



## **THE REVISION OF THE SOCIAL SECURITY COORDINATION REGULATIONS AND THE REVIEW OF THE POSTING OF WORKERS DIRECTIVE**

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### **Position by CEC European Managers - June 2015**

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#### **Preliminary remarks**

As representatives of managers, a category of workers with a relatively higher propensity to work abroad, we are particularly in labor mobility issues. Labor mobility is an effective tool to tackle on the one hand high levels of unemployment, and on the other solve mismatches on the labour market, thus contributing to the reduction of macroeconomic divergences and supporting the accomplishment of a well-functioning single market.

Labor mobility is also a fundamental right, enshrined in the Treaties; it is actually the first type of freedom of mobility that the European treaties recognized to European citizens, long before freedom of movement was granted to everyone, irrespective of one's work status. Europe has recently celebrated the 30<sup>th</sup> anniversary of the Schengen agreement, one of its greatest accomplishments, and yet these are times when the concept of freedom of movement is being severely put to test (if not openly questioned): more than ever, CEC European Managers stands against any tentative to limit this freedom (for both workers and citizens as such).

#### **On the possible revision of the social security coordination regulations**

In the light of the previous statement, the issue of regulating more clearly the rules applying to social benefits of workers has become more and more topical, as budget cuts applied by governments have reduced in many countries welfare state provisions and diverging unemployment levels and macroeconomic conditions influence the behavior of many workers. We share the approach of the European Commission based on coordinating existing legislation rather than harmonizing it. At the same time though, it is important to express clearly that (if launched), this revision is justified only by the need to fine-tune and update the legal provisions regulating this aspect of workers' life, in order to avoid that this revision could be perceived as a way for the institutions to participate to the ongoing debate on the advantages of the free circulation of workers. In some countries, this technical issue is being exploited for electoral and political reasons, and often the public opinion is exposed to a debate based on biased interpretations or misleading assumptions. On the contrary, it must be stated that the starting point of any such intervention must be the clear defense of the principle of free movement as an undeniable right of Europeans.

**CONFÉDÉRATION EUROPÉENNE DES CADRES**

CEC, Rue de la Loi 81a, B-1040 Brussels  
Tel: +32 (0) 2 420 10 51 Fax: +32 (0) 2 420 12 92  
info@cec-managers.org  
www.cec-managers.org

In order to be fully accepted by citizens and governments and in the light of the necessity to support growth and employment creation, these provisions should really be linked with the status of worker. The most effective way to oppose those who want to question the freedom of movement by using arguments like "social tourism" is precisely to make sure that current provisions are not used unlawfully. For this reason, we insist on the necessity to make sure that public authorities designated for the enforcement of the different provisions (and limitations to the enjoyment of benefits) apply rigorously the current legislation and adopt all necessary measures to ensure that workers no longer satisfying the conditions set by legislation are excluded from the benefits.

### **On the targeted review of the PWD**

The issue of posting of workers is linked to the principle of freedom of circulation of services rather than the freedom of movement of workers (as posted workers do not decide to move to another country, but are sent by the company they work for), although of course the need to ensure the respect of working rights remains unchanged. We of course agree with the principle which is at the basis of the whole directive, that in the case of workers providing their services within the framework of a work contract in a different country than the one where they usually work, the labour legislation to be applied is that of the country of destination. Also in this situation, it is essential that public authorities monitor carefully the posting phenomenon, and we welcome any additional provision that would for instance further increase the access to information and enhance administrative cooperation. But we stress the fact that this principle should only be valid for the non-salary aspects of the labour contract (safety rules, working time, holidays, etc..), and that along these lines a system of effective monitoring and enforcement of the obligations that lie on national authorities should be really put in place. No other provision that hints at the salary as another criterion to be looked at when checking the respect of local labour provisions should be considered as a limitation to competition; the directive already mentions "minimum rates of pay" and it should remain so.

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