



EUROPEAN COMMISSION

Regulatory Scrutiny Board

Brussels,

Ares(2018)

Opinion

Title: Impact Assessment / The European Labour Authority

(version of 15 February 2018)*

Overall 2nd opinion: POSITIVE WITH RESERVATIONS

(A) Context

Intra-EU mobility benefits workers, businesses, economies and society as a whole. However, cross-border activities still encounter too many problems. One area of concern is the enforcement of workers' and employers' rights and obligations. The European Parliament has reportedly called for action on cross-border social issues. The Council has reportedly also called for improved administrative cooperation between Member States. While labour inspectorates and social security are national competencies, the EU plays a coordinating role in social security matters.

This impact assessment considers how a new European Labour Authority (ELA) might help address obstacles to cross-border mobility. Proposed in the 2017 State of the Union, the ELA is part of a social fairness package. Other elements of the package include proposals to create a European social security number and to improve access to social protection.

(B) Main considerations

The Board notes significant revisions to the report to address earlier Board concerns. The scope and context of the initiative, including the institutional landscape, are now clearer. The report presents the views of stakeholders more systematically.

However, the report still contains significant shortcomings that need to be addressed. As a result, the Board expresses reservations and gives a positive opinion only on the understanding that the report shall be adjusted in order to integrate the Board's recommendations on the following key aspects:

- (1) The report does not clearly address the risks of complexity and potential duplication associated with the creation of an ELA while maintaining the 6 bodies in the area of labour mobility and social security coordination.**
- (2) While an evaluation of existing decentralised Agencies in the employment field is ongoing, the report does not take into account the potential streamlining and increased synergies between the existing Agencies and the ELA.**
- (3) The report does not provide for robust budget estimates. It does not clearly**

* Note that this opinion concerns a draft impact assessment report which may differ from the one adopted.

explain the aggregated total costs associated with the preferred combination of tasks and structure for the ELA.

(C) Further considerations and adjustment requirements

(1) Many stakeholders expressed concerns regarding the complexity and risks of duplication through the creation of the ELA. This might be particularly true, as the 6 bodies in the area of labour mobility and social security coordination will be maintained. The report should better describe how the legal bases will factor in such risks. It should present a clearer division of tasks between the bodies and the ELA. It should explain what it concretely means that the ELA will take over the tasks of EURES coordination and the Administrative Commission. The report should also distinguish between the tasks to transfer to the ELA and the ones to create. The report should elaborate on the different prerogatives of the ELA depending on the specific policy area at stake.

(2) The report indicates that the agencies could contribute to some limited tasks of the ELA. But it does not demonstrate how the creation of the ELA, while mostly maintaining the status quo for the existing decentralised agencies, will result in synergies and efficiency gains. The report could make a link with the forthcoming evaluation of the decentralised agencies in the area of employment and could explain whether the competence of the ELA and the agencies could be adjusted as an outcome of the evaluation.

(3) The report should provide robust cost estimates of the delivery option. It should also better estimate costs for different tasks, independently from the costs associated with the creation of the ELA. The budget estimates for the preferred option should also clarify how these different types of costs combine and add up.

(4) The revised report requires further proofreading and editing. It should refrain from using technical language hardly accessible to non-specialists (e.g. references to budget “titles”).

The Board takes note of the quantification of the various costs and benefits associated to the preferred option of this initiative, as assessed in the report considered by the Board and summarised in the attached quantification tables.

[Some more technical comments have been transmitted directly to the author DG.]

(D) RSB scrutiny process

The lead DG shall ensure that the report is adjusted in accordance with the recommendations of the Board prior to launching the interservice consultation.

The attached quantification tables may need to be adjusted to reflect any changes in the choice or the design of the preferred option in the final version of the report.

Full title	Impact assessment accompanying the proposal for a Regulation of the European Parliament and the Council on the establishment of the European Labour Authority
Reference number	PLAN/2017/1746
Date of RSB meeting	07/02/2018

ANNEX: Quantification tables extracted from the draft impact assessment report submitted to the Board on 15/02/2018

(N.B. The following tables present information on the costs and benefits of the initiative in question. These tables have been extracted from the draft impact assessment report submitted to the Regulatory Scrutiny Board on which the Board has given the opinion presented above. It is possible, therefore, that the content of the tables presented below are different from those in the final version of the impact assessment report published by the Commission as the draft report may have been revised in line with the Board's recommendations.)

The assessment of benefits and costs had a strong qualitative approach especially for benefits. While the better cooperation has an impact on improving enforcement, the causal link between the set-up of a new body and socio-economic impacts, including mobility flows, is rather remote, owing to the influence of national legislation and to actual rule implementation. Therefore, the quantification of social or economic impacts and particularly of benefits was not deemed as realistic.

Costs of the preferred option will mainly influence the EU budget with minimum requirements for national authorities related to the National Liaisons Officers and contributions to the EU budget.. The EU budget costs refer to the situation in 2023 (cruising speed). Costs for tasks are compared to baseline, but not for the delivery option. Efforts to be made by national authorities to comply with the existing obligations (e.g. for the timely exchange of information or data collection) are not considered as an additional cost or burden compared to baseline.

<i>I. Overview of costs – Preferred option</i>							
		Citizens/Consumers		Businesses		Administrations/EU budget	
		One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
Task 1	Direct costs	No costs expected.					700,000 EU budget
	Indirect costs						
Task 2	Direct costs						2,800,000
	Indirect costs						
Task 3	Direct costs					Cost to be compensated by retrieving unpaid taxes or contributions	3,500,000
	Indirect costs						

Task 4	Direct costs						1,000,000
	Indirect costs						
Task 5	Direct costs						4,5000,000
	Indirect costs						
Task 6	Direct costs						2,950,000
	Indirect costs						
Governance (administrative costs and o	Direct Cost						18-20 million euro in cruising speed (2023), not compared to baseline, Brussels-based MS contribution to the EU budget

(1) Estimates to be provided with respect to the baseline; (2) costs are provided for each identifiable action/obligation of the preferred option otherwise for all retained options when no preferred option is specified; (3) If relevant and available, please present information on costs according to the standard typology of costs (compliance costs, regulatory charges, hassle costs, administrative costs, enforcement costs, indirect costs; see section 6 of the attached guidance).



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Brussels,
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Opinion

Title: Impact Assessment /the European Labour Authority

Overall opinion: NEGATIVE

(A) Context

Intra-EU mobility benefits workers, businesses, economies and society as a whole. However, cross-border activities still encounter too many problems. One area of concern is the enforcement of workers' and employers' rights and obligations. The European Parliament has reportedly called for action on cross-border social issues. The Council has reportedly also called for improved administrative cooperation between Member States. While labour inspectorates and social security are national competencies, the EU plays a coordinating role in social security matters.

This impact assessment considers how a new European Labour Authority (ELA) might help address obstacles to cross-border mobility. Proposed in the 2017 State of the Union, the ELA is part of a social fairness package. Other elements of the package include proposals to create a European social security number and to improve access to social protection.

(B) Main considerations

The Board acknowledges efforts to provide supporting analysis and evidence in a very short timeframe. However, the Board gives a negative opinion, because the report contains important shortcomings that need to be addressed particularly with respect to the following key aspects:

(1) The report does not clearly define or explain the scope of the initiative, nor does it develop the rationale for it.

(2) The analysis does not sufficiently explain how it arrived at the preferred option and why it discarded some measures of other options. .

(3) The report does not differentiate between responsibilities transferred to the ELA and new competence for enforcement. It does not adequately show how creating an ELA would result in synergies without losing the specificities of existing procedures and bodies.

(4) The report does not sufficiently explain what governance provisions would apply to the ELA or the High Level Labour Council (HLLC). The report does not explain the relationship between the ELA and the HLLC.

(5) The report does not sufficiently present the views of stakeholders.

(6) The report does not provide robust cost estimates of the ELA.

(C) Further considerations and adjustment requirements

(1) The report should clarify the personal and material scopes of the initiative. It should give and explain the rationale for this choice as well as for the choice to explicitly mention the field of international transport and no other policies or sectors.

(2) The report should demonstrate why and how the integration of a selection of existing agencies, committees on labour mobility and the Administrative Commission on social security for migrant workers into a new agency would lead to more streamlining and synergies while avoiding overlaps and duplications.

(3) The report should explain upfront (i.e. in the problem section) the similarities and differences in the nature and mandates of these existing agencies, committees and of the Administrative Commission. The report should clarify how the merger of these bodies into an ELA will bring more coherence without losing their specificities. This would help clarify the options and impacts, including the pros and cons of different governance structures (see below). It should make clear under each option what are the new competence and those transferred currently under the responsibility of committees or the Commission that will be transferred to ELA.

(4) The impact assessment should explain better the role and possible composition of the new High Level Labour Council as well as its relationship with the ELA. It should explain and substantiate the shift in governance from tripartite agencies, committees including the advisory committee of the Administrative Commission into an agency with an intergovernmental structure. The report should also explain the rationale for a stakeholder group with advisory function to the ELA. The report should elaborate on the composition, role and mandate of this group, with a focus on the role of social partners.

(5) The report needs to explain the extent to which the different policy options are cumulative or mutually exclusive. The report should further clarify why the most ambitious option 3 cannot be chosen even for specific policy fields (e.g. social security coordination). In addition, it needs to better clarify to what extent the different policy options would respect or go beyond existing EU competencies.

(6) The report should provide more details on the views of key stakeholders on the preferred options as well as on the establishment and the modalities of ELA more generally.

(7) In order to allow a solid comparison of the options, the report should make sure that cost estimates are provided for each of the options.

Some more technical comments have been transmitted directly to the author DG.

(D) RSB scrutiny process

The lead DG shall ensure that the report is revised in accordance with the above-mentioned requirements and resubmitted to the Board for its final opinion.

Full title

Impact assessment accompanying the proposal for a Regulation

	of the European Parliament and the Council on the establishment of the European Labour Authority
Reference number	PLAN/2017/1746
Date of RSB meeting	07/02/2018