

Mr Frits Bolkenstein
Member of the European Commission
Rue de la Loi, 200
1049 Bruxelles
C-107-6/25

Dear Commissioner,

EC SERVICE PROVISION CARD

UNICE supports the removal of obstacles to the provision of cross-border services in the internal market. The burdensome procedures which European companies have to undergo when sending third-country nationals legally employed by them in one Member State to another EU country to perform a task, are an obstacle to the cross border provision of services.

European companies therefore welcomed the proposal to issue EC service provision cards for workers of third countries in the context of provision of cross-border services in the Community put forward by the Commission in January 1999.

Unfortunately no agreement could be reached in Council on the proposed "EC service card directive" and, following rejection in the Council, the matter has been sent back to the Commission for further analysis. According to our information, rather than trying to present a revised proposal, the Commission has decided to go back to the very beginning of the process by re-analysing the impact that the restrictions on the posting of workers from third countries have on the cross-border provision of services.

European employers very much regret that a rapid adoption of the proposed Directive by the Council was not possible and consider the solution found unsatisfactory. Therefore they call on the Commission to present an amended version without delay.

For ease of reference please find enclosed the UNICE's November 1999 position paper on the proposed Directive.

Yours sincerely,

Daniela Israelachwili
Acting Secretary General

Annex: 1

**PROPOSAL FOR A DIRECTIVE CONCERNING POSTING OF WORKERS OF THIRD COUNTRIES IN THE
CONTEXT OF PROVISION OF CROSS BORDER SERVICES IN THE COMMUNITY**

UNICE POSITION PAPER

1. UNICE supports the objective to remove obstacles to the provision of cross border services in the internal market. Burdensome procedures, which European companies have to undergo when sending third country nationals legally employed by them in a Member State in another EU country to perform a temporary task, are an obstacle to the cross border provision of services. European companies therefore welcome the proposal to issue an EC service provision card.
2. However, UNICE's support for the proposed EC service provision card does not imply an approval of Commission proposals on the extension of Regulation 1408/71 to third country nationals. Such an extension is a separate issues, with much wider implications than the cases addressed by the EC service provision card, and should be judged on its own merits after an in-depth evaluation of the cost impact.
3. European employers are aware of fears that such temporary postings could be abused. The fact that Directive 96/71 on the posting of workers applies to third country nationals should contribute to alleviate those fears. In addition, it could be useful to make clear that
 - the holder of the card is the employer and not the worker whose name and details are specified on the card,
 - the card is attached to a specific worker and must immediately be returned to the authorities if the employment relation is terminated,
 - the authorities must be immediately informed if a card is lost,
 - the card can only be issued for a limited but renewable period of one year,
 - the card can only be issued for third country nationals who have been legally employed for three months by the holder of the card and are legally residing in the Member State delivering the card.
4. European employers insist that such an EC service card should be valid throughout the European Union. Specifying the receiving country on the card, would defeat its purpose. However, it could be envisaged to supplement it by a requirement to notify the authorities of the receiving country that the card is being used, for example when entering its territory.
5. The worker remains affiliated to the social security systems of the country delivering the card during such temporary postings. However, UNICE understands that insurance against injury and

work accident can be an issue. It believes that the requirement to be insured against such risks to be able to receive a card adequately deals with this issue.

6. UNICE very much hopes that its comments will be taken into account and calls on the EU institutions to adopt the proposal without delay.
