



EU Supplement

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Introduction

This supplement covers the significant EU developments during March 2006 – May 2006 in the broad areas of social policy, consumer policy and citizens' rights.

Monthly updates are posted on the Citizens Information Database at the end of each month. (www.cidb.ie). These include more detailed information on many of the topics which are briefly described in the Supplement and on a number of other topics; information on proposals for new legislation and on reports published by the EU; information on calls for proposals for funding – these must be checked frequently as the closing dates are usually within a number of weeks of publication – and information on the implementation of EU Directives in Ireland.

There is further information about almost all the issues mentioned on the Europa website: <http://europa.eu>. In some cases, we give the extended website address. The Official Journal of the EU may be accessed via <http://eur-lex.europa.eu>.

Employment and Social Policy

Free movement of workers 2006 – 2009

Member states were required to decide, by 30 April 2006, whether or not they intended to continue the transition arrangements for free movement of workers from eight of the member states which joined the EU on 1 May 2004. Workers from Cyprus and Malta have full free movement. Ireland, Sweden and the UK have no restrictions. Finland, Greece, Portugal and Spain have now lifted all restrictions. Austria, Belgium, Denmark, France, Germany, Italy, Luxembourg, Netherlands are continuing restrictions but some of them intend to gradually introduce greater free movement.

New rules on free movement

Directive 2004/38/EC on the right of EU citizens and their family members to move and reside freely within the territory of the member states came into effect on 30 April 2006.

This Directive brings together and amends nine existing directives and one regulation. The existing rules are described in detail in the May 2004 issue of EU Supplement.

The main changes introduced by the new Directive are:

- ◆ Family reunification rights may be granted to the registered partner of an EU citizen if the host member state treats registered partners as equivalent to marriage; member states must facilitate entry and residence of partners with whom the EU citizens have a durable relationship
- ◆ Family members now have an autonomous right of residence in case of death of the EU citizen or the dissolution of marriage or registered partnership
- ◆ Administrative formalities are reduced – EU citizens are no longer obliged to get a residence card but they may still be required to register with the relevant authorities and prove that they comply with the residence conditions
- ◆ EU citizens will have the right of permanent residence in the host member state after five years
- ◆ There are further restrictions on the right to refuse entry and residence

The Directive confirms the right of EU citizens and their family members living in the territory of the host member state to equal treatment with the nationals of that member state. It expressly allows for two derogations from that right: the host member state is not obliged to:



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- ◆ Give entitlement to social assistance during the first three months of residence to students and other economically inactive people
- ◆ Grant maintenance aid for studies before the acquisition of the right to permanent residence

The new Directive on free movement of people has been implemented in Ireland by the European Communities (Free Movement of Persons) Regulations 2006 (Statutory Instrument No. 226 of 2006).

In practice, EU nationals living in Ireland were never required to register. Family members or partners who are entitled to live here because of their relationship to an EU national, and who are not themselves EU nationals do have to apply for a Residence Card. This applies to children under 16 – before this regulation came into effect, they did not need a residence card in Ireland.

EU nationals and their families may apply for a Permanent Residence Certificate or Card when they have lived here for a continuous period of five years – there is no obligation on them to do so.

Application forms for the relevant documents are available on the Department's website www.justice.ie

Services Directive

The Council has reached political agreement on the proposed revised Services Directive. It must now be discussed again in the European Parliament. The agreement involved some changes from the revised proposal issued by the Commission but the final text is not yet available.

The Commission's revised proposal takes account of most of the amendments made to the original proposal in the European Parliament (see EU Supplement, April 2006).

The basic idea behind the proposal is that service providers will be able to set up business in other member states. The proposal provides for various administrative arrangements to make the process easier and reduce the costs involved.

Exclusions

It is proposed that the following services be excluded from the scope of the Directive: financial services, telecommunications, transport services, port services, healthcare, social services relating to social housing, childcare and support of families and people in need, activities connected with the exercise of official authority, public administration; education, taxation, temporary work agencies, private security services, gambling and audiovisual services.

The proposed Directive will not apply to healthcare and it is the Commission's intention to bring forward a separate proposal in that area. The Parliament had also wanted to exclude legal services but the Commission considers that this is not required as the proposal already provides that, if there is a conflict between this proposal and a specific directive, the specific directive will prevail.

The Parliament wanted a general exclusion for social services. The Commission proposal specifies that the social services which are excluded are those relating to social housing, children and support to families and people in need which are provided by the State or by providers mandated by the State.

Labour law

The amended proposal does not affect labour law or the posting of workers. (The Commission has issued guidelines on the posting of workers at the same time as this amended proposal – see below).

http://europa.eu.int/comm/internal_market/services/services-dir/index_en.htm

Posting of Workers

The Commission has issued a Communication on the Posting of Workers Directive – "Guidance on the posting of workers within the framework of the provision of services". This arises in the context of the debate on the proposed Services Directive.

The Posting of Workers Directive (Directive 96/71/EC) has been in force since December 1999. It applies to workers who are sent to work in another member state for a temporary period. It requires that, where a member state has certain minimum terms and conditions of employment in force, these must also apply to workers posted temporarily by their employer to work in that member state.

Posted workers are people who, for a limited period, carry out their work in the territory of an EU member state other than the state in which they normally work. The Posting of Workers Directive applies to companies providing a cross-border service that:

- ◆ Post workers to another member state under a contract between them and a party in another member state for whom the services are intended
- ◆ Make intra-company postings
- ◆ Are temporary agencies who post workers

The definition does not include workers who simply decide to work in a member state outside their home country, nor does it include self-employed or independent workers.

The minimum conditions of employment which posted workers must have are those which apply to workers in the member state to which they are posted.

Posted workers pay social security contributions in accordance with the rules on social security for migrant workers (Regulation 1408/71). They pay social insurance contributions in their home country and not the country in which they are working during the period of posting, up to a maximum of 24 months. They are entitled to healthcare in the country in which they work.

In the Communication, the Commission gives guidance on the implementation of the Posting of Workers Directive. In particular, it points out that:

- ◆ There is no obligation on service providers to have a permanent representative on the territory of the host member state
- ◆ No prior authorisation can be requested by the host country for the posting of workers, but service companies may have to obtain a general authorisation in certain sectors when providing services in another member state
- ◆ Member states may ask for a declaration on the posting of workers prior to the beginning of work, to facilitate controls in the host countries
- ◆ Service providers must keep social documents such as time-sheets or documents related to health and safety conditions at the place of work

http://europa.eu.int/comm/employment_social/labour_law/postingofworkers_en.htm

Health and Consumer Affairs

European Driving Licence

Mutual recognition of driving licences has been in existence for some time (Directive 91/439/EEC). However, it seems that people sometimes have difficulties having their licence recognised – this is mainly because of different rules about the form of licences (there are 110 different models in circulation at present) and different medical rules. In 2003, the Commission issued a proposal to change the rules and the Council of Ministers has now reached political agreement on this proposal. It is expected that it will come into effect in 2012.

The new rules provide for one model of driving licence – credit card size. Each member state will be free to have extra information included on a driving licence and may include a microchip. All new licences issued from 2012 will be in this format.

The rules in relation to licences for large motorbikes will be changed and the new rules provide for a licence for

mopeds. Minimum standards for driving instructors will also be introduced. An EU-wide network for data exchange of driving licences will be established in order to prevent drivers who are banned from driving from getting a licence in another member state.

The new rules allow for a long transition period and for the continuing mutual recognition of licences during that period. Member states will have 26 years to replace existing driving licences.

The maximum validity of a driving licence will, in general, be 10 years but member states may raise this to 15. (In Ireland, the maximum validity is already 10 years). The maximum for licences to drive buses and trucks will be five years.

Hospital treatment in another EU member state

The European Court of Justice has issued a ruling in Case C-372/04: *The Queen, on the application of Yvonne Watts v Bedford Primary Care Trust and Secretary of State for Health*. This deals with the obligations of member states to reimburse people for the costs incurred in going to another member state for hospital treatment.

In general, you are entitled to travel to another member state to receive medical treatment if that treatment is not available in your home country or if it is not available there without undue delay.

The Court held that, in order to be entitled to refuse to grant authorisation on the ground of waiting time, the home country must establish that the waiting time, arising from objectives relating to the planning and management of the supply of hospital care, does not exceed the period which is acceptable in the light of an objective medical assessment of the clinical needs of the person concerned in the light of his medical condition and the history and probable course of his illness, the degree of pain he is in and/or the nature of his disability at the time when the authorisation is sought. The setting of waiting times should be done flexibly and dynamically, so that the period initially notified to the person concerned may be reconsidered in the light of any deterioration in his state of health occurring after the first request for authorisation. The referring court (in this case, the court in the UK) must decide whether the waiting time invoked by the NHS was greater than a medically acceptable period in the light of the patient's particular condition and clinical needs.

National authorities such as the NHS must provide mechanisms for the reimbursement of the cost of hospital treatment in another member state to patients to whom that service is not able to provide the treatment required within a medically acceptable period.

<http://curia.eu.int/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=C-372/04>

Seat belt use

The Directive on the compulsory use of seat belts (Directive 2003/20/EC of 8 April 2003 amending Council Directive 91/671/EEC on the approximation of the laws of the Member States relating to the compulsory use of safety belts in vehicles of less than 3.5 tonnes) was due to be incorporated into law in the member states by 9 May 2006. EU law already provided that it was compulsory to use seat belts in vehicles below 3.5 tonnes fitted with restraints. This has now been extended to all categories of vehicles. The Directive also requires the use of restraint systems specially adapted for children.

General

eGovernment Action Plan

The Commission has published its eGovernment Action Plan. This addresses five priority areas for 2010:

- ◆ No citizen left behind: the Commission will work with member states to make sure that by 2010 all citizens will have access to a wide range of technologies such as digital TV, PCs and mobile phones
- ◆ Raising efficiency
- ◆ Implementing e-Procurement
- ◆ Safe access to services EU wide: This aims to provide easy access to services for people who are moving and will involve establishing secure systems for mutual recognition of national electronic identities for public administration websites and services.
- ◆ Strengthening participation and democratic decision-making

http://europa.eu.int/information_society/activities/egovernment_research/index_en.htm

Future of the EU and the Citizens' Agenda

After the referendums in France and the Netherlands which rejected the proposed Constitutional Treaty for the EU, there has been much discussion on what is to happen next. A period of reflection was agreed. Since the period of reflection started, five countries have ratified the Constitution and two more are planning to do so – that means that 16 countries have now ratified it.

The Commission continues to support the proposed Constitutional Treaty and hopes that it will be ratified. In October 2005, it presented a “Plan D for Democracy, Dialogue and Debate”. It has now issued the “Citizens’ Agenda”. This is a result of the consultation process on Plan D and the national debates during the period of reflection.

The paper states that the Citizens’ Agenda for Europe must deliver peace, prosperity and solidarity in the context of globalisation.

The Communication proposes initiatives under the following headings:

- ◆ The single market: there will be a comprehensive review which will be finished in 2007
- ◆ Solidarity, access and sustainability: next year, the Commission proposes to launch an agenda for access and solidarity. It is considering an “entitlement card”, to facilitate the full access of citizens to their rights, and to make these rights more visible.
- ◆ Freedom, security and justice: the Commission intends to present an initiative to improve decision taking and accountability in areas such as police and judicial cooperation and legal migration
- ◆ Enlargement
- ◆ The EU in the world
- ◆ Budget reform
- ◆ Subsidiarity, better regulation and openness
- ◆ Ensuring that the EU institutions can deliver the policies

http://eur-lex.europa.eu/LexUriServ/site/en/com/2006/com2006_0211en01.pdf