



5.3.2018

NATIONAL PARLIAMENT REASONED OPINION ON SUBSIDIARITY

Subject: Reasoned opinion of the Swedish Parliament (Riksdag) on the proposal for a directive of the European Parliament and of the Council on transparent and predictable working conditions in the European Union (COM(2017)0797 – C8-0006/2018 – 2017/0355(COD))

Under Article 6 of the Protocol (No 2) on the application of the principles of subsidiarity and proportionality, national parliaments may, within eight weeks of the date of transmission of a draft legislative act, send the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why they consider that the draft in question does not comply with the principle of subsidiarity.

The Swedish Riksdag has sent the attached reasoned opinion on the aforementioned proposal for a directive.

Under Parliament's Rules of Procedure the Committee on Legal Affairs is responsible for matters relating to compliance with the subsidiarity principle.

REASONED OPINION OF THE SWEDISH PARLIAMENT (RIKSDAG)

ANNEX 2

Reasoned opinion of the Swedish Parliament (Riksdag)

The Riksdag has considered whether the Commission proposal for a directive of the European Parliament and of the Council on transparent and predictable working conditions in the European Union (COM(2017)797) is contrary to the subsidiarity principle. The Riksdag considers the proposal to be contrary to the subsidiarity principle. The reasons for the Riksdag's finding are as follows.

The Riksdag notes first of all that the proposal concerns draft legislation falling within the scope of the subsidiarity provisions in Article 5(3) of the Treaty on European Union. Article 153(1)(b) of the Treaty on the Functioning of the European Union requires the EU to support and complement Member States' activities in the field of, inter alia, working conditions, in order to achieve the objectives set out in Article 151, including improving living and working conditions.

The Riksdag considers it essential that the Member States' powers in the field of labour law should be safeguarded in the work of the European Union. This has been a cornerstone of Sweden's approach to the EU since we joined the Union. The point of departure must therefore continue to be that issues in the field of employment law that do not have a clear cross-border dimension should primarily be dealt with at national level.

The Riksdag can well appreciate that there may be a need to update the directive on the information of employees. The Riksdag notes that the directive was adopted almost 30 years ago and that there may be good reasons for amendments so as to better reflect the realities of the labour market today. However, the proposed new directive would do more than that, because, inter alia, it lays down new substantive rights and provides definitions of 'employee' and 'employer'.

The Riksdag notes that the social partners on the Swedish labour market, in the form of organisations representing both employees and employers, have argued in letters to the government that the proposal does not comply with the principle of subsidiarity. The Riksdag shares their assessment that the proposal for a directive represents interference in the Swedish labour market model. The Swedish labour market is characterised by the fact that it is the social partners who bear prime responsibility for regulating labour market conditions. This model, under which the parties concerned assume responsibility, has been beneficial to Sweden and has enabled the labour market and the economy to develop well over time. In Sweden, the matters dealt with in the proposed directive are mainly resolved by means of collective agreements at company, sectoral and/or national level. The Riksdag perceives a clear risk that the proposed rules could disrupt the Swedish system, which is functioning satisfactorily.

The Riksdag also takes the view that it is at national level that the term ‘employee’ can best be defended and developed in the light of the specificity of the various systems. The Riksdag also does not exclude the possibility that a definition of the term ‘employee’ at EU level could have an impact in areas other than employment law. They could for example include areas where the Member States have sole competence. The likely impact of the proposal is difficult to assess.

The Riksdag welcomes the rationale underlying the proposed Directive, namely that it is important to establish clear and predictable working conditions and that they should be adapted to developments in the labour market. The Riksdag shares the Commission’s assessment that there is a common interest in increasing upward convergence of the working and living conditions of citizens of EU Member States. However, the Riksdag, unlike the Commission, takes the view that not all the measures that the directive proposes can most effectively be taken at EU level. As the preconditions and systems differ significantly between EU Member States, a number of the issues covered by the proposal for a Directive can best be dealt with at national level. Nor is there a clear cross-border dimension in the matters that it is intended to regulate.

The Riksdag therefore considers the Commission proposal to be contrary to the principle of subsidiarity, and it hereby issues a reasoned opinion to the Presidents of the European Parliament, the Council and the Commission.