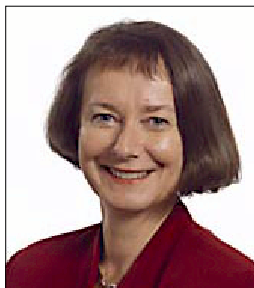


The Service Directive – a Success for Social Europe



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NEXT TO THE draft proposal for a European Constitution, the service directive is the most difficult and important legislative project being discussed at present in the European Union.

After two years of negotiations in the European Parliament, we have succeeded in re-drafting and thoroughly changing the text of the European Commission, which was entirely unsatisfactory.

In February 2006, the European Parliament adopted a proposal after the first reading and with a large majority of almost 400 votes. This draft is now the basis for the next stage of the legislative procedure.

Ever since the beginning, the Socialist Group has played a predominant role. During the debate in the European Parliament, we were always very critical of the guiding principle of the draft directive, namely the 'country of origin' principle, which we always saw as a danger for social benefits in Europe.

After long and difficult discussions, we managed to convince the other political groups that neither an overall rejection of the directive nor a rejection of the Commission's particular draft would be reasonable solutions.

As rapporteur for the European Parliament, I am very happy to have been able to come up with a strong compromise between the different political groups. For a long time, this seemed totally impossible because our respective stands on the more appropriate instruments to open up markets

for service provision and on the scope of the directive were so far apart.

The negotiation marathon in the European Parliament was marred by ideological discussions. The breach between those defending the liberal project of the Commission, and those who wanted to reject the overall directive seemed impossible to heal. Only when we managed to go beyond the discussion on principles and started to look for concrete responses to the real protectionist barriers to the free trans-border movement of services, was a compromise possible.

The result is a good balance between opening up the service market and preserving the member states' and the European Union's social benefits. The free movement of services is guaranteed. At the same time, the existing rules and regulations in the member states on important fields such as public services, employment law, consumer protection and the environment are safeguarded.

Another important asset is that the principle of country of origin has been taken out of the draft. This principle, invented by the European Commission and long defended by the conservative and liberal Members of the European Parliament, is not only removed from the legislative text but also disappears as a basic principle of the directive. The service directive beast has therefore lost its poison fangs.

The primacy of the rules and regulations of the service provider's country of origin would undoubtedly have led to a

negative competition between solidarity-based systems in the member states and would have resulted in a race to the bottom for the working and living conditions of workers and their families.

An unregulated market would have developed. Social benefits, environmental and consumer protection, and quality standards would have reached the lowest levels in the EU.

There would also have been greater legal insecurity because initially the European Commission wanted to leave the control of services solely to the country of origin. This regulation could not have been applied. Moreover, small and medium-sized enterprises without strong legal support would have been negatively affected by these provisions.

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The danger has now been removed. In the well-known article 16, the principle of country of origin no longer appears and has been replaced by a free movement of services.

According to the text of the European Parliament, member states should guarantee the free access and provision of services on their territories. This general opening is important to develop the great potential of the service sector as an engine of economic growth and employment.

Protectionist barriers still to be found on the internal market are to be removed. Some of the scenarios have become famous: the Romanian tour guide, who had to have been born in Rome or the painter from Aachen working in Belgium, who can only transport his working tools in a car with a Belgian number plate.

Such access restrictions are excluded thanks to a list of unacceptable prerequisites clearly spelled out in the directive in order to set a legal precedent for the European Court of Justice. Other prerequisites are deemed unacceptable if they are discriminatory or unjustified for reasons of public order, security or health or if they are not proportionate to the objective they aim to reach.

The peculiarity of the European Parliament’s decision lies in the fact that market access is simplified but at the same time, the rules and regulations of the country of destination must be respected. In order to do that, we have set powerful tools at the member states’ disposal: specific requirements for service provision can be defined for reasons of public order and security, protection of the environment and public health.

Likewise, services can be conditioned by specific authorisation rules if necessary for pressing reasons of general interest. In addition to public order, health and security, this includes financial balance, social security, access to medical care for all, consumer protection, worker protection, the fight against fraud, animal health, environmental protection and protection of the cultural heritage or social, political and cultural objectives.

The suppression of the ‘country of origin’ principle is highly important because it has become the key motto of the Commission’s liberal efforts.

However, the Parliament’s decision leaves member states a good margin of manoeuvre to keep their own rules and regulations as destination countries, provided they do not behave in a protectionist manner. Of course, the liberals and conservatives were against the removal of the ‘country of origin’ principle. The British Chamber of Commerce even launched an appeal to keep this principle.

Reason finally prevailed, as shown by the numerous positive reactions I

received, not only from the trade unions but also from different local authorities, arts and crafts organisations, professional associations and non-governmental organisations.

Contrary to the initial proposal of the European Commission, we managed to take important sectors out of the scope of the directive. These are mainly related to very sensitive services such as health care and social services or sectors that are already governed by sectoral directives such as the directive on the posting of workers or the mutual recognition of degrees.

Services of general interest as defined by the member states are excluded, as well as social legislation or employment law, rules on health and security in the workplace and even collective agreements and the right to strike. Temporary work agencies, port services, audiovisual services, games, security services, criminal law and lawyers and notaries are also excluded from the scope of the directive.

One particular achievement is the exclusion of health services, independently of their organisation, their functioning or of whether they are private or public.

Another very important success is that we managed to gather a majority for a total exclusion of social services, such as social housing, childcare and family services.

HOWEVER, IT IS still necessary to improve the draft on the issue of services of general economic interest. Indeed, in spite of some possible restrictions available to member states, they are still under the scope of the directive because of their economic nature. Member states can themselves define services of general economic interest (SGEI), how they are to be financed and organised and which obligations they should be subjected to. The topic of SGEI is still pending and therefore it will be an important issue

for the next legislative step.

The PES Group in the European Parliament has worked on the issue of services of general interest for some time now and demands that a separate legislative instrument be created for services of general economic interest. Therefore, our group has launched the initiative to elaborate a draft framework directive for these services in cooperation with a group of experts.

The European Parliament's decision was a great success for the social democrats in Europe. Despite differences in the Parliament that seemed irreconcilable, we managed to set the services directive on the right track thanks to a lot of commitment and stamina. At the first reading, already 90 per cent of the necessary changes were adopted. This was already a very good basis on which to pursue the legislative procedure and I will not allow any step backwards on what we have already achieved.

The amended proposal made public by the European Commission at the beginning of April shows that Commission President Barroso and Commissioner McCreevy have really understood the message of the European Parliament and civil society and have largely taken into account the vote in the EP. They have kept their word and as they had promised during the plenary debate, they accepted the clear vote of the European Parliament.

Of course, some important demands of the EP were not taken into account. However, the European Commission has understood that the Parliament's proposal is the only possible solution to advance quickly on the services directive.

The European Parliament's vote shows the right way: in the end, we will need a directive without too much red tape, and at the service of workers because competitiveness in Europe depends on them. This directive should also respect the member states' specificities and stop any danger of a

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deterioration of working conditions and salaries, quality and consumer and environmental protection. The European Union’s task is to see to the well being of 470 million citizens, men and women, and not to serve the market and liberalisation freaks.

I feel it is very important to put citizens at the centre of our political action and of our legislative work. Workers and their families should be at the core of our concerns, not big companies and markets.

The European Parliament and the PES Group have done everything possible to come up with a reasonable solution for the services directive. Now, the ball is in the Council’s court. In the last Spring Summit, there was a clear message that the Council wants to go on with its work on the basis of the EP’s proposal. If this is the case, there will indeed be a possibility to make quick progress in the legislative process and conclude the whole process by the end of the year. If not, nobody knows whether we will finally have a services directive or not.