

Obligations of Cross-Border Service Providers

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The Committee on the Internal Market and Consumer Protection adopted the initiative report by Lasse LEHTINEN (PES, FI) on the obligations of cross-border service providers.

Internal market for services: the report encourages the development of measures that complete the internal market for services. It states that a more uniform system of obligations for service providers is needed as the market in services becomes increasingly cross-border, in order to further facilitate the development of a seamless internal market for services.

The committee believes that clarifying the legal system of obligations of service providers in the EU will bring more competition and more choice to consumers, and at the same time should not create unjustified obstacles to the free movement of services in the internal market. The different laws, regulations and administrative practices in the Member States cause uncertainty and lack of transparency for both service providers and consumers and make the use of the EU's common resources more difficult, but also provide an opportunity for competition in consumer protection.

MEPs are convinced that when consumers feel uncertain about the safety and quality of a service they tend to erect mental barriers to foreign suppliers, thus deterring them from making use of cross-border services, and that when a consumer has a negative experience, it frequently reflects unfairly on all foreign service providers. They point out that when it comes to the performance of a service, consumers are not as well protected under the Community acquis as consumers who purchase goods. They express their reservations, nonetheless, pending full implementation of the Services Directive, as regards far-reaching, new horizontal tools for the completion of the internal market for services.

The report highlights that not only consumers, but also and in particular small and medium-sized enterprises (SMEs), both as buyers and sellers of cross-border services, could benefit from added legal certainty, simplicity and a reduction in costs.

The committee notes that there are several pending legislative initiatives aimed at ensuring legal certainty as regards the rights and especially the obligations of cross-border service providers, namely the proposal for a regulation on the law applicable to contractual obligations (Rome I), the proposal for a regulation on the law applicable to non-contractual obligations (Rome II) and the Green Paper on the Review of the Consumer Acquis. It points out that Article 5 of the Rome I proposal is essential in order to determine whether the consumer protection legislation of the country of origin (of the service provider) or of the client (customer of the service) applies. It stresses that it is important to await the outcome of the legislative procedure.

The Commission is called upon to:

- bear in mind that, when it comes to the obligations of services providers, no difference should be made between public and private service providers, which should both be equally subject to the field of application of the directives on consumer protection;
- monitor thoroughly the transposition and implementation of existing and upcoming horizontal and sectoral legislation relating to the liability of crossborder service providers;
- examine measures, such as the introduction of standards at EU level, as a means of promoting the safety of services and of guaranteeing consumers' rights relating to cross-border services provided by Member States;

- draw up a voluntary code of conduct in which service providers could participate in order to gain greater trust from consumers and with a quality certification mechanism and an inbuilt dispute settlement system involving appropriate bodies in order to assist in simplified dispute resolution;
- submit, within 12 months, a work programme for an appropriate assessment of the impact of existing and upcoming legislation in the internal market on the obligations of crossborder service providers and the need for a possible broad horizontal instrument to align the rule on cross-border service provision in order to provide a high level of consumer protection;
- define clearly the interaction between private international law instruments and internal market instruments with a view to leaving no doubt as to when home or host country legislation or regulation applies and so, as far as possible, to leave no gaps in the liability regime applicable to service providers;
- take into account the impact of any initiative on SMEs;
- further develop, resource and promote the work of the European Consumer Centres Network (ECCNet) and Cross-Border Out-of-Court Complaints Network for Financial Services in the European Economic Area (FIN-NET) and, in the event that alternative dispute resolution systems remain unavailable in key service sectors in Members States, to consider at least a recommendation on that subject.