

Summarised report

REPORT 6/2016 OF THE JOINT COMMITTEE FOR EU AFFAIRS, DATED APRIL 27, 2016, ON THE COMPLIANCE WITH THE PRINCIPLE OF SUBSIDIARITY BY THE PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING DIRECTIVE 96/71/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 16 DECEMBER 1996 CONCERNING THE POSTING OF WORKERS IN THE FRAMEWORK OF THE PROVISION OF SERVICES [COM (2016) 128 FINAL] [2016/0070 (COD)]

BACKGROUND

- A.** The legal basis for this report is to be found in articles 3 j), 5 and 6 of Act 8/1994 (amended by Act 24/2009), developing in Spain the Protocol on the Application of the Principles of Subsidiarity and Proportionality attached to the Lisbon Treaty.
- B.** The deadline to verify the subsidiarity check of this Proposal is May 10, 2016.
- C.** The Government has been requested a report and MP Ms. María Irigoyen Pérez has been appointed as rapporteur for the subsidiarity report on this initiative.
- D.** In its meeting held on April 27, 2016, the Joint Committee for EU Affairs adopted Report 6/2016.

REPORT

- 1.** Articles 5 (1) and 5 (3) of the TEU describe the principles of subsidiarity and proportionality.
- 2.** The legislative Proposal under consideration is based on articles 53 (1), 62 and 294 of the TFEU.
- 3.** The objective of this Proposal is to introduce a series of measures in Directive 96/71/EC to address unfair practices and promote the principle that the same work at the same place should be remunerated in the same manner.
- 4.** Measures included in the Proposal are in line with the principle of “equal pay for equal work in the same place”. Some of these measures are:
 - a) the labour law applicable to a work contract shall be that of the State in whose territory the work is carried out.
 - b) collective agreements shall be universally applicable to posted workers in all sectors of the economy.
 - c) the rules on remuneration applicable to local workers shall also be applicable to posted workers.

d) Member States shall be obliged to publish in the Internet the constituent elements of remuneration applicable to posted workers.

e) Member States are given the faculty to oblige undertakings to subcontract only to undertakings that grant workers certain conditions on remuneration applicable to the contractor.

f) workers assigned by a temporary agency to another company shall enjoy the same labour conditions legally established for the territory of the Member State where the work is carried out.

5. The existence of the principle of “equal pay for equal work in the same place” was due to the important differences in labour legislations of Member States, which generated imbalances that undermine the values enshrined in the European Social Charter and the social market economy. The said imbalances could be solved amending Union law in force in line with the Proposal under consideration.

Given its very nature, the correction of problems affecting workers posted in several Member States requires a transnational approach, hence the need of a concerted EU action.

CONCLUSION

For the aforementioned reasons, the Joint Committee considers that this Proposal complies with the principle of subsidiarity laid down in the Treaty on the European Union in force.