Application of Directive 96/71/EC on the posting of workers

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The committee adopted the own-initiative report by Elisabeth SCHROEDTER (Greens/EFA, DE) on the application of Directive 96/7/EC on the posting of workers. MEPs expressed concern that the directive was not being implemented properly in some Member States and that it was therefore failing to achieve its aims. Many difficulties were resulting from differences of interpretation of key concepts, such as worker, minimum salary and subcontracting, the difficulty of both workers and small businesses in obtaining information, and the difficulty of monitoring compliance with the directive. The committee called for the adoption of "appropriate remedies" for the enforcement of the directive.

MEPs also wanted to see better coordination between Member States and enhanced notification procedures in order to counter the problem of double posting, which was one of the key practical difficulties in the successful implementation of the directive. And they called on the Commission to put forward a proposal for a directive on the conditions required for the crews of vessels providing regular passage and freight ferry services between Member States.

The report looked at a number of areas causing concern, such as employment relationships and the definition of "employee". Although MEPs agreed with the Commission that this directive was not the place to deal with self-employment issues, they nevertheless highlighted the fact that "sham self-employment" was a strategy commonly used to circumvent the minimum standards of the directive. The Commission was urged to enter into discussions with Member States as a matter of urgency in order to establish transparent and consistent criteria for determining the status of "workers" and "self-employed persons" under employment law.

The report stressed the need for increased information and simple procedures that enable people to be made aware of their rights. It welcomed the Commission's plan to set up a website for this purpose, with direct links to relevant national legislation. There was also a need for greater cooperation between the various authorities, both at European and national level.

Among other points, MEPs said that, in Member States where the social partners share responsibility for enforcing the directive, the posting company should have a person available to act as its representative. The report also pointed to many abuses which exist in the subcontracting and outsourcing of cross border workers, and called on the Commission to close the existing loopholes - especially with regard to the question of liability.

In order to guarantee effective supervision, the report called on the Commission to coordinate action by Member States to supervise compliance with the directive by host country undertakings and urged the Member States to set up proper cross-border cooperation between inspection authorities. Lastly, MEPs asked the Commission to "submit biennually to the Parliament and the Council concrete data on the transposition at national level of the Posting of Workers Directive, focusing on instances of infringements of the directive".