



**2016/0403(COD)**

27.10.2017

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## **DRAFT REPORT**

on the proposal for a regulation of the European Parliament and of the Council introducing a European services e-card and related administrative facilities (COM(2016)0824 – C8-0014/2017 – 2016/0403(COD))

Committee on the Internal Market and Consumer Protection

Rapporteur: Anneleen Van Bossuyt

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▬ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council introducing a European services e-card and related administrative facilities (COM(2016)0824 – C8-0014/2017 – 2016/0403(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0824),
  - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0014/2017),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Austrian Federal Council and the German Bundestag, asserting that the draft legislative act does not comply with the principle of subsidiarity,
  - having regard to the opinion of the Economic and Social Committee of 31 May 2017,
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the report of the Committee on the Internal Market and Consumer Protection and the opinions of the Committee on Economic and Monetary Affairs, the Committee on Employment and Social Affairs, the Committee on Industry, Research and Energy and the Committee on Legal Affairs (A8-0000/2017),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

## Amendment 1

### Proposal for a regulation Recital 3 a (new)

*Text proposed by the Commission*

*Amendment*

***(3a) The host Member State should in the event of justified doubts, be able to ask the home Member State to re-verify the validity of documents required for the issuance of the European services e-card as laid down in Directive...[ESC Directive]...***

Or. en

#### *Justification*

*In order to build common trust between authorities, it is of key importance to ensure that the information and documents are reliable. For this purpose the rapporteurs suggest - (i) assigning clear responsibility to the home MS coordinating authority to verify that the information and documents provided by the applicant are accurate and valid, and (ii) giving right to the host MS, in the event of justified doubts, to ask the home Member State to re-verify the validity of documents.*

## Amendment 2

### Proposal for a regulation Recital 4 a (new)

*Text proposed by the Commission*

*Amendment*

***(4a) The European services e-card aims to provide administrative simplification and is a tool to help self-employed and companies to comply more easily with requirements. The e-card should be issued without prejudice to the authorisation schemes and national requirements of the Member State where the service is provided that may be imposed on businesses in compliance with Directive 2006/123/EC. The European services e-card should not legitimise unnecessary and disproportionate requirements that Member States should***

*already have removed in compliance with Directive 2006/123/EC.*

Or. en

*Justification*

*The e-card aims at administrative simplification. Requirements should be in line with the Services Directive.*

**Amendment 3**

**Proposal for a regulation**

**Recital 6**

*Text proposed by the Commission*

(6) Cross-border trade and cross-border investment in certain business ***and construction services are*** particularly low showing a potential for better integration of services markets with significant negative repercussions for the remaining part of the economy. This underperformance leads to situations where the potential for more growth and jobs in the Single Market has not been fully exploited.

*Amendment*

(6) Cross-border trade and cross-border investment in certain business ***is*** particularly low showing a potential for better integration of services markets with significant negative repercussions for the remaining part of the economy. This underperformance leads to situations where the potential for more growth and jobs in the Single Market has not been fully exploited.

Or. en

*Justification*

*The rapporteur proposes not to include construction services at this moment , but allows for the inclusion of construction services in the next phase*

**Amendment 4**

**Proposal for a regulation**

**Recital 7 a (new)**

*Text proposed by the Commission*

*Amendment*

***(7a) In order to complete the internal market for services, remaining obstacles need to be addressed, including by putting a stronger accent on the proper***

*implementation of Directive 2006/123/EC, in particular with regard to the implementation of Articles 14, 15 and 16 of Directive 2016/123/EC, and by making use of powers conferred on the Commission as set out in Article 41 of Directive 2006/123/EC.*

Or. en

*Justification*

*It is important for the good functioning of the internal market that the Services Directive is properly implemented*

**Amendment 5**

**Proposal for a regulation**

**Recital 10**

*Text proposed by the Commission*

(10) In so doing, this Regulation specifically targets business *and construction service* sectors included in scope of Directive ...[ESC Directive]... which face some of the most stringent regulatory and administrative barriers to cross-border expansion and consequently have an unexploited potential for internal market integration.

*Amendment*

(10) In so doing, this Regulation specifically targets business sectors included in scope of Directive ...[ESC Directive]... which face some of the most stringent regulatory and administrative barriers to cross-border expansion and consequently have an unexploited potential for internal market integration.

Or. en

*Justification*

*The rapporteur proposes not to include construction services at this moment, but allow for inclusion of construction services in the next phase*

**Amendment 6**

**Proposal for a regulation**

**Recital 13**



*Text proposed by the Commission*

(13) A European services e-card should be introduced as a voluntary alternative to service providers. Service providers should continue to enjoy the possibility of demonstrating compliance with applicable requirements when expanding operations across borders in the context of other authorisations and notifications introduced under the national law of the Member States concerned. A service provider should always be able to choose not to apply for a European services e-card.

*Amendment*

(13) A European services e-card should be introduced as a voluntary alternative to service providers. ***The European services e-card should be able to cover one or more service activities.*** Service providers should continue to enjoy the possibility of demonstrating compliance with applicable requirements when expanding operations across borders in the context of other authorisations and notifications introduced under the national law of the Member States concerned. A service provider should always be able to choose not to apply for a European services e-card.

Or. en

*Justification*

*Business providing more than one service should be able to cover multiple services in the e-card procedure.*

**Amendment 7**

**Proposal for a regulation**  
**Recital 13 a (new)**

*Text proposed by the Commission*

*Amendment*

***(13a) For the purposes of strengthening the internal market and promoting the free movement of services, the European services e-card should be developed as a tool to help self-employed persons and companies to comply more easily with the requirements and aims at providing administrative simplification. In particular, the European services e-card is designed to be an electronic certificate, resulting from a harmonised procedure, that proves that its holder is a service provider, legally established in the home Member State, and entitled, in that territory, to provide the service activities***

*in question, and that stipulates the right of its holder to start the provision of the services in question in the host Member State, without establishing there or through a branch, agency or office located therein, and to continue providing those services for as long as the European services e-card remains valid.*

Or. en

### *Justification*

*For the purpose of clarity this amendment is aligned with the definition of the services e card under article 2.*

## **Amendment 8**

### **Proposal for a regulation**

#### **Recital 14**

##### *Text proposed by the Commission*

(14) The European services e-card should be fully electronic, rely ***almost exclusively on data provided by reliable sources***, limit the use of documents to the minimum necessary and allow for multilingual processing to avoid translation costs. In order to make the procedure fully electronic and allow for administrative cooperation between home and host Member States. The Internal Market Information system set up by Regulation (EU) No 1024/2012 of the European Parliament and ***of the Council***<sup>22</sup> ***should be used under this Regulation***. A specific electronic platform should be developed for the purpose of issuing, updating, suspending, revoking or cancelling European services ***e-cards***, as well as to make valid European services ***e-cards*** electronically available to their holders and to competent authorities.

##### *Amendment*

(14) The European services e-card should be fully electronic, ***user-friendly***, rely ***on accurate information***, limit the use of documents to the minimum necessary and allow for multilingual processing to avoid translation costs. In order to make the procedure fully electronic and allow for administrative cooperation between home and host Member States. The ***functioning of the European services e-card should be supported by the*** Internal market Information System set up by Regulation (EU) No 1024/2012 of the /European Parliament and the Council, ***which has already shown a clear benefit in facilitating communications between competent authorities, in eliminating duplication of administrative work and creating more transparency for example with regard to the European Professional Card. However, in order to enable the European services e-card procedure to operate efficiently and to facilitate communication between European***

*services e-card applicants or holders and coordinating authorities in a user-friendly way, a specific electronic platform connected to IMI should be developed and used in accordance with this Regulation for the purpose of applying for, issuing, updating, suspending, revoking or cancelling European services e-cards, as well as to make valid European Services e-cards electronically available to their holders and to competent authorities. The European services e-card and the related workflow should ensure the integrity and confidentiality of the data stored. Service providers requesting the provision of multiple services in a host Member State should be allowed to apply for more than one service at the same time.*

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<sup>22</sup> Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC ( ‘the IMI Regulation’ ) (OJ L 316, 14.11.2012, p. 1)

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<sup>22</sup> Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC ( ‘the IMI Regulation’ ) (OJ L 316, 14.11.2012, p. 1)

Or. en

### *Justification*

*The IMI system, on which the e-card is based, has shown a clear benefit, for example with regard to the EPC. It is very important for the rapporteurs that the e-card procedure is user-friendly and that the integrity, authenticity and confidentiality of the data stored is protected.*

## **Amendment 9**

### **Proposal for a regulation Recital 16 a (new)**

*Text proposed by the Commission*

*Amendment*

*(16a) Those consultations should include in particular stakeholders from the sectors which fall under the scope of*

***this Regulation, including businesses and social partners from the construction sector.***

Or. en

### *Justification*

*If the Commission decides to extend the scope of the Directive/Regulation to include other sectors, it should be clear that the professionals of those sectors need to be consulted beforehand.*

## **Amendment 10**

### **Proposal for a regulation Recital 17**

#### *Text proposed by the Commission*

(17) During the implementation of this Regulation, Member States should inform and update the Commission of procedures imposed under national law on incoming cross-border providers wishing to provide services temporarily or through a branch, agency or office, including the information and documents to which those procedures pertain, to allow for the preparation of application forms. In order to ensure uniform implementation concerning the necessary information to be provided for the application of the European service e-card, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>23</sup>.

#### *Amendment*

(17) During the implementation of this Regulation, Member States should inform and update the Commission of procedures imposed under national law on incoming cross-border providers wishing to provide services temporarily or through a branch, agency or office, including the information and documents to which those procedures pertain, to allow for the preparation of application forms. In order to ensure uniform implementation concerning the necessary information to be provided for the application of the European service e-card, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>23</sup>. ***The application form should be based only on legitimate requirements and authorisation schemes in line with Directive 2006/123/EC. The inclusion of national requirements and authorisation schemes in the application forms should be without prejudice to the Commission's powers under the Treaty on the European Union and the Treaty on the Functioning of the European Union to ensure that***

*these requirements and schemes comply with Union law.*

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<sup>23</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13)

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<sup>23</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13)

Or. en

### *Justification*

*Requirements in the application form should be in line with the requirements laid down in the Services Directive.*

## **Amendment 11**

### **Proposal for a regulation Recital 21**

#### *Text proposed by the Commission*

(21) As regards the prior declaration that may be required *under* Article 9 of Directive 2014/67/EU of the European Parliament and of the Council<sup>25</sup>, the electronic platform connected to IMI should direct holders of a European services e-card to electronic national procedures put in place in the host Member State where the workers will be posted, wherever such national procedures allow for the electronic submission of the above-mentioned prior declaration.

#### *Amendment*

(21) As regards the prior declaration that may be required *pursuant to* Article 9 of Directive 2014/67/EU of the European Parliament and of the Council<sup>25</sup>, the electronic platform connected to IMI should direct holders of a European services e-card to electronic national procedures put in place in the host Member State where the workers will be posted, wherever such national procedures allow for the electronic submission of the above-mentioned prior declaration. *In order to facilitate the application of the ‘once only principle’ and to avoid the duplication of information by service providers, the electronic platform connected to IMI, used for the European services e-card procedure, should allow for interoperability with national registers by ensuring, where Member States have set*

*up electronic procedures, platforms and registers containing relevant information, a fully electronic procedure. This should be without prejudice to existing national procedures in this field.*

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<sup>25</sup> Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation') (OJ L 159, 28.5.2014, p. 11)

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<sup>25</sup> Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation') (OJ L 159, 28.5.2014, p. 11)

Or. en

#### *Justification*

*In order to facilitate administrative procedures and make the 'once only principle' effective, it is important to ensure interoperability between the electronic platform connected to IMI and the existing electronic procedures, platforms and registers in Member States that contain relevant information.*

## **Amendment 12**

### **Proposal for a regulation**

#### **Recital 25**

*Text proposed by the Commission*

*(25) Procedures for issuing, updating, suspending or revoking a European services e-card should make use of documents only in exceptional circumstances, when more detailed information is absolutely essential. In any case, all of such documents should be used and accepted in simple form.*

*Amendment*

*deleted*

Or. en

## Justification

*There is a need for balanced approach that allows at the same time greater use of electronic procedures and electronic forms, while ensuring that all data/ information in the system (electronic platform connected to IMI ) about service provider is accurate in order to facilitate understanding and trust among competent authorities and cooperation among them*

### Amendment 13

#### Proposal for a regulation

#### Recital 28

##### *Text proposed by the Commission*

(28) Member States are entitled to charge fees only to the extent of the specific costs borne to carry out the ***procedure. Costs borne already by the budget of the Union*** should ***not give rise to fees charged by*** Member States. Member States should communicate their fees charged to the Commission through IMI and ***publish such*** information. Given that IMI is in essence offering all necessary facilities, Member States should, inter alia, not charge fees to update, suspend, revoke or cancel a European services e-card. In order to ensure uniform implementation of the provisions on the payment of fees, implementing powers should be conferred on the Commission to adopt rules on payment modalities and processing. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.

##### *Amendment*

(28) Member States are entitled to charge fees only to the extent of the specific costs borne to carry out the ***already existing procedures. No fees should be added to the issuing of the European services e- card itself. Any fees which applicants incur in relation to administrative procedures to issue a European services e-card should be reasonable, proportionate and commensurate with the costs incurred by the home and host*** Member States ***and should not act as a disincentive to apply for a European services e-card.*** Member States should communicate their fees charged to the Commission through IMI and ***make that*** information ***publicly available.*** Given that IMI is in essence offering all necessary facilities, Member States should, inter alia, not charge fees to update, suspend, revoke or cancel a European services e-card. In order to ensure uniform implementation of the provisions on the payment of fees, implementing powers should be conferred on the Commission to adopt rules on payment modalities and processing. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.

Or. en

### *Justification*

*The issuing of the e-card should not bring extra costs to service providers. Fees charged by Member States should be indicated through IMI and should be made publicly available.*

## **Amendment 14**

### **Proposal for a regulation**

#### **Recital 30**

##### *Text proposed by the Commission*

(30) Service providers obliged to acquire professional liability insurance in Member States where they have not been active often have difficulty demonstrating their claims history regarding cover obtained elsewhere. Claims histories are an essential element to insurance distributors in ascertaining and assessing the risk profile of a potential client. Demonstration is difficult due to poor communication between insurance distributors across internal market borders but also to disparities in describing the track-record of an insured party, even within the same Member State. Insurance *distributors* and bodies appointed by a Member State to provide compulsory insurance cover should therefore be obliged to issue a statement relating to the third party liability claims which can then be used across borders and even domestically, should a service provider change insurance distributor.

##### *Amendment*

(30) Service providers obliged to acquire professional liability insurance in Member States where they have not been active often have difficulty demonstrating their claims history regarding cover obtained elsewhere. Claims histories are an essential element to insurance distributors in ascertaining and assessing the risk profile of a potential client. Demonstration is difficult due to poor communication between insurance distributors across internal market borders but also to disparities in describing the track-record of an insured party, even within the same Member State. Insurance *undertakings* and bodies appointed by a Member State to provide compulsory insurance cover should therefore be obliged to issue a statement relating to the third party liability claims which can then be used across borders and even domestically, should a service provider change insurance distributor.

Or. en

### *Justification*

*It is the insurance undertaking that provides/ issues an insurance certificate, and transmits it to the insurance distributor or to the applicant*

## **Amendment 15**

### **Proposal for a regulation**

#### **Recital 31**



*Text proposed by the Commission*

*Amendment*

**(31) In order to ensure uniform implementation of this Regulation in relation to the presentation of the description of liabilities, implementing powers to adopt rules on the standardised presentation format of that statement should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.**

**deleted**

Or. en

*Justification*

*The insurance statement should not be delivered in a standardised presentation format.*

## **Amendment 16**

### **Proposal for a regulation Recital 34 a (new)**

*Text proposed by the Commission*

*Amendment*

**(34a) Other service sectors, such as construction services, suffer from a similar low level of cross-border trade and cross-border investment, do not have sector-specific legislation to allow their cross-border expansion and are important for business as service recipients. It is important for the Commission to adapt the IMI to the [ESC Directive] and for the Member States to adopt measures to implement the European services e-card. In order to take account of these factors, the power to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of extending the scope of [the ESC Directive] to those other sectors at a later stage under**

*specific conditions.*

Or. en

*Justification*

*Clarification regarding the review clause, in particular the construction sector.*

**Amendment 17**

**Proposal for a regulation**

**Article 1 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***This Regulation is without prejudice to Union law on social issues, employment conditions, in particular posting of workers, workers' rights and the social pillar, health and safety and the protection of the environment. In particular, it does not affect safeguards under Union law in those areas.***

Or. en

*Justification*

*This Regulation does not touch upon existing legislation on social and environmental issues, employment, posting, health and safety.*

**Amendment 18**

**Proposal for a regulation**

**Article 2 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. This Regulation applies to the services listed in ***the*** Annex of Directive [ESC Directive].

1. This Regulation applies to the services listed in Annex ***I*** of Directive [ESC Directive].

Or. en

*Justification*

*This amendment is necessary in case the proposal to create an annex Ia is adopted. This amendment applies throughout the Regulation.*

**Amendment 19**

**Proposal for a regulation**

**Article 2 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***Ia. By [24 months after the date for transposition of ESC Directive] the Commission is empowered to adopt delegated acts in accordance with Article 18 of Directive [ESC Directive] in order to amend Annex I of Directive [ESC Directive] to include any of the sectors listed in Annex Ia of Directive [ESC Directive]. The Commission may decide to use this power if the following cumulative conditions are met:***

***(a) the services in question are entirely covered by Directive 2006/123/EC;***

***(b) despite the legislation, the sector continues to show a lack of internal market integration, particularly as regards small and medium-sized service providers and there is potential for further single market integration shown by the fact that very few service providers in the sector provide services cross-border or sets up a secondary establishment; and***

***(c) the sector represents an important level of economic activities. This may be shown by the fact that it accounts for a significant percentage of the GDP of the Union.***

Or. en

*Justification*

*The Regulation includes a series of business services. Other sectors also suffer from a lack of internal market integration. As this e-card is a new tool that will require adaptation of the*

*IMI and of national procedures, it is proposed to not include them all at this stage but to allow the Commission to extend the scope of this Regulation in a second stage, if deemed necessary.*

## **Amendment 20**

### **Proposal for a regulation**

#### **Article 2 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

This Regulation does not affect *the matters mentioned in Article 1(2) to (7) of* Directive 2006/123/EC.

*Amendment*

This Regulation does not affect Directive 2006/123/EC. ***It shall not have any impact on the regulatory requirements for the provision of services that are in place at national level, such as rules concerning social protection, consumer rights, health and safety or the environment. It does therefore not introduce the country of origin principle.***

Or. en

#### *Justification*

*This amendment clarifies that the Regulation has no impact on the level of requirements that Member States have set in their national legislation for the provision of services.*

## **Amendment 21**

### **Proposal for a regulation**

#### **Article 2 – paragraph 2 – subparagraph 2**

*Text proposed by the Commission*

It shall not apply to the activities and fields mentioned in Article 2(2) and (3) of Directive 2006/123/EC.

*Amendment*

It shall not apply to the activities and fields mentioned in Article 2(2) and (3) of Directive 2006/123/EC ***or to information society services.***

Or. en

#### *Justification*

*e-Commerce should be excluded from the scope of this Regulation. The e-Commerce Directive should not be re-opened.*

## Amendment 22

### Proposal for a regulation

#### Article 2 – paragraph 3 – subparagraph 2

*Text proposed by the Commission*

This Regulation, in particular its Chapter III, shall be without prejudice to the rights of workers, the obligations of service providers and related controls in Member States laid down in Directives 96/71/EC and 2014/67/EU.

*Amendment*

This Regulation, in particular its Chapter III, shall be without prejudice to the rights of workers, the obligations of service providers and related controls in Member States laid down in Directives 96/71/EC and 2014/67/EU ***concerning the posting of workers, including the posting of workers who are third country nationals.***

Or. en

*Justification*

*This Regulation does not change existing rules on posting of workers, also when they are posted from a country outside the EU.*

## Amendment 23

### Proposal for a regulation

#### Article 3 – paragraph 1 – point -1 (new)

*Text proposed by the Commission*

*Amendment*

***-1. “European services e-card”:  
means an electronic certificate, resulting from a harmonised procedure, proving that its holder is a service provider legally established in the home Member State, entitled, in that territory, to provide the service activities in question, as well as stipulating the right of its holder to start provision of the services in question in the host Member State, without establishing there or through a branch, agency or office located therein, as the case may be, and to continue such provision, for as long as it remains valid***

*Justification*

*For the purpose of the clarity this amendment provides for the definition of the services e card*

**Amendment 24**

**Proposal for a regulation**

**Article 3 – paragraph 1 – point 10**

*Text proposed by the Commission*

*Amendment*

10. "service" *shall mean* a service as defined in Article 4(1) of Directive 2006/123/EC;

10. "service" *means* a service as defined in Article 4(1) of Directive 2006/123/EC;

Or. en

*Justification*

*Linguistic amendment*

**Amendment 25**

**Proposal for a regulation**

**Article 3 – paragraph 1 – point 11**

*Text proposed by the Commission*

*Amendment*

11. "provider" *shall mean* a provider as defined in Article 4(2) of Directive 2006/123/EC;

11. "provider" *means* a provider as defined in Article 4(2) of Directive 2006/123/EC;

Or. en

*Justification*

*Linguistic amendment*

**Amendment 26**

**Proposal for a regulation**

**Article 3 – paragraph 1 – point 14**

*Text proposed by the Commission*

*Amendment*

14. "home Member State" means the Member State *to which a provider addressed the application for a European services e-card*;

14. "home Member State" means the Member State *where the service provider is established in accordance with the laws of that Member State, has registered office and performs its substantial business activity*;

Or. en

*Justification*

*Clarification of the term 'home Member State' to create legal certainty and avoid abuse.*

**Amendment 27**

**Proposal for a regulation**

**Article 3 – paragraph 1 – point 18 a (new)**

*Text proposed by the Commission*

*Amendment*

**18a. "information society services" means services as defined in Article 1(1)(b) of Directive (EU) 2015/1535 of the European Parliament and of the Council<sup>1a</sup>;**

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<sup>1a</sup> **Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).**

Or. en

*Justification*

*New definition*

## Amendment 28

### Proposal for a regulation

#### Article 3 – paragraph 1 – point 19 a (new)

*Text proposed by the Commission*

*Amendment*

**19a. "insurance undertaking" means an undertaking as defined in point (1) of Article 13 of Directive 2009/138/EC of the European Parliament and of the Council<sup>1a</sup>;**

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**<sup>1a</sup> Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1).**

Or. en

#### *Justification*

*New definition because of the introduction of the term insurance undertaking.*

## Amendment 29

### Proposal for a regulation

#### Article 4 – paragraph 1a (new)

*Text proposed by the Commission*

*Amendment*

**1a. The right to provide services in the host Member State referred to in the preceding subparagraph shall be without prejudice to the following requirements on the provider outside the procedure to issue a European services e-card:**

**(a) requirements imposed in the context of selection procedures of candidates for authorisation schemes limited in number or for the provision of services under a public contract, a design contest or a concession;**



- (b) *requirements imposed in the context of controls concerning a specific site where the service is to be provided;*
- (c) *requirements regarding recognition of professional qualifications as provided for by Articles 4 and 4f of Directive 2005/36/EC, without prejudice to Chapter III of this Regulation;*
- (d) *disclosure requirements for limited liability companies as provided for by Article 2 of Directive 2009/101/EC and Article 2 of Directive 89/666/EEC or requirements imposed by national rules on registration of foreign branches under company law;*
- (e) *requirements regarding free movement of persons and their residence in the context of provision of a service;*
- (f) *requirements covered by Directives 96/71/EC and 2014/67/EU, as well as requirements relating to posting of workers who are third country nationals, without prejudice to Chapter III of this Regulation;*
- (g) *requirements covered by Regulation (EC) 883/2004.*

Or. en

#### *Justification*

*In order to create legal certainty, a new subparagraph was added, listing requirements from other EU legislation that will remain untouched by the Services e-Card Regulation/Directive.*

### **Amendment 30**

#### **Proposal for a regulation**

#### **Article 4 – paragraph 1 – subparagraph 3 – introductory part**

*Text proposed by the Commission*

The standard form shall consist of the following *elements*:

*Amendment*

The standard form shall consist of the following:

Or. en

*Justification*

*Information to be provided for the purpose of an application must be indicated in the most accurate and precise manner. Amendments to article 4 paragraph 1 subparagraph 3 put forward such precision*

**Amendment 31**

**Proposal for a regulation**

**Article 4 – paragraph 1 – subparagraph 3 – point a**

*Text proposed by the Commission*

(a) *identification of the* provider, including, where applicable, registration numbers in central, commercial or company registers and for tax and social security purposes;

*Amendment*

(a) *information about the service* provider, including, where applicable, *nationality of the service provider, country of establishment*, registration numbers in central, commercial or company registers and for tax and social security purposes;

Or. en

*Justification*

*The standard form shall contain information that allows for a clear identification of the services provider*

**Amendment 32**

**Proposal for a regulation**

**Article 4 – paragraph 1 – subparagraph 3 – point a a (new)**

*Text proposed by the Commission*

*Amendment*

(aa) *service activities provided in the country of establishment;*

Or. en

*Justification*

*The standard form shall contain information about the activities provided by the applicant in the country of establishment/ home Member State*

## Amendment 33

### Proposal for a regulation

#### Article 4 – paragraph 1 – subparagraph 3 – point b

*Text proposed by the Commission*

(b) identification of the service **activity**, the host Member State, the type of European services e-card envisaged;

*Amendment*

(b) identification of the service **activities that the applicant envisages to provide**, the host Member State **where the applicant intends to provide services**, the type of European services e-card envisaged;

Or. en

#### *Justification*

*The standard form shall contain information about the activities envisaged by the applicant and the Member State (host) where the applicant envisages to provide them*

## Amendment 34

### Proposal for a regulation

#### Article 4 – paragraph 1 – subparagraph 3 – point c

*Text proposed by the Commission*

(c) **indication whether provision of information society services are envisaged;**

*Amendment*

**deleted**

Or. en

#### *Justification*

*The rapporteurs would like to exclude the information society services from the scope.*

## Amendment 35

### Proposal for a regulation

#### Article 4 – paragraph 1 – subparagraph 3 – point d

*Text proposed by the Commission*

(d) **information pertaining to**

*Amendment*

(d) **proof of** establishment of the

establishment of the provider in the home Member State in relation to the service **activity** identified in accordance with (b), including the date of initial establishment and identification of other Member States of establishment;

provider in the home Member State in relation to the service **activities** identified in accordance with (b), including the date of initial establishment and identification of other Member States of establishment;

Or. en

#### *Justification*

*Information to be provided for the purpose of an application must be indicated in the most accurate and precise manner. This amendment clarifies that the standard form shall contain proof of establishment*

### **Amendment 36**

#### **Proposal for a regulation**

##### **Article 4 – paragraph 1 – subparagraph 3 – point h**

###### *Text proposed by the Commission*

(h) a reference to previously issued European services e-cards for the same provider and service **activity** as identified in accordance with (a) and (b).

###### *Amendment*

(h) a reference to previously issued European services e-cards for the same provider and service **activities** as identified in accordance with (a) and (b).

Or. en

#### *Justification*

*Multiple service activities can be issued by the e-card procedure*

### **Amendment 37**

#### **Proposal for a regulation**

##### **Article 4 – paragraph 3 – introductory part**

###### *Text proposed by the Commission*

3. The Commission is empowered to adopt delegated acts in accordance with Article 15 in order to further specify:

###### *Amendment*

3. The Commission is empowered to adopt **after consulting relevant stakeholders** delegated acts in accordance with Article 15 in order to further specify:

*Justification*

*The adoption of delegated acts by the Commission will always be done in consultation with the sectors involved.*

**Amendment 38****Proposal for a regulation  
Article 4 – paragraph 4***Text proposed by the Commission*

4. Member States shall provide *to* the Commission with all information on the procedural steps related to requirements imposed on providers for the provision of services through a branch, agency or office and for temporary cross-border provision of service activities falling under Directive ...[ESC Directive]....., necessary for the development of the standard application forms, describing the information and documents the presentation of which is required under national law of the provider in relation to all applicable requirements, through IMI by [9 months after entry into force of this Regulation] to the extent that the information was not contained in the notification of the requirement itself already submitted under Articles 15(7) and 39(5) of Directive 2006/123/EC.

*Amendment*

4. Member States shall provide the Commission with all information on the procedural steps related to requirements imposed on providers for the provision of services through a branch, agency or office and for temporary cross-border provision of service activities falling under Directive ...[ESC Directive]....., necessary for the development of the standard application forms, describing the information and documents the presentation of which is required under national law of the provider in relation to all applicable requirements, through IMI by [9 months after entry into force of this Regulation] to the extent that the information was not contained in the notification of the requirement itself already submitted under Articles 15(7) and 39(5) of Directive 2006/123/EC. ***The inclusion of national requirements and authorisation schemes in the application forms shall be without prejudice to the Commission's powers under the Treaty of the European Union and the Treaty on the Functioning of the European Union to ensure that these requirements and schemes comply with Union law.***

Or. en

*Justification*

*It should be avoided at all times that the requirements set out in the application form are not in line with Union Law (e.g. the Services Directive).*

**Amendment 39**

**Proposal for a regulation**

**Article 5 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

The insurance distributor or the body appointed by a Member State to provide compulsory insurance shall provide the certificate to the applicant upon request.

*Amendment*

The insurance ***undertaking*** distributor or the body appointed by a Member State to provide compulsory insurance shall provide the certificate to the ***insurance distributor or to the*** applicant upon request. ***The insurance distributor shall hand the certificate over to the applicant.***

Or. en

*Justification*

*It is the insurance undertaking that provides/ issues a compulsory insurance certificate, and transmits it to the insurance distributor or to the applicant.*

**Amendment 40**

**Proposal for a regulation**

**Article 5 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

***The Commission may adopt a harmonised format for the insurance certificate as referred to in the second subparagraph of paragraph 1 by means of an implementing act.***

*Amendment*

***deleted***

Or. en

*Justification*

*This amendment deletes the provision on introducing/setting a standardised format for the insurance certificate. The different elements needed to create such a certificate differ too*

*much between countries. A standardised format risks to be incomplete or to be too extensive to serve as proof of insurance.*

#### **Amendment 41**

##### **Proposal for a regulation**

##### **Article 5 – paragraph 2 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

*Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16(2).*      *deleted*

Or. en

##### *Justification*

*Alignment with amendment deleting the standardised format for the insurance certificate*

#### **Amendment 42**

##### **Proposal for a regulation**

##### **Article 6 – title**

*Text proposed by the Commission*

*Amendment*

Formalities for *seconded* staff

Formalities for *secondment of* staff

Or. en

##### *Justification*

*linguistic amendment*

#### **Amendment 43**

##### **Proposal for a regulation**

##### **Article 6 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

Providers who hold a European services e-card may submit a declaration in advance as referred to in Article 7 of Directive

Providers who hold a European services e-card may submit a declaration in advance as referred to in Article 7 of Directive

2005/36/EC in relation to the professional qualifications of the staff they intend to second to the host Member State, in connection with *the* service activity for which the e-card applies, to the competent authority in the host Member State as defined in point (ii) of Article 3(18) of this Regulation, through an electronic platform connected to IMI.

2005/36/EC in relation to the professional qualifications of the staff they intend to second to the host Member State, in connection with *a* service activity for which the e-card applies, to the competent authority in the host Member State as defined in point (ii) of Article 3(18) of this Regulation, through an electronic platform connected to IMI.

Or. en

*Justification*

*Multiple service activities can be issued by the e-card procedure*

**Amendment 44**

**Proposal for a regulation**

**Article 6 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

Providers who hold a European services e-card and intend to post workers in connection with *the* service activity in question to a host Member State shall submit any declaration pursuant to Article 9 of Directive 2014/67/EU following the procedures established by Member States to that effect.

*Amendment*

Providers who hold a European services e-card and intend to post workers in connection with *a* service activity in question to a host Member State shall submit any declaration pursuant to Article 9 of Directive 2014/67/EU following the procedures established by Member States to that effect.

Or. en

*Justification*

*Multiple service activities can be issued by the e-card procedure*

**Amendment 45**

**Proposal for a regulation**

**Article 6 – paragraph 2 – subparagraph 2**

*Text proposed by the Commission*

Where Member States have set up

*Amendment*

Where Member States have set up



procedures that allow for the declaration relating to the posting of workers pursuant to Article 9 of Directive 2014/67/EU to be completed by electronic means, the electronic platform connected to IMI referred to in paragraph 1 shall direct the *card* holder to the relevant national procedures.

procedures that allow for the declaration relating to the posting of workers pursuant to Article 9 of Directive 2014/67/EU to be completed by electronic means, the electronic platform connected to IMI referred to in paragraph 1 shall direct the *European services e-card* holder to the relevant national procedures.

Or. en

### *Justification*

#### *Clarification*

### **Amendment 46**

#### **Proposal for a regulation**

#### **Article 6 – paragraph 3 – subparagraph 1**

##### *Text proposed by the Commission*

Providers who hold a European services e-card may also submit a declaration pursuant to Article 9 of Directive 2014/67/EU, relating to the workers that they intend to post to the host Member State in connection with *the* service activity for which the card applies, to the competent authority in the host Member State as defined in Article 2(a) of Directive 2014/67/EU through the electronic platform connected to IMI referred to in paragraph 1 where a host Member State has communicated to the Commission that this possibility should apply for the posting of workers in its territory.

##### *Amendment*

Providers who hold a European services e-card may also submit a declaration pursuant to Article 9 of Directive 2014/67/EU, relating to the workers that they intend to post to the host Member State in connection with *a* service activity for which the card applies, to the competent authority in the host Member State as defined in Article 2(a) of Directive 2014/67/EU through the electronic platform connected to IMI referred to in paragraph 1 where a host Member State has communicated to the Commission that this possibility should apply for the posting of workers in its territory.

Or. en

### *Justification*

*Multiple service activities can be issued by the e-card procedure*

## Amendment 47

### Proposal for a regulation

#### Article 8 – paragraph 1 – subparagraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***The electronic platform connected to IMI, used for the European services e-card procedure, shall allow for interoperability with national registers by ensuring a fully electronic procedure where Member States have set up electronic procedures, platforms and registers containing relevant information. This shall be without prejudice to existing national procedures.***

Or. en

*Justification*

*In order to facilitate administrative procedures and make the ‘once only principle’ effective, it is important to ensure interoperability between the electronic platform connected to IMI and the existing electronic procedures, platforms and registers in Member States that contain relevant information.*

## Amendment 48

### Proposal for a regulation

#### Article 8 – paragraph 3

*Text proposed by the Commission*

*Amendment*

3. The coordinating authorities of Member States shall inform the public about the functioning and the value added of the European services e-card and the formalities for secondment of staff and movement of self-employed in accordance with Articles 6(1) and 7.

3. The coordinating authorities of Member States shall inform the public about the functioning and the value added of the European services e-card and the formalities for secondment of staff and movement of self-employed in accordance with Articles 6(1) and 7. ***Member States shall actively promote awareness of the European services e-card among service providers and their customers.***

Or. en

*Justification*

*Obligation on the Member States to raise awareness of the e-card.*

**Amendment 49**

**Proposal for a regulation**

**Article 10 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

Any fees charged in the context of a procedure to issue a European services e-card shall be reasonable and proportionate and shall not exceed the cost directly ensuing from the specific work related to the procedure.

*Amendment*

Any fees charged in the context of a procedure to issue a European services e-card ***shall not exceed the accumulated fees of the existing procedures, and*** shall be reasonable and proportionate and shall not exceed the cost directly ensuing from the specific work related to the procedure.

Or. en

*Justification*

*No extra costs should be charged to service providers for the issuing of the e-card.*

**Amendment 50**

**Proposal for a regulation**

**Article 11 – paragraph 1**

*Text proposed by the Commission*

1. An insurance ***distributor*** shall issue, within 15 days of receiving a request to this effect from the policyholder, a statement concerning the third party liability claims related to his activities covered by the contract of professional liability insurance, during the preceding years of the contractual relationship up to a maximum of 5 years, or to the absence of such claims, describing the liabilities arising from provision of the services in question which were the object of a claim.

*Amendment*

1. An insurance ***undertaking*** shall issue, within 15 days of receiving a request to this effect from the policyholder, a statement concerning the third party liability claims related to his activities covered by the contract of professional liability insurance, during the preceding years of the contractual relationship up to a maximum of 5 years, or to the absence of such claims, describing the liabilities arising from provision of the services in question which were the object of a claim.

Or. en

*Justification*

*It is the insurance undertaking that issues a compulsory insurance certificate, and transmits it to the insurance distributor or to the applicant.*

**Amendment 51**

**Proposal for a regulation**

**Article 11 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

*The Commission may adopt rules on the standardised presentation format of the statement referred to in paragraph 1 by means of implementing acts.*                      *deleted*

Or. en

*Justification*

*This amendment deletes the provision on introducing/setting a standardised format for the insurance statement*

**Amendment 52**

**Proposal for a regulation**

**Article 11 – paragraph 2 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

*Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16(2).*                      *deleted*

Or. en

*Justification*

*Alignment with amendment deleting the standardised format for the insurance statement*

**Amendment 53**

**Proposal for a regulation**

**Article 12 – title**

*Text proposed by the Commission*

*Amendment*

Obligations for insurance **distributors**

Obligations for insurance **undertakings**

Or. en

*Justification*

*It is the insurance undertaking that provides/ issues a compulsory insurance certificate, and transmits it to the insurance distributor or to the applicant.*

## **Amendment 54**

### **Proposal for a regulation Article 12 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

Insurance **distributors** and bodies appointed by a Member State to provide compulsory insurance shall duly take into account in the acceptance policy and in the calculation of premiums, in a non-discriminatory manner, the experience of the provider as reflected in the claims statement issued in accordance with Article 11, as presented by the provider.

Insurance **undertakings** and bodies appointed by a Member State to provide compulsory insurance shall duly take into account in the acceptance policy and in the calculation of premiums, in a non-discriminatory manner, the experience of the provider as reflected in the claims statement issued in accordance with Article 11, as presented by the provider.

Or. en

*Justification*

*It is the insurance undertaking that issues a compulsory insurance certificate, and transmits it to the insurance distributor or to the applicant.*

## **Amendment 55**

### **Proposal for a regulation Article 18 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

The Commission, with Member States, social partners and other relevant stakeholders, will establish monitoring

The Commission, with Member States, social partners and other relevant stakeholders, will establish monitoring

arrangements to monitor the implementation and the impacts of this Regulation, in particular its impacts on the freedom of establishment and freedom to provide services across Member States for the services covered, with regard to costs for providers of expanding operations cross-border, enhancing transparency about cross-border providers, increasing competition and how it impacts prices and quality of those services concerned, considering relevant indicators.

arrangements to monitor the implementation and the impacts of this Regulation, in particular its impacts on the freedom of establishment and freedom to provide services across Member States for the services covered, with regard to costs for providers of expanding operations cross-border, **combatting fraud**, enhancing transparency about cross-border providers, increasing competition and how it impacts prices and quality of those services concerned, considering relevant indicators.

Or. en

### *Justification*

*The inclusion of combatting fraud, when monitoring the impact of this legislation.*

## **Amendment 56**

### **Proposal for a regulation Article 19 – paragraph 1**

#### *Text proposed by the Commission*

By **60 months** after entry into force of this Regulation and at the latest every five years thereafter, the Commission shall carry out an evaluation of this Regulation and submit to the European Parliament and the Council a report on its performance, including an analysis of the impact on administrative burden incurred upon by service providers active across borders. This report shall also include an assessment of any practical experience relevant to cooperation between coordinating authorities. **This** report shall **contain an assessment** of the **appropriateness of introducing a European services e-card for other service activities**. It shall contain an evaluation of Directive .....[ESC Directive]...in line with its Article 21.

#### *Amendment*

By [**two years** after entry into force of this Regulation] and at the latest every five years thereafter, the Commission shall carry out an evaluation of this Regulation and submit to the European Parliament and the Council a report on its performance, including an analysis of the impact on administrative burden incurred upon by service providers active across borders. This report shall also include an assessment of any practical experience relevant to cooperation between coordinating authorities. **That** report shall **consider the need to extend the scope** of the **Directive and Regulation to services not covered in Annex I to [ESC Directive], in particular construction services**. It shall contain an evaluation of Directive .....[ESC Directive]...in line with its Article 21.

*Justification*

*The rapporteur suggests a review by 2 years after the entry into force of the Regulation and shall take into account the extension of the scope to other sectors, as listed in the new Annex Ia to the Directive.*

**Amendment 57****Proposal for a regulation  
Article 19 – paragraph 2***Text proposed by the Commission*

The Commission shall, as part of the report provided for in paragraph 1 of Article 24 of Directive 2014/67/EU, assess whether and to what extent the electronic platform connected to IMI referred to in Article 6 of this Regulation could facilitate compliance with formalities necessary for the posting of workers pursuant to Article 9 of Directive 2014/67/EU. That assessment shall take account of the experience of Member States that may have opted for making use of the electronic platform connected to IMI pursuant to paragraph 3 of Article 6 of this Regulation.

*Amendment*

The Commission shall, as part of the report provided for in paragraph 1 of Article 24 of Directive 2014/67/EU, assess whether and to what extent the electronic platform connected to IMI referred to in Article 6 of this Regulation could facilitate compliance with formalities necessary for the posting of workers pursuant to Article 9 of Directive 2014/67/EU. That assessment shall take account of the experience of Member States that may have opted for making use of the electronic platform connected to IMI pursuant to paragraph 3 of Article 6 of this Regulation. ***This shall be without prejudice to existing national procedures.***

Or. en

*Justification*

*Member States will always retain their own national procedures such as for example the Limosa system in Belgium or the Rut system in Denmark.*

## **EXPLANATORY STATEMENT**

### **A single market for big businesses only?**

In the Monti report on “A new strategy for the single market” of May 2010, the former Commissioner explains that:

“The single market and its four freedoms embody an ideal: that of a space across national boundaries within which citizens can move, work, do research or start up a business without any discrimination. As the single market grew in scope and size, it was felt that this was not always the case. Market opening would widen the horizons for big business, but would not work for the many and the small: citizens, consumers, or SMEs”.

### **Who can really benefit from our single market in the services sector today?**

Too often, only big businesses. A big Italian company can spend money to hire a Latvian speaker to open a new office in Riga, a small enterprise cannot. British multinationals can afford sub-contracting a law firm to know what rules they will have to face should they manage to get a contract in the Czech Republic or to deal with the sanctions they can get if they applied some of the rules wrongly. A French global company can pay flight tickets and hotels to allow an employee to be physically present on behalf of the company to carry out all related administrative work in Croatia.

A large Danish enterprise will have enough cashflow to cover the long period of times before their requests are processed, and possibly accepted, by Germany. Big Swedish economic players can pay to prepare an application and gather all supporting documents requested and certifications required and cope with the requirements to provide the same document repeatedly or to declare their employees several times.

### **What about 99% of all other businesses in the EU?**

This is not an easy reality to face, but this is what has to be learned from the many reports on the implementation of the Services Directive. We can ignore these facts and let only big businesses benefit from the single market or we can act to make sure that the single market is not only a technocratic tool but a reality for our citizens and companies.

SMEs are not always the most vocal due to their size, nature and limited resources, but they are certainly the companies that have the most to gain with these proposals for a European Services e-Card (ESC).

Some already well-established economic players have managed to find their way in this existing regulatory maze; and some national authorities are reluctant to finally make the leap from words to deeds by implementing the Services Directive. But the particular interest of our SMEs and the European general interest is clearly to move forward and give them access to our single market by addressing remaining obstacles, and by putting a stronger accent on the proper implementation of the Services Directive.



The ESC will bring concrete answers to all these real-life problems that small companies face and that is why your Rapporteurs support the Commission initiative.

## **Separating facts from fiction**

### **The current legal framework will not change**

Even though several organisations welcome this initiative, your Rapporteurs are aware of concerns raised by some other stakeholders. It is worth recalling that the Directive and the Regulation do not affect the Services Directive. Notably, Article 10 of the Directive states that Member States will keep their right to invoke overriding reasons of public interest. The proposals do not pertain either to labour law, including social security and health and safety, nor to posting controls (see Articles 2 of both proposed ESC Directive and Regulation).

The e-card procedure will not change anything in relation to the requirements stemming from other legislations, such as the Professional qualification Directive. For instance, if the information provided under Article 7 of this Directive has to be resubmitted annually, this will still be the case after the entry into force of the ESC.

The claim that the proposals would introduce the country of origin principle is not founded. The analysis of the proposals shows that most of the risks identified by the different actors can be answered via a clarification of the text. It is also worth noting that most comments on the proposals did not reveal actual diverging views between the Commission and the stakeholders on several provisions but rather potential risks in case of incorrect interpretation. Your Rapporteurs have therefore clarified the text where needed.

### **Member States will have better control over their market**

The e-card will help fighting against letterbox companies, fraudulent activities and bogus self-employment, as:

- It includes a prior check of actual establishment by the home Member State (Article 11 of the proposed Directive), a type of control which does not exist today and which will make it more difficult for shell companies to expand cross-border. Moreover the host Member State, in cases of doubt, may request a re-verification of information about the service provider applying for the services e- card,
- Labour inspectorates will be able to make use of the information contained in the e-card in the course of their inspection activities.

The principle of tacit approval already exists in the context of the Professional Qualification Directive (Vergnaud Report, S&D). This principle is key to make sure that deadlines are respected and that small companies can take the risk to trade outside of their national borders. Member States that do not stick to the rules of the single market should not be rewarded for doing so.

This will of course not prevent Member States to control their market. They remain free to ask any clarifications they deem necessary from the home Member State and the service

provider at any time during this period. Such requests will suspend the deadline until they have been resolved.

## **More certainty to stakeholders and more ambition to the proposals**

Your Rapporteurs have decided to focus their draft report on political issues. Additionally, there are a certain number of technical mistakes in the Commission proposal that they intend to correct in the amendment phase.

### **Clarifications for businesses, Member States and social partners**

The absolute voluntary nature of the e-card is more precisely defined in the draft report to make sure that Member States cannot force a company to have an e-card if it wants to continue to work under the current procedures. The decision to suspend or revoke a card should be proportionate. However, this decision will stem directly from the decision of a Member State to ban temporarily or permanently a company to provide services on its territory. It is therefore appropriate to recall that the latter decision should respect the principle of proportionality.

It also clarifies that Member States can carry out all controls and verifications laid down by national law in accordance with the Services Directive. There was also a need to make clear that existing databases covering the sectors falling within the scope of this Directive, such as Limosa in Belgium or RUT in Denmark, should continue to exist in the form they do today. In order to facilitate administrative procedures and make the 'once only principle' effective, it is important to enable interoperability between the electronic platform connected to IMI and the existing electronic procedures, platforms and registers in Member States that contain relevant information.

To clarify the text to stakeholders, the draft reports add new paragraphs in the enabling part of the Directive and the Regulation which underline the absence of impact of these texts on the current legislative framework. This was also the decision made in the Services Directive. Your Rapporteurs believe that this will give assurance that the new provisions will not endanger any of the existing workers' rights.

### **A clear ambition for the single market**

Your Rapporteurs have listened to criticisms expressed by the construction sector and the arguments related to the specific nature of this industry. They have therefore decided to exclude them from the scope of this Directive at this stage.

However, it is important to introduce a system which allows the Commission under the control of the Parliament and the Council to include them in the scope at a later stage if it continues to show a lack of internal market integration, especially for the more specialised construction services (e.g. in the area of energy efficiency). A series of other sectors are also listed in a new annex which could also benefit from the e-card at a later stage. This responds to concerns expressed by some stakeholders related to the limited scope of the original commission proposal.

The Commission will not have a free hand when deciding to include other services in the

scope. It will have to prove that a particular sector continues to show a lack of internal market integration and that it represents an important level of economic activity. If the Commission decides to extend the scope of the Directive/Regulation to include other sectors, it should be clear that the professionals of those sectors need to be consulted beforehand. Finally, under the delegated act procedure, the European Parliament will have the possibility to object to the Commission in case it does not agree with the Commission's decision.