

AMENDMENT 289

by Marianne Thyssen, Malcolm Harbour, Othmar Karas, Jacques Toubon, on behalf of the PPE-DE Group

Evelyne Gebhardt, Anne Van Lancker, Robert Goebbels, Hannes Swoboda, Harlem Désir, on behalf of the PSE-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 289

Article 1, paragraph 2 a (new)

2a. This Directive shall not deal with the liberalisation of Services of General Economic Interest reserved to public or private entities nor with the privatisation of public entities providing services.

This Directive does not deal with the abolition of monopolies providing services nor aids granted by the Member states which are covered by common rules on competition.

This Directive does not affect the freedom of Member states to define, in conformity with Community law, what they consider to be services of General Economic Interest, how those services should be organised and financed and what specific obligations they should be subject to.

Or. en

8.2.2006

A6-0409/290

AMENDMENT 290

by Marianne Thyssen, Malcolm Harbour, Othmar Karas, Jacques Toubon, on behalf of the PPE-DE Group

Evelyne Gebhardt, Anne Van Lancker, Robert Goebbels, Hannes Swoboda, Harlem Désir, on behalf of the PSE-Group

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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 290
Article 1, paragraph 3 a (new)

***3a. This Directive does not affect the
Member States' rules of criminal law.***

Or. en

Justification

Self-explanatory

AMENDMENT 291

by Marianne Thyssen, Malcolm Harbour, Othmar Karas, Jacques Toubon, on behalf of the PPE-DE Group

Evelyne Gebhardt, Anne Van Lancker, Robert Goebbels, Hannes Swoboda, Harlem Désir, on behalf of the PSE-Group

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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 291
Recital 12 a (new)

(12a) Rules of criminal law should not be affected by this Directive. However, rules of criminal law should not be misused in order to circumvent the rules laid down in this Directive.

Or. en

Justification

Self-explanatory

8.2.2006

A6-0409/292

AMENDMENT 292

by Marianne Thyssen, Malcolm Harbour, Othmar Karas, Jacques Toubon, on behalf of the PPE-DE Group

Evelyne Gebhardt, Anne Van Lancker, Robert Goebbels, Hannes Swoboda, Harlem Désir, on behalf of the PSE-Group

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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 292
Article 1, paragraph 3 b (new)

3b. This Directive does not affect services pursuing a social welfare objective.

Or. en

AMENDMENT 293

by Marianne Thyssen, Malcolm Harbour, Othmar Karas, Jacques Toubon, on behalf of the PPE-DE Group

Evelyne Gebhardt, Anne Van Lancker, Robert Goebbels, Hannes Swoboda, Harlem Désir, on behalf of the PSE-Group

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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 293
Article 16 a (new)

Article 16a***Freedom to provide services***

1. Member States shall respect the right of service providers to provide a service in a Member State other than that in which they are established.

The Member State in which the service is provided shall ensure free access to and free exercise of a service activity within its territory.

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

(a) non-discrimination: the requirement may be neither directly nor indirectly discriminatory with regard to nationality or, in the case of legal persons, with regard to the Member State in which they are established,

(b) necessity: the requirement must be justified for reasons of public policy or public security or the protection of the health and the environment,

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

2. Member States may not restrict 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 obtain an authorisation from their competent authorities including entry in a register or registration with a professional body or association in their territory, except where provided for in this Directive or other instruments of Community law;

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

(d) 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, unless those necessary for health and safety at work, which affect the use of equipment and material which are an integral part of the service provided;

(i) restrictions on the freedom to provide the services referred to in Article 20;

3. These provisions do not prevent the Member State to which the service provider moves from imposing requirements with regard to the provision of a service activity, where they are justified for reasons of public policy, public security, social policy, consumer protection, environmental protection and public health. Nor do they prevent Member States from applying, in conformity with Community law, their rules on employment conditions, including those laid down in collective agreements.

4. By five years after the entry into force of this Directive at the latest, the Commission shall, after consultation of the Member States and the social partners at European level, submit to the European Parliament and the Council a report on the application of this article, in which it shall consider the need to propose harmonisation measures regarding service activities covered by this Directive.

Or. en

AMENDMENT 294

by Marianne Thyssen, Malcolm Harbour, Othmar Karas, Jacques Toubon, on behalf of the PPE-DE Group

Evelyne Gebhardt, Anne Van Lancker, Robert Goebbels, Hannes Swoboda, Harlem Désir, on behalf of the PSE-Group

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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 294
Recital 7 a (new)

(7a) Social welfare services result from the duties of the State – at national, regional and local level - in the social field. They are a manifestation of the principles of social cohesion and solidarity as reflected, inter alia, by the fact that they are designed to assist those who are in a state of need owing to insufficient family income, total or partial lack of independence or the risk of being marginalised. These services are often entirely non-profit-making, thus the benefits they confer may bear no relation to an economic consideration.

Or. en

AMENDMENT 295

by Marianne Thyssen, Malcolm Harbour, Othmar Karas, Jacques Toubon, on behalf of the PPE-DE Group

Evelyne Gebhardt, Anne Van Lancker, Robert Goebbels, Hannes Swoboda, Harlem Désir, on behalf of the PSE-Group

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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 295
Recital 7 b (new)

(7b) This Directive does not deal with the funding of, or the system of aids linked to, social housing. Nor does it affect the criteria or conditions set by Member States to ensure that social housing services effectively carry out a function to the benefit of the public interest and social cohesion.

Or. en

8.2.2006

A6-0409/296

AMENDMENT 296

by Marianne Thyssen, Malcolm Harbour, Othmar Karas, Jacques Toubon, on behalf of the PPE-DE Group

Evelyne Gebhardt, Anne Van Lancker, Robert Goebbels, Hannes Swoboda, Harlem Désir, on behalf of the PSE-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 296
Recital 7 c (new)

(7c) Childcare and family services aimed at supporting families and young people, as well as educational and cultural services typically pursuing social welfare objectives should not be affected by the provisions of this Directive.

Or. en

AMENDMENT 297

by Marianne Thyssen, Malcolm Harbour, Othmar Karas, Jacques Toubon, on behalf of the PPE-DE Group

Evelyne Gebhardt, Anne Van Lancker, Robert Goebbels, Hannes Swoboda, Harlem Désir, on behalf of the PSE-Group

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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 297

Article 1, paragraph 4 a (new)

4a. 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 relationships between employers and workers. 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. Nor shall it affect national social security legislation in the Member States.

Or. en

AMENDMENT 298

by Marianne Thyssen, Malcolm Harbour, Othmar Karas, Jacques Toubon, on behalf of the PPE-DE Group

Evelyne Gebhardt, Anne Van Lancker, Robert Goebbels, Hannes Swoboda, Harlem Désir, on behalf of the PSE-Group

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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 298
Article 1, paragraph 4 b (new)

4b. This Directive shall not be interpreted as affecting in any way the exercise of fundamental rights as recognised in the Member States and by the Charter of Fundamental Rights of the European Union, including the right to take industrial action.

Or. en

Justification

The amendment does not add legal obligations in relation to the Charter of Fundamental Rights, 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 services.

AMENDMENT 299

by Marianne Thyssen, Malcolm Harbour, Othmar Karas, Jacques Toubon, on behalf of the PPE-DE Group

Evelyne Gebhardt, Anne Van Lancker, Robert Goebbels, Hannes Swoboda, Harlem Désir, on behalf of the PSE-Group

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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 299
Recital 7 d (new)

(7d) This Directive should be interpreted in such a way as to reconcile the exercise of fundamental rights as recognised in the Member States and by the Charter of Fundamental Rights of the European Union with the fundamental freedoms laid down in Article 43 and 49 of the Treaty. Those fundamental rights include, i.a., the right to take industrial action. This Directive should be interpreted in such a way as to give full effect to those fundamental rights and the fundamental freedoms.

Or. en

AMENDMENT 300

by Marianne Thyssen, Malcolm Harbour, Othmar Karas, Jacques Toubon, on behalf of the PPE-DE Group

Evelyne Gebhardt, Anne Van Lancker, Robert Goebbels, Hannes Swoboda, Harlem Désir, on behalf of the PSE-Group

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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 300
Article 2, paragraph 2, point (cb)

(cb) Temporary work agencies;

Or. en

Justification

The Commission would come up with a proposal on full harmonisation of the rules on establishment in this sector in order to set the legal framework for the implementation of the Internal Market in this sector.

AMENDMENT 301

by Marianne Thyssen, Malcolm Harbour, Othmar Karas, Jacques Toubon, on behalf of the PPE-DE Group

Evelyne Gebhardt, Anne Van Lancker, Robert Goebbels, Hannes Swoboda, Harlem Désir, on behalf of the PSE-Group

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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 301
Recital 10 - a (new)

(10 - a) The specific requirements that Member States impose on the establishment of temporary work agencies mean that those services may not be included within the scope of this Directive at this stage. Therefore, it is necessary to fully harmonise the rules on establishment in this sector in order to establish the legal framework for the implementation of the internal market in this sector.

Or. en

AMENDMENT 302

by Marianne Thyssen, Malcolm Harbour, Othmar Karas, Jacques Toubon, on behalf of the PPE-DE Group

Evelyne Gebhardt, Anne Van Lancker, Robert Goebbels, Hannes Swoboda, Harlem Désir, on behalf of the PSE-Group

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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 302
Article 2, paragraph 2, point (cc)

(cc) security services;

Or. en

Justification

The Commission would come up with a proposal on full harmonisation of the rules on establishment in this sector in order to set the legal framework for the implementation of the Internal Market in this sector.

AMENDMENT 303

by Marianne Thyssen, Malcolm Harbour, Othmar Karas, Jacques Toubon, on behalf of the PPE-DE Group

Evelyne Gebhardt, Anne Van Lancker, Robert Goebbels, Hannes Swoboda, Harlem Désir, on behalf of the PSE-Group

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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 303
Recital 10 - aa (new)

(10 - aa) The specific requirements that Member States impose on the establishment of security services mean that those services may not be included within the scope of this Directive at this stage. Therefore, it is necessary to fully harmonise the rules on establishment in this sector in order to establish the legal framework for the implementation of the internal market in this sector.

Or. en

AMENDMENT 304

by Marianne Thyssen, Malcolm Harbour, Othmar Karas, Jacques Toubon, on behalf of the PPE-DE Group

Evelyne Gebhardt, Anne Van Lancker, Robert Goebbels, Hannes Swoboda, Harlem Désir, on behalf of the PSE-Group

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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 304
Recital 10 - ab (new)

(10 - ab) The exclusion of healthcare covers healthcare and pharmaceutical services provided by health professionals to patients to assess, maintain or restore their state of health where those activities are reserved to a regulated profession in the Member State in which the services are provided.

Or. en

Justification

It is important to clarify through a definition of healthcare which services are excluded. For this purpose, the definition is based on three criteria: (1) involvement of health professionals; (2) the fact that the service is given to the patient (excluding business to business services such as cleaning services provided to hospitals); (3) the fact that the health profession is regulated in the country of provision of the service.

AMENDMENT 305

by Marianne Thyssen, Malcolm Harbour, Othmar Karas, Jacques Toubon, on behalf of the PPE-DE Group

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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 305
Recital 10 - ac (new)

(10 - ac) This Directive does not affect the reimbursement of healthcare provided in a Member State other than that in which the recipient of the care is resident. That has been addressed by the Court of Justice on numerous occasions, and the Court has recognised patients' rights. It is important to address this issue in another Community legal instrument in order to achieve greater legal certainty and clarity.

Or. en

Justification

It is of importance that the exclusion does not apply to the issue of reimbursement of healthcare incurred in another Member state.. It follows from settled case-law that patients have a right to reimbursement for healthcare costs incurred in another Member States under the same conditions as those under which the cost would have been assumed if the care had been delivered in the patient's own Member state. However few Member states have taken steps to implement the case-law and patients are not able to exercise theirs rights as recognised by the Court.

AMENDMENT 306

by Marianne Thyssen, Malcolm Harbour, Othmar Karas, Jacques Toubon, on behalf of the PPE-DE Group

Evelyne Gebhardt, Anne Van Lancker, Robert Goebbels, Hannes Swoboda, Harlem Désir, on behalf of the PSE-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 306
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 ***including urban transport, taxis and ambulances.***

(ca) port services.

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 urban transport and 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.

AMENDMENT 307

by Marianne Thyssen, Malcolm Harbour, Othmar Karas, Jacques Toubon, on behalf of the PPE-DE Group

Evelyne Gebhardt, Anne Van Lancker, Robert Goebbels, Hannes Swoboda, Harlem Désir, on behalf of the PSE-Group

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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 307
Recital 13 b (new)

(13b) 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 his Member State.

Or. en

Justification

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

AMENDMENT 308

by Marianne Thyssen, Malcolm Harbour, Othmar Karas, Jacques Toubon, on behalf of the PPE-DE Group

Evelyne Gebhardt, Anne Van Lancker, Robert Goebbels, Hannes Swoboda, Harlem Désir, on behalf of the PSE-Group

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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 308
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, preserving the financial equilibrium of the social security system, including maintaining balanced medical care available to all, the protection of consumers, recipients of services, workers, fairness of trade transactions, combating fraud, the protection of the environment including the urban environment, the health of animals, intellectual property, the conservation of the national historic and artistic heritage or social policy objectives and cultural policy objectives;

Or. en

Justification

Completion of the list according to the jurisprudence of the Court of Justice.

AMENDMENT 309

by Marianne Thyssen, Malcolm Harbour, Othmar Karas, Jacques Toubon, on behalf of the PPE-DE Group

Evelyne Gebhardt, Anne Van Lancker, Robert Goebbels, Hannes Swoboda, Harlem Désir, on behalf of the PSE-Group

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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 309

Article 6, paragraph 1, introductory wording

1. Member States shall ensure that, **by 31 December 2008 at the latest**, it is possible for a service provider to complete the following procedures and formalities at a contact **point** known as a "**single point of contact**":

1. Member States shall ensure that, **by three years after the entry into force of this Directive at the latest**, it is possible for a service provider to complete the following procedures and formalities **in accordance with the provision of this Chapter and Chapter II a** at contact **points** known as '**point of single contact**':

Or. en

Justification

Better title for the "one-stop-shop" (guichet unique). Modification applies to the whole text.

AMENDMENT 310

by Marianne Thyssen, Malcolm Harbour, Othmar Karas, Jacques Toubon, on behalf of the PPE-DE Group

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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 310
Recital 25 a (new)

(25a) The obligation on Member States to ensure that it is possible for a service provider to complete all procedures and formalities needed for access to his service activities at points of single contact includes any procedures and formalities necessary for the supervision of compliance with Directive 96/71/EC. It should not affect the role of the liaison offices or other competent national bodies which Member States designate for the purposes of the implementation of Directive 96/71/EC. However, these designated liaison offices or other competent national bodies should make the information on procedures and formalities necessary for the supervision of compliance with Directive 96/71/EC available to the points of single contact.

Or. en

Justification

Include the declaration obligations for posted workers into the single point of contact system would considerably alleviate administrative burden for enterprises and would fit well into the

system of single points of contact.

AMENDMENT 311

by Marianne Thyssen, Malcolm Harbour, Othmar Karas, Jacques Toubon, on behalf of the PPE-DE Group

Evelyne Gebhardt, Anne Van Lancker, Robert Goebbels, Hannes Swoboda, Harlem Désir, on behalf of the PSE-Group

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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 311
Article 35, paragraph 6

6. Member States shall ensure that registers in which providers have been entered, and which may be consulted by the competent authorities in their territory, may also be consulted, in accordance with the same conditions, by the equivalent competent authorities of the other Member States.

6. If the Member State of destination, having carried out checks, inspections and investigations in accordance with paragraph 3, finds that a service provider did not comply with his obligations, that Member State may, in accordance with its law and in conformity with Community law, oblige the service provider to deposit a security, or impose interim measures on the service provider. The deposit or security may be used for enforcement of decisions and judgments in administrative, civil and criminal matters.

Or. en