

Posting of workers: New proposal won't bring legal certainty

(8 March 2016, Brussels)

Today the European Commission proposed to reopen the EU directive on posting of workers.

Markus J. Beyrer, Director General of BUSINESSEUROPE commented:

“We disagree fundamentally with the European Commission’s view that amending the 1996 posting of workers directive is necessary to ensure fair competition in the single market. The existing EU directive guarantees that minimum rates of pay and other core employment conditions of the host country are applicable to posted workers”.

There is also a new EU enforcement directive dating from 2014. It has not yet been fully implemented as the deadline for national transposition is 18 June 2016. The 1996 and 2014 texts together ensure both, the free provision of services across internal EU borders and an adequate protection for posted workers.

“Changing legislation would bring new uncertainty for business in Europe. It also spurs the danger of opening yet another divisive debate among EU Member States at a time where restoring trust and unity is the priority”.

The competence to set rules on remuneration lies with each EU Member State. The proposed revision respects their competence. This is positive. However, foreign service providers will be obliged to apply universally or generally guaranteed remuneration terms and conditions of the host country to posted workers instead of minimum rates of pay in the existing directive.

Remuneration has many different components. It is a complex notion. Each EU Member State will need to specify which remuneration elements are universally or generally guaranteed and must therefore be applied to posted workers. Far from clarifying the situation compared with the existing EU directives, the proposed revision adds to the complexity.

BUSINESSEUROPE also deplores that a joint request of the European social partners for a deeper consultation to explore various possible solutions to fight abuse was ignored.

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