



EUROPEAN COMMISSION

*Brussels, 9.1.2019  
C(2018) 5313 final*

*Dear President,*

*The Commission would like to thank the Senát for its Opinion on the proposal for a Directive of the European Parliament and of the Council on transparent and predictable working conditions in the European Union {COM(2017) 797 final}.*

*On 17 November 2017, the European Parliament, the Council and the Commission jointly proclaimed the European Pillar of Social Rights, setting out a number of key principles and rights to support fair and well-functioning labour markets and welfare systems. The principles defined in the Pillar explicitly address the challenges related to new forms of employment and adequate working conditions in atypical forms of employment.*

*The current proposal is a major contribution to implementing the European Pillar of Social Rights, notably its Principles 5 (Secure and adaptable employment) and 7 (Information about employment conditions). The proposal would ensure a set of minimum fair working conditions across the European Union and across all forms of contracts. This will set a framework within which new forms of work could further develop offering fairer protection to workers and a clearer reference framework for national inspectors, legislators and courts. This new framework will also offer a better level playing field for business within the internal market.*

*The objective of the proposal is to ensure that a large number of workers can benefit from better working conditions. In the Commission's view, sufficient legal certainty is ensured with the definition of worker set out in the proposal. By codifying a definition of worker based on the case law of the Court of Justice of the European Union, this Directive, if adopted, will ensure that in all Member States the same, broad categories of workers, including domestic workers, are covered. The proposal ensures that bogus self-employed who are in reality workers, will benefit from better working conditions. Providing a definition of worker in the proposal means that an additional 2 to 3 million workers will be entitled to transparency about their working conditions and to new substantive rights to improve predictability and security of their working conditions.*

*Mr Milan ŠTĚCH  
President of the Senát  
Valdštejnské náměstí 17/4  
CZ – 118 01 PRAGUE 1*

*The Commission would like to stress that genuine self-employed are not covered by the proposal. The European labour law is clear in the sense that a person either has the status of worker or self-employed: this is a binary opposition. The proposed Directive applies only to situations where an employment relationship exists: the employer has to discharge its obligations in relation to information and to the material rights it contains.*

*The proposal does not impose any rules as regards the monitoring of the proposed provision on employment in parallel with standards relating to workers' health and safety in the organisation of working time, deriving from Directive 2003/88/EC. The proposal provides Member States with the flexibility to take into account their national specificities when taking measures to achieve such aims.*

*The Commission takes note of the Sénat's consideration that some terms of the proposal need further clarification, in particular the terms 'reference hours and days' and 'entirely or mostly variable work schedule'. These notions are currently being discussed by the European Parliament and the Council.*

*The Commission remains confident that an agreement on the proposal can be reached before the end of the current term of the European Parliament.*

*The Commission hopes that the clarifications provided in this reply address the issues raised by the Sénat and looks forward to continuing the political dialogue in the future.*

*Yours faithfully,*

*Frans Timmermans  
First Vice-President*

*Marianne Thyssen  
Member of the Commission*