

8.2.2006

A6-0409/215

AMENDMENT 215

by Toine Manders, on behalf of the ALDE Group

Report

Evelyne Gebhardt

Services in the internal market

A6-0409/2005

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 215

Article 2, paragraph 2, point (c)

(c) transport services ***to the extent that they are governed by other Community instruments the legal basis of which is*** Article 71 or Article 80(2) of the Treaty.

(c) transport services ***covered by*** Article 71 or Article 80(2) of the Treaty ***whether they are governed by Community legal instruments or not.***

Or. en

Justification

Clarification of the scope with regard to transport services: port services and ambulances are services that by their nature require the application of specific rules as well as taxis are basically services provided at a local or regional basis. Therefore these services should not be covered by the directive even in the absence of a regulation by other Community instruments.

8.2.2006

A6-0409/216

AMENDMENT 216

by Toine Manders, on behalf of the ALDE Group

Report

Evelyne Gebhardt

Services in the internal market

A6-0409/2005

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 216

Recital 12

(12) *Since* transport services are *already* covered by *a set of Community instruments specific to that field, they* should be excluded from the scope of this Directive *to the extent that they are regulated by other Community instruments adopted under Articles 71 and 80(2) of the Treaty. However, this Directive applies to services that are not regulated by specific instruments concerning transport, such as cash in transit or the transport of mortal remains.*

(12) *all* transport services *that* are covered by *the scope of Article 71 or Article 80(2) of the Treaty regardless of whether they are governed by Community legal instruments or not, including, for instance, port services*, should be excluded from the scope of this Directive. *Ambulances should not come within the scope of this Directive either;*

Or. en

8.2.2006

A6-0409/217

AMENDMENT 217

by Toine Manders and Bill Newton Dunn, on behalf of the ALDE Group

Report

A6-0409/2005

Evelyne Gebhardt

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 217

Article 2, paragraph 2, point (c b) (new)

(cb) audiovisual services, if their mode of production, distribution and transmission, including radio broadcasting and the cinema, is publicly funded;

Or. en

8.2.2006

A6-0409/218

AMENDMENT 218

by Toine Manders and Bill Newton Dunn, on behalf of the ALDE Group

Report

A6-0409/2005

Evelyne Gebhardt

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 218

Article 2, paragraph 2, point (c c) (new)

(cc) gambling activities that involve wagering a stake with pecuniary value in games of chance, including lotteries, casinos and betting transactions, to the extent that such activities are organised, financed and managed by a gambling institution under public law.

Or. en

8.2.2006

A6-0409/219

AMENDMENT 219

by Anneli Jäätteenmäki and Alexander Graf Lambsdorff, on behalf of the ALDE Group

Report

A6-0409/2005

Evelyne Gebhardt

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 219
Article 3, paragraph 2 a (new)

The exclusion of contractual and extracontractual obligations from the scope of this Directive means that the consumer will in any case benefit from the protection granted to him by the consumer legislation in force in his Member State.

Or. en

Justification

Explanation of the consequences of the exclusion of International Private Law from the scope of the directive.

8.2.2006

A6-0409/220

AMENDMENT 220

by Anneli Jäätteenmäki, on behalf of the ALDE Group

Report

Evelyne Gebhardt

Services in the internal market

A6-0409/2005

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 220
Article 35 a (new)

Article 35a

1. The Member State of destination shall ensure compliance with employment and working conditions applicable under Directive 96/71/EC and shall carry out in its territory all necessary checks and inspections.

With regard to the derogation in Article 17(5) of this Directive concerning the posting of workers, the Member State where the service is provided may not:

(a) require authorisations, registrations, declarations or notifications except a single declaration upon or after the beginning of the posting, provided such a requirement complies with the following conditions:

(i) a declaration may only be imposed in sectors where this is proportionate for overriding reasons relating to the protection of workers and where there is a particular risk of non-compliance with the terms and conditions applicable to posted workers. These sectors shall be identified by Member States and notified to the Commission who shall assess the proportionality of the declaration

requirement,

(ii) the information required in a declaration and any sanction for non-compliance with the declaration requirement shall be proportionate to the protection of posted workers,

(iii) from three years from the adoption of the directive, it must be possible to file a declaration electronically, in any Community language in a standardised form developed by the Commission in cooperation with Member States;

(b) require that a service provider have a representative established in the Member State where the service is provided. This does not prevent the Member State where the service is provided from requiring a service provider to designate one of its workers to serve as a contact throughout the provision of the service and up to 12 months thereafter;

(c) require that documents be held and kept at the place of posting, other than those documents which by their nature and purpose are created at the place at which the service is provided - such as pay checks or a copy thereof, time sheets or documents relating to health and safety issues specific to the location at which the service is provided - or systematically require service providers to provide a priori translations of documents.

2. The Member State where the service provider is established shall ensure that the provider keeps all information necessary for the supervision of compliance with Directive 96/71/EC until two years after the end of the posting, and, upon request, communicates that information as quickly as possible to the competent authorities of the Member State where the service is provided or of the Member State where the service provider is established.

3. The Member State where the service provider is established shall assist the

Member State where the service is provided in ensuring compliance with the employment and working conditions applicable under Directive 96/71/EC and shall, in cases of irregularity, communicate all necessary information.

Or. en

8.2.2006

A6-0409/221

AMENDMENT 221

by Anneli Jäätteenmäki, on behalf of the ALDE Group

Report

Evelyne Gebhardt

Services in the internal market

A6-0409/2005

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 221
Article 35 b (new)

Article 35b

1. Where a provider posts a worker who is a national of a third country to the territory of another Member State in order to provide a service there, the Member State where the service is provided may impose the following measures for genuine reasons of immigration policy in conformity with Community law and the Schengen acquis:

(a) requirement of visa or residence permits for workers who are not covered by the mutual recognition regime provided for in Chapter IV of Title 2 of the Convention implementing the Schengen Agreement;

(b) obligation on third-country nationals posted by the provider from another Member State to report to its competent authorities upon or after entry into its territory.

2. The Member State where the service is provided shall not require entry, exit, residence, work or similar permits or impose equivalent requirements other than those mentioned above. He shall not require a minimum time of prior employment or minimum lengths of

employment contract.

3. The Member State where the service provider is established shall ensure that a provider posts only workers who are resident in its territory in accordance with its own national rules and who are lawfully employed in its territory prior to the posting.

It shall not regard posting made in order to provide a service in another Member State as interrupting the residence or activity of the posted worker and shall not refuse to readmit the posted worker to its territory on the basis of its national rules.

The Member State where the service provider is established shall communicate to the Member State where the service is provided, upon request and in the shortest possible time, information regarding, and guarantees of, compliance with the first subparagraph and shall impose the appropriate penalties in cases of non-compliance.

Or. en

8.2.2006

A6-0409/222

AMENDMENT 222

by Alexander Graf Lambsdorff, on behalf of the ALDE Group

Report

A6-0409/2005

Evelyne Gebhardt

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 222

Article 17, paragraph 1 a (new)

Article 16 shall not affect criminal provisions which apply to service providers in the same way as private individuals. The law applicable to individual acts, including criminal acts, of service providers or their employees, which are not committed in the exercise of a service but on the occasion of a service provision, does not come within the scope of Article 16.

Or. en

Justification

Self-explanatory.

AMENDMENT 223

by Alexander Graf Lambsdorff, on behalf of the ALDE Group

Report**A6-0409/2005****Evelyne Gebhardt**

Services in the internal market

Proposal for a directive (COM(2004)0002 – C5-0069/2004 – 2004/0001(COD))

Text proposed by the Commission

Amendment by Parliament

Amendment 223
Article 18

1. Article 16 shall not apply for a transitional period *to the following*:

(a) the way in which cash-in-transit services are exercised;

(b) gambling activities which involve wagering a stake with pecuniary value in games of chance, including lotteries and betting transactions;

(c) access to the activity of judicial recovery of debts.

2. The derogations referred to in points (a) and (c) of paragraph 1 of this Article shall not apply after the date of application of the harmonisation instruments referred to in Article 40(1) or in any case after 1 January 2010.

3. The derogation referred to in point (b) of paragraph 1 of this Article shall not apply after the date of application of the harmonisation instrument referred to in Article 40(1)(b).

Article 16 shall not apply for a transitional period to gambling activities which involve wagering a stake with pecuniary value in games of chance, including lotteries and betting transactions. *This* derogation shall not apply after the date of application of the harmonisation instruments referred to in *Article 40(1) or in any event after 1 January 2010.*

Or. en

Justification

It is established case law that gambling activities are services under the EC Treaty. This Directive does not seek to harmonize new services but only codifies what is already enshrined in the Treaty and confirmed by the ECJ case law, and therefore includes gambling services to the scope of the Directive. It does not require the application of the country of origin principle to gambling services. It provides for a transitional derogation but since no deadline is attached to it, it is in practice a permanent derogation. This latter constitutes a guarantee that no market distribution will take place as long as this sector is not subject to EU harmonization. However, Member States are obliged to apply the rules of the Treaty, and in particular the non-discriminatory and proportionality criteria to all services, including gambling.