

COMMUNICATION

**from the European Affairs Committee of the Federal Council
to the European Commission, the Council and the European Parliament
pursuant to Article 23f para. 4 of the Austrian Constitution
4 April 2018**

COM (2017) 797 final

Proposal for a Directive of the European Parliament and of the Council on transparent and predictable working conditions in the European Union

This proposal for a Directive was published by the Commission on 21 December 2017. As the employer's obligation to inform employees of the conditions applicable to their contract or employment relationship have changed significantly, the Commission considered it appropriate to table this proposal. According to information available to the Commission, a growing trend towards "non-standard" forms of employment was observed in 2016. This development has been facilitated by digitalization, demographic change and other issues. The Member States therefore adapted some of their legal regulations to the changing realities of the world of work, which led to an increasingly complex and diverse regulatory system across the EU. The objective of the proposed Directive is to ensure improved access for employees to information regarding their working conditions, fundamental improvements in working conditions, and greater transparency in the labour market.

The Federal Council wishes to comment on a number of issues, especially those underlined in the joint opinion submitted by the liaison office of the Austrian federal provinces. In principle, the scope of the Directive, as proposed in Article 2, should be narrowed down. According to the proposal in its current version, the Directive would also apply to self-employed workers, which would constitute a far-reaching interference with the respective national legal system. Numerous new obligations to provide information as well as minimum information requirements are being introduced, the usefulness of which appears to be questionable. According to the proposed Directive (Article 3), the employer has to provide the employee with a written statement outlining his/her working conditions on the first day of the employment relationship. The previously allowed deadline of two months was eliminated, which deprives the national legislator entirely of its latitude for action at national level. Moreover, modifications to the working conditions notified must be transmitted at the latest on the

day they take effect. In the Federal Council's opinion, this provision is highly restrictive on the Member States and results in a higher administrative burden. The obligatory reversal of the burden of proof to the detriment of the employer may appear, at first sight, to improve the situation of employees, but does in no way take national conditions into account. The possibility of a more flexible solution should at least be provided for. Given the well-functioning system of social partnership in Austria, greater flexibility in respect of the issue of the burden of proof would be essential.

The horizontal provision of Article 13, according to which Member States have to ensure that the necessary amendments are made to individual and collective agreements and other arrangements in order to align them to the provisions of the proposed Directive, runs counter to common practice and is therefore not acceptable.