



II CALRE AWARD “Stars of Europe”

Participation form

Regional legislative assembly: Abruzzo Region

Country: Italy

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Type of project:

Other: BEST PRACTICE: the activities carried out by the Legislative Assembly of Abruzzo for the correct application of the Services Directive into national law

The experience in implementation of the Services Directive ([directive 2006/123/UE](#)) of the Legislative Assembly of **Abruzzo** in particular with regard to :

A) the application of Articles 15 and 16 which imposes an obligation upon public authorities to notify the Commission, through the IMI platform, all draft technical regulation, new requirements suited to prevent or restrict the exercise of a service activity intending to adopt and also and explaining them by breach of the principles of non discrimination, necessity and proportionality;

B) the application of the Article 39 of the same Directive that provides the possibility for each Member State to express comments on the notifications received from other Member States (mutual evaluation among the States).

That is a good practice which was implemented in the previous years and has been well- established in the years 2015- 2016.

Date of issuing of the initiative

Reference period: years 2015 - 2016

Short description of the initiative

The application concerns a good practice carried out through different types of acts:

1. the legislation concerning notification and comments procedures to the European Commission;
2. the registration to IMI platform of the local Government and Legislative Assembly;
3. the technical evaluation of the Drafts Regional Law concerning for the public services activities;
4. the notification of a Draft Regional Law (the first notification in Italy);
5. translation, the analysis of notifications received from other Member states and the submission of comments from Abruzzo Region through the IMI System; this work was carried out in the year 2015 in cooperation with the University of Teramo;
6. analysis of notifications received, the participation of the Region in public consultation opened by the European Commission on procedure reform proposal which allowing Member State to notify new legislative requirements applicable to service providers;
7. the participation of the Legislative Assembly in the subsidiarity check in accordance with Article 6 of the Protocol 2 which provides the involvement the regional Parliaments with legislative powers granted by national States under the subsidiarity check procedure and in accordance with Article 4 (subsidiarity control mechanism) l.r. n. 39/14.

Role of the regional Assembly:

The legislative Assembly played a central role in this activity, first of all because has adopted the framework defining procedural rules for notifications and comments, distinguishing between Local Government and Legislative Assembly powers ([art. 12 l.r. 39/14](#) and before art. 6 ter l.r. 22/09). Abruzzo was one of the first regions to regulate such procedures (in particular, the definition of the legislative process for the notification of the Drafts Regional Law to the European Commission is very tricky).

In accordance with the Regional Law, the Legislative Assembly, furthermore, is responsible to notify its draft laws, popular legislative initiative and proposal presented public authorities which includes requirements under Articles 15 e 16 of the Services Directive (Art. 12 l.r. 39/2014); in addition, it shall be responsible to approve the comments of the Region (Local Government and Legislative Assembly) about notifications from other Member States. In fact, these comments are approved by the Fourth Commission of the Legislative Assembly for European Policy.

For the exercise of such powers, the structure of the Legislative Assembly for European Affairs examines the Drafts Regional Law in accordance with Articles 15 e 16 of the Directive 2006/123/UE and point out to the political body the rules that should be notified to the European Commission. The technical structure, also, analyses the notifications received from other Member States and shall present technical proposals about regional comments to send to the European Commission, once approved by the Fourth Commission of the Legislative Assembly.

During the years 2014-2016 the Fourth Commission of the Legislative Assembly has analysed the notifications received by other Member States to supervise possible restrictions on the freedom



of establishment and the free movement of Abruzzo's service providers and to improve the regional legislation drawing on experience from other UE States.

Finally, the Legislative Assembly also played an important role participating in public consultation opened by the European Commission on the proposal for the reform of the notification according with the Service Directive: the comments of the Region (Local Government and Legislative Assembly), in fact, have been approved by the Fourth Commission of the Legislative Assembly for European Policy.

Main features of the iniziativa

For the first time in Italy, the Legislative Assembly of Abruzzo carried out the notification of of a in accordance with Article 15 of the Service Directive ([notification no 35 of 2013](#)). The notification concerned a Draft Regional Law which imposed the status of the farmer as the owner for the purpose of exercising the activity of mission farm. During a three-month period following the notification no decisions have been taken by the European Commission (the three-month periodo was finished on 4 April 2014).

In 2014, the Legislative Assembly of Abruzzo Region, in reviewing the legislation concerning the involvement in EU processes, approved the Regional Law no **39/2014**; **Article 12** of the Law has recast the notification procedure of the Region according to Articles 15 e 16 of the Service Directive (already provided in the previous Regional Law no 22/2009) and has introduced the procedural rules to approve the comments of the Region during the mutual evaluation among the Member States.

Furthermore, in 2014, the **Legislative Assembly**, through the Fourth Commission and with the technical support of the administrative structure, initiated the monitoring activity of the notifications received by the other States through IMI System.

In 2015, the **Legislative Assembly**, with a decision of the President no. 87/2015, concluded an agreement with the Polical Science Department of University of Teramo for setting up three research grants to translate and analyse the notifications received from other Member States. The three winners of the grants worked closely with the administrative structure for European Affairs and participated in the work of the Fourth Commission. During the period 9 September 2015 and 31 December 2015, 24 notifications received from different UE States (such as Germany, Netherlands, Lithuania, Hungary, Czech Republic) were examined. The Agreement above-mentioned was renewed with a decision of the President no. 60/2016.

In 2015, with a [resolution no 1/2015](#) approved by the Fourth Commission, the Region sent its comments to the European Commission about the **IMI Notification 2828** from the French authorities.

That notification concerned a rule which imposed the obligation for Holiday-care disability service providers planned for a period exceeding five days, to exhibit the documentation proving the holding of an authorization equivalent to that required in France to the competent authority of destination. With the comments sent to the Commission, the Region has explained that travel agencies in Abruzzo are obliged only to provide Starting Activity Certificate and in view of the obligation

under french law no agency in Abruzzo could have organized Holiday-care disability to France without first attaining french authorization.

Subsequently, the Legislative Assembly, with a Resolution of the Fourth Commission, has approved its comments concerning **IMI Notification 3354** received from City of Ede in Netherlands about the obligation of street artists to give prior notice at least 5 days before of the performance to the competent Municipality.

The regional comments show that such obligation might have obstructed the exercise of street artist activities under conditions of freedom to provide services and under the right of establishment so it was suggested to provide an electronic communication to avoid causing inconvenience to the street artists. The activities started during the last months of 2015, since the notification was received. The regional comments, instead, have been approved in the beginning of 2016 ([risolution no 6/2016](#)).

With resolution approved by the Fourth Commission, and the participation in the ascendant phase, the Region responded to the **public consultation launched by the European Commission on the proposal for reforming the procedure enabling the Member States to notify the new legislative requirements applicable to service providers**; the consultation, with answer proposals drawn up by technicians in collaboration with the winners of the research grants of the University of Teramo, has been explained to the Commissions of the Legislative Assembly with slide show. The activities were concluded in early 2016 with the approval of Abruzzo's position. ([risolution no 7/2016](#))

The last action of the Legislative Assembly is the analysis of the draft of the implementing Directive 2006/123/CE on services in the internal market, that establishes a notification procedure of authorisation schemes and requirements related to services, and that it emends the Directive 2006/123/CE and the Regulation (EU) no 1024/2012 ([COM\(2016\) 821](#)).

The Fourth Commission of the Legislative Assembly on that, with [risolution no 11/2017](#) carried out the verification of the principle of subsidiarity of this Directive proposal by the European Commission.

With this direct experience that the Region has had with the implementation of the Services Directive it was considered necessary to make to the Commission the following comments:

- ✓ the proposed amendment to Services Directive **provides** a specific notification procedure of a draft measure, which introduces the authorisation or the requirements to the exercise of a service activity that Member States have to respect; the entire programme may have a maximum duration of six months in which the act of notification **cannot be adopted**. This new provision, according to the Legislative Assembly, is danger of **delating** the timing too much, both for a possible adoption and amendment to the draft measure and for its permanent withdrawal, thereby **reducing the legislative and amonistrative regional powers**;
- ✓ the Directive proposal introduces **the obligation to provide information** demonstrating compliance with Services Directive of the authorisation scheme or received requirements. The Legislative Assembly noted that this obligation to show leads to **increased burdens** compared to an explanation, because it implies **an increase in the workload of staff and hence additional costs for administrations**;
- ✓ the Directive proposal provides that any infringement of the **notification obligation** entails a **severe substantial procedural error** as regards its results against individuals. The Legislative Assembly about this asked to clarify: whether such defect entails the violation of Article 288 of the Treaty on the Functioning of the European Union thus causing the **opening of an infringement procedure** from the European Commission; if each individual which has suffered consequences of failings by a Member State can **claim damages**.



The Resolution was sent to the Committee of the Regions and to the Chambers of Parliament. The Senate Industry Committee invited the Legislative Assembly of Abruzzo Region and other local legislative Assembly to submit its comment on that.

Description of the consequences on the regions pointing out the positive European implications

This experience has had the effect to raise awareness among the local political class with respect to free movement under temporary provision and of services and under the right of establishment issues and about the need of protection of Abruzzo's providers.

The examination of the notifications made by other Member States has allowed Legislative Assembly, furthermore, to know the choices of other States regarding the regulation of services activities providing ideas, in some cases, for internal legislation.

The ongoing assessment of Drafts Regional Law under Articles 15 e 16 of the Services Directive have contributed to the introduction of a regionale legislation guided by free movement and establishment principles in the field of service activities.

Such activities were carried out with the constant involvement of business operators in Commission meetings.

In 2015, the obstacles associated with the need to translate the notifications from other Member States and to compare such State legislation and italian and regional legislation have been overcome thanks to the collaboration with the Department of Political Science of the University of Teramo.

As a result of the Agreement signed with the University of Teramo, the Legislative Assembly and the University have detected new channels of cooperation on the european issues.

Furthermore the academic world deepened (or completed) all aspects of the implementation of Services Directive.

Thanks to the Agreement, moreover, some young people have been able to know and to contribute to the activities concerning participation of the Legislative Assembly on european processes.

This experience has allowed Legislative Assembly to have the opportunity to talk with an awareness with the European Union, in response to the consultation above-mentioned, in the light of the strenghts and on the critical issues in current notification system of the services activities regulations.

In addition, the participation both notification activities and consultations enabled the Legislative Assembly to test critically and with awareness the Directive Proposal I concerning the implementation of the Directive 2006/123/CE on services of internal market, establishing a notification procedure of authorisation scheme and of services requirements, and amending the Directive 2006/123/CE and the Regulation(UE) n. 1024/2012.

Forms with the description of the initiative must be sent by 2 June 2017 to the CALRE General Secretariat, at the following e-mail:

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