



EUROPEAN COMMISSION

*Brussels, 7.8.2018  
C(2018) 5349 final*

*Dear President,*

*The Commission would like to thank the Senat 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 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 is 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, 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 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 cooperation, 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 Senat'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 European Labour Authority will contribute to fostering fairness and mutual trust in the internal market by ensuring that EU rules are enforced in a fair, simpler and effective way. To this end, the Authority will be entrusted with a number of clear and precise objectives.*

*Mr Stanisław KARCZEWSKI  
Marshal of the Senat  
Ul. Wiejska 6  
PL – 00-902 WARSAW*

*The Senat's Opinion has been made available to the Commission's representatives in the legislative process for the proposal involving both the European Parliament and the Council. The Commission remains hopeful that an agreement can be reached on its proposal in the near future with a view to establish the Authority in 2019.*

*In parallel, an Advisory Group on the European Labour Authority has been established, 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 advise the Commission on how to build the future Authority, taking into account good practices and anticipating and addressing possible challenges.*

*In response to the more technical comments in the Opinion, the Commission would like to refer to the attached Annex.*

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

*Yours faithfully,*

*Günther H. Oettinger  
Member of the Commission*

## Annex

*The Commission has carefully considered the issues raised by the Senat in its Opinion and would like to offer the following observations.*

*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 its 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 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 Senat considers that certain aspects of the proposal are not sufficiently clear regarding the specific competences assigned to the proposed Authority (in reference to Articles 5, 6, and 8 of the proposal, as well as in connection with the task on inspections). The Commission would like to underline that the proposal to establish a European Labour Authority fully respects the current distribution of competences between the European Union and national authorities: the tasks of the Authority, as listed in Article 5 and detailed further in the following Articles, 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 EU rules in these fields. The proposed Authority is not intended to take over tasks or competences of national authorities.*

*The Commission notes the specific concerns raised in the Senat's Opinion regarding concerted or joint inspections, including their potential scope, conditions, initiation of inspections, and whether they can take place without the consent and participation of the inspected Member State's authorities. Articles 9 and 10 of the proposal aim to provide the framework for such concerted and joint inspections within the scope of activities of the Authority (cross border cases concerning EU rules on free movement of workers, posting of workers and social security coordination). Article 9(1) sets out that a request for an inspection could be initiated by one or more Member State(s), or it may be suggested by the Authority. Article 9(2) and (3) proposes that inspections take place only with agreement of the Member States concerned; therefore the coordination and support function offered by the Authority would be made available to the Member States only in case they wish to make use of this opportunity, without imposing an obligation to do so. As regards the conditions to conduct inspections, Article 10(2) specifies that such activity*

*would take place and would be followed-up in accordance with the national law of the Member State concerned.*