



Council of the
European Union

Brussels, 29 May 2019
(OR. en)

**Interinstitutional File:
2018/0064(COD)**

**9400/19
ADD 2**

**CODEC 1102
SOC 367
EMPL 277
MI 449
IA 159**

'I/A' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Draft REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a European Labour Authority, amending Regulations (EC) No 883/2004, (EU) No 492/2011, and (EU) 2016/589 and repealing Decision (EU) 2016/344 (**first reading**)

- Adoption of the legislative act
- Statement

Statement by the Czech Republic

The Czech Republic has always been and remains strong advocate of the free movement of workers, freedom of establishment, freedom to provide services, and fundamental principles of the Internal Market of the European Union. It is in the interest of the Union and all its Member States that the relevant EU Internal Market legislation is fully applied and obstacles to the effective exercise of those freedoms are removed.

The Czech Republic is of the view that establishing European Labour Authority (ELA) can contribute to the objective of making Internal Market fair and effective and thus implementing principles of the European Pillar of Social Rights. In this respect, the Czech Republic supports measures to improve the cross-border cooperation and enforcement of the Union law in the area of labour mobility. The focus on tackling abuses in order to protect the rights of mobile workers is also highly appreciated.

However, the Czech Republic has several reservations regarding the final text of the Regulation.

Firstly, the Czech Republic regrets that the newly established EU entity is not called "agency". This would be fully justified given the fact that it should be governed and operated in line with the principles of the *Joint Statement of the European Parliament, the Council and the Commission on decentralised agencies of 19 July 2012* which requires – to avoid confusion among citizens and stakeholders – to use a standard term "agency".

As to the scope and nature of activities of the Authority, the Czech Republic has always believed that the main task of the Authority should be to assist the Member States and the Commission in their voluntary cooperation aimed at effective application and enforcement of the Union law related to labour mobility. Such cooperation should respect the competences of Member States as regards the application and enforcement of the relevant Union law. The Article 1 of the Regulation reflects this principle.

However, the agreed provisions concerning joint and concerted inspections seem to be ambiguous in this respect and may give rise to different interpretations as to the extent of the competences of the Authority and Member States.

Any joint inspection should be carried out inter alia, on condition of compliance with the criteria of efficiency, which is one of the aspects the Member States should be able to assess when considering their participation in the joint or concerted inspection. Therefore, the Czech Republic understands these provisions as not imposing on Member States any obligation to participate in concerted or joint inspection, nor requiring them to thoroughly elaborate on and justify reasons for their non participation in joint or concerted inspections.

The Czech Republic reads the corresponding provision of the Regulation as enabling Member States where the inspection is carried out to autonomously determine the role and status of the officials from another Member State participating in joint inspection. Concerted and joint inspections organised under the ELA auspices must not replace nor undermine national competences.

Finally, as regards the mediation procedure the Regulation correctly stipulates that it is without prejudice to the competences of the Administrative Commission for the Coordination of Social Security Systems established in Regulation (EC) No 883/2004. However, the ELA Regulation does not provide sufficient safeguards regarding the prevention of duplicity of activities of the Administrative Commission for the Coordination of Social Security Systems and the Authority. Thereby, the Czech Republic calls for a Cooperation Agreement that would emphasise the role of the Administrative Commission for the Coordination of Social Security Systems in respect of social security issues to the widest possible extent.