

Procedure file

Basic information		
RSP - Resolutions on topical subjects	2007/2577(RSP)	Procedure completed
Resolution on the posting of workers		
Subject		
2.20 Free movement of persons		
4.15.04 Workforce, occupational mobility, job conversion, working conditions		

Key players		
European Parliament		
European Commission		
	Commission DG Employment, Social Affairs and Inclusion	Commissioner ŠPIDLA Vladimír

Key events			
10/07/2007	Debate in Parliament		Summary
11/07/2007	Results of vote in Parliament		
11/07/2007	Decision by Parliament	T6-0340/2007	Summary
11/07/2007	End of procedure in Parliament		

Technical information	
Procedure reference	2007/2577(RSP)
Procedure type	RSP - Resolutions on topical subjects
Procedure subtype	Debate or resolution on oral question/interpellation
Legal basis	Rules of Procedure EP 128-p5
Stage reached in procedure	Procedure completed

Documentation gateway					
Oral question/interpellation by Parliament		B6-0132/2007	09/07/2007	EP	
Motion for a resolution		B6-0266/2007	10/07/2007	EP	
Text adopted by Parliament, topical subjects		T6-0340/2007	11/07/2007	EP	Summary
Commission response to text adopted in plenary		SP(2007)4170	29/08/2007	EC	
Commission response to text adopted in plenary		SP(2007)4733	24/09/2007	EC	

Resolution on the posting of workers

The House held a debate on Oral Question O-0041/2007 tabled by Jan Andersson, on behalf of the Committee on Employment and Social Affairs to the Commission, on the posting of workers.

Subject: Posting of workers

Directive 96/71/EC concerning the posting of workers in the framework of the provision of services set 16 December 1999 as the deadline for transposition of its provisions into national law. Soon, appropriate implementation of the Directive proved to be problematic due both to insufficiencies inherent in the text and the lack of proper implementation in the Member States and coordination among their competent authorities. The reviews of the Directive by the Commission in 2003 and 2006 were considered insufficient by the European Parliament.

In its Communications 'Guidance on the posting of workers in the framework of the provision of services' and 'Posting of workers in the framework of the provision of services: maximising its benefits and potential while guaranteeing the protection of workers', the Commission committed itself to take the necessary steps to rectify the situation created by any lack of compliance with the relevant provisions of Community law and/or cooperation between Member States under Articles 4 (cooperation on information) and 5 (enforcement measures by Member States) of the Directive.

How does the Commission intend to address the concerns expressed by the European Parliament in its resolutions, in particular with regard to:

- the keeping of documents at the workplace to control compliance with the Directive, and
- the presence of a posting company legal representative in order to fulfil legal requirements in the host Member State?

In view of the fact that the Directive applies at least from December 1999 and that guidelines explaining to Member States their obligations with regard to postings that take place on their territory were published by the Commission more than one year ago:

- Will the Commission publish clearer, more detailed, guidelines to help Member States and companies to have a better understanding of what they are allowed to do under the Directive and the relevant case-law? If so, when?
- Has the Commission assessed which Member States still fail to comply with the provisions of the Directive, in particular concerning cooperation on information and enforcement measures by Member States?

Can the Commission confirm that, in the framework of posting, it will respect all labour market models existing in the European Union?

The motion for a resolution winding up this debate was due to be put to the vote on 11 July 2007.

Resolution on the posting of workers

Following the debate which took place during the sitting of 10 July 2007 on the oral question O-0041/2007 tabled by Jan ANDERSSON, on behalf of the Committee on Employment and Social Affairs to the Commission, on the posting of workers (see [COD/1991/0346](#) for summaries of the follow up documents), the European Parliament adopted the resolution on the Commission Communication on the posting of workers in the framework of the provision of services: maximising its benefits and potential while guaranteeing the protection of workers.

The Parliament states that full implementation of Directive 96/71/EC is paramount for achieving the correct balance between the freedom to provide services and worker protection, in particular against social dumping. It is convinced that in its guidance and legal interpretation, the Commission goes in some cases beyond what has been established by the case law of the European Court of Justice.

The Commission is called upon to fully take into account the variety of labour market models existing in the European Union when it comes to adopting any measure on posting and to respect that some Member States require the availability of a mandated representative with legal capacity in the host country in order to properly implement and monitor the Directive. This could be any person that has been provided with a clear mandate from the company (including a worker).

The report states that the Commission should be more precise when providing guidance to the Member States on control measures acceptable under the Directive to protect posted workers. Checks and controls carried out by host Member States under the Directive, notably the obligation to keep certain documents in the host country, must be seen as an important tool to guarantee the protection of the rights of posted workers; considers, however, that these measures should be strictly proportional and not constitute hidden obstacles to exercising the right of free movement.

The Parliament points out that existing case-law recognises the right of the host Member State to require certain documents to verify compliance with the employment conditions laid down in the Directive.

The Commission is invited to find the right mix of guidance measures addressed to both companies and Member States so that they have a better understanding of what they are allowed to do under the Directive and relevant case-law. In addition, the Commission is requested to support close cooperation between inspection bodies in the Member States by providing a permanent European platform for cross-border cooperation. MEPs welcome in this respect the future setting-up by the Commission of a high-level group in order to support and assist the Member States in identifying and exchanging good practices and to formally involve social partners on a regular basis.

They take the view that it would be appropriate for the social partners in those Member States where the Directive is implemented through collective agreements to gain direct access to information about the posting companies, so that they can exercise the supervision which in other Member States is subject to authorities that have such access to company information.

Lastly, the Parliament supports the Commission conclusion to the effect that the host Member State should be able to require a prior declaration by the service provider to enable it to verify compliance with the employment conditions.