



EUROPEAN COMMISSION

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C(2018) 5141 final*

Dear Chair,

The Commission would like to thank the Sejm for its Opinion on the proposal for a Regulation of the European Parliament and of the Council establishing a European Labour Authority {COM(2018) 131 final}.

This proposal, presented within the framework of the Social Fairness Package, forms part of a series of Commission initiatives to deliver on the European Pillar of Social Rights and to support fair and well-functioning labour markets. It aims to contribute to the overall strengthening of the Internal Market, which has been one of the priorities of the Juncker Commission.

Over the last decade, the number of mobile citizens almost doubled to reach 17 million in 2017. The Commission submitted several proposals to ensure that the EU legislative framework on free movement of workers and freedom to provide services and social security coordination is fit to respond to the social and economic reality in the Member States and to the challenges of the increasing mobility across Europe. However, concerns remained regarding the effective application and enforcement of these rules. The proposal to create a European Labour Authority aims at addressing this aspect, by ensuring that the Authority can provide relevant information and services to individuals and employers, as well as support Member States in information exchange, concerted and joint inspections, risk assessment, capacity building, mediation, and cooperation in the event of cross-border labour market disruptions.

The Commission welcomes the Sejm's support for the objectives of the proposal on fostering fair mobility, and takes seriously its doubts relating to the establishment of a new body – the European Labour Authority – to fulfil this task. The Commission is pleased to have this opportunity to provide a number of clarifications regarding its proposal and trusts that these will allay the Sejm's concerns.

*Ms Izabela KLOC
Chair of the European Union
Affairs Committee of the Sejm
UL. Wiejska 4/6
PL – 00-902 WARSAW*

*cc. Mr Marek KUCHCIŃSKI
Marshal of the Sejm
UL. Wiesjka 4/6
PL - 00-902 WARSAW*

As regards the added value justifying the establishment of an Authority to be charged with tasks which were formerly unrealised or realised insufficiently, the Commission thoroughly examined the current situation in the Impact Assessment accompanying the proposal. A public consultation and several targeted consultations informed the Impact Assessment, showing that there is a need to provide operational support to national authorities in various areas of cross border cooperation, and a need to provide readily available information to citizens about their rights and obligations. Furthermore, based on several studies produced in the context of the European Platform tackling undeclared work and by social security coordination experts, the Impact Assessment shows the limitations of the current framework with respect to the exchange of information, organising joint or concerted inspections, administrative capacities in dealing with cross-border cases, dispute mediation and finding support in the event of labour market disruptions with cross-border implications. Likewise, the Impact Assessment extensively reports about the adverse impact of lack of awareness and adequate information amongst citizens and companies on the actual possibility to exercise their mobility right.

The Sejm considers that certain aspects of the proposal are not sufficiently clear regarding the specific competences assigned to the proposed Authority. The Commission would like to underline that the proposal fully respects the current distribution of competences between the European Union and national authorities: the tasks of the Authority, as listed in Article 5 of the proposal and detailed further in the proposal, are designed to provide a support function to national authorities for operational activities on cross-border labour mobility and social security coordination matters, and to apply existing European Union rules in these fields. The proposed Authority is not intended to take over tasks or competences of national authorities.

The Sejm also raises concerns regarding the possible harmonisation of European Union law. The proposal would not introduce substantive new rights or obligations and it is not intended to harmonise national social security systems, as it fully respects the freedom of Member States to decide about such aspects. It proposes mechanisms that would enhance cooperation and organisational aspects to implement the existing obligations in accordance with the rules on free movement of workers and social security coordination to allow for a smooth functioning of these rules.

Specific concerns are raised in the Sejm's Opinion regarding the financial implications of the set-up of the new Authority. The Commission has carefully estimated staff and budgetary needs in light of the tasks to be carried out by the Authority. The Impact Assessment and the Legal Financial Statement transparently report the methods of calculation and the allocation of resources.

The Sejm's Opinion raises concerns regarding potential overlaps between the functions of the existing committees and networks in the area of labour mobility and social security coordination and the European Labour Authority. Furthermore, it raises concerns on details of the specific activities and tasks of the Authority and on its 'start-up' or transition period with possible implications for the good functioning and institutional memory of the above mentioned committees. The Commission is well aware that the

set-up of the European Labour Authority would imply a number of concrete organisational challenges. In order to ensure a smooth transition, the Commission has set up an Advisory Group bringing together representatives of Member States, the European Parliament, European level social partners and other stakeholders. While not participating in the legislative process, the task of the Group is to offer advice on the practical arrangements needed to ensure that the future Authority is operational immediately after the adoption of the proposal.

The Sejm's Opinion questions the proposed mandate of the Authority and the five year review clause. This is a standard clause taken from the 'Common Approach' adopted in 2012 by the European Parliament, the Council and the Commission on the setting up of decentralised agencies. This provision does not imply in any way that wider competences will be attributed to the Authority after five years of operation.

Finally, the Sejm's Opinion refers to the collection of statistical data. The provision of the proposal covering interoperability and exchange of information ensures that the work of the Authority regarding digitalisation of procedures, used for the exchange of information between Member States, will follow the principles of the relevant interoperability framework.

The Sejm's Opinion has been made available to the relevant Commission's services. Discussions concerning the proposal are now underway between the Commission and the co-legislators, the European Parliament and the Council.

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

Yours faithfully,

*Věra Jourová
Member of the Commission*