

IMPLEMENTATION OF ARTICLES 15 & 17 OF THE DCDSM

OVERVIEW OF MAIN COMPATIBILITY ISSUES BASED ON THE REPORT OF DR CHRISTINA ANGELOPOULOS

Listed countries are not exhaustive

additions

Adding elements that: (1) do not exist in the text of the Directive, or (2) are based on Recitals, but are contradicted by the operative text of the Directive

A15 

A17 

omissions

Omitting elements that are included in the text of the Directive

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incompatible gold plating

Transposition exceeds the requirements of the Directive in a way that is incompatible with it

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excessively minimalist transposition

Transposition does not meet the minimum requirements of the Directive

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incorrect interpretations of autonomous concepts of EU law

Such interpretations can: (1) result from legacy law, or (2) be a new construct

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variations in terminology

Use of divergent terminology that can have significant effects on the meaning of the text and leads to a lack of clarity on compatibility

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'homing tendencies'

National attempts to fit the provisions of the Directive into the logic of national law

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conclusion: compatibility issues & disharmonising result

Even in cases of compliant implementation, the diversity of the adopted approaches often undercuts the Directive's ostensible objective of creating a Digital Single Market and the 'full harmonisation' approach it takes to this end