

Directive on Services in the Internal Market

AIM OF THE PROPOSAL

- Improve the basis for economic growth and employment in the EU.
- Achieve a genuine Internal Market in services by removing legal and administrative barriers to the development of services activities
- Strengthen the rights of consumers as users of services
- Establish legally binding obligations for effective administrative co-operation between Member States

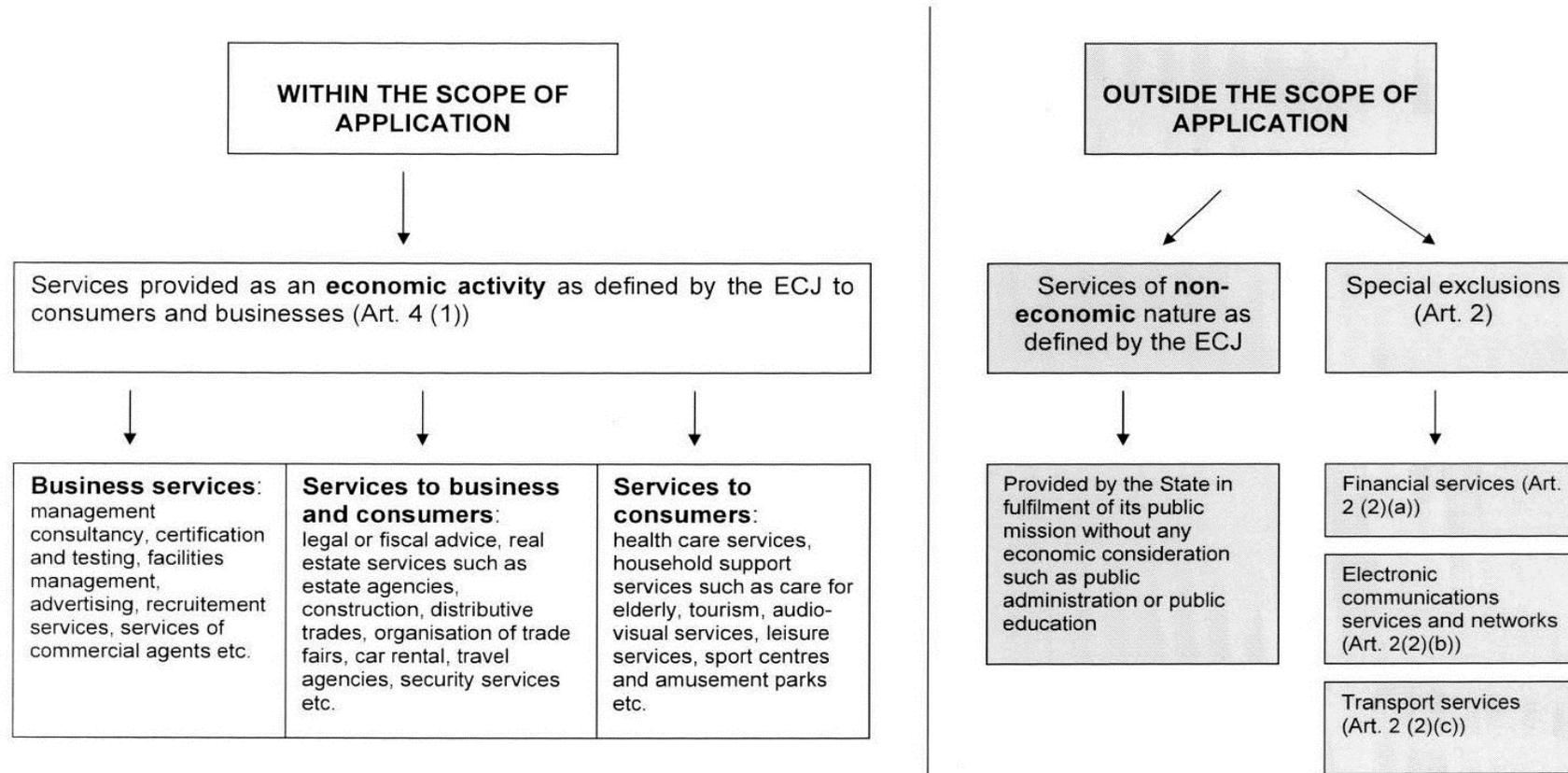
What activities are covered?

- A wide variety of economic service activities such as: business services provided both to businesses and to consumers (such as legal or fiscal advice, real estate services, construction, distributive trades, car rental, travel agencies, and security services); consumers services (such as health care services, household support services, audio-visual services, leisure services).
- Not covered : non economic services (such as national education) or services explicitly excluded .

What does the Directive do ?

Facilitates establishment	Facilitates cross border provision of services	Enhances quality of services	Establishes a system of administrative cooperation between MS
The proposal provides for : ✓ Administrative simplification , e.g. « Single point of contact » ✓ Screening of authorisation schemes ✓ The removal of certain listed restrictions ✓ Screening of a further set of restrictions	✓ the application of the country of origin principle ✓ Freedom to provide services and derogations	✓ Targeted harmonisation ✓ Promotion of quality enhancing measures ✓ Promotion of codes of conduct	✓ Obligations of mutual assistance ✓ Repartition of supervisory tasks between MS

DIRECTIVE ON SERVICES IN THE INTERNAL MARKET



Subject - Matter

- A/ **This Directive** establishes general provisions facilitating the exercises of the freedom of establishment for service providers and the free movement of services, while maintaining a high quality of services.
- B/ **This Directive** does not deal with the liberalisation of services of general economic interest, reserved to public or private entities, nor with the privatisation of public entities providing services
- C/ **This Directive** does neither deal with the abolition of monopolies providing services nor with aids granted by Member States which are covered by Community rules on competition.

This Directive does not affect the freedom of Member States to define, in conformity with the Community law, what they consider to be services of general economic interest, how those services should be organised and financed, in compliance with the State Aid rules, and what specific obligations they should be subject to.

- This Directive shall not apply to :
 - Non-economic services of general interests,
 - Activities which are connected with the exercise of official authority as set out in Article 45 of the Treaty

Art. 45

- The Commission accepts amendments regarding professions connected with the exercise of official authority and has brought the wording of the exclusion in line with the precise limits set out by Article 45 of EU Treaty, which provides for a derogation from the freedom of establishment and the freedom to provide services for **specific activities which involve direct and specific participation in the exercise of official authority, and not for whole professions as such.**

- This Directive shall apply to the other Community instruments
- In case not provided for elsewhere in this Directive, if the provisions of this Directive come into conflict with a provision of another Community instrument governing specific aspects of access to and the exercise of a service activity in specific sectors or for specific professions, including Directive 2005/368/EC on the recognition of professional qualifications, the provision of the other Community instrument shall prevail and shall apply to those specific sectors or professions.

Chapter II

- Administrative Simplification
 - Simplification of procedures
 - Points of single contact
 - Right to information
 - Procedures by electronic means

Chapter II

- Freedom of establishment for service providers
 - Authorisations
 - Requirements prohibited or subject to evaluation

Chapter III

- Free movement of services
 - Country of origin principle and derogations
 - Freedom to provide services and derogations (Art. 16)

Restrictions to the freedom to provide services

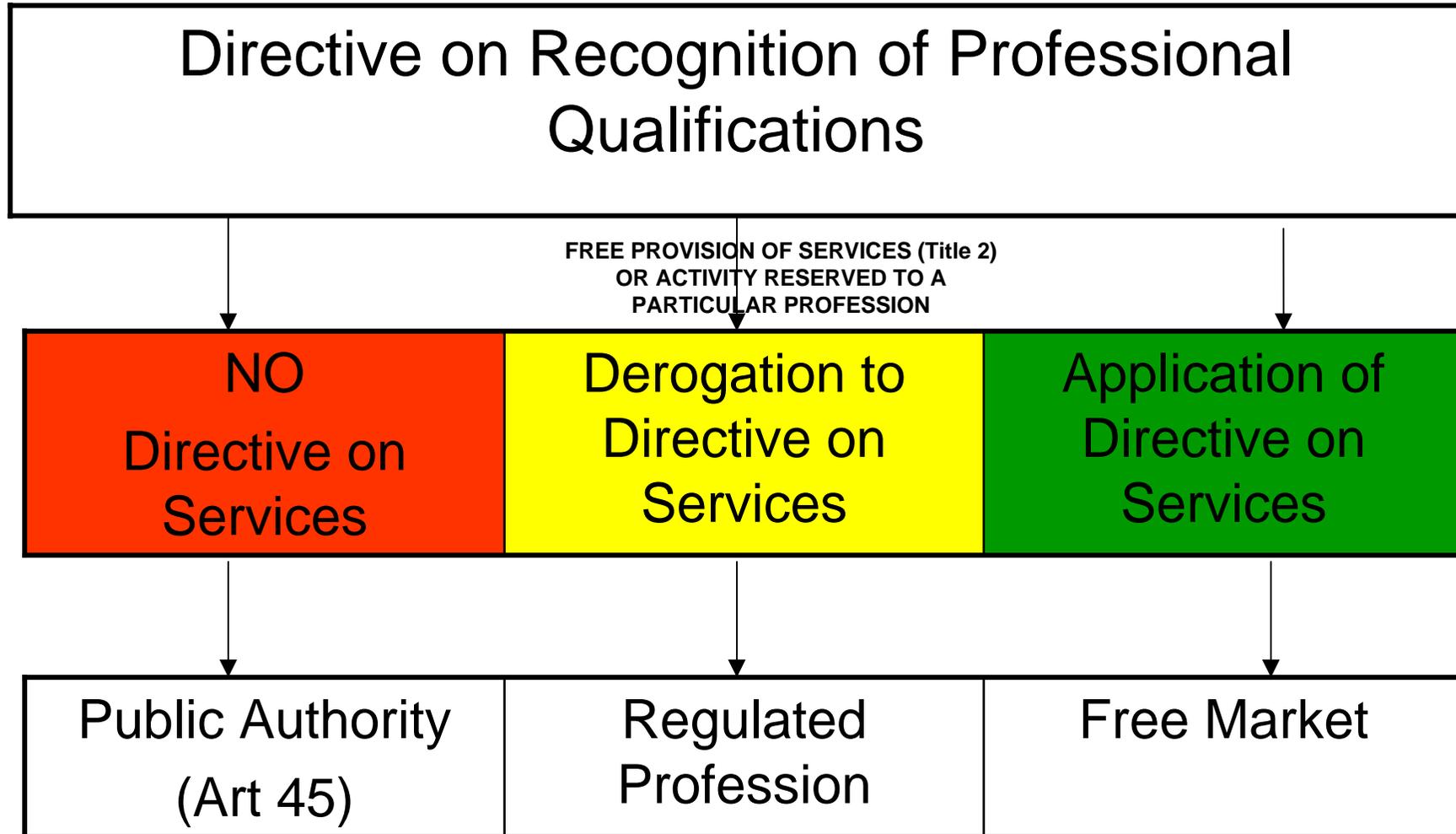
- The Member State to which the service provider moves shall not be prevented from imposing requirements with regard to the provision of a service activity, where they are justified for reasons of public policy, public security, environmental protection and public health, in accordance with paragraph 1. Nor shall Member States be prevented from applying, in conformity with Community law, their rules on employment conditions, including those laid down in collective agreements.

- **Derogations from the freedom to provide services (Art. 17)**
- **Art. 16 shall not apply to :**
 - Matters covered by title II of Directive on the recognition of professional qualifications, as well as requirements in the Member State where the service is provided which reserve an activity to a particular profession.
 - Acts requiring by law the involvement of a notary.

- **In the Directive recognition of professional qualification title II is on Free provision of services (Art. 5 to Art. 9)**
- This Directive is consistent with and does not affect Directive 2005/36/EC on the recognition of professional qualifications. It deals with questions other than those relating to professional qualifications, for example professional liability insurance, commercial communications, multidisciplinary activities and administrative simplification. Concerning temporary cross-border service provision a derogation from the freedom to provide services in this Directive ensures that Title II on the free movement of services of Directives 2005/36/EC on the recognition of professional qualifications is not affected. Therefore, none of the measures applicable in the Member State where the service is provided under the Directive on the recognition of professional qualifications is affected by the freedom to provide services.

- Chapter IV
- Quality of services
 - Chapter V
- Administrative Cooperation
 - Chapter VI
- Convergence Programme

Activities of Surveyors



DEFINITIONS

- **OVERRIDING REASONS RELATING TO THE PUBLIC INTEREST**
 - As recognised in the case law of the Court of Justice cover inter alia the following grounds :
 - Public policy, public security, public safety, public health
 - Preserving the financial equilibrium of the social security system, the protection of consumers, recipients of services and workers, fairness of trade transactions, combating fraud, the protection of the environment and the urban environment, the health of animals, intellectual property, the conservation of the national historic and artistic heritage, social policy objectives and cultural policy objectives.
- **REGULATED PROFESSION** (*Directive on the recognition of professional qualifications*)
 - A professional activity or group of professional activities, access to which, the pursuit of which, or one of the modes of pursuit of which is subject, directly or indirectly, by virtue of legislative, regulatory or administrative provisions to the possession of specific professional qualifications, in particular, the use of a professional title limited by legislative, regulatory or administrative provisions to holders of a given professional qualification shall constitute a mode of pursuit.

FREEDOM TO PROVIDE SERVICES

"To provide services in another Member State on a temporary or occasional basis, we have to comply with formalities and rules there which add another layer of regulation and complexity to those in our home Member State"



The country of origin principle should ensure that service providers who operate legally in one Member State could operate temporarily or occasionally in another Member State without meeting further requirements. There are a number of derogations from this principle, e.g. to protect workers and consumers and public health and safety. There are also safeguards for use in exceptional circumstances.

"Service providers posting workers temporarily to other Member States face too many bureaucratic hurdles"



Certain burdensome administrative requirements such as prior declaration should be removed and replaced with reinforced administrative co-operation between Member States.

"Service providers employing Third Country Nationals in the EU find it difficult to post them temporarily to another Member State"



Certain administrative requirements, such as work permits, should be removed.

"Service providers are subject to duplication of requirements because Member States' administrations lack confidence in each other"



Member States must implement administrative co-operation to ensure that service providers are properly and effectively supervised across the Internal Market, while avoiding duplication of control.

FREEDOM OF ESTABLISHMENT

"The formalities and procedures that service providers wanting to establish have to comply with are too complex and administered by too many different authorities"



Service providers should be able to obtain information and complete formalities through a single point of contact in any Member State. This should also function on-line.

"There are too many authorisation procedures and they are lengthy, opaque and unpredictable"



Authorisation regimes must be screened and where appropriate removed. Procedures must be non-discriminatory, objective and transparent and subject to criteria and deadlines known in advance.

"Some national restrictions are clearly discriminatory or disproportionate"



Some restrictions, such as discrimination based on nationality and "economic needs tests", should be prohibited.

"There are too many other restrictions on establishment"



Certain restrictions affecting establishment, such as quantitative or territorial limits, should be subject to mutual evaluation by the Commission, Member States and stakeholders, and where appropriate removed.

CONSUMER RIGHTS

"Patients experience serious problems in obtaining reimbursement for healthcare paid for in another Member State"



The conditions under which patients are entitled to reimbursement should be clarified on the basis of existing ECJ jurisprudence. Patients should not be faced with over-complex rules, or suffer from delay.

"Consumers suffer from discrimination when they travel or use services from another MS such as higher museum entry prices for non-nationals"



Rights of recipients should be clearly set out and any discrimination removed.

"Consumers lack confidence in cross-border services"



Measures to improve the quality of services should include: better information to consumers; mandatory professional liability insurance for certain service providers; encouragement of quality charters and codes of conduct which would apply across the EU.