



2016/0402(COD)

20.11.2017

*****I**

DRAFT REPORT

on the 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 Regulation[ESC Regulation]....
(COM(2016)0823 – C8-0013/2017 – 2016/0402(COD))

Committee on the Internal Market and Consumer Protection

Rapporteur: Morten Løkkegaard

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.

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION.....	5
EXPLANATORY STATEMENT.....	44

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the 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 Regulation ...[ESC Regulation]...

(COM(2016)0823 – C8-0013/2017 – 2016/0402(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0823),
 - having regard to Article 294(2) and Articles 53(1) and 62 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0013/2017),
 - 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 2017¹,
 - 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.

¹ OJ C 288, 31.8.2017, p. 43.

Amendment 1

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) 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

(5) Cross-border trade and cross-border investment in certain business 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.

Or. en

Justification

Construction services should be excluded for the time being from the scope of this Directive.

Amendment 2

Proposal for a directive

Recital 7

Text proposed by the Commission

(7) In order to make it easier to take up and pursue service activities, this Directive builds upon Directive 2006/123/EC but does in no way amend its rules. The scope of this Directive is even more limited compared to the scope laid down in the Services Directive. It specifically targets business **and construction** service sectors, where many obstacles to cross-border activities still remain. In addition, cross-border trade and investment in **construction and** several business services are low and both sectors have seen weak productivity growth over the last decade.

Amendment

(7) In order to make it easier to take up and pursue service activities, this Directive builds upon Directive 2006/123/EC but does in no way amend its rules. The scope of this Directive is even more limited compared to the scope laid down in the Services Directive. It specifically targets business service sectors, where many obstacles to cross-border activities still remain. In addition, cross-border trade and investment in several business services are low and both sectors have seen weak productivity growth over the last decade.

Or. en

Amendment 3

Proposal for a directive Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) Other service sectors, such as construction services, suffer from a similarly 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 because of their role as service recipients. However, it is important to give time to the Commission to adapt the IMI to this Directive and to the Member States to adopt measures to implement the European Services e-card. Therefore, the power to adopt 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 this Directive to those other sectors at a later stage under specific conditions.

Or. en

Justification

The Directive includes a series of business services. Other services 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 Directive in a second stage, if deemed necessary.

Amendment 4

Proposal for a directive Recital 10

Text proposed by the Commission

Amendment

(10) This Directive clarifies the conditions under which service providers

(10) This Directive clarifies the conditions under which service providers

concerned can benefit from the European services e-card introduced by Regulation ...[ESC Regulation]..., which respective role the home and the host Member State should have and which actions of the home Member State should be accepted by a host Member State. ***The European services e-card is a voluntary instrument for the service provider.***

concerned can benefit from the European services e-card introduced by Regulation ...[ESC Regulation]..., which respective role the home and the host Member State should have and which actions of the home Member State should be accepted by a host Member State.

Or. en

Justification

The content has been moved and developed in a new recital.

Amendment 5

Proposal for a directive Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) The European services e-card is a voluntary instrument for the service provider. Service providers should therefore remain free to choose whether to use it. It is therefore appropriate to lay down the precise conditions that a Member State needs to meet for it to be allowed to require a service provider to hold a European services e-card in order to ensure that providers who do not hold a European services e-card are not discriminated against the holders.

Or. en

Amendment 6

Proposal for a directive Recital 10 b (new)

Text proposed by the Commission

Amendment

(10b) The European services e-card

aims at providing administrative simplification and is a tool for companies and self-employed individuals, making it easier for them to comply with requirements. Member States should not use the card to attempt to legalise unjustified and unnecessary obstacles that they should already have removed in order to comply with Directive 2006/123/EC.

Or. en

Justification

If applied effectively, the proposals can deliver some improvements in terms of simplification. However, there is a nagging concern that, contrary to its objectives, the e-card may in fact be used to legitimize unwarranted and unnecessary obstacles that member states should already have removed in compliance with the provisions of the Services Directive.

Amendment 7

Proposal for a directive Recital 24

Text proposed by the Commission

(24) The coordinating authority of the home Member State should, upon receiving an application for a European services e-card, complete *it* and validate its contents in order to accurately demonstrate legal establishment of the provider in its home Member State and describe its circumstances in a manner conducive for host Member State's authorities to pursue their own controls. While inaction on the part of the applicant should lead to a halt in the procedure, inaction on the part of the home Member State's authorities should give way to judicial redress.

Amendment

(24) The coordinating authority of the home Member State should, upon receiving an application for a European services e-card, ***verify whether the applicant is legally established in the home Member State and whether all the necessary documents are valid,*** complete ***the application*** and validate its contents in order to accurately demonstrate legal establishment of the provider in its home Member State and describe its circumstances in a manner conducive for host Member State's authorities to pursue their own controls. While inaction on the part of the applicant should lead to a halt in the procedure, inaction on the part of the home Member State's authorities should give way to judicial redress.

Or. en

Amendment 8

Proposal for a directive

Recital 34 a (new)

Text proposed by the Commission

Amendment

(34a) Those consultations should include in particular stakeholders from the sectors which fall within the scope of this Directive, including businesses and social partners from the construction sector.

Or. en

Justification

If the Commission decides to extend the scope of the Directive to the construction sectors, it should be clear that the professionals of the sector need to be consulted beforehand.

Amendment 9

Proposal for a directive

Recital 37

Text proposed by the Commission

Amendment

(37) Prior to the issuance of the European services e-card, a host Member State should be allowed to invoke legitimate policy concerns. Nevertheless, in the interest of allowing for a simplified and swift procedure, the principle of tacit approval should be observed in issuing a European services e-card. That is the general principle introduced under Directive 2006/123/EC. An alert of impending tacit approval and the extension of the applicable deadlines by two additional weeks should ensure that the host Member State has the appropriate time and means to consider applications for a European services e-card. A lack of information from the host Member State on applicable requirements should also not impede automatic issue of a European

(37) Prior to the issuance of the European services e-card, a host Member State should be allowed to invoke legitimate policy concerns ***and to carry out necessary controls and verifications laid down in its national law in accordance with Chapter VI of Directive 2006/123/EC, and in particular Article 31(1), (3) and (4) in relation to temporary cross-border services.*** Nevertheless, in the interest of allowing for a simplified and swift procedure, the principle of tacit approval should be observed in issuing a European services e-card. That is the general principle introduced under Directive 2006/123/EC. An alert of impending tacit approval and the extension of the applicable deadlines by two additional weeks should ensure that the

services e-card.

host Member State has the appropriate time and means to consider applications for a European services e-card. A lack of information from the host Member State on applicable requirements should also not impede automatic issue of a European services e-card.

Or. en

Amendment 10

Proposal for a directive Recital 45 a (new)

Text proposed by the Commission

Amendment

(45a) It is important to recognise the right of economic operators to make mistakes when trying to fulfil correctly their obligations under this Directive. Therefore, before a Member State invokes clerical errors, mistakes or missing information or documents as grounds to suspend or revoke a European services e-card, the service provider should always be given an opportunity to remedy the situation.

Or. en

Amendment 11

Proposal for a directive Article 2 – paragraph 1

Text proposed by the Commission

Amendment

1. This Directive applies to the services listed in ***the*** Annex.

1. This Directive applies to the services listed in Annex ***I***.

Or. en

Justification

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

Amendment 12

Proposal for a directive

Article 2 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. By [24 months after the date for transposition of this Directive] the Commission is empowered to adopt delegated acts in accordance with Article 18 in order to amend Annex I to include any of the sectors listed in Annex Ia. The Commission may only 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 existing 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 Directive 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 Directive in a second stage, if deemed

necessary.

Amendment 13

Proposal for a directive

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

Text proposed by the Commission

Amendment

This Directive does not affect Directive 2006/123/EC. It shall not have any impact on national regulatory requirements for the provision of services, such as rules concerning social protection, consumer rights, health and safety nor the environment. It does not therefore introduce the country of origin principle.

Or. en

Justification

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

Amendment 14

Proposal for a directive

Article 3 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. '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.

Amendment 15

Proposal for a directive

Article 5 a (new)

Text proposed by the Commission

Amendment

Article 5a

Before issuing the European services e-card, the competent authority of the host Member State may carry out necessary controls and verifications laid down by national law in accordance with the Directive 2006/123/EC, including Article 31 thereof.

Or. en

Amendment 16

Proposal for a directive

Article 6 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

Authorities in Member States shall not, in the context of any procedures or formalities imposed on a provider in their territory and in accordance with the rules on the protection of personal data as provided for in Directive 95/46/EC [, Regulation (EU) No 2016/679] and national legislation, require the holder of a European services e-card to provide any information which **is** already contained in the European services e-card, including for:

Authorities in Member States shall not, in the context of any procedures or formalities imposed on a provider in their territory and in accordance with the rules on the protection of personal data as provided for in Directive 95/46/EC [, Regulation (EU) No 2016/679] and national legislation, require the holder of a **valid** European services e-card to provide any information **or documents** which **are** already contained in the European services e-card, including for:

Or. en

Amendment 17

Proposal for a directive

Article 7 a (new)

Text proposed by the Commission

Amendment

Article 7a

Voluntary nature of the European Services Card

Member States shall not require service providers to hold a European services e-card, except where:

(a) a service provider has freely opted to apply for a European services e-card;

(b) a European services e-card has been issued to it; and

(c) it makes use of the European services e-card in accordance with Article 5.

Member States shall ensure that service providers which do not decide to apply for a European services e-card, which had their application for a European Services Card rejected by the home Member State or objected to by the host Member State or which no longer hold a valid European services e-card may start to provide or continue providing services under the relevant provisions of the Directive 2006/123/EC and Union law without being discriminated against vis-a-vis the holders of services e- cards.

Or. en

Justification

This amendment does not aim at modifying the Commission proposal but at clarifying that the e-card is voluntary for the businesses and mandatory for Member States if a business opts for it.

Amendment 18

Proposal for a directive

Article 8 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

When applying for a European services e-card the applicant shall receive general information about the requirements applicable in the host Member States relating to access to, and the exercise of, the service activities envisaged by the applicant, as provided for in Article 7 of Directive 2006/123/EC.

Or. en

Justification

Businesses should receive clear information about requirements they will have to comply with it as early as possible.

Amendment 19

Proposal for a directive

Article 11 – paragraph 1 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

(b) verify the completeness ***and*** accuracy of the information provided;

(b) verify the completeness, accuracy ***and validity*** of the information provided;

Or. en

Amendment 20

Proposal for a directive

Article 11 – paragraph 1 – subparagraph 1 – point c

Text proposed by the Commission

Amendment

(c) verify whether European services e-cards issued in relation to other ***home*** Member States for the same provider and service activity have been revoked or cancelled, or ***that cancellation*** has been requested to allow replacement of those e-cards by the European services e-card to which the application refers to;

(c) verify whether European services e-cards issued in relation to other Member States for the same provider and service activity have been revoked or cancelled, or ***whether that cancellation*** has been requested to allow replacement of those e-cards by the European services e-card to which the application refers to;

Amendment 21

Proposal for a directive

Article 11 – paragraph 1 – subparagraph 1 – point d

Text proposed by the Commission

(d) verify the content and validity of accompanying documents, if any, that prove compliance with requirements applicable to the service provision to which the applicant is subject in the home Member State;

Amendment

(d) ***verify that the applicant is legally established in its territory and*** verify the content, and validity of accompanying documents, if any, that prove compliance with requirements applicable to the service provision to which the applicant is subject in the home Member State;

Or. en

Amendment 22

Proposal for a directive

Article 11 – paragraph 1 – subparagraph 1 – point e

Text proposed by the Commission

(e) request ***supplementing of the application*** from the applicant, where necessary;

Amendment

(e) request ***supplementary information*** from the applicant, where necessary;

Or. en

Amendment 23

Proposal for a directive

Article 11 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Where the coordinating authority of the home Member State requests ***supplementing*** of the ***application from*** the applicant, the time-limit is suspended until

Amendment

Where the coordinating authority of the home Member State requests ***supplementary information from the applicant, or, where, in the event of duly justified doubts, the host Member State***

that information is provided.

requests re-verification of the ***validity of information submitted by*** the applicant, the time-limit is suspended until that information is provided.

Or. en

Amendment 24

Proposal for a directive Article 11 – paragraph 2

Text proposed by the Commission

2. The coordinating authority of the home Member State shall, upon completion of the tasks referred to in paragraph 1, communicate without delay the application to the coordinating authority of the host Member State, ***with information to*** the applicant.

Amendment

2. The coordinating authority of the home Member State shall, upon completion of the tasks referred to in paragraph 1, communicate without delay the application to the coordinating authority of the host Member State, ***and inform*** the applicant.

Or. en

Amendment 25

Proposal for a directive Article 12 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Within two weeks from receiving the application the coordinating authority of the host Member State ***shall*** examine it and inform the applicant and the home Member State of any requirements applicable to temporary cross-border provisions under the legislation of the host Member State with the exception of those referred to in Article 5(4). ***In line with the rights of Member States as referred to in Article 10, the coordinating authority of the host Member State*** may within the same time-limit, decide to object to the issue of ***the*** European services e-card by the

Amendment

In the course of a procedure for issuing a European services e-card for the provision of temporary cross-border services, the coordinating authority of the host Member State shall, within two weeks from receiving the application the coordinating authority of the host Member State, examine it and inform the applicant and the home Member State of any requirements applicable to temporary cross-border provisions ***of the envisaged service activities, during the provision of the service,*** under the legislation of the host Member State with the exception of

coordinating authority of the home Member State *where it* demonstrates that the *application of* a prior authorisation scheme, prior notification scheme or requirements *to the applicant is* justified *for one of those* overriding reasons of public interest set out in Article 16 of Directive 2006/123/EC or *is* admissible in accordance with other acts of EU law.

those referred to in Article 5(4).

The host Member State coordinating authority may within the same time-limit, decide to object to the issue of European Services e-card by the coordinating authority of the home Member State, *if the host Member State coordinating authority* demonstrates that the *provision of service activities envisaged by the applicant is subject to* a prior authorisation scheme, prior notification scheme or requirements justified *by* overriding reasons of public interest set out in Article 16 of Directive 2006/123/EC, or admissible in accordance with other acts of EU law, *the host Member State may for the purpose of issuing the European services e-card request that the applicant demonstrates its compliance with those requirements . The host Member State may object to an application if the applicant fails to demonstrate compliance with those requirements.*

Or. en

Justification

The amendments on the procedure aims at clarifying the text and not at changing the substance of the text.

Amendment 26

Proposal for a directive

Article 12 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Member States shall ensure that, when the coordinating authority of the home

Member State receives the information mentioned in the first subparagraph of paragraph 1, and provided that none of the reasons to object to the issue of the e-card mentioned in second subparagraph of paragraph 1 apply, that coordinating authority issues the European Services Card, without delay.

Or. en

Amendment 27

Proposal for a directive

Article 12 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The host Member State shall take due account *in that assessment* of the requirements that the applicant already meets in its home Member States. For the purpose of that assessment and within the above-mentioned time-limit, the coordinating authority of the host Member State shall be allowed to request necessary clarifications or necessary additional information from the home Member State or the applicant which is not yet contained in the application. In that case, the time limit referred to in this paragraph is suspended until the requested necessary clarification or necessary additional information is supplied. The procedure for requesting clarifications or additional information will be laid down by way of the delegated acts referenced in paragraph 4.

Amendment

When assessing the application for the European services e-card, the host Member State shall take due account of the requirements that the applicant already meets in its home Member States. For the purpose of that assessment and within the above-mentioned time-limit, the coordinating authority of the host Member State shall be allowed to request necessary clarifications or necessary additional information from the home Member State or the applicant which is not yet contained in the application, *in particular where there are duly justified doubts as regards the content, and validity of accompanying documents*. In that case, the time limit referred to in this paragraph is suspended until the requested necessary clarification or necessary additional information is supplied. The procedure for requesting clarifications or additional information will be laid down by way of the delegated acts referenced in paragraph 4.

Or. en

Justification

In case of doubts, host Member States should be able to request home Member States to

double check documents submitted in the application phase.

Amendment 28

Proposal for a directive

Article 12 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Upon receipt of the decision of the host Member State to object under paragraph 1 the home Member State shall ***refuse***, without delay, the application for a European services e-card.

Amendment

Upon receipt of the decision of the host Member State to object under paragraph 1 the home Member State shall ***reject***, without delay, the application for a European services e-card.

Or. en

Amendment 29

Proposal for a directive

Article 12 – paragraph 5 – subparagraph 1

Text proposed by the Commission

The decisions and actions of the coordinating authority of the home Member State, notified to the applicant through the electronic platform where the standard form for application is made available, shall be subject to appeal under national law of the home Member State.

Amendment

The decisions and actions of the coordinating authority of the home Member State, notified ***without delay*** to the applicant through the electronic platform where the standard form for application is made available, shall be subject to appeal under national law of the home Member State.

Or. en

Amendment 30

Proposal for a directive

Article 12 – paragraph 5 – subparagraph 2

Text proposed by the Commission

The decision by the coordinating authority of the host Member State to object to the issue of the European services e-card,

Amendment

The decision by the coordinating authority of the host Member State to object to the issue of the European services e-card, ***shall***

notified to the applicant through the electronic platform where the standard form for application is made available, shall be subject to appeal under national law of the host Member State.

without delay be notified to the applicant through the electronic platform where the standard form for application is made available, **and** shall be subject to appeal under national law of the host Member State.

Or. en

Amendment 31

Proposal for a directive

Article 13 – paragraph 1 – subparagraph 1

Text proposed by the Commission

In the context of a procedure for issuing a European services e-card for establishment in the form of a branch, agency or office, the coordinating authority of the host Member State shall, within four weeks from receiving the application, identify which, if any, prior authorisation scheme or prior notification scheme as referred to in Article 5(2) is applicable, in compliance with EU law, to such establishment. If such a prior authorisation scheme or prior notification scheme has been identified, the host Member State shall also identify the conditions which the applicant is required to comply with, with the exception of those referred to in Article 5(5). The host Member State shall indicate why the application of such a prior authorisation scheme or prior notification scheme *is necessary and proportionate for the pursuance of* overriding reasons of public interest.

Amendment

In the context of a procedure for issuing a European services e-card for establishment in the form of a branch, agency or office, the coordinating authority of the host Member State shall, within four weeks from receiving the application, identify which, if any, prior authorisation scheme or prior notification scheme as referred to in Article 5(2) is applicable, in compliance with EU law, to such establishment. If such a prior authorisation scheme or prior notification scheme has been identified, the host Member State shall also identify the conditions which the applicant is required to comply with, with the exception of those referred to in Article 5(5). The host Member State shall indicate why the application of such a prior authorisation scheme or prior notification scheme *is justified by* overriding reasons of public interest *and is proportionate to the objectives pursued*.

Or. en

Amendment 32

Proposal for a directive

Article 13 – paragraph 4 – subparagraph 2

Text proposed by the Commission

Amendment

In case the coordinating authority of the host Member State decides to issue the European services e-card, it shall do so without delay. ***deleted***

Or. en

Justification

This text has been move after paragraph 5a (new) of this article.

Amendment 33

Proposal for a directive

Article 13 – paragraph 4 – subparagraph 3

Text proposed by the Commission

Amendment

Alternatively, the coordinating authority of the host Member State may inform the applicant and the coordinating authority of the home Member State of its intention to reject the application, in which case the applicant shall have a week to present its observations. ***deleted***

Or. en

Justification

This text has been move after paragraph 5a (new) of this article.

Amendment 34

Proposal for a directive

Article 13 – paragraph 4 – subparagraph 4

Text proposed by the Commission

Amendment

Upon receipt of the observations of the applicant or, where no observations have been made, upon expiration of the time-limit to present those observations, the coordinating authority of the host Member State shall decide, within one ***deleted***

week, whether to issue the European services e-card or reject the application for the European services e-card.

Or. en

Justification

This text has been move after paragraph 5 of this article.

Amendment 35

Proposal for a directive

Article 13 – paragraph 5 – subparagraph 1

Text proposed by the Commission

The coordinating authority of the host Member State shall be allowed to request necessary clarifications or necessary additional information from the home Member State or the applicant which is not yet contained in the application. In that case, the time limits referred to in paragraphs 1 and 4 are suspended until the requested necessary clarification or necessary additional information is supplied.

Amendment

The coordinating authority of the host Member State shall be allowed to request necessary clarifications or necessary additional information from the home Member State or the applicant which is not yet contained in the application, *in particular where there are duly justified doubts as regards the content, and validity of accompanying documents*. In that case, the time limits referred to in paragraphs 1 and 4 are suspended until the requested necessary clarification or necessary additional information is supplied.

Or. en

Justification

In case of doubts, host Member States should be able to request home Member States to double check documents submitted in the application phase.

Amendment 36

Proposal for a directive

Article 13 – paragraph 5 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

If the coordinating authority of the host Member State decides to issue the European services e-card, it shall do so

without delay.

Or. en

Justification

This text was moved from Article 13(4) subparagraph 2.

Amendment 37

Proposal for a directive

Article 13 – paragraph 5 – subparagraph 1 b (new)

Text proposed by the Commission

Amendment

Where the coordinating authority of the host Member State intends to reject the application in accordance with the conditions laid down in this Article, the coordinating authority of the host Member State shall inform the applicant and the coordinating authority of the home Member State, and state its reasons. The applicant shall have a week to submit its observations.

Or. en

Justification

This text was moved down from paragraph 4.

Amendment 38

Proposal for a directive

Article 13 – paragraph 5 – subparagraph 1 c (new)

Text proposed by the Commission

Amendment

Upon receipt of the observations from the applicant or, where no observations have been submitted within the time-limit, the coordinating authority of the host Member State shall decide, within a week, whether to issue the European Services e-card or reject the application for a European services e-card.

Justification

This text was moved down from paragraph 4.

Amendment 39**Proposal for a directive****Article 13 – paragraph 5 – subparagraph 1 d (new)**

Text proposed by the Commission

Amendment

The coordinating authority shall without delay transmit to the Commission any decision to reject an application for a European services e-card pursuant to paragraph 4 and 5 of this Article.

Or. en

Justification

This amendment is necessary to help the Commission monitoring the implementation of the Directive.

Amendment 40**Proposal for a directive****Article 13 – paragraph 6**

Text proposed by the Commission

Amendment

6. In case the host Member State, upon expiration of the periods for its reaction mentioned in paragraphs , **2 and 4**, does not request compliance with any condition under paragraph 1 **or** does not take the decision to issue the European services e-card under **paragraph 4**, the European services e-card **shall** be deemed to have been issued by the host Member State **in** the terms communicated to the host Member State in accordance with Article 11(2).

6. In case the host Member State, upon expiration of the periods for its reaction mentioned in paragraphs **2, 4 and 5b**, does not request compliance with any condition under paragraph 1, does not take the decision to issue the European services e-card under **paragraphs 1, 4 or 5b or does not inform of its intention to reject the application or does not decide to reject the application under paragraphs 4 and 5b the IMI system shall automatically issue** the European services e-card **which will** be deemed to have been issued by the host Member State **under** the terms

communicated to the host Member State in accordance with Article 11(2).

Or. en

Amendment 41

Proposal for a directive

Article 15 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The reference to Union law in the first paragraph of this Article refers in particular to the fact that the decision of the host Member State to ban temporarily or permanently a service provider from providing its activities must be proportionate to the seriousness of the infringement, irrespectively whether the service provider holds a European services e-card or not.

Or. en

Justification

A decision to ban a service provider to provide its activities should be a last resort measure.

Amendment 42

Proposal for a directive

Article 15 – paragraph 2 – point i

Text proposed by the Commission

Amendment

(i) made use of information or documents in the context of the procedure to issue the e-card which have been ascertained to be fraudulent, ***inaccurate*** or falsified by a final decision of either home or host Member State, not subject to appeal under the applicable national law;

(i) made use of information or documents in the context of the procedure to issue the e-card which have been ascertained to be fraudulent ***or misleading*** or ***to have been*** falsified by a final decision of either home or host Member State, not subject to appeal under the applicable national law;

Or. en

Justification

An information can be inaccurate due to mere mistakes when completing the form. Only misleading information should be a ground for an automatic revocation.

Amendment 43

Proposal for a directive

Article 15 – paragraph 2 – point iii

Text proposed by the Commission

(iii) does not meet one or more **conditions** applicable for temporary cross-border provision **as prescribed** by the first subparagraph of Article **11(1)**, the compliance of which, under the national law of the host Member State, is essential to continued legal provision of the services in question in its territory;

Amendment

(iii) does not meet one or more **requirements** applicable for temporary cross-border provision **referred to in** by the first subparagraph of Article **12(1)**, the compliance of which, under the national law of the host Member State, is essential to **the** continued legal provision of the services in question in its territory;

Or. en

Amendment 44

Proposal for a directive

Article 15 – paragraph 2 – point iv

Text proposed by the Commission

(iv) does not meet one or more conditions imposed in the context of a prior authorisation or prior notification scheme applicable for establishment as prescribed by the first subparagraph of Article **12(1)**, the compliance of which, under the national law of the host Member State, is essential to continued legal provision of the services in question in its territory.

Amendment

(iv) does not meet one or more conditions imposed in the context of a prior authorisation or prior notification scheme applicable for establishment as prescribed by the first subparagraph of Article **13(1)**, the compliance of which, under the national law of the host Member State, is essential to continued legal provision of the services in question in its territory.

Or. en

Amendment 45

Proposal for a directive Article 16 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that, in case of a decision, in accordance with EU law, determining a temporary or permanent ban on provision of the service activities by the European services e-card holder in the home Member State, the coordinating authorities who issued a European services e-card suspend the validity of or revoke, respectively, all European services e-cards issued for the same provider **and** service **activity in question**.

Amendment

1. Member States shall ensure that, in **the** case of a decision, in accordance with EU law, determining a temporary or permanent ban on provision of the service activities by the European services e-card holder in the home Member State, the coordinating authorities who issued a European services e-card suspend the validity of or revoke, respectively, all European services e-cards issued for the same provider **in relation to the banned** service **activities**.

Or. en

Amendment 46

Proposal for a directive Article 16 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The reference to Union law in the first paragraph of this Article refers in particular to the fact that the decision of the host Member State to ban temporarily or permanently a service provider to provide its activities must be proportionate to the seriousness of the infringement, irrespectively whether the service provider holds a European services e-card or not.

Or. en

Justification

A decision to ban a service provider to provide its activities should a last resort measure.

Amendment 47

Proposal for a directive Article 16 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that, in case of a decision determining a temporary or permanent ban on provision of the service activities by the European services e-card holder in the host Member State, coordinating authorities who issued a European services e-card suspend the validity of or revoke, respectively, all European services e-cards issued for the same provider **and** service activity in so far as the national law of the home Member State determines, in accordance with EU law, the suspension or termination of service activities in its territory due to, respectively, the temporary or permanent ban in question in the host Member State.

Amendment

2. Member States shall ensure that, in case of a decision determining a temporary or permanent ban on provision of the service activities by the European services e-card holder in the host Member State, coordinating authorities who issued a European services e-card suspend the validity of or revoke, respectively, all European services e-cards issued for the same provider **in relation to the banned** service activity in so far as the national law of the home Member State determines, in accordance with EU law, the suspension or termination of service activities in its territory due to, respectively, the temporary or permanent ban in question in the host Member State.

Or. en

Amendment 48

Proposal for a directive Article 17 – paragraph 1 – subparagraph 1

Text proposed by the Commission

A Member State which detects a reason to trigger the suspension or revocation of a European services e-card, in accordance with Articles 15 or 16, occurring in its territory shall **communicate via IMI to** the holder of the European services e-card in question the **motivation therefore** and shall give **it** the opportunity to be heard.

Amendment

A Member State which detects a reason to trigger the suspension or revocation of a European services e-card, in accordance with Articles 15 or 16, occurring in its territory shall **inform** the holder of the European services e-card in question **via the electronic platform connected to IMI of the reasons for triggering** and shall give **the holder** the opportunity to be heard.

Or. en

Amendment 49

Proposal for a directive

Article 17 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

As regards clerical errors, mistakes or missing information or documents, the Member State which detects such irregularities during the exchange phase referred to in sub paragraph 1 shall without delay inform the service provider. The service provider shall remedy the situation without undue delay and not later than two weeks after being informed. The above reasons shall not trigger suspension or revocation of the European services e-card unless it is clear from all the circumstances that they were committed as a result of gross negligence or with intent or unless the service provider failed to remedy the situation within the two-week deadline.

Or. en

Amendment 50

Proposal for a directive

Article 17 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

Once a Member State concludes on the need to suspend or revoke a European services e-card it shall do so without delay, in case its coordinating authority is the issuing authority of the e-card in question, or it shall communicate without delay **to the issuing coordinating authority** its conclusion on the need to suspend or revoke the European services e-card in question.

Once a Member State concludes on the need to suspend or revoke a European services e-card it shall do so without delay, in case its coordinating authority is the issuing authority of the e-card in question, or it shall communicate without delay its conclusion on the need to suspend or revoke the European services e-card in question **to the issuing coordinating authority**.

Or. en

Amendment 51

Proposal for a directive

Article 17 – paragraph 4 – point a

Text proposed by the Commission

(a) decisions restricting or prohibiting, even temporarily, in either home or host Member State the provision by the holder of the European services e-card of service activities covered by that same *e-card*;

Amendment

(a) decisions restricting or prohibiting, even temporarily, in either home or host Member State the provision by the holder of the European services e-card of service activities covered by that same **European services e-card**;

Or. en

Justification

It shall have consequences if Member States fail to inform.

Amendment 52

Proposal for a directive

Article 17 – paragraph 4 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

With regard to point (a), Member States may, in line with Directive 2006/123/EC, lay down the rules on the measures applicable if a holder of a European services e-card fails to inform the coordinating authority of the conditions outlined in paragraph 4. Any measures provided for shall be effective, proportionate and dissuasive.

Or. en

Justification

It shall have consequences if Member States fail to inform.

Amendment 53

Proposal for a directive Article 17 – paragraph 6

Text proposed by the Commission

6. The holder of a European services e-card may request the cancellation of its previously issued European services e-card to the issuing coordinating authority at any time.

Amendment

6. The holder of a European services e-card may request the cancellation of its previously issued European services e-card to the issuing coordinating authority at any time. ***The European services e-card shall indicate the date of the last update by the holder of a European services e-card as well as the last verification by the coordinating authority in the home Member State of the information and the documents contained in a services e-card of a provider.***

Or. en

Amendment 54

Proposal for a directive Article 17 – paragraph 7 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The coordinating authority shall without delay transmit any decision to suspend or to revoke to the Commission.

Or. en

Justification

This amendment is necessary to help the Commission monitoring the implementation of the Directive.

Amendment 55

Proposal for a directive Article 18 – paragraph 2

Text proposed by the Commission

2. The power to adopt delegated acts referred to in Article 12(4) and Article 13(7) shall be conferred on the Commission for a period of five years from [...]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

Amendment

2. The power to adopt delegated acts referred to in Article **2(1a)**, 12(4) and Article 13(7) shall be conferred on the Commission for a period of five years from [...]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

Or. en

Amendment 56

**Proposal for a directive
Article 18 – paragraph 3**

Text proposed by the Commission

3. The delegation of power referred to in Article 12(4) and Article 13(7) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Amendment

3. The delegation of power referred to in Article **2(1a)**, 12(4) and Article 13(7) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Or. en

Amendment 57

**Proposal for a directive
Article 18 – paragraph 5**

Text proposed by the Commission

5. A delegated act adopted pursuant to Article 12(4) and Article 13(7) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Amendment

5. A delegated act adopted pursuant to Article **2(1a)**, 12(4) and Article 13(7) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Or. en

Amendment 58

**Proposal for a directive
Article 20 – paragraph 1**

Text proposed by the Commission

The Commission, with Member States, social partners and other relevant stakeholders, will establish **monitoring** arrangements to monitor and assess the implementation and impacts of this Directive, in particular how it impacts freedom of establishment and freedom to provide services across Member States for the service activities covered, namely by reducing costs for providers, enhancing transparency about providers expanding cross-border and increasing competition, and how it impacts prices and quality of the services concerned, considering relevant indicators.

Amendment

The Commission, with Member States, social partners and other relevant stakeholders, will establish arrangements to monitor and assess the implementation and impacts of this Directive, in particular how it impacts freedom of establishment and freedom to provide services across Member States for the service activities covered, namely by reducing costs for providers, **combatting fraud**, enhancing transparency about providers expanding cross-border and increasing competition, and how it impacts prices and quality of the services concerned, considering relevant indicators.

Or. en

Amendment 59

Proposal for a directive Article 21 – paragraph 2

Text proposed by the Commission

By 36 months after the date for transposition of this Directive and at the latest every five years thereafter, the Commission shall carry out an evaluation of this Directive and submit to the European Parliament and the Council a report on its performance. That report shall consider the need to adapt the procedures for issuing, updating, suspending or revoking a European services e-card taking into account the latest developments in e-Government and shall be included in the report assessing the overall performance of Regulation ...[ESC Regulation]... in line with its Article 19.

Amendment

By 36 months after the date for transposition of this Directive and at the latest every five years thereafter, the Commission shall carry out an evaluation of this Directive and submit to the European Parliament and the Council a report on its performance. That report shall ***explain why it has not adopted delegated acts pursuant to Article 2(1a), if applicable***, consider the need to adapt the procedures for issuing, updating, suspending or revoking a European services e-card taking into account the latest developments in e-Government and shall be included in the report assessing the overall performance of Regulation ...[ESC Regulation]... in line with its Article 19.

Or. en

Amendment 60

Proposal for a directive Annex I – title

Text proposed by the Commission

ANNEX
Services to which this Directive applies

Amendment

ANNEX I
Services to which this Directive applies

Or. en

Amendment 61

Proposal for a directive Annex I – Section F – Division 41 – Group 41.1

Text proposed by the Commission

Amendment

Group 41.1 Development of building projects ***deleted***

Or. en

Amendment 62

Proposal for a directive
Annex I – Section F – Division 41 – Group 41.2

Text proposed by the Commission

Amendment

Group 41.2 Construction of residential and non-residential buildings ***deleted***

Or. en

Amendment 63

Proposal for a directive
Annex I – Section F – Division 42 – Group 42.1

Text proposed by the Commission

Amendment

Group 42.1 Construction of roads and railways ***deleted***

Or. en

Amendment 64

Proposal for a directive
Annex I – Section F – Division 42 – Group 42.2

Text proposed by the Commission

Amendment

Group 42.2 Construction of utility projects ***deleted***

Or. en

Amendment 65

Proposal for a directive

Annex I – Section F – Division 42 – Group 42.9

Text proposed by the Commission

Amendment

Group 42.9 Construction of other civil engineering projects ***deleted***

Or. en

Amendment 66

Proposal for a directive

Annex I – Section F – Division 43 – Group 43.1

Text proposed by the Commission

Amendment

Group 43.1 Demolition and site preparation ***deleted***

Or. en

Amendment 67

Proposal for a directive

Annex I – Section F – Division 43 – Group 43.2

Text proposed by the Commission

Amendment

Group 43.2 Electrical, plumbing and other construction installation activities, with the exclusion of installation, servicing, maintenance, repair or decommissioning by natural persons of equipment that contains fluorinated greenhouse gases listed in points (a) to (d) of Article 4(2) of Regulation (EU) 517/2014 ***deleted***

Or. en

Amendment 68

Proposal for a directive

Annex I – Section F – Division 43 – Group 43.3

Text proposed by the Commission

Amendment

Group 43.3 Building completion and finishing

deleted

Or. en

Amendment 69

Proposal for a directive

Annex I – Section F – Division 43 – Group 43.9

Text proposed by the Commission

Amendment

Group 43.9 Other specialised construction activities

deleted

Or. en

Amendment 70

Proposal for a directive

Annex I a – title (new)

Text proposed by the Commission

Amendment

ANNEX Ia

List of services which may be the subject of a delegated act referred to in the paragraph 1a of Article 2

Or. en

Justification

The Directive includes a series of business services. Other sectors also suffer from a lack of internal market integration, do not have sector-specific legislation to allow their cross-border expansion and are important for business as service recipients. 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

Directive in a second stage, if deemed necessary.

Amendment 71

Proposal for a directive Annex I a – introductory part (new)

Text proposed by the Commission

Amendment

***Service activities included in the statistical
classification of economic activities in the
European Community (NACE Rev.2)
under:***

Or. en

Amendment 72

Proposal for a directive Annex I a – Section C (new)

Text proposed by the Commission

Amendment

***Section C Manufacturing
Division 33: Repair and installation of
machinery and equipment
Group 33.1: Repair of fabricated metal
products, machinery and equipment
Group: 33.2: Installation of industrial
machinery and equipment***

Or. en

Amendment 73

Proposal for a directive Annex I a – Section F (new)

Text proposed by the Commission

Amendment

***Section F Construction
Division 41: Construction of buildings***

Group 41.1: Development of building projects

Group 41.2: Construction of residential and non-residential buildings

Division 42: Civil engineering

Group 42.1: Construction of roads and railways

Group 42.2: Construction of utility projects

Group 42.9: Construction of other civil engineering projects

Division 43: Specialised construction activities

Group 43.1: Demolition and site preparation

Group 43.2: Electrical, plumbing and other construction installation activities

Group 43.3: Building completion and finishing

Group 43.9: Other specialised construction activities

Or. en

Amendment 74

Proposal for a directive Annex I a – Section G (new)

Text proposed by the Commission

Amendment

*Section G Wholesale and retail trade;
repair of motor vehicles and motorcycles*

*Division 45: Wholesale and retail trade
and repair of motor vehicles and
motorcycles*

*Group 45.2: Maintenance and repair of
motor vehicles*

*Group 45.4: Sale, maintenance and repair
of motorcycles and related parts and
accessories, with the exclusion of sale*

(wholesale and retail) of motorcycles and related parts and accessories

Or. en

Amendment 75

Proposal for a directive Annex I a – Section I (new)

Text proposed by the Commission

Amendment

Section I Accommodation and food service activities

Division 56: Food and beverage service activities

Group 56.1: Restaurants and mobile food service activities, with the exclusion of such service activities provided in immovable premises

Group 56.2: Event catering and other food service activities

Group 56.3 Beverage serving activities, with the exclusion of such service activities provided in immovable premises

Or. en

Amendment 76

Proposal for a directive Annex I a – Section S (new)

Text proposed by the Commission

Amendment

Section S Other service activities

Division 95: Repair of computers and personal and household goods

Group 95.1: Repair of computers and communication equipment

Group 95.2: Repair of personal and household goods

Division 96: Other personal service activities

Group 96.0: Other personal service activities

Or. en

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.