



Position Paper

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Regulation establishing a European Labour Authority

General Remarks

EUROCHAMBRES is a strong advocate of the European Single Market, valuing its four freedoms equally. Free movement of people brings substantial benefits to companies, employees and the economy. Different sectors develop at different paces in different member states, with some growing while others perish, depending on economic circumstances.

Freedom of movement gives companies the ability to make up for skills shortages by attracting transnational employees. As a result, they can meet production requirements and generate further growth. On the other hand, employees facing lack of work or career progression opportunities within their sectors locally have the possibility to move cross-border temporarily or permanently to maximise opportunities for themselves and their families.

Furthermore, considering that national economies perform differently over time, free movement of people enables a more efficient and socio-economically advantageous match between supply of and demand for employment across the EU.

While in favour of the economic benefits brought about by free movement of workers, EUROCHAMBRES also believes that this should be well regulated in order to provide the highest level of safeguards and protection to transnational employees opting to offer services cross-border. EUROCHAMBRES also acknowledges that, despite the best of intentions by the great majority of employers, at times either due to lack of information or because of a minority of operators not honouring their obligations, fraud may occur in cross-border situations that requires attention.

On 13 March 2018, the European Commission published its proposal for a Regulation establishing a European Labour Authority. In principle, EUROCHAMBRES takes a positive stance on the proposed establishment of a European facility whose main aim is to improve cross-border cooperation between member state authorities. However, EUROCHAMBRES is against a facility that conducts joint inspections or that fulfils a mediation role.

EUROCHAMBRES is also critical of the establishment of a facility in the form of an authority, which would require 144 employees and financial resources adding up to a total expenditure of €244 million by 2024 and an annual budget exceeding €56 million thereafter. Information, capacity building and analysis of cross-border labour flows can be provided by a smaller facility. EUROCHAMBRES therefore favours scaling down the structure proposed. In a spirit of financial prudence and efficiency considerations, also with regard to the negotiations on the next Multiannual Financial Framework (MFF), funds should be reduced proportionally in accordance with the reduction of tasks of the authority.

EUROCHAMBRES would rather advocate improvements to existing tools and bodies in the form of a decentralised agency rather than naming it an authority, which is associated with strict enforcement.

Specific Recommendations

Improve linkages between existing information tools (Art. 6 and 7)

The European Labour Authority is supposed to inform about the wage and salary regulations applicable in the respective host state in addition to providing general information on the free movement of people (Articles 6 and 7). Violations of the Posting of Workers Directive arising from the lack of awareness of the legal obligations can thus be avoided.

Information on living and working conditions in each Member State is already accessible through the EURES portal. If the European Labour Authority assumes this function and merges it with data from other areas, it could result in duplication of tasks. In this context, EUROCHAMBRES points out that instruments are already in place at national level, such as Points of Single Contact, which provide information about the wage and salary regulations at national level. Unfortunately, these tools frequently either do not meet required standards or are under-used. The aim should therefore be to better link and promote existing information tools.

Enhance cooperation between the Member States (Art. 8, 12 and 14)

Enhanced cooperation between Member States should primarily relate to exchanging information, supporting capacity building and facilitating exchange in cases of cross-border labour market disruption.

Administrative penalties or fines imposed by authorities on companies from other EU member states should be enforced by authorities in the company's country of origin by means of mutual assistance between authorities. Requesting authorities do not know whether these penalties are actually enforced. The European Labour Authority can address this through improved cooperation and by contributing to capacity building in individual member states. EUROCHAMBRES therefore strongly supports both provisions (Articles 8 and 12).

Support to national authorities with regard to cross-border labour market disruptions may also be helpful (Article 14). From EUROCHAMBRES' point of view, it is, however, crucial that companies incur no additional bureaucracy or reporting obligations.

Joint inspections are not effective (Art. 9 and 10)

EUROCHAMBRES disagrees with the notion of joint inspections by several member states under the coordination of the European Labour Authority: Firstly, this would mean an intrusion on the competences of national authorities; secondly, joint inspections make the procedure more complicated. There could be a situation whereby member states complying with EU rules are open for inspections, but member states that do not meet all requirements refuse. This would create further dispute and tension among member states. Articles 9 and 10 should therefore be deleted.

Disputes should be settled at ECJ or national court proceedings (Art. 13)

EUROCHAMBRES is critical of the mediation role that the authority may perform upon request of one of the member states concerned by a dispute. There is a risk of anticipating legal interpretation, whereas this falls under the sole competences of the European Court of Justice. The legal implications of a decision by the Mediation Board, which might subsequently be appealed before the ECJ, are not clear. There is no need to create Mediation Boards as a new entity. EUROCHAMBRES therefore calls for the deletion of Article 13.

Conclusion

While strongly in favour of policies supporting the functioning of the European Single Market and the principle of free movement of people, EUROCHAMBRES is not convinced of the necessity to establish a European Labour Authority.

In order to enhance cross-border cooperation, funds could be used more efficiently by improving the functioning of existing tools and bodies and fostering capacity building.

EUROCHAMBRES is opposed to granting comprehensive law enforcement rights and an inspection and mediation role to the Labour Authority.

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EUROCHAMBRES – The Association of European Chambers of Commerce and Industry represents over 20 million enterprises in Europe – 98% of which are SMEs – through members in 43 countries and a European network of 1700 regional and local Chambers.

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