



Polish Presidency of the Visegrad Group
July 2016–June 2017



Joint statement of the Prime Ministers of the Visegrad Group on the amendment of Posting of Workers Directive 11 May 2017

Maltese Presidency has set its objective to adopt general approach 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 at the EPSCO Council in June. Given the concise reasoning provided below and in full respect of the efforts undertaken so far by the Presidency, the Visegrad Group considers such an ambitious goal premature.

Nature of posting of workers is directly linked with a fundamental issue such as free provision of services together with integrity of the internal market. It is one of the pillars of the internal market, which is truly beneficial for the whole European Union. Proposed revision of the Directive 96/71/EC introduces provisions, which, in our opinion, will most likely hamper European economy and affect global competitiveness of the European Union alike. The new rules on remuneration, subcontracting and postings lasting more than 24 months would impose a disproportionate burden on cross-border service providers, undermine price competition and increase the costs of providing services in the European Union. As a result, many companies, especially small and medium ones, would be eliminated from the internal market to the detriment of prosperity of the European Union as a whole. The proposed revision of the Directive 96/71/EC will thus help neither to accelerate social and wage convergence in the Union nor to eliminate unfair and illegal practices of many employers. We should bear in mind that the publication of the Commission's proposal has generated divergent views, dividing Member States, social partners and entrepreneurs alike. The national parliaments of eleven Member States (representing more than 100 million EU citizens) voiced their opinion with the yellow card mechanism, which, regrettably, was not taken into account by the European Commission. In our opinion the EU should focus on issues that bring Member States together and not on those that divide us in this difficult time for Europe.

We would like to emphasize, that it is in our common interest to ensure rights of the workers in the posting situations, tackle frauds and illegal practices. But we need to strike the right balance between freedom to provide services and protection of workers.

The ongoing negotiations of the directive continue to confirm serious doubts and ambiguities as to its effects and the feasibility of the proposed measures. We are deeply convinced that a legal act which will result in far-reaching consequences on the European competitiveness as well as cohesion of the internal market to such an extent as does the Posting of Workers Directive must

unconditionally stem from a broad consensus of the Member States unlike the current proposal. Such a complex and multi-dimensional issue must be further analyzed and clarified for the purpose of a sound debate and to debunk stereotypes. Even on technical level, rationales for some new provisions (especially substitution of “remuneration” for well-established, already fairly broad term “minimum rates of pay”; or mandatory application of collective agreements to all sectors) remain vague and unconvincing.

The Visegrad Group particularly opposes to broad inclusion of international transport services into the scope of posting. It would not only undermine the free provision of services but also cause serious disruption in the supply chain of goods. We are firmly convinced that the inevitable risk of further fragmentation of the single market will be primarily damaging for the transport sector which is a particular branch of economy subject to many cross-cutting regulations.

Ultimately, we aim to safeguard freedom to provide services as enshrined in the Treaties against protectionist practices infringing fundamental rules of the internal market. Adoption of the amendment to the Posting of Workers Directive and extension of the new posting of workers rules to the transport sector would bring even more restrictions in the internal market and would legitimate return to protectionism.

The Prime Ministers of the Visegrad countries remain devoted to a constructive dialogue to achieve an inclusive compromise on the Posting of Workers Directive. For the moment, however, it seems that satisfactory and fair conclusions require more effort from of all stakeholders including the Presidency and the Commission.