

8.2.2006

A6-0409/234

**AMENDMENT 234**

by Heide Rühle and Pierre Jonckheer, on behalf of the Verts/ALE 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))

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*The European Parliament rejects the Commission proposal.*

Or. en

*Justification*

*The Commission's proposal threatens the fulfilment of public service obligations by national, regional and local public authorities. It would also lead to lower social, environmental and consumer protection standards. Furthermore, the Commission's proposal contradicts article 50 of the Treaty, which provides that "the person providing a service may, in order to do so, temporarily pursue his activity in the State where the service is provided, under the same conditions as are imposed by that State on its own nationals."*

**AMENDMENT 235**

by Heide Rühle and Pierre Jonckheer, on behalf of the Verts/ALE 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

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Amendment by Parliament

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## Amendment 235

## Article 1

This Directive establishes general provisions facilitating exercise of the freedom of establishment for service providers and the free movement of services.

**1. This Directive establishes general provisions facilitating exercise of the freedom of establishment for service providers and the free movement of services, *while maintaining a high quality of services.***

**2. *This Directive shall not apply to the liberalisation of services of general economic interest, or to the privatisation of public entities providing such services. It shall also be without prejudice to provisions of Community law on competition and aid.***

**3. *This Directive shall not affect measures taken at Community or national level to protect or promote cultural or linguistic diversity or media pluralism.***

**4. *This Directive shall not apply to or affect labour law, i.e. any legal or contractual provision concerning employment conditions, working conditions, including health and safety at work, and the relationship between employer and worker. In particular, it shall fully respect the right to negotiate, conclude, extend and enforce collective agreements, and the right to strike and to take industrial action according to the rules governing industrial relations in Member States. It shall also not***

*affect national social security legislation in  
the Member States.*

Or. en

**AMENDMENT 236**

by Heide Rühle and Pierre Jonckheer, on behalf of the Verts/ALE 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 236

## Article 2

1. This Directive shall apply to services supplied by providers established in a Member State.

2. This Directive shall not apply to the following activities:

(a) *financial services as defined in Article 2(b) of Directive 2002/65/EC;*

(b) electronic communications services and networks, and associated facilities and services, with respect to matters covered by Directives 2002/19/EC, 2002/20/EC, 2002/21/EC, 2002/22/EC and 2002/58/EC of the European Parliament and of the Council;

(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.*

1. This Directive shall apply to services supplied by providers established in a Member State.

2. This Directive shall not apply to the following activities:

(a) *services of a banking, credit, insurance, occupational or personal pension, investment or payment nature and, more generally, services listed in Annex I to Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions<sup>1</sup>*

(b) electronic communications services and networks, and associated facilities and services, with respect to matters covered by *or referred to in* Directives 2002/19/EC, 2002/20/EC, 2002/21/EC, 2002/22/EC and 2002/58/EC of the European Parliament and of the Council;

(c) transport services;

*(ca) services of general interest;*

*(cb) legal services to the extent that they are*

*governed by other Community instruments, including Council Directive 77/249/EEC of 22 March 1977 to facilitate the effective exercise by lawyers of freedom to provide services<sup>2</sup> and Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained<sup>3</sup>;*

*(cc) healthcare, whether or not it is provided via healthcare facilities, and regardless of the ways in which it is organised and financed at national level or whether it is public or private;*

*(cd) audiovisual services, whatever their mode of production, distribution and transmission, including radio broadcasting and the cinema;*

*(ce) gambling activities that involve wagering a stake with pecuniary value in games of chance, including lotteries, casinos and betting transactions;*

*(cf) professions and activities that are permanently or temporarily connected with the exercise of official authority in a Member State, particularly that of notary;*

*(cg) education services;*

*(ch) cultural services;*

*(ci) social services;*

*(cj) social housing services;*

*(ck) environmental services;*

*(cl) distribution and purification of water;*

*(cm) services provided by temporary employment agencies;*

*(cn) services provided by temporary workers;*

*(co) services provided by security agencies;*

*(cp) port services;*

*(cq) areas of service activities that are governed by sector-specific legislation at*

3. This Directive does not apply to the field of taxation, *with the exception of Articles 14 and 16 to the extent that the restrictions identified therein are not covered by a Community instrument on tax harmonisation.*

*Community level.*

3. This Directive does not apply to the field of taxation.

<sup>1</sup> *OJ L 126, 26.5.2000, p. 1.*

<sup>2</sup> *OJ L 78, 26.3.1977, p. 17.*

<sup>3</sup> *OJ L 77, 14.3.1998, p. 36.*

Or. en

8.2.2006

A6-0409/237

**AMENDMENT 237**

by Heide Rühle and Pierre Jonckheer, on behalf of the Verts/ALE 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 237

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

*(cr) services subject to public service obligations by the authorities of the Member States or by the Community in order to guarantee the achievement of objectives of general interest.*

Or. en

**AMENDMENT 238**

by Heide Rühle and Pierre Jonckheer, on behalf of the Verts/ALE 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 238  
Article 2 a (new)*Article 2a*

*This Directive may not be interpreted as affecting in any way the exercise of fundamental rights as recognized in Member States or in the Charter of Fundamental Rights of the European Union, including the right or freedom to strike. Those rights may also include the right to take other action covered by the specific industrial relations systems in Member States.*

Or. en

*Justification*

*This article reflects current EC Law for the free movement of goods (EC Reg. 2679/98) while adding a reference to the EU Charter of fundamental rights. It does not add any new legal obligations in relation to the Charter, but only defines fundamental rights as those recognized at national level and those that are mentioned in the Charter. A separate and clear article in the Directive is justified by the fact that coherence between the various Community instruments is required, and that fundamental rights should be equally safeguarded in the internal market for goods as well as services.*



**AMENDMENT 239**

by Heide Rühle and Pierre Jonckheer, on behalf of the Verts/ALE 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 239

Article 3

*Member States shall apply the provisions of this Directive in compliance with the rules of the Treaty on the right of establishment and the free movement of services.*

*Application of this Directive shall not prevent the application of provisions of other Community instruments as regards the services governed by those provisions.*

*1. If the provisions of this Directive come into conflict with other Community rules governing aspects of access to and the exercise of a service activity in specific sectors or for specific professions, those other rules shall prevail and shall apply to the specific sectors or professions involved.*

*Such rules include, in particular:*

*(a) Directive 96/71/EC;*

*(b) Regulation (EEC) No 1408/71;*

*(c) Directive 89/552/EEC;*

*(d) Directive .../.../EC of the European Parliament and of the Council of ... [concerning recognition of professional qualifications]<sup>1</sup>;*

*(e) Directive .../.../EC of the European Parliament and of the Council of ... [concerning unfair commercial practices]<sup>2</sup>.*

*2. This Directive shall also be without prejudice to the provisions of private international law, i.e. any rules on the determination of the law applicable to contractual and non-contractual*

*obligations, including in the form of agreements, especially as contained in the 1980 Rome Convention on the law applicable to contractual obligations, and the planned Regulation of the European Parliament and of the Council on the law applicable to non-contractual obligations (Rome I and Rome II).*

<sup>1</sup>OJ L ...

<sup>2</sup>OJ L ...

Or. en

**AMENDMENT 240**

by Heide Rühle and Pierre Jonckheer, on behalf of the Verts/ALE 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 240  
Article 4, point 7 a (new)

*(7a) "Overriding reasons relating to the public interest" covers, inter alia, the following grounds: the protection of public policy, public security, public safety, public health, the protection of consumers, recipients of services, workers and the environment, including the urban environment and town and country planning, the health of animals, intellectual property, the conservation of the national historic and artistic heritage, or social policy objectives, cultural policy, including the safeguarding, in the audiovisual sector, of the expression of the various components (in particular social, cultural, religious and philosophical) existing in Member States, the maintenance of press diversity, and policy for the promotion of the national language, and ensuring high standards in education;*

Or. en

**AMENDMENT 241**

by Heide Rühle and Pierre Jonckheer, on behalf of the Verts/ALE 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

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Amendment by Parliament

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## Amendment 241

## Article 14

Member States shall not make access to or the exercise of a service activity in their territory subject to compliance with any of the following:

(1) discriminatory requirements based directly or indirectly on nationality or, in the case of companies, the location of the registered office, including in particular:

(a) nationality requirements for the provider, his staff, persons holding the share capital or members of the provider's management or supervisory bodies;

(b) a requirement that the provider, his staff, persons holding the share capital or members of the provider's management or supervisory bodies be resident within the territory;

(2) a prohibition on having an establishment in more than one Member State or on being entered in the registers or enrolled with professional bodies or associations of more than one Member State;

(3) restrictions on the freedom of a provider to choose between a principal or a secondary establishment, in particular an obligation on the provider to have his principal

***Except for an overriding reason relating to the public interest***, Member States shall not make access to or the exercise of a service activity in their territory subject to compliance with any of the following:

(1) discriminatory requirements based directly or indirectly on nationality or, in the case of companies, the location of the registered office, including in particular:

(a) nationality requirements for the provider, his staff, persons holding the share capital or members of the provider's management or supervisory bodies;

(b) a requirement that the provider, his staff, persons holding the share capital or members of the provider's management or supervisory bodies be resident within the territory;

(2) a prohibition on having an establishment in more than one Member State or on being entered in the registers or enrolled with professional bodies or associations of more than one Member State;

(3) restrictions on the freedom of a provider to choose between a principal or a secondary establishment, in particular an obligation on the provider to have his principal

establishment in their territory, or restrictions on the freedom to choose between establishment in the form of an agency, branch or subsidiary;

(4) conditions of reciprocity with the Member State in which the provider already has an establishment, save in the case of conditions of reciprocity provided for in Community instruments concerning energy;

***(5) the case-by-case application of an economic test making the granting of authorisation subject to proof of the existence of an economic need or market demand, or an assessment of the potential or current economic effects of the activity, or an assessment of the appropriateness of the activity in relation to the economic planning objectives set by the competent authority;***

***(6) the direct or indirect involvement of competing operators, including within consultative bodies, in the granting of authorisations or in the adoption of other decisions of the competent authorities, with the exception of professional bodies and associations or other organisations acting as the competent authority;***

***(7) an obligation to provide or participate in a financial guarantee or to take out insurance from a service provider or body established in their territory;***

(8) an obligation to have been entered, for a given period, in the registers held in their territory or to have exercised the activity for a given period in their territory.

establishment in their territory, or restrictions on the freedom to choose between establishment in the form of an agency, branch or subsidiary;

(4) conditions of reciprocity with the Member State in which the provider already has an establishment, save in the case of conditions of reciprocity provided for in Community instruments concerning energy;

(8) an obligation to have been entered, for a given period, in the registers held in their territory or to have exercised the activity for a given period in their territory.

***This Article shall not apply to services of general economic interest.***

Or. en

**AMENDMENT 242**

by Heide Rühle and Pierre Jonckheer, on behalf of the Verts/ALE 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 242

## Article 15

1. Member States shall examine whether, under their legal system, any of the requirements listed in paragraph 2 are imposed and shall ensure that any such requirements are compatible with the conditions laid down in paragraph 3. Member States shall adapt their laws, regulations or administrative provisions so as to make them compatible with those conditions.

2. Member States shall examine whether their legal system makes access to a service activity or the exercise of it subject to compliance with any of the following non discriminatory requirements:

***(a) quantitative or territorial restrictions, in particular in the form of limits fixed according to population, or of a minimum geographical distance between service providers;***

(b) an obligation on a provider to take a specific legal form, in particular to be a legal person, to be a company with individual ownership, to be a non profit making organisation or a company owned exclusively by natural persons;

***(c) requirements which relate to the***

1. Member States shall examine whether, under their legal system, any of the requirements listed in paragraph 2 are imposed and shall ensure that any such requirements are compatible with the conditions laid down in paragraph 3. Member States shall adapt their laws, regulations or administrative provisions so as to make them compatible with those conditions.

2. Member States shall examine whether their legal system makes access to a service activity or the exercise of it subject to compliance with any of the following non discriminatory requirements:

(b) an obligation on a provider to take a specific legal form, in particular to be a legal person, to be a company with individual ownership, to be a non profit making organisation or a company owned exclusively by natural persons;

***shareholding of a company, in particular an obligation to hold a minimum amount of capital for certain service activities or to have a specific professional qualification in order to hold capital in or to manage certain companies;***

(d) requirements, other than those concerning professional qualifications or provided for in other Community instruments, which reserve access to the service activity in question to particular providers by virtue of the specific nature of the activity;

(e) a ban on having more than one establishment in the territory of the same State;

***(f) requirements fixing a minimum number of employees;***

***(g) fixed minimum and/or maximum tariffs with which the provider must comply;***

***(h) prohibitions and obligations with regard to selling below cost and to sales;***

***(i) requirements that an intermediary provider must allow access to certain specific services provided by other service providers;***

(j) an obligation on the provider to supply other specific services jointly with his service.

3. Member States shall verify that requirements referred to in paragraph 2 satisfy the following conditions:

(a) non discrimination: requirements must be neither directly nor indirectly discriminatory according to nationality or, with regard to companies, according to the location of the registered office;

(b) necessity: requirements must be ***objectively*** justified by an overriding reason relating to the public interest;

(c) proportionality: requirements must be suitable for securing the attainment of the objective pursued; they must not go beyond what is necessary to attain that objective;

(d) requirements, other than those concerning professional qualifications or provided for in other Community instruments, which reserve access to the service activity in question to particular providers by virtue of the specific nature of the activity;

(e) a ban on having more than one establishment in the territory of the same State;

(j) an obligation on the provider to supply other specific services jointly with his service.

3. Member States shall verify that requirements referred to in paragraph 2 satisfy the following conditions:

(a) non discrimination: requirements must be neither directly nor indirectly discriminatory according to nationality or, with regard to companies, according to the location of the registered office;

(b) necessity: requirements must be justified by an overriding reason relating to the public interest;

(c) proportionality: requirements must be suitable for securing the attainment of the objective pursued; they must not go beyond what is necessary to attain that objective;

and it must not be possible to replace those requirements with other, less restrictive measures which attain the same result.

4. In the mutual evaluation report provided for in Article 41, Member States shall specify the following:

(a) the requirements that they intend to maintain and the reasons why they consider that those requirements comply with the conditions set out in paragraph 3;

(b) the requirements which have been abolished or made less stringent.

***5. From the date of entry into force of this Directive, Member States shall not introduce any new requirement of a kind listed in paragraph 2, unless that requirement satisfies the conditions laid down in paragraph 3 and the need for it arises from new circumstances.***

***6. Member States shall notify to the Commission any new laws, regulations or administrative provisions which set requirements as referred to in paragraph 5, together with the reasons for those requirements. The Commission shall communicate the provisions concerned to the other Member States. Such notification shall not prevent the adoption by Member States of the provisions in question.***

***Within a period of 3 months from the date of notification, the Commission shall examine the compatibility of any new requirements with Community law and, as the case may be, shall adopt a decision requesting the Member State in question to refrain from adopting them or to abolish them.***

and it must not be possible to replace those requirements with other, less restrictive measures which attain the same result.

4. In the mutual evaluation report provided for in Article 41, Member States shall specify the following:

(a) the requirements that they intend to maintain and the reasons why they consider that those requirements comply with the conditions set out in paragraph 3;

(b) the requirements which have been abolished or made less stringent.

***5. Paragraphs 1 to 4 do not apply to services of general economic interest and social insurance schemes, including compulsory health insurance schemes.***

Or. en



8.2.2006

A6-0409/243

**AMENDMENT 243**

by Heide Rühle and Pierre Jonckheer, on behalf of the Verts/ALE 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 243  
Recital 34 a (new)

***(34a) The evaluation of the compatibility of fixed minimum and/or maximum tariffs with the freedom of establishment concerns only those tariffs imposed by competent authorities specifically for the provision of certain services and not, for example, general rules on price determination, such as for the renting of houses.***

Or. en

*Justification*

*Access to housing of good quality and at reasonable costs to the residents is an integrated part of the European Social Model.*

**AMENDMENT 244**

by Heide Rühle and Pierre Jonckheer, on behalf of the Verts/ALE 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 244  
Article 16***Country of origin principle******Principles governing the cross-border provision of services***

***(1) Member States shall ensure that providers are subject only to the national provisions of their Member State of origin which fall within the coordinated field.***

***1. As regards access to a service activity, including requirements in the field of qualification, authorisation or notification enabling service providers to operate legally in a Member State other than the Member State of primary establishment, service providers shall comply with the national provisions of their Member State of establishment.***

***(2) Paragraph 1 shall cover national provisions relating to access to and the exercise of a service activity, in particular those requirements governing the behaviour of the provider, the quality or content of the service, advertising, contracts and the provider's liability.***

***As regards the exercise of a service activity in a Member State other than the Member State of primary establishment, including requirements relating to the promotion, sale, supply and quality of services, as well as to the behaviour of the service provider, service providers shall comply with the national provisions of the Member State where the service is provided.***

***(3) The Member State of origin shall be responsible for supervising the provider and the services provided by him, including services provided by him in another Member State.***

***2. Paragraph 1 shall apply to business services and to services performed in commercial transactions and for the consumer.***

***(4) Member States may not, for reasons falling within the coordinated field, restrict***

***3. The Member State in which the service is provided shall be principally responsible***

*the freedom to provide services in the case of a provider established in another Member State, in particular, by imposing any of the following requirements:*

*(a) an obligation on the provider to have an establishment in their territory;*

*(b) an obligation on the provider to make a declaration or notification to, or to obtain an authorisation from, their competent authorities, including entry in a register or registration with a professional body or association in their territory;*

*(c) an obligation on the provider to have an address or representative in their territory or to have an address for service at the address of a person authorised in that territory;*

*(d) a ban on the provider setting up a certain infrastructure in their territory, including an office or chambers, which the provider needs to supply the services in question;*

*(e) an obligation on the provider to comply with requirements, relating to the exercise of a service activity, applicable in their territory;*

*(f) the application of specific contractual arrangements between the provider and the recipient which prevent or restrict service provision by the self-employed;*

*(g) an obligation on the provider to possess an identity document issued by its competent authorities specific to the exercise of a service activity;*

*(h) requirements which affect the use of equipment which is an integral part of the*

*for supervising the provider and the services provided in compliance with the conditions in respect of mutual assistance and close cooperation with the service provider's Member State of primary establishment, in accordance with this Directive.*

*4. Member States shall be able to continue applying national provisions in respect of access to a service activity that are more restrictive or prescriptive than the rules in the Member State of primary establishment, provided that such measures are not applied in a discriminatory fashion and are justified by an overriding reason relating to the public interest. Such measures must also play a part in attaining the objective pursued, and must do no more than is necessary in order to attain that objective.*

*Member States shall notify the Commission forthwith of all national provisions applied on the basis of paragraph 4.*

*5. By [two years after the entry into force of this Directive] at the latest, and after consulting the European Parliament and the Council, the Commission shall consider the harmonisation measures necessary as regards the rules governing access to and the exercise of a service activity.*

*service provided;*

*(i) restrictions on the freedom to provide the services referred to in Article 20, the first subparagraph of Article 23(1) or Article 25(1).*

Or. en

#### *Justification*

*The country of origin principle would contradict article 50 of the Treaty, which provides that "the person providing a service may, in order to do so, temporarily pursue his activity in the State where the service is provided, under the same conditions as are imposed by that State on its own nationals."*

*It would be counterproductive to apply the country of origin principle to the exercise of a service activity. The economic impact of this principle would certainly be worse than expected, because it fails to guarantee an adequate confidence of the recipients of services. This principle would also lead to create a competition between the Member States and therefore lower the quality standards level.*

*The distinction between the notions of "access" and "exercise" of a service activity already exists in other articles of the Commission's proposal.*

*The control and supervision of a service activity must be the responsibility of the country of destination.*

8.2.2006

A6-0409/245

**AMENDMENT 245**

by Heide Rühle and Pierre Jonckheer, on behalf of the Verts/ALE 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 245  
Recital 37 a (new)

*(37a) In line with the approach proposed by the Commission in its second biennial report on the application of the principle of mutual recognition in the single market, a clear distinction should be drawn between the different stages involved in the provision of a service activity. It is on the basis of that approach that a clear distinction is drawn in Article 16(1) of this Directive between rules relating to access to a service activity and those relating to the exercise of a service activity.*

Or. en

8.2.2006

A6-0409/246

**AMENDMENT 246**

by Heide Rühle and Pierre Jonckheer, on behalf of the Verts/ALE 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 246  
Recital 37 b (new)

*(37b) As regards the conditions governing access to and the exercise of a service activity, Member States may continue applying national provisions that are more prescriptive and restrictive than the rules in the country of primary establishment, in accordance with Articles 95(4), 153(5) and 176 of the EC Treaty, and with the case-law of the Court of Justice.*

Or. en

**AMENDMENT 247**

by Heide Rühle and Pierre Jonckheer, on behalf of the Verts/ALE 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))

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 Text proposed by the Commission

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 Amendment by Parliament

Amendment 247

Article 23

*Article 23**deleted**Assumption of health care costs*

*1. Member States may not make assumption of the costs of non-hospital care in another Member State subject to the granting of an authorisation, where the cost of that care, if it had been provided in their territory, would have been assumed by their social security system.*

*The conditions and formalities to which the receipt of non-hospital care in their territory is made subject by Member States, such as the requirement that a general practitioner be consulted prior to consultation of a specialist, or the terms and conditions relating to the assumption of the costs of certain types of dental care, may be imposed on a patient who has received non-hospital care in another Member State.*

*2. Member States shall ensure that authorisation for assumption by their social security system of the cost of hospital care provided in another Member State is not refused where the treatment in question is among the benefits provided for by the legislation of the Member State of*

*affiliation and where such treatment cannot be given to the patient within a time frame which is medically acceptable in the light of the patient's current state of health and the probable course of the illness.*

*3. Member States shall ensure that the level of assumption by their social security system of the costs of health care provided in another Member State is not lower than that provided for by their social security system in respect of similar health care provided in their territory.*

*4. Member States shall ensure that their authorisation systems for the assumption of the costs of health care provided in another Member State are in conformity with Articles 9, 10, 11 and 13.*

Or. en



**AMENDMENT 248**

by Heide Rühle and Pierre Jonckheer, on behalf of the Verts/ALE 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))

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 Text proposed by the Commission

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 Amendment by Parliament

Amendment 248

Article 24

*Article 24**deleted**Specific provisions on the posting of workers*

*1. Where a provider posts a worker to another Member State in order to provide a service, the Member State of posting shall carry out in its territory the checks, inspections and investigations necessary to ensure compliance with the employment and working conditions applicable under Directive 96/71/EC and shall take, in accordance with Community law, measures in respect of a service provider who fails to comply with those conditions.*

*However, the Member State of posting may not make the provider or the posted worker subject to any of the following obligations, as regards the matters referred to in point (5) of Article 17:*

*(a) to obtain authorisation from, or to be registered with, its own competent authorities, or to satisfy any other equivalent requirement;*

*(b) to make a declaration, other than declarations relating to an activity referred to in the Annex to Directive 96/71/EC which may be maintained until 31*

*December 2008;*

*(c) to have a representative in its territory;*

*(d) to hold and keep employment documents in its territory or in accordance with the conditions applicable in its territory.*

*2. In the circumstances referred to in paragraph 1, the Member State of origin shall ensure that the provider takes all measures necessary to be able to communicate the following information, both to its competent authorities and to those of the Member State of posting, within two years of the end of the posting:*

*(a) the identity of the posted worker;*

*(b) his position and the nature of the tasks attributed to him;*

*(c) the contact details of the recipient;*

*(d) the place of posting;*

*(e) the start and end dates for the posting;*

*(f) the employment and working conditions applied to the posted worker.*

*In the circumstances referred to in paragraph 1, the Member State of origin shall assist the Member State of posting to ensure compliance with the employment and working conditions applicable under Directive 96/71/EC and shall, on its own initiative, communicate to the Member State of posting the information specified in the first subparagraph where the Member State of origin is aware of specific facts which indicate possible irregularities on the part of the provider in relation to employment and working conditions.*

Or. en

8.2.2006

A6-0409/249

**AMENDMENT 249**

by Heide Rühle and Pierre Jonckheer, on behalf of the Verts/ALE 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 249  
Article 25

*Article 25*

*deleted*

*Posting of third country nationals*

*1. Subject to the possibility of derogation as referred to in paragraph 2, 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 of posting may not require the provider or the worker posted by the latter to hold an entry, exit, residence or work permit, or to satisfy other equivalent conditions.*

*2. Paragraph 1 does not prejudice the possibility for Member States to require a short term visa for third country nationals who are not covered by the mutual recognition regime provided for in Article 21 of the Convention implementing the Schengen Agreement.*

*3. In the circumstances referred to in paragraph 1, the Member State of origin shall ensure that a provider posts only a worker who is resident in its territory in accordance with its own national rules and who is lawfully employed in its territory.*

*The Member State of origin shall not*

*regard a 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 of origin shall communicate to the Member State of posting, upon its request and in the shortest possible time, information and guarantees regarding compliance with the first subparagraph and shall impose the appropriate penalties in cases of non-compliance.*

Or. en