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# Introducing a European services e-card

Cross-border provision of services in the EU is relatively common, and is undertaken by an increasing number of entities, especially in sectors such as construction and business. Despite this fact, many service-providers still face obstacles to benefitting from comparable business opportunities available to local persons and organisations.

The proposed regulation and accompanying directive aim to tackle these remaining obstacles through the introduction of a European services e-card, meant to increase and simplify cooperation between home and host Member States, as well as through the simplification of the procedures applicable to cross-border service-providers.

The proposal drew a mixed response: stakeholders generally welcomed the Commission's efforts to remove existing barriers; however, they raised concerns about possible undesirable consequences that the new proposal might trigger, such as reduced control opportunities, and increases in bogus self-employment and social dumping. These views were shared by a number of national parliaments.

#### Proposal for a Regulation of the European Parliament and of the Council introducing a European services e-card and related administrative facilities

#### Proposal for a Directive of the European Parliament and of the Council on the legal and operational framework of the European services e-card introduced by [ESC Regulation]

COM(2016) 823, COM(2016) 824, 25.1.2017, 2016/0402(COD), 2016/0403(COD), Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')

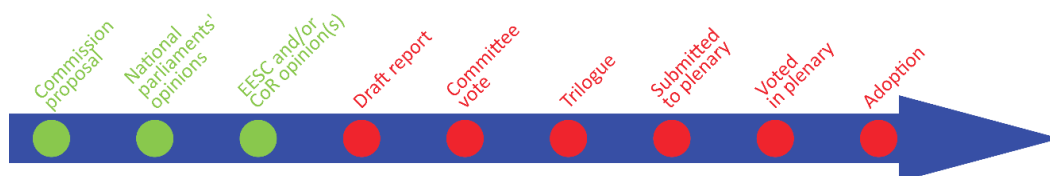
Committee responsible:	Internal Market and Consumer Protection (IMCO)
Rapporteur (regulation):	Anneleen Van Bossuyt (ECR, Belgium)
Rapporteur (directive):	Morten Løkkegaard (ALDE, Denmark)
Next steps expected:	Publication of draft reports

10 October 2017

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The 'EU Legislation in Progress' briefings are updated at key stages throughout the legislative procedure.

Please note this document has been designed for on-line viewing.



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## Introduction

On 10 January 2017, the European Commission published a legislative proposal for a [regulation](#) aimed at introducing a European services e-card (henceforth referred to as the 'services e-card'), to enhance cooperation between home and host Member States as well as to simplify the procedures applicable to service-providers operating across borders. On request, the home Member State authorities would issue service-providers a services passport as proof that they fulfil the requirements applicable in the host Member State in which they wish to provide their services. The host Member States would remain responsible for defining the requirements in compliance with the relevant EU provisions. According to the Commission, tackling these remaining obstacles to the cross-border provision of services will help to strengthen competition, resulting in more choice and better prices for consumers, while also boosting innovation. The proposal for a regulation was presented together with one for a directive on the legal and operational framework of the European services e-card. The directive would regulate, among other things, the eligibility criteria, the competences of the home and host Member States, the validity of the services e-card and the conditions for its revocation or suspension.

## Context

The proposal for a services e-card is part of the services package put together by the Commission for the purpose of implementing the [Single market strategy](#). This package includes, in addition to the above-mentioned regulation and directive, a proposal for a [directive](#) on a notification procedure and a proposal for a directive on a proportionality test.

## Existing situation

Cross-border provision of services in the EU is relatively common, especially in sectors such as construction and business, and the number of entities providing such services has increased significantly in recent years. Cross-border workers, to whom posting certificates were issued for one or several Member States, increased by about 64 % between 2010 and 2015, which corresponds to more than 2.05 million postings in 2015.

The [Services Directive](#), adopted in 2006, set general provisions with the objective of facilitating the establishment of service-providers and their ability to offer cross-border services in the single market. The directive has stimulated a number of reforms across Member States, adding an estimated 0.9 % to EU GDP over a period of 10 years. The Services Directive provides a balanced legal framework to achieve the above objective, and ensures that national regulation is non-discriminatory, justified and proportionate to meet public-interest objectives. In addition, it requires Member States to reduce administrative obstacles that dissuade service-providers from operating across borders.

However, obstacles to increased single market integration still exist in a number of important services sectors, such as that for certain business services and the construction sector, where service-providers often have difficulty benefiting from business opportunities in other Member States. Service-providers, notably SMEs trying to establish a permanent presence in another Member State or to provide temporary cross-border services, regularly find it difficult to understand which rules to apply and how. Administrative formalities



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in another Member State are habitually complicated and costly for service-providers to complete. As a consequence, these face multiple and disproportionate compliance costs when operating across borders.

Matters of relevance to cross-border workers are also regulated by EU provisions on social issues, employment conditions (in particular posting of workers, workers' rights and the social pillar), health and safety, and environmental protection (such as the provisions on the posting of workers under Directives [96/71/EC](#) and [2014/67/EU](#), the social security coordination provisions, and those laid out in [Regulation \(EU\) 2016/1191](#) on promoting the free movement of citizens).

## Parliament's starting position

In its [resolution](#) of 25 February 2016 on single market governance (rapporteur: Catherine Stihler, S&D, UK), the European Parliament:

- > welcomed the Commission's plans to consider an initiative for a services passport<sup>1</sup> and for a harmonised notification form, provided that this initiative would lead to greater transparency regarding the powers of cross-border service-providers, and would also cut red tape and reduce administrative burdens;
- > emphasised that any such initiative should not lead to the introduction of the 'country of origin' principle;<sup>2</sup> and
- > considered the services passport to be a temporary solution intended for use during a transition process towards a fully integrated single market.

Similar views were presented in the Parliament's [resolution](#) on the Single market strategy, of 26 May 2016 (rapporteur: Lara Comi, ALDE, Italy).

## Council & European Council starting position

The initiative to enhance the development of cross-border services markets was supported by the Competitiveness Council in its [conclusions](#) of 29 February 2016 on the Single market strategy, and by the European Council in its [conclusions](#) of 28 June 2016. The latter underlined that 'delivering a deeper and fairer Single Market will be instrumental in creating new jobs, promoting productivity and ensuring an attractive climate for investment and innovation'.

1 Services passport was the initial name of the services e-card.

2 In the context of the Services Directive, the [country of origin principle](#) means that a company offering its services in another Member State would operate according to the rules and regulations of its home country. Some countries and trade unions fear that this would lead to a 'race to the bottom', with companies relocating to countries with lower wages and the weakest consumer, environmental protection, employment and health and safety rules.



## Proposal

### Preparation of the proposal

In its [Single market strategy](#) adopted on 28 October 2015, the Commission announced a series of actions to make the single market without borders for services a reality. The objective was to make it easier for service-providers to pursue new business opportunities while guaranteeing quality services for consumers.

In preparing the proposal on the services e-card, the Commission carried out an [evaluation](#) of the Services Directive. This evaluation revealed that the implementation of the Services Directive has been only partially effective. Despite having generated additional growth through Member State reforms, it has not succeeded in removing a considerable number of barriers facing service-providers in key services sectors (such as business services and construction).

The Commission launched various analyses and consultations to collect information on the remaining obstacles to a fully functioning single market for services. These focused mainly on the practical effects of the provisions on the ground. Furthermore, stakeholder workshops were organised as part of the [Single market forum](#) in 2014, 2015 and 2016.

On 2 May 2016, the Commission launched an online public [consultation](#) on the proposal, aimed at introducing the idea of the services passport to stakeholders (service-providers and business-services customers). The consultation gathered further views from stakeholders, as well as first-hand experience regarding the barriers, which still remain, to the cross-border provision of services in certain sectors in the EU.

The results of these activities confirmed that unfounded or inconsistent requirements still persist at national level, causing difficulties for both the providers and the recipients of services in the single market. The majority of stakeholders stressed the need to address the remaining barriers to cross-border provision of services and to facilitate access to insurance coverage. Moreover, they pointed out the need to respect the EU's *acquis* in the area of social affairs, employment, health and safety, and the environment, as well as to pursue an ambitious enforcement policy (for more details, see section on stakeholders' views below). In this context, the Commission adopted a comprehensive [enforcement package](#) in November 2016, to address the disproportionate restrictions on services introduced in nine Member States.

In its [response](#) to the Parliament's resolution of 25 February 2016, the Commission welcomed the recommendations made in it as a whole. The Commission considered them to be in line with many aspects of its policy and its priority actions under the Single market strategy, as well as its 2015 Single market integration and competitiveness [report](#). In its response, the Commission highlighted that:

- > it is working to reduce the number of restrictions on products and services, which remains high in many EU Member States;
- > improving the functioning of product and services markets is essential to renewing the EU's economic fabric and to ensuring that EU companies adapt and successfully integrate in increasingly global value chains; and



- > bringing in more integrated and competitive markets for products and services in the Member States is one of the priorities of the European Semester.

When drawing up the services e-card initiative, the Commission carried out an [impact assessment](#). The individual policy options considered were grouped into four ‘packages’, which were then examined in turn. The second of these packages was singled out as the most appropriate; it envisaged an EU-level procedure affording service-providers easier access to cross-border markets, and addressed obstacles related to insurance in cross-border situations. This package, which forms the basis of the current proposal, was expected to lead to increased legal certainty and cost-savings for prospective cross-border service providers. It was also likely to generate an increase in market dynamics and competition levels, thereby increasing choice and value added for consumers.

## The changes the proposal would bring

The services e-card is aimed at reducing administrative complexity for service-providers wanting to expand their activities to other Member States. Possession of the card would be voluntary, but would be a hallmark for compliance with the applicable national rules.

The services e-card would allow service-providers to use a fully electronic EU-level procedure for handling the formalities involved when expanding abroad. In addition to being offered greater legal certainty, holders of the services e-card would also face less red tape, meaning they would no longer have to fill in disparate forms in foreign languages or worry about translating, certifying and authenticating documents, or about following intricate non-electronic procedures.

In a first stage, the services e-card would apply to business and construction services, to the extent that these already fall under the Services Directive. The Member States would implement the proposed legislation by appointing or establishing a coordinating authority to cover each sector.

In the case of temporary provision of services, the application for a services e-card would have to be presented to the relevant coordinating authority in the home Member State. This authority would check the application (making sure, among other things, that the documents are complete and authentic) before passing it on to the coordinating body in the host Member State, which would also check it. The services e-card would be issued by the coordinating authority in the home Member State but the host Member State could object to its issue within four weeks<sup>3</sup> of the date on which the application was transmitted to it.

Concerning applications for permanent provision of services, for instance through a branch, an agency or an office in another Member State, the host Member State would have six weeks to establish which authorisation and notification schemes may apply, and to ask the applicant to provide the relevant supporting documents. In such cases, the services e-card would be issued by the host Member State, as a result of which there would be no unequal treatment between local and foreign service-providers. Holders of a services e-card would not be subjected to any further requirements (such as prior authorisation or notification).

3 Under one of the reasons of public interest, listed in Article 16 of the Services Directive.



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The idea of the services e-card is similar to the [European professional card](#) (EPC). The latter was made available to the Member States in January 2016 and the authorities are already familiar with it. Both the services e-card and the EPC are voluntary electronic procedures operating at EU level. However, the EPC is only available for a selected number of professions (nurses, pharmacists, physiotherapists, mountain guides and real estate agents) and facilitates cross-border service provision through the recognition of professional qualifications for natural persons as workers or self-employed service-providers in accordance with the [Professional Qualifications Directive](#) (PQD). The services e-card sets a much broader range of requirements, and would be available for both self-employed persons and companies wishing to provide services in another Member State. To avoid duplication, the present proposal would ensure that professionals eligible to apply for an EPC would not be eligible to apply for a services e-card.

The proposal for a services e-card is expected to have implications for the EU budget, to the extent that the future services e-card will use the [Internal Market Information System](#) (IMI) – the IT-based information network that links up national, regional and local authorities across borders – as its operational support. Even if the main existing IMI capabilities and those currently under development are to a great extent compliant with the requirements of the services e-card, the IMI will have to be adapted to the new procedure and storage requirements and be supplied with some additional functions. These will need to include a public interface for service-providers, interconnections to other relevant systems and a back-office functionality for national authorities. Any necessary allocations will, however, be met through redeployment of funds; no impact is expected to be exercised on the EU budget above and beyond the appropriations already planned for in the Commission's official financial programming.

The services e-card would be limited to the requirements which fall under the Services Directive and would not cover areas such as tax, labour and social security.

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## Views

### Advisory committees

The European Economic and Social Committee adopted an [opinion](#) on the whole services package (rapporteurs: Arno Metzler, Various Interests – Group III, Germany; and Stefano Palmieri, Workers – Group II, Italy), on 31 May 2017. A section of this opinion refers to the services e-card. The EESC stresses that it is necessary to ensure that the country of origin principle is not introduced in any form in the internal market, but with the current proposal, the services e-card would include several elements based on this principle. In the view of the EESC, the proposed services e-card must not include elements of the country of origin principle, such as through allowing service providers to deal exclusively with the home Member State and requiring host Member States to accept home Member State decisions on the authenticity of documents. This would limit control mechanisms and thus harmonise the exchange of data based on the country of origin principle. The Committee calls for deadlines for checking the validity of information provided by the applicant to be longer. Furthermore, there should be time limits on the validity of a services e-card, and effective sanctions should be introduced for the Member State and for the applicant in cases of abuse of the services e-card.

The Committee of the Regions is preparing its [opinion](#) (rapporteur: Jean-Luc Vanraes, ALDE, Belgium) on the services package, and this is expected to be adopted in the October plenary session.

### National parliaments

Two national parliaments issued a reasoned opinion on the proposal prior to the 20 March 2017 deadline. In its [reasoned opinion](#) of 9 March, the German Bundestag expressed the following subsidiarity and proportionality concerns: it is unclear whether it is necessary to have coordinating authorities in both the home and in the host country, as proposed; it is necessary to determine whether such authorities are not contrary to the concept of points of single contact set up under the Services Directive, and whether unnecessary duplicate structures would be created; in their current form, the proposed provisions might in practice lead to the introduction of the country-of-origin principle, resulting in overly short evaluation periods for host countries; and it has not been convincingly clarified how the services e-card would relate to the EPC, in view of avoiding a duplication of structures.

In its [reasoned opinion](#) of 16 March, the Austrian Federal Council welcomed the proposal for its measures for reducing administrative formalities, but criticised it for being incompatible with the subsidiarity and proportionality principles. Among the concerns it raised was whether the added benefit that cross-border service-providers hope to derive from the services e-card would be proportional to the bureaucratic burden its introduction would impose on the Member States. Another concern was whether the proposed coordinating authority in the home Member State is really necessary, and if such an authority would not be in conflict with the concept of a point of single contact provided for in the Services Directive, given the risk of duplication of structures.



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A few other [national chambers](#) also considered the proposal. In the opinion of the German Bundesrat, the proposal contradicts the host country principle,<sup>4</sup> which is of fundamental importance for the freedom to provide services. In addition, the Bundesrat considers the introduction of the services e-card as unnecessary, as the current regulatory framework for services in the single market is thought to be sufficient; the draft regulation would not lead to simplification, but would rather complicate structures and increase the administrative burden. This would also lead to confusion for service providers. The [Portuguese assembly](#) and the [Spanish assembly](#), on the other hand, raised no subsidiarity and proportionality concerns.

## Stakeholders' views<sup>5</sup>

The majority of stakeholders in the business services sector, including service-providers, business organisations and other organisations, expressed support for the proposed EU-level solutions to address barriers. Industrial customers of business services were also in favour of increasing the sector's efficiency. In a [letter](#) to the European Parliament's Committee on Internal Market and Consumer Protection (IMCO), European employers' organisation [BusinessEurope](#), while strongly supporting the services package, expressed reservations about the services e-card's impact, added value and certain practical implications. BusinessEurope believes that the proposal needs improving and fine-tuning.

In the construction sector, a number of stakeholders expressed reservations, highlighting that construction is essentially local in nature. In a [press release](#) from early 2017, the [European Builders Confederation](#) rejected the proposal for a services e-card. Among the reasons given were the fact that the vast majority of construction companies operate at the local/regional level; that there are administrative obstacles and other barriers such as language, technical requirements, cultural differences and customer relations; and that the e-card would facilitate cross-border fraud and disrupt the effectiveness of the controls carried out by labour inspectorates.

In April 2017, the European service workers' trade union, [UNI Europa](#), the [European Federation of Building and Woodworkers](#) and the [European Federation of Food, Agriculture and Tourism Trade Unions](#), together with the [European Trade Union Confederation](#), sent a [joint letter](#) to the Parliament's Internal Market and Employment and Social Affairs Committees, as well as to Member States' permanent representations to the EU, regarding their concerns about the proposed services e-card. They called on the Parliament and the Council to reject the proposal, arguing that owing to reduced control opportunities and unrealistic bureaucratic procedures for host Member States, it would not make the internal market fairer but would instead lead to more social dumping and less protection for workers' rights and conditions. Among the further threats they pointed out were the increasing number of letterbox companies and workers in bogus self-employment.

4 The host country principle (or country of reception principle) is the opposite of the country of origin principle: when a company offers a service in another Member State, the applicable law is that of the country where the service is provided.

5 This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'EP supporting analysis'.





## Legislative process

On 10 January, the Commission published its proposals for a regulation introducing a European services e-card and related administrative facilities, and for a directive on the legal and operational framework of the European services e-card, together with an impact assessment.

The proposals were presented to the Council on 13 January 2017. In the Parliament, the proposals have been assigned to the IMCO Committee, which appointed Anneleen Van Bossuyt (ECR, Belgium) as rapporteur for the services e-card regulation and Morten Løkkegaard (ALDE, Denmark) as rapporteur for the legal and operational framework directive.



## References

### EP supporting analysis

K. Eisele, [Initial appraisal of a Commission impact assessment of the European services e-card](#), EPRS, May 2017.

M. Szczepański, [Understanding the single market for services](#), Briefing, EPRS, September 2016.

European Parliament, Reducing costs and barriers for businesses in the single market, Study for the IMCO Committee, April 2016.

### Other sources

European services e-card and related administrative facilities, European Parliament Legislative Observatory (OEIL).

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