



The sharing economy: a burning issue at EU level ?

The possibility for Internet users to share **idle assets, free space and time** has spread into many sectors of the economy. Sharing practices in transport, accommodation, banking, etc., has become a common answer to the economic crisis while matching a growing interest for more sustainable ways of consuming.

The new business models emerging from this trend are growing exponentially, confirming a shift of the economic value **from ownership to uses**, blurring the distinction between professional and ad-hoc activities, and bypassing the traditional paradigm according to which the supply side is reserved to legally identified and regulated providers. Their growing discontent, violently expressed by taxis drivers' demonstrations against UberPop in Brussels and Paris, has dramatically increased the urgency of an answer from public decision-makers.

Yet the underlying question is not completely new for the EU: how to adapt offline regulations to the online world? An ever-lasting brainteaser whose impacts are manifold: taxation, consumer protection, social policy, users' security, etc. Recently, several European Commission's services launched a series of studies and consultations to assess the need for regulation: **DG JUST** has commissioned a study on consumers' issues linked to the sharing economy, **DG MOVE** will do the same for a study on taxis, hire-car-with-driver (like Uber) and ridesharing markets, and two **public consultations** are open until **December** on **digital platforms (DG CNECT)** and on **VAT issues** linked to e-commerce (**DG TAXUD**). The list goes on with an evident interest of the services in charge of **competition** and of the **internal market**, the latter now having a task force dedicated to the issue.

Such a fragmented approach comes from the necessity for decision-makers to comprehend and delineate what exactly is the sharing economy. The imperative of a **definition** is not innocuous since it determines the relevant legal framework. The best example is the question raised in June by a commercial judge from Barcelona to the European Court (General Court) on the very nature of Uber's activity. If it is considered as a transport service, it would fall out of the scope of the **Services directive** ([Directive 2006/123/EC](#), article 2.2.d) which provides certain guaranties of freedom of services and establishment (article 9). Conversely, if it is defined as a digital platform, these guaranties would have to be respected by national regulators. The simultaneity of the Commission's pre-legislative work and of this pending preliminary ruling, might prove difficult to handle for the European regulator, since the judge's ruling is not expected before November 2016.

Other public stakeholders have already shown an interest in participating to the debate. The commission for economic policy in the European Committee of Regions is drafting an opinion on the sharing economy, to be adopted in plenary in December. The European Parliament is not lagging behind: references to the sharing economy have appeared in a wide range of initiative reports, adopted in committees in September and October: on transport policy, urban mobility, digital strategy, multimodal ticketing, and tourism.

The diversity of the stakeholders willing to engage in the debate and the wide range of sectors concerned might make it more difficult to reach a common understanding. Agreeing on a **long term vision** to handle this new trend will certainly ease the exercise for regulators.●

Much ado about reforming the Court of Justice of the European Union (CJEU)

The CJEU, EU's judicial authority, consists of:

- the **Civil Service Tribunal (CST)**, competent over disputes involving the EU civil service;
- the **General Court (GC)**, dealing with actions brought by individuals or Member States against EU acts or institutions, as well as appeals against CST's decisions;
- the **Court of Justice (CJ)**, in a sense the EU Supreme Court.

For several years, the GC - composed of 28 Judges - has faced a constant increase of lodged cases, which resulted in growing delays.

To tackle this situation, the CJEU proposed in 2011 to the Council and the Parliament, after consulting the Commission, the appointment of 12 new Judges to the GC. While the Parliament [approved](#) it in first reading, Member States were unable to agree in the Council, each one willing to appoint its own extra Judge.

In October 2014 the CJEU put forward a [new proposal](#): doubling the number of GC Judges - from one to two per Member State - and abolishing the CST for structural and organisational reasons. This time, the Council endorsed it and adopted its common [position](#) at first reading. Yet, this new proposal faced a stiff opposition from the GC, led by its President, Marc Jaeger. In [a letter](#) sent

to the Presidency of the EU, he voiced concerns about the inappropriate nature of the doubling of Judges. According to him, it would be more efficient to increase the number of legal clerks and reinforce registry services. The then CJEU's President, Vassilios Skouris, considered that this position did not reflect the official position of the judicial authority and opened a disciplinary procedure.

Both presidents, Jaeger and Skouris, were invited in April 2015 to a hearing in the legal affairs committee organised by António Marinho e Pinto (ALDE, PT), rapporteur on a [draft recommendation](#) for second reading. In it, he recommended that up to 40 Judges - including the current 28 - and 19 more legal clerks should be appointed. However, on 8 October 2015, the committee voted an amendment which provides that the number of Judges should be fixed at 56.

The European Parliament is expected to vote in plenary on an agreed text by the end of October in order to meet the three-month time limit for second reading. António Marinho e Pinto has a mandate to negotiate with the Council and defend his committee's position.

As agreed by both the Council and the legal affairs committee, a second legislative proposal will be submitted by the new CJEU's President, Koen Lenaerts, regarding the abolition of the CST. ●

Public consultations *

Policy field	Title	Deadline
Internal market	Review of the EU Satellite and Cable Directive	16.11.2015
Transport	Provision of EU-wide multimodal travel information services	25.11.2015
Taxation	Modernising VAT for cross-border e-commerce	18.12.2015
	Common Consolidated Corporate Tax Base (CCCTB)	08.01.2016
Communications Networks	Needs for Internet speed and quality beyond 2020	07.12.2015
	Evaluation and review of the regulatory framework for electronic communications networks and services	07.12.2015
	Geo-blocking and other geographically-based restrictions	28.12.2015
	Regulatory environment for platforms	30.12.2015

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Bruxelles (EU)
Square de Meeûs, 35

Paris (FR)
260, Bd Saint-Germain

More information
www.lysios.fr/en/
info@lysios.eu
☎ +32 2 893 97 27

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