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Committee on Petitions

2004/0001(COD)

28.7.2005

OPINION

of the Committee on Petitions

for Committee on the Internal Market and Consumer Protection

on the proposal for a European Parliament and Council directive on services in
the internal market
(COM(2004)0002 – C6-0069/2004 – 2004/0001(COD))

Draftsman: Marcin Libicki

PA_Leg

SHORT JUSTIFICATION

The internal market is one of the essential foundations of the European Union. Its operation hinges on the principles of the free movement of goods, persons, services and capital. Freedom of services is still less developed than the others, despite its real importance to the EU economy: services are a leading sector, generating as they do 70% of GDP and of jobs, with key significance to the EU economy.

It is still not yet possible to take full advantage of the benefits of the internal market, owing to the existence of barriers restricting the development of service operations, and this impacts negatively on the economic development of the EU. EU bodies and institutions, including the Committee on Petitions, have repeatedly received information on the difficulties encountered by businessmen wishing to offer services in Member States other than their country of origin. The Committee on Petitions, in its letter of....., has already brought the problem of discrimination against businesses, particularly from the new Member States, to the attention of Commissioner Charlie McCreevy.

The objective of the Commission proposal for a European Parliament and Council directive on services in the internal market is full implementation of the fundamental freedom of establishment and to provide services set out in the Treaty, in order to stimulate speedier development of the EU economy and to create new jobs. It must also be stated that in its current form the single market does not meet the expectations of the operators working within it, and in particular does not fully utilise the potential of small and medium-sized enterprises.

In view of the above, the draftsman welcomes the proposal for a directive, recognising it as essential to the implementation of the Treaty, which cannot be achieved solely and exclusively on the basis of the binding *acquis communautaire*. Especially in view of the enlargement of the Union to include ten new Member States, there are clearly obstacles in the way of businesses wishing to provide services in Member States other than their country of origin. It would seem that liberalisation of services and removing these barriers are a fundamental precondition for overcoming the difficulties encountered in implementing the Lisbon Strategy.

The draftsman also supports the idea of simplifying administrative procedures, particularly by establishing single points of contact and making it possible for administrative procedures to be carried out electronically. Furthermore, he supports the general prohibition on permit systems for service operations and the possibility of a derogation therefrom if specific criteria are met. He also supports the creation of a catalogue of prohibited requirements and requirements to be evaluated by the Member States with relation to service operations.

One of the foundations of the Commission proposal is the country of origin principle, by which the service provider must be subject to the laws of the country in which he operates.

The draftsman fully supports this principle, whilst pointing out that in building Europe and exploiting its economic potential, there should be no fear of true competition, the cornerstone of which is precisely the country of origin principle. This principle offers the possibility of avoiding a series of restrictions on the freedom of establishment and to provide services such as: quantity restrictions, territorial restrictions, nationality requirements, residence requirements, requirements for a single place of business, discriminatory authorisation and

registration systems, restrictions on the performance of a large number of operations, requirements concerning the minimum number of workers and discriminatory qualifying requirements.

The draftsman cautions against the misuse of the concept of social dumping, aimed at restricting the liberalisation of the services market. Particular emphasis should be laid on the fact that the proposed directive will also have positive effects, not only for service providers, but for workers and consumers, enabling them to benefit to a greater extent from the free market.

The Committee on Petitions has received a number of petitions, the authors of which have indicated possible dangers that could result from the liberalisation of the services market on the basis of the directive on services¹. The authors of the petitions have expressed their fears on the possible lowering of standards, the transfer of companies to other countries, and threats to quality of service and consumer protection.

In view of the above, it must be stated that the creation of an amenable environment for these enterprises must be accompanied by concern for the interests of consumers and workers. It should also be pointed out that, in conditions of open competition, the consumers themselves will have a choice of service standards, and this will automatically regulate the standard level.

The draftsman is opposed to the removal from the directive text of provisions specifically expressing concern for worker and consumer protection, such as a mechanism to support service users who avail themselves of the services of an operator based in another Member State, or a division of tasks between Member States involved in the posting of workers in the provision of service. He welcomes the provisions designed to improve the quality of service provided and to ensure suitable protection for recipients of services which carry a specific risk.

The horizontal approach taken in the Commission proposal should be considered appropriate, removing as it does the need to harmonise all the relevant provisions in the Member States.

In conclusion, the draftsman would like to stress that a clear majority of market surveys has unequivocally shown the benefits brought by liberalising the services market (higher wages, lower prices, higher employment). In the interests of the EU economy and particularly in view of the objectives of the Lisbon Strategy, it must be pointed out that the success of the Community economy depends to a large extent on the speedy adoption of the proposed directive and an end to the attempts by Member States to revise it and delay its implementation. It must also be considered that if the proposed directive cannot be adopted by the Member States in a form close to the current one, the Member States should consider the adoption of the directive to be essential to the realisation of the economic objectives of the EU, and should not take action to create stronger cooperation in this sphere on the basis of Article 11 of the Treaty establishing the European Community and Article 43 of the Treaty on European Union.

During the initial discussion held at the Committee on Petitions meeting of 24 May 2005, the

¹ See petitions 539/2004 by Mikael Prohorenko (Swedish), on behalf of the 'Svenska Elektrikerförbundet Avd.1' (Swedish Electricians Association) and three co-signatories, 690/2004 by Serge Bayard (Belgian), 70/2005 by Dave Prentis (British) on behalf of the 'Unison' trade union and 163/2005 by Carolin Philipp (German).

members of the committee agreed that there was a need for integration and liberalisation of the services market. They stressed that liberalisation was necessary in order to draw full benefit from the possibilities offered by the internal market. A number of members indicated that while liberalising the services market with the aim of creating an amenable environment for the companies, particular care should be given to consumers and workers as the 'main customers' of the Committee on Petitions.

AMENDMENTS

The Committee on Petitions calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission¹

Amendments by Parliament

Amendment 1 Recital 3a (new)

(3a) Particularly after the enlargement to ten new Member States, entrepreneurs wishing to provide services in another Member State are faced with clear barriers.

Amendment 2 Recital 3

(3) Since services constitute the engine of economic growth and account for 70% of GDP and employment in the majority of Member States, this fragmentation of the internal market has a negative impact on the entire European economy, in particular on the competitiveness of SMEs, and prevents consumers from gaining access to a greater variety of competitively priced services. The European Parliament and the Council have emphasised that the removal of legal barriers to the establishment of a genuine internal market is a matter of priority for achieving the goal set by the Lisbon European Council of making the European Union the most competitive and dynamic knowledge-based

(3) Since services constitute the engine of economic growth and account for 70% of GDP and employment in the majority of Member States, this fragmentation of the internal market has a negative impact on the entire European economy, in particular on the competitiveness of SMEs, and prevents consumers from gaining access to a greater variety of competitively priced services. The European Parliament and the Council have emphasised that the removal of legal barriers to the establishment of a genuine internal market is a matter of priority for achieving the goal set by the Lisbon European Council of making the European Union the most competitive and dynamic knowledge-based

¹ Not yet published in OJ.

economy in the world by 2010. Removing those barriers is essential in order to revive the European economy, particularly in terms of employment and investment.

economy in the world by 2010. Removing those barriers is ***thus a basic condition to overcome difficulties encountered during the realisation of the Lisbon Strategy and to*** revive the European economy, particularly in terms of employment and investment. ***It is however important to achieve a single market in services, with a balance between market opening, public services and social and consumer rights.***

PROCEDURE ⁽¹⁾

Title	[on the proposal for a European Parliament and Council directive on services in the internal market]		
Procedure number	[2004/0001(COD)]		
Committee responsible	[IMCO]		
Committee asked for its opinion Date announced in plenary	[PETI] 0.0.2005		
Enhanced cooperation			
Drafts(wo)man Date appointed	[Marcin Libicki] 17.03.2005		
Discussed in committee	13.7.2005	0.0.0000	0.0.0000
Date suggestions adopted	13.7.2005		
Result of final vote	for:	[11]	
	against:	[0]	
	abstentions:	[0]	
Members present for the final vote	[Robert Atkins, Manolis Mavrommatis, Inés Ayala Sender, Michael Cashman, Proinsias De Rossa, Janelly Fourtou, David Hammerstein Mintz, Andreas Schwab]		
Substitutes present for the final vote	[Marie-Hélène Descamps, Doris Pack, Panayiotis Demetriou]		
Substitutes under Rule 178(2) present for the final vote	[]		