



## **Posting of workers:**

**Do not confuse transparency and simplification with the dismantling of vital control mechanisms**

**EU Commission remains faithful to the spirit of the original Services Directive**

**New legislation in need of review and amendments from the social partners and the EU Parliament**

Brussels, 02 October 2006

In view of the Communication from the EU Commission about the Posting of Workers Directive, the EUCDW is reasserting the following principles:

- a) **The hard core of the protective regulations must be preserved.**
- b) **The member states must remain sufficiently capable of carrying out controls and inspections.**
- c) **The principles asserted by the EU Parliament in its resolution about the Services Directive, particularly those regarding the posting of workers, must be complied with.**

The EU Parliament's demand that enterprises from other EU countries must be subject to the same duties and obligations as domestic companies is the natural and logical consequence of these principles. This means that posted workers must be in possession of valid work permits and are subject to the same controls as the workers of domestic companies.

### **The Posting of Workers Directive**

Directive 96/71/EC identifies the mandatory rules in force in the host country that are to be applied to posted workers by establishing a hard core of terms and conditions of work and employment and making them binding on undertakings posting workers to a Member State other than the State in whose territory these workers habitually work. These rules include in particular:

- maximum work periods and minimum rest periods,
- minimum paid annual holidays,
- minimum rates of pay,
- the conditions of hiring-out of workers, in particular the supply of workers by temporary employment undertakings,
- health, safety and hygiene at work,
- protective measures with regard to the terms and conditions of employment of pregnant women or women who have recently given birth, of children and of young people.

### **Approach of the Commission**

In its Communication from April 4, 2006, the Commission “would like to point out that, when performing inspections as part of the implementation of the Directive, Member States must abide by Article 49 EC and refrain from creating or upholding unjustified and disproportionate restrictions to the free provision of services within the Community.”

### **The EUCDW would like to make the following statement:**

The EUCDW does not dispute legitimate claims for transparency and simplification. It only wants to point out the dangers of confusing such claims with moves to question the legitimacy of requirements which are necessary to provide **adequate supervision and implementation of the Posted Workers Directive.**

**On this basis, the EUCDW calls upon the EU Commission to pursue a more balanced strategy.** In order to achieve this, it may be necessary for the European Parliament to demand further amendments of the Directive. In any case, the social partners must be directly and prominently involved in the necessary process of further discussions.

### **The EUCDW demands the following concrete measures:**

In order to allow an effective control, **enterprises from other EU countries must in principle be subject to the same work permit obligations, checks and controls as domestic companies.** (Otherwise, we would face the risk of the original “Bolkestein Directive“ entering through the legislative back door!).

Such an effective control would require that:

- Member States can force the enterprises to nominate a responsible representative who is domiciled in the posting country or an authorized receiving agent in the posting country.
- the host countries can – for purposes of control rather than mere information – force the enterprises to submit a reasonably comprehensive declaration which includes the posted workers' personal data as well as information about the type of service provided, the place of performance and the period of the assignment.
- it shall be possible to force the enterprises to keep all relevant documents (such as employment contracts and salary statements) at the place of work.
- it shall be possible to force the enterprises to show that they had already employed workers from third countries before they posted them. (This would serve to prevent any cross-border trade in employees without valid work permits.)

**The European Union of Christian Democratic Workers (EUCDW) is made up of 23 workers' organisations from 17 countries and is an association of the European People's Party (EPP). Officially responsible for the EUCDW is Christoph Weisskirchen, the General Secretary.**

Tel 0032 2 285 4164, fax 0032 2 285 4141, e-mail: [euclidw@epp.eu](mailto:euclidw@epp.eu), Website: [www.euclidw.org](http://www.euclidw.org)