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Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**introducing a European services e-card and related administrative facilities**

(Text with EEA relevance)

{ SWD(2016) 439 final }

{ SWD(2016) 442 final }

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

#### **• Reasons for and objectives of the proposal**

With services accounting for around 70% of EU GDP and employment, promoting the competitiveness of EU services markets is central for the creation of jobs and growth in the EU. The Services Directive, adopted in 2006, set general provisions facilitating the establishment of service providers and their ability to offer services cross-border in the single market. The Directive prompted a number of reforms across the EU Member States, adding an estimated 0.9% to the GDP of the EU over ten years.

There is nevertheless still a large potential for growth and jobs that remains to be captured. EU services markets would benefit from faster productivity growth and a more efficient allocation of resources. Cross-border trade and investment in services remain low. Tackling remaining obstacles to more cross-border activities in services will help to strengthen competition, resulting in more choice and better prices for consumers as well as increased innovation. Addressing these barriers under the framework already provided by the Services Directive offers a potential of generating an additional 1.7% to the GDP of the EU.<sup>1</sup> In addition, better functioning services markets will positively affect the competitiveness of industry as the EU manufacturing sector represents an important buyer and final user of services. In fact, services account for 40% in the value of a final manufacturing product in the EU. A competitive manufacturing sector is therefore conditional upon well-functioning services markets.

For these reasons the European Council 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".<sup>2</sup> A better functioning internal market is one of the ten priorities for the European Commission. In its Single Market Strategy adopted in October 2015, the Commission announced a series of actions to make the single market without borders for services a reality.<sup>3</sup> The objective is clear: reduce hurdles to make it easier for service providers to pursue new business opportunities, while guaranteeing quality services for consumers. This proposal follows up on the Single Market Strategy.

The Services Directive provides a balanced legal framework to achieve these objectives. It ensures that national regulation is non-discriminatory, justified and proportionate to meet public interest objectives. In addition, it requires Member States to reduce obstacles of administrative nature dissuading in practice service providers to operate cross-border. The Services Directive and the important principles it established will remain unaffected by this proposal.

These principles introduced by the Services Directive have enabled positive progress towards a better functioning of EU services markets. At the same time, obstacles to increased single market integration are still present in a number of key services sectors. This is the case particularly in several business services and the construction sector where service providers can often not easily pursue business opportunities in other Member States. They are faced

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<sup>1</sup> European Commission, "Update of the study on the economic impact of the Services Directive", 2015

<sup>2</sup> European Council Conclusions; 28 June 2016.

<sup>3</sup> Communication from the Commission on Upgrading the Single Market: more opportunities for people and business, 28 October 2015.

with administrative obstacles when expanding abroad. This was confirmed through extensive contacts with service providers.<sup>4</sup>

Service providers face administrative complexity when going cross-border. This includes a lack of clarity on how to comply with existing rules dissuading companies, notably SMEs, from attempting to exploit business opportunities in other Member States. Service providers find it difficult to obtain information on applicable regulatory requirements and procedures that need to be completed to access another Member State's market. In addition, national rules often account only for national situations without clarifying how they should be applied to service providers from other EU Member States. As a result, service providers trying to establish a permanent presence in another Member State or to provide cross-border services on a temporary basis often find it difficult to understand which rules to apply and how. Administrative formalities in different Member States are often complicated and costly for service providers to complete.

The European services e-card therefore aims to reduce administrative complexity for service providers that want to expand their activities to other Member States. It will at the same time ensure that Member States can apply justified regulation. It would be offered to service providers on a voluntary basis as an alternative route to show compliance with the applicable national rules. It allows service providers to use a fully-electronic EU-level procedure to complete formalities when expanding abroad, hereby offering them increased legal certainty and significantly reducing administrative complexity. Through the e-card they will be able to avoid administrative obstacles such as uncertainty as to which requirements apply, filling-in disparate forms in foreign languages, translating, certifying or authenticating documents and non-electronic procedural steps. Cost savings related to the formalities covered by the e-card procedure would be significant compared to the existing situation, potentially going up to 50% or even more.<sup>5</sup>

Where a service provider plans to provide a service temporarily cross-border, the e-card would be issued by the home Member State. The host Member States would be able to object to issuance of the e-card where the Services Directive already allows them to do so under one of the overriding reasons of public interest listed in Article 16. Once issued, the e-card would allow the service provider to provide services on a temporary cross-border basis in the host Member State. Decision-making powers of host Member States to reject an application for a European services e-card remain accordingly unchanged, in line with Article 16 of the Services Directive.

Where a service provider plans to provide services through a branch, agency or office in another Member State, the e-card is issued by the host Member State. In this case the service provider would still request the e-card with his home country authorities, who would check that the service provider is established on its territory in line with its applicable rules. But in a second step, the home Member States authorities would initiate a process with the relevant host country administration to allow the latter to verify if the requesting service provider meets its host country regulatory requirements in compliance with the Services Directive. As a result, there would be no unequal treatment between domestic and foreign service providers. Once issued, the e-card would allow its holder to provide services through a secondary establishment (in the form of a branch, agency or office) in the host Member State concerned.

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<sup>4</sup> Including 9 workshops organised by the Commission with service providers in cross-border regions.

<sup>5</sup> Commission Staff Working Document, "Impact Assessment accompanying the Proposal for a Regulation of the European Parliament and of the Council introducing a European services e-card and related administrative facilities", 2017.

The idea of the European services e-card is similar to the European professional card (EPC), which Member States' authorities are already familiar with. The EPC was made available in January 2016 and there has been a significant take-up by the selected professionals covered, showing that this type of simplification tool provides practical benefits to its users. Both the European services e-card and the EPC are voluntary electronic procedures running at EU-level. The use of a European services e-card is voluntary for service providers. The home country authority of the applicant acts as the single contact point. In addition, the functioning of both systems relies on pre-defined and binding workflows of cooperation between home and host Member States implemented via the existing Internal Market Information System (IMI) established by the IMI Regulation<sup>6</sup>.

At the same time, both systems have different objectives. The EPC facilitates provision of services across borders 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 European services e-card addresses a much wider range of requirements. It would be available for both natural persons who are self-employed but also for companies who want to provide services in another Member State. In contrast with the EPC, the European services e-card would also offer technical facilities to facilitate compliance with administrative formalities related to posting of staff into the territory of those Member States that have communicated to the Commission that they wish to make use of IMI for this purpose. This possibility to make use of IMI will in no way alter the substance of the applicable rules laid down in Directive 2014/67/EU. Rules to facilitate obtaining insurance coverage for services provided across borders are also included.

The e-card would cover requirements falling under the Services Directive and accordingly not areas such as tax, labour and social security. Nevertheless, authorities in Member States shall not require the e-card holder to provide any information which is already contained in the e-card for procedures or formalities imposed on a provider in relation to the award of a public contract, a design contest or a concession, formation of subsidiaries or registration of branches under company law and registration with mandatory social insurance schemes.

The European services e-card would apply – in a first stage – to business services and construction services – to the extent the related activities fall already under the Services Directive. Both sectors are of key importance for the EU economy.<sup>7</sup> Service providers of construction or business services often face high administrative complexity when expanding abroad. In addition, productivity growth over the last decade has been very low in both sectors and there is limited cross-border trade and investment. Increased cross-border competition would help preserve and improve the competitiveness of both sectors.

This proposal also includes review clauses for future consideration of the effectiveness of the European service e-card, including as regards compliance with the formalities necessary for the posting of workers and taking account of the experience of those Member States that may have opted for the possibility provided for in Article 6(3) of this draft Regulation to allow for the relevant formalities to be carried out through an electronic platform connected to IMI.

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<sup>6</sup> Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC ( ‘the IMI Regulation’ ) (OJ L 316, 14.11.2012, p. 1)

<sup>7</sup> Both sectors cover about 20% of EU GDP and employment - Eurostat

- **Consistency with existing policy provisions in the policy area**

This Regulation is presented together with a Directive. The Regulation introduces the European services e-card without modifying the underlying EU rules. It sets up tools which are available for service providers throughout the EU. In addition, it facilitates the solution of issues related to insurance coverage of a service provider active cross border. The Directive sets out the legal and operational framework of the European services e-card, regulating inter alia the conditions of eligibility, the competences of the home and the host Member States, the validity of the European service e-card and the conditions for revoking or suspending it.

This Regulation fully preserves the existing EU provisions on social issues, employment conditions (in particular posting of workers, workers' rights and the social pillar), health and safety and protection of the environment. It does not change or put into question existing safeguards in this respect. The e-card would provide further information about the company. The Member State's power to carry out on-site inspections would be completely untouched. The rules on posting of workers under Directives 96/71/EC and 2014/67/EU will continue to apply in the context of the European services e-card but further facilities shall be provided in order to comply with these rules. Where Member States have set up procedures that allow for a declaration relating to the posting of workers pursuant to Article 9 of Directive 2014/67/EU to be completed by electronic means, the European services e-card shall direct the card holder to the relevant national procedures. Providers who hold a European services e-card may also submit this declaration through an electronic platform connected to IMI where a host Member State has communicated to the Commission that this possibility should apply for the posting of workers in its territory.

The proposal for a European services e-card is complementary to other policy initiatives in the context of services announced in the Single Market Strategy to prevent the introduction of barriers to cross-border service provision at national level. In this respect, it is complementary to the Commission proposal [XX] for a Directive reforming the procedure by which Member States must notify authorisation schemes and requirements related to services.

This proposal will also be complemented by the initiative of the Single Digital Gateway, announced in the Single Market Strategy for 2017. The Gateway, on which a public consultation was conducted in autumn 2016, will address the current information gaps for businesses and citizens by integrating, completing and improving the relevant EU and national-level online information. It will also link up with assistance services. Moreover, it will aim to push the further digitalisation of national procedures relevant for citizens and businesses exercising their Single Market rights. The scope of the Single Digital Gateway is intended to go beyond the sectors covered by the present initiative.

In comparison, the European services e-card should offer a fully harmonised and standardised instrument for cross-border provision of services, reducing compliance costs for specific services markets largely dominated by SMEs. It is serving the objective of administrative simplification with the involvement of the Member State where the service provider comes from but that (home) Member State has no say on what requirements a service provider has to satisfy in other Member States. Under the European services e-card, it is up to the latter to inform of and ensure compliance in the framework of a predefined and fully standardized workflow. The Single Digital Gateway will link up with this procedure and make it easy to find for its beneficiaries.

The implementation of the European services e-card will be fully aligned with the development of the Single Digital Gateway project and respect the principles outlined in the

eGovernment action plan (in particular: digital, interoperable, cross-border, once-only and inclusive by default)<sup>8</sup>.

Finally, this proposal is complementary to the enforcement policy of the Commission, which it pursues in parallel, to tackle unjustified or disproportionate national restrictions to the freedom of establishment and the free provision of services.

The implementation of this Regulation will be supported by the Internal Market Information System (IMI) established by the IMI Regulation.<sup>9</sup> IMI can be used by around 5000 authorities since 2011; it is subject to constant user surveys and has proven its potential with the European professional card introduced in January 2016.

- **Consistency with other Union policies**

The proposal for a European services e-card under this regulation and the proposed directive are fully consistent with a number of other Union policies, in particular with those pursuing the same objectives of administrative simplification and reducing requirements to service providers.

Simplification of formalities regarding documents would follow closely the solutions to be introduced under the Regulation (EU) 2016/1191 on the promotion of the free movement of citizens by simplifying the requirements for presenting certain public documents in the European Union<sup>10</sup>.

In the area of recognition of professional qualifications, a similar tool fostering administrative simplification - the above-mentioned European professional card - was introduced in 2013 and is available for a selected number of professions (nurses, pharmacists, physiotherapists, mountain guides and real estate agents) since January 2016. In order to avoid any risk of duplications, the present proposal ensures that professionals who can apply for a European professional card cannot obtain a European services e-card.

In the context of the European services e-card procedure, coordinating authorities and competent authorities shall make use of all available interconnections of national registers including the interconnection of company registers (BRIS), as required by Directive 2009/101/EC, and of insolvency registers under Regulation (EU) 2015/848 before any other means of obtaining or verifying previously obtained information for the purposes of this procedure.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

This legislative action falls within the area of shared competence in accordance with article 4(2)(a) TFEU. It aims to facilitate establishment and the provisions of services by the adoption of measures on approximation of the provisions laid down by law which have as

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<sup>8</sup> EU eGovernment Action Plan 2016-2020 – Accelerating the digital transformation of government - COM(2016)179.

<sup>9</sup> Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC ( ‘the IMI Regulation’ ) (OJ L 316, 14.11.2012, p. 1)

<sup>10</sup> Regulation (EU) 2016/1191 of the European Parliament and of the Council of 6 July 2016 on promoting the free movement of citizens by simplifying the requirements for presenting certain public documents in the European Union and amending Regulation (EU) No 1024/2012 (OJ L 200, 26.07.2016, p.1)

their object the functioning of the internal Market. This Regulation is based on Article 114 TFEU which is the general legal basis for adoption of such measures.

- **Subsidiarity (for non-exclusive competence)**

The overall objective of this legislative proposal is to ensure the smooth functioning of the EU single market for services, which is not limited to the territory of one Member State, but covers the entire territory of the EU. Given the transnational nature of the EU single market, and the necessity to address situations in cross-border contexts in the most coherent manner, making use of an existing IT tool running across the EU – the IMI –, constitutes an efficient response which can only be provided by action at EU-level.

- **Proportionality**

The measures introduced by this Regulation are proportionate to its objective of further integrating the services markets at EU level, by enabling increased market dynamics and cross-border competition. They are also proportionate to the objectives of increasing transparency, reducing costs and simplifying procedures that Member States impose to service providers in cross-border situations, in particular in the procedures for the posting of staff and regarding professional liability insurance. In addition, it builds on the IMI, an existing EU-level IT instrument funded by the EU budget and already used by national administrations. The EU-level procedure will only bring limited adjustments to IMI, resulting in limited costs at EU and national level. Such limited costs have been assessed with respect to existing similar procedures, such as the European professional card.

These measures do not extend beyond what is necessary to solve the identified problems and to achieve the identified objectives. Although the EU-level procedure requires an active role of Member State's administrations, the financial efforts to be expected by Member States will be limited through the use of the Internal Market Information system, a platform already existing and set in place with EU funds. In addition, prospects brought by the use of the European services e-card of additional competition in services markets with more market players, and additional turnover, shall have a positive effect on Member States' economies.

The use of a European services e-card will be voluntary for service providers.

- **Choice of the instrument**

This Regulation is based on article 114 TFEU. It includes provisions to facilitate the exercise of secondary establishment and freedom to provide services and temporary cross-border situations. Building on this Treaty provision, the Regulation also introduces practical tools regarding professional liability insurance which service providers are seeking for their activities abroad.

### **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Ex-post evaluations/fitness checks of existing legislation**

In preparation of this proposal, the Commission has carried out an in-depth evaluation of the Services Directive. This evaluation showed that the implementation of the Services Directive has been only partially effective so far. The Services Directive has been able to generate additional growth through Member States' reforms. Nevertheless, service providers in key services sectors (such as business services and construction) still face an important number of barriers. In addition, the system of administrative cooperation between Member States is not delivering all its benefits. An in-depth analysis carried out on the functioning and usability of

the PSCs concluded that most PSCs have not yet led to all the expected simplification in administration in terms for providing temporary cross-border services or setting up a business.

In addition, evaluation from the Commission revealed that Member States take a very heterogeneous approach as regards insurance obligations and access to insurance for provision of services, making it difficult and costly for service providers to contract insurance coverage for cross-border provision of services, in particular in business services and construction.

All these remaining obstacles are to the detriment of the development of more cross-border trade and investment in the field of services.

- **Stakeholder consultations**

The Commission has carried out several analyses and consultations to gather evidence on the remaining obstacles to a fully functioning Single Market for services, with a greater focus on the practical effects of the provisions on the ground. Economic assessment has been conducted to evaluate the effects of national reform in services markets and access to insurance for service providers. In addition, stakeholder workshops have been organised as part of the Single Market Forum in 2014, 2015 and 2016. These looked into the challenges of small and medium-sized enterprises to develop in cross-border regional markets, or into specific challenges in services sectors (in particular business services and construction services) which are hampered by low cross-border trade and investment at the EU level. The contributions and input gathered revealed that despite some progress over the past years, service providers in several economically important sectors still face a range of obstacles when seeking to expand across Member States' borders.

Stakeholders have expressed different views on the possible ways to improve the framework to which the services markets are subject in the EU and at national level. Stakeholders almost unanimously oppose reopening the Services Directive. This Regulation does not modify any substantive rules on cross-border service provision of services as laid down in the Services Directive, nor any rules related to posting of workers, health and safety or protection of the environment.

An online public consultation ran from 3 May to 26 July 2016. The consultation gathered further views from stakeholders, as well as first-hand experiences on the remaining barriers in these services sectors in particular, to the cross-border provision of services in the EU.

The Commission also gathered views from stakeholders at several occasions on problems faced by service providers in obtaining insurance cover when providing services in another Member State on a temporary basis, in particular via two public consultations in 2013 and in 2015.

The results of all these exercises have confirmed that unjustified or disproportionate requirements still persist at national level, to the detriment of service providers and service recipients in the Single Market. In addition, they have given specific indications of what policy responses are expected from stakeholders. The majority of them supported the need to address the remaining barriers to cross-border provision of services, and to facilitate access to insurance coverage in these situations, while maintaining the EU *acquis* on social, employment, health and safety or the environment, and while pursuing an ambitious enforcement policy. In this respect, the Commission has adopted a comprehensive enforcement package in November 2016 to address disproportionate restrictions introduced in the field of services in nine Member States.



This initiative aimed to enhance the development of cross-border services markets was also supported by the Competitiveness Council in its Conclusions of 29 February 2016 on the Single Market Strategy<sup>11</sup> and by the European Council in its Conclusions of 28 June 2016<sup>12</sup>. It has also been supported by the European Parliament in its report on the Single Market Strategy adopted on 26 May 2016<sup>13</sup>.

- **Collection and use of expertise**

The results of a mutual evaluation process with Member States in 2010-11, performance checks carried out in 2011-12 and peer review undertaken in 2012-2013 all contributed to the preparation of this proposal for a Regulation. In addition, the results of different public consultations, including the one conducted in summer 2016, have offered a solid basis of expertise.

On insurance aspects, the outcome of the public consultation launched in 2013 on difficulties faced by service providers in obtaining insurance coverage in cross-border contexts, and in December 2015 for a possible Green Paper on retail financial services, have also been taken into account. This last consultation also dealt with specific issues related to access to professional indemnity insurance in a cross-border context. In addition, regular discussions have been held with representatives of the insurance sector.

The Commission has carried out multiple workshops with stakeholders, in particular social partners, gathering expertise on difficulties encountered due to important administrative requirements across Member States. Data has also been gathered through external studies and reports. Furthermore, the Commission relied on regular exchanges at technical level in the context of its Experts Group on the Implementation of the Services Directive.

- **Impact assessment**

An impact assessment was carried out in preparation of this initiative. The resubmitted report takes into account the recommendations made by the Regulatory Scrutiny Board in its initial negative opinion of 14 October 2016<sup>14</sup> as well as the additional points raised by the Board in its final positive opinion of 8 November 2016<sup>15</sup>. In particular, the problem description and the scope of the impact assessment have been clarified, the various policy options have been regrouped into clearly recognizable option packages and administrative cost reductions have been estimated with greater precision.

Individual policy options have been considered in the impact assessment and grouped into "packages" of policy options. The following packages of policy options have been examined:

- A first option package would allow the service provider to obtain a certificate regarding legal establishment in the home Member State and confirmation of existing insurance coverage for activities also in the home Member State;
- A second option package would allow the service provider to make use of an EU-level procedure to facilitate access to the market of another Member State, including an advanced electronic mechanism connected to IMI to facilitate compliance with formalities for posted staff which the host Member State can

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<sup>11</sup> [Council Conclusions on "The Single Market Strategy for services and goods", 29 February 2016.](#)

<sup>12</sup> [European Council Conclusions, 28 June 2016.](#)

<sup>13</sup> [European Parliament resolution of 26 May 2016 on the Single Market Strategy.](#)

<sup>14</sup> The main recommendations of the Board in its initial opinion on the impact assessment were to strengthen the problem definition, reconsider the design and articulation of the different options and provide more information on possible costs for Member States and stakeholder views.

<sup>15</sup> [http://ec.europa.eu/smart-regulation/impact/ia\\_carried\\_out/cia\\_2016\\_en.htm](http://ec.europa.eu/smart-regulation/impact/ia_carried_out/cia_2016_en.htm)

choose to make use of. In addition, it would address practical obstacles related to insurance in cross-border situations;

- A third option package would in addition to package 2 reduce regulatory disparity in a number of key business services (architectural, engineering and accounting services) through harmonisation of a limited number of requirements applicable to service providers in these three services (namely legal form restrictions, requirements laying down the percentage of shareholding that should be reserved for professionals and restrictions to the provision of multidisciplinary activities);
- A fourth option package would in addition to package 3 introduce specific solutions to address the regulatory disparities mentioned above in the case of secondary establishment (branches and agencies), exempting foreign service providers from certain requirements while allowing the host Member State to introduce alternative safeguards.

The first package would generate certain simplification effects which are however more limited compared to the other packages. While both packages 3 and 4 would have even stronger effects than package 2 given that they also address regulatory obstacles (in addition to administrative simplification), the Commission decided to go for package 2, based on the following reasoning: The removal of the most restrictive requirements covered by packages 3 and 4 through targeted enforcement action, complemented by specific recommendations tackling the whole regulatory framework applicable to the profession providing the service, appears more proportionate than a legislative proposal introducing minimum harmonisation for a limited number of requirements in a limited number of services sectors. In addition, Package 4 is discarded also because it would give rise to perceptions of introducing a solution driven by a country of origin approach under which foreign service providers are subject to their home member States legislation only, leading to a reverse discrimination of domestic service providers.

The package chosen is expected to lead to increased legal certainty and cost savings for service providers going cross-border. It is liable to generate an increase in market dynamics and competition levels, hereby increasing choice and value added for consumers.

- **Regulatory fitness and simplification**

The proposal for a regulation introducing a European services e-card will contribute to regulatory fitness regarding market access for service providers and simplification by improving the modalities by which service providers are given access to another Member State's market. This does not alter the prerogatives of host Member States under the Services Directive.

- **Fundamental rights**

This proposal promotes rights enshrined in the Charter of Fundamental Rights. More specifically, protection of personal data shall be ensured in line with Article 8 of the Charter. In addition, the main objective of this initiative is to facilitate the rights of establishment and the right to provide services in any Member State, as prescribed by Article 15(2) of the Charter, ensuring no discrimination, even indirect, is in place on grounds of nationality (further implementing Article 21(2) of the Charter). Moreover, the EU-level procedure is envisaged to put in place an impartial, fair and reasonably speedy procedure, also in regards to Commission participation, as required by Article 41 of the Charter. Finally, prohibition of abuse of rights, namely of the freedom to provide service, shall be duly considered, as prescribed by Article 54 of the Charter.

#### **4. BUDGETARY IMPLICATIONS**

The proposal is expected to have implications for the EU budget to the extent that the future European services e-card will use the Internal Market Information System ("IMI") as its operational backbone. The IMI will have to be adapted to support the European services e-card procedure and storage requirements and supplemented with some additional functions, namely a public interface for service providers, interconnections to other relevant systems, and a back-office functionality for national authorities. This is due to the fact that for the European services e-card purposes IMI will be offered as a tool for the effective exchange of information and mutual assistance between competent authorities within a certain Member State, without prejudice to other solutions put in place by Member States. The implications for the EU budget will be modest in view of the fact that using the IMI to underpin the European services e-card will provide important economies of scale and scope. In addition, the main existing IMI capabilities and those currently under development are to a large extent compliant with the requirements of the European services e-card. The adaptation and development costs will therefore be substantially reduced.

Any necessary allocations will however be met through redeployment; no budgetary impact is expected on EU budget over and beyond the appropriations already foreseen in the official financial programming of the Commission.

#### **5. OTHER ELEMENTS**

- **Implementation plans and monitoring, evaluation and reporting arrangements**

An evaluation of this Regulation is foreseen for every five years after implementation of the European services e-card. This evaluation shall also include an assessment of the cooperation between coordinating authorities in Member States, and shall consider the need to adapt the procedures for the European services e-card in light of the latest developments in e-Government. Member States, service providers, social partners and other stakeholders would also be invited to evaluate the functioning of the initiative. Specific indicators allowing assessing the impacts of the Regulation such as the number of service providers using the European services e-card, their experience related to administrative burden, the speed of the procedures used or the number of information exchanges between Member States will be considered.

Given that a review of certain aspects of Directive 2014/67/EU is foreseen for June 2019, the potential of the facilities to be offered under Article 6 should be reassessed as part of that review. The review shall take account of the experience of those Member States that may have opted for the possibility foreseen in Article 6(3) of this draft Regulation to allow for formalities for the posting of workers to be carried out through the electronic platform connected to IMI.

- **Detailed explanation of the specific provisions of the proposal**

Article 1 specifies the subject matter of the proposed Regulation, which introduces the European services e-card and related administrative facilities which can be used by providers to provide services across the borders. It also clarifies that the coordination of national provisions necessary to make available such an e-card is laid down in Directive (ESC) to be adopted at the same time.

Article 2 defines the scope of the activities for which the European service e-card is available, as well as the specific activities, fields and matters which are not covered by the e-card, following the pattern of Directive 2006/123/EC.

It also states that, similarly to Directive 2006/123/EC, this Regulation does not affect the definition or organisation of services of general economic interest or the rules governed by competition law. It does also not affect cultural or linguistic diversity or media pluralism. Finally, the Regulation does not affect provisions of general criminal law, labour law, tax law or social security law.

As is the case for Directive 2006/123/EC, it is clarified that this Regulation shall not apply when it conflicts with other Union acts governing specific aspects of access to or exercise of a service activity in specific sectors or for specific sectors or specific professions.

Article 3 contains the relevant definitions for the Regulation.

Article 4 defines the essential elements of applications for the European services e-card, which should be the same throughout the EU, and confers implementing powers to the Commission to specify the standard form and technical details as well as delegated powers to further specify the type of supporting information and, under exceptional circumstances justifying their need, documents to be provided in the application.

Article 5 establishes an obligation imposed on insurance distributors and bodies appointed by a Member State to provide compulsory insurance, to deliver an insurance certificate upon request of their policyholders. It also defines the essential elements of such certificate and envisages the possibility for the Commission to define a standard form through implementing acts.

Articles 6 allows holders of a European services e-card to fulfil the formalities for secondment of staff pursuant to Directive 2005/36/EC through an electronic platform connected to IMI under the coordination of the coordinating authority in the home Member State. For posting of workers pursuant to Directive 96/71/EC and 2014/67/EC the same possibility applies in relation to those Member States that communicate to the Commission that this possibility should apply for the posting of workers in their territories. In addition, where Member States have set up procedures that allow for the declaration relating to the posting of workers pursuant to Article 9 of Directive 2014/67/EU to be completed by electronic means, the electronic platform connected to IMI shall direct the card holder to the relevant national procedures.

Article 7 allows applicants of a European services e-card to fulfil the formalities necessary for the free movement of self-employed pursuant to Directive 2005/36/EC, through an electronic platform connected to IMI, under the coordination of the coordinating authority in the home Member State. It also allows for replacing the attestations on professional qualifications required pursuant to Directive 2005/36/EC with a completed application form for a European services e-card.

Article 8 establishes that the procedures for applications, issuance, update, suspension, revocation and cancellation of European services e-cards shall be fully electronic and available through an electronic platform connected to IMI, without prejudice to the internal procedural workflow between the coordinating authorities and the competent authorities in the Member States. It also confers implementing powers to the Commission to adopt technical specifications for the abovementioned electronic procedures.

Article 9 provides for common rules concerning the form and language of documents to be submitted in the context of the procedure for the European service e-card. It also confers implementing powers to the Commission to adopt technical rules for translation of information and of documents used in the context of the procedure for the European service e-card. .

Article 10 defines principles clarifying which fees may be charged by home and host Member State, which shall not exceed the costs which Member States directly incur. It also confers on the Commission implementing powers to lay down technical rules on the payment modalities and procedures.

Article 11 establishes an obligation on insurance distributors to issue upon request of a policyholder a statement relating to third party liability claims concerning the activities of the policyholder. It also empowers the Commission to adopt implementing rules on a standard format of the statement.

Article 12 requires insurance distributors and bodies appointed by a Member State to provide compulsory insurance, to take duly into account in a non-discriminatory manner the statement of claims presented by a provider in their acceptance policy and calculation of premiums.

Article 13 requires professional organisations offering group cover related to professional indemnity insurance to their members or other specific service providers to grant access to it on non-discriminatory terms to providers from other Member States who express an interest, including to holders of a European services e-card.

Article 14 provides for a mutual obligation of exchange of information among coordinating authorities involved. Implementing powers are also conferred to the Commission to define technical details for processing such exchange of information.

Article 15 regulates the exercise of delegation by the Commission as provided for in Article 4.

Article 16 defines the Committee assisting the Commission in the adoption of implementing acts and the applicable procedure in accordance with Regulation (EU) 182/2011.

Article 17 provides for an obligation on Member States to designate the coordinating authority empowered to perform the tasks foreseen in the Regulation and the Directive setting out an operational framework for a European services e-card, communicate it to the Commission and register it in IMI.

Articles 18 and 19 impose on the Commission monitoring and review obligations on the impact of this Regulation on the freedom of establishment and freedom to provide services across Member States. It also refers to the review of the facilities offered under Article 6 as part of the review under Directive 2014/67/EU.

Article 20 provides for the amendment to Regulation (EU) No 1024/2012 on IMI in order to include the European services e-card into the scope of that Regulation.

Article 21 deals with entry into force and application. The relevant dates are adapted to the dates proposed for the Directive.

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**introducing a European services e-card and related administrative facilities**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>16</sup>,

Having regard to the opinion of the Committee of the Regions<sup>17</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The Treaty on the Functioning of the European Union (TFEU) guarantees service providers the freedom of establishment in Member States and the freedom to provide services across Member States.
- (2) Directive 2006/123/EC of the European Parliament and of the Council<sup>18</sup> establishes general provisions facilitating the exercise of the freedom of establishment of service providers and the free movement of services. It provides inter alia that Member States should provide for administrative simplification, such as making use of Points of Single Contact, as well as accepting equivalent professional indemnity insurance that service providers already hold in their home Member State.
- (3) Directive 2006/123/EC requires Member States to put in place and keep constantly updated Points of Single Contacts where a service provider wishing to establish or to provide services can find all relevant information about requirements to be complied with and e-procedures in respect of all formalities, authorisations and notifications to go through. However, costly information challenges and difficulties complying with national procedures at a distance remain to date for service providers, namely for sector-related requirements. Cooperation between the administrations of different Member States should in principle take place via the Internal Market Information System (IMI), an IT-platform offered for cross-border exchange of information and mutual assistance between authorities in different Member States under that Directive.

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<sup>16</sup> OJ C , , p. .

<sup>17</sup> OJ C , , p. .

<sup>18</sup> Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ L 376, 27.12.2006, p. 36).

Despite the fact that authorities sometimes have doubts with regard to the legal establishment of a provider in another Member State, the possibilities for cooperation currently provided in IMI are not exploited to their full potential.

- (4) Requirements remain in place which make expansion of service providers' operations across the internal market burdensome and unappealing, such as multiple and disparate authorisation schemes before different authorities and, which, regarding establishment, fail to achieve mutual recognition of conditions previously complied with in other Member States or, regarding temporary cross-border provision of services apply disproportionate or unjustified restrictions. As a consequence, service providers face multiple and disproportionate compliance costs when going cross-border.
- (5) Formalities associated with authorisations and notifications often require paper forms to be filled in and paper documents to be submitted, to be translated at significant cost, which must even comply with particular form requirements such as certification or authentication. Information regarding these obstacles is either not available online or is scarce, incomplete, dispersed and difficult to interpret in relation to the particular circumstances of a provider expanding across borders, as they often target purely domestic situations. Service providers often risk resubmitting information and documents and undergoing duplication of controls with different authorities in the same Member State. Significant translation costs work also as an important disincentive for companies to take the first steps when going cross-border.
- (6) Cross-border trade and cross-border investment in certain business and construction services are particularly low showing a potential for better integration of services markets with significant negative repercussions for the remaining part of the economy. This underperformance leads to situations where the potential for more growth and jobs in the Single Market has not been fully exploited.
- (7) Addressing remaining obstacles to more cross-border activities in services will help to strengthen competition, resulting in more choice and better prices for consumers as well as more competitive services sectors creating new jobs, promoting productivity and ensuring a more attractive climate for investment and innovation.
- (8) This Regulation aims to facilitate the freedom of establishment and the free movement of services within the single market in areas already covered by Directive 2006/123/EC through the adoption of further measures on approximation of provisions which have as their object the establishment and functioning of the internal market. It should be based on Article 114 of the TFUE.
- (9) In view of this, the present Regulation introduces a European services e-card which should facilitate certain service providers to expand service provision across internal market borders, either in the form of temporary provision of services or via secondary establishment through branches, agencies or offices.
- (10) In so doing, this Regulation specifically targets business and construction service sectors included in scope of Directive ...[ESC Directive]... which face some of the most stringent regulatory and administrative barriers to cross-border expansion and consequently have an unexploited potential for internal market integration.
- (11) All matters, activities and fields excluded from the scope of Directive 2006/123/EC should remain excluded from the scope of this Regulation. In particular, this Regulation does not affect matters, activities and fields such as those deriving from taxation, social security and labour law, including any legal or contractual provision concerning employment conditions, working conditions, including health and safety at

work and the relationship between employers and workers. Equally this Regulation does not affect the social security legislation of the Member States. This Regulation is also without prejudice to any provision stemming from competition law as well as any rule on the applicable law or jurisdiction pursuant to private international law.

- (12) For reasons of coherence, possible conflicts between the present Regulation and other EU acts governing specific aspects of access or exercise of a service activity in a specific sector should be solved as provided for in Article 3 of Directive 2006/123/EC for conflicts between that Directive and such acts, with the application of those other acts. As a result, the provisions in the present Regulation cannot be relied upon in order to justify prior authorisation schemes, prior notification schemes or establishment requirements which are prohibited by other EU acts governing specific aspects of access or exercise of a service activity in a specific sector such as Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000<sup>19</sup>. As a further result, this Regulation does in no way affect the obligations service providers should respect in accordance with Directive 96/71/EC of the European Parliament and of the Council<sup>20</sup> and Directive 2014/67/EU of the European Parliament and of the Council<sup>21</sup>.
- (13) A European services e-card should be introduced as a voluntary alternative to service providers. Service providers should continue to enjoy the possibility of demonstrating compliance with applicable requirements when expanding operations across borders in the context of other authorisations and notifications introduced under the national law of the Member States concerned. A service provider should always be able to choose not to apply for a European services e-card.
- (14) The European services e-card should be fully electronic, rely almost exclusively on data provided by reliable sources, limit the use of documents to the minimum necessary and allow for multilingual processing to avoid translation costs. In order to make the procedure fully electronic and allow for administrative cooperation between home and host Member States. The Internal Market Information system set up by Regulation (EU) No 1024/2012 of the European Parliament and of the Council<sup>22</sup> should be used under this Regulation. A specific electronic platform should be developed for the purpose of issuing, updating, suspending, revoking or cancelling European services e-cards, as well as to make valid European services e-cards electronically available to their holders and to competent authorities.
- (15) In order to submit an application for a European services e-card, a harmonised multilingual form should be made available ensuring that the elements necessary for identification of the provider and of the services for which the e-card is requested, as well as for the assessment of specific requirements applicable to the services at stake,

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<sup>19</sup> Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce in the internal market (OJ L178, 17.7.2000, p. 1)

<sup>20</sup> Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (OJ L 18, 21.1.1997, p. 1)

<sup>21</sup> Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System (‘the IMI Regulation’) (OJ L 159, 28.5.2014, p. 11)

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



such as those regarding proof of its establishment in the home Member State, good repute or insurance coverage, are included and thus made available to coordinating authorities in both home and host Member States.

- (16) The power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to specify the details of the information to be contained in the standard application form and the documents to be included in the application as supporting evidence. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (17) During the implementation of this Regulation, Member States should inform and update the Commission of procedures imposed under national law on incoming cross-border providers wishing to provide services temporarily or through a branch, agency or office, including the information and documents to which those procedures pertain, to allow for the preparation of application forms. In order to ensure uniform implementation concerning the necessary information to be provided for the application of the European service e-card, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>23</sup>.
- (18) Description of the terms of coverage of a mandatory or voluntary insurance included in written contracts might be difficult to find. Insurance distributors, as well as bodies appointed by a Member State to provide compulsory insurance, should therefore provide a description of the core elements of coverage to their client in the format of an insurance certificate. This certificate should be annexed to the application form. In order to ensure uniform implementation of this part of the Regulation, implementing powers should be conferred on the Commission to adopt a harmonised format for the certificates. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.
- (19) Holders of a European services e-card may want to second staff into the territory of the host Member State. When doing so, service providers may be subject to requirements, such as prior declarations addressed to the host Member State, necessary for the protection of posted workers. The European Services e-card will in no way affect the content of such declarations and the responsibilities by the host Member State in that regard.
- (20) An electronic platform connected to IMI, to be developed by the Commission, should be made available to European services e-card holders to facilitate compliance with those formalities which, as the case may be, need to be completed with the host Member State. These formalities concern in particular the possible obligation of declarations in advance of professional qualifications of workers that should be carried

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

out in accordance with Directive 2005/36/EC of the European Parliament and of the Council<sup>24</sup>.

- (21) As regards the prior declaration that may be required under Article 9 of Directive 2014/67/EU of the European Parliament and of the Council<sup>25</sup>, the electronic platform connected to IMI should direct holders of a European services e-card to electronic national procedures put in place in the host Member State where the workers will be posted, wherever such national procedures allow for the electronic submission of the above-mentioned prior declaration.
- (22) The electronic platform connected to IMI should be made available by the Commission to those Member States that have previously communicated to the Commission their intention to make use of this possibility. Where Member States decide to allow for the use of IMI for the sending of the prior declaration in relation to workers posted in their territory, holders of a European services e-card shall be able to submit a declaration as referred to in Article 9 of Directive 2014/67/EU directly to the competent authority in the host Member State as defined in Article 2(a) of Directive 2014/67/EU, through the electronic platform connected to IMI. To that end, a host Member State should provide all the elements required in accordance with point a) of paragraph 1 and paragraph 2 of Article 9 of Directive 2014/67/EU as the basis for a multi-lingual form to be submitted for the declaration of posted workers on its territory. The Commission should publish this form in the Official Journal and make it available in the electronic platform connected to IMI. The relevant information with regard to the elements required should be available for the host Member State concerned in full compliance with the language requirements set out in Article 9(1)(a) of Directive 2014/67/EU. The experience of these Member States with the use of the electronic platform connected to IMI should be part of the assessment foreseen in the second subparagraph of Article 19 of this Regulation.
- (23) In order to ensure uniform implementation of this Regulation in relation to procedures to issue and update of a European services e-card, as well for formalities regarding secondment of staff and movement of self-employed other than the one referred to in the preceding recital, implementing powers should be conferred on the Commission to adopt rules on electronic processing of those procedures. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.
- (24) Domestic administrative procedures supporting the procedures governed by this Regulation should be electronic if the Member States in question so decide. Member States could however make use of the Internal Market Information system set up by Regulation (EU) No 1024/2012 for domestic purposes of administrative cooperation.
- (25) Procedures for issuing, updating, suspending or revoking a European services e-card should make use of documents only in exceptional circumstances, when more detailed information is absolutely essential. In any case, all of such documents should be used and accepted in simple form.

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<sup>24</sup> Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005, on the recognition of professional qualifications (OJ L255, 30.9.2005)

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

- (26) EU law may allow, in the context of formalities for secondment of staff as regulated professionals or movement of self-employed in relation to control of professional qualifications, for documents to be submitted in special form, for example as certified or authenticated documents. Such certification and authentication, once performed in the Member State of original issue of the document in question, should be accepted throughout the EU.
- (27) Certified translation of documents should not be required under this Regulation. The electronic platforms dealing with procedures should provide for a technical solution to translate their content. In order to ensure uniform implementation of this part of the Regulation implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council. Rules on translation of documents in the context of posting of workers and application for attestations regarding their social security contributions should not be covered by this Regulation.
- (28) Member States are entitled to charge fees only to the extent of the specific costs borne to carry out the procedure. Costs borne already by the budget of the Union should not give rise to fees charged by Member States. Member States should communicate their fees charged to the Commission through IMI and publish such information. Given that IMI is in essence offering all necessary facilities, Member States should, inter alia, not charge fees to update, suspend, revoke or cancel a European services e-card. In order to ensure uniform implementation of the provisions on the payment of fees, implementing powers should be conferred on the Commission to adopt rules on payment modalities and processing. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.
- (29) This Regulation builds on enhanced administrative cooperation between home and host Member States, which should include exchanges of information and use of interconnected national registers to obtain or verify previously obtained information such as registers required under Directive 2009/101/EC of the European Parliament and of the Council<sup>26</sup> or under Regulation (EU) 2015/848 of the European Parliament and of the Council<sup>27</sup>. In order to ensure uniform implementation of the handling and processing of exchanges of information and mutual assistance implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.
- (30) Service providers obliged to acquire professional liability insurance in Member States where they have not been active often have difficulty demonstrating their claims history regarding cover obtained elsewhere. Claims histories are an essential element to insurance distributors in ascertaining and assessing the risk profile of a potential client. Demonstration is difficult due to poor communication between insurance distributors across internal market borders but also to disparities in describing the track-record of an insured party, even within the same Member State. Insurance distributors and bodies appointed by a Member State to provide compulsory insurance

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<sup>26</sup> Directive 2009/101/EC of the European Parliament and the Council of 16 September 2009 on coordination of safeguards which, for the protection of the interests of members and third parties, are required by Member States of companies within the meaning of the second paragraph of Article 48 of the Treaty, with a view to making such safeguards equivalent (OJ L 258, 1.10.2009, p. 11)

<sup>27</sup> Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (OJ L 141, 5.6.2015, p.19)

cover should therefore be obliged to issue a statement relating to the third party liability claims which can then be used across borders and even domestically, should a service provider change insurance distributor.

- (31) In order to ensure uniform implementation of this Regulation in relation to the presentation of the description of liabilities, implementing powers to adopt rules on the standardised presentation format of that statement should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.
- (32) A statement relating to claims history should be instrumental in allowing insurance distributors and bodies appointed by a Member State to provide compulsory indemnity insurance to ban discriminatory practices towards cross-border providers of which information is more scarce and difficult to obtain. The same non-discrimination principle should apply to professional organisations who offer group cover to their members or other service providers.
- (33) A single coordinating authority should be designated by each Member State to carry out the tasks provided for in this Regulation, without prejudice to the competences set out in applicable national legislation. Such authorities should be registered as a competent authority in the Internal Market Information system for the purposes of Regulation (EU) 1024/2012 and communicated to the Commission.
- (34) The application of this Regulation should be monitored and assessed in order to determine its impact on the costs of expanding operations cross-border, increased transparency about cross-border providers, competition, prices and quality of the services provided. The effects of this Regulation and the practical functioning of the cooperation between coordinating authorities should be evaluated regularly. This monitoring will happen in cooperation with Member States, social partners and other relevant stakeholders.
- (35) In order to adapt the functioning of IMI to the tasks conferred by this Regulation, Regulation (EU) No 1024/2012 should be amended accordingly.
- (36) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States in view of the risk of complexity and inconsistency of regulatory approaches of certain services across Member States but can rather, by reason of enhanced administrative coordination and harmonisation across the Union, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (37) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular, this Regulation, through the introduction of the European services e-card and related administrative facilities and procedures, seeks to promote the rights of establishment and the right to provide services in any Member State, preventing any discrimination on grounds of nationality and ensuring impartial, fair and reasonably speed procedure, in accordance with Articles 15, 21 and 41 of the Charter of Fundamental Rights of the European Union, while ensuring full respect of the protection of personal data, including in accordance with Regulation (EC) No 45/2001

of the European Parliament and of the Council<sup>28</sup>, and giving due consideration to the risk of abuse of rights provided for respectively in Articles 8 and 54 of that Charter.

HAVE ADOPTED THIS REGULATION:

## **CHAPTER I**

### **GENERAL PROVISIONS**

#### *Article 1*

##### ***Subject matter***

This Regulation introduces a European services e-card and related administrative facilities, which shall be made available throughout the European Union to providers of services willing to avail themselves of that e-card.

In order to make available such a European services e-card to take up and pursue activities as a service provider, the necessary coordination of provisions laid down by law, regulation or administrative action in a Member State is laid down in Directive .....[ESC Directive]....

#### *Article 2*

##### ***Scope***

1. This Regulation applies to the services listed in the Annex of Directive [ESC Directive].
2. This Regulation does not affect the matters mentioned in Article 1(2) to (7) of Directive 2006/123/EC.

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

3. If the provisions of this Regulation conflict with the provision of another Union act governing specific aspects of access to or exercise of a service activity in specific sectors or for specific professions, the provision of the other Union act shall prevail and shall apply to those specific sectors or professions.

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

#### *Article 3*

##### ***Definitions***

For the purposes of this Regulation the following definitions shall apply:

1. "information on the good repute of a provider" means information as referred to in Article 33 (1) of Directive 2006/123/EC;

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<sup>28</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1)

2. "electronic document" means an electronic document as defined in Article 3(35) of Regulation (EU) 910/2014 of the European Parliament and of the Council<sup>29</sup>;
3. "IMI" means the Internal Market Information System established by Regulation (EC) 1024/2012;
4. "public document" means any document issued by the authorities of a Member State in accordance with its national law relating to issues relevant for procedures governed by this Regulation as follows:
  - (a) documents emanating from an authority or an official connected with the courts or tribunals of a Member State, including those emanating from a public prosecutor, a clerk of a court or a judicial officer ('huissier de justice');
  - (b) administrative documents;
  - (c) notarial acts;
  - (d) official certificates which are placed on documents signed by persons in their private capacity, such as official certificates recording the registration of a document or the fact that it was in existence on a certain date and official and notarial authentications of signatures;
  - (e) documents drawn up by the diplomatic or consular agents of a Member State acting in the territory of any State in their official capacity, where such documents have to be presented in the territory of another Member State or to the diplomatic or consular agents of another Member State acting in the territory of a third State.
5. "legalisation" means the formality for certifying the authenticity of a public office holder's signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which it bears;
6. "apostille formality" means the formality that may be required in order to certify the authenticity of the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which it bears issued by the competent authority of the State from which the document emanates provided for by the Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents (Apostille Convention);
7. "certified copy" means a copy of an original document which is signed and attested to be an accurate and complete reproduction of that original document by an authority, empowered to do so under national law;
8. "certified translation" means a translation carried out by a person qualified to do so under the law of a Member State;
9. "professional liability insurance" means professional liability insurance as defined in the last indent of Article 23(5) of Directive 2006/123/EC.
10. "service" shall mean a service as defined in Article 4(1) of Directive 2006/123/EC;
11. "provider" shall mean a provider as defined in Article 4(2) of Directive 2006/123/EC;

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<sup>29</sup> Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73)

12. "Member State of establishment" means a Member State of establishment as defined in Article 4(4) of Directive 2006/123/EC;
13. "establishment" means establishment as defined in Article 4(5) of Directive 2006/123/EC;
14. "home Member State" means the Member State to which a provider addressed the application for a European services e-card;
15. "host Member State" means the Member State in which a provider declared the intention to provide services making use of a European services e-card;
16. "requirement" means a requirement as defined in Article 4(7) of Directive 2006/123/EC ;
17. "coordinating authority" means an authority designated in accordance with Article 17;
18. "competent authority" means any of the following:
  - (i) a competent authority as defined in Article 4 point 9 of Directive 2006/123/EC;
  - (ii) a competent authority as defined in Article 3(1)(d) of Directive 2005/36/EC;
  - (iii) any authority or body in charge of central, commercial or company register in a Member State;
  - (iv) any tax authority in a Member State;
19. "insurance distributor" means insurance distributor as defined in point (8) of Article 2(1) of Directive (EU) 2016/97 of the European Parliament and of the Council<sup>30</sup>,

## **CHAPTER II**

### **PROCEDURE TO ISSUE A EUROPEAN SERVICES E-CARD**

#### *Article 4*

#### ***Application for a European services e-card***

1. Providers may choose to apply for a European services e-card.

Any applications for a European services e-card shall be submitted in an electronic platform connected to IMI using a multilingual standard form.

The standard form shall consist of the following elements:

  - (a) identification of the provider, including, where applicable, registration numbers in central, commercial or company registers and for tax and social security purposes;
  - (b) identification of the service activity, the host Member State, the type of European services e-card envisaged;
  - (c) indication whether provision of information society services are envisaged;

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<sup>30</sup> Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (recast) (OJ L 26, 2.2.2016, p. 19)

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

(e) requirements to which the applicant is subject for the provision of the service in its home Member State, such as qualifications or certifications;

(f) information on the good repute of the provider;

(g) information on any existing professional indemnity insurance of the provider in relation to professional liability in the territory of the home Member State, including information on the cover for activities carried out in the territory of other Member States, as appropriate;

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

2. The Commission shall specify how the information referred to in points (a) to (h) above is to be presented in the standard form and lay down the technical details of the standard form throughout the European Union, by way of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16(2).

The application shall include all the necessary supporting documents, uploaded by the applicant into the electronic platform where the standard form for application is made available.

3. The Commission is empowered to adopt delegated acts in accordance with Article 15 in order to further specify:
  - a) details of the information elements of the standard form listed to in letters paragraph 1, points (a) to (h), which shall be contained in the standard form;
  - b) further documents or categories of documents that are exceptionally required to be included as supporting evidence.;
4. Member States shall provide to the Commission with all information on the procedural steps related to requirements imposed on providers for the provision of services through a branch, agency or office and for temporary cross-border provision of service activities falling under Directive ...[ESC Directive]....., necessary for the development of the standard application forms, describing the information and documents the presentation of which is required under national law of the provider in relation to all applicable requirements, through IMI by [9 months after entry into force of this Regulation] to the extent that the information was not contained in the notification of the requirement itself already submitted under Articles 15(7) and 39(5) of Directive 2006/123/EC.
5. Member States shall communicate via IMI to the Commission changes to the information previously communicated to the Commission in accordance with paragraph 4 prior to entry into force of the legislation in question.



*Article 5*  
***Insurance certificate***

1. Where information on insurance cover is entered into the standard form, in accordance with point (g) of the third subparagraph of Article 4(1), a corresponding insurance certificate shall be attached to the application form.

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

The insurance certificate shall contain information about the existence of professional liability insurance for the services concerned, including the territorial scope of such cover in other Member States, the insured risks, the duration, the insured sums per claim and for all claims in a year, and possible exclusions.

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

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

**CHAPTER III**  
**FORMALITIES FOR SECONDMENT OF STAFF**  
**AND MOVEMENT OF SELF-EMPLOYED**

*Article 6*  
***Formalities for seconded staff***

1. Providers who hold a European services e-card may submit a declaration in advance as referred to in Article 7 of Directive 2005/36/EC in relation to the professional qualifications of the staff they intend to second to the host Member State, in connection with the service activity for which the e-card applies, to the competent authority in the host Member State as defined in point (ii) of Article 3(18) of this Regulation, through an electronic platform connected to IMI.

The preceding subparagraph shall not apply to declarations in advance in relation to professional qualifications of regulated professions:

(i) with public health and safety implications which do not benefit from automatic recognition under Chapters II, III or IIIA of Title III of Directive 2005/36/EC;

(ii) for which a European Professional card has been introduced, in accordance with Directive 2005/36/EC.

The declaration in relation to the professional qualifications of seconded staff shall be submitted as a multilingual form and supporting documents as required by paragraphs (1) and (2) of Article 7 of Directive 2005/36/EC

A declaration communicated in accordance with this paragraph shall constitute a declaration as referred to in Article 7 of Directive 2005/36/EC.

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

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

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

To make use of the possibility provided for in the first subparagraph, a host Member State shall provide all the elements required in accordance with point a) of paragraph 1 and paragraph 2 of Article 9 of Directive 2014/67/EU as the basis for a multilingual form to be submitted for the declaration of posted workers on its territory. The Commission shall publish this form in the Official Journal and make it available in the electronic platform connected to the IMI. The relevant information with regard to the elements required shall be available for the host Member State concerned in full compliance with the language requirements set out in Article 9(1)(a) of Directive 2014/67/EU.

A declaration communicated in accordance with the first and second subparagraph shall constitute a valid declaration for the purpose of point a) of paragraph 1 and of paragraph 2 of Article 9 of Directive 2014/67/EU, without prejudice to other administrative requirements or control measures imposed by the host Member State in accordance with Article 9 of that Directive.

A host Member State may notify the Commission that it does no longer wish to apply the possibility provided for in the first subparagraph.

4. The Commission is empowered to adopt technical rules by means of implementing acts concerning the design of the multilingual form referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 16(2).

#### *Article 7*

##### ***Formalities for movement of self-employed***

1. Providers who are natural persons and apply for a European services e-card may submit a declaration in advance in relation to their own professional qualifications in an electronic platform connected to IMI under the same conditions as prescribed by paragraph 1 of Article 6 in relation to their workers.

Regarding declarations in advance in relation to the professional qualifications of the provider, the attestations referred to in points b) and d) of Article 7(2) of Directive 2005/36/EC shall be replaced by the completed application form for a European services e-card, communicated to the host Member State in accordance with Article 11 of Directive [ESC Directive]....., proving establishment of the provider.

2. A declaration communicated in accordance with paragraph 1 shall constitute the declaration in advance under Article 7 of Directive 2005/36/EC.

3. The Commission may adopt technical rules by means of implementing acts concerning the design of the multilingual form referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 16(2).

## **CHAPTER IV**

### **GENERAL PROVISIONS ON THE PROCEDURES OF THE EUROPEAN SERVICES E-CARD**

#### *Article 8*

##### ***Electronic procedures***

1. Providers shall have the right to fully electronic handling and processing of the procedures for the application, issue and update of a European services e-card as well as to fully electronic formalities in accordance with Articles 6(1), 6(3) and 7.

Those electronic procedures and formalities shall be made available by the Commission in an electronic platform connected to IMI.

Member States shall determine whether the procedural workflows between their coordinating authorities and their competent authorities involved in the European services e-card procedures and formalities for secondment of staff and movement of self-employed in accordance with Articles 6 and 7 shall be electronic or not.

2. The Commission shall adopt technical specifications for the electronic handling and processing of the procedures referred to in paragraph 1 by means of implementing acts, including measures to ensure the integrity, confidentiality and accuracy of the information, as well as the conditions and the procedures for the holder of a European services e-card to download such information, to allow third parties to access such information and for those third parties to verify that same information.

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

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

#### *Article 9*

##### ***Form of documents and translation***

1. In the context of procedures to issue, update, suspend or revoke a European services e-card competent authorities of Member States shall accept documents in a simple copy form and shall not request that documents submitted to them are subject to legalisation, apostille formalities, certification or authentication.
2. In so far as a special form of documents used for the purposes of formalities for secondment of staff and movement of self-employed in accordance with Articles 6 (1) and 7, is required, in accordance with EU Law, competent authorities of Member States as defined in point (ii) of Article 3(19) shall accept:

(a) public documents, certified documents and their certified copies exempt from the apostille formality and from all forms of legalisation;

- (b) documents certified or authenticated in the Member State of original issue, in accordance with its laws, regulations or administrative provisions or practice, as certified or authenticated;
  - (c) certified copies made in any Member State, in accordance with the laws of the Member State where certification was performed.
3. A certified translation shall not be requested for documents used in the context of procedures to issue, update, suspend or revoke a European services e-card or in the context of formalities for secondment of staff and movement of self-employed in accordance with Articles 6 (1) and 7. This shall not affect the right of Member States to require non-certified translations of documents in one of their official languages, in accordance with EU law.
  4. The Commission shall adopt technical rules for automatic translation of information and documents in the context of procedures to issue, update, suspend or revoke a European services e-card or in the context of formalities for secondment of staff and movement of self-employed in accordance with Articles 6(1) and 7 by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination referred to in Article 16(2).

#### *Article 10*

#### ***Fees for issuing a European services e-card and regarding formalities for secondment of staff and movement of self-employed***

1. Any fees charged in the context of a procedure to issue a European services e-card shall be reasonable and proportionate and shall not exceed the cost directly ensuing from the specific work related to the procedure.  
  
Providers shall have the right to be reimbursed of fees paid in advance to either home or host Member State in relation to applications that have not been examined, verified and completed by Member States in accordance with Article 11(1) of Directive .....[ESC Directive].....  
  
No fees shall be charged regarding:
  - (a) the procedures to update, suspend, revoke or cancel a European services e-card;
  - (b) the provision of additional information by the e-card holder in accordance with Article 17(4) of...[Directive];
  - (c) formalities introduced in accordance with Articles 6 (1) and 7 for secondment of staff and movement of self-employed.
2. Member States shall communicate the fees and payment modalities introduced under this Article to the Commission through IMI by [2 years after entry into force of this Regulation] at the latest and shall publish this information appropriately.
3. The Commission shall adopt technical rules regarding payment modalities and processing by means of implementing acts.  
  
Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16(2).

## **CHAPTER V**

### **PROFESSIONAL LIABILITY INSURANCE**

#### *Article 11*

##### ***Statement relating to third party liability claims***

1. An insurance distributor shall issue, within 15 days of receiving a request to this effect from the policyholder, a statement concerning the third party liability claims related to his activities covered by the contract of professional liability insurance, during the preceding years of the contractual relationship up to a maximum of 5 years, or to the absence of such claims, describing the liabilities arising from provision of the services in question which were the object of a claim.
2. The Commission may adopt rules on the standardised presentation format of the statement referred to in paragraph 1 by means of implementing acts.  
Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16(2).

#### *Article 12*

##### ***Obligations for insurance distributors***

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

#### *Article 13*

##### ***Obligations for professional organisations***

Professional organisations, including competent authorities as defined in points (i) and (ii) of Article 3(18), which offer group cover related to professional liability insurance to their members or to providers of services under specific conditions, shall ensure access to such cover, under the same conditions in a non-discriminatory manner, to providers of services from other Member States which express an interest in benefiting from such group cover.

## **CHAPTER VI**

### **FINAL PROVISIONS**

#### *Article 14*

##### ***Exchange of information and mutual assistance***

1. Coordinating authorities and competent authorities in different Member States shall exchange information and give each other mutual assistance in the context of a procedure to issue suspend, revoke or cancel a European services e-card as well as in the update of the information contained therein. This obligation shall also apply in the context of formalities in accordance with Articles 6 (1) and 7 for secondment of staff and movement of self-employed, in relation to competent authorities as defined in point (ii) of Article 3(19).
2. Coordinating authorities and competent authorities shall make use of all available interconnections of national registers with a view to obtaining or verifying previously obtained information in the context of the procedures referred to in the preceding

paragraph 1, including the interconnection of central, commercial and company registers under Directive 2009/101/EC and of insolvency registers under Regulation (EU) 2015/848.

3. The Commission shall adopt technical rules for the handling and processing of exchanges of information and mutual assistance referred to in paragraphs 1 and 3 by means of implementing acts. This shall be without prejudice to the functioning of the interconnection systems referred to in paragraph 2 of this Article and their respective technical specifications.

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

#### *Article 15*

##### ***Exercise of the delegation***

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 4(3), 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.
3. The delegation of power referred to in Article 4(3) 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.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 4(3) 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.

#### *Article 16*

##### ***Committee procedure***

1. The Commission shall be assisted by the Committee referred to in Article 40(1) of Directive 2006/123/EC. That Committee shall be a committee within the meaning of Regulation (EU) 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) 182/2011 shall apply.

*Article 17*  
***Designation and role of coordinating authorities***

1. For the purposes of this Regulation, each Member State shall designate one coordinating authority, empowered to perform the tasks assigned to them in accordance with this Regulation.
2. Member States shall communicate the identity of the coordinating authorities designated in accordance with paragraph 1 to the Commission by [9 months after entry into force of this Regulation] at the latest and register it in IMI in accordance with Article 5(f) of Regulation (EU) 1024/2012.
3. This Article shall not call into question the allocation of the competences, at local or regional level, of the Member States.

*Article 18*  
***Monitoring of implementation***

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

*Article 19*  
***Review clause***

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

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

*Article 20*  
***Amendment to Regulation (EU) No 1024/2012***

In the Annex to Regulation (EU) No 1024/2012 the following point is added:

"9. Regulation (EU) ..... of the European Parliament and of the Council of ..... introducing a European services e-card and related administrative facilities."

*Article 21*  
***Entry into force***

This Regulation shall enter into force on the [twentieth] day following that of its publication in the *Official Journal of the European Union*.

Article 4(1) to (3), Article 5(1), Article 6(1), (2), (3) and (4) , Article 7(1) and (2), Article 8(1), Article 9(1), (2) and (3), Article 10(1) and Article 14(1), (2) and (3) shall apply from [two years after entry into force] of this Regulation.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*



## **LEGISLATIVE FINANCIAL STATEMENT**

### **1. FRAMEWORK OF THE PROPOSAL/INITIATIVE**

- 1.1. Title of the proposal/initiative
- 1.2. Policy area(s) concerned in the ABM/ABB structure
- 1.3. Nature of the proposal/initiative
- 1.4. Objective(s)
- 1.5. Grounds for the proposal/initiative
- 1.6. Duration and financial impact
- 1.7. Management mode(s) planned

### **2. MANAGEMENT MEASURES**

- 2.1. Monitoring and reporting rules
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- 2.3. Measures to prevent fraud and irregularities

### **3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE**

- 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected
- 3.2. Estimated impact on expenditure
  - 3.2.1. Summary of estimated impact on expenditure*
  - 3.2.2. Estimated impact on operational appropriations*
  - 3.2.3. Estimated impact on appropriations of an administrative nature*
  - 3.2.4. Compatibility with the current multiannual financial framework*
  - 3.2.5. Third-party contributions*
- 3.3. Estimated impact on revenue

## **LEGISLATIVE FINANCIAL STATEMENT**

### **1. FRAMEWORK OF THE PROPOSAL/INITIATIVE**

#### **1.1. Title of the proposal/initiative**

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

#### **1.2. Policy area(s) concerned in the ABM/ABB structure<sup>31</sup>**

Title 02: Internal market, industry, entrepreneurship and SMEs

Activity 02 03: Internal market for goods and services

#### **1.3. Nature of the proposal/initiative**

☒ The proposal/initiative relates to **a new action announced under the Single Market Strategy**

☐ The proposal/initiative relates to **a new action following a pilot project/preparatory action<sup>32</sup>**

☐ The proposal/initiative relates to **the extension of an existing action**

☐ The proposal/initiative relates to **an action redirected towards a new action**

#### **1.4. Objective(s)**

##### *1.4.1. The Commission's multiannual strategic objective(s) targeted by the proposal/initiative*

DG GROW Strategic Plan for 2016-2020 identifies a deeper and fairer internal market with a strengthened industrial base as a Commission priority. In its Communication on Single Market Strategy "Upgrading the Single Market: more opportunities for people and business" (COM(2015) 550 final), the Commission announced legislative initiatives aimed at removing barriers in the services market.

In that context, the Single Market Strategy proposed the launch of a European services e-card ("services passport") to increase certainty and reduce barriers for service providers who want to access other EU markets in order to expand their activities. This announcement has been welcomed by the European Council in its June 2016 conclusions.

The general objectives of this initiative are to enhance market integration in business services and construction and improve productivity growth in both sectors.

##### *1.4.2. Specific objective(s) and ABM/ABB activity(ies) concerned*

###### Specific objectives

Specific objectives of this proposal are to:

- make it easier and less costly for companies to provide services in other Member States,

<sup>31</sup> ABM: activity-based management; ABB: activity-based budgeting.

<sup>32</sup> As referred to in Article 54(2)(a) or (b) of the Financial Regulation.

- enable more confidence in the market towards foreign service providers by increasing transparency and available information;
- enable increased market dynamics and competition leading to more choice and value added for consumers.

In order to achieve these objectives, we envisage the following activities:

1. reduce the administrative burden through an EU-level procedure with a public interface allowing service providers to complete formalities online;
2. connect the home Member State and the host Member State via an IT-platform at the European level. To this end, the IMI system will serve as a back-office functionality for national authorities. It should be further developed to support the functioning of the European Services e-card.

ABM/ABB activity(ies) concerned

Chapter 02 03: Internal market for goods and services

### 1.4.3. *Expected result(s) and impact*

*Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.*

The proposal building on the directive having introduced the European Services e-card will provide for:

1. A reduction in administrative burden for service providers that want to provide services in other Member States given that they would be able to use a simplified electronic procedure to complete formalities and enjoy transparency with respect to the processing of requests. This will allow them to save time and costs when going providing services cross-border or setting up a secondary establishment;
2. Reduction of the administrative burden for national authorities, including facilitating increased cooperation between different Member States;
3. Cost savings by building on an existing IT tool (the Internal Market Information system – called IMI thereafter) in new areas so as to benefit from economies of scale and of scope (instead of developing a new single-purpose tool). Competent authorities are already registered with IMI.

### 1.4.4. *Indicators of results and impact*

*Specify the indicators for monitoring implementation of the proposal/initiative.*

The proposal will contribute to a more effective implementation of the Services Directive, notably for business and construction services.

Its direct impact could be measured using the following indicators:

- The number of service providers that would use the European services e-card (and accompanying formalities for secondment of staff or movement of self-employed);
- Experience of service providers on ease of completing the electronic procedures offered;
- The average speed of the procedures offered;
- Number of information exchanges between Member States;
- Experience of those Member States that shall make use of the possibility granted by Article 6(3) of the Regulation with regard to the above criteria

## 1.5. **Grounds for the proposal/initiative**

### 1.5.1. *Requirement(s) to be met in the short or long term*

The proposal will reduce administrative burden and increase legal certainty for service providers that want to start provision of services in another Member State both on a temporary basis and in the case of secondary establishment. In addition, it will inspire more confidence in the market towards service providers by increasing transparency and available information.

The European services e-card would also present certain benefits to Member States' authorities. Firstly, it would facilitate the workload of the competent authorities in both the host and the home Member State by replacing conventional paperwork with an electronic workflow. This workflow would be highly standardised and automatic translation facilities will be offered. Secondly, formalities will be streamlined under one electronic application instead of several parallel workflows that exist today.

This will be achieved by setting up a single EU-level procedure based on a common pan-European IT platform (the IMI system). This system is developed, managed and funded by the Commission already for years. Member States already have the experience with the system, as more than 5,000 competent authorities are already registered with IMI since 2011.

*1.5.2. Added value of EU involvement*

Potential national or regional solutions for administrative simplification would differ across Member States in terms of costs savings and in terms of effectiveness. EU action would ensure that service providers can benefit from a less divergent approach across Member States when expanding across borders.

Given the nature of IMI as a centralised communication tool developed and hosted by the Commission, it will facilitate the introduction and the smooth running of the issuance of European services e-card as well as an efficient system of cooperation between Member States. The European services e-card (on the basis of the IMI system) would also allow to overcome certain obstacles such as translation costs for companies. The Commission will offer IMI as a free IT platform to Member States that wish to make use of it for the electronic submission of prior declarations of workers that are posted in their territory. It will also make IMI available for domestic exchanges related to the European services e-card where Member States so wish.

*1.5.3. Lessons learned from similar experiences in the past*

The IMI system itself has proved an effective and reliable tool in other areas. The European Professional Card (EPC) procedure for the recognition of professional qualifications – introduced in 2013 by amending Directive 2005/36/EC – is a good example.

The EPC facilitates the recognition of professional qualifications for selected professionals. It is a centrally provided EU-level procedure with a clearly defined procedure run within the IMI system. The obligations of Member States in the procedural workflow are set out in detail, thus overcoming the ambiguity of more general rules. It provides a targeted solution underpinned by specific rules on practical issues such as documents, deadlines for treating applications and tacit approval in case host country authorities do not take a final decision within deadline. In this way, the EPC provides an easier, quicker and more transparent way to have qualifications recognised.

Since the EPC was made available in January 2016, more than 560 EPCs have already been issued (as of 20 October 2016). The take-up of the EPC has been significant, reflecting a high demand among professionals who can currently benefit thereof (nurses, physiotherapists, mountain guides, real estate agents and pharmacists).

*1.5.4. Compatibility and possible synergy with other appropriate instruments*

There are a number of forthcoming initiatives of the Commission which also aim at introducing electronic procedures or facilities, for which synergies are foreseen to the extent possible. These include initiatives on the interconnection of company registers (BRIS), interconnection of insolvency registers, and the extension of the Mini One Stop Shop for VAT. BRIS will be operational as of mid-2017 and offer wider access to company data. It will be complemented by an interconnection of the Insolvency

Registers as from 2019. VAT MOSS will reduce costs for foreign service providers in the area of VAT formalities as of 2021 onwards.

These initiatives are all complementary to the European services e-card. In addition, synergies will be sought. For example, information available via BRIS (and also the interconnection of insolvency registers) should be used if technically feasible by coordinating authorities to complete the application for a ESC or cross-check information.

## 1.6. Duration and financial impact

☐ Proposal/initiative of **limited duration**

- ☐ Proposal/initiative in effect from [DD/MM]YYYY to [DD/MM]YYYY
- ☐ Financial impact from YYYY to YYYY

☒ Proposal/initiative of **unlimited duration**

Implementation with a start-up period from 2018 to 2021,

followed by full-scale operation. The hosting, operational and maintenance costs are included in the relevant costs for the operation of the IMI system.

## 1.7. Management mode(s) planned<sup>33</sup>

☒ **Direct management** by the Commission

- ☒ by its departments, including by its staff in the Union delegations;
- ☐ by the executive agencies

☐ **Shared management** with the Member States

☐ **Indirect management** by entrusting budget implementation tasks to:

- ☐ third countries or the bodies they have designated;
- ☐ international organisations and their agencies (to be specified);
- ☐ the EIB and the European Investment Fund;
- ☐ bodies referred to in Articles 208 and 209 of the Financial Regulation;
- ☐ public law bodies;
- ☐ bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;
- ☐ bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;
- ☐ persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

<sup>33</sup>

Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: [http://www.cc.cec/budg/man/budgmanag/budgmanag\\_en.html](http://www.cc.cec/budg/man/budgmanag/budgmanag_en.html)

## **2. MANAGEMENT MEASURES**

### **2.1. Monitoring and reporting rules**

*Specify frequency and conditions.*

The Commission is reporting on the development and performance of IMI via the on-line Single Market Scoreboard. The use of IMI for European services e-card requests will be adequately reported in that context. In addition, a report on IMI data protection issues, including security, will be submitted to the European Data Protection Supervisor periodically.

After the European services e-card has been introduced, the future legal instruments will also foresee a review after 5 years.

### **2.2. Management and control system**

#### **2.2.1. Risk(s) identified**

The general risk that can be identified is the non-adoption by service providers of the European Services e-card facility. I.e. the risk that the European Services e-card is fully developed and operational but meets with little or no demand. Another risk is that competent authorities might find adaptation difficult and might not provide adequate resources to process requests properly and in a timely fashion.

One of the main characteristics of the proposal is that the European Services e-card will be based on IMI functionalities. The general risk framework of IMI, including operational risks, have been identified in the context of the Regulation (EU) No 1024/2012 ("IMI Regulation"). The Commission is the 'system owner' of IMI, and is responsible for its daily operation, maintenance and development. The system is developed and hosted by an internal supplier which ensures a high level of business continuity. In the context of the introduction of the European Services e-card, there are also risks related to data protection issues.

#### **2.2.2. Information concerning the internal control system set up**

Addressing the general risks as identified under section 2.2.1 above, the Commission will provide assistance (e.g., workshops, etc.) to all stakeholders (e.g., Member States authorities, professional bodies etc.) and actively promote the introduction and use of the new system. Member States will also be required to promote the benefits of the proposed tool.

Regarding the operational aspects of the European services e-card, in particular the public interface, the back office as well as the notification facility, these are linked to the operation of IMI and have to be considered in the context of overall IMI internal control setup, as foreseen under IMI Regulation. The IMI Steering committee is responsible for high-level monitoring and control. Regular meetings and reporting instruments facilitate close monitoring of the IT development and maintenance work.

In addition, pursuant to Article 21 of the IMI Regulation from 2012, the European Data Protection Supervisor ensures that personal data processing by the Commission in IMI is carried out in accordance with the applicable rules. The national data protection authorities will monitor the processing of personal data by the competent authorities at Member State level.



2.2.3. *Estimate of the costs and benefits of the controls and assessment of the expected level of risk of error*

The general risks will be addressed by the relevant measures, including providing assistance and information to the stakeholders concerned.

The operation of the European Services e-card will be based on IMI functionalities and will be covered by the existing system of management and control for IMI. It is considered that the proposal will not lead to an increased risk of error.

**2.3. Measures to prevent fraud and irregularities**

*Specify existing or envisaged prevention and protection measures.*

For the purposes of combating fraud, corruption and any other illegal activity, the provisions normally applicable to the activities of the Commission, including Regulation (EU, EURATOM) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF), will apply in the context of IMI without any restriction

### 3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

#### 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number [Heading.....]	Diff./Non-diff. <sup>34</sup>	from EFTA countries <sup>35</sup>	from candidate countries <sup>36</sup>	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
1A	02.03.04 Internal market governance tools	Diff	YES	NO	NO	NO

<sup>34</sup> Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.

<sup>35</sup> EFTA: European Free Trade Association.

<sup>36</sup> Candidate countries and, where applicable, potential candidates from the Western Balkans.

### 3.2. Estimated impact on expenditure

The allocations indicated in this section will be met through redeployment; no budgetary impact is expected on EU budget over and beyond the appropriations already foreseen in the official financial programming of the Commission.

#### 3.2.1. Summary of estimated impact on expenditure

EUR

<b>Heading of multiannual financial framework</b>	1A	Competitiveness for growth and jobs
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DG: GROW			2018	2019	2020	2021	TOTAL
• Operational appropriations							
02.03.04	Commitments	(1)	310,000	945,000	945,000	0	2,200,000
	Payments	(2)	310,000	945,000	945,000	0	2,200,000
Number of budget line	Commitments	(1a)					
	Payments	(2a)					
Appropriations of an administrative nature financed from the envelope of specific programmes <sup>37</sup>							
Number of budget line		(3)	0	0	0	0	0
<b>TOTAL appropriations for DG GROW</b>	Commitments	=1+1a +3	310,000	945,000	945,000	0	2,200,000
	Payments	=2+2a +3	310,000	945,000	945,000	0	2,200,000
• TOTAL operational appropriations							
	Commitments	(4)	310,000	945,000	945,000	0	2,200,000
	Payments	(5)	310,000	945,000	945,000	0	2,200,000

<sup>37</sup> Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

• TOTAL appropriations of an administrative nature financed from the envelope for specific programmes		(6)	0	0	0	0	0
<b>TOTAL appropriations under HEADING 1A</b> of the multiannual financial framework	Commitments	=4+ 6	310,000	945,000	945,000	0	2,200,000
	Payments	=5+ 6	310,000	945,000	945,000	0	2,200,000

<b>Heading of multiannual financial framework</b>	<b>5</b>	‘Administrative expenditure’
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EUR

		2018	2019	2020	2021	TOTAL
DG: GROW						
• Human resources		303,600	427,800	427,800	358,800	1,518,000
• Other administrative expenditure		0	0	0	0	0
<b>TOTAL DG GROW</b>	Appropriations	303,600	427,800	427,800	358,800	1,518,000

<b>TOTAL appropriations under HEADING 5</b> of the multiannual financial framework	(Total commitments = Total payments)	303,600	427,800	427,800	358,800	1,518,000
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EUR

		2018	2019	2020	2021	TOTAL
<b>TOTAL appropriations under HEADINGS 1 to 5</b> of the multiannual financial framework	Commitments	613,600	1,372,800	1,372,800	358,800	3,718,000
	Payments	613,600	1,372,800	1,372,800	358,800	3,718,000



*Estimated impact on operational appropriations*

☒ The proposal/initiative requires the use of operational appropriations, as explained below:

Commitment appropriations in EUR

Indicate objectives and outputs  ↓			2018		2019		2020		2021		TOTAL	
	Type <sup>38</sup>	Average cost	No	Cost	No	Cost	No	Cost	No	Cost	Total No	Total cost
SPECIFIC OBJECTIVE No 1 <sup>39</sup> Reduce the administrative burden												
- Output	Public interface			200,000		600,000		600,000		0		1,400,000
Subtotal for specific objective No 1				200,000		600,000		600,000		0		1,400,000
SPECIFIC OBJECTIVE No 2 Back-office functionality												
- Output	Back-office functionality			110,000		345,000		345,000		0		800,000
Subtotal for specific objective No 2				110,000		345,000		345,000		0		800,000
TOTAL COST				310,000		945,000		945,000		0		2,200,000

<sup>38</sup> Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

<sup>39</sup> As described in point 1.4.2. 'Specific objective(s)...'

### 3.2.2. Estimated impact on appropriations of an administrative nature

#### 3.2.2.1. Summary

- ☒ The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR

	2018	2019	2020	2021	TOTAL
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<b>HEADING 5</b> <b>of the multiannual financial framework</b>					
Human resources	303,600	427,800	427,800	358,800	<b>1,518,000</b>
Other administrative expenditure					
<b>Subtotal HEADING 5</b> <b>of the multiannual financial framework</b>	303,600	427,800	427,800	358,800	<b>1,518,000</b>

<b>Outside HEADING 5<sup>40</sup></b> <b>of the multiannual financial framework</b>					
Human resources					
Other expenditure of an administrative nature					
<b>Subtotal</b> <b>outside HEADING 5</b> <b>of the multiannual financial framework</b>					

<b>TOTAL</b>	303,600	427,800	427,800	358,800	<b>1,518,000</b>
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The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG. Any impact stemming from the implementation of the proposed decisions on the number of staff or the level of appropriations will be covered by redeployment of the existing resources.

#### 3.2.2.2. Estimated requirements of human resources

- ☐ The proposal/initiative does not require the use of human resources.
- ☒ The proposal/initiative requires the use of human resources, as explained below:
- Estimate to be expressed in full time equivalent units

	2018	2019	2020	2021
<b>• Establishment plan posts (officials and temporary staff)</b>				
XX 01 01 01 (Headquarters and Commission's	2.2	3.1	3.1	2.6

<sup>40</sup>

Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

Representation Offices)				
XX 01 01 02 (Delegations)				
XX 01 05 01 (Indirect research)				
10 01 05 01 (Direct research)				
<b>• External staff (in Full Time Equivalent unit: FTE)<sup>41</sup></b>				
XX 01 02 01 (AC, END, INT from the 'global envelope')				
XX 01 02 02 (AC, AL, END, INT and JED in the delegations)				
<b>XX 01 04 yy<sup>42</sup></b>	- at Headquarters			
	- in Delegations			
<b>XX 01 05 02 (AC, END, INT - Indirect research)</b>				
10 01 05 02 (AC, END, INT - Direct research)				
Other budget lines (specify)				
<b>TOTAL</b>	2.2	3.1	3.1	2.6

– **XX** is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG. Any impact stemming from the implementation of the proposed decisions on the number of staff or the level of appropriations will be covered by redeployment of the existing resources.

Description of tasks to be carried out:

Officials and temporary staff	<u>Supporting the adoption of related implementing acts, Project management, Business analysis and implementation support activities.</u>
External staff	

<sup>41</sup> AC= Contract Staff; AL = Local Staff; END= Seconded National Expert; INT = agency staff; JED= Junior Experts in Delegations.

<sup>42</sup> Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).



3.2.3. *Compatibility with the current multiannual financial framework*

- ☒ The proposal/initiative is compatible with the current multiannual financial framework.
- ☐ The proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.
- ☐ The proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework.

3.2.4. *Third-party contributions*

- ☒ The proposal/initiative does not provide for co-financing by third parties.
- ☐ The proposal/initiative provides for the co-financing estimated below.

**3.3. Estimated impact on revenue**

- ☒ The proposal/initiative has no financial impact on revenue.
- ☐ The proposal/initiative has the following financial impact:
  - ☐ on own resources
  - ☐ on miscellaneous revenue