



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.

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>.

EU Funding 2007–2013

Most of the legislation and guidelines for EU funding for the period 2007–2013 have been agreed or are at the final stages of agreement.

Structural funds

Legislation

The Council and the European Parliament have agreed the legislation necessary for the implementation of cohesion policy and the spending of the structural funds. This legislation consists of one general and four specific Regulations: the general Regulation sets out the common rules in programming, managing, controlling and evaluating the policy. The other four Regulations outline specific rules on the European Regional Development Fund (ERDF), the European Social Fund (ESF), the Cohesion Fund (CF) and the European grouping of territorial co-operation (EGTC), respectively. http://ec.europa.eu/regional_policy/funds/2007/index_en.htm

The Regulations are all published in OJ L210, 31 July 2006.

The funds

The European Regional Development Fund (ERDF) will support programmes addressing regional development, economic change, enhanced competitiveness and territorial cooperation throughout the EU.

The European Social Fund (ESF) will be implemented in line with the European Employment Strategy and it will focus on four areas:

- ◆ Increasing adaptability of workers and enterprises
- ◆ Enhancing access to employment and participation in the labour market
- ◆ Reinforcing social inclusion by combating discrimination and facilitating access to the labour market for disadvantaged people
- ◆ Promoting partnership for reform in the fields of employment and inclusion

The Cohesion Fund contributes to interventions in the field of the environment and trans-European transport networks. It applies to member states with a gross national income (GNI) of less than 90% of the EU average which means it covers the new member states as well as Greece and Portugal. Spain will be eligible for the Cohesion Fund on a transitional basis.

The aim of the European Grouping of Territorial Co-operation (EGTC) is to facilitate cross-border, trans-national and/or inter-regional co-operation between regional and local authorities.

In the period 2007–2013, the EU plans to spend €308 billion in promoting cohesion and regional development. The bulk of the funds (82%) will be allocated to the poorest states and regions to help with “convergence”, that is, to help them converge with the rest of the EU. The criterion for qualifying for this part of the funds is that the country or region's GDP is below the EU average.

In the other regions, about 16% of the Structural Funds will be concentrated to support innovation, sustainable development, better accessibility and training projects under the “Regional Competitiveness and Employment” objective. Another 2.5% of the funds will be allocated to cross-border, trans-national and interregional cooperation under the “European Territorial Cooperation” objective.

http://ec.europa.eu/regional_policy



information for all

Guidelines

The Commission has published a draft proposal for a Decision on Community Strategic Guidelines for Cohesion Policy. This proposes to establish the priorities for investment under the new programmes in accordance with the EU's growth and jobs agenda. National governments will use the guidelines as the basis for drafting their National Strategic Reference Frameworks (NSRFs) and their national and regional operational programmes for the period 2007–2013. http://ec.europa.eu/regional_policy/sources/docoffic/2007/osc/index_en.htm

The Commission has also published a Communication on the specific contribution of cities to growth and jobs. http://ec.europa.eu/regional_policy/consultation/urban/index_en.htm

Employment and Social Solidarity

The Council has reached political agreement on a draft Decision establishing a Community Programme for Employment and Social Solidarity. The aim of the Programme is to provide financial support for the implementation of the objectives of the EU in the employment and social affairs area. It has five sections: employment, social protection and inclusion, working conditions, anti-discrimination and diversity, and gender equality. It will replace the following programmes:

- ◆ EU action programme to combat discrimination (2001 to 2006)
- ◆ Programme relating to the EU framework strategy on gender equality
- ◆ Programme of EU action to encourage cooperation between member states to combat social exclusion
- ◆ Community incentive measures in the field of employment
- ◆ Community action programme to promote organisations active at European level in the field of equality between men and women
- ◆ Activities undertaken at EU level in relation to working conditions

European Fisheries Fund (EFF)

The European Fisheries Fund (EFF) will replace the Financial Instrument for Fisheries Guidance (FIFG) at the end of 2006 and will operate for the period 2007–2013.

LIFE+

The Council has reached a Common Position on the new 'LIFE+' Financial Instrument for the Environment. LIFE+ will bring together a range of existing environmental programmes and instruments in a single framework. These existing instruments include the current LIFE programme, the Forest Focus and Urban programmes, DG Environment's funding programme for environmental non-governmental organisations (NGOs), and a general fund for policy development and implementation.

LIFE+ will address all four priority areas of the Sixth Environment Action Programme (6EAP, running from 2002 to 2012) – climate change; nature and biodiversity; health and quality of life; natural resources and waste – as well as the programme's seven thematic strategies.

Employment and Social Policy

Disability and dismissal

The European Court of Justice has given an interpretation of the concept of "disability" for the purpose of the Directive on equal treatment in employment and occupation (in Case C-13/05). The Directive does not define disability. The ECJ ruled that it must be understood as a limitation which results in particular from physical, mental or psychological impairments and which hinders the participation of the person concerned in professional life. It cannot be treated as the same as "sickness". It must be probable that it will last a long time. There is nothing in the Directive to suggest that workers are protected by the prohibition of discrimination on grounds of disability as soon as they develop any type of sickness.

<http://curia.europa.eu/juris/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=C-13/05>

Services Directive

The Council has agreed its common position on the proposed Services Directive. It must now be considered again by the European Parliament.

The Council decided to slightly modify the Commission's amended proposal in order to clarify the exact scope of application and the services which are excluded from the Directive such as social services and healthcare services. The common position also clarifies that the Directive does not affect member states' labour law or the social security legislation which they apply in accordance with national law while respecting EU law. The Directive will not apply to taxation.

The services covered by the Directive include the following:

- ◆ Business services (management consultancy, certification and testing, advertising, recruitment services)
- ◆ Services provided both to businesses and to consumers (including legal or fiscal advice; real estate services; construction; distributive trades; the organisation of trade fairs; car rental; travel agencies)
- ◆ Consumer services (tourism, including tour guides; leisure services, sports centres and amusement parks)

The services to which it does not apply are:

- ◆ Non-economic services of general interest
- ◆ Financial services
- ◆ Electronic communications services and networks, and associated facilities and services
- ◆ Transport services and transport-related services
- ◆ Services provided by temporary work agencies
- ◆ Healthcare services
- ◆ Audiovisual services (including cinematographic services and radio broadcasting)
- ◆ Gambling activities (including lotteries, gambling in casinos and betting transactions)
- ◆ Activities which are connected with the exercise of official authority
- ◆ Social services as defined in the common position
- ◆ Services provided by notaries and bailiffs appointed by an official act of government

Within five years of its entry into force, the Commission must present a comprehensive report on the application of the Directive.

Discrimination against smokers

It has been suggested that EU legislation allows employers to discriminate against smokers. This is not necessarily the case. EU legislation deals with discrimination on a number of grounds. Discrimination in the workplace on the grounds of age, disability, sexual orientation and religion or belief is outlawed and discrimination on the grounds of race/ethnic origin and sex is generally prohibited. Discrimination on the grounds of smoking is not specifically covered by EU legislation. This does not necessarily mean that discrimination on the grounds of smoking is allowed. It is a matter for individual governments and the courts in their countries to decide whether or not any case of discrimination against smokers is legitimate or not.

Health and Consumer Affairs

Disabled air travellers

The Council has agreed rules which strengthen the rights of people with disabilities and people with reduced mobility who are travelling by air. The Regulation aims to ensure that they are protected against discrimination and that they receive appropriate assistance.

The Regulation provides that a reservation or embarkation can only be refused for justified safety reasons or if, due to the size of the aircraft or its doors, the embarkation or carriage of a person with a disability or a person with reduced mobility is physically impossible. If the person is refused a reservation, an acceptable alternative must be offered.

If embarkation is refused, the person must be offered reimbursement or re-routing. Airport authorities will be obliged to provide assistance without extra cost to the person concerned but it may levy a charge on all passengers.

Regulation (EC) No 1107/2006 of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air is published in OJ L 204, 26 July 2006.

Roaming charges

The Commission has published a proposal for a Regulation to cap the cost of using mobile phones when travelling within the EU. The aim is to ensure that prices paid by consumers for roaming services within the EU are not unjustifiably higher than those they pay for calling within their own country (European Home Market Approach).

http://ec.europa.eu/information_society/activities/roaming/index_en.htm

Justice and Home Affairs

European Evidence Warrant

The Council has agreed a general approach on a draft Decision on the European Evidence Warrant (EEW) for obtaining objects, documents and data for use in proceedings in criminal matters. The idea behind the EEW is that an order issued by a judicial authority in one member state would be directly recognised and enforced by a judicial authority in another member state. It is proposed to establish the EEW in two steps. The first step covers evidence which exists and is readily available. At a later date, there will be a proposal for a second instrument to cover other evidence. This means that the following procedures for gathering evidence are not included in the provisions which have now been agreed and will be covered by the second instrument:

- ◆ Conducting interviews, taking statements or initiating other types of hearings involving suspects, witnesses, experts or any other party
- ◆ Carrying out bodily examinations or obtaining bodily material or biometric data directly from the body of any person, including DNA samples or fingerprints
- ◆ Obtaining information in real-time such as through the interception of communications, covert surveillance or monitoring of bank accounts
- ◆ Conducting analysis of existing objects, documents or data
- ◆ Obtaining from the executing authority of communications data retained by providers of a publicly available electronic communications service or a public communications network

European small claims procedure

The Council reached general agreement on the proposed Regulation establishing a European small claims procedure. This Regulation aims to simplify and speed up litigation concerning small claims in cross-border cases and reduce costs by establishing a European procedure for small claims. It will apply, in cross-border cases and subject to a range of exceptions, in civil and commercial matters where the value of a claim is not greater than €2000.

EU policies on freedom, security and justice

The Commission has issued four Communications on its policies in the areas of Justice, Freedom and Security (JLS). The policies in the JLS area are set out in the Hague Programme which runs until 2009 and cover areas such as free movement of people, terrorism and organised crime, police and judicial cooperation, asylum and migration policy, and fundamental rights.

The Communications identify many of the problems which exist in this area. Among those are the different legal frameworks and decision-making procedures which apply. Many aspects of these policies have to be decided within what is called the "Third Pillar". This means that decisions must be unanimous and there is no clear mechanism for ensuring their implementation, for example, the Court of Justice does not have its usual powers to require implementation. The Commission intends to bring forward proposals to have more JLS issues dealt with under the usual processes – with greater involvement from the Commission and the Court of Justice and with qualified majority voting.

The Commission makes a number of proposals for action and implementation before the expiry of the Hague Programme.

Repatriation while awaiting trial – European Supervision Order

The Commission has published a Proposal for a Council Framework Decision allowing non-resident EU citizens who are suspected of a crime in another member state to go back to and be under the control of their home member state instead of awaiting trial in custody or being subject to other supervision measures in the member state where the alleged offence was committed. Different practices in relation to pre-trial detention exist in the member states and these cannot be transferred across borders. For example, a requirement to report daily to a Garda station is sometimes imposed on people awaiting trial in Ireland – this cannot, at present, be transferred into a requirement to report to the French police.

The main aim of this proposal is to let a judicial authority, in the member state where the alleged offence has been committed, transfer a non-custodial pre-trial supervision measure to the member state where the suspect normally lives. This would be done by issuing a European Supervision Order. The corresponding authority in the member state of residence would then be obliged to recognise and execute the supervision order in its territory until the trial takes place in the member state where the alleged offence occurred.
http://ec.europa.eu/dgs/justice_home/evaluation/dg_coordination_evaluation_annexe_en.htm

Cross-border divorce proceedings

The Commission has published a proposal for an amended Regulation on the applicable law and jurisdiction in divorce matters. It proposes to amend Regulation (EC) no. 2201/2003 of 27 November 2003 – this is sometimes described as the "new Brussels II Regulation". (See *Relate*, May 2005 for a detailed description of this Regulation.)

The present Regulation does not set out what the applicable law is but it does set out the rules on jurisdiction and recognition of divorce judgments. The proposed Regulation does set out rules on the applicable law and amends the rules on jurisdiction. It does not change the individual member states' rules on the granting of divorces.

Matrimonial property

The Commission has published a Green Paper on conflict of laws in matters concerning matrimonial property regimes, including the question of jurisdiction and mutual recognition. The Green Paper mainly deals with issues concerning which law should apply in the case of couples (both married and unmarried and those in civil partnership arrangements) with property in more than one country.

http://ec.europa.eu/justice_home/news/consulting_public/news_consulting_public_en.htm