

MARIANNE THYSSEN
MEMBER OF THE EUROPEAN COMMISSION

Brussels, 12 04 02
Ares(2018)

Dear Minister,

I am writing to you concerning the transitional arrangements on the free movement of workers from Croatia. As you are aware, the second phase of those transitional arrangements will end on 30 June 2018.

Paragraph 5 of Annex V to the 2011 Act of Accession provides that a Member State that maintains national measures, or measures resulting from bilateral agreements, on labour market access at the end of the second phase may continue to apply these measures until the end of the seven-year period following the date of accession in the event of serious disturbances of its labour market, or threat thereof, and after notifying the Commission. This Annex also stipulates that, in the absence of such notification by a Member State, EU law on free movement of workers is to apply in that Member State from 1 July 2018 onwards.

In its report of 29 May 2015 on the functioning of the transitional arrangements on free movement of workers from Croatia¹, the Commission found that due to the size of Croatia in terms of population and as shown both by flows since 2013 and projections on post-accession mobility, future potential flows of Croatian workers to other EU Member States are likely to be small, at least in percentage of the labour force of the EU and in most destination countries. They are unlikely to lead to labour market disturbances. This is confirmed by the most recent numbers of Croatian citizens (15-64 age group) who were residing in the Netherlands in 2015 and 2017- around 1,700 and 2,000 respectively.

It is for each Member State to determine whether it is undergoing a serious disturbance of its labour market or threat thereof. However, continuing to make use of the transitional arrangements after 30 June 2018 would mean continuing to restrict a fundamental freedom of EU law. As the Court of Justice has consistently held that derogations from fundamental freedoms of EU law must be interpreted strictly, the Commission expects that any Member States wishing to extend restrictions on labour market access therefore provide full justification with data and convincing arguments on the existence of a serious disturbance of its labour market or threat thereof. The Commission will ask for further clarifications if it considers that the justifications provided with the notification are not sufficient.

The formal notification, including supporting evidence, must be sent to the Commission before the expiry of the deadline, which is midnight on Saturday, 30 June 2018. Material proof that the notification was sent before the expiry of this deadline must also be provided.

¹ <http://ec.europa.eu/social/BlobServlet?docId=13992&langId=en>

Mr Wouter Koolmees
Minister for Social Affairs and Employment
PO Box 90801
NL-2509 LV The Hague
The Netherlands

Notifications should be sent to the Commission's Secretariat-General and copied to myself and to Director-General Joost Korte. Alternatively or additionally, notifications may be forwarded by electronic mail.

Finally, past experience has shown that the Commission may receive requests to disclose letters of notification of a serious labour market disturbance, or threat thereof. Before deciding whether or not to disclose a letter of notification the Commission must, in accordance with existing procedures, consult in respect of each such request the Member State from where the notification originates. To speed up this procedure, I would therefore be grateful if you could at the same time give the Commission your general permission to grant access to your letter of notification.

Yours sincerely,



Marianne Thyssen

Addresses for notification:

*Secretariat-General of the European Commission
Mr Martin Selmayr, Secretary-General
B-1049 Brussels*

Fax: +32 229 81230

cc.

*Ms Marianne Thyssen, Member of the Commission
B-1049 Brussels*

Fax: +32229 55491

*Mr Joost Korte, Director-General
Directorate-General for Employment, Social Affairs and Inclusion
B-1049 Brussels*

Fax: +322 299 65900