



Professional Law Report Confédération Fiscale Européenne (CFE)

20 November 2007 - 4/2007

NEWS - INTERNAL MARKET

EUROPEAN COMMISSION

Implementation of the Directive on Services

In the context of the national transposition of the Directive on Services, the European Commission (DG Internal Market) published during the last summer a „Handbook on implementation of the Services Directive“.

This document is available on the Internet and can be downloaded (in EN, other EU languages will be available in the future).

The purpose of the “handbook on implementation” is to give Member States technical assistance in the implementation process. It is one of a series of concrete accompanying measures with which the Commission wants to assist Member States. It is also part of the response to the request the Commission received from the Council, at its meeting of 29 and 30 May 2006, to provide assistance to Member States on implementation of this Directive. This handbook is neither exhaustive nor legally binding and does not prescribe one single way of implementation. It rather tries to describe appropriate ways of implementation and draws attention to important issues in the implementation process. It is based on preliminary discussions with Member States and seeks to reply to questions already raised by them or which can be easily anticipated. More questions will arise as the process of implementation advances and, if need be, this handbook will be supplemented at a later stage.

[Read more \(click to open\):](#)

Handbook on the implementation of the Service Directive

EN

Action Programme for Reducing Administrative Burdens in the EU

The European Commission started its „Action Programme for Reducing Administrative Burdens in the EU” by online consultations for business enterprises. The Action programme was published in January 2007, it is not about deregulation. As a part of this, the Commission proposed a reduction target of 25 % to be achieved jointly by the EU and Member States by 2012. The Action Programme sets out how the Commission proposes that the information obligations should be identified measured and reduced. The aim of the programme is to measure administrative costs, to take a judgment on which of these costs constitute unnecessary burdens and reduce unnecessary administrative burdens.

[Read more \(click to open\):](#)

Action Programme for Reducing Administrative Burdens in the EU

EN FR DE

European Collective Redress for Consumers

On 9th and 10th November, a conference “Towards an European Collective Redress for consumers?” took place in Lisbon. Organised by the European Commission and the Portuguese Presidency of the EU, its background is the consideration of DG Consumer protection and DG Competition for a necessity of a collective redress for consumers in the EU. The Commission will start in 2008 a consultation on collective redress for consumers.

[Read more \(click to open\):](#)

EN

Commissioner Mc Creevy's speech on Growth and Opportunity in an enlarged EU

Commissioner Mc Creevy hold a speech on „Growth and Opportunity in an enlarged EU- What's in it for small and Medium-sized enterprises" at the 2007 Innovation and Entrepreneurship Day in Brussels on 6th November. In this context, the Commission will publish their next "Single market review on the 20th November 2007. The Commission already presented a midterm review of SME polity like the "Better Regulation Area" (see above) or the proposal for a Council Directive to allow Member States to exempt from VAT business with annual turnover of less than 100.000 € as well as the introduction of a VAT one-stop-system. He refers indirectly to some infringement procedures (e.g. against notaries) in stressing that national requirements may only be applied to service providers if they are non-discriminatory, proportionate and justified for public reasons.

[Read more \(click to open\):](#)

Growth and Opportunity in an enlarged EU

[EN](#)

EUROPEAN PARLIAMENT

Report on obligations of cross-border services providers

The European Parliament adopted a report on obligations of cross-border service providers on 27 September (see Professional law report 3/2007 „Lehtinen report"). The CFE had expressed reservations on the initial draft report which, among other things, called on the Commission to submit an appropriate proposal for a broad horizontal instrument in order to strengthen consumer confidence in cross border trade of services by way of harmonizing obligations of cross-border service providers. The text adopted is an improvement compared to the text of the original draft report. The proposal to shift the burden of proof onto those providing cross-border services is no more part of the report. Finally, the report does not call on the Commission to draw up a voluntary

code of conduct in which service providers should participate.

The idea to implement a shift of the burden of the reversal of proof could be renewed by the Greens and the Socialists in the European Parliament in the future.

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European Parliament resolution of 27 September 2007 on the obligations of cross-border service providers

[EN](#) [FR](#) [DE](#)

Resolution on the Single Market review: Tackling barriers

The European Parliament adopted on 4th September a "Resolution on the Single Market: tackling barriers and inefficiencies through better implementation and enforcement". Considering the still existing barriers to the implementation of the four fundamental freedoms, the European Parliament stresses that it would be important to improve the functioning of the Single Market and to concentrate efforts on the achievement of a barrier-free Single Market. The Parliament believes that the present VAT and excise duty systems are a barrier to the completion of the Single Market, in particular in relation to cross-border trade; it calls on the Commission to investigate tax problems related to personal mail order and Internet shopping, and to come forward with proposals for facilitating EU citizens' full benefit from the free movement of goods. The European Parliament advance the view that greater harmonization may be necessary in certain areas like in the functioning of the tax system.

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European Parliament resolution of 4 September 2007 on the Single Market Review

[EN](#) [FR](#) [DE](#)

NEWS - COMPETITION

EUROPEAN COMMISSION

The European Commission launched last year two studies in the field of the liberal professions. One is the Leuven University study on the deregulation of Pharmacies in Belgium. The second study is on the reform of professional regulations in the conveying service market (notaries and lawyers) (see Professional law Report 1-2/2007, page 2/3: Competition conference). The studies, expected to be published earlier this year, are still kept under lock and key.

NEWS - JUSTICE

EUROPEAN COMMISSION

Communication on stepping up the fight against terrorism

On November 6th the European Commission published a communication on stepping up the fight against terrorism. It contains a packet of measures like improving the exchange of information between national authorities and cooperation between all stakeholders when appropriate.

[Read more \(click to open\):](#)

Communication: Stepping up the fight against terrorism

[EN](#) [FR](#) [DE](#)

NEWS - JURISDICTION

EUROPEAN COURT OF JUSTICE - FIRST INSTANCE

Akzo Nobel Chemicals Ltd v Commission of the European communities (T-25/03) and T-253-03); exclusion of in-house lawyers from legal privilege

The Court of First Instance on 17 September 2007 published its judgment on two joint cases, Akzo Nobel Chemicals Ltd and Akros Chemicals Ltd v Commission of the European Communities (T-25/03) and T-253-03). At the center of both cases was the exclusion of in-house lawyers from legal privilege in the Community Competition law. The first case required the annulment of the decision by which the Commission ordered the inspection at Akzos premises insofar as that decision is treated by the Commission as being the legal basis on which it claimed the right to take copies of the document. The other case sought the annulment of a subsequent decision by which the Commission rejected the claims for legal professions privilege made by Akzo. In short, the procedure was designed to ensure that, in the event that the Commission and the undertaking under investigation are unable to resolve a dispute as to the privileged status of communication, the Court should rule and, essentially, that before it does so, the Commission should not read the document.

The decision

The court found that the Commission infringed essential procedural requirements, first by forcing the companies to allow the Commission inspectors to have a look at certain documents and second, by reading some of the documents in question without giving the companies the opportunity to bring the case in front of the Court of First Instance. The judgment confirmed that internal company documents drawn up exclusively for the purpose of seeking legal advice from an independent lawyer in exercises of the rights of defence may benefit from Legal professional privilege. The Court did not take the chance to develop the scope of legal professional privilege to include in-house lawyers (who are members of a bar and therefore subject to professional obligations of confidentiality under national rules).

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Jugdments (T-25/03) and T-253-03)

EN

all groups of interests acting with relation to the European Institutions.

Blogs

The Commission set up a blog site where the European citizen can have a look on the daily work of some Commissioners and some Permanent Representations to the EU (Netherlands, Malta and Estonia).

NEWS - OTHER

EUROPEAN COMMISSION

Costs of Justice Study

The Commission has initiated a study in relation to sources of costs of civil juridical proceedings in the European Union Member States, being carried out by a French Institute, based in Paris.

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EN

NEWS - CFE

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EN

OECD Study on Tax Intermediaries

A draft report on the OECD Study on the Role of Tax Intermediaries was circulated to CFE for comment on 2 November 2007. CFE appreciates the opportunities we have been afforded to express our views on this Study throughout its existence. The comments were submitted to OECD on 14 November 2007.

Deontologie

The Commission has decided to create a new voluntary register for interested representatives, see Professional law report 3/2007 at page 4. The register is intended to be launched in spring 2008. The Commission is furthermore drafting common elements for Codes of Conduct for relations between interested representatives and the Commission. This code will be a requirement for entry into the register. Its compliance will be monitored by the Commission. A consultation on the Code will start early winter 2007. The European Parliament held a public workshop in October 2007 in Brussels. The EU-USA situation of lobbying was compared. Representatives from different lobby categories discussed the current proposal. The Commission has a very broad definition on lobbying, including

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EN

CFE MEMBER ORGANISATIONS

IEC-IAB conference on Money laundering legislation in Belgium

The Belgian "Institute des Experts Comptables et

des Conseils Fiscaux (IEC-IAB)” held on 19 October in Brussels a conference on national money laundering regulations. Mr Alain Claes outlined the general modifications in the field of money laundering legislation in 2007 in Belgium, respecting the three directives on money laundering coming from the EU. On the previous day of the conference, the resigned Minister of Justice answered to a question from a Belgium Member of the Parliament (Dirk van der Maelen) on the interpretation on the recent modification of the law on the reporting obligations in Belgium. During the conference, the differences between the repressive and the preventive way on the fight against money laundering have been discussed in detail. Furthermore, a discussion took place on the question, in which extend tax fraud should be perceived as a part of money laundering or not.

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EN

BStBK conference on professional ethics

On 6th November, the German “Bundessteuerberater kammer” hosted a conference on professional ethics for tax advisers. The new president of the BStBK, Dr. Horst Vinken, outlined the importance of this subject not only on national level but also in the European Union. The presentations were divided into two sections. The first part from Prof. Dr. Andreas Suchanek on the “relationship, self commitment and the function of role model” dealt with the economic approach to the subject. His advise was mainly to invest in the conditions of the collaboration of the society for a cross advantage/benefit. The second presentation from Prof. Dr. Dietmar von der Pfordten was about the liberal professional and their status and ethical self commitment. Furthermore, it was raised by Prof. Thomas Mann, that the ethics of the traditional liberal professions are related. A liberal professional in general is acting in the interest of his client and in the interest of the public welfare or public good. This would be one of the core elements of a liberal professional.

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IMPRESSUM

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