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THE EUROPEAN UNION**

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COVER NOTE

from: Folketinget of Denmark
date of receipt: 3 May 2012
to: Ms Helle Thorning-Schmidt, President of the Council of the European Union
Subject: Proposal for a Council Regulation on the exercise of the right to take collective action within the context of the freedom of establishment and the freedom to provide services
[doc. 8042/12 SOC 226 MI 194 COMPET 169 - COM(2012) 130 final]
- *Opinion on the application of the Principles of Subsidiarity and Proportionality*¹

Delegations will find attached the above mentioned opinion.

¹ For available translations of this opinion see the interparliamentary EU information exchange site (IPEX) at the following address: <http://www.ipex.eu/IPEXL-WEB/search.do>



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Begrundet udtalelse vedrørende Kommissionens forslag til forordning om udøvelse af retten til kollektive skridt (Monti II) - KOM(2012)130

3. maj 2012

Kære Formand for Rådet,

Ref. 12-000337-3

Kommissionen fremsatte den 21. marts 2012 et forslag til Rådets forordning om udøvelse af retten til kollektive skridt inden for rammene af etableringsfriheden og den frie udveksling af tjenesteydelser (Monti II) - KOM(2012)130. Forslaget har været behandlet i Folketingets Europaudvalg.

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Folketinget finder, at forslaget i sin nuværende form ikke er foreneligt med nærhedsprincippet. Jeg fremsender dig hermed Folketingets begrundede udtalelse om forslaget i din egenskab af formand for Rådet.

Folketinget finder, at forslaget således ikke bidrager til at skabe klarhed mellem på den ene side hensynet til at sikre den fri bevægelighed og på den anden side hensynet til at sikre arbejdstagernes ret til kollektive kampskridt. Tværtimod risikerer forslaget at gribe forstyrrende ind i velfungerende nationale ordninger på det arbejdsretlige område.

Folketinget kan ikke se nødvendigheden af, at der på EU-plan gribes ind i reguleringen af eksisterende nationale tvistbilæggelsesmekanismer, eller at der indføres en pligt for medlemsstatene til at underrette Kommissionen om eventuelle arbejdskonflikter i medlemsstatene. I den forbindelse henviser Folketinget til, at mekanismer til bilæggelse af tvister eksisterer og fungerer på nationalt niveau.

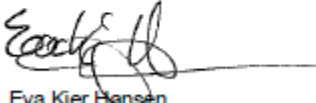
Folketinget lægger generelt stor vægt på, at EU-samarbejdet på det arbejdsmarkedspolitiske område udøves på baggrund af medlemsstaternes forskellige nationale udgangspunkter. EU's rolle skal dermed udelukkende være af understøttende og komplementerende karakter.

Endelig bemærker Folketinget, at artikel 153, stk. 5, i TEUF, udtrykkeligt udelukker lovgivning om strejkeretten på EU-plan. Uanset at forslaget ikke i sig selv lægger op til at indføre nye mekanismer til bilæggelse af tvister, er

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det Folketingets, opfattelse, at traktaten heller ikke giver EU kompetence til at lovgive om eksisterende nationale ordninger på området.

Med venlig hilsen



Eva Kjer Hansen
Formand for Europaudvalget

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Prime Minister Helle Thoming-Schmidt
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Courtesy translation**Reasoned opinion as regards Commission proposal for a Regulation on the exercise of the right to take collective action (Monti II) - COM(2012)130**

3 May 2012

Ref. 12-000337-3

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Dear Ms President

On 21 March 2012 the Commission presented a proposal for a Council Regulation on the exercise of the right to take collective action within the context of the freedom of establishment and the freedom to provide services (Monti II) – COM(2012)130. The proposal has been subject to scrutiny by the European Affairs Committee of the Danish Parliament.

The Danish Parliament is of the opinion that the proposal is in conflict with the principle of subsidiarity. I hereby send you the reasoned opinion of the Danish Parliament in your capacity of President of the Council.

The Danish Parliament finds that the proposal does not provide further clarity as regards, on the one hand, the need to ensure free movement and on the other hand, the need to ensure the workers' right to take collective action. On the contrary, there is a risk that the proposal might disturb well-functioning national arrangements in the area of labour law.


The Danish Parliament does not see the need for the European legislators to intervene in existing national mechanisms on dispute-settlement. Nor does it find it necessary to introduce an obligation for Member States to inform the European Commission of potential labour disputes in the Member States. In that respect, the Danish Parliament recalls that tools for dispute-settlement exist and function well at the national level.

In general, the Danish Parliament attach considerable importance to the fact that the European cooperation in the area of labour law is based on the Members States' different national points of reference. The role of the EU should therefore only be of a supporting and complementary nature.

Finally, the Danish Parliament finds that Article 153 (5) of the TFEU explicitly excludes the right to strike from the range of matters that can be subject to

European legislation. Although the proposal does not in itself provide for new mechanisms for the settlement of conflicts, the Parliament finds that the treaty does not give the EU the power to legislate on existing national arrangements in the area concerned.

Kind regards,



Eva Kjer Hansen
Chair of the European Affairs Committee