

Mr. Nicolas Schmit
Commissioner for Jobs and Social Rights

28th of April 2020, Kraków

Dear Commissioner,

The European economy is again in a very difficult situation. This time due to the unexpected COVID-19 pandemic. Many sectors have been hit hard by the crisis, including companies sending workers around Europe to provide services. Each day posted workers are confronted with new restrictions at the borders as well as health and administrative requirements in Member States.

The revised rules on the posting of workers will become applicable from 30th July 2020. The two years *vacatio legis* and the transposition period envisaged in Article 3(1) of the revised Posting of Workers Directive 2018/957/EU have been suddenly jeopardised by the outbreak of the COVID-19 pandemic. Under these circumstances **on behalf of twelve European organisations listed below, we call on the European Commission to consider the possibility to postpone the date of applicability of the revised Posting of Workers Directive by a year, i.e. till 30th July 2021.**

There are three reasons to support this motion.

First, the Member States will not be ready. Since March 2020 all the national parliaments and governments have been preoccupied with regulating the preventive measures to suppress the spread of the pandemic and to secure the public health and rescue measures to soften the expected economic crisis. It is very likely that due to those urgent legislative works many Member States will fail to keep the deadline for implementation of the 2018/957 Directive. Moreover it is unlikely, that the Member States will ensure that the information provided on the single official national website is accurate and up to date. Required by Article 5 on the Improved Access to Information of the Enforcement Directive 2014/67/EU, this obligation is essential to revitalise the cross-border service provision after the coronavirus crisis.

Second, the companies will not be ready. Since March 2020 almost all the Member States have introduced some restrictions in mobility, border-crossing and performing selected types of work. For many companies delivering their services in other Member States, the safety measures resulted in suspending or terminating the contracts.

In many cases companies have planned to conclude their contracts by the 30th of July in order to avoid problems with transition period between current and new rules. This applies especially to so called "long term postings". COVID-19 pandemic will prolong the duration of many contracts, obliging service providers to resume their work in completely new reality, including higher costs of employment and very often with no possibility to renegotiate the price of the contract. Clearly, the new rules on remuneration and on long term posting will have an impact on the final costs of the services. If postponing the application of the revised Posting of Workers Directive proves impossible, the period

of pandemic-caused inactivity should not be taken into account when calculating the 12/18 months duration of posting.

Third, there is an urgent need to return to the mobility level from before the pandemic crisis. European companies are struggling to survive the current crisis. Many of them face serious problems with liquidity as they had to stop completely or significantly reduce their activities. In addition, they are preparing an “exit strategy”. Indeed, the main priority for the next months, if not years, will be to rebuild their businesses, regain clients and protect workers at risk of unemployment. Majority of the European companies are SMEs, very often family businesses, that have been built for years. This main source of prosperity and employment in Europe might be lost now and it will be extremely difficult to restore it in the future.

Therefore, is time to come up with measures that will not only support companies but also help to rebuild mobility within the Internal Market.

We would like to take this opportunity to thank the European Commission for the steps already taken. We highly appreciate a swift release of various indications for Member States such as “Guidelines for border management measures to protect health and ensure the availability of goods and essential services” as well as “Guidelines concerning the exercise of the free movement of workers during COVID-19 outbreak”. The measures indicated by the Commission, if properly implemented, would definitely help the free movement of workers and services in this difficult time. Unfortunately, companies are still conformed with a lack of coordination among Member States as well as lack of implementation of proposed measures. Therefore, we would like to call on the Commission to take all possible steps in order to remove unnecessary barriers in the mobility of people and services while guaranteeing necessary health protection.

We also call on you to complete these measures with the postponement of **the date of applicability of the revised Posting of Workers Directive till 30th July 2021. This would hopefully give companies the necessary time to deal with pandemic consequences as well as prepare for the new legal reality and the governments the possibility to adopt national rules in due time.**

We are aware, that the adoption of the revised Posting of Workers Directive caused many divisions among Member States, but we trust that in this situation everybody will show solidarity and understanding of the needs of companies from all Member States.

On behalf of the organisations listed below,

Sincerely,



Stefan Schwarz

President

Labour Mobility Initiative Association



Marek Benio

Vice President

Labour Mobility Initiative Association

PRESIDENT

ORGANISATION

Maciej Witucki

Confederation Lewiatan



Stefan Schwarz

Labour Mobility Initiative
Association



Frederic Seebom

Verband für häusliche
Betreuung und Pflege e.V.



Anna Wicha

The Polish HR Forum



Dawid Seifert

The Nationwide Convent of
Employment Agencies



Robert Składowski

Nationwide Federation of
Entrepreneurs and Employers



Barbara Reduch-
Widelska

UNI-BUD
Corporation of Construction
Entrepreneurs



Andrzej Wojcik

Chambre de Commerce et
d'Industrie Polonaise en
France



Barbara Dzierwa

Polnische
Wirtschaftskammer
in Deutschland e.V.



Marcin Lewandowski

Polish Chamber of
Commerce in the
Netherlands



Javier Sosnowski

Spanish-Polish Chamber
of Commerce



Hanna Stypułkowska-
Goutierre

PolChambers - Polish
Chambers of Commerce
Abroad

