Resolution on the posting of workers

2007/2577(RSP) - 11/07/2007 - Text adopted by Parliament, topical subjects

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.