

Procedure file

Basic information		
INI - Own-initiative procedure	2003/2168(INI)	Procedure completed
Posting of workers in the framework of the provision of services: implementation of Directive 96/71/EC		
See also 1991/0346(COD)		
Subject 4.15.12 Workers protection and rights, labour law		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	EMPL Employment and Social Affairs		11/06/2003
		PPE-DE GLASE Anne-Karin	
	Committee for opinion	Rapporteur for opinion	Appointed
	JURI Legal Affairs and Internal Market	The committee decided not to give an opinion.	
	FEMM Women's Rights and Equal Opportunities		
European Commission	Commission DG Employment, Social Affairs and Inclusion	Commissioner	

Key events			
25/07/2003	Non-legislative basic document published	COM(2003)0458	Summary
04/09/2003	Committee referral announced in Parliament		
27/11/2003	Vote in committee		Summary
27/11/2003	Committee report tabled for plenary	A5-0448/2003	
14/01/2004	Debate in Parliament		
15/01/2004	Decision by Parliament	T5-0030/2004	Summary
15/01/2004	End of procedure in Parliament		

Technical information	
Procedure reference	2003/2168(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative

	See also 1991/0346(COD)
Legal basis	Rules of Procedure EP 54
Stage reached in procedure	Procedure completed
Committee dossier	EMPL/5/20004

Documentation gateway

Non-legislative basic document	COM(2003)0458	25/07/2003	EC	Summary
Committee report tabled for plenary, single reading	A5-0448/2003	27/11/2003	EP	
Text adopted by Parliament, single reading	T5-0030/2004 OJ C 092 16.04.2004, p. 0339-0404 E	15/01/2004	EP	Summary

Posting of workers in the framework of the provision of services: implementation of Directive 96/71/EC

PURPOSE : to present the report on the implementation of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services. **CONTENT** : Directive 96/71/EC of the European Parliament and of the Council concerning the posting of workers in the framework of the provision of services was adopted on 16 December 1996. It aims to abolish the obstacles and uncertainties that impede implementation of the freedom to supply services, by improving legal certainty and facilitating identification of the employment conditions that apply to workers temporarily employed in a Member State other than the Member State whose legislation governs the employment relationship. Since the Directive is a supranational legal instrument whose transposal in one Member State directly affects employers and workers in other countries, the manner in which it is actually implemented is particularly important for all Member States. Article 8 provides that the Commission shall review the operation of the Directive with a view to proposing the necessary amendments to the Council where appropriate. In preparation for this review, the Commission services have taken a number of steps: the first was to draft a report on the transposal of the Directive in the 15 Member States, designed to ascertain the present situation as regards national legislations and collective agreements. At the same time, the national administrations were sent a questionnaire asking them to describe the practicalities of applying the Directive and any difficulties encountered. The results of the transposal study and the replies to the questionnaire were discussed by a group of government experts. The purpose of this Communication is to draw the conclusions from all this preparatory work concerning the transposal and practical implementation of Directive 96/71/EC in the Member States, and to define the Commission's position as to whether the 1996 Directive needs revising. The Communication does not seek to judge the compatibility with the Directive and the Treaty of the national transposing measures mentioned herein, nor does it prejudge what position the Commission will take in its monitoring of the application of Community law. The purpose of this Communication is to draw the conclusions from all this preparatory work concerning the transposal and practical implementation of Directive 96/71/EC in the Member States, and to define the Commission's position as to whether the 1996 Directive needs revising. The Communication does not seek to judge the compatibility with the Directive and the Treaty of the national transposing measures mentioned herein, nor does it prejudge what position the Commission will take in its monitoring of the application of Community law. The results of the studies of the transposition of Directive 96/71/EC, as outlined above, are broadly corroborated by the Member States' answers to a questionnaire on the practical application of the provisions arising from the Directive, and by the conclusions of the group of government experts. This group's conclusions can be summarised as follows: - None of the Member States has encountered any particular legal difficulties in transposing the Directive. - It seems premature to consider amending the Directive. These opinions and positions indicate to the Commission that it is not necessary to amend the Directive. The difficulties encountered in implementing it have so far tended to be more of a practical nature than a legal nature. Consequently, as things stand at present the Commission will not be presenting a proposal for a directive amending the arrangements for implementing the posted workers Directive.?

Posting of workers in the framework of the provision of services: implementation of Directive 96/71/EC

The committee adopted the own-initiative report drawn up by Anne-Karin GLASE (EPP-ED, D) in response to the Commission communication. It pointed out that workers in the branches concerned were often exposed to particularly dangerous working conditions and that Member States needed to agree on a "common nucleus of mandatory minimum protection rules" for the posting of workers. Although the directive contained a catalogue of such rules, there had been problems in implementing it in the Member States. The committee said that some of these problems could be overcome by means of better information and administrative and operational cooperation between the bodies concerned in the Member States, and called on the Commission to submit practical proposals for strengthening such cooperation. With a view to the forthcoming enlargement, MEPs stressed the importance of ensuring not only the proper judicial transposition of the directive but also its application on the shop-floor and monitoring of its implementation. The Commission was asked to collect better and more concrete data on the effects of national implementation and make a fundamental assessment of the practical interpretation of certain concepts in the directive (such as the minimum wage inclusive of overtime, minimum number of paid holidays, work and rest periods, etc.), the directive's implementation through collective labour agreements and the effect of this on competition between undertakings and employees from different Member States. MEPs recommended that the Commission conduct more in-depth research in cooperation with the social partners and submit proposals to simplify and improve the directive. It should, for example, give consideration to problems resulting from the different options which are allowed by the directive, e.g. unfair competition, different social protection and clear definition of workers' status, and should also examine the possibility of drafting a European legislative framework or other forms of provision governing liability in the case of subcontracting. Lastly, the

committee called on the Commission to submit a second report on the implementation of the directive to Council and Parliament by the end of 2004. ?

Posting of workers in the framework of the provision of services: implementation of Directive 96/71/EC

The European Parliament adopted a resolution based on the own-initiative report drafted by Anne-Karin GLASE (EPP-ED, D) on the application of Directive 96/71/EC. (Please see the document dated 27/11/03.) Parliament asked the Commission to examine constructive legislative solutions which could lead to the prevention and elimination of unfair competition and social dumping as a consequence of the abuse of posting of workers. Parliament also called for a fundamental assessment - in the light of both national and European case law - of the Directive's implementation in relation to the practical interpretation of certain concepts and definitions from the Directive. These include minimum wage inclusive of overtime, minimum number of paid holidays and work and rest periods, and workers subject to posting, as well as the Directive's implementation through collective labour agreements. It asked for consideration also to be given to the impact of solutions being urged in Member States for certain problems in relation to subcontractors and the system of ultimate liability for the payment of taxes and other contributions.?