

**Joint letter of the Republic of Bulgaria, the Republic of Croatia, the Czech Republic,  
the Republic of Estonia, the Hellenic Republic, Hungary, the Republic of Lithuania,  
the Republic of Poland, Romania, the Slovak Republic, the Republic of Slovenia  
to  
Ms Andrea Nahles, Federal Minister of Labour and Social Affairs  
Mr Alexander Dobrindt, Federal Minister of Transport and Digital Infrastructure  
concerning  
the impact on the EU transport sector of the Minimum Wage Act adopted  
by the Federal Republic of Germany**

Dear Ministers,

We would like to express our appreciation of all legislative initiatives ensuring a better protection of employees, including minimum wage regulations which serve this purpose.

Nevertheless, with reference to the application of the Minimum Wage Act (Mindestlohngesetz) as of 1 January 2015 within the territory of the Federal Republic of Germany, we wish to express our serious concerns about the scope of application of the new regulations in relation to the international commercial transport. While we fully respect the right of Member States to introduce minimum wage legislation and appreciate legislative initiatives ensuring a better protection of employees, any domestic regulation should stay in accordance with EU law. Legal certainty and protection of the unity and growth of the EU internal market should remain our common aim .

Pursuant to the information provided by the German Government, it is understood that the provisions of the Minimum Wage Act and its implementing Regulations cover international transport to and from the Federal Republic of Germany, cabotage as well as the transit of goods and passengers across the German territory. It means that carriers established outside the Federal Republic of Germany and performing paid transport operations on the territory of the Federal Republic of Germany, regardless of the type of such operations and the means of transport fall within the scope of the above mentioned Act.

It has to be stressed that we highly appreciate the recent decision of the Government of the Federal Republic of Germany to suspend the application of the Minimum Wage Act to the transit operations until its compliance with EU law is verified.

Nonetheless, we wish to express our serious concerns regarding the interpretation based on the principle of territoriality and to emphasise that not every hour worked on the territory of the Federal Republic of Germany can be subject to the Minimum Wage Act. This is the case only when the German law is applicable according to the rules of the International Private Law or the rules of relevant EU law i.e. the Rome I Regulation or for the time of work performed when posted to the Federal Republic of Germany according to Directive 96/71/EC concerning the posting of workers in the framework of the provision of services.

In this context, the new rules seem unjustified and excessively burdensome as regards the international transport (bilateral, transit and between the Federal Republic of Germany and other countries). Serious doubts also arise as to their application in the case of cabotage. Many concerns are being raised by the companies established in our countries regarding the registration and control obligations imposed on carriers by the Minimum Wage Act and its implementing Regulations. The requirements on the reporting obligations also impose high administrative burden on the carriers. We consider those provisions disproportionate in terms of the goal of the Minimum Wage Act and even discriminatory.

It should also be noted that Regulations 1072/2009/EC and 1073/2009/EC define mandatory documents which are necessary for the access to the international road haulage market and international carriage of passengers. In our understanding, any obligation to provide further documents which are not mentioned in these Regulations may be contrary to EU law.

Moreover, there is a well-grounded fear that the current interpretation of the new regulations will have a highly detrimental and possibly irreversible impact on the internal market, in particular on the development of the EU transport sector. As a consequence, this may lead to market segmentation, unnecessary burden on operators and undue immediate financial losses to transport companies. It may also create an incentive for other Member States to impose similar regulations in order to protect local markets.

In addition to the general negative impact on the EU internal market, EU citizens will also suffer direct consequences of such actions which will increase prices of transport services and commodities.

Therefore, although we welcome the recent decision of the Government of the Federal Republic of Germany to suspend the application of the Minimum Wage Act to the transit operations, we should bear in mind that this Act covers also the international transport to and from the Federal Republic of Germany (goods and passengers) and cabotage. In addition, it should be noted that similar questions arise concerning other modes of transport e.g. inland navigation.

For that reason, we would like to appeal to the Federal Republic of Germany for reconsideration of the current interpretation concerning the scope of application of the Minimum Wage Act to the international transport as a whole and for suspension of the enforcement of the new regulations also with regard to the international transport to and from the Federal Republic of Germany (goods and passengers) and cabotage, until it is fully and indisputably clarified by the European Commission whether the admitted interpretation of those regulations comply with EU law. The above mentioned is without prejudice to the future assessment of the compatibility of the Minimum Wage Act with EU law in other areas.

Taking into account the importance of this issue, we believe that it would be useful to discuss it at the European level, among the ministers and with the European Commission.

Yours sincerely,




**Ivailo Kalfin**  
Deputy Prime Minister  
and Minister  
of Labour and Social  
of the Republic of Bulgaria



**Ivaylo Moskovski**  
Minister  
of Transport, Information  
Technology and Communications  
of the Republic of Bulgaria

**Siniša Hajdaš Dončić, Dr.Sc**  
Minister  
of Maritime Affairs, Transport and  
Infrastructure  
of the Republic of Croatia




**Mirando Mrsić, MD.Ph.D.**  
Minister  
of Labour and Pension System  
of the Republic of Croatia



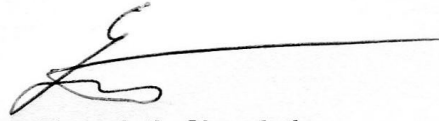
**Michaela Marksova**  
Minister  
of Labour and Social Affairs  
of the Czech Republic



**Urmas Kruuse**  
Minister  
of Health and Labour  
of the Republic of Estonia



**Urve Palo**  
Minister  
of Economic Affairs  
and Infrastructure  
of the Republic of Estonia



**Panagiotis Skourletis**  
Minister of Labour and Social  
Solidarity  
of the Hellenic Republic



**Miklós Seszták**  
Minister  
of National Development  
of Hungary




**Mihály Varga**  
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**Rimantas Sinkevičius**  
Minister  
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**Ján Počiatek**  
Minister  
of Transport, Construction  
and Regional Development  
of the Slovak Republic

**Peter Gašperšič, PhD**  
Minister  
of Infrastructure  
of the Republic of Slovenia



To the attention of the Latvian Presidency of the EU Council:  
Mr Uldis Augulis, Minister of Welfare and Mr Anrijs Matīss, Minister of Transport