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To : President of the Council of the European Union

Subject: 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
[doc. 6987/16 SOC 144 EMPL 97 MI 142 COMPET 118 CODEC 279 - COM(2016) 128 final]
- *Reasoned opinion on the application of the Principles of Subsidiarity and Proportionality*¹

Delegations will find attached the above mentioned opinion.

¹ For available translations of this opinion see the interparliamentary EU information exchange site (IPEX) at the following address: <http://www.ipex.eu/IPEXL-WEB/dossier/document/COM20160128.do>



**HRVATSKI SABOR
PREDSJEDNIK**

Klasa: 022-03/16-03/75
Urbroj: 6511-16-03
Zagreb, 6. svibnja 2016.

**EUROPSKI PARLAMENT
predsjednik Martin Schulz**

**VIJEĆE EUROPSKE UNIJE
predsjedavajući Bert Koenders**

**EUROPSKA KOMISIJA
predsjednik Jean-Claude Juncker**

Poštovani predsjednici,

u skladu s člankom 6. stavkom 1. Protokola br. 2 o primjeni načela supsidijarnosti i proporcionalnosti dostavljam vam Obrazloženo mišljenje Hrvatskog Sabora o Prijedlogu direktive Europskog parlamenta i Vijeća o izmjeni Direktive 96/71/EZ Europskog parlamenta i Vijeća od 16. prosinca 1996. o upućivanju radnika u okviru pružanja usluga, koje je Odbor za europske poslove donio na svojoj 7. sjednici 5. svibnja 2016.

S poštovanjem,

PREDSJEDNIK HRVATSKOGA SABORA



akademik Željko Reiner



H R V A T S K I S A B O R
Odbor za europske poslove

Klasa: 022-03/16-03/75
Urbroj: 6521-31-16-01
Zagreb, 5. svibnja 2016.

Obrazloženo mišljenje

o

**Prijedlogu direktive Europskog parlamenta i Vijeća o izmjeni Direktive 96/71/EZ
Europskog parlamenta i Vijeća od 16. prosinca 1996. o upućivanju radnika u okviru
pružanja usluga COM (2016) 128**

Odbor za europske poslove je, na temelju ovlasti dodijeljenih Zakonom o suradnji Hrvatskoga sabora i Vlade Republike Hrvatske u europskim poslovima i Poslovníkom Hrvatskoga sabora, 5. svibnja 2016. održao sjednicu na kojoj je raspravljao o Prijedlogu direktive Europskog parlamenta i Vijeća o izmjeni Direktive 96/71/EZ Europskog parlamenta i Vijeća od 16. prosinca 1996. o upućivanju radnika u okviru pružanja usluga COM (2016) 128.

U skladu s ovlastima koje nacionalnim parlamentima država članica Europske unije dodjeljuju Ugovor o Europskoj uniji i Ugovor o funkcioniranju Europske unije, a posebno Protokol (br. 2) o primjeni načela supsidijarnosti i proporcionalnosti, članovi Odbora raspravljali su o navedenom Prijedlogu direktive iz perspektive poštovanja načela supsidijarnosti, kako je ono definirano člankom 5. stavkom 2. Ugovora o Europskoj uniji.

Nakon provedene rasprave Odbor za europske poslove je na temelju članka 158. stavka 5. Poslovníka Hrvatskoga sabora donio sljedeće

OBRAZLOŽENO MIŠLJENJE

Prijedlog direktive Europskog parlamenta i Vijeća o izmjeni Direktive 96/71/EZ Europskog parlamenta i Vijeća od 16. prosinca 1996. o upućivanju radnika u okviru pružanja usluga nije u skladu s načelom supsidijarnosti.

OBRAZLOŽENJE

Odbor za europske poslove utvrdio je da, protivno članku 5. Protokola br. 2 o primjeni načela supsidijarnosti i proporcionalnosti, Prijedlog direktive Europskog parlamenta i Vijeća o izmjeni Direktive 96/71/EZ Europskog parlamenta i Vijeća od 16. prosinca 1996. o upućivanju radnika u okviru pružanja usluga ne sadrži detaljnu izjavu kojom bi se omogućila procjena sukladnosti s načelima supsidijarnosti i proporcionalnosti, iz čega slijedi da Europska komisija kao predlagatelj akta nije opravdala potrebu donošenja zakonodavnog akta na razini Europske unije.

Nadalje, Odbor za europske poslove, polazeći od članka 56. Ugovora o funkcioniranju Europske unije, smatra da predmetni Prijedlog direktive otvara pitanja ograničavanja slobode pružanja usluga unutar Europske unije te naglašava da je cijena rada legitiman element konkurentnosti tvrtki na unutarnjem tržištu Europske unije.

Slijedom navedenog Odbor za europske poslove postavlja pitanje opravdanosti ulaska predlagatelja u načelo autonomije poslodavaca i sindikata u procesu kolektivnog pregovaranja.

Odbor za europske poslove također smatra da predlaganje izmjena Direktive 96/71/EZ u razdoblju dok još teče rok za prenošenje Direktive 2014/67/EU o provedbi Direktive 96/71/EZ o upućivanju radnika u okviru pružanja usluga i izmjeni Uredbe (EU) br. 1024/2012 o administrativnoj suradnji putem Informacijskog sustava unutarnjeg tržišta („Uredba IMI“) u nacionalna zakonodavstva država članica predstavlja pretjeranu regulaciju te stvara okružje pravne nesigurnosti za radnike i tvrtke, što je izravno u suprotnosti s načelima unutarnjeg tržišta.


PREDSJEDNIK ODBORA

Gordan Jandroković



**CROATIAN PARLIAMENT
SPEAKER**

Class: 022-03/16-03/75
Ref No: 6511-16-03
Zagreb, 6 May 2016

**EUROPEAN PARLIAMENT
President Mr Martin Schulz**

**COUNCIL OF THE EUROPEAN UNION
President in Office Mr Bert Koenders**

**EUROPEAN COMMISSION
President Mr Jean-Claude Juncker**

Your Excellencies,

In line with Article 6 paragraph 1 of Protocol (No 2) on the application of the principles of subsidiarity and proportionality, I herewith submit to you the Croatian Parliament's Reasoned Opinion on 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, which the European Affairs Committee adopted at its 7th session on 5 May 2016.

Yours sincerely,

**SPEAKER
OF THE CROATIAN PARLIAMENT
Željko Reiner, MD, PhD**



CROATIAN PARLIAMENT
European Affairs Committee

Class: 022-03/16-03/75
RefNo: 6521-31-16-01
Zagreb, 5 May 2016

Reasoned Opinion

on

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

In exercise of the powers conferred by the Act on the Co-Operation of the Croatian Parliament and the Government of the Republic of Croatia in European Affairs and the Standing Orders of the Croatian Parliament, on 5 May 2016 the European Affairs Committee held a session to discuss 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.

In accordance with the powers conferred upon national Parliaments of EU Member States by the Treaty on European Union and the Treaty on the Functioning of the European Union, and in particular by Protocol (No 2) on the application of the principles of subsidiarity and proportionality, the Committee members discussed the above mentioned Proposal for a Directive from the perspective of respecting the principle of subsidiarity, as defined by Article 5, paragraph 2 of the Treaty on European Union.

Under Article 158, paragraph 5 of the Standing Orders of the Croatian Parliament, after having discussed the matter, the European Affairs Committee adopted the following

REASONED OPINION

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 does not comply with the principle of subsidiarity.

EXPLANATION

The European Affairs Committee has concluded that, contrary to Article 5 of Protocol No 2 on the application of the principles of subsidiarity and proportionality, 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 does not contain a detailed statement making it possible to appraise compliance with the principles of subsidiarity and proportionality. It therefore follows that the European Commission, as the author of this proposal, has not substantiated the need for adopting the draft legislative act at European Union level.

Furthermore, referring to Article 56 of the Treaty on the Functioning of the European Union, the European Affairs Committee considers that the present Proposal for a Directive raises concerns about restrictions on freedom to provide services within the European Union and stresses that labour cost is a legitimate element of companies' competitiveness in the EU internal market.

Consequently, the European Affairs Committee questions the justification for the author's proposal to interfere with the principle of autonomy of employers and trade unions in the process of collective bargaining.

The European Affairs Committee also believes that proposing amendments to Directive 96/71/EC when the deadline for transposition into national law of Directive 2014/67/EU on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation') has not yet expired, leads to overregulation and creates an environment of legal uncertainty for employees and companies, contravening the principles of the internal market.

CHAIRMAN OF THE COMMITTEE

Gordan Jandroković