



POSTING OF WORKERS

KEY MESSAGES

- 1** There is no need to revise the Posting of Workers Directive
- 2** Action is needed to better implement and enforce the existing Directive
- 3** The joint report by EU social partners contains extensive argumentation which helps to rationalise the debate on this complex and controversial issue

BACKGROUND

Companies that are willing to provide services in another EU Member State have the possibility to post their workers to this Member State for a temporary period.

The 1996 Posting of Workers Directive establishes a core of mandatory rules regarding the terms and conditions of employment (including minimum rates of pay) to be applied to an employee posted to another Member State.

In 2007 and 2008, the Court of Justice of the European Communities (ECJ) delivered a series of judgments clarifying the relationship between fundamental social rights such as the right to take industrial action (e.g. strike) and economic freedoms in the internal market, in particular the freedom of establishment (Viking case) and the freedom to provide services (Laval, Rüffert and Commission vs. Luxembourg cases).

As a result of these rulings, the trade unions are asking for: 1./ A revision of the Posting of Workers Directive and 2./ Addition of a social progress protocol to the EC Treaty affirming the primacy of social rights over economic freedoms.

The Commissioner for Employment and Social Affairs, Mr Andor, has announced that he will review the way in which the Posting of Workers Directive is interpreted and implemented and take further steps if needed. On 19 March 2010, EU social partners have approved a joint report on the consequences of the four rulings and the Posting of Workers Directive. The work was undertaken at the request of the Commission and the Council.

On 10 May 2010, Mr Mario Monti presented a report on “a new strategy for the single market” in which he refers to the social partners’ report and makes some proposals to address the issue, including regarding action to better implement the Posting of Workers Directive.

WHAT DOES BUSINESSEUROPE AIM FOR?

- **To avoid a revision of the Posting of Workers Directive and the addition of a Social Progress Protocol to the Treaty.** The latter is redundant following the entry into force of the Lisbon Treaty – which confers a binding effect on the EU fundamental rights charter – while the problems raised by the ECJ rulings can and should be solved through better implementation of the existing Directive.
- **Joint report with ETUC on the ECJ rulings:** BUSINESSEUROPE aims to ensure that policy-makers duly consider the joint report in the ongoing debate on the social dimension of the single market and on posting of workers.
- **Commission activities to better implement Posting of Workers Directive:** Improving information and administrative cooperation between Member States is a pre-condition to ensure good compliance. Companies need clear information on working conditions which apply to posted workers. An Expert Group has been set up by the Commission to achieve this goal. BUSINESSEUROPE participates actively in this work.