



POSITION PAPER European Environmental Organisations on:

Proposal for a Directive of the European Parliament and of the Council on services in the internal market

(The "Bolkestein Directive")

April 12, 2005.



Friends of the Earth Europe



GREENPEACE



In this paper the eight undersigning environmental organisations limit their comments to the environmental dimension of the services Directive only, and do not focus on the wider issues that are under discussion at the moment.

Birdlife International, Climate Action Network Europe, the European Environmental Bureau, the European Federation for Transport and Environment, the Environmental Network of the European Public Health Alliance, Friends of Nature International, Friends of the Earth Europe and Greenpeace, note that the Commission has done a very poor job in considering the possible consequences of this Directive for the environment. Such a consideration is required as the first step to implement Article 6 of the EC Treaty, which insists that all Community policies integrate environmental protection requirements, in particular with a view to promoting sustainable development.

In its impact assessment, the Commission only looks at the possible extra pressure on the environment due to the extra economic activity and increased travel, and expects this to be miraculously neutralised by infrastructure management policies and "a decrease in travel currently resulting from administrative procedures".

The Commission however does not pay attention to the major issue of the directive legalising violations of national environmental laws and policies by foreign service providers and the general undermining impact that it can have on the effectiveness and acceptability of such laws and policies. Nor does the Commission pay attention to the complications which the "country of origin" principle will bring for environmental authorities, who will be required to operate in 25 or more countries to control the activities of "their" service providers abroad, rather than just one.

The Directive does provide an opening to diverge from the country-of-origin principle (article 17, par. 17)¹ but that is formulated in a rather restrictive way, which could lead to a lot of disputes.

The organisations consider that national, regional and local rules with regards to the protection of people's health, the environment and biodiversity should be fully respected by any economic actor in the relevant area, irrespective where such an actor comes from. **Therefore the "country of origin principle" should not apply in any way in these areas.**

The organisations have four reasons for this position;

1. The need for certainty for citizens that their authorities can and will apply the agreed national, regional or even local, environmental and public health policies and legislation, without being restricted in their enforcement mandate in any way due to the origin of certain actors;
2. The reality that still considerable differences exist between EU Member States with regards to the content of their environmental and public health protection policies, as well as with the seriousness of enforcement;
3. The recognition in the EC Treaty, articles 174 and 176, that Member States are allowed, within certain limits, to maintain and develop their own environmental policies beyond what has been agreed on the EU level;
4. The ridiculous burden that the Directive puts on "countries of origin" to control the behaviour of "their" service providers when providing services abroad, in up to 24 other Member States.

CONCLUSIONS:

1. The Directive should fully and systematically exempt from the country of origin principle any legislation or other policy related to the protection and/or improvement of the environment, of biodiversity and of public health.

2. The Directive should ensure that authorities in Member States, on the relevant level, have the unrestricted right to require that foreign service providers are familiar with, and comply with, the relevant environmental, nature protection, and public health legislation for the situation in which they will operate, and are able to communicate with citizens who might be affected by certain activities, in the local language.

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¹ [the country of origin principle shall not apply to] *“specific requirements of the Member State to which the provider moves, that are directly linked to the particular characteristics of the place where the service is provided and with which compliance is indispensable for reasons of public policy or public security or for the protection of public health or the environment”*;