



**COUNCIL OF
THE EUROPEAN UNION**

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from: Council General Secretariat
to: Delegations

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

- Letter of Commissioner Mr László ANDOR and Vice-President Mr Maroš ŠEFČOVIČ to the President of the Council Mr Demetris CHRISTOFIAS

Delegations will find attached a letter from the Commissioner for Employment, Social Affairs and Inclusion Mr László ANDOR and the Vice-President for Interinstitutional Relations and Administration Mr Maroš ŠEFČOVIČ, to the President of the Council Mr Demetris CHRISTOFIAS, with regard to the above-mentioned Commission proposal.



MAROŠ ŠEFČOVIČ
Vice President for
Interinstitutional Relations
and Administration

LÁSZLÓ ANDOR
Commissioner for
Employment,
Social Affairs and Inclusion

*Brussels, 12 September 2012
ARES (2012) 1059654*

Dear President,

In June, the Commission confirmed that national Parliaments had issued a 'yellow card' on the Commission proposal for a 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 {COM(2012)130 final} following reasoned opinions adopted by 12 national Parliaments and representing a total of 19 votes.

The Commission has carefully assessed the arguments put forward by national Parliaments in their reasoned opinions, taking note that the concerns expressed relate in particular to the added value of the draft Regulation, the choice of the legal basis, the EU competence to legislate on this matter, the implications of the general principle included in Article 2 of the draft Regulation and the references to the principle of proportionality in Article 3(4) and in recital 13 of the draft Regulation, equal access to dispute resolution mechanisms and the alert mechanism. The Commission has not found based on this assessment that the principle of subsidiarity has been breached.

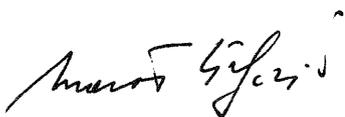
At the same time, the Commission has taken careful note of the views expressed as well as the current state of play of the discussions on the draft Regulation among relevant stakeholders, in particular the European Parliament and Council. Against this background, the Commission recognises that its proposal is unlikely to gather the necessary political support within the European Parliament and Council to enable its adoption.

*Mr Demetris Christofias
President of the Republic of Cyprus
Council of the European Union
Rue de la Loi, 175
1048 Bruxelles*

In view of this, the Commission would hereby like to inform you of its intention to withdraw its proposal for a 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.

The Commission thus hopes to facilitate a rapid negotiation of the proposal for a Directive of the European Parliament and the Council on the enforcement of Directive 96/71/EC and improve the enforcement of posted workers' rights as underlined in point 3 (l) of the 'Compact for Growth and Jobs', adopted by the European Council on 28-29 June 2012.

Yours faithfully,



*Maroš Šefčovič
Vice President*



*László Andor
Commissioner*