

**Opinion
of the European Union Affairs Committee of the Senate of the Republic of Poland
concerning the Proposal for a Council Regulation on the exercise of the right
to take collective action within the context of the freedom of establishment
and the freedom to provide services
COM(2012)130**

adopted at the sitting of 8 May 2012

The European Union Affairs Committee of the Senate of the Republic of Poland (EUAC) does not support the Proposal for a Council Regulation on the exercise of the right to take collective action within the context of the freedom of establishment and the freedom to provide services (COM(2012)130), because:

- 1) the right to take collective action is not threatened at present by the freedom of establishment or the free movement of services, and *vice versa*. These values are in balance, with priority being given to neither of them. The right to take collective action by employees is a fundamental right and as such it is protected in accordance with Article 28 of the Charter of Fundamental Rights;
- 2) the proposed Regulation fails to provide a rationale for changing the existing relationships or for establishing a hierarchy of these values. To a considerable extent, the Proposal duplicates the already existing standards, as interpreted by the EU Court of Justice on the basis of provisions that have applied hitherto. This is why, in the opinion of the EUAC, the adoption of the Regulation in question would be pointless;
- 3) the provisions of the proposed Regulation constitute a set of interpretation guidelines without having a normative character. The proposal contains a number of vague phrases that give rise to interpretative uncertainties (“grave disruptions”, “social unrest”), which may cause significant difficulties in applying the Regulation in the Member States. For this reason, the EUAC believes that the regulation is not the appropriate legal instrument for provisions of this kind. In the opinion of the EUAC, the proposal is thus not in line with the principle of proportionality;
- 4) consultations of the social partners at European level have not been successful.