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***"Engineers in the Single Market – recent initiatives of the European  
Commission"***

**CHECK AGAINST DELIVERY**

Good morning, ladies and gentlemen,

In Brussels, we consider that the Single Market is without any doubt one of the biggest achievements of the European Union. I hope that it is the same also today here in Vienna. The Single Market includes the possibility to go and work in another Member State, to provide services temporarily in another Member State or to choose a service provider from across the border, respectively. It also means that EU companies are free to establish themselves in other Member States.

But the Single Market with all its benefits could work even better, in particular in the area of services. This assessment is not only made by the Commission. Studies by the OECD and the World Bank have also identified unused potential.

Over the past years, European governments stated their wish in several Council conclusions that the EU should engage more in initiatives to reduce barriers in the area of the provision of services.

Also the European Parliament has repeatedly adopted resolutions, calling on the Commission to make sure that the Services Directive is fully implemented and to go further and be more ambitious.

It is undisputed that a better functioning of the Single Market gives Member States advantages at the national as well as at the global level.

Therefore, the Commission took these requests seriously and tabled several initiatives in the beginning of this year as a "services package", based on three main conclusions:

- 1.** Our repeated efforts with Member States, for close to eight years, to pursue the implementation of EU law on services, including through the European Semester and in particular the Services Directive, have not yet achieved many of the expected gains.
- 2.** Even if we wanted to be very patient, it is very complex to pursue enforcement and infringement actions on many different issues. The infringement proceedings are a punctual tool but not the proper means where broader problems persist.
- 3.** Service providers and professionals need more than what is currently offered. They need more administrative simplification and more legal certainty about the regulatory environment in which they operate or work.

Let's have a look at the economic background:

Services in total account for two thirds of the GDP of the EU and 68% of total employment, the equivalent of 152,6 million persons<sup>1</sup>. 22% of the EU workforce works in regulated professions, so around 50

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<sup>1</sup> Source: national account statistics.

million people. Some studies say that there could be an increase in employment of 3-9%.

According to the World Bank, less regulation would increase productivity by 5%.

The significant role of professional services in the EU economy cannot be over-estimated. There are numerous studies demonstrating the untapped benefits of furthering the Single Market in services. One such recent study done for the European Parliament suggested that an annual potential of € 39 billion GDP remains to be captured<sup>2</sup>.

Based on what Member States notified to the Commission database, there are over 5 500 regulated professions across the EU.

Engineers are one of them, of course with the different subgroups. They are a particularly mobile group of professionals.

Let me now present two initiatives of the Services Package with a special focus on engineers.

### **A) Firstly, the Communication on reform recommendations for regulation in professional services:**

The Communication intends to offer guidance to us on national reform needs and possibilities. In this exercise, seven professions were selected and we looked in detail into their regulation: architects, engineers, lawyers, accountants, patent agents, real estate agents and tourist guides. These professions were chosen because of their economic importance and the potential scope for

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<sup>2</sup> [http://www.europarl.europa.eu/EPRS/EPRS\\_Mapping\\_the\\_Cost\\_of\\_Non-Europe-June%202014.pdf](http://www.europarl.europa.eu/EPRS/EPRS_Mapping_the_Cost_of_Non-Europe-June%202014.pdf)

further growth and employment creation in the respective area, e.g. in the area of tourism.

The guidance looks at regulatory barriers in all Member States and is particularly addressed to those of them in which the regulation in place appears very heavy, in particular in comparison with other Member States.

We developed a new restrictiveness indicator measuring the level of requirements on access to and exercise of professional services. It has been built based on information received from Member States as well as on the analysis of the different national laws. I see in the programme that Professor Chini will provide us with his analysis of the indicator later today.

For the profession of civil engineers, the indicator shows that all Member States except the Netherlands have some sort of requirement for the access to and exercise of this profession.

We found that there are many similarities across Member States in their regulation of the profession of civil engineer. The same broad definitions can be found for the scope of activities and many Member States aim to prevent the same risks and pursue the same general interests when regulating the profession.

However, the regulatory approaches towards the profession vary considerably between the Member States, despite this convergence.

There is overall agreement that services provided by engineers need to guarantee the safety of constructions and of the public and guarantee the quality of the service provided. The Commission fully supports these aspects.

It is nevertheless interesting to see the different regulatory choices Member States make in order to pursue these same objectives.

Let me give you a few examples:

A number of Member States reserve activities to civil engineers. In some Member States, the scope of this reservation is larger than in others. For instance, in Austria the exclusive scope of the activity of civil engineering firms has to be the provision of engineering services limiting therefore significantly the possibility of joint exercise with other professions. In Germany, the reserve is limited to the submission of planning documents.

Other Member States, like Belgium, France and the United Kingdom as regards chartered engineers, protect only the use of the professional title.

Other requirements imposed on professionals concern shareholding requirements or mandatory membership in professional organisations. Shareholding requirements are imposed by several Member States, with Cyprus and Malta requiring that all shares of an engineering company have to be held by engineers. And while some 14 Member States require membership in a professional organisation, in 16 Member States professional indemnity insurance is mandatory. Many professional organisations do a lot of valuable work for their members, this is fully recognised.

In contrast, in Member States where there are no or little requirements imposed on professionals, public interest objectives are protected by other means:

In the Netherlands, there is a regulation on construction standards, which ensures the quality of work performed. In Sweden, the principle of the responsibility of the client has traditionally been of major importance: looking for the right person, if consumer rights are there, together with checks by municipalities of the work performed.

As you can see, there are many ways how engineering professions are regulated. This is nothing negative. This reflects the regulatory

traditions and framework in different Member States – it is up to Member States to regulate.

Still, the Commission has identified some aspects that could be improved or at least should be scrutinised, whether they are necessary in the way they are in place.

For instance, there is no reasonable justification for requiring that 100% of the shares need to be held by professionals.

Also, from a mobility point of view, differences of systems might create barriers for civil engineers moving from one Member State to another.

An engineer coming from a country where civil engineers are allowed to perform many different kinds of work in any sector would find it difficult to identify the sector of civil engineering she or he might be able to access in countries like Latvia or Romania where there are a lot of different specialisations. It may be difficult or even impossible to have access to all sectors without heavy compensatory measures.

The recommendations in the Commission's Communication are not legally binding. However, the Commission will monitor the implementation of these recommendations, together with the Member States, and propose, where appropriate and if necessary, measures to address remaining barriers.

## **B) Proportionality test before introducing new regulation**

The second initiative I would like to present to you is the proportionality test. It concerns the introduction of new regulation. This proposal is based on the approach that “prevention is better than cure”.

Thus, it aims at improving the quality of professional regulation, thereby preventing creation of new single market obstacles and reducing confrontational enforcement action in form of infringement proceedings.

It has its origins in Article 59 of the Professional Qualifications Directive, where a mutual evaluation of existing regulation is laid down. This exercise was undertaken by the Member States during two years, where the Member States were screening the existing regulatory frameworks of their regulated professions.

At the end, in January 2016, the Member States were expected to submit national action plans about what they intend to do with the existing regulations: either to maintain them because they were considered adequate or to lighten or remove some because they seemed disproportionate.

Sadly, the outcome of this exercise was rather disappointing for the Commission. So far, not even all Member States have submitted their national action plans. A number of other Member States had obvious difficulties in carrying out thorough assessments.

This showed that the examination of proportionality under EU law is being applied in a very fragmented and diverse way, which does not guarantee the obligation set out by the Court of Justice that the principle of proportionality is applied in a consistent and comparable way.

Such fragmentation throughout the Member States entails unnecessary burden for access to the professions in the respective Member States.

Therefore it is envisaged to guide the Member States, based on criteria that should be taken into account to be able to perform

comparable proportionality tests at national level. However, on a stronger legal basis, namely a Directive. Recommending it did not work.

The particularity of this Directive is that it does not set any standard, but tells the Member States how to do a test, leaving the outcome open.

The proposal is solidly based on the case law of the European Court of Justice – which also applies to engineers. Let me stress that the test criteria that we have proposed are neutral, they do not prevent Member States from regulating.

The test does not favour any particular regulatory model of Member States, but accepts their differences. It merely obliges Member States to assess new regulation carefully.

In that sense the proposal is actually adapted and proportionate and suitable for the many different approaches to regulate engineers.

It is raised some times that there are too many criteria. A burdensome administrative exercise would be needed, where extensive studies would have to be produced. Supplying a detailed statement does however not imply bringing forward extensive studies to justify a criterion. The more substantial the change is, the more it should be explained.

In the same vein, justified reasons by qualitative means are therefore to be understood as providing plausible arguments. And quantitative means are to be understood that data can be used by Member States to make their case; it does not mean that when a Member State does not have data, a criterion cannot be justified.

Two major innovations of the proposal are the involvement of stakeholders and a transparency element, which allows more publicity for regulatory changes.

All in all, the proportionality test is not the bureaucratic monster as feared in particular by some professions. It essentially summarises already existing obligations, which can be integrated rather easily into national procedures preparing legislation.

### **C) Common training frameworks**

Let me finally mention briefly an initiative that is not coming from the services package. The Commission was looking for a way to use the new avenue for automatic recognition in an efficient way under the revised directive Professional Qualifications Directive: the so-called common training principles and common training frameworks as a common set of minimum knowledge skills and competences necessary for the exercise of a specific profession and the common training test. This would not replace national training programmes unless Member States decide on the basis of a proposal from national professional organisations.

The Commission has looked into the feasibility of developing common training principles for engineers. The objective was to map the profession of engineer in each of the European Countries member of the European Economic Area and Switzerland.

I am grateful for the work of the European Council of Engineers Chambers (ECEC) towards a proposal of common training principles for engineers. ECEC developed a consultation process with two surveys and two conferences. While at the start the project was supposed to encompass all professions, it was finally limited to civil

engineers, with a view of a possible extension to other specialities in the future, if feasible.

The project ended in January 2017 and the report of the ECEC was accepted by the Commission.

So far, the proposal of ECEC as such has not been endorsed by the Commission as there is not enough consensus among engineers and Member States on a specific proposal and some features of the proposal do not match all the requirements of Professional Qualifications Directive.

For the moment, the Commission prioritises the initiatives under the services package and might take up the issue of common training frameworks and common training tests when it is clearer in which direction the EU legislator goes in respect of the services package.

Thank you very much for your attention and I would be happy to reply to your questions.