

Courtesy translation

**Opinion
of the Foreign and European Union Affairs Committee
of the Senate of the Republic of Poland
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
COM(2016)128**

adopted at the meeting of 12 April 2016

1. The Foreign and European Union Affairs Committee of the Senate of the Republic of Poland (FEUAC) does not support 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).
2. While appreciating the value of ensuring the broadest possible rights to posted workers, the FEUAC believes that the said proposal is a breach of the principle of proportionality. While introducing additional restrictions and administrative burdens the Commission did not indicate the real benefits for workers resulting from the proposal.
3. The FEUAC considers that the proposed Directive is contrary to the spirit of the Treaty, in particular with respect to Article 56 of the Treaty on the Functioning of the European Union. Such far-reaching adaptation to the law of the state in which the service is provided makes it almost equal with the requirements for the freedom of establishment. In the opinion of the FEUAC, the Directive will thus be conducive to creating new restrictions in the functioning of the Internal Market.
4. The FEUAC wishes to point out that the Commission did not provide an adequate justification of the project and the reasons for its submission prior to the deadline prescribed for transposing the Directive of 15 May 2014 on the enforcement of Directive 96/71/EC on 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 (“IMI Regulation”). The FEUAC is opposed to the adoption of new legislative acts until the previous legal measures have been fully implemented and their impact relative both to the protection of workers’ rights and to the undertakings that post them cannot be assessed.
5. The Commission did not present the impact of the proposed Directive on small and medium-sized enterprises either, in particular in states where labour costs are lower. Moreover, it did not provide detailed data on the costs to be borne by undertakings in connection with the new rules for determining remuneration.
6. The FEUAC does not share the opinion that the proposed Directive will contribute to a greater transparency of regulations and make it easier for undertakings that post workers to apply them. In the opinion of the FEUAC, it is more likely to further complicate the existing rules as different legal systems will need to be applied in the case of postings lasting more than 24 months. The FEUAC also wishes to point out that mandatory application of the host country law is contrary to the rules for choosing the applicable law, laid down in Regulation (EC) no 593/2008 of the European Parliament and of the Council on the law applicable to contractual obligations (Rome I).