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Services Directive

Background - Key Points for our Group

- Député européen (Verts, France) - Économie - Les services d'intérêt général -



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1. The situation after the vote in the IMCO Committee (see also our note of 24 October 2006)

In terms of procedure, the IMCO vote was a political failure of the Parliament. After the Council had announced that it would not accept any smallest change in its common position of July, the PPE and the ALDE had announced that they could only vote for amendments which could be accepted by the Council !... Therefore the room for manoeuvre was blocked and all 43 amendments, tabled mostly by Socialists, Greens/EFA (8 amendments) and GUE were all rejected. We have strongly criticised the fact that the Parliament renounced to play fully its role of co-legislator by defending its 1st reading position.

Furthermore, the Commission announced that it would issue a "statement" to clarify a series of points (the legal meaning of the analyses and orientations that according to the Directive the Commission would deliver ; the need for further harmonisation ; the impact of the Directive on labour law ; its impact on criminal law ; its impact on social services). This initiative is mostly an attempt to hide the fact that the Parliament's vote in 2nd reading will be significantly worse than its vote in 1st reading.

In terms of content, the IMCO vote confirmed the existing situation since the adoption of a political agreement in the Council (see our note of 8 June 2006):

- *on the one hand, the Council took on board a large part of the Parliament's 1st reading position*, in particular the deletion of the country of origin principle, the fact that this Directive would not affect labour law, healthcare and the posting of workers directive ; many of these points were improvements compared to the initial Commission proposal (deletion of the country of origin principle ; the Directive would not affect labour law, healthcare, social services and the posting of workers), although they were insufficient in our view because (i) there was no legal clarity regarding the applicable law ; (ii) ; services of general economic interest remained included in the scope of the directive ; (iii) there was no serious harmonisation perspective ;

- *on the other hand, the Council aggravated the Parliament's 1st reading position* on a series of key points, in particular: (i) there was no direct reference to the European Charter of fundamental rights in the articles ; (ii) the indicative list of social services (excluded from the directive) was transformed into a limitative list ; (iii) the control and supervision of the State of destination in case of cross-border service provision was less clear.

Therefore the Greens/EFA of course voted against the draft Recommendation in IMCO (so did the GUE), which was adopted by a coalition of PPE + ALDE + half of the Socialists (the other half abstained).

2. Our strategy for the Plenary

The political landscape is worse than for the 1st reading in February.

- ▶ The mobilisation has dropped significantly, mainly because many of those who were opposed to the Commission's initial proposal have made triumphant announcements after the February vote, either to celebrate the "big victory of democracy and of the European Parliament" (especially among the main trends of the PSE), either to

celebrate the "big victory of the people" through the street demonstrations (including on the part of the opponents to the draft Constitutional Treaty). Trade Unions and other actors such as the Social Platform or the CECOP remain in principle mobilised, but not in a very visible way for the public opinion.

- ▶ The rigid attitude of the Council (in which there is no room for manoeuvre because the compromise between Member States is very precarious) has managed to intimidate those MEPs who could otherwise have supported amendments, not only among the PPE-ALDE but also among the Socialists. The Council's rigidity is such that it refused to endorse the statement that the Commission was ready to make in direction of the Parliament's position (see above), even though this statement has probably very few legal meaning.

Therefore there are very few chances to pass any amendment in the Plenary. The only possibilities seem to concern the reference to the European Charter and the social services. On the other hand, we must be conscious that if any amendment was voted, this could lead to a formal conciliation procedure with the Council, and the whole process of the adoption of the Directive could be jeopardized.

Facing this situation, we have theoretically **different possible amendment strategies**

- a) **a minimalist strategy**, consisting of focusing on 2-3 key amendments (Charter, social services)
- b) **an intermediate strategy**, consisting of retabling our 8 IMCO amendments (which together summarize all our major criticisms against the Council's common position)
- c) **a maximalist strategy**, consisting of tabling dozens of amendments in order to show how big is the difference between the Council's common position and the Parliament's 1st reading position.

The choice for a combination of efficiency and visibility

Strategy (a) does not seem to be ideal because it would fail to emphasise the global opposition of the Greens to the logic of the services directive. Our criticisms are not only technical and we should avoid giving the impression that we could be content with some marginal improvements.

Strategy (c) would be contradictory with our constructive attitude so far and could be criticised as "parliamentary obstruction". Besides, it could be counterproductive by alienating possible support of some MEPs to our key amendments.

Strategy (b) could conciliate the two objectives of giving a good visibility to our position and to optimise our (few) chances of adoption of our key amendments.

Therefore it is suggested to:

- ▶ retable our 8 IMCO amendments in the Plenary
- ▶ for those that concern the key points (Charter, social services), to try to have a converging strategy with Socialist MEPs who have tabled similar amendments.