



**European Committee  
of the Regions**

**SEDEC-VI/038**

**131st plenary session, 8-10 October 2018**

## **OPINION**

### **Establishment of a European Labour Authority**

#### **THE EUROPEAN COMMITTEE OF THE REGIONS**

- welcomes the aim of the proposal, namely consolidating fairness and supporting confidence in the single market by means of more effective application of Union law in the area of cross-border labour mobility and coordination of social security;
- supports the approach entailing the establishment of a European Labour Authority (ELA) to assist Member States in combating irregularities in the field of free movement of workers, freedom of establishment and freedom to provide services, thus improving the quality of mobility, and serve as a support for national authorities in those areas where effective application of Union law by Member States is limited by national borders and/or where regional differences cannot be tackled properly at national level;
- underlines that the regional and local level is directly affected by irregularities in matters of cross-border labour mobility, that it has the closest contact with the public and thus with job seekers and employers, and that labour market mobility is to a considerable extent arranged - and arrangeable - along regional lines;
- emphasises that, because of this key role, provision should be made for local and regional authorities to be appropriately represented on the ELA management board;
- points out that positive effects, both for the region of origin and the host region, could be achieved by more efficient cross-border enforcement by national authorities and, in so doing, an increase in tax and social security revenue could be expected and the impact on fair working conditions and competition of greater legal certainty and consistent implementation of legislation could be felt locally;

Rapporteur-general

Doris Kampus (AT/PES), Regional minister for social affairs, work and integration of the Styrian regional government

Reference document

Proposal for a Regulation of the European Parliament and of the Council establishing a European Labour Authority, 13 March 2018 (text relevant to the EEA and Switzerland)  
COM(2018) 131 final

**Opinion of the European Committee of the Regions – Establishment of a European Labour Authority**

**I. RECOMMENDATIONS FOR AMENDMENTS**

**Amendment 1**

Proposal for a decision

Recital 5

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
A European Labour Authority (the "Authority") should be established in order to help strengthen fairness and trust in the Single Market. To that effect, the Authority should support the Member States and the Commission in strengthening access to information for individuals and employers about their rights and obligations in cross-border labour mobility situations as well as access to relevant services, support compliance and cooperation between the Member States to ensure the effective application of the Union law in these areas, and mediate and facilitate a solution in case of cross-border disputes or labour market disruptions.	A European Labour Authority (the "Authority") should be established in order to help strengthen fairness and trust in the Single Market. To that effect, the Authority should support the Member States and the Commission in strengthening access to information for individuals and employers about their rights and obligations in cross-border labour mobility situations as well as access to relevant services, support compliance and cooperation between the Member States to ensure the effective application of the Union law in these areas, and mediate and facilitate a solution in case of cross-border disputes or labour market disruptions. <b><i>This also includes a consistent and effective enforcement grid.</i></b>

<i>Reason</i>
For clear, fair and effective enforcement of Union legislation on cross-border labour mobility and the coordination of social security systems, national and regional authorities need appropriate enforcement mechanisms, which also develop a dissuasive preventive function.

**Amendment 2**

Proposal for a decision

Recital 14a (new)

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
	<b><i>(14a) For greater legal certainty and uniform application of law (also for the jurisdiction of local courts), rules are needed on the legal use of information (e.g. admissibility as evidence) gathered in the course of inspections. Steps should be taken to ensure that results from joint inspections can be used in a consistent manner.</i></b>

<i>Reason</i>
For years, the Senior Labour Inspectors Committee (SLIC) has been recommending that the status of joint measures be clarified across the EU..

### **Amendment 3**

Proposal for a decision

Article 5(c)

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
(c) coordinate and support concerted and joint inspections, in accordance with Articles 9 and 10;	(c) <b><i>strengthen</i></b> , coordinate and support concerted and joint inspections, in accordance with Articles 9 and 10;

<i>Reason</i>
The nature of concerted and joint inspections of national competent authorities should be considerably enhanced in order to improve enforceability of results.

### **Amendment 4**

Proposal for a decision

Article 5(h) (new)

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
	<b><i>(h) facilitate the continuation of the work of existing, smoothly functioning structures, including EURES cross-border partnerships, which foster cooperation in cross-border regions with a view to supporting fair cross-border mobility.</i></b>

<i>Reason</i>
The synergies promised by the Commission and the integration of existing, smoothly functioning structures (such as EURES cross-border partnerships which are important to the regions) should be guaranteed and secured in budgetary terms.

### **Amendment 5**

Proposal for a decision

Article 6(c)

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
(c) provide relevant information to employers on labour rules, and the living and working conditions applicable to workers in cross-border labour mobility situations, including posted workers;	(c) provide relevant information to employers <b><i>and employees</i></b> on labour rules, and the living and working conditions applicable to workers in cross-border labour mobility situations, including posted workers;

<b>Reason</b>
Tailored information should be made available for the whole range of social partners.

**Amendment 6**  
Proposal for a decision  
Article 6(g) (new)

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
	<i>(g) promote the flow of information between the regions, cities and municipalities concerned by mobility so as to exchange knowledge and experience in a structured fashion and pass it on to other parties.</i>

<b>Reason</b>
Information on local conditions and experience contributes significantly to improvements in cooperation, capacity-building and the use and consolidation of available knowledge.

**Amendment 7**  
Proposal for a decision  
Article 7(1)(e) (new)

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
	<i>(e) recommend the exchange of good practice between regions, cities and municipalities concerned by mobility and share such experience.</i>

<b>Reason</b>
The exchange of experience in the area of services should also be ensured.

**Amendment 8**  
Proposal for a decision  
Article 8(1)(d)

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
(d) facilitate cross-border enforcement procedures of penalties and fines;	(d) facilitate cross-border enforcement procedures of national penalties and fines <i>and develop proposals for promoting greater transparency and consistency in the implementation of such national sanctions in a cross-border context;</i>

<b>Reason</b>
Inadequately regulated accountability in the enforcement of national penalties and fines in a cross-border context jeopardises the efficient application of Union legislation in cross-border cooperation between regional authorities.

**Amendment 9**  
 Proposal for a decision  
 Article 9(1)

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
1. At the request of one or several Member States, the Authority shall coordinate concerted or joint inspections in the areas under the scope of the Authority's competences. The request may be submitted by one or several Member States. The Authority may also suggest to the authorities of the Member States concerned that they perform a concerted or joint inspection.	1. At the request of one or several Member States the Authority shall coordinate concerted or joint inspections in the areas under the scope of the Authority's competences. The request may be submitted by one or several Member States <b><i>in accordance with national practices concerning the labour market in the Member States in question.</i></b> The Authority may also suggest to the authorities of the Member States concerned that they perform a concerted or joint inspection.

<i>Reason</i>
The plethora of national traditions in respect of monitoring compliance with legislation (including institutions cooperating with the national authorities) should be borne in mind.

**Amendment 10**  
 Proposal for a decision  
 Article 9(2)

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
Where the authority of a Member State decides not to participate in or carry out the concerted or joint inspection referred to paragraph 1, it shall inform the Authority in writing of the reasons for its decision duly in advance. In such cases, the Authority shall inform the other national authorities concerned.	Where the authority of a Member State decides not to participate in or carry out the concerted or joint inspection referred to paragraph 1, it shall inform the Authority in writing of the reasons for its decision duly in advance. In such cases, the Authority shall inform the other national authorities concerned.

**Amendment 11**  
 Proposal for a decision  
 Article 10(5)(a) (new)

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
	<b><i>5a. In the Member States involved, the results of joint inspections may be used by the competent authorities as evidence with the same legal value as documents collected in their jurisdiction.</i></b>

<i>Reason</i>
<p>For years, the Senior Labour Inspectors Committee (SLIC) has been recommending that it be clarified across the EU whether joint measures are legally binding.</p> <p>Steps to boost cooperation should also entail the legal enforceability of the results of joint inspections being regulated and ensured at all levels of authority.</p>

### **Amendment 12**

Proposal for a decision  
Article 11(2)(d) (new)

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
	<p><i>(d) for this knowledge to be kept up to date, regular exchange should be organised with the regions, cities and municipalities most concerned - both in host countries and the countries of origin.</i></p>

<i>Reason</i>
<p>There should also be steps to ensure regular exchange of information in analysis and risk assessment, as well as input from the regions most concerned.</p>

### **Amendment 13**

Proposal for a decision  
Article 18 (new)

<i>Text proposed by the European Commission</i>	<i>CoR amendment</i>
<p>The Management Board shall be composed of one senior representative from each Member State <b>and</b> two representatives of the Commission, all of whom have voting rights.</p> <p>2. Each member of the Management Board shall have an alternate. The alternate shall represent the member in his or her absence.</p> <p>3. Members of the Management Board representing their Member States and their alternates shall be appointed by their respective Member States in light of their knowledge in the fields referred to in Article 1(2), taking into account relevant managerial, administrative and budgetary skills.</p> <p>The Commission shall appoint the members who are to represent it.</p> <p>The Member States <b>and</b> the Commission shall make efforts to limit the turnover of their representatives on the Management Board in</p>	<p>The Management Board shall be composed of one senior representative from each Member State, two representatives of the Commission <b>and one representative of the Member States' regional authorities</b>, all of whom have voting rights.</p> <p>2. Each member of the Management Board shall have an alternate. The alternate shall represent the member in his or her absence.</p> <p>3. Members of the Management Board representing their Member States and their alternates shall be appointed by their respective Member States in light of their knowledge in the fields referred to in Article 1(2), taking into account relevant managerial, administrative and budgetary skills.</p> <p>The Commission shall appoint the members who are to represent it.</p> <p><b><i>The representative of the Member States' regional authorities shall be appointed by the</i></b></p>

<p>order to ensure continuity of the Board's work. All parties shall aim to achieve balanced representation between men and women on the Management Board.</p> <p>4. The term of office for members and their alternates shall be four years. That term shall be extendable.</p> <p>5. Representatives from third countries, which are applying the Union law in areas covered by this Regulation, may participate in the meetings of the Management Board as observers.</p>	<p><i>Committee of the Regions from among its members from EU Member States in which responsibility for employment policy is shared with the regions.</i></p> <p>The Member States, the Commission <i>and the Committee of the Regions</i> shall make efforts to limit the turnover of their representatives on the Management Board in order to ensure continuity of the Board's work. All parties shall aim to achieve balanced representation between men and women on the Management Board.</p> <p>4. The term of office for members and their alternates shall be four years. That term shall be extendable.</p> <p>5. Representatives from third countries, which are applying the Union law in areas covered by this Regulation, may participate in the meetings of the Management Board as observers.</p>
--	---

<b><i>Reason</i></b>
<p>In some Member States, responsibility for employment policy is shared between the State and the regions: the authority's management board should include one representative of regional authorities, in order to ensure a balanced representation of interests.</p>

## **II. POLICY RECOMMENDATIONS**

### THE EUROPEAN COMMITTEE OF THE REGIONS

General considerations and general assessment of the proposal

1. welcomes the aim of the proposal, namely consolidating fairness and supporting confidence in the single market by means of more effective application of Union law in the area of cross-border labour mobility and coordination of social security;
2. supports the approach entailing the establishment of a European Labour Authority (ELA) to assist Member States in combating irregularities in the field of free movement of workers, freedom of establishment and freedom to provide services, thus improving the quality of mobility;
3. underlines the observation that abusive use of these freedoms not only weakens the cohesion of the EU, but also leads to considerable social, economic and budgetary constraints being placed on regions, cities and municipalities and on people themselves;



4. reiterates that when this happens, tax revenue and social security contributions are reduced and there is a negative impact on employment, working conditions, competition, local and regional development, welfare and social security;
5. therefore advocates greater consistency and the facilitation of cooperation between national authorities, who currently come up against territorial jurisdictional limitations in the effective enforcement of existing rules in cross-border situations;
6. underlines that better coordination at EU level of sanctions for infringements of legislation on labour mobility could constitute a deterrent to non-compliance and make a significant contribution to a more effective enforcement system, also in the spirit of Articles 81 and 82 TFEU. Moreover, this would strengthen trust and fairness in the Internal Market, by ensuring, inter alia, a clear business environment and a level playing field. For the effective achievement of such a coordination, it is necessary to it is necessary to deploy all the necessary means (such as links between IT platforms or telematics systems or other means of communication);
7. supports the operational role of the ELA, which is to take over the technical tasks of existing structures and incorporate and further develop them in order to plug the gaps in the system and create synergies;
8. points out that tasks and competences should be clearly defined so that at all levels of public administration, supporting cooperation measures are devised in a targeted, efficient manner and duplication of existing structures avoided;
9. points out that in the ELA's proposed remit, there is a broad spectrum of national, regional and local practices and legal situations, and would stress that the ELA's mandate should be compatible with this diversity and accumulated knowledge taken on board;

#### Critical assessment of the objective and tasks from the regions' perspective

10. stresses that especially those employees who work across borders are in a vulnerable position in Europe because their rights are more easily infringed due to their mobility between their regions of origin and the host regions;
11. underlines that the regional and local level is directly affected by irregularities in matters of cross-border labour mobility, that it has the closest contact with the public and thus with job seekers and employers, and that labour market mobility is to a considerable extent arranged - and arrangeable - along regional lines<sup>1</sup>;
12. emphasises that, because of this key role, provision should be made for local and regional authorities to be appropriately represented on the ELA management board<sup>2</sup>;

---

<sup>1</sup> CoR opinion on Labour Mobility and Strengthening of EURES (CoR 2014-1315).

<sup>2</sup> CoR opinion on the European Pillar of Social Rights (CDR 2868/2016).

13. notes that the ELA should cover all areas of the economy and that close involvement of the social partners should be ensured through sectoral and regional representation in the stakeholders' group so that enough account is taken of the various problems;
14. highlights how important it is for achieving the objectives that the ELA's actions be based on an enforceable approach and accountability, while upholding to the same extent the autonomy of national systems;

#### Subsidiarity and proportionality

15. stresses that the subsidiarity principle has to be complied with fully at every development level of the ELA and all national competences in labour and social policy matters respected;
16. underlines that the proportionality principle must be fully upheld to avoid an additional financial and administrative burden;
17. points out that the establishment of the ELA should aim to strengthen the basic freedoms of the single market and serve as a support for national authorities in those areas where effective application of Union law by Member States is limited by national borders and/or where regional differences cannot be tackled properly at national level;
18. notes that the European Labour Authority has to allow for the different labour market models and priorities that Member States may have. The European Labour Authority should on no account affect the autonomy of the social partners and the central role they play;
19. maintains that this should contribute to an improvement in the quality of mobility as part of existing competences and regulations;
20. points out that positive effects, both for the region of origin and the host region, could be achieved by more efficient cross-border enforcement by national authorities and, in so doing, an increase in tax and social security revenue could be expected and the impact on fair working conditions and competition of greater legal certainty and consistent implementation of legislation could be felt locally<sup>3</sup>;

#### Additional proposals and further regulatory requirements

21. recommends that, given the dynamic nature of the European labour market against a background of demographic change and technological challenges, and in accordance with the subsidiarity and proportionality principles, provision be made for development opportunities for the ELA;
22. deems it essential that, when dealing with cross-border situations, the commitment of all actors involved to a swift, effective and consistent follow-up has to be strengthened in order to achieve a positive impact at regional and local level;

---

<sup>3</sup> <https://cor.europa.eu/en/our-work/Documents/Territorial-impact-assessment/TIA-ELA-Labour-Authority-20180704.pdf>.

23. recommends that, when dealing with third countries and where applicable, the Authority should build on the Union's macro-regional strategies, which help address, through strengthened cooperation, common challenges faced by a defined geographical area covering Member States and third countries and contribute to the achievement of social, economic and territorial cohesion.

Brussels, 9 October 2018

The President  
of the European Committee of the Regions

Karl-Heinz Lambertz

The Secretary-General  
of the European Committee of the Regions

Jiří Buriánek

### III. PROCEDURE

<b>Title</b>	Proposal for a Regulation of the European Parliament and of the Council establishing a European Labour Authority
<b>Reference(s)</b>	COM(2018) 131 final
<b>Legal basis</b>	TFEU Articles 46, 48, 50 and 62
<b>Procedural basis</b>	RoP Rule 41(a)
<b>Date of Council/EP referral/Date of Commission letter</b>	12 March 2018
<b>Date of Bureau/President's decision</b>	16 May 2018
<b>Commission responsible</b>	Commission for Social Policy, Education, Employment, Research and Culture (SEDEC)
<b>Rapporteur-General</b>	Doris Kampus (AT/SPE)
<b>Analysis</b>	May 2018
<b>Discussed in commission</b>	-
<b>Adoption by commission</b>	-
<b>Result of the vote in commission (majority, unanimity)</b>	-
<b>Date adopted in plenary</b>	9 October 2018
<b>Previous Committee opinions</b>	
<b>Date of Subsidiarity Monitoring Consultation and/or Territorial Impact Assessment (where appropriate)</b>	Territorial Impact Assessment on 4 July 2018