



EUROPEAN COMMISSION

Brussels, 15.7.2013
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Dear President,

The Commission would like to thank the Senát for its Opinion concerning the Proposal for a Directive of the European Parliament and of the Council on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services {COM(2012) 131 final}, and apologises for the long delay in replying.

The proposal that is now before the co-legislators contains a balanced set of measures confirming the Commission's strong commitment to strengthen the social dimension of the Single Market, restore confidence among all stakeholders – workers, businesses and implementing authorities – and re-launch growth. The Single Market will only work efficiently with the support of all stakeholders and on the basis of fair competition and the respect of fundamental social rights in the framework of the provision of services and the freedom of establishment.

With respect to the points raised, the Commission agrees with the Senát that further facilitation of the free movement of services should not take place at the expense of the level of protection of the work conditions. The proposal for an enforcement directive entails a balanced package intended to improve the protection of workers' rights, prevent circumvention and/or abuse of the applicable rules and contribute to a climate of fairer competition by guaranteeing a better level playing field and legal certainty for service providers and service recipients.

The Commission fully shares the view that there is a need to combat the establishment of fictional branches in other Member States with the aim to circumvent labour-protection requirements and would like to recall that the proposal contains a non-exhaustive list of indicative criteria to avoid abuse and circumvention of the applicable rules to posted workers.

Improved administrative cooperation and more efficient use of existing information-sharing tools are equally important to raise awareness and better enforce posted workers' rights.

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The Commission can assure the Senát that the proposal respects the different social models and the diversity of existing industrial relations systems in the Member States and therefore does not intend to regulate other ways of engagement of trade unions in labour law disputes than the ones already foreseen at national level.

The Commission takes note of the Senát's opposition to allowing for the possibility to designate a contact person for negotiations with social partners which in certain Member States may be an important prerequisite in order to set the relevant terms and conditions of employment to be respected.

The Commission acknowledges, but regrets the lack of support for the provisions concerning the responsibility of the general contractor for his subcontractor's compliance with labour law conditions. The importance of a joint and several liabilities in order to better protect posted workers' rights in subcontracting chains and its deterrent effect should not be underestimated. The Commission equally recalls that the present proposal only foresees the introduction of a limited form of direct subcontractor joint and several liabilities at EU level.

The Commission hopes that these clarifications address the comments and concerns raised by the Senát and looks forward to continuing our constructive political dialogue in the future.

Yours faithfully,

*Maroš Šefčovič
Vice-President*