

Article 60 [Further Liberalisation] (ex-Article 53 TEC)

The Member States shall endeavour to undertake the liberalisation of services beyond the extent required by the directives issued pursuant to Article 59(1), if their general economic situation and the situation of the economic sector concerned so permit.¹

To this end, the Commission shall make recommendations to the Member States concerned.²

Article 60 TFEU has been slightly modified as regards ex-Article 53 TEC, thereby incorporating the changes already introduced by draft Article III-148 TCE. Instead of “[t]he Member States declare”, the current Article 60 states “[t]he Member States shall endeavour”. This modification seemingly translates to a **more proactive approach** on the part of the TFEU,¹ which prompts MS to go further than required by the directives issued pursuant to Article 59.1 TFEU, although only to the extent that their general economic situation and the situation of the economic sector concerned so permit. **1**

However, it is also evident that, even after the change produced by the Treaty of Lisbon, Article 60 TFEU comprises a **declaration of intent**, which is devoid of any binding effect.² However, the programmatic character of Article 60 TFEU has not promoted its effectiveness as it has not been used either before or after the end of the transitional period. To date, the **Commission** has not issued any **recommendation** in this regard, even though this power is expressly provided for in paragraph 2 of Article 60 TFEU. **2**

References

- Geiger, R., Khan, D.-E., & Kotzur, M. (Eds.). (2015). *European Union treaties*. Munich: C.H. Beck-Hart.
- Pingel, I. (Ed.). (2010). *De Rome à Lisbonne. Commentaire article par article des Traités UE et CE*. Basle: Helbing Lichtenhahn.

¹ Kotzur, in Geiger et al. (2015), Article 60 AEUV, para 1.

² Truchot, in Pingel (2010), Article 53 CE para 1.