as a solicitor – conflict with a number of service activities
- Accountancy services – conflict with a number of service activities

For Sweden\textsuperscript{107} it can be stated that in general, there are very few such requirements in Swedish legislation and, where applicable, it mainly concerns prevention of conflict of

\textsuperscript{103} Interview with: Expert Internal Market Unit, Department of Enterprise, Trade and Innovation.
\textsuperscript{104} Paper on mutual evaluation (cf. reference list); Written statement, Coordinatore Servizio I, Dipartimento Politiche Comunitarie.
\textsuperscript{105} Written statement from: Expert for PSC, Department of Economic Regulations Ministry of Economy; Paper on mutual evaluation_Poland, Government of the Republic of Poland, 2009/201
\textsuperscript{106} Written statement from: Expert for PSC, Directorate-General of Economic Activities, Ministry of Economy, Innovation and Development.
\textsuperscript{107} Regeringens proposition (2008/09:287) om genomförandet av Tjänstedirektivet
interests and to ensure impartiality in certain sectors. These requirements are present in legislation regulating the professions of accountants and lawyers.

2.7. Key findings

Status of implementation of horizontal and specific legislation
Both progress and setbacks have been experienced by the Member States identified as lagging behind in the Commission’s Status note from May 2010. Thus, Portugal adopted its horizontal and specific legislation in July 2010. Cyprus adopted its horizontal legislation around the same time and considers the Directive as fully transposed into Cypriot law, although amendments to sector legislation are still ongoing. In Austria, the horizontal legislation is held up in Parliament but all changes to specific legislation have been adopted at the federal (national) level. Ireland does not seem to have made much progress since May but still expects to achieve implementation before the end of 2010. Finally, things have taken a turn for the worse in Luxembourg where a proposal for an amendment to the horizontal legislation (concerning tacit authorisation) has been put forward which means that the bill will be further delayed. France and Germany, which were the only Member States to opt for not implementing a horizontal legislation, are both still working on finalising the adoption of changes to specific legislation, but both Member States expect to finalise implementation shortly.

The reasons for delays in the adoption of the relevant legislation are various as described above: the administrative coordination effort or the sheer amount of legal acts to be amended, as well as political events such as elections on the one hand, and political confrontations or deadlocks due to political blocking on the other.

At regional level, Germany and Austria are both federal states where the Länder have wide-ranging legislative powers. In both Member States, adoption of changes to specific legislation has been finalized in most Länder. While some legislative acts at regional level are still pending, all required changes are expected to be adopted before the end of 2010. In Italy, the regions have exclusive legislative power concerning certain service activities (trade, crafts, tourism). The regions have chosen different models for implementing the Services directive and are at different but advanced stages of implementation. In the Member States where legislative powers are not devolved to the regional level, the adoptions of new or amended legislation do not involve the regions in any significant way.

Involvement of stakeholders
Stakeholders have been extensively involved in the implementation process everywhere. Mostly, this has taken the form of involvement of social partners – trade unions, employers’ associations – and other interest organisations via meetings, roundtable events, or in some cases a more informal “open door” policy. In some Member States, broader public consultations have taken place through making the material available on the internet and inviting the public to comment. However, it seems that the social partners have played the most significant role in this process.

Authorisation schemes
A full overview of the number and types of authorisation schemes that have been abolished is lacking in several Member States and in most cases the process has not yet been completed. In general, the number of abolished schemes is quite low – in several countries no schemes have been abolished at all. Where changes are made, Member States tend to replace authorisation schemes with less restrictive measures rather than abolish them completely. The examples of less restrictive measures replacing authorisation schemes are scattered across many different sectors, although trade/retail and tourism are among the sectors that come up more than once. Typically, authorisation procedures are replaced with simple(r) notification, declaration, or registration procedures, usually taking immediate effect, and shifting the control function of the authorities from ex ante to ex post.
The Services Directive introduces the principle of tacit authorisation by the competent authorities i.e. that, failing a response after a certain period of time has elapsed, authorisation is deemed to have been granted (Article 13, par. 4). The principle of tacit authorisation has generally been (or will be) implemented in all investigated Member States, with the possible exception of Luxembourg where a reversal of the principle has been proposed as an amendment to the draft horizontal legislation which was already before parliament. In several Member States (France, Italy, Portugal) the principle of tacit authorisation was easily implemented since it was already found in national legislation in one form or other. Time limits for tacit authorisation vary between 1 and 4 months. On regional level the regulations for tacit authorisations tend to follow the federal regulations or recommendations. Except for Austria, where by the time of this study not all Länder had implemented a tacit authorisation, the German Länder and Italian regions have adopted rules similar to those at federal level.

Requirements to be evaluated (Article 15)
Article 15 of the Services Directive obliges the MS to examine whether certain requirements are imposed in their legislation, and to ensure that any such requirements satisfy the principles of non-discrimination, necessity, and proportionality. In several of the studied Member States, more or less all the types of requirements listed in Article 15 were evaluated. Those that are most frequently reported as important include quantitative or territorial restrictions (e.g. limits fixed according to population or minimum distance between providers), obligations for service providers to take a specific legal form, and fixed minimum and/or maximum tariffs with which the provider must comply.

Freedom to provide services (Article 16)
Article 16 of the Services Directive concerns the provision of services across borders, prohibiting Member States from restricting the freedom of providers established in another Member State to provide services by imposing any of a number of requirements listed in the Article. The type of requirement most frequently referred to in relation to Article 16 is the obligation to obtain an authorisation from competent authorities, to register with a professional body or association, or similar. Here, there are examples both of requirements that are retained (justified) and requirements that have been abolished.

Requirements for multidisciplinary activities (Article 25)
The regulated professions are the subject of the majority of requirements obliging them to exercise their service activity exclusively or which restrict the exercise of different activities jointly, or in partnership. This goes in particular for lawyers and accountants, but also patent agents, tax consultants, and real estate agents are among the professions where requirements are set up, primarily to avoid conflicts of interest. Also a relatively small number of technical professions, especially those that involve inspection or related activities, are subject to requirements that mainly relate to exercising their activity exclusively. Similar requirements apply to some providers of certification and similar services.
3. Points of Single Contact

The 'Points of Single Contact' (PSCs) are at the heart of the reform package regulated by the Services Directive. PSCs have to be set up in each Member State. They are one-stop shops through which service providers can obtain all relevant information and complete all procedures relating to their activities without having to deal with a multitude of authorities at different administrative levels, as is the case today. Thus, they are meant to become the single intermediaries between businesses and public administrations. Furthermore, the PSCs shall make it possible to complete procedures at a distance, by using 'e-government applications'.

In this chapter, we provide an overview of the status of PSC establishment across most of the EU Member States.

3.1. Establishment of Points of Single Contact

The large majority of MS have established a PSC. Only Slovenia and Romania indicate that they are still in the process of establishing the PSC.

More than two-thirds of the MS which have set up their PSC (and for which information is available) used an existing structure, while a small group created the PSC from scratch. In this respect, Germany is a special case since the German PSCs are created at the Länder level and the approach varies for each individual Land.

For the MS who based their PSCs on an existing structure, there are two main groups: One group that took an existing e-government portal as a point of departure, and another group that built on networks of existing physical offices.

For instance, Denmark and the Netherlands used e-government solutions (business portals) that were already in place and aimed at improving and easing businesses' interaction with government entities for a wide range of activities. Other MS, such as Bulgaria and Latvia, integrated the PSC services into their national e-government web portal (aimed at both businesses and citizens). The group of MS building on existing electronic solutions also includes Finland, Hungary, Luxembourg, Portugal, Sweden, and Malta.

Malta provides an interesting example of how the integration process takes place when using an existing e-government service. Here, the PSC is an extension of an information service already offered on the Government’s website. This site offered information and a number of links to regulatory authorities and government departments as a service to businesses. In order to find an interim solution pending the development of a PSC platform on which to offer the required electronic interface with competent authorities, an extension of the existing service was created.

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108 Services Directive, Article 8, par.1 Member States shall ensure that all procedures and formalities relating to access to a service activity and to the exercise thereof may be easily completed, at a distance and by electronic means, through the relevant point of single contact and with the relevant competent authorities.


110 Unless otherwise indicated, the information provided in this chapter is based on interviews and written answers to questionnaires, provided by the MS specifically for this study. In addition to the MS who were interviewed in-depth concerning several issues covered by this report, the remaining MS were asked only the questions concerning establishment of the PSCs. The questions were sent via e-mail, in English, and answered in writing by the MS. Estonia and the UK were the only MS not contacted in this manner due to unavailability of contact information. For those two MS, some of the key questions could however be answered via desk research. Hungary is the only MS for which no information has been found. For more details, cf. table 3 and the list of interviewees in the Annex to this report.
information page describing the authorisation scheme and processes as well as downloadable application forms was put up for each scheme identified in the implementation of the Services Directive. This interim solution was necessary until the Government’s information technology agency MITA finalised a tendering process for the development of an e-Forms platform on which to offer facilities for the submission of online applications and the issuing of permits. This project is currently being implemented with a number of authorisation schemes in the final stages towards an online authorisation facility, which will then be made available through the internet.

Among the other group of MS who built the PSC on an existing structure are those which integrated the PSC into an existing network of physical offices, in most cases combined with electronic (internet) access (cf. Table 3).

**Italy** already had a system of single points of contact in place at municipal level, developed 12 years ago. The system is being updated to become electronic by 2011. Both **Slovakia** and the **Czech Republic** designated their networks of (municipal) Trade Licensing Offices as PSCs. Similarly, in **Belgium**, 9 existing “business counters” (set up in 2003) have taken responsibility for the PSC task. **France** has one of the most extensive physical PSC networks, integrating several hundred existing offices including Chambers of Commerce, Chambers of Crafts, Chambers of Agriculture, and Law clerks of the Trade Courts (Greffiers des tribunaux de commerce).

Finally, five MS indicate that they created their PSCs from scratch. **Austria** developed the PSC at the Länder level, with a national homepage linking to the Länder. The Länder could however make use of experiences made at county level, where so called “konzentrierte Verfahrensstellen”, a kind of one-stop-agency, already existed. In **Ireland**, the national PSC (electronic) was set up in January 2010. It is expected that the transposing legislation will allow the minister with responsibility for the directive to confer single point of contact status on a particular competent authority for a particular service. However, since Ireland is still in the process of implementing the Directive, nothing more concrete is known as of yet. **Lithuania**, **Poland**, and **Spain** created new internet portals for the PSC.

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111 Website of Point of Single Contact Austria: http://www.eap.gv.at.
### Table 3 Overview of PSC establishment in all MS

<table>
<thead>
<tr>
<th>Member State</th>
<th>PSC established?</th>
<th>Type of PSC</th>
<th>Number of physical offices</th>
<th>Available foreign languages on website</th>
<th>Foreign languages spoken by staff</th>
<th>Online completion of procedures?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>Yes</td>
<td>Electronic + Physical office</td>
<td>2</td>
<td>English + other languages</td>
<td>English, partly Italian</td>
<td>No</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>Yes</td>
<td>Electronic</td>
<td>0</td>
<td>No</td>
<td>Not known</td>
<td>Yes, partially</td>
</tr>
<tr>
<td>Belgium</td>
<td>Yes</td>
<td>Electronic + Physical office</td>
<td>9 counters with 206 offices</td>
<td>English, French, German, Dutch</td>
<td>Not in all offices: Dutch, English, French, German</td>
<td>Yes</td>
</tr>
<tr>
<td>Cyprus</td>
<td>Yes</td>
<td>Electronic + Physical office</td>
<td>1</td>
<td>English</td>
<td>English</td>
<td>Yes</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>Yes</td>
<td>Electronic + Physical office</td>
<td>15</td>
<td>English</td>
<td>English</td>
<td>Yes</td>
</tr>
<tr>
<td>Denmark</td>
<td>Yes</td>
<td>Electronic</td>
<td>0</td>
<td>English</td>
<td>Not relevant</td>
<td>Yes</td>
</tr>
<tr>
<td>Estonia</td>
<td>Yes</td>
<td>Electronic</td>
<td>Not known</td>
<td>English, Russian</td>
<td>English</td>
<td>Yes</td>
</tr>
<tr>
<td>Finland</td>
<td>Yes</td>
<td>Electronic + Physical office</td>
<td>N/A</td>
<td>English</td>
<td>English</td>
<td>Yes, partially</td>
</tr>
<tr>
<td>France</td>
<td>Yes</td>
<td>Electronic and physical offices</td>
<td>400-500</td>
<td>No, only French</td>
<td>Partly German and English</td>
<td>Yes</td>
</tr>
<tr>
<td>Germany</td>
<td>Yes</td>
<td>Electronic + Physical office</td>
<td>Approx. 200</td>
<td>English, partly Polish, Chinese, French</td>
<td>English</td>
<td>Yes</td>
</tr>
</tbody>
</table>

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112 The information provided in this table is based on interviews/written answers from MS collected specifically for this study, with the exception of the UK and Estonia, which is based on desk research of the respective PSC websites. Romania only provided a partial/preliminary answer. In a few other cases, information is missing (N/A) because of unclear or lacking answers from the MS, and it was not possible to get clarification from the MS before the deadline for this report.
<table>
<thead>
<tr>
<th>Member State</th>
<th>PSC established?</th>
<th>Type of PSC</th>
<th>Number of physical offices</th>
<th>Available foreign languages on website</th>
<th>Foreign languages spoken by staff</th>
<th>Online completion of procedures?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greece</td>
<td>Yes</td>
<td>Electronic + Physical office</td>
<td>52</td>
<td>Partly in English</td>
<td>Not mandatory, though available in many cases</td>
<td>No</td>
</tr>
<tr>
<td>Hungary</td>
<td>Yes</td>
<td>Electronic</td>
<td>0 (planned 2011)</td>
<td>No (planned)</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Ireland</td>
<td>Yes</td>
<td>Mainly electronic</td>
<td>1</td>
<td>No, only English</td>
<td>French, German</td>
<td>No</td>
</tr>
<tr>
<td>Italy</td>
<td></td>
<td>Existing structure has to be adapted to requirements of Services Directive, completion expected in 2011</td>
<td></td>
<td>Yes, English + other languages</td>
<td>No, mostly Italian spoken in municipalities</td>
<td>No</td>
</tr>
<tr>
<td>Latvia</td>
<td>Yes</td>
<td>Electronic</td>
<td>0</td>
<td>No (English planned)</td>
<td>Limited English</td>
<td>Yes</td>
</tr>
<tr>
<td>Lithuania</td>
<td>Yes</td>
<td>Electronic</td>
<td>0</td>
<td>English</td>
<td>Not relevant (no direct contact provided)</td>
<td>Yes</td>
</tr>
<tr>
<td>Luxembourg</td>
<td>Yes</td>
<td>Electronic</td>
<td>2</td>
<td>French, partly German and English</td>
<td>English</td>
<td>Yes, partially</td>
</tr>
<tr>
<td>Malta</td>
<td>Yes</td>
<td>Electronic</td>
<td>0 (planned)</td>
<td>No, but official language is English</td>
<td>N/A</td>
<td>No</td>
</tr>
<tr>
<td>Netherlands</td>
<td>Yes</td>
<td>Electronic</td>
<td>0</td>
<td>Yes, English</td>
<td>English</td>
<td>Yes</td>
</tr>
<tr>
<td>Poland</td>
<td>Yes</td>
<td>Electronic</td>
<td>0</td>
<td>No (link to “Google translate”)</td>
<td>English</td>
<td>Yes, partially</td>
</tr>
<tr>
<td>Member State</td>
<td>PSC established?</td>
<td>Type of PSC</td>
<td>Number of physical offices</td>
<td>Available foreign languages on website</td>
<td>Foreign languages spoken by staff</td>
<td>Online completion of procedures?</td>
</tr>
<tr>
<td>---------------</td>
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<td>-------------------------------------------------</td>
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<td>------------------------------------------------</td>
<td>----------------------------------</td>
<td>----------------------------------</td>
</tr>
<tr>
<td>Portugal</td>
<td>Yes</td>
<td>Electronic + Physical office</td>
<td>8</td>
<td>Yes, English + other languages planned (ES)</td>
<td>Not known</td>
<td>Yes, partially</td>
</tr>
<tr>
<td>Spain</td>
<td>Yes</td>
<td>Electronic + Physical office</td>
<td>Undetermined</td>
<td>English</td>
<td>Partly English</td>
<td>Yes</td>
</tr>
<tr>
<td>Romania</td>
<td>Not yet (regulating law 64/2010 awaiting the approval of the Government Ordinance 49/2009.)</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Slovakia</td>
<td>Yes</td>
<td>Essentially physical, electronic services not yet fully implemented (foreseen 2011)</td>
<td>50</td>
<td>No</td>
<td>Partly English</td>
<td>Yes</td>
</tr>
<tr>
<td>Slovenia</td>
<td>No (temporary portal available)</td>
<td>Electronic + Physical offices</td>
<td>170 (to be reduced)</td>
<td>No</td>
<td>English</td>
<td>No</td>
</tr>
<tr>
<td>Sweden</td>
<td>Yes</td>
<td>Electronic + helpdesk accessible by phone</td>
<td>0</td>
<td>English</td>
<td>English</td>
<td>Yes</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>Yes</td>
<td>Electronic + Physical</td>
<td>N/A</td>
<td>Basic information in all EU languages</td>
<td>N/A</td>
<td>Yes</td>
</tr>
</tbody>
</table>
3.1.1. Key features of PSCs

The majority of the MS have PSCs that are essentially electronic. Nine MS run PSCs that are completely electronic, while 15 MS have PSCs that are supported by or run in parallel with physical offices. Only Slovakia currently relies almost completely on physical offices, but electronic services are being developed113.

In the capacity of support function the physical PSCs play different roles in relation to the electronic PSCs. In cases such as Ireland114, Malta, and Sweden, the physical PSC works as a helpdesk to ensure that the electronic PSC functions properly. Here the tendency seems to be that the helpdesk works primarily through a telephone number indicated on the electronic PSCs (website) and that this phone number is used in cases where issues cannot be solved through the electronic PSC alone. Conversely, in MS such as Belgium, France115, Spain, Portugal116 and Italy the electronic PSCs function (or, in the Italian case, will function) as additions to physical offices that offer advice and support to the companies. Several of these MS have extremely dense networks with hundreds of offices. In Italy the physical offices also perform administrative tasks for the companies, and in Belgium the offices (“counters”) may assist the customers in filling out applications for licenses and permits.

The majority of the MS also provide the electronic PSC in other languages than the national languages. The most commonly offered foreign language is English. Bulgaria, France117, Ireland118, Latvia, Luxembourg119, Malta, Poland, Slovakia, and Slovenia only provide their national languages. However, Poland120 also provides a link to Google translate on the website while Bulgaria is in the process of developing an English research function for their electronic PSC. Latvia and Hungary121 also plan to develop an English version of the PSC. Interestingly the Danish website of the PSC is only available in English. An identical portal is, however, also offered in Danish.

Several MS provide services in the physical PSC in languages relevant to the regional or economic circumstances. In Germany122 some PSCs are available in English (e.g. Hamburg), Polish (Brandenburg) or French (North Rhine Westphalia) as their regional or

113 No information on this question currently available for Hungary and Romania.
115 Interview with: Head of Mission to the General Economic and Financial Audit, Ministère de l'Economie, de l'Industrie et de l'Emploi.
118 Interview with: Expert Internal Market Unit, Department of Enterprise, Trade and Innovation; Point of Single Contact Ireland, Internal Market Unit, Department of Enterprise Trade and Innovation, 2010, http://www.pointofsinglecontact.ie/.
120 Written statement from: Expert for PSC, Department of Economic Regulations Ministry of Economy.
121 Written statement from: EU Economic Policy Department, Foreign Office.
122 Replies from all 16 Länder on mini-emailsurvey; Desk research on websites of all 16 Länder; Homepages PSC in the Länder; Interview with the Head of Divisions “Service Industries”, Federal Ministry of Economics and Technology.
economic situation requires it. By the same token PSC offices in the big Spanish cities provide services in English. In Belgium, the number of languages spoken at individual offices seems to depend on its geographical location – a few offices only offer either Dutch or French, while the large majority of the 200+ offices offer two or more of the national languages (Dutch, French, German), sometimes complemented with English or other languages.

3.1.2. Services provided by the PSC

Only a minority of the PSCs provide information only (six MS), while the large majority provide some, or full, coverage of procedures that can be completed electronically.

14 MS provide for all procedures and formalities to be completed electronically – cf. Table 3. A few MS – Bulgaria, Finland, Luxembourg, Poland, and Portugal - only provide for some procedures and formalities to be completed online, but indicate that they are working to expand the on-line coverage. Examples of selected procedures that can be completed online include (in the case of Finland) some industry-specific notifications and licensing procedures, such as applying for a licence to dispense alcoholic beverages.

The challenges faced in providing for the completion of procedures and formalities vary between MS, most likely reflecting significant differences in the national set-up of the electronic PSC. Below, the main challenges as indicated by the MS are presented.

Table 4 Overview of the main challenges relating to ensuring the completion of the necessary procedures and formalities123

<table>
<thead>
<tr>
<th>Member State</th>
<th>Challenges relating to ensuring the completion of the necessary procedures and formalities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>It is intended that the PSC shall constitute a “post box” which service providers can use to submit forms and other required formalities, in a legally binding way. However, even though the post box has been implemented, it is not yet legally binding (i.e. respite etc). Missed time limits due to delays at the PSC currently fall under the responsibility of the service provider until the Services Directive Act has come into force.</td>
</tr>
<tr>
<td>Belgium</td>
<td>Major challenges identified concern a shift in terms of administrative procedures imposed by the implementation of the Directive. For instance, the vast network of physical offices had to establish in 2009 an entirely new working procedure with authorities at the Federal level, and with specific administrative entities of each region in order to ensure the electronic follow-up of cases. This implied the inauguration of a much closer collaboration and more intense sharing of information and linking of the physical counters and different administrations involved.</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>The main challenges are related to the user-friendliness of the PSC web portal, the wide range of E-services available and the possibility to complete procedures electronically by using only an E-signature. Questions concerning the type of information available and the contents to be included in the PSC have not been completed yet.</td>
</tr>
<tr>
<td>Cyprus</td>
<td>The major challenge lies in the electronic completion of procedures and</td>
</tr>
</tbody>
</table>

123 Only those Member States that made statements on challenges are listed in this table.
<table>
<thead>
<tr>
<th>Member State</th>
<th>Challenges relating to ensuring the completion of the necessary procedures and formalities</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>formalities, given that most authorisations require the submission of originals or certified copies as well as a signature along with the applications.</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>In the Czech Republic the final decision about the legality of documentation lies with the competent authority. Therefore, the electronic PSC can function only as a &quot;qualified&quot; postman.</td>
</tr>
<tr>
<td>Denmark</td>
<td>The challenge is to ensure that there is enough information at the portal in order for service providers to decide which form(s) they should fill in.</td>
</tr>
<tr>
<td>Finland</td>
<td>The major challenge is to offer electronic completion of procedures in every area.</td>
</tr>
<tr>
<td>Hungary</td>
<td>Improvement is needed in the identification of local and foreign businesses with and without e-signature. The e-formula software also needs to be improved in order to meet the expectations of all offices; setting up a flexible e-formula storage application for up-to-date service provision. Back-office improvement necessary in some Competent Authorities.</td>
</tr>
<tr>
<td>Ireland</td>
<td>One problem identified for the Irish case is related to a interdependency between the delays in the implementation of the Directive and the operationalisation of the PSC and respective developments. An additional challenge is the promotion of the existence of the PSC. Not only is the PSC less frequented than expected, but also there is a mismatch between the raison d’être of the PSC as a platform for service providers, and the way it is currently being put to use as mainly a forum for complaints (where often issues which are not covered by the Services Directive are discussed).</td>
</tr>
<tr>
<td>Italy</td>
<td>In Italy, the major challenge is the coordination and cooperation among the numerous authorities involved in the multilevel governance system</td>
</tr>
<tr>
<td>Latvia</td>
<td>Challenges identified are essentially of a legislative nature. It was reported that most cases where the procedures could not be fully completed were related with constraints posed by legislative acts.</td>
</tr>
<tr>
<td>Lithuania</td>
<td>The major challenges concern interoperability issues (eID, eSignature, eDocs, etc.) as well as the financial aspects as regards the implementation of the e-Gov decisions in the competent authorities, especially in the regions.</td>
</tr>
<tr>
<td>Malta</td>
<td>The biggest challenges are decisions related to requirements for original documents and their electronic counterparts as well as the issue of the requirement for an electronic identification particularly decisions as to at what stage of the process this should be mandatory. These vary with every specific authorisation process and remain the prerogative of the Competent Authority.</td>
</tr>
<tr>
<td>Netherlands</td>
<td>The current major task for the Dutch PSC is the promotion of the existence and use of the message box (i.e. the necessary infrastructure for the completion of all the relevant procedures and formalities) to service</td>
</tr>
<tr>
<td>Member State</td>
<td>Challenges relating to ensuring the completion of the necessary procedures and formalities</td>
</tr>
<tr>
<td>--------------</td>
<td>------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td></td>
<td>providers.</td>
</tr>
<tr>
<td>Poland</td>
<td>Main challenges are translation to other EU languages and the lack of uniform means for electronic signature from EU Member States</td>
</tr>
<tr>
<td>Portugal</td>
<td>The main challenge identified is the effective operationalisation of all necessary activities and processes onto the platform, and the development of a dynamic registration form. This online tool is to be based on a common and single form, which then expands as it is being filled in, in order to accommodate the specificities of all possible service areas and additional licenses which may be required.</td>
</tr>
<tr>
<td>Slovakia</td>
<td>The main challenge is to complete the electronic infrastructure to have fully functional electronic PSC's.</td>
</tr>
<tr>
<td>Slovenia</td>
<td>Delays with regards to the sector specific legislation have deferred the timely adoption of the horizontal law, consequently impacting the PSC. An additional challenge is related with the fact that the PSC constitutes an upgrade of a previously existing structure. However, the definition of structure of the upgraded PSC (2nd state) can only be defined after a screening process is completed (1st stage).</td>
</tr>
<tr>
<td>Spain</td>
<td>Major challenges relate to usage promotion, standardisation, information systems interoperability and information &amp; processing governance.</td>
</tr>
</tbody>
</table>

The main categories of challenges experienced by the MS in relation to ensuring the completion of the necessary procedures and formalities seem to be
- legal issues,
- technical issues,
- co-ordination issues, and
- (to a lesser extent) promotional issues.

The legal issues take different forms. One is delay in the overall implementation of the Directive which is experienced by the MS lagging behind; Austria, Ireland, Slovenia - meaning that the overall legal basis for the PSC is not in place. In other cases, there are constraints posed by legislative acts, for instance related to requirements for original documents, or regarding the competence of the PSC to decide whether the documentation submitted is correct (Czech Republic, Latvia, Malta).

Technical issues are related to e.g. systems interoperability, and not least to the scope of the task, i.e. of completing the electronic infrastructure necessary for offering fully electronic procedures in the many different areas covered by the Directive (Finland, Lithuania, Spain, and Slovakia). In this category can also be included the difficulties related to e-signatures, although this might be said to be a legal issue as well as a technical one, in particular as regards the lack of common e-signature standards between MS.

Co-ordination issues between authorities, the need to share more information and to collaborate more closely than before is another major challenge (Belgium, Italy, and Spain). This is an issue both between the different levels of government (national, regional, local), but also between different geographical areas.
Finally, promoting the use (and the correct use) of the PSC by the “customers” (service providers) is also seen as a challenge by several MS (Spain, Ireland, Netherlands).

3.2. The relationship between PSCs and other authorities

In the vast majority of the interviewed MS some kind of cooperation between the PSCs and other authorities is established. Generally, cooperation and exchange of information seems to take place with all relevant authorities at both national and regional/local level. In some MS this collaboration is defined and established by law. In the rest of the MS the cooperation is established on a voluntary basis, according to the needs defined by the types of requests coming through the system from service providers. Of the MS providing information, only Slovenia – where the PSC is not yet set up – indicates that for the time being, there is no co-operation at all between the PSC and other authorities.

A good example of a solid cooperation set-up is found in Denmark. The Danish PSC cooperates with the different national authorities on the more practical level concerning specific schemes and authorisations which are part of the PSC. In order to make use of synergy effects the PSC also co-operates with “other services” directed at helping foreign investment or settlement in Denmark. These “other services” are public authorities as well as private business services. The PSC is also part of the Baltic Sea Flagship project which focuses on removal of the remaining Internal Market barriers. The objective of the cooperation with other authorities and services is to tailor the advice and services available on the PSC to allow as smooth a business establishment and as short an administrative processing time as possible.

Widespread collaboration is also seen in Czech Republic where the PSCs cooperate with various authorities, e.g. financial offices, health insurance offices etc. Moreover, the PSCs cooperate with other information points for entrepreneurs and businesses, particularly the Contact Points of Chamber of Commerce of the Czech Republic and Enterprise Europe Network.

In Bulgaria, the PSC has carried out a number of promotion activities amongst the direct stakeholders, especially SMEs, cooperating with trade associations, industry associations and chambers. The aim of these activities is to increase knowledge about the PSC and thereby encourage Bulgarian and other EU SME service providers to be more confident in future cross border business activities and establishing new businesses.

In some MS the cooperation is backed up by various e-government structures. One example is found in Spain where a parallel process to establishing the PSC has been to define and develop a Governance scheme. The purpose of the Governance scheme has been to assure information maintenance and quality. The scheme is being developed from an approved federated Information System model, based on cooperation and responsibility of Competent Authorities for quality information. In the Netherlands the cooperation is also supported by e-governance: All relevant competent authorities are connected by two digital systems to the PSC: the message box and the Shared Catalogue. Competent authorities are legally obliged to have these connections with the PSC. These obligations are set in the Dutch implementing act (chapters 2 and 3 of the Services Act). The Shared Catalogue connects the information on different subjects (e.g. information on an authorisation scheme) on the website of the PSC directly to the relevant information on the website of the competent authorities, provided that the information is available on the website of the competent authority. In Hungary124 most of the competent authorities are linked in a browser (web based) mode. According to the case-handling workflow the administrative matters as such belong to the competent authorities while the PSC practically provides the front office for of the service provider.

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124 Written statement from: EU Economic Policy Department, Foreign Office.
Only very few MS report that the PSC has a more passive function, namely as a unit that passes on information to the relevant authorities without actively interacting in solving a specific case. **Austria**\(^{125}\) and **Malta** are found in the group of MS with this type of set-up.

### 3.3. Structure of PSCs

According to recital 48 of the Directive, the number of points of single contact per Member State may vary according to regional or local competencies or according to the activities concerned. Moreover, it is specified in the same place in the directive that the creation of points of single contact should not interfere with the allocation of functions among competent authorities within each national system. Where several authorities at regional or local level are competent, one of them may assume the role of point of single contact and coordinator.

The interviews carried out point to three groups of MS. The first group of MS have established PSC on regional level and combined it with a website that leads onto the different PSCs in the specific regions.

In **Germany** for example, the 16 federal states are ultimately responsible for establishing their own PSCs with physical offices. A federal website\(^{126}\) then links to the respective PSC in the Länder. **Austria**\(^{127}\) and **Poland**\(^{128}\) are examples of other MS that have made use of a similar structure.

The second group is made up of MS with only one PSC. The specific set-up in the MS varies from rather simple – one man one phone set-ups – to more e-governance supported set ups. An example of the latter is found in **Portugal**\(^{129}\) where a single platform which enables enterprises and service providers to obtain all necessary information from one single source simplifies processes but also increases transparency. The PSC displays information of Municipalities, Central Administration and Professional Orders and is based on cooperation with Central, Regional and Local Administration entities, as well as Professional Orders. At this stage, PSC includes licenses, authorisations and formalities of 57 municipalities, 32 Central, Regional and Local Administration entities and 8 Professional Orders.

The model enables direct access to all relevant information and is designed to match the needs of the user (instead of the internal organization of services). The set-up is designed to facilitate access to information, regardless of the competent administrative authority. Other MS in this group include amongst others **Denmark**, **Finland**, **the Netherlands**, **Luxembourg**, and **Sweden**\(^{130}\).

The last group consists of the MS which have not entirely committed to a specific structure. In **Ireland**\(^{131}\) for example, with the current set-up, there are no regional PSC. However, the possibility that regional PSCs will be established in the future has been put forward.

\(^{125}\) Website of Point of Single Contact Austria: http://www.eap.gv.at.

\(^{126}\) www.dienstleisten-leicht-gemacht.de

\(^{127}\) Website of Point of Single Contact Austria: http://www.eap.gv.at.

\(^{128}\) Written statement from: Expert for PSC, Department of Economic Regulations Ministry of Economy.

\(^{129}\) Written statement from: Expert for PSC, Directorate-General of Economic Activities, Ministry of Economy, Innovation and Development.

\(^{130}\) Interview: Deputy Director and Desk Office, Ministry of Foreign Affairs, Dept. for the EU internal market.

\(^{131}\) Interview with: Expert Internal Market Unit, Department of Enterprise, Trade and Innovation; Point of Single Contact Ireland, Internal Market Unit, Department of Enterprise Trade and Innovation, 2010, http://www.pointofsinglecontact.ie/.
3.4. Key findings

Most of the MS have established their PSC, with the exception of Slovenia and Romania. More than two-thirds of the MS based their PSC on an already existing structure, either an existing e-government portal, or networks of existing physical offices. Five MS created their PSC from scratch. The situation in Germany varies as PSCs are created at the Länder level.

The majority of the MS have PSCs that are essentially electronic. Nine MS run PSCs that are completely electronic, while 15 MS have both electronic PSCs and physical PSC offices. The relationship between the two elements vary; in some cases, the physical PSC works as a helpdesk to ensure that the electronic PSC functions properly, whereas in other cases the electronic PSCs function as additions to physical offices that offer advice and support to the companies.

The majority of the MS also provide the electronic PSC in other languages than the national language(s) - usually English and, in some cases, additional languages which are particularly relevant due to their specific situation. Member States that only provide information in their national languages are mostly English- or French-speaking, as well as a few of the new MS (several of which have plans to provide full or partial English language facilities).

In terms of the services provided (information vs. completion of procedures and formalities), only a minority of the MS provide information only. 14 MS provide for the completion of all procedures and formalities on-line, whereas another five provide for selected procedures to be completed on-line.

The main challenges encountered in relation to completion of procedures and formalities online include legal issues (delays in implementation of the Directive, specific constraints posed by legislative acts); technical issues such as interoperability and issues related to electronic signatures; co-operation issues that arise from the increased requirements for co-ordination and exchange of information between authorities; and issues relating to the need for promotion towards the "customers", in order to increase the use of the PSC by the service providers.

In the vast majority of the interviewed MS some kind of cooperation between the PSCs and other authorities is established, in cases required by law, or else established on a voluntary basis. Only a couple of MS report that the PSC has a more passive function, as a channel that simply passes on information to the relevant authorities without actively interacting in solving a specific case. One MS (Slovenia) reports that no co-operation takes place yet, since the PSC is not established.

As regards the regional-national set-up, there are three main groups of MS. The first group of MS have established PSCs at the regional level and combined it with a national website that leads onto the different PSCs in the regions. The second group is made up of MS with only one PSC (electronic, eventually supplemented by a physical office). The last group consists of the few MS which have not entirely committed to a specific structure.
4. Mutual assistance/administrative co-operation and mutual evaluation

According to Article 28 of the Services Directive, Member States shall put in place measures for effective cooperation with one another, in order to ensure the supervision of providers and the services provided by them. The aim of the regulation is to ensure effective supervision of service providers while at the same time securing that such supervision does not lead to additional and unjustified obstacles for service providers.

Within the Member States, competent authorities (CA) have to register for the exchange of information with each other as well as carrying out checks, inspections and investigations upon request. The CA have to alert other Member States in cases where service activities could cause serious damage to the health or safety of persons or to the environment (Alert mechanism, Article 32). In cooperation with the Member States, the Commission has established an electronic system for the exchange of information, the Internal Market Information system (IMI)\textsuperscript{132}, to support the Member States in complying with this requirement. IMI is a multilingual electronic tool for exchange of information between CAs national, regional and local level throughout the European Union (and Iceland, Liechtenstein and Norway). Currently IMI covers the Services Directive and the Professional Qualifications Directive. Since the Services Directive module of IMI became operational in December 2009, more than 5,000 CA have registered\textsuperscript{133}.

4.1. Mutual assistance/administrative cooperation

In the course of setting up the mutual assistance system the Member States have to make sure that sufficient CAs are registered and that training on the usage of the IMI is provided to the affected staff.

This section assesses the volume and content of the mutual assistance, the training of staff in the authorities as well as the role that IMI plays at the moment.

4.1.1. Volume and content of mutual assistance

Overall it can be stated that the participation of authorities in the mutual assistance through the IMI varies significantly between Member States. While Germany with more than 1,500 registered authorities contributes with almost one third of all registered authorities in the European Union, Member States like Italy (29) and France (243) have only registered a limited number of authorities compared to their size and economic powers.
### Table 5 Overview of the number of authorities registered in IMI per Member State for the Services Directive, status August 2010\(^\text{134}\)

<table>
<thead>
<tr>
<th>Member State</th>
<th>Number of authorities registered for Service Directive</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>52</td>
</tr>
<tr>
<td>Belgium</td>
<td>69</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>13</td>
</tr>
<tr>
<td>Cyprus</td>
<td>84</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>282</td>
</tr>
<tr>
<td>Denmark</td>
<td>21</td>
</tr>
<tr>
<td>Estonia</td>
<td>21</td>
</tr>
<tr>
<td>Finland</td>
<td>13</td>
</tr>
<tr>
<td>France</td>
<td>243</td>
</tr>
<tr>
<td>Germany</td>
<td>1571</td>
</tr>
<tr>
<td>Greece</td>
<td>124</td>
</tr>
<tr>
<td>Hungary</td>
<td>64</td>
</tr>
<tr>
<td>Ireland</td>
<td>9</td>
</tr>
<tr>
<td>Italy</td>
<td>29</td>
</tr>
<tr>
<td>Latvia</td>
<td>38</td>
</tr>
<tr>
<td>Lithuania</td>
<td>72</td>
</tr>
<tr>
<td>Luxembourg</td>
<td>4</td>
</tr>
<tr>
<td>Malta</td>
<td>28</td>
</tr>
<tr>
<td>Netherlands</td>
<td>539</td>
</tr>
<tr>
<td>Poland</td>
<td>354</td>
</tr>
<tr>
<td>Portugal</td>
<td>141</td>
</tr>
<tr>
<td>Romania</td>
<td>32</td>
</tr>
<tr>
<td>Slovakia</td>
<td>8</td>
</tr>
<tr>
<td>Slovenia</td>
<td>12</td>
</tr>
<tr>
<td>Spain</td>
<td>792</td>
</tr>
<tr>
<td>Sweden</td>
<td>38</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>405</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>5058</strong></td>
</tr>
</tbody>
</table>

\(^{134}\) Statistics on the use of the IMI, EC, Internal Market Information System, August 2010.
Research on the time it takes to handle a request under the Service Directive in 2010 shows that 54.3% of all requests sent are answered within one week after receipt. Within eight weeks 92.6% of all requests are answered.

<table>
<thead>
<tr>
<th>January – August 2010</th>
<th>From “request sent” to “request answered”</th>
<th>%</th>
<th>Cumulative %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Same day</td>
<td>10</td>
<td>12,3</td>
<td>12,3</td>
</tr>
<tr>
<td>Within 3 days</td>
<td>17</td>
<td>21,0</td>
<td>33,3</td>
</tr>
<tr>
<td>Within 1 week</td>
<td>17</td>
<td>21,0</td>
<td>54,3</td>
</tr>
<tr>
<td>Within 2 weeks</td>
<td>13</td>
<td>16,0</td>
<td>70,4</td>
</tr>
<tr>
<td>Within 4 weeks</td>
<td>10</td>
<td>12,3</td>
<td>82,7</td>
</tr>
<tr>
<td>Within 8 weeks</td>
<td>8</td>
<td>9,9</td>
<td>92,6</td>
</tr>
<tr>
<td>More than 8 weeks</td>
<td>6</td>
<td>7,4</td>
<td>100,0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>81</strong></td>
<td><strong>100%</strong></td>
<td></td>
</tr>
</tbody>
</table>

The experiences of the MS studied in-depth for this study can be summarised as follows:

**France**\(^{136}\) has registered 243 authorities comprising professional organisations, ministries, local administrations and the chambers of commerce. Only a few exchanges have taken place so far, with most of the requests were sent to the prefecture-level authorities. The time frame is proposed by the requestor - he or she can propose a date of reply, and the authorities receiving the specific request have the obligation to reply within that specific time frame.

In **Germany**\(^{137}\) 1571 competent authorities have been registered for the mutual assistance in the IMI. Registered authorities include public authorities and institutions with a public mandate such as chambers. The number of exchanges of information having taken place so far is in the lower three-digit range. The reason given for this is the absence of situations in which the authorities need (or in which it would be helpful) to verify information on a business/individual provider with the CA of another Member State (cf. Section 4.1.3). Thus it can be inferred that the majority of authorities have so far had little contact to Service Providers from abroad.

In **Italy**\(^{138}\) 29 competent authorities have been registered within the IMI system. These are mainly ministries, regions and “Unioncamere” being the umbrella organisation of the chambers of commerce. No municipalities have been registered yet as these do not have legislative powers. So far, there were about 10 information requests, mostly regarding service providers. The exchange of information was successful, with an average time-frame for replying of 10 days.

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\(^{135}\) Statistics on the use of the IMI, EC, Internal Market Information System, August 2010.  
\(^{136}\) Interview with: Head of Mission to the General Economic and Financial Audit, Ministère de l'Economie, de l'Industrie et de l'Emploi.  
\(^{137}\) Interview with the Head of Divisions “Service Industries”, Federal Ministry of Economics and Technology; Interview with the contact person at the national IMI coordinator (NIMIC), German Federal Office for Administrative Affairs  
\(^{138}\) Written statement from: Coordinator Service I, Dipartimento Politiche Comunitarie.
In **Luxembourg** as part of the module on the Services Directive, two\(^{139}\) competent authorities have been registered:

- Ministry of Small Firms and Traders, Tourism and Housing (authority having horizontal competences concerning services)
- Ministry of Economic Affairs and Foreign Trade (authority charged with the industrial sector).

In **Poland**\(^ {140}\), 427 authorities have access to the Internal Market System (IMI), of which 354 authorities are registered for the Services Directive (SD module). Most of the registered authorities in the SD module are municipalities from the local and regional level of the administrative structure (257 self-governmental authorities, i.e. Town/city halls, county and marshal offices). There are also a significant number of registered regional vocational chambers (around 60, e.g. chambers of architects, engineers, veterinarians) and many central governmental institutions (ministries, central offices for inspection and surveillance).

Competent authorities are being asked to register when there is an information request from an authority in another MS. In total, 20 requests for information were exchanged so far. Of these, 14 were addressed to Poland as recipient. The other requests have been used to exchange information about additional data to complete other requests. Most of the exchanges have been successful – i.e. in most cases, the enquirer received the information that he requested. However, in some cases, the requested information did not fall within the competencies of the authority to which the request was addressed. The time frame for replying varies from a few days to several weeks, depending on how complex and extensive (number of questions and files) the requested information is.

In **Portugal**\(^ {141}\), 141 authorities are already registered, but the list is not complete yet. With regards to Central Administration bodies, 10 authorities have been registered while it is estimated that 8 are still pending registration. Additionally, a total of 103 out of 308 municipalities have been enrolled, and 10 out of 11 Professional Associations have also been subject to registration. Four of these associations were directly involved in the Services Directive and the discussion process which took place during the drafting of national law. Lastly, the process has been concluded at the Regional Administrative level with a total of 19 authorities, of which 11 pertain to the Autonomous Region of Madeira and 8 to the Region of Azores.

No exchanges of information making use of the IMI have taken place so far. Up until this point, only "fictional cases" have been drafted in the pilot phase and with the sole purpose of testing the system.

### 4.1.2. The Internal Market Information System

It is evident from the data provided above on the use of the IMI that, since the IMI "Service Directive module" only went operational in December 2009, the exchange of information is still at a very low level. This does not allow for a sound analysis of the successes, challenges and effectiveness of the system. First responses from the involved authorities are however positive and the standardized questionnaire was explicitly mentioned by one interviewee as a good tool for the cross border exchange of information between authorities.

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\(^{139}\) Deviation from number of 4 CA according to „Statistics on the use of the IMI, EC, Internal Market Information System, August 2010“ could not be clarified as Luxembourg only provided its information just before this study went to print.

\(^{140}\) Written statement from: Expert for PSC, Department of Economic Regulations Ministry of Economy.

\(^{141}\) Written statement from: Expert for PSC, Directorate-General of Economic Activities, Ministry of Economy, Innovation and Development.
According to the results of an IMI user survey\textsuperscript{142}, carried out from 3 to 18 June 2010, in which 1,292 IMI user participated, 87.7\% of all users had so far not experienced situations in which they would need (or in which it would be helpful) to verify information on a business/individual provider with the CA of another Member State. Additionally, 83.2\% of all respondents had not had a case in which they would need to use IMI (although they would use it when there was a case). From January to August 2010 the total number of requests sent and received with regards to the Service Directive amounts to 112\textsuperscript{143}, with Germany accounting for almost half of all requests sent (46)\textsuperscript{144}.

\textsuperscript{142} “Response statistics for Questionnaire to SD authorities”, EC, Internal Market Information System, 2010.
\textsuperscript{143} The deviation of this figure from the “81 requests answered” (cf. table 6) might be explained by the fact that not all sent and received request had already been answered by the time of preparation of the statistics.
\textsuperscript{144} Statistics on the use of the IMI, EC, Internal Market Information System, August 2010.
## Table 7 Total number of requests sent, January – August 2010 per MS\textsuperscript{145}

<table>
<thead>
<tr>
<th>MS sending request\textsuperscript{146}</th>
<th>Number of requests sent</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Germany</td>
<td>46</td>
<td>41%</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>18</td>
<td>16%</td>
</tr>
<tr>
<td>Austria</td>
<td>9</td>
<td>8%</td>
</tr>
<tr>
<td>Spain</td>
<td>8</td>
<td>7%</td>
</tr>
<tr>
<td>Hungary</td>
<td>8</td>
<td>7%</td>
</tr>
<tr>
<td>Poland</td>
<td>6</td>
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\textsuperscript{145} Statistics on the use of the IMI, EC, Internal Market Information System, August 2010.

\textsuperscript{146} Sorted descending by number of request sent.
Given the limited use of the system, the interviewed MS had few comments:

In **Germany**\(^{147}\), based on the experiences to date, no problems and barriers have been reported. Especially the standardized questionnaire for the cooperation between authorities across borders is welcomed by the registered authorities and will certainly be refined in the future.

In **France**\(^{148}\) no technical problems have been reported relating to the system.

In **Italy** the IMI system has been used only experimentally so far. The regions are waiting for the system to become fully operational and would like to use it\(^{149}\). No problems or barriers have been encountered.\(^{150}\)

In **Poland**\(^{151}\) the IMI system has not been used much either. However, this low frequency is not founded in any problems or barriers with the system, since none have been encountered. It is rather due to the fact that there is no actual need for requesting information.

In **Portugal**\(^{152}\) the IMI is not yet in effective use either. Portuguese competent authorities have not been approached with requests for further clarifications from authorities of other Member States, neither have they approached authorities from other EU countries. Due to this, no particular problems or barriers could be identified.

4.1.3. **Training of officials**

All investigated Member States have conducted several types of training with regards to IMI, ranging from individual training of all affected staff to “training of trainers” (disseminators) as well as the development of online tools. The training sessions are generally rated as a success, allowing the trained staff to make effective use of IMI. Additional training is either planned, provided upon request or offered as a permanent online tool.

In **Germany**\(^{153}\) representatives of the Länder have been trained as disseminators for their administrations. The training was mostly concerned with the technical aspects of the IMI system, starting with a basic tool which was then supplemented with extra modules on issues such as the “alert mechanism”. The training has received good feedback and no serious problems or issues have been reported back to the National IMI Coordinator. Currently no new training sessions are planned but they will be provided if needed or in case of major changes to the IMI system.

In **France**\(^{154}\) training sessions were organized in 2009 for officials in charge of the implementation. About 100 officials were trained at the national level. Currently, training
for officials at the regional level is being planned. The training provided focused on the legal aspects of the Directive and on technical issues of the IMI system.

In **Italy** the Department for the Coordination of EU Politics (Dipartimento Politiche Comunitarie) is acting as the ‘trainer’ for the various responsible authorities. At the time of this study one seminar and almost 40 training meetings (users of one competent authority at each session) have taken place successfully. The focus of the training was on technical issues, access to the network workflow and completion of the architecture of the national IMI system. Further training is regarded as being necessary and will be planned. As an example of the regional level, for the region Marche the training took place in March 2010, where four regional civil servants participated and learned about the architecture and capabilities of the IMI system.

**Poland** organised two training sessions for IMI users in 2009. The first training session was intended to train users from competent authorities which were involved in the pilot project. In total 37 persons from 26 institutions were trained. The second training session intended to train local and regional institutions which are responsible for the registration of economic activity.

The training agenda consisted of the following topics:

- Services Directive and the IMI system – basic information
- How to use the IMI system (logging in, search mechanism, sending and receiving requests, data administration, role of the DIMIC in the workflow, self registration)
- Alert mechanism – theory

The training sessions have been evaluated in 101 questionnaires and received an overall positive reaction. Due to the fact that the system is developing and expanding, more training will be necessary. The curricula of additional training will most likely differ from the above mentioned outline. As human resources are limited, Poland decided to design online training, which will be available on a dedicated website for all users as well as competent and interested institutions. The online training programme is expected to be finalised at the end of October 2010 and available by mid-November.

**Portugal** has participated in initiatives involving both training and exchanges of officials. These have occurred both at the level of the central public administration, as well as at the regional level. In particular, a total of five workshops focusing on the operationalisation of the IMI and the PSC were organised. Of these, four workshops (two in 2009, and two in 2010) had a more general nature and focused on the implementation of the Services Directive. Additional workshops targeting the municipalities were organised according to a regional division of the country into five areas. Based on this regional distribution all the municipalities and other regional authorities, associations and other relevant regional stakeholders were invited to take part in a workshop held to explain the usefulness of IMI. Additionally, participation in these events was also seen to further help explaining the purpose of the national administrative reform and focus on the simplification of processes. Even though not all municipalities participated, the coordinating authority considered that these workshops were very useful, and that there was a high degree of interest demonstrated by the participants.

Lastly, training and exchanges of officials were also organised in cooperation with the competent authorities in the region of Galicia (Spain). In 2009, three workshops organised focused on the north of Portugal and Galicia, aiming at the economic operators, service

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155 Written statement from: Coordinator Service I, Dipartimento Politiche Comunitarie.  
156 Interview with: Head of Commerce and Consumer Protection, Region Marche.  
157 Written statement from: Expert for PSC, Department of Economic Regulations Ministry of Economy.  
providers and stakeholders of both regions. The thematic focus was the IMI, PSC and the Services Directive in general terms. A supplementary workshop was also organised in Portugal (Porto) in 2010.

All registered CA in Sweden\(^{159}\) have received information and training on IMI prior to registration. Furthermore, several of the CA have attended the Commission’s training events and have received the Commission’s information sheets. No exchanges of officials between authorities have taken place in Sweden. New training events are deemed necessary and have already been scheduled.

4.2. **Mutual evaluation**

The mutual evaluation is foreseen in Article 39 of the Service Directive and further explained in reason 74: “The mutual evaluation process means that during the transposition period Member States will first have to conduct a screening of their legislation (…). At the latest by the end of the transposition period, Member States should draw up a report on the results of this screening. Each report will be submitted to all other Member States and interested parties. Member States will then have six months in which to submit their observations on these reports. (…)”

In addition to this open process the Member States have engaged, together with the European Commission, in small working groups of five Member States each, mutually evaluating a number of the reviewed national measures, covering the main or central outcomes of the screening of legislation as reported to the European Commission.

All investigated Member States took part in the mutual evaluation. The work in the smaller working groups of five Member States was regarded as an interesting possibility to exchange and share information about how the Services Directive was implemented in other MS. The impact of this mutual evaluation on the actual implementation of the Services Directive was however rather small as most of the adaptations of legislation had taken place before the evaluation process was initiated. Nevertheless, some Member States used the opportunity to discuss legal uncertainties or pending transposition issues with the other working group members and took advantage of the different experiences.

From January until May 2010 **Germany\(^{160}\)** took part in a small group together with Poland, Denmark, Norway and Ireland. The group discussed the papers on mutual evaluation handed in by each Member State. It was discussed which and why certain requirements were still in force. The group met several times and prepared a report which was then discussed in a plenary session in Brussels with the other Member States. Discussions are still going on until October 2010. The mutual evaluation was however assessed as not contributing to the better implementation of the Services Directive as this task had already been completed with before the evaluation took place.

**France\(^{161}\)** has been involved very extensively in the mutual evaluation. There has been participation in a small working group with Belgium, the Netherlands, Lichtenstein and Luxembourg to prepare the mutual evaluation organised by the Commission in March 2010. France took part in the four meetings in Brussels and has examined requirements relating to Article 15, 16 and 25.

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159 Regeringens proposition (2008/09:287) om genomförandet av Tjänstedirektivet
Italy also participated actively in the peer review process, in cooperation with the Regions. The latter were also part of the Italian delegation in Brussels. The peer review process was considered as very useful to examine different regulatory approaches, even if they relate to local situations, different political and socio-economic contexts. Extensive discussions took place with regard to retail sales in the market, companies and tour guides. The comparison was assessed as useful to study in depth the screening on Article 16, both at national and regional levels.\textsuperscript{162}

The assessment from Luxembourg\textsuperscript{163} on the mutual evaluation procedures is that it has allowed a better understanding of the regulation in force concerning the services in other Member States. This transparency has helped to identify certain similarities concerning services. However, considering regulatory traditions and national particularities a real benefit for a process of transposition cannot yet be attributed to the mutual evaluation.

In Portugal\textsuperscript{164} the process of mutual evaluation was considered as very useful particularly when the sectoral modifications were being drafted. The process of mutual evaluation enabled the exchange of information with other member states and allowed to discuss problems and respective solutions that were being contemplated.

4.3. Key findings

The participation of authorities in the mutual assistance through the IMI varies significantly between Member States and can overall be assessed as low. As 28.6\% of all respondents of the IMI user survey\textsuperscript{165} were not aware of, or not sure about, what the obligation to exchange information with CA of other Member States in case of questions about service providers meant for their work, an increase in the use of IMI can be expected once more users of IMI are aware of and familiar with the usage possibilities of the system.

The training that has been conducted by and for the officials in the Member States with regards to IMI is generally rated as a success, allowing the trained staff to make effective use of IMI.

Due to the short time that has passed since the IMI “Services Directive module” became operational, the frequency of exchange of information is still limited. A sound analysis of the functioning of the system does not seem to be reasonable until the system has been operational for at least one year. Nevertheless it can be noted that the first responses from the involved authorities are positive and an increase in the number of registered authorities as well as number of exchanges of information can be expected.

The mutual evaluation gave the opportunity for some Member States to discuss some open issues in a broader forum. Overall, the evaluation does not seem to have had a big effect on the transposition of the Services Directive, mainly because of the timing - most of the adaptations of legislation had taken place before the evaluation process was initiated.

\textsuperscript{162} Written statement from: Coordinator Service I, Dipartimento Politiche Comunitarie.
\textsuperscript{163} Written statement from: Rédacteur principal, Direction du marché intérieur et de la consommation, Ministère de l’Economie et du Commerce extérieur.
\textsuperscript{164} Written statement from: Expert for PSC, Directorate-General of Economic Activities, Ministry of Economy, Innovation and Development
\textsuperscript{165} See above
5. **Member State experiences with the scope of the Directive**

In Article 2 of the Services Directive certain activities are explicitly excluded from the scope of the directive. Furthermore, in Article 3 it is stipulated that “if the provisions of this Directive conflict with a provision of another Community act governing specific aspects of access to or exercise of a service activity in specific sectors or for specific professions, the provision of the other Community act shall prevail and shall apply to those specific sectors or professions.”

The following section presents the experiences that Member States have made with regard to these two Articles, based on the in-depth interviews with selected Member States.

### 5.1. Exemptions (Article 2) and Relationship between the Directive and other Community law provisions (Article 3)

The majority of interviewees from the Member State as well as the desk research indicated that no major problems have occurred during the implementation of the Service Directive with regards to its scope and the relation to other Community acts.

The issue most frequently reported was the relationship between the Services Directive and the Directive on the recognition of professional qualifications (2005/36/EC). This was mentioned by several Member States like **France, Italy, Poland and Sweden** as a point of discussion throughout the implementation process, as both to a certain extent cover the same areas regarding provision of services in certain sectors.

**France**¹⁶⁶ encountered several questions concerning the relationship between the Services Directive and the directive on professional qualifications. There was also a debate about the interpretation of Article 2.2j. of the Services Directive and the interpretation of the word “mandated by the State”. This article refers to social services that are provided by the state or by other providers that are assigned by the state to fulfil specific social services. The word “mandate” is not legally defined in French law. The French government has thus organised a specific mission (workshops) to clarify the interpretation of this article. It was concluded that a mandate is a decision/law or other public instrument (e.g. public services contract, delegation of public services) that entrusts a private service provider with the provision to execute a distinct social service. An authorisation scheme cannot therefore constitute by itself a mandate as referred to in Article 2.2j.

In **Germany**¹⁶⁷ no general problems were encountered with regards to the scope of the Directive. As with many legislative acts there have been discussions about the interpretation of the provisions, but no major problems occurred. The labour unions had concerns that the labour and social law would fall under the scope of the Service Directive and that as a result wage dumping could become an issue. In the implementation of the Services Directive however this did not play a role as the labour and social law is excluded from its scope.

In **Italy**, in the context of the exemptions provided for in Article 2, no particular problems were encountered neither at national level nor at the level of the two interviewed regions.

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¹⁶⁷ Interview with the Head of Divisions “Service Industries”, Federal Ministry of Economics and Technology.
Marche and Abruzzi\textsuperscript{168}. Regarding the relationship with other Community law provisions (Art. 3), Italy considers it necessary to study in-depth the relations between the Services Directive and Directive 2005/36/EC on the recognition of professional qualifications.

\textbf{Poland}\textsuperscript{169} experienced problems during the screening process with the understanding of the exemptions listed in Article 2. In particular, Article 2, 2b, 2d and 2j were in focus. With respect to Article 3, the relationship between the Services Directive and the Directive on recognition of professional qualifications caused significant problems as the professional qualifications Directive has great influence on the scope of implementation of the Services Directive.

In \textbf{Portugal}\textsuperscript{170} there were some discussions with regards to the scope of the Directive, namely concerning activities such as Services of General Economic Interest (SGEI). This category of services is covered by the Directive with regards only to the establishment and not the provision of cross-border services. However, applicable rules differ from country to country and can thus complicate the process of either drafting of legislation or its implementation. For example in the area of education (in Portugal both public and private universities co-exist), there was a discussion of whether these activities should be considered as a SGEI or a non-economic service of general interest. This area was covered by the concepts applicable in the national horizontal law, but the debate regarding the different classifications of some service activities among the Member States should be further developed.

In \textbf{Sweden}\textsuperscript{171} no significant problems with the scope of the directive have been encountered. As in most of the other interviewed MS, to the extent that issues of doubt did occur, it has mainly concerned the relationship between the professional qualifications Directive and the Services Directive.

\section*{5.2. Key findings}

Overall it can be stated that Member States did not encounter significant problems with regards to the scope and the relationship with other community law provisions when implementing the Service Directive.

The most controversy has been about the demarcation between the Services Directive and the Directive on recognition of professional qualifications. However, in none of the consulted Member States has the implementation of the Services Directive into the national legislation been hampered because of these delimitation issues.

\textsuperscript{168} Written statement from: Coordinator Service I, Dipartimento Politiche Comunitarie, excerpt from interviews with Head of Service “EU affairs and inter-institutional cooperation”, Region Abruzzi and Head of Commerce and Consumer Protection, Region Marche.

\textsuperscript{169} Written statement from: Expert for PSC, Department of Economic Regulations Ministry of Economy.

\textsuperscript{170} Written statement from: Expert for PSC, Directorate-General of Economic Activities, Ministry of Economy, Innovation and Development.

\textsuperscript{171} Regeringens proposition (2008/09:287) om genomförandet av Tjänstedirektivet
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References (both websites and documents) are listed by country:

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- Regierungsvorlage zum Bundesgesetz über die Erbringung von Dienstleistungen (Dienstleistungsgesetz – DLG), Federal Chancellery Austria, 2009.
- Materialien zur Regierungsvorlage zum Bundesgesetz über die Erbringung von Dienstleistungen (Dienstleistungsgesetz – DLG), Federal Chancellery Austria, 2009.
- Paper on mutual evaluation_Austria, Federal Chancellery Austria, 2009.
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**France**


**Germany**

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- Summary of screening of Art. 15 reports (maintained requirements) – GERMANY; provided by Federal Ministry of Economics and Technology, 2010.
- Summary of screening of Art. 25 reports (maintained requirements) - GERMANY; provided by Federal Ministry of Economics and Technology, 2010.
Implementation of the Services Directive

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- Mini-Emailsurvey amongst all 16 Länder.

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- Point of Single Contact Ireland, Internal Market Unit, Department of Enterprise Trade and Innovation, 2010 http://www.pointofsinglecontact.ie/
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Italy
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Luxembourg


Poland

• Written answers received by Maja Janicka, Department of Economic Regulations, Ministry of Economy.


• Paper on mutual evaluation _ Poland, Government of the Republic of Poland, 2009/2010

Portugal


• Actividades de serviços reportadas em IPM – Directiva Serviços Associações Públicas Profissionais, Actualizado a 07/01/2010, Direcção-Geral das Actividades Económicas, , Ministério da Economia, da Inovação e do Desenvolvimento


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• Simplex website, Programme for Administrative and Legislative Simplification, [http://www.simplex.pt/english.html](http://www.simplex.pt/english.html)

Implementation of the Services Directive


Sweden


Non-Member State specific websites and documents

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<th>Position/Department</th>
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<tr>
<td>Austria</td>
<td>Alois Michner</td>
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<td>Ministry of Economics, Family and Youth</td>
<td>Telephone interview, 18 May 2010</td>
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<td>France</td>
<td>Marie-José Palasz</td>
<td>Head of Mission to the General Economic and Financial Audit</td>
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<td>Telephone interview, 25 August 2010. Additional information via email</td>
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<td>Federal Ministry of Economics and Technology</td>
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<td>Federal Ministry of Economics and Technology</td>
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<td>Birgit Frieler-Woll</td>
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<td>German Federal Office for Administrative Affairs</td>
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<td>Fedon Kaklamannis</td>
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<td>Eleni Kondyli</td>
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<td>Department of Enterprise, Trade and Innovation</td>
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<td>Coordinator Service I</td>
<td>Presidenza del Consiglio dei Ministri</td>
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<td>Gabriele Darin</td>
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<td>Presidenza del Consiglio dei Ministri</td>
<td>Follow-up questions via telephone.</td>
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<td>Mario Altavilla</td>
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<td>Unioncamere</td>
<td>No interview as contact had nothing to add to information received from Lidia Germani and Gabriele Darin.</td>
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<td>Italy</td>
<td>Elena Sico</td>
<td>Head of Service</td>
<td>Regione Abruzzo Servizio “Affari comunitari e cooperazione interistituzionale”</td>
<td>Contact provided written answers to questionnaire. Additional Interview, 7 September 2010.</td>
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<td>Italy</td>
<td>Pietro Talarico</td>
<td>Head of Commerce and Consumer Protection</td>
<td>Regione Marche Dirigente del Commercio e delle Politiche dei Consumatori</td>
<td>Telephone interview, 6 September 2010.</td>
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<td>Luxembourg</td>
<td>Marco Estanqueiro</td>
<td>Rédacteur principal</td>
<td>Direction du marché intérieur et de la consummation, Ministère de l’Economie et du Commerce extérieur</td>
<td>Contact provided written answers to questionnaire only.</td>
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<td>Poland</td>
<td>Maja Janicka</td>
<td>Expert for PSC</td>
<td>Department of Economic Regulations, Ministry of Economy</td>
<td>Contact provided written answers to questionnaire only. Several emails were exchanged.</td>
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<td>Ângelo Seiça Neves</td>
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<td>Directorate-General of Economic Activities, Ministry of Economy, Innovation and Development</td>
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<td>Ada Kerr</td>
<td>Expert for PSC</td>
<td>Ministry of Economy</td>
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<td>Maria Ramstedt</td>
<td>Deputy Director</td>
<td>Ministry of Foreign Affairs, Dept. for the EU internal market</td>
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<td>Anna Strandbacke</td>
<td>Desk Officer</td>
<td>Ministry of Foreign Affairs, Dept. of the EU internal market</td>
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# List of Member States consulted with questionnaire only

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<td>Belgium</td>
<td>Yes</td>
<td>Jean-Marie Van De Sande</td>
<td>Counsellor, Directorate-General Economic Potential,</td>
<td>FPS Economy, SMEs, self-employed and Energy</td>
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<td>Tzanka Tzankova</td>
<td>Senior expert Right of Establishment and Services</td>
<td>Technical Harmonization and Consumer Policy Directorate</td>
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<td>Kateřina Červinková</td>
<td>EU and Internal Market</td>
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<td>Laila Østergren</td>
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<td>Finland</td>
<td>Yes</td>
<td>Niina Alastalo</td>
<td>Senior Officer, DIMIC/ Services Directive</td>
<td>Consumer Agency &amp; Ombudsman</td>
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<tr>
<td>Latvia</td>
<td>Yes</td>
<td>Dainis Matulis</td>
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<td>Internal Market Department, Ministry of Economics, Republic of Latvia</td>
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<tr>
<td>Lithuania</td>
<td>Yes</td>
<td>Jolita van Otterlo</td>
<td>Head of Services Policy Division</td>
<td>Industry, Services and Trade Department, Ministry of Economy</td>
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<tr>
<td>Hungary</td>
<td>Yes</td>
<td>Imola Peresztegi-Nagy</td>
<td>EU Economic Policy Department</td>
<td>Foreign Office</td>
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<td>Malta</td>
<td>Yes</td>
<td>Anton Spiteri</td>
<td>Director of Enterprise Policy</td>
<td>Ministry of Finance, the Economy and Investment,</td>
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<tr>
<td>Netherlands</td>
<td>Yes</td>
<td>Kersti Vervloet</td>
<td>Senior Policy Advisor, Directorate-general for Energy,</td>
<td>Department for Competition and Consumer Policy</td>
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<td>Telecom and Markets</td>
<td>Ministry of Economic Affairs</td>
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<tr>
<td>Romania</td>
<td>Yes, but no information provided before</td>
<td>Rodica Lupu</td>
<td>Counsellor and Project Manager, European Law and</td>
<td>Department for European Affairs Romanian</td>
</tr>
<tr>
<td>Country</td>
<td>Response to questionnaire</td>
<td>Person</td>
<td>Position/Department</td>
<td>Organisation</td>
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<td>Slovakia</td>
<td>Yes</td>
<td>Richard Paule</td>
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<tr>
<td>Spain</td>
<td>Yes</td>
<td>María Fernández Pérez</td>
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<td>United Kingdom</td>
<td>No contact details provided</td>
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DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT
ECONOMIC AND SCIENTIFIC POLICY

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- Employment and Social Affairs
- Environment, Public Health and Food Safety
- Industry, Research and Energy
- Internal Market and Consumer Protection

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