



“The voice of SMEs in Europe”

Press Release

FOR IMMEDIATE ISSUE

EC communication puts posting of workers on the right track

- **Improved admin cooperation between Member States essential to avoid infringement proceedings**
- **“Subsidiary liability”: SMEs cannot systematically vouch for non-compliant employers**

Brussels, 13 June 2007. UEAPME, the European craft and SME employers’ organisation, welcomed the European Commission’s communication on the posting of workers in the framework of the provision of services, which was published today (Wednesday). The document is a follow-up of previous EC initiatives and monitors recent developments in Member States. According to UEAPME, the text puts forward a series of reasonable conclusions, which are instrumental in fully realising the potential of cross-country service provision, despite raising the prospect of infringement proceedings against Member States. UEAPME insisted, however, on the need to strengthen access to information and collaboration between Member States, and opposed systematic EU-wide, one-size-fits-all rules on “subsidiary liability”.

“Today’s communication strikes a good balance between the need to ensure on one hand freedom of movement of workers across the EU, which is a fundamental right enshrined in the EU treaties, and the necessity to tackle social dumping and control illegal employment and undeclared work on the other hand”, said **Liliane Volozinskis**, UEAPME Director for Social Affairs and Employment Policy.

Commenting on the new initiatives announced by the Commission, Ms Volozinskis welcomed its intentions to adopt a recommendation to reinforce administrative cooperation among Member States. UEAPME had called for such a move as early as January, when it replied to an EC questionnaire on the matter. The accumulation of various control measures and obligations is indeed a great obstacle for small enterprises – mutual assistance and better coordination would go a long way towards improving the situation. UEAPME was also pleased by the EC decision to institutionalise a high level Committee of Government experts, with greater powers to further promote the exchange of good practices and facilitate administrative obligations for the posting of workers.

A second batch of measures in the Commission’s communication concerns Member States’ conformity with the Treaty’s fundamental freedoms, Community law and rulings by the European Court of Justice. Infringement procedures might be launched against non-compliant Member States, the EC announced. This is of course part of the Commission’s core mandate, commented UEAPME. However, the possible recourse to article 226 EC should not hold back control measures used by Member States, when such instruments are proportionate and in line with the body of EU law in the field. On the other hand, infringement procedures might be necessary when legislation tends to shelter national labour markets to the detriment of free movement of workers.

Finally, the EC announced its willingness to examine and discuss cross-border enforcement problems with Member States and Social Partners. UEAPME pointed out that difficulties for SMEs might arise with clauses on “subsidiary liability”, by which the accountability for compliance with employment rights is shared between various parties in case of subcontracting. Solutions in this respect are better found at national and/or sector level, said UEAPME, and should in all cases avoid creating extra red tape and administrative obligations for small businesses, which cannot systematically monitor subcontractors to ensure their social compliance.

“The Commission’s communication has the potential to put the issue of posting of workers in the EU on the right track, and help in addressing the obstacles to a functioning internal market in services. We look forward to reading the related EC recommendation, and we call once again on Member States to increase their efforts on administrative collaboration and information exchange”, concluded Ms Volozinskis.

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EDITORS’ NOTES: UEAPME is the employers’ organisation representing crafts, trades and SMEs from the EU and accession countries at European level. UEAPME has 81 member organisations, which represent crafts and SMEs across Europe, covering over 11 million enterprises with 50 million employees. UEAPME is a European Social Partner.

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