



Mr Jean-Claude Juncker
President
European Commission
Rue de la loi 200
BE-1049 Brussels
BELGIUM

26 November 2015

Dear President,

First of all, I would like to thank you once again for your participation in the dinner at our Council of Presidents held in Luxembourg on 19-20 November 2015.

Furthermore, I would also like to inform you about a key element in the discussions we had during our meeting on the next day concerning the targeted revision of the posting of workers directive announced in the Commission's 2016 work programme.

BUSINESSEUROPE member federations are deeply concerned by this initiative. They believe that applying in EU law the principle of "same pay for the same job in the same place" to posted workers could have very far reaching implications which have not been taken into consideration.

According to us, doing so would disregard the fact that the situation of posted workers is radically different from the situations targeted by the existing principles of equal pay for equal work for men and women and the ban on discrimination because of nationality. These principles usually imply comparing the situation of workers employed by the same company.

For posted workers, a new principle going further would necessarily imply a comparison between workers employed by different companies working in the same place. In our view, the present wording of the posting of workers directive strikes the right balance by securing that the minimum wage seen by the country of destination as a decent wage for domestic workers and adequate to secure against domestic unfair competition is also compulsory for posted workers.

By contrast, obliging foreign service providers to guarantee to posted workers wage levels above minimum rates applicable to domestic workers through a new principle of "same pay for the same job in the same place" would create a discriminatory situation against foreign service providers compared to domestic firms and undermine the single market for services. Doing so would jeopardize the foundation of national collective bargaining and wage setting systems throughout the European Union, which guarantee minimum wage levels but allow for wage variations:

- between companies covered by the same collective agreement,
- between companies covered by different collective agreements present at the same place, and
- between employees doing the same job at the same place depending on individual performance.

Therefore, we feel that such a principle would exceed what the Treaty allows in terms of limitations to free provision of services.

I would therefore like to draw your attention to the deep concerns of all members of our Council of Presidents with respect to the very far reaching unintended effects of the new principle the Commission has in mind on industrial relations, wage formation and our competitiveness. Concrete examples can be found in the attached letter which our Nordic member federations have addressed to Vice President Dombrovskis and Commissioner Thyssen to explain what such a move would imply for the highly developed collective bargaining systems in their respective countries.

We thank you in advance for the attention you will pay to this letter and remain at your disposal should you or a member of your team wish to discuss this complex issue in greater detail.

Yours sincerely,

A handwritten signature in black ink, appearing to be "Emma Marcegaglia".

Emma Marcegaglia

Enclosure: 1