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POSITION PAPER

REVISION OF THE POSTING OF WORKERS DIRECITVE

LGDK Position Paper

POSITION PAPER ON THE REVISION OF THE POSTING OF WORKERS DIRECTIVE

The revision of the Posting of Workers Directive will directly affect the member states abilities to define salaries which should remain a national issue. Further the revision of the Posting of Workers Directive does not comply with the Principle of Subsidiarity, and the effects of the Enforcement Directive is yet to be known.

On 8 March 2016 the European Commission proposed a revision of the rules on posting of workers within the EU. This position paper maps out the stance of LGDK on the matter.

The Posting of Workers Directive defines a set of mandatory rules regarding the terms and conditions of employment to be applied to employees who are sent by their employer to carry out a service in another EU Member State on a temporary basis. The aim of this proposal is to facilitate the Commission's principle that posted workers should have *"the same pay for the same work in the same place"*, meaning that posted workers are entitled to equal pay and working conditions as local workers.

Key messages:

- As long as the effect of the Enforcement Directive, particular regarding social dumping, is unknown, LGDK is not in favour of revising the Posting of Workers Directive.
- The proposal for a revision of the Posting of Workers Directive is in contradiction with the Principle of Subsidiarity, and the overall agenda of the European Commission to promote Better Regulation.

Effects of the Enforcement Directive

In 2014, the Enforcement Directive was approved with the aim to strengthen the practical application of the Posting of Workers Directive, and to address issues relating to fraud, the circumvention of rules, and the exchange of information between Member States. The Enforcement

Directive will need to be transposed by the Member states by the 18th of June 2016. LGDK is of the opinion that the European Commission should know the effects of the Enforcement Directive particular regarding social dumping before revising the Posting of Workers Directive.

The Posting of Workers Directive

Subsidiarity Principle

It is LGDK's opinion that the proposal for a revision of the Posting of Workers Directive does not comply with the Subsidiarity Principle.

In the revision of the directive, The Commission has removed a part of the legal text in article 3,1, that states that the definition of minimum pay is defined by national law, both concerning posted workers and posted temporary workers.

"For the purposes of this Directive, the concept of minimum rates of pay referred to in paragraph 1 (c) is defined by the national law and/or practice of the Member State to whose territory the worker is posted"

The revision of the Posting of Workers Directive has thus been subject to the subsidiarity Control Mechanism. The outcome was that 11 national parliaments have invoked a 'yellow card' in response to the proposal. It means that the European Commission has to review its proposal and decide whether to maintain, amend, or withdraw the proposal.

Remuneration

The Commission has replaced "minimum pay" with a new definition

“remuneration” to facilitate the Commission’s principle “the same pay for the same work in the same place”. In LGDK’s opinion the new definition opens up to a range of questions of interpretation,

In Denmark, the social partners decide on the definition of salaries, and any distortion of this would endanger the Danish flexicurity model.

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Local Government Denmark

Local Government Denmark (LGDK) is the interest organization of all 98 Danish municipalities. The mission of LGDK is to safeguard common interests of the democratically governed Danish municipalities and to act as their unified body of negotiation, knowledge centre, and forum for mutual municipal initiatives.

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