



Subsidiarity check of the Commission's proposed directive on transparent and predictable working conditions in the European Union

APPENDIX 2

Reasoned opinion of the Riksdag

The Riksdag has examined whether the Commission's proposal to the European Parliament and Council for a directive on transparent and predictable working conditions in the European Union (COM(2017) 797) conflicts with the principle of subsidiarity. The Riksdag considers that the proposal is in conflict with the principle of subsidiarity. The reasons for the Riksdag's assessment are as follows.

First, the Riksdag notes that it is a question of such a draft legislative act that is covered by the provisions regarding subsidiarity under Article 5.3 of the Treaty on European Union. According to Article 153.1 b of the Treaty on the Functioning of the European Union, the EU shall support and complement activities of member states in such areas as working conditions to achieve the objectives stated in Article 151, which includes improvements to living and working conditions. The view of the Riksdag is that it is crucial for the authority of member states to be safeguarded in EU work relating to labour law. This has been a cornerstone of the Swedish approach to the EU since we joined the union. The basic premise must therefore be, both now and in the future, that issues lacking a clear transnational dimension within the area of labour law are more appropriately dealt with at national level.

The Riksdag certainly understands that there may be a need to update the directive. The Riksdag notes that the directive was adopted nearly 30 years ago and that there may be grounds for amendments which better reflect the reality of the labour market today. However, the proposal for this new directive goes beyond this as it prescribes new substantive rights and contains definitions of the terms 'employee' and 'employer'. The Riksdag notes that the parties to the Swedish labour market – both the employee and employer organisations – have stated in written communications to the Government that the proposal is not in line with the principle of subsidiarity. The Riksdag shares the assessment of the parties that the proposed directive represents an

interference with the Swedish labour market model. The Swedish labour market is characterised by the parties to the labour market bearing principal responsibility for regulating conditions on the labour market. This model with parties who take responsibility has been beneficial for Sweden and led to a labour market and economy that have developed strongly over time. The issues regulated in the proposed directive have largely been solved in Sweden by way of collective agreements at corporate, industry and/or national level. The Riksdag sees a clear risk that the proposed rules could lead to disruption in Sweden's efficiently functioning system.

Furthermore, the Riksdag supports the view that the concept of the employee in relation to the different systems' distinctive natures is best defended and elaborated at national level. In addition to this, the Committee does not rule out that a definition of 'employee' at EU level could have an impact in areas beyond that of labour law. For example, it could affect areas in which member states have exclusive competence. The consequences of the proposal are difficult to foresee. The Riksdag welcomes the intention of the proposed directive: that it is important to create clear and predictable working conditions and these should be adapted to developments in the labour market. The Riksdag also shares the Commission's assessment that there is a common interest in greater upward convergence in terms of working and living conditions for citizens in EU member states. However, in contrast to the Commission, the Riksdag considers that not all of the measures proposed in the directive are taken most effectively at EU level. As conditions and systems differ significantly between EU member states, several of the issues covered by the proposed directive are best regulated at national level. Furthermore, there is no clear transnational dimension to the issues that it intends to regulate. In the light of this, the Riksdag considers that the Commission's proposal conflicts with the principle of subsidiarity and submits a reasoned opinion to the Presidents of the European Parliament, the Council and the Commission.