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European Union

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MI 334  
COMPET 233  
CODEC 647  
JUSTCIV 111  
INST 213  
PARLNAT 148**

#### **COVER NOTE**

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From: The Bulgarian Parliament

To: President of the Council of the European Union

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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*<sup>1</sup>

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Delegations will find attached the above mentioned opinion.

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<sup>1</sup> 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>



**РЕПУБЛИКА БЪЛГАРИЯ**  
**НАРОДНО СЪБРАНИЕ**

**ПРЕДСЕДАТЕЛ**

**ДО**  
**Г-Н МАРК РУТЕ**  
**ПРЕДСЕДАТЕЛ НА СЪВЕТА НА**  
**ЕВРОПЕЙСКИЯ СЪЮЗ**

**ОТНОСНО:** Мотивирано становище на Народното събрание на Република България относно Предложение за Директива на Европейския парламент и на Съвета за изменение на Директива 96/71/ЕО на Европейския парламент и на Съвета от 19 декември 1996 година относно командироването на работници в рамките на предоставянето на услуги

**УВАЖАЕМИ ГОСПОДИН РУТЕ,**

На свое заседание, проведено на 20 април 2016 г., Комисията по европейските въпроси и контрол на европейските фондове (КЕВКЕФ) в Народното събрание на Република България обсъди Предложение за Директива на Европейския парламент и на Съвета за изменение на Директива 96/71/ЕО на Европейския парламент и на Съвета от 19 декември 1996 година относно командироването на работници в рамките на предоставянето на услуги.

След като внимателно обсъдиха проекта на акт и вземайки предвид изразената Рамкова позиция от Съвета по европейски въпроси в Министерския съвет на Република България, членовете на КЕВКЕФ се обединиха около необходимостта да упражнят правомощията дадени на Народното Събрание по силата на чл. 6 от Протокол №2 към Договора за функциониране на Европейския съюз, като изразят мотивирано становище (тук приложено) по горепосоченото предложение за Директива.

В рамките на утвърдената процедура, приложено представям на Вашето внимание приетия доклад и мотивираното становище към него, отразяващо позицията на българския парламент по темата.

*Приложение: Съгласно текста.*

С УВАЖЕНИЕ,

**ЦЕЦКА ЦАЧЕВА**  
**ПРЕДСЕДАТЕЛ**  
**НА НАРОДНОТО СЪБРАНИЕ**  
**НА РЕПУБЛИКА БЪЛГАРИЯ**

Courtesy Translation

**TO**  
**MR MARK RUTTE**  
**PRESIDENT OF THE COUNCIL**  
**OF THE EUROPEAN UNION**

**SUBJECT:** Reasoned opinion of the National Assembly of the Republic of Bulgaria on 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

**DEAR MR RUTTE,**

On a sitting held on 20 April 2016, the Committee on European Affairs and Oversight of the European Funds within the National Assembly of the Republic of Bulgaria examined 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, with regards to the principles of subsidiarity and proportionality.

After discussing the proposal for a Directive and taking into consideration the framework position of the Republic of Bulgaria, the committee members united in the necessity to exercise the rights granted to the National Assembly by Article 6 of Protocol № 2 of the Treaty on Functioning of the European Union, by expressing a Reasoned opinion on the proposal for a Directive.

In the light of the above-mentioned, please find enclosed the adopted Report and Reasoned opinion, which reflects the Bulgarian Parliament's position on the subject.

**ENCLOSURE:** as per text.

**YOURS SINCERELY,**

**PRESIDENT OF**  
**THE NATIONAL ASSEMBLY OF**  
**THE REPUBLIC OF BULGARIA**  
**TSETSKA TSACHEVA**



**NATIONAL ASSEMBLY  
OF THE REPUBLIC OF BULGARIA**

**REASONED OPINION**

**OF THE NATIONAL ASSEMBLY OF THE REPUBLIC OF BULGARIA ON 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**

On a regular session held on 20 April 2016, the Committee on European Affairs and Oversight of the European Funds (CEAOEF) within the National Assembly of the Republic of Bulgaria discussed the above-mentioned Proposal for a Directive.

Following the discussion on 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, CEAOEF expresses the following reasoned opinion, which is to be sent to the European institutions:

1. CEAOEF considers that the proposal for a Directive does not comply with the principle of subsidiarity, as set out in Article 5, Paragraph 3 of the Treaty on European Union (TEU). The provided amendment in Article 3, Paragraph 1 of Directive 96/71/EC introduces mandatory extension of the scope of the collective labor agreements, so as to include the posted workers in all sectors of the economy. It should be taken into consideration that the existing provisions give the Member States the right of choice in this matter and, according to the EC assessment, the majority of them have already exercised it. In regard to this we consider that the Commission has not provided convincing evidence that the purpose of its action cannot be sufficiently achieved by the Member States.
2. CEAOEF notes that the provisions of Article 5 of the Protocol № 2 of the TFEU have not been observed. According to this article any draft legislative act should contain a detailed justification for compliance with the principle of subsidiarity. In the explanatory memorandum to the proposal for a Directive there are neither qualitative and quantitative indicators to support it, nor financial analysis of its impact. This hinders the national parliaments to adequately assess the draft act, as provided by Article 6 of the Protocol № 2 of the TFEU.
3. CEAOEF believes that the proposal for a Directive does not comply with the principle of proportionality, as set out in Article 5, Paragraph 4 of the TEU, since it introduces an additional administrative burden, without clarifying what the actual benefit for the posted workers would be. A quantitative reasoning of the expected by the Commission positive effect is needed.
4. CEAOEF welcomes the effort of the EC to introduce equal payment for performing the same work at the same place. However, in our opinion this objective cannot be achieved in an administrative way, but should be based on economic logic.
5. Last but not least, CEAOEF is concerned that the EC intention to equalize payments between the seconded and the local workers will remove the existing competitive advantages of certain service providers. This would lead to restriction of the access to the Single Market for businesses from the less developed economies within the European Union.