



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 6 October 2010

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COVER NOTE

from: Přemysl Sobotka, President of the Senate of the Parliament of the Czech Republic

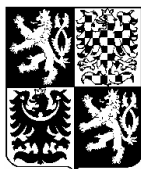
date of receipt: 24 September 2010

to: Yves Leterme, President of the Council of the European Union

Subject: Proposal for a Directive of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the seasonal employment
[doc. 12208/10 MIGR 66 SOC 461 CODEC 689 - COM (2010) 379 final]
- Reasoned opinion¹ on the application of the Principles of Subsidiarity and Proportionality

Delegations will find attached a copy of the above letter.

¹ This opinion is available in English on the Interparliamentary EU information exchange Internet site (IPEX) at the following address: <http://www.ipex.eu/ipex/cms/home/Documents/pid/10>



PARLAMENT ČESKÉ REPUBLIKY

SENÁT

PŘEMYSL SOBOTKA

PŘEDSEDA

V Praze dne 23. září 2010

Vaše Excellence,

dovoluji si Vám zaslat odůvodněné stanovisko, které Senát v souladu s čl. 6 Protokolu č. 2 Lisabonské smlouvy přijal dne 22. září 2010 k návrhu směrnice Evropského parlamentu a Rady o podmínkách vstupu a pobytu státních příslušníků třetích zemí za účelem sezónního zaměstnání.

S ohledem na dlouhodobou pozici českého Senátu, jež byla deklarována na rozličných meziparlamentních fórech, at' již to byla Konference předsedů národních parlamentů, konference COSAC či různá regionální setkání, se domnívám, že základním předpokladem zodpovědného uplatňování předběžné kontroly subsidiarity (*early warning system*) je účinná koordinace a včasná výměna informací mezi národními parlamenty.

Zmíněná směrnice představuje za dobu platnosti Lisabonské smlouvy první z návrhů legislativních aktů, u nichž jak vláda ČR tak naše parlamentní komora dospěly k závěru, že jejich přijetí není nezbytné a vhodnou úroveň právní regulace mohou samostatně nastavit členské státy dle potřeb svého pracovního trhu.

Jsem potěšen, že k přezkumu souladu návrhu směrnice s principem subsidiarity se odhodlala řada parlamentních komor členských zemí EU. Jedině důsledným plněním role zákonodárných sborů můžeme dosáhnout toho, že ustanovení Lisabonské smlouvy věnovaná zásadě subsidiarity a obsahující vysoká kvóra pro uplatnění mechanismu tzv. žluté či oranžové karty nezůstanou prázdnou literou.

Doporučuji proto předmětný návrh Komise Vaší pozornosti a těším se na Vaši reakci.

S přátelským pozdravem



Jeho Excellence

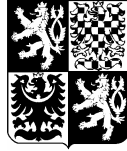
Yves LETERME

předseda vlády Belgie

BRUSEL

THE PARLIAMENT OF THE CZECH REPUBLIC

SENATE



7th term

562nd RESOLUTION

OF THE SENATE

delivered on the 23rd meeting held on 22nd June 2010

on Proposal for a Directive of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purposes of seasonal employment

The Senate

I. 1. Is of the opinion

that the conditions of entry and residence of the third country nationals for the purposes of seasonal employment can be adequately regulated on the national level, while legal regulation on the EU level is neither necessary nor does it present an added value when compared to the current state, with regard to its extent and impacts;

2. Has thus come to the conclusion

that the submitted proposal is not in compliance with the principle of subsidiarity as defined in Article 5 Paragraph 3 of the Treaty on European Union;

3. **Delivers**

a **reasoned opinion** on the proposal of the directive in compliance with the Article 6 of the Protocol No. 2 of the Lisbon Treaty;

II. 1. **Stresses**

the fact that the need for regulation of seasonal work differs among individual Member States with regard to different structures of their labour markets;

2. **Is of the opinion**

that the proposal does not anticipate any effective mechanisms that could prevent third country nationals from applying for permit in another Member State once their original permit in the first Member State runs out, in order to ensure a residence on EU territory for a period longer than 6 months in a given year;

3. **Considers it problematic**

to set up rules on circular migration aimed at particular sectors, such as agriculture or tourism, as Commission does in the proposal, with regard to the fact that the character of this work may not reflect the needs of seasonal migration in the states where seasonal work is being used in different sectors, for example building industry;

4. **Points out**

that with the current wording of the proposal it cannot be precluded that in the area of social welfare the guarantees of seasonal workers' rights as stated in Article 16 Paragraph 2 of the proposal will lead to higher level of protection of seasonal workers from third countries than of the citizens from the new Member States to which the transitional periods regarding access to labour markets are still being applied;

5. **States**

that neither the proposal for the directive nor other available analyses make it currently possible to precisely identify the financial impacts of the guarantees that should be granted to seasonal workers in the area of social welfare;

6. Reminds

that the proposed regulation could lead to new administrative costs related to the setting up of a system of processing of the applications, including the obligation to designate or constitute an authority to receive the applications and issue permits (Article 9 Paragraph 2 of the proposal) or to oversight of accommodation for seasonal workers as stated in the Article 14 of the proposal;

III. Authorises

the President of the Senate to forward this resolution to the European Parliament, the Council and the Commission and to the Presidents of parliamentary chambers of the EU Member States.

Přemysl Sobotka

sign manual

President of the Senate

Alena Venhodová

sign manual

Senate Verifier