



Council of the
European Union

Brussels, 22 May 2017
(OR. en)

9507/17

**Interinstitutional File:
2016/0398 (COD)**

**COMPET 431
MI 442
ETS 43
DIGIT 146
SOC 419
EMPL 326
CONSOM 225
CODEC 887**

NOTE

From: Presidency
To: Council

No. prev. doc.: 9020/17 COMPET 320 MI 395 ETS 36 DIGIT 127 SOC 321 EMPL 241
CONSOM 195 CODEC 773

No. Cion doc.: 5278/17 COMPET 21 MI 31 ETS 2 DIGIT 5 SOC 15 EMPL 11 CONSOM
10 CODEC 34 IA 6

Subject: Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF
THE COUNCIL on the enforcement of the Directive 2006/123/EC on
services in the internal market, laying down a notification procedure for
authorisation schemes and requirements related to services, and
amending Directive 2006/123/EC and Regulation (EU) No 1024/2012 on
administrative cooperation through the Internal Market Information System
- General approach

Delegations will find attached the text of the above-mentioned proposal as it resulted from the meeting of the Permanent Representatives Committee on 19 May 2017.

Presidency text suggestions, compared to Commission proposal (doc.5278/17), are in **bold underline**, deletions are in simple ~~striketrough~~.

The Council is invited to agree on a General Approach concerning this text.

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the enforcement of the Directive 2006/123/EC on services in the internal market, laying down a notification procedure for authorisation schemes and requirements related to services, and amending Directive 2006/123/EC and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System

(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 Articles 53(1), 62 and 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 Committee¹,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The Treaty on the Functioning of the European Union (TFEU) guarantees to service providers the freedom of establishment in other Member States and the freedom to provide services between Member States.

¹ OJ C , , p. .

- (2) Directive 2006/123/EC of the European Parliament and of the Council² specifies the content of the freedom of establishment and the freedom to provide services as regards certain services. It provides, inter alia, that authorisation schemes and certain types of requirements related to services must be non-discriminatory with regard to nationality or residence, justified by an overriding reason related to the public interest and proportionate.
- (3) Directive 2006/123/EC provides for an obligation for Member States to assess and adapt their legislation on authorisation schemes and certain requirements related to services, in order to bring it in conformity with the rules laid down in that Directive. Furthermore, with a view to facilitating the verification of future compliance by Member States, Directive 2006/123/EC provides for an obligation for Member States to notify new laws, regulations or administrative provisions which set out certain new requirements falling within the scope of that Directive, or any substantive changes to such requirements.
- (4) The Commission has received an increasing number of notifications from Member States regarding newly introduced requirements under Directive 2006/123/EC. However, not all of those national requirements are non-discriminatory with regard to nationality or residence, justified and proportionate, thus resulting in a significant number of structural dialogues launched by the Commission vis-à-vis Member States. This shows that the existing notification procedure is not sufficient to avoid discrimination on the grounds of nationality or residence, unjustified or disproportionate requirements. This is to the detriment of citizens and businesses in the internal market for services. Moreover, it appears that some new or modified requirements related to services falling within the scope of Directive 2006/123/EC have not been notified at all.

² 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).

- (5) For these reasons the Commission, in its Single Market Strategy³, announced an initiative to improve compliance with Directive 2006/123/EC, by reforming the notification procedure provided under it.
- (6) The effective enforcement of the rules governing the internal market for services set out in Directive 2006/123/EC should be enhanced by improving the existing notification procedure established by that Directive in respect of national authorisation schemes and certain requirements concerning both access to self-employed activities and their exercise. **This Directive establishes a procedure for Member States and the Commission to work in partnership to prevent the introduction of discriminatory, unjustified and disproportionate authorisation schemes and/or of certain requirements related to services covered by Directive 2006/123/EC. The authorisation schemes and the requirements covered by this Directive are those which fall within the scope of Directive 2006/123/EC. This Directive does not curtail the sovereign rights of Member States to regulate service activities in line with EU law.**

~~The prevention of the adoption of national provisions establishing requirements and authorisation schemes that would be contrary to Directive 2006/123/EC should be facilitated.~~
This Directive is without prejudice to the Commission's powers under the Treaties and the Member States' obligation to comply with the provisions of Union law.

³ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Upgrading the Single Market: More opportunities for people and business (COM (2015) 550 final).

(7) The notification obligation established by this Directive should apply to regulatory measures of Member States, such as laws, regulations, administrative provisions of a general nature or any other binding rule of a general nature, including rules adopted by **professional associations or other** professional organisations, **in the exercise of their legal autonomy**, to regulate in a collective manner access to service activities or the exercise thereof. The notification obligation should on the other hand not apply to ~~individual~~ decisions **addressed to a specific service provider** issued by national authorities.

(7a) The notification obligation should not apply to measures completely repealing authorisation schemes or requirements or to measures implementing authorisation schemes or requirements, which have already been notified, and which do not extend the scope or content, or make them more restrictive for the establishment, or the cross-border provision of services. The notification obligation should equally not apply to measures implementing binding Union acts in the Member State, when such acts contain uniform provisions to be implemented and when there is no scope for divergence of Member States' rules which may result in barriers to the Single Market. This exception should be understood in the light of the case-law of the Court of Justice of the European Union.

(7b) The notification obligation should also not apply to rules laid down in collective agreements negotiated by social partners which shall not be considered as requirements within the meaning of this Directive. This Directive applies only to requirements which affect the access to, or the exercise of, a service activity. Therefore, it does not apply to requirements, such as road traffic rules, rules concerning the development or use of land, town and country planning, building standards as well as administrative penalties imposed for non-compliance with such rules which do not specifically regulate or specifically affect the service activity but have to be respected by providers in the course of carrying out their economic activity in the same way as by individuals acting in their private capacity.

(7c) Directive 2006/123/EC is a horizontal legal instrument which affects a significant number of laws, regulations and administrative provisions at different levels within Member States' government structures. All levels of these structures are already subject to the notification obligation provided for in Directive 2006/123/EC. To facilitate the compliance by relevant authorities with this Directive, the Commission will issue guidance on the practical aspects of the notification procedure in order to maximise the efficiency of that procedure and to limit the administrative burden, including for municipal or local authorities.

(8) The obligation for Member States to notify draft measures laying down authorisation schemes or requirements referred to in Article 4 of this Directive at least three months before their adoption is designed to ensure that measures to be adopted comply with Directive 2006/123/EC. In order for the notification procedure to be effective, a consultation on notified measures should take place sufficiently in advance of their adoption. This is appropriate to foster good cooperation and transparency between the Commission and Member States and to further develop exchanges between the Commission and national authorities on new or amended authorisation schemes and certain requirements covered by Directive 2006/123/EC, in accordance with Article 4(3) of the Treaty on European Union (TEU). ~~With a view to ensuring the effectiveness of the procedure, breach of the obligation to notify or to refrain from adopting a notified measure, including during the period following the receipt of an alert, should be considered to be a substantial procedural defect of a serious nature as regards its effects vis à vis individuals.~~

- (9) In the spirit of transparency and cooperation, where substantive **modifications** amendments are made to a draft measure that is subject to an ongoing notification procedure under this Directive, the Commission, other Member States and stakeholders should be made aware of such ~~amendments~~ **modifications** by the notifying Member State in due time. **To this end the notifying Member State should amend the initial notification of the draft measure.** Modifications of merely clerical nature should not be communicated.
- (10) The information to be submitted by the notifying Member State should be sufficient to assess compliance with Directive 2006/123/EC and, in particular, the proportionality of a notified authorisation scheme or requirement. Therefore, in accordance with **the obligations under Directive 2006/123/EC and** the case-law of the Court of Justice of the European Union (CJEU), such information should clarify the public interest objective pursued, set out how the notified authorisation scheme or requirement is necessary and justified to meet this objective and explain how it is proportionate in doing so; ~~thus, it should include explanations on why it is suitable, why it does not go beyond what is necessary and why no alternative and less restrictive means would be available. The reasons which may be invoked by the Member State concerned by way of justification should be accompanied by appropriate evidence and by an analysis of the proportionality of the notified measure.~~
- (10a) **Member States should not be precluded from acting in a very short space of time for urgent reasons occasioned by serious and unforeseeable circumstances, relating to the protection of public policy, public security, public health or the protection of the environment. This derogation from the notification procedure due to urgent reasons shall not be used to circumvent the application of the notification procedure established under this Directive.**

- (11) In order to ensure an effective exchange of information between the Member States and the Commission, the Internal Market Information System set up by Regulation (EU) No 1024/2012 of the European Parliament and of the Council⁴ should continue to be used under this Directive.
- (12) The notification obligation set out in Directive 2006/123/EC requires Member States to inform the Commission and other Member States of requirements covered by Article 15(2), the third subparagraph of Article 16(1) and the first sentence of Article 16(3) of Directive 2006/123/EC. The application of that Directive has shown that authorisation schemes or requirements related to authorisation schemes, ~~professional liability insurance, guarantees or similar arrangements~~, and multi-disciplinary restrictions are common and can constitute ~~important~~ **significant** barriers in the single market for services. They should hence also be covered by a notification obligation to facilitate the compliance of relevant Member States' draft laws, regulations and administrative provisions with Directive 2006/123/EC. The requirements mentioned in Article 16(2) of Directive 2006/123/EC are covered by the notification obligation to the extent that they fall under Article 16(3).
- (13) The present Directive establishes a consultation of three months to allow **for** an assessment of notified draft measures as well as **for** an effective dialogue with the notifying Member State. In order to make the consultation work in practice and to allow Member States **and** the Commission ~~and stakeholders~~ to effectively provide their comments, Member States should notify draft measures at least three months prior to their adoption. Notifying Member States should take into account the comments made on the notified draft measure, in compliance with Union law. **Where the notifying Member State decides not to proceed with the adoption of the notified measure, it shall be possible for that Member State to withdraw its notification related to that measure at any point in time during the notification procedure.**

⁴ 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).

- (14) Where following the consultation the Commission **has issued comments during the consultation period raising** still has concerns about the compliance with Directive 2006/123/EC of the notified draft measure **with Directive 2006/123/EC**, it may alert, **before the closure of that period and where such concerns persist, issue a notice to** the notifying Member State, giving it the opportunity to **provide further explanations or to** bring its draft measure into conformity with EU law. That alert **notice** should include an explanation of the legal concerns identified by the Commission. Reception of such an alert **a notice allows the notifying Member State and the Commission to continue the dialogue. Such notice should not prevent Member States from adopting the notified measure.** entails that the notifying Member State shall not adopt the notified measure for three months.
- (15) Failure to comply with the obligation to notify draft measures at least three months prior to their adoption and/or to refrain from adopting the notified measure during this period and, as the case may be, during the 3 months following the reception of an alert, should be considered to be a substantial procedural defect of a serious nature as regards its effects vis-à-vis individuals.
- (16) To ensure the efficiency, effectiveness and coherence of the notification procedure, **With regard to requirements falling within the scope of Article 4(b)**, the Commission should retain the power to adopt **a D**decisions requiring **requesting** the Member State in question to refrain from adopting notified measures or, if already adopted, to repeal them, where they violate the **Commission still has serious concerns about the compatibility of the notified measures with** violate Directive 2006/123/EC.
- (16a) When adopting a decision, the Commission shall ensure that the Member State to which that decision is addressed has the opportunity to inform the Commission of its position on the concerns raised on the compatibility of the measure with Directive 2006/123/EC. Decisions are subject to the control of the legality by the Court of Justice of the European Union, according to the powers conferred to the Court by the Treaties.**

(16b) With regard to authorisation schemes; requirements affecting the freedom to provide services and multi-disciplinary restrictions, the Commission should be given the possibility to adopt recommendations requesting the Member State in question to adapt the notified measures in order to address the serious concerns about the compatibility of those measures with Directive 2006/123/EC.

(17) **A further objective of this Directive is to promote transparency between Member States and interested third parties. The latter** ~~Interested third parties~~ should be given access to notifications sent by Member States in order to make them aware of planned authorisation schemes or certain requirements related to services in markets in which they actually or potentially operate and to enable them to provide comments thereon. **The Commission should facilitate the possibility for interested third parties to comment on the notifications made by the Member States within the consultation period.**

(18) This Directive does not affect the obligations of Member States to notify the requirements related to information society services under Directive (EU) 2015/1535. In order to avoid **the** duplications of notifications, a notification carried out under that Directive and in compliance with the relevant obligations laid down in this Directive should be deemed to equally fulfil the notification obligation established under this Directive.

(19) For the same reason, a notification completed under this Directive should be deemed to fulfil the reporting obligations of Member States under Article 59(5) of Directive 2005/36/EC of the European Parliament and of the Council⁵.

(20) As a consequence of the establishment of the notification procedure provided for in this Directive, the provisions of Directive 2006/123/EC concerning notification procedures should be deleted. Regulation (EU) 1024/2012 should be amended accordingly.

⁵ Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22).

(21) Since the objective of this Directive, namely, establishing a notification procedure for the better enforcement of Directive 2006/123/EC facilitating the freedom of establishment for services providers and the freedom to provide services in the single market, cannot be sufficiently achieved by action at the level of Member States alone and can by reason of its scale and effect be better achieved at the Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality this Directive does not go beyond what is necessary in order to achieve its objective.

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Subject matter and scope

This Directive **aims to improve the functioning of the internal market by** laying down rules on the notification by Member States of draft laws, regulations or administrative provisions introducing new, or amending existing authorisation schemes and certain requirements falling under the scope of Directive 2006/123/EC.

Article 2

Definitions

For the purpose of this Directive, the definitions **of the terms ‘service’, ‘provider’, ‘recipient’, ‘establishment’, ‘authorisation scheme’, ‘requirement’, ‘overriding reasons relating to the public interest’**, set out in Article 4(1), (2), (3) and (5) to **(8) (9)** of Directive 2006/123/EC and **the term ‘Internal Market Information System’ as set out** in Article 5 second paragraph, **point (a)** of Regulation (EU) No 1024/2012 shall apply.

In addition, the following definitions shall apply:

- (a) 'draft measure' means a text laying down an authorisation scheme or a requirement, within the meaning of Article 4(6) and (7) of Directive 2006/123/EC, respectively, formulated with the view of having it enacted as a law, regulation or **an** administrative provision of a general nature, **with** the text being at the stage of preparation at which substantive ~~amendments~~ **modifications** can still be made by the notifying Member State. **A decision addressed to a specific service provider shall not fall within the scope of this definition;**
- (b) 'adoption' means the decision in a Member State **whereby the draft measure can no longer be modified in accordance with the applicable procedure,** ~~making the law, regulation or administrative provision of a general nature final according to the applicable procedure.~~

Article 3

Notification obligation

1. Member States shall notify to the Commission any draft measure that introduces new requirements or authorisation schemes referred to in Article 4, or modifies such existing requirements or authorisation schemes **in substance**.

1a. Member States shall not be obliged to notify:

- a) draft measures that only consist of the repeal of authorisation schemes or requirements;**
- b) draft measures implementing authorisation schemes or requirements already notified by that Member State, when such draft measures do not extend their scope or content, or make them more restrictive for the establishment, or the cross-border provision of services;**
- c) draft measures by means of which Member States comply with binding Union acts governing specific requirements regarding access to or exercise of a service activity, to the extent that those requirements are expressly provided for in those Union acts.**

2. Where a Member State modifies a notified draft measure **subject to an ongoing notification procedure** with the effect of significantly **substantially** extending its scope or content, ~~or shortening the timetable originally envisaged for implementation,~~ or adding requirements or authorisation schemes, or making those **notified** requirements or authorisation schemes more restrictive for the establishment, or the cross-border provision of services, it shall ~~notify~~ **amend the initial notification of** the modified draft measure, ~~previously notified under paragraph 1 again, including~~ **The notifying Member State shall provide** an explanation of the objective and content of the **notified** modifications. ~~In such a case, it the previous notification shall be deemed to be withdrawn.~~

3. Draft measures referred to in paragraphs 1 ~~and 2~~ shall be notified to the Commission at least three months prior to their adoption.

3a. Modifications referred to in paragraph 2 shall be notified to the Commission at least one month prior to their adoption.

3b. Where Member States' Parliaments modify a notified draft measure, the notified measure as modified may be adopted. Member States shall notify such modification without delay and at the latest within two weeks from the date of the adoption of the measure.

~~4. The breach of one of the obligations set out in Article 3(1), (2) and (3) or in Article 6(2) shall constitute a substantial procedural defect of a serious nature as regards its effects vis-à-vis individuals.~~

5. Member States shall, as part of any notification **made in accordance with paragraph 1, or any amendment thereof in accordance with paragraph 2, or any modification thereof in accordance with paragraph 3b,** provide information demonstrating the compliance of the notified authorisation scheme or requirement with Directive 2006/123/EC.

That information shall identify the overriding reason relating to the public interest pursued and give the reasons why the notified authorisation scheme or requirement is non-discriminatory ~~on grounds of nationality or residence~~ and why it is proportionate.

That information ~~A notification made in accordance with paragraph 1~~ shall include an ~~assessment~~ **explanation as to why the authorisation scheme or requirement is suitable for securing the attainment of the objective pursued; does not go beyond what is necessary to attain its objective and why it is not possible to replace the authorisation scheme or requirements with other, less restrictive measures which attain the same result.** ~~demonstrating that less restrictive means are not available as well as specific evidence substantiating the arguments put forward by the notifying Member State.~~

6. In the notification, the Member State concerned shall, **where applicable**, also communicate the text of the legislative or regulatory provision that underlies the notified draft measure.
7. Member States concerned shall communicate the adopted measure within two weeks following its adoption.
8. For the purpose of the notification procedure established by this Directive and to ensure the exchange of information between the notifying Member State, other Member States and the Commission, the Internal Market Information System set out in Regulation (EU) No 1024/2012 shall be used.
- 9. Article 3(3) shall not apply where a Member State is required to adopt measures introducing new authorisation schemes or requirements or to modify existing authorisation schemes or requirements in a very short space of time for urgent reasons occasioned by serious and unforeseeable circumstances relating to the protection of public policy, public security, public health or the protection of the environment.**

Without delay and at the latest by the date of adoption of measures as referred to in paragraph 1, Member States shall notify to the Commission the measure that introduces new requirements or authorisation schemes or modifies existing requirements or authorisation schemes and shall communicate reasons for the urgency of the measures. The Commission shall give its views on this communication as soon as possible. It shall take appropriate action in cases where improper use is made of this procedure.

Article 4

Authorisation schemes and requirements subject to the notification obligation

Member States shall notify the following authorisation schemes and requirements:

- (a) authorisation schemes within the meaning of Article 9(1) of Directive 2006/123/EC;
- (b) requirements referred to in Article 15(2) of Directive 2006/123/EC;
- (c) requirements affecting the freedom to provide services referred to in the third subparagraph of Article 16(1) and in the first sentence of Article 16(3) of Directive 2006/123/EC;
- ~~(d) requirement to subscribe to a professional liability insurance, guarantee or similar arrangement as referred to in Article 23 of Directive 2006/123/EC;~~
- (e) requirement to exercise a given specific activity exclusively or which restricts the exercise jointly or in partnership of different activities as referred to in Article 25 of Directive 2006/123/EC.

Article 5

Consultation

- ~~1. Upon receipt of a notification from a Member State referred to in Article 3(1) and (2), the Commission informs the notifying Member State of the completeness of the notification received.~~

2. ~~As from the date of the Commission informing the notifying the Member State of the completeness of a notification received,~~**An initial** consultation of ~~maximum three months~~ shall take place among the notifying Member State, other Member States and the Commission **for a period of no longer than three months from the date of receipt of the notification by the Commission.**
3. The Commission and Member States may, within a period of two months from the beginning of the consultation period referred to in paragraph 2, submit **either** comments **that the notified measure may be incompatible with Directive 2006/123/EC and/or other observations** to the notifying Member State.
4. The notifying Member State shall respond to comments submitted by the Commission ~~or other Member States~~ within one month ~~after~~ **from** their **receipt** ~~reception and prior to the adoption of the notified measure,~~ either explaining how those comments will be taken into account in the notified measure or indicating the reasons why those comments cannot be taken into account. **The Commission shall take the reaction from the notifying Member State duly into account. The notifying Member State may also respond to comments submitted by other Member States within one month after their receipt.**
- 4a. An amendment to a notification made in accordance with Article 3 (2) shall be subject to a consultation period of one month from the date of that amendment being notified, during which the Commission and Member States may issue comments that the notified measure may be incompatible with Directive 2006/123/EC and/or other observations. This provision does not apply to a notification made in accordance with Article 3(3b).**

5. Where neither the Commission nor other Member States have submitted comments to a **on the notified draft measure within the two months referred to in paragraph 3 and the notifying Member State has not carried out amendments to the initial notification**, the consultation period shall end immediately. **The notifying Member State may then proceed to adopt the draft measure without this constituting a breach of Article 3(3).**

Article 6

Notice Alert

1. Before the closure of the consultation period referred to in Article 5 **paragraphs (2) and (4a) of this Directive, and where the Commission has provided comments during that period, the Commission** may ~~alert~~ **issue a notice to** the notifying Member State **detailing** of its concerns about the compatibility **of the notified measure** with Directive 2006/123/EC ~~of the draft measure notified and of its intention to adopt a Decision referred to in Article 7.~~
- The Commission may issue a notice, within three months of the modification of the notification provided for in Article 3, paragraph (3b).**
2. ~~Upon receipt of such an alert, the notifying Member State shall not adopt the draft measure for a period of three months after the closure of the consultation period.~~
3. **The notifying Member State may, within a period of two months, react to the notice by providing explanations and, where necessary, take appropriate action.**
4. **Where the Commission is satisfied with the explanations provided or the action taken by the notifying Member State, the Commission shall, without delay, inform the notifying Member State of the closure of the notice.**

5. Where the Commission has issued a notice in accordance with paragraph (1) on requirements falling within the scope of Article 4(b), and it still has serious concerns on the measure notified in accordance with paragraphs (1), (2) and (3b) of Article 3, it may, within three months from the date of such notice, adopt a decision requesting the Member State in question to refrain from adopting the notified measure or to repeal it.

Article 7

Decision Recommendation

Where the Commission has issued ~~an alert~~ **a notice** in accordance with Article 6(1) ~~, on authorisations or requirements falling within the scope of Article 4(a), (c), and (e) and it still has serious concerns on the measure notified in accordance with paragraphs (1), (2) and (3b) of Article 3,~~ it may, within a period of three months after **from** the date of **such notice** ~~the closure of the consultation period referred to in Article 5(2),~~ adopt a **recommendation** Decision finding the draft measure to be incompatible with Directive 2006/123/EC and requiring **requesting** the Member State concerned to refrain from adopting the ~~draft~~ **notified** measure or, ~~if such measure has been adopted in breach of Article 3(3) or Article 6(2),~~ to repeal it.

Article 8

Information to the public

The Commission shall publish **without delay,** on a dedicated public website, the notifications made by Member States under Articles 3(1) and **amendments to initial notifications under Article 3 (2)** and the related adopted measures **under Article 3(7).**

Article 9

Designation of ~~competent~~ an authority

Member States shall **communicate to the Commission** designate ~~an~~ an competent authority responsible at national level for the operation of the notification procedure established by this Directive. **Such designation shall be without prejudice to the allocation of functions and powers among the authorities within national systems.**

Article 10

Link to other notification or reporting mechanisms

1. Where a Member State is required to notify a measure under Article 3 of this Directive and under Article 5(1) of Directive (EU) 2015/1535, a notification carried out under that Directive and which complies with the obligations laid down in paragraphs 3, 5, **and 6** ~~and 7~~ of Article 3 of this Directive shall be deemed to have satisfied also the notification obligation established under Article 3(1) and (2) of this Directive.
2. Where a Member State is required to notify a measure under Article 3 of this Directive and to inform the Commission **of that measure** in accordance with Article 59(5) of Directive 2005/36/EC, that notification shall be deemed to have satisfied also the information obligation set out in Article 59(5) of Directive 2005/36/EC.

Article 11

Report and review

1. By [36 months after the date for transposition of this Directive] and at the latest every five years thereafter, the Commission shall present a report to the European Parliament, the Council and the European Economic and Social Committee on the application of this Directive, **including an assessment of any improper use to circumvent the application of the notification procedure established in this Directive.**
2. Following the report referred to in paragraph 1, the Commission shall regularly evaluate this Directive and submit the evaluation results to the European Parliament, the Council and the European Economic and Social Committee.
3. Where appropriate, the reports referred to in paragraphs 1 and 2 shall be accompanied by relevant proposals.

Article 12

Amendments to Directive 2006/123/EC

Directive 2006/123/EC is amended as follows:

1. Article 15(7) is deleted with effect from [one day after the deadline for the transposition].
2. In Article 39(5), the second and third subparagraphs are deleted with effect from [one day after the deadline for the transposition].

Article 13

Amendments to Regulation (EU) No 1024/2012

The Annex to Regulation (EU) No 1024/2012 is amended as follows:

1. point 1 is replaced by the following:

"1. Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market: Chapter VI.";

2. the following point 11 is added:

"11. Directive (EU) XXXX/XXXX of the European Parliament and of the Council of XX on the enforcement of the Directive 2006/123/EC on services in the internal market, laying down a notification procedure for authorisations schemes and requirements related to services, and amending Directive 2006/123/EC and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System, unless a notification, as provided for in that Directive, is made in accordance with Directive (EU) 2015/1535.".

Article 14

Transposition

1. Member States shall adopt and publish, by [calendar date ~~one~~ **two** years] as from the date of the entry into force of that Directive] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive.

The provisions adopted to transpose this Directive shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of those provisions.
3. Member States shall apply those provisions from [calendar date one year as from the date of the entry into force of that Directive + one day].

Article 15

Entry into force

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

Article 16

Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament

For the Council

The President The President
