

# EUROPEAN ECONOMIC AREA

## STANDING COMMITTEE OF THE EFTA STATES

Ref. 19-556

15 February 2019

### SUBCOMMITTEE IV ON FLANKING AND HORIZONTAL POLICIES

#### EEA EFTA Comment

**on the proposed notification procedure for draft national legislation under the scope of the Services Directive.**

#### **Executive summary**

*The EEA EFTA States (Iceland, Liechtenstein and Norway) find it important for growth, jobs and consumers that a new and improved notification procedure for draft national legislation falling under the scope of the Services Directive is adopted. If needed, with a view to finding a compromise, the reference to a “Decision” in Article 15(7) second paragraph of the Services Directive could be deleted or amended. This view is subject to no other provision of the Services Directive being opened for discussion.*

1. Improving the Single Market falling under the scope of the Services Directive would benefit growth, jobs, and consumers.
2. The present notification procedure laid down in the Directive does not function sufficiently. Making the present procedure work better is not enough. The EEA EFTA States therefore welcomed the Commission proposal for an improved procedure, see COM (2016) 821.
3. A new and well-functioning notification procedure would contribute to better regulation at national level and benefit the Single Market in services. The EEA EFTA States in November 2016<sup>1</sup> submitted an EEA EFTA Comment supporting an effective notification procedure.
4. Reference is made to the general approach adopted by Council in May 2017, and the position of the European Parliament adopted in December 2017. In the view of the EEA EFTA States it is important that a revised notification procedure creates

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<sup>1</sup> [EEA EFTA Comment on the need for improvement of the notification procedure for national legislation pursuant to Articles 15\(7\) and 39\(5\) of the Services Directive.](#)

transparency on national draft legislation and introduces a standstill for comments, when new rules are being prepared at governmental level.

5. The EEA EFTA States are aware that the negotiations within the EU aiming at finding a compromise on the wording of a new procedure, have reached a critical stage. One important issue relates to the Commission's competence to issue decisions on notified legislation, see Article 15(7) second paragraph of the Services Directive. As far as the EEA EFTA States are aware, this decision-making power has never been used since the Services Directive became applicable in 2009.
6. In addition, the Commission and the EFTA Surveillance Authority have other means of reacting to national legislation assessed as conflicting with the Services Directive. When national legislation has been adopted, the Commission and the EFTA Surveillance Authority may initiate infringement procedures in accordance with the relevant provisions of the Treaty on the Functioning of the European Union (TFEU) and the EEA Agreement.
7. The EEA EFTA States therefore encourage the European Parliament, the European Commission and the EU Member States to reach agreement on a new notification procedure, if needed without the Commission decision-making power laid down by Article 15 (7). The EEA EFTA States consider a new effective notification procedure more important for growth, jobs and consumers than the decision-making power laid down in Article 15(7). They also consider an improved notification procedure to be globally more efficient in ensuring compliance with EU/EEA law, than the decision-making power laid down by Article 15(7).
8. This view is subject to no other provision of the Services Directive being opened for discussion.