



In Favour of a Services Directive in the Internal Market

Combination of Competitiveness and Social Cohesion

Decision of the 9th Congress of the EUCDW, 03.09.2005

Principle

The Single European Market is one of the key pillars of the European Union. The free exchange of goods and services can be seen as one of the driving forces behind the ever-closer integration and peaceful co-existence between European nations. The EU and its institutions are therefore right to give such a high priority to the protection of the Single European Market.

Both the current EC Treaty and the European Constitution rightfully see a link between competitiveness, economic and social cohesion, increases in the standard of living and the quality of life and a high degree of social protection. In this, they follow the concept of the "Social Market Economy" which connects social policy with economic policy and personal liberties with the concept of individual responsibility.

The economies of the individual EU member states and their regions, however, vary widely in their strength. These differences are compounded by the differences between the individual social systems that lead to different standards of social protection and workers' rights.

If the EU remains faithful to its original aim of bringing people together in order to create lasting peace and prosperity, its free trade protection mechanisms will have to reflect exactly these differences between the individual societies.

Bearing this in mind, the EUCDW makes the following representation:

The EU needs the freest possible exchange of services in order to increase the overall strength of the EU economy and to help closing the gap between the economies of its various regions.

Such an unbridled exchange of services, however, must follow a certain set of rules which will need to ensure that the differences in standards of pay and social security are not used to play one economy off against the other until the lowest possible level of social protection has been reached, and that certain levels of consumer protection and environmental standards remain in force. Cutthroat competition harms not only the interests of the employees: it is equally bad for small and medium-sized enterprises and thereby hampers economic growth, weakening rather than strengthening our economies.

We therefore need a European Services Directive which protects the Single European Market by ensuring free trade and by taking into account the differences between the various national economies and social structures.

The existing draft for a European Services Directive (“Bolkestein Directive”)

The existing draft for a European Services Directive is not a step into the right direction, focusing as it does mainly on the country of origin principle. Such an approach fails to attribute sufficient importance to the national structures and underestimates the intervention into European and national mechanisms of social protection, consumer protection and environmental protection among others. In the final consequence it may force all countries to adapt the economic and social structure of the weakest economies as the new standard.

This type of harmonization is simply unacceptable, both from an economic and a social point of view.

The integration of all types of professional services furthermore ignores the widely differing standards of the individual member states in respect of the provision of public interest services and the maintenance of a viable public sector.

In the light of all this, the EUCDW understands why such a wide range of associations – from representatives of SMEs to trade unions, environmentalists, social and consumer associations as well as public service workers – have rejected the current draft as “insufficiently differentiated”.

A fair and well-balanced freedom of movement for the services industry requires strict regulations which prevent the competition from being distorted and which can work as an effective tool against economic and employment crime.

The ambitious objective of the EU Commission is therefore not quite ambitious enough. The creation of a Single European Market for the services industry cannot rely on the freedom of the market alone. Such a narrow interpretation does not comply with the objectives of the European Union and its – it remains to be hoped – soon-to-be-enacted Constitution.

Crucial features of a European Services Directive

The EUCDW therefore favours a correspondingly more ambitious approach:

- A European Services Directive will need to focus mainly on removing bureaucratic obstacles and on providing more transparency and simplicity in the area of the freedom of establishment. This would create more opportunities in particular for small and medium-sized businesses.
- A European Services Directive will need to make clear that it only applies to services for which a freedom of movement exists. Areas with no such freedom will necessarily be excluded.
It will need furthermore to state clearly that member states will remain to be free – within the limitations of Community Law – to identify common interest services, certain principles of their organization and certain ways of financing them which are exempt from the Directive.
- The Directive must clearly abstain from settling or prejudicing questions of social and employment law. These shall remain governed by the existing national and European regulations. The country of origin principle does not apply. This proviso must also be reflected by any practical implementation guidelines. The scope of the Directive defined in Article 2 must therefore be changed accordingly.
- One must not expect a European Services Directive to be able to provide solutions to all the issues of mobile employees.
- This is why a European Services Directive must be seen in conjunction with the Posting of Workers Directive (where the place-of-work-principle applies to the basic working and employment conditions for all industries in all EU countries), the Professional Qualifications Directive and a Temporary Work Regulation on a European level. **These regulations will need to be provided with an independent legal basis, on the same level and with the same legal standing as a European Services Directive. Their application must no be obstructed (linking the above-mentioned Directives and a European Services Directive will require political determination).**
- In view of the imperative to combat economic and employment crime, the relevant national and cross-border regulations must not be curtailed. The responsibility and authority for controls must remain with the Member State where the services in question are provided. A European Services Directive can, however, serve to create tools for a pan-European network of information exchange and thereby help to increase the speed and efficiency of local controls.
- A European Services Directive will also have to address issues of consumer protection, warranty and liability, bearing in mind the need to provide the individual citizen with practical help in these matters.
- Bearing in mind the long list of reservations in respect of certain industries (for instance the exemption of the health services from the country of origin principle), it will be necessary to focus a European Services Directive on certain framework regulations and general principles which would then lead to individual industry-specific legislation. This would also comply with the principle of subsidiarity.