



Joint Statement

on the Report on the application and implementation of the Posting Directive (EU) 2018/957

On 22nd October, the European Labour Authority (ELA) will hold the fourth meeting of the Posting 360, the Forum on the Posting of Workers. The meeting will mainly focus on the Commission Report on the application and implementation of the Directive 2018/957 concerning the posting of workers in the framework of the provision of services. Ahead of the meeting, we would like to share our views on the report and the proposed further action.

We welcome the report and its main conclusion which states that the European Commission “does not see any need to propose amendments to this Directive or to Directive 96/71/EC at this stage”. But we observe that companies are still facing many problems and bureaucratic burdens when posting employees to other Member States. Therefore, we fully agree with the European Commission that there is still a lot of work to be done to ensure the full transposition and improve the implementation of the Directive. Our organisations and the employers we represent are fully committed to this objective.

In the light of the new European Commission’s priorities on implementation and simplification, we do believe that the priority should be put on enforcing the rules stemming from the Directive rather than on introducing new ones. The latter would create more administrative burden, sometimes even uncertainty and confusion for all actors involved in the posting of workers. In this respect, progressing on the revision of regulation 883/04 remains crucial.

We recognise that the posting of third country nationals (TCNs) is a growing trend and agree that it is of a crucial importance to ensure legally sound and orderly process of entering the EU by the TCNs before they start to move across borders. However, this is the responsibility of migration offices of the Member States in line with the applicable EU and/or national migration schemes, not of posting companies. Once they entered the EU and are legally residing and working in an EU Member State, they should be treated as regular posted workers in a single market logic and be the subject of the same rules and effective visa procedures where applicable. We therefore see no need to over-regulate the posting of TCNs.

Furthermore, we would like to reiterate our support for the work of the ELA in this area and we welcome the possible measures proposed by the European Commission in the report, in particular:

- We recognise that the work carried out within the framework of the Forum on the Posting of Workers is necessary as it allows discussing challenges and exchanging on good practices between all stakeholders. Social partners in particular play an important role in the Forum’s proceedings to identify and implement the necessary improvements. **The Forum should continue to monitor the implementation of the Directive** and to discuss how to further improve a harmonized application of the rules in the Member States from the perspective of different users and keeping in mind the important role of subcontracting to achieve economic efficiency and support access to skills in the face of structural labour and skills shortages.
- The Commission itself notes that social partners and employers in particular point out difficulties in determining the remuneration applicable to posted workers with all its mandatory elements. It is therefore of the utmost importance to develop a tool to facilitate the calculation of the remuneration of posted workers (so-called **“remuneration calculator” for collective agreements which have been declared universally applicable**). ELA could develop a tool to help employers identify applicable elements of remuneration, taking into account national legislation and universally applicable collective agreements as well as the specificity of each sector and country. ELA could start with the sectors with the highest proportion of posted workers. This should be done in close cooperation with European and national social partners to design a tool offering reliable information.
- We call for an **improvement of the information available on the terms and conditions of employment for posted workers**. It is important to ensure that available information is easily accessible (in all EU languages), transparent, comprehensive and accurate. We will continue to cooperate with ELA in this regard, in particular on the communication campaign and the dissemination of materials. ELA should also improve its support to the Member States and social partners in their attempts to make Single National Websites (SNWs) as compatible as possible and offering the same basic set of reliable and up-to-date information. It is also high time for the so-called helpdesk for companies to be set up and implemented by ELA to provide them with the necessary support and concrete answers on the subject of posting and thus create real added value in day-to-day operations.
- As announced in the Commission’s work programme for 2024, we call on the European Commission to **swiftly put forward its initiative on e-Declaration as a universal tool** to be used on a voluntary basis by the Member States. This initiative will simplify and facilitate the administrative procedures when employers post workers abroad. The efforts should be continued to make the e-Declaration an EU-wide tool for general notification



purposes and, ideally, to convince all Member States to implement and use the e-Declaration to facilitate posting procedures.

Finally, we would like to recall that we represent millions of companies which are complying with the applicable legislation. They should not be held responsible for the misbehaviour of few employers. At national and European level, social partners and companies are innovating and taking several initiatives to improve enforcement of the legislation. Sector-specific challenges are best addressed sector by sector from a bottom-up approach taking into account national frameworks. One of the sectoral specific examples are **social ID cards** that function well in the construction sector in several Member States. Another is to **use the benefits of cross-border provision of services in the temporary agency work sector**. The revised Posting of Workers Directive extends the protection granted by the Directive on temporary agency work to posted temporary agency workers, which has been correctly transposed. Improving access to information for posting temporary agency workers via Single National Websites would be essential.
