



Brussels, 8 May 2020

220/TD/WB/52/FL

Mr. Nicolas Schmit
Commissioner of Jobs and Social Rights

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Dear Commissioner,

Strong EFBWW concerns regarding the enforcement of the Posting of Workers Directive 2018/957

Following the current COVID-19 crisis, our national trade unions have identified several fundamental shortcomings in the application of Regulation 883/2004 on the coordination of social security systems and the application of the Posting of Workers Directive 2018/957. It has become clear in recent months that in practice posted workers have been treated as “second-rate workers”. Many posted workers have simply been left behind.

On 9 January 2020, the EFBWW already addressed the European legislators stating that there are still fundamental enforcement problems in the application of the Posting Directive and that we do not agree with the conclusions of the Commission services that there are only some practical national problems to be solved. In our opinion, there are still many compliance issues. For this we refer to our letter dated 9 January 2020.

The current crisis also clearly demonstrates that there is an urgent need at European level for the optimal functioning of the Electronic Exchange of Social Security Information (EESSI) and the urgent introduction of a European Social Security Number (ESSN) and Insurance Status Verifier.

Lately, we have also observed significant problems related to the (common) transportation and the accommodation of posted workers. In order to save money, posting companies continue to pack their workers during transportation and accommodation. The lack of high quality health, safety and sanitary criteria during transportation and accommodation has led to dramatic health and sanitary problems for posted workers.

The EFBWW was also informed that during the crisis many posted workers were made redundant, without any compensation or access to unemployment benefits. These workers had to arrange their own return and/or accommodation. Other posted workers were obliged to continue working without respect for the applicable sanitary measures. We would like to stress that in most cases of abuse, the intermediary posting companies were temp agencies.

A fundamental problem regarding posted workers, which has become visible, is the lack of transparency. Posted workers were left to their own devices, because they are below the radar of trade unions, national authorities and inspection services. For this reason, we insist on the creation of a watertight system, enabling unions, national administrations and inspection services to identify posted workers. Some fundamental transparency requirements are: the place, duration and nature of employment, the identification of the employees and all employers involved and the place of residence of the posted workers. If we really want to protect posted workers, we must first be able to identify them.

Finally, we would like to observe that currently in most Members States the national social partners of the construction industry concluded specific health, safety and sanitary protocols for their workers and the companies. Unfortunately, national trade unions and inspectorates do not have appropriate instruments to enforce these measures for posted workers. This leads to an unequal treatment between posted and domestic workers.

The current crisis clearly demonstrates that we need a fundamental discussion on improving the protection of posted workers and ensuring that they are treated with dignity and not as second class workers.

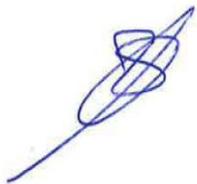
As EFBWW, we need an ambitious and rapid revision of the current Social Security Regulation, which take in account the current COVID-19 crisis experiences. In addition to this we also ask a strengthening of the current Enforcement Directive 2014/67.

We look forward to receiving your comments on our letter and to discussing our concerns with you.

Sincerely yours,

Tom Deleu
General Secretary

Werner Buelen
Political Secretary



Copy: President and vice-Presidents of the EMPL committee of the European Parliament

Attached: EFBWW letter of 9 January 2020