



Commission launches infringement procedures against six Member States for lack of compliance with the Services Directive in the area of regulated professions

Brussels, 18 June 2015

The European Commission is launching infringement procedures against Austria, Cyprus, Germany, Malta, Poland and Spain on the grounds that their national rules include excessive and unjustified obstacles in the area of professional services. The Commission considers that requirements imposed on certain service providers in these Member States run counter to the [Services Directive](#).

Elżbieta **Bieńkowska**, European Commissioner for Internal Market, Industry, Entrepreneurship and SMEs, said: "*Freedom to provide services is one of the foundations of the single market. There are still barriers in a number of Member States preventing companies and individuals from providing their services freely across the EU – be it restrictions on legal form and shareholding, professional qualification requirements, or fixed tariffs. Today I am not just waving a yellow card. I am sending a message of opportunity: a dynamic single market for professional services will lead to a more competitive European economy for the benefit of all of us.*"

Excessive shareholding requirements – such as the requirement that the professionals should hold 100% of the voting rights and capital in a company, or should have its corporate seat in a given jurisdiction – can make a second establishment or cross-border provision of services in these Member States difficult. Compulsory minimum tariffs are not necessary in order to ensure high-quality services of either domestic or foreign services providers, whilst depriving consumers of more competitively priced services.

The Commission therefore requests these Member States to adapt their rules governing such shareholding requirements and prohibitions of multidisciplinary practices (for architects and engineers in Austria, Cyprus and Malta for patent agents in Austria) as well as repeal minimum compulsory tariffs (for procuradores in Spain, architects, engineers and tax advisors in Germany, patent agents in Poland and veterinarians in Austria). In Spain, the Commission is also concerned about existing rules declaring certain activities of procuradores incompatible with those of lawyers.

A Letter of Formal Notice is a first step in an infringement procedure and constitutes an official request for information. The Member States now have two months to respond to the arguments put forward by the Commission.

Background

In its Article 15, the [Directive 2006/123/EC](#) on services in the internal market ("Services Directive") lists a series of requirements imposed on service providers, among which legal form, shareholding and tariffs. These requirements are not strictly prohibited but have been identified by the Court of Justice of the EU as creating obstacles to the single market in services. They can only be maintained in so far as they are non-discriminatory, justified by an overriding reason relating to the public interest and proportionate, i.e. no less restrictive measure could be used. As part of the transposition of the Services Directive, Member States were to screen their requirements and assess whether they met this three-step test.

In 2013, a [Commission peer review](#) on legal form, shareholding and tariff requirements under the Services Directive concluded that such requirements can only be maintained if they are non-discriminatory, necessary and proportionate, and that the six Member States concerned imposed unjustified barriers to new entrants in the professional services market.

The peer review accompanied the Commission [Communication](#) on evaluating national regulations on access to professions.

Excessive restrictions on professional services in Austria, Germany and Spain were noted in the 2014 [Country Specific Recommendations](#) to Member States on professional services.

On the June infringement package decisions, see [MEMO/15/5162](#)

On the general infringement procedure, see [MEMO/12/12](#)

For more information on infringement procedures:
http://ec.europa.eu/eu_law/infringements/infringements_en.htm

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