

**OPINION
OF THE SENATE OF THE REPUBLIC OF POLAND**

of 21 October 2010

**on non-compliance with the subsidiarity principle
concerning the 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
COM (2010) 379**

After having examined the proposal for a directive of the European Parliament and the Council on the conditions of entry and residence of third-country nationals for the purposes of seasonal employment COM(2010)379, the Senate has decided that the said proposal is non-compliant with the subsidiarity principle referred to in Article 5 clause 3 of the Treaty on European Union.

The proposed provisions are solely limited to issuing residence permits by individual Member States. Such permits will not authorize their recipients to residing in other Member States. In addition, the proposed directive provisions will not in any way regulate Member States' cooperation regarding issuing permits for seasonal workers. Therefore, there is no supranational element in the said directive.

Member States differ significantly in terms of the role played in their economies by third-country seasonal workers. Therefore, while the proposed measures do not provide for freedom of movement of third-country workers between Member States, and permits are issued by Member State authorities for an individual country only, there is no need to harmonize the provisions regarding issuing of seasonal work permits.

The proposal does not only provide for permit granting but also regulates the terms of residence of seasonal workers employed in a host country. The requirement to provide third-country workers with accommodation of appropriate standard is far more restrictive in comparison to conditions applicable to local workforce or workers from other Member States. The issue does not affect the European Union safety or inflow of illegal immigration. In addition, too heavy a burden placed on employers combined with low flexibility of the planned regulations may contribute to increased illegal labour migration to Member States, thus achieving a result contrary to what was originally intended.