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COMMUNICATION FROM THE COMMISSION TO THE COUNCIL, THE EUROPEAN PARLIAMENT, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS

Outcome of the Public Consultation on the Commission's Green Paper "Modernising labour law to meet the challenges of the 21st century"

{COM(2007) 627 final}

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INTRODUCTION

The public consultation on the Green Paper was launched on 22 November 2006 and generated great interest with approximately 450 submissions received in the period following the launch. Most respondents replied by the end of March 2007, although numerous submissions did not arrive until some time afterwards. This did not prevent them from being accepted by the Commission.

Opinions were received from the European Parliament[1] and the European Economic and Social Committee[2], and from 25 Member States, along with Iceland and Norway, and from over 400 other organisations, including 24 recognised social partner bodies at EU level, as well as joint positions formulated by three EU sectoral social dialogue committees, social partner interests, industry bodies and Social NGOs at EU and national level, in addition to academic organisations of labour lawyers and industrial relations practitioners and many enterprises and individuals throughout the EU.

The questions posed in the Green Paper were also presented in the form of an easy-to-use online questionnaire with the Commission's Interactive Policy Making (IPM) tool which has already been used for more than 100 public consultations conducted via the web portal "Your voice in Europe"[3], which is the single access point for European Commission consultations.

The Green Paper has prompted a large number of responses from a wide range of stakeholders. The responses provide useful information on national legal systems and on emerging European labour market issues that reflect greater labour mobility and trans-national corporate activity throughout the EU. This information supplements the comparative research project on the evolution of labour law in the EU-15[4] already undertaken under the auspices of the Commission. While the main bodies representing employers, trade unions and the social policy sector organised their own internal processes of consultation and deliberation on the Green Paper, the presentation of their coordinated responses was often accompanied by individual submissions from affiliated organisations. In some instances, a formal process of consultation was initiated by Member State governments. In the case of Denmark, Germany, Sweden and the United Kingdom, the Green Paper was the subject of scrutiny by parliamentary committees and opinions were presented by their respective parliamentary bodies. In some other countries, the national authorities invited the social partners and other stakeholder interests to provide their comments on the Green Paper in advance of the preparation of national submissions – in some

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1 Resolution of 11th July 2007, P6_TA-PROV (2007) 0339, adopted with 479 votes in favour and 61 against, with 54 abstentions.

2 CESE 398/2007 of 30th May 2007. Adopted by a majority vote (140 in favour, 82 against and 4 abstentions). A counter-opinion (submitted by Group I representatives) was appended to the EESC opinion.

3 Please refer to the following website to find more information about the Commission's public consultations in different policy areas and on the use of the IPM tool: http://ec.europa.eu/yourvoice/consultations/index_en.htm.

4 S. Sciarra: The evolution of labour law (1992-2003), Vol. 1, General Report (Luxembourg, Office for Official Publications of the European Communities, 2005); National reports of 15 countries, Vol. 2 (Luxembourg, Office for Official Publications of the European Communities, 2005). National reports of the evolution of labour law in the new EU-10 in the period 1995-2005 will be published shortly.

instances seminars were organised at national level as part of this preparatory process. The Commission participated in many seminars convened at the invitation of Member State governments, regional public authorities, the social partners and industry bodies.

Given that replies were received in many different formats and from a wide range of stakeholders with very unequal degrees of representativeness, this report does not aim to provide a statistically representative survey of the responses in detail.

This report attempts to provide an accurate and objective summary account of the responses as they were presented to the Commission's services. It does not take any position as to the comments received and does not seek to correct any of the misunderstandings or factual inaccuracies, that occasionally seem to underlie the views expressed by some respondents.

The Commission's assessment of the results of the consultation and a preliminary identification of the areas where further developments at EU level are considered to be both necessary and justified, are set out in a Communication to which this report is attached.

Given the wide range of topics raised in the course of the public consultation, it is impossible to do full justice to the richness of the replies in a summary report. Those interested in reading more are invited to consult the individual responses to the consultation[5] using the following link: http://ec.europa.eu/employment_social/labour_law/green_paper_responses_en.htm

The remainder of this report is organised as follows. Part I reviews the manner in which respondents addressed the policy context and the analytic framework which informed the presentation of the issues put forward for debate in the Green Paper. Part II summarises the comments made by the respondents on the main themes of the consultation which were also the focus of the fourteen questions addressed to stakeholders.

[5] Almost all stakeholders consented to their contributions being made public. For those individuals who requested anonymous publication (38 respondents), we have deleted references to their identity. To facilitate analysis, responses were grouped under nine broad categories of respondents. See the annex attached.

PART I THE POLICY CONTEXT AND THE ANALYTICAL FRAMEWORK INFORMING THE GREEN PAPER

1. CONDUCT OF THE PUBLIC CONSULTATION

EU Bodies

For the European Parliament, it would have been preferable had the Commission consulted the EU Social Partners as provided for under Article 138 of the EC Treaty rather than conducting a public consultation through a Green Paper. The European Economic and Social Committee considered the timescale for the consultation on the Green Paper to be too tight.

Member States

The Member States together with Iceland and Norway responded positively to the Commission's initiative in launching an open debate on the future of labour law and welcomed the opportunity provided by such a debate at both EU and national levels to elicit the opinions of Member States, social partners and other stakeholders and citizens throughout Europe. Several Member States noted that the Green Paper was in keeping with the Lisbon Strategy and the aim, in conjunction with the anticipated Communication on Flexicurity[6], of creating the best possible framework for advancing the goals and reforms that can enhance competitiveness, employment and social development in Europe. The Green Paper was welcomed by the German Presidency as a significant contribution to the shape of Social Europe. Luxembourg considered, however, that it was more the task of the social partners than the Member States – and even more so the European Union – to decide where adjustments to labour law may be needed. Only Belgium expressed reservations about the conduct of a public consultation on the basis of a Green Paper, outside the formal framework for the consultation of EU social partners.

Social Partners

For trade union organizations at both EU and national levels the choice by the Commission to launch an open public consultation procedure through of a Green Paper was highly problematic. Since labour law is at the heart of social policy as mentioned in Article 138 of the European Treaty, the ETUC[7] considered that the Social Partners at European level should have been consulted in a different way, and given a more important weight, than the wider public. That would have allowed them to influence the direction of the initiatives to be taken, at an early stage, and to express their interest in taking up some of the issues themselves for negotiation. LO, the Swedish trade union confederation, stressed that if, as a consequence of the Green Paper, the Commission should subsequently put forward concrete proposals to

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6 The Commission subsequently adopted the Communication: "Towards common principles of flexicurity: More and better jobs through flexibility and security" COM (2007) 359 of 27.6.2007 in June 2007 as anticipated in the Green Paper.

7 European Trade Union Confederation.

modernize labour law, the Treaty required these proposals to be forwarded to the social partners.

Other trade unions at national level throughout the EU, viewed the Green Paper as an important contribution to an impartial debate on the role of labour law, the development of minimum standards, and the protection of vulnerable categories of workers.

Employer and business stakeholders generally welcomed the launch of the public consultation as an opportunity to gain an understanding of the impact of labour law on competitiveness and long-term prosperity. While welcoming the Green Paper as a contribution to a necessary debate, CEEP[8] considered that the specific questions posed in the Green Paper might have been addressed through prior consultation of the EU social partners. In their view, the social partners should have first considered the overall picture regarding Better Regulation issues, the competing claims of convergence and subsidiarity, and how labour law contributes to, or detracts from, the achievement of the Lisbon goals. The European Broadcasting Union, EBU[9], also considered that it might be premature to go beyond taking a "snapshot" of certain problems that may exist, and for which tailored solutions at sectoral level may be more appropriate. Social dialogue and collective bargaining should be promoted by the EU and the Member States as a better way of adapting to technological and economic developments than national legislation.

Social NGOs and other interests

Respondents considered that social dialogue should play a key role in the overall consultation process, although other stakeholders in addition to the traditional social partners should be involved – at both national and EU levels. The Social Platform[10] welcomed the debate, as it provided an opportunity for Social NGOs to present a different perspective by voicing the concerns of people who encounter difficulties in the labour market. It found, however that the Green Paper could have put more emphasis on issues of general interest and values. The technical nature of the questionnaire had the effect of limiting the involvement of national and local NGOs in a debate of fundamental concern to them.

Labour law specialists welcomed the manner in which the Commission had invited not only experts but a broad spectrum of participants to reflect on the social and cultural role that labour law can play in European society – thereby putting labour law back on the European agenda.

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8 European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest.

9 An organisation representing public service broadcasters in the 27 European Union countries.

10 The Platform of European Social NGOs.

2. THE ANALYTIC FRAMEWORK PUT FORWARD IN THE GREEN PAPER

EU Bodies

The Parliament's Resolution warned against any characterisation of the standard, indefinite employment contract as somehow obsolete, and as an obstacle to the creation of jobs and improved economic dynamism.

The European Economic and Social Committee expressed concern at what it alleged to be the Green Paper's assertion that labour law is currently incompatible with the revised Lisbon Strategy and not capable of ensuring that businesses and workers have a sufficient degree of adaptability. It warned against any implication that labour law had lost its validity as a law that protects both employees and employers.

Member States

Several Member States discussed the analysis presented in the Green Paper of the impact of employment protection legislation on the workings of the labour market, focusing in particular on the implication that workers on standard employment contracts with a high level of legal protection may not be sufficiently flexible, the need to distinguish more clearly between different forms of non-standard work such as part-time contracts, fixed term contracts and self-employment, and the significance of internal flexibility for the development of the employment relationship. Italy considered that any approach to labour law reform should be based upon the principles and rights enshrined in the Charter of Fundamental Rights of the European Union[11]. Moreover, Luxembourg queried the overall significance of labour law reform for the implementation of the Lisbon Strategy. Since, in its view, research on the impact of labour law on the economy is neither clear nor unanimous, there should be no question of changing labour law until there is sufficiently solid evidence.

Other Member States took a different view, welcoming the opportunity to debate whether excessive rigidity in regulating the labour market and industrial relations might have a negative impact on economic and employment growth.

Social Partners

The reservations on the part of the EU Institutions and some Member States, as described above, were also shared by many respondents among trade unions, Social NGOs and labour law academic and lawyers. They expressed concern that the analytic framework seemed to assume that:

– new and better jobs can only be created by deregulating the individual rights of workers;

[11] As proclaimed in Nice on 7 December 2000, by the presidents of the European Parliament, the Council and the Commission. Italy referred specifically to the Commission's decision of 13 March 2001, which undertook to make the Charter the basis for its actions and legislative proposals.

– a solution to the challenges facing the EU labour markets can only be found by relaxing employment protection (particularly as regards relaxing dismissal rules) for the majority of workers on permanent, regular employment contracts;

– labour law should be restricted to playing the role of an instrument in the service of economic efficiency and employment creation without regard to its fundamental values.

For the ETUC, the flexibility of labour law (contractual arrangements) must not constitute the key instrument to promote the adaptability of workers and enterprises. Other respondents, including EU sectoral trade union federations and national confederations, cannot accept that improved employment levels and labour market dynamism and innovation depend upon the increased use of atypical forms of employment and a weakening of employment protection, in particular where the termination of employment is concerned. ETUC and a number of national trade union confederations (including the DGB,[12] ÖGB,[13] and TUC[14]) maintain that no negative correlation has been established between employment protection legislation (EPL) and employment levels or innovation and productivity. Many trade union responses from industrial groups, national confederations and sectoral-specific unions throughout the EU perceived the Green Paper as implicitly accepting that labour law might be "old-fashioned" and somehow an obstacle to economic growth, given the diversity of new forms of work in the labour market.

German trade union organisations discussed the analytic framework presented in the Green Paper and considered the flexibility dimension had been emphasised while social aspects (quality in employment) had been ignored. They perceive the "modernisation" of labour law to be a euphemism for "deregulation". The Irish Congress of Trade Unions [ICTU] regretted that the Commission's approach did not take into account the reality of the modern workplace or the importance of securing a platform of rights to support a productive economy, a well functioning labour market and a decent society. Trade union organisations at national and sectoral level emphasised that a framework of strong employment protection legislation can provide the employment stability necessary for productivity, human capital investment and worker motivation.

Many employer bodies at EU, sectoral and national levels, while sharing many of the concerns put forward by the Green Paper, considered, however, that it had taken an overly negative view of flexible forms of work. Several organisations were eager to stress the contribution of self-employment to economic dynamism and the reduction of unemployment, and to emphasise the extent to which those working under non-standard employment contracts, and in particular part-time contracts, did so voluntarily and under advantageous conditions. BusinessEurope[15] rejected the way in which the concept of "insiders" and "outsiders" within a segmented labour market had been presented in the Green Paper. They maintain that, in reality, the "outsiders" are the unemployed and the "insiders" are all those legally employed. This view is

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12 Deutscher Gewerkschaftsbund Bundesvorstand (DGB), Germany.
13 Österreichischer Gewerkschaftsbund (ÖGB), Austria.
14 Trade Union Congress, UK.
15 The Confederation of European Business.

disputed by the trade unions, for whom, the concept of "outsiders" is much wider, with the implication that the gap between "insiders" and "outsiders" can only be eliminated by improving the protection of precarious workers.

UEAMPE[16] considered that, while the Green Paper correctly outlined the challenges Europe is facing, more analysis of the causes of the unsatisfactory labour market situation in the EU was required. While the BDA[17], the German employers' organisation, found that the Green Paper had put forward a correct analysis of the current situation of labour law, it did not accept the conclusions drawn as to the issues chosen for debate.

Social NGOs and Labour Law academics

A number of the Social NGOs, lawyers' associations and labour studies institutes stressed the need to regard employment under decent working conditions as a fundamental right that should be upheld by labour law. They consider that in today's globalised economy, international labour standards are essential to ensure that the growth of the global economy provides benefits for all. The ILO's definition of *decent work* for a decent life – in Europe and worldwide – is considered to be of crucial importance in this context [Social Platform, its affiliates and ICTUR[18]]. As the ILO defines it, decent work means opportunities for work that are productive and deliver a fair income, security in the workplace and social protection for families, better prospects for personal development and social integration, freedom for people to express their concerns, organize and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men. The concept of decent work should be a clear point of reference in the debate on the reform of labour law.

Some Social NGOs consider that one of the main objectives of labour law and employment policy is to provide a framework that enables every worker to unfold the potential he or she has acquired (through education, training, vocational training and life-long learning). Labour law should not be subordinated to behaviourist or utilitarian approaches that view the goals of such self-realisation exclusively in terms of material benefits or incentives.

For several labour law specialists[19] the important issues addressed in the Green Paper should be set within the context of the Charter of Fundamental Rights of the European Union[20], the European Social Charter[21] and the established jurisprudence of the European Court of Justice. The Green Paper is assumed to reflect the view that security for workers can only be achieved through a "corpus of rules" regulating employment contracts, whereas the Nice Charter adopts the broader concept of social citizenship with a guarantee of minimum rights that would shield citizens against labour market risks.

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16 European Association of Craft, Small and Medium-Sized Enterprises.

17 Bundesvereinigung der Deutschen Arbeitgeberverbände.

18 International Centre for Trade Union Rights.

19 Italian Labour Lawyers; DJB Deutscher Juristenbundt e.v.; Prof. Kohte, Halle.

20 Op.cit.

21 The European Social Charter of the Council of Europe was adopted in 1961and revised in 1996. All EU Member States are Members of the Council of Europe and have ratified the European Social Charter.

Some lawyers and academic researchers, notably IIPEC,[22] stress the evolution in labour law whereby the Member States have over many years been adapting their institutions and legal structures to the changes in methods of production and in the functioning of markets.

3. THE SCOPE OF THE GREEN PAPER

EU Bodies

The European Parliament noted the Green Paper's focus on individual employment law and urged the Commission to promote collective labour law as one of the means of increasing both flexibility and security for workers and employers. It emphasised that any form of employment, whether non-standard or otherwise, should carry with it a core of rights regardless of the specific employment status, which should include, among others, freedom of association and representation, collective bargaining, and collective action.

For the European Economic and Social Committee, the protective and emancipating role of labour law needs to be placed in a historical perspective, reflecting the key role played by the development of collective bargaining, with its specificities connected to the cultural, social, economic and legal traditions of the various Member States.

Member States

Several Member States considered the main focus of the Green Paper on the individual employment relationship to be too restrictive. They would have preferred a wider scope integrating collective labour law aspects and taking into account the complex interplay between the overall regulatory framework in each country and the role of collective bargaining in regulating the world of work. A similar approach was followed by most trade union stakeholders and academic experts. In their view insufficient attention has been given to labour law's fundamental protective role - safeguarding workers against arbitrary treatment by employers and upholding prohibitions on discrimination and measures to protect and promote fundamental rights and freedoms including the freedom of association and the right for trade unions to organise, to bargain collectively and to organise collective action.

Social Partners

The social partners put strong emphasis on the need to address the modernisation of labour law as part of a broader flexicurity agenda, acknowledging that labour law is only one component of a flexicurity approach.

For the trade unions, modernising labour law at national level can only be satisfactorily addressed in the context of the overall regulatory framework at national level and by recognising the significance of collective agreements as an important source of law. Several national trade union confederations and their affiliates

[22] Institut International Pour les Etudes Comparatives, Paris.

emphasised the contribution of collective bargaining in compensating for the unequal power relationship between worker and employer.

Labour law, in the view of ETUC, has developed in a rich variety of forms throughout the EU-27. There are countries in which collective bargaining is the primary means of regulation, and others where legislation has provided the main thrust for regulation to protect workers. Mixed systems (with some combination of both law and collective bargaining) are prevalent in the majority of EU Member States. In countries where collective bargaining is not widespread and social partners relatively weak, the role of statute law is more essential as a safeguard for workers than in countries where the majority of workers are covered by collective arrangements of one kind or another.

A jointly agreed response,[23] on the part of the employers and trade unions represented in the EU sectoral social dialogue for the regional and municipal employment sector, highlighted how collective agreements, joint initiatives and guidance, agreed upon by the social partners, can contribute to establishing individual rights, as well as enabling flexibility and employment transitions. They were in agreement that labour law, devised in the right way, is no obstacle to labour market mobility, increased employment and productivity.

Labour law's crucial protective function was seen by many trade unions and national confederations (DGB; ICTU; TUC) as intrinsically linked to the exercise of collective action. This role of labour law is demonstrated by safeguarding workers against arbitrary treatment by employers and by upholding prohibitions on discrimination and measures to protect and promote fundamental rights and freedoms including the freedom of association and the right for trade unions to organise, to bargain collectively and to organise collective action. This protective function is reflected, according to CESI,[24] in the development of European minimum standards, which play a decisive role in supporting social cohesion and are the "crux" of the European Social Model.

For UNI-Europa,[25] the modernisation of labour law should be closely linked to the objectives of quality jobs, investment, innovation, research and sustainable development. It needs to be addressed in the context of the need to reduce of social precariousness, the fight against social fraud, the reconciliation of working and private lives, the financing of social protection and the fight against social exclusion.

In the view of employers, modernising labour law should focus on considering how labour law could contribute to ensuring the smooth functioning of labour markets while guaranteeing fair treatment of workers. UEAMPE viewed the labour law framework as one of the most important factors influencing job creation, growth and competitiveness. However, it should not be considered in isolation from other labour market conditions, such as social rights, social protection benefits, unemployment

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23 Joint response by the Employers' Platform of the Council of European Municipalities (CEMR-EP) and the European Federation of Public Services Union (EPSU).

24 Confédération Européenne des Syndicats Indépendants/European Confederation of Independent Trade Unions.

25 European regional organisation of Union Network International (UNI).

benefits (amount and duration), other types of financial rights or benefits, but also continuous training system as well as the tax system.

The concern that any approach to labour law reform should be set in the broadest context, taking into account its interaction with social security systems, labour market policy and skills development, was also expressed by the Swedish trade union confederation, SACO.[26]

The BDA saw no need to have any EU-level debate on collective labour rules. In CEEP's view, however, consideration of labour law should include such objectives as: ensuring efficient labour markets; fairness within all types of employment relationships, equality at work and healthy and safe workplaces; the ability for employees to develop their careers; competitive economies which promote employment growth; and basic collective rights for employees such as to belong to, and participate in, free trade unions.

Meaningful labour law reform should aim, according to EuroCommerce[27], to encourage new approaches to maximising long term prosperity and competitiveness through the availability of flexible work options. The general picture of labour law reflects divergent strands of decentralisation and re-centralisation in the view of the European Banking Federation. The decentralisation of companies and new forms of production together with increasing outsourcing and the use of subcontractors are reflected in labour law developments, as are the increasingly devolved negotiations between the social parties. At the same time, some re-centralisation is also apparent in the growing emphasis on horizontal themes such as human rights, protection of personal data, protections of health and safety, prevention of discrimination and equal treatment.

The CEC[28] considered that the questions asked in the Green Paper have to be seen in the light of the diverse range of labour law and industrial relations systems within the EU-27. Labour law combines organisational rules for the labour market with employment protection measures for workers. It stressed in its contribution that what may be viewed as worker protection rules in some countries are viewed elsewhere as a market barriers, while what may be considered adequate labour conditions in some countries may be perceived as "a race to the bottom" in others.

Some trade union' responses also highlighted the dynamic character of labour law as a support for active labour market policies, for example, by removing barriers that prevent disadvantaged groups of workers from participating fully within the labour market. Similarly, collective agreements provide for vocational education and training. A Finnish trade union confederation, STTK,[29] considered that the success of Finnish labour law in supporting innovation, security and equality had contributed to Finland's being rated as the world's most competitive country in several international studies. The TUC highlighted how enhanced maternity leave entitlements, combined with equal treatment rights for part-time workers, have played an important role in increasing female labour market participation in the UK. It also noted how labour

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26 Swedish Confederation of Professional Organisations (SACO).

27 Association of Commerce of the European Union.

28 Confédération Européenne des Cadres/Confederation of European Managers.

29 Finnish Confederation of Salaried Salaried Employees [STTK].

market regulation, including collective bargaining, can assist in building high-trust, high-productivity workplaces. Ensuring that vulnerable workers enjoy the protection of labour law would, according to the Communication Workers Union in the UK, serve to reduce "in work" poverty and encourage increased employer investment in training, resulting in better productivity, while still maintaining the flexibility required to compete in a global environment.

4. SUBSIDIARITY

EU Bodies

The European Parliament's Resolution acknowledges that action at European Union level must respect Member States' competence in the field of labour law and the principles of subsidiarity and proportionality. It also acknowledges that the Commission's role includes proposing initiatives when this is considered necessary to underpin a system of minimum social standards applicable throughout the Union, on the basis of the Community *acquis*.

Member States

Most Member States, national parliaments and the EU social partners recalled the division of responsibilities between the EU and the Member States - as reiterated in the European Council Presidency Conclusions of 8/9 March 2007. It was generally acknowledged that the development of labour law within the EU primarily comes under the competence of the Member States and the social partners – the Community *acquis* serves as a means of supporting and complementing the actions of the Member States through the establishment of minimum standards.

Several Member States and employer stakeholders did not see the need for further legislative initiatives at Community level. However, they acknowledged, that objections to taking action at EU level should not preclude the pursuit of reforms needed at national level to achieve the objectives of the Lisbon Strategy. The prospect of a more structured exchange of experience regarding on developments in labour law and contractual arrangements was, accordingly, viewed positively. Some national employer confederations called for urgent action at national level to ease individual and collective dismissal regulations and to facilitate greater recourse to new forms of contracts (i.e. alternatives to the standard, indefinite, full-time employment contract).

The opinions received from four national parliaments highlighted the issue of subsidiarity:

Scrutiny of the issues raised in the Green Paper by national parliaments

For the Danish Parliament (*Folketinget),* the Labour Market Committee (*Arbejdsmarkedsudvalg*) and the European Affairs Committee (*Europaudvalg*) considered in their joint response that the flexicurity model must be pursued through a bilateral approach whereby pay and conditions of employment would continue to be fixed by means of agreements between employers' organisations and trade unions.

The German Bundesrat pointed out that solutions must be tailored to the conditions of each Member State, since labour markets differ considerably across the EU. It agreed that safeguarding working conditions and improving the quality of work mainly depends on national legislation and law enforcement. It saw no need for further legislative action by the EU in this area.

For the Swedish Parliament, the Parliamentary Labour Market Committee (Arbetsmarknadsutskottet) emphasised the need to uphold the Swedish model, which is characterised by collective agreements between the social partners on wages and other conditions of employment, and maintained that reforms in the field of labour law should, accordingly, be a matter of national policy.

The European Union Committee of the UK House of Lords considered the issues raised in the Commission's Green Paper from the perspective of their impact upon the UK labour market and concluded that most of these issues were adequately addressed within UK labour law. The Committee recommended that efforts at EU level to influence the broad frameworks of labour law within Member States should aim to promote the sharing of experience and good practice, rather than to introduce new legislation.

On the other hand, several Member States, trade union stakeholders and academics stressed that further EU level activity in the labour area should not be confined to the open method of coordination (OMC). Instead, mutual cooperation procedures would need to be complemented by further regulatory initiatives at EU level. Trade unions emphasised that emerging European labour markets can no longer be managed by relying on national rules in the social sphere as internal market and competition rules are being accorded primacy over national social policy provisions.

The interaction between EU labour law and the internal market was underlined by those Member States favouring further Community action in such areas as the regulation of temporary agency work; the determination of the existence of an employment relationship and/or the status of the self-employed in the context of cross-border movement; arrangements for subsidiary liability in chains of sub-contracting and other aspects of the regulation of sub-contracting and service-type contracts; and measures to improve the possibilities for reconciliation of work and private and family life.

Social Partners

The EU social partners' shared experience of social dialogue at EU level has been shaped by their mutual appreciation of the limited competence of the EU with regard to labour law and social security, and the need to respect the autonomy of national social partners. Together they broadly share the view that no single model of flexicurity can be generalised across Europe, since each country has to decide on its own on the sequence of reforms and on the different components of the policy mix to be put in place. With regard to developments in labour law, however, there is a difference of emphasis on the "added value" provided at EU level. Whereas employers do not wish to see the competence to modernise labour law extended beyond national level, the trade unions nonetheless favour the development of an EU-wide supportive legal framework.

ETUC considers that the policy implications of the complex range of issues raised in the Green Paper may warrant forms of action extending beyond the scope of employment policy guidelines. Accordingly, ETUC calls on the EU Institutions, together with the social partners at EU level, to develop an EU-wide supportive legal

framework, consisting of a combination of EU 'rules of the game' and certain EU minimum-standards.

ETUC holds that wherever genuine and balanced 'flexicurity models' have come about in Europe, they have always been the outcome of negotiations between social partners at various levels, and therefore cannot and should not be introduced 'top-down' from the EU level. Nonetheless, in the view of ETUC and its affiliates, 'emerging European labour market(s)' cannot be managed, where the social dimension is concerned, by relying on national rules alone. In their view, there is an asymmetrical pattern to the development of EU policies and competences as EU internal market and competition rules are increasingly interfering with national autonomy in the social field. ETUC calls for a combination of some EU 'rules of the game'and certain EU minimum standards, with respect for national social policy and industrial relations.

The experience of trans-national industrial relations disputes is echoed in calls by the Finnish Confederation STTK and the Irish ICTU for the EU to encourage national collective bargaining as a means of regulating working conditions. The Irish and Nordic trade union organisations call for EU employment and social policies to respect, protect and promote social dialogue between management and labour and to improve the capacity of social dialogue and collective bargaining in Member States. They consider that measures are needed at EU level to ensure that every Member State observes the rights conferred in the Treaties and maintains adequate definitions, enforcement mechanisms and remedies to secure the 'effectiveness' of the rights to freedom of association and collective bargaining as enshrined in the Treaty.

The Nordic trade unions in particular emphasise the principle that the establishment of minimum standards at EU level should not inhibit Member States from establishing standards that are more favourable to workers. They wish to see the status of ILO standards strengthened within the framework of Community labour law and call for labour law to be afforded legitimate exemptions from internal market rules, wherever this is necessary in order to fulfil its purpose. They also highlight the potential of binding European agreements between the social partners as an alternative to conventional legislative measures. This would require the development of a supplementary system of industrial relations at European level. Clear rules needed to be established, according to the Council of Nordic Trade Unions[30], to enable European agreements between social partners to become legally binding. A dispute settlement system would have to be established to deal with any conflicts that might arise regarding their implementation.

The Danish Confederation of Trade Unions, LO**,** called on the Commission to distinguish clearly between European and national tasks in any follow-up activity. Although the main challenges need to be addressed at national level, there is a need for action at EU level, in line with the Treaty, to supplement national efforts with directives setting minimum requirements especially for cross-border issues. It also considers that action is required at EU level in new areas such as musculoskeletal

[30] The Council of Nordic Trade Unions (NFS) an umbrella organisation for trade unions representing blue-collar, white-collar and academic workers in Denmark, Finland, Iceland, Greenland, Norway and Sweden.

disorders, the psycho-social working environment and the protection of workers' personal data.

EUROCADRES[31] considers that existing EU directives in the labour law field currently lack coherence. It advocates a European Labour Law framework, which would set out the minimum requirements for a secure employment relationship. EU labour law should include common guidelines for employment contracts and employment relationships, such as obligations to give written information on the principal terms of employment, on the applicability of collective agreements, on the minimum wage standards, on pay during illness, on family leave, etc.

BusinessEurope considers that adopting a top-down legislative approach at EU level may be counter-productive for national reforms. European law can prevent the national legislator from introducing reforms in national law, notably due to the fact that EU directives contain 'non-regression' clauses. It holds that, depending on their content, labour law and collective agreements can either contribute or obstruct the smooth functioning of labour markets. The relationship between legislation and collective agreements is complex and varies from country to country. The EU level should respect these differences and avoid adverse interferences in national negotiations.

BusinessEurope, its national affiliates, and EuroCommerce consider that the role of the EU in the modernisation of labour law should be limited to monitoring national reforms using the instruments of the European growth and jobs strategy. Faced with the diversity of the EU-27, a number of national employer confederations (UK,[32] FR,[33] DK,[34]) consider that the exchange of best practices and the conduct of open coordination with common goals and benchmarks has considerable advantages over the Community method as a means of modernising national labour markets. In the same vein, German employer organisations strongly echo the opinion that the reform of labour law should be pursued exclusively within a national context.

CEEP considers that the costs associated with some existing regulations serve to demonstrate the importance of concentrating EU-level action on key principles so as to leave room for manoeuvre at national level through customary channels, including collective bargaining. The principle of subsidiarity also includes giving precedence to collective bargaining in certain countries in line with their national traditions and practices, respecting the autonomy of the social partners. Labour law needs to be sufficiently flexible to take account of the very different national baseline conditions of the Member States. Nonetheless, CEEP shares the concern of the trade unions with regard to the interface between labour law and other Community policies. It does not rule out the need for more detailed Community regulations at sectoral level to ensure high-quality provision and a level playing field for providers in the EU. National circumstances must be fully understood and taken into account.

Social NGOs

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31 Council of European Professional and Managerial Staff.

32 Confederation of British Industry (CBI).

33 MEDEF: Mouvement des Entreprises de France.

34 Confederation of Danish Employers (DA).

Most respondents consider that labour law is only effective where it is adapted to the national context and integrated in a policy framework that ensures a high level of social protection and focuses on helping the most excluded groups in society to move towards employment. Since labour law is primarily within the competence of the Member States, the role of the European Union should concentrate on coordinating national initiatives and promoting the exchange of experience.

Labour law academics consider that the Green Paper, in attempting to open a debate about the contribution of labour law to advancing the Lisbon Strategy, should have set out to examine the distinctions within employment and social policy between coordination and harmonisation and, in particular, the role of legal norms in the implementation of the Strategy[35]. They call for further elaboration and examination of the possible mix of regulatory measures and techniques, as well as institutional mechanisms, such as the Open Method of Coordination (OMC), that could assist in promoting the modernisation of labour law.[36]

5. THE BETTER REGULATION AGENDA

EU Bodies

The European Parliament's Resolution highlighted the relevance of labour law reform to the Better Regulation agenda in the broad areas listed in the extracts featured in the Box below:

The relevance of labour law reform to the Better Regulation agenda

(1) A need to law for stable, clear and sound provisions in labour

The EP calls on the Commission and the Member States to recognise that labour law has an immense influence on the behaviour of undertakings, and that their confidence in stable, clear and sound provisions is a key element when taking decisions to create more and better jobs, and calls therefore on the Member States to implement and enforce properly all of the existing Community legislation affecting labour markets;

(2) Fair and efficient enforcement

The EP stresses that labour legislation is only efficient, fair and strong if it is implemented by all Member States, applied equally to all actors and enforced on a regular basis and in an efficient manner. It requests that the Commission should strengthen its role as Guardian of the Treaty in the implementation of social and employment legislation;

(3) Importance of Social Dialogue for Better Regulation

The EP calls on the Commission and the Member States to cooperate constantly with the social partners, and where appropriate other, relevant, representative civil

35 Institut International Pour les Etudes Comparatives, Paris.

36 Italian Labour Lawyers.

society bodies, on any legislation in the labour law or social policy fields, with a view to simplifying administrative procedures facing SMEs and new firms in particular, making their financial situation easier and increasing their competitiveness in order to create jobs;

(4) At EU level a need to reinforce the consistency of the acquis:

The EP stresses the importance of arriving at a degree of consistency in the field of labour law, which may be achieved though directives and collective agreements and the open method of coordination;

(5) Importance of raising awareness of Community minimum rules among Employers and Employees

The EP calls on the Commission and the Member States to launch an information campaign to draw the attention of employers and workers to the applicable Community minimum rules and regulations and to the adverse effects clandestine work can have on national social security systems, public finances, fair competition, economic performance and workers themselves.

Member States

Member States acknowledged the relevance to labour law reform of a range of measures associated with the Better Regulation agenda such as: consultations with stakeholders, impact assessment, evaluation of the alternatives to regulation, simplification and clarification of laws, etc. A number of Member States, notably AT and PT, indicated that current steps to reform their national labour codes or to codify fragmented legislation provide an opportunity to consider whether the existing administrative burden could be minimised without jeopardising fundamental objectives.

The need for clear, stable and sound provisions is reflected in the emphasis placed by Member States on ensuring that legislation is the appropriate tool for intervention. There is a need to consider, in FI's view, whether legislation is the right instrument in the first place and whether important issues such as workplace development programmes can be promoted by other means.

FR endorses the need for simplification and the adoption of appropriate measures, because otherwise burdensome measures can have a negative impact on both employment and employees' rights, not least through circumvention of the law. In this context, the legislative and contractual framework governing employment relationships can be a vehicle of progress if it:

- provides for a satisfactory balance between the demands of competitiveness, flexibility and adaptability for enterprises and rights and safeguards for employees.

- provides for a social order ensuring employees' individual and collective rights and their right to health and safety;

- provides legal certainty for stakeholders, especially for enterprises, so that recourse to the courts does not become the customary method of regulating labour relations.

DE observes that employees' autonomy should not be compromised by a welter of new regulations; on the contrary, it should be strengthened. It also addresses the impact of regulations on SMEs, pointing out that the fundamental protective provisions set down in labour law, such as statutory provisions on minimum leave or, continued payment of salary in the event of ill-health and hours of work, do not lend themselves to differentiated arrangements for firms of different size. Several Member States stressed that employee protection is indivisible and that the size of enterprises could not therefore constitute grounds for relieving companies of responsibility in areas such as health and safety at work and fundamental rights. Outside these areas, however, DE considers, as do other Member States, that is possible to take account of the size of enterprises, and gives the example of threshold values for the application of certain provisions, in order to protect small and medium-sized enterprises against excessive legal requirements, such as the law providing protection against dismissal, the Civil Code (periods of notice) or the Act on Part-Time and Fixed-Term Employment (right to part-time employment).

FR also highlights the importance of taking the specificities of SMEs into account in the conduct of social dialogue. It's government has recently asked the social partners to embark upon a dialogue to explore ways of encouraging collective bargaining and allowing better employee representation in SMEs.

There is a general awareness of and sensitivity towards the disproportionate administrative burden that falls on SMEs (compared to larger companies) in terms of the cost of paperwork, administration and supplying authorities with information. PT acknowledges that the Portuguese labour law system is often characterised as having a great deal of red tape. This makes it difficult for companies to adapt to economic cycles, benefiting some types of employment to the detriment of others and thus creating unnecessary obstacles to entrepreneurial and social innovation. PT stresses the need to distinguish, however, between the rigidity of the legal structure on the one hand and necessary measures of a social nature on the other hand.

SE and IE refer to plans developed in line with the Better Regulation agenda to simplify regulations, with the aim of reducing the administrative burden on companies by at least 25 per cent by 2010. Labour law is included among the regulations that will be reviewed.

Some Member States, notably DK, EE, NL and PL view better regulation in terms of avoiding further regulation by the state or the EU. Deregulatory efforts should, in the view of NL, be a priority for law reform especially in the interests of small businesses.

Several Member States emphasise the responsibility of governments to ensure that regulations are coherent, and that accurate information is accessible to all. In this regard, the UK outlines a range of initiatives it has promoted to make information and guidance readily available and to ensure that effective systems are in place for dispute resolution and to enforce rights and responsibilities.

United Kingdom's public information services on employment rights for workers and employers

- An online one-stop shop provides a single source of employment law information for individuals[37].
- The Advisory, Conciliation and Arbitration Service (Acas) is a major source of information and advice and demands on its helpline are growing, both from employers and workers[38].
- The TUC also produces leaflets on individual's rights at work and maintains the workSMART website to help working people get the most out of the world of work[39].

"Business Links" provides information on employing people on its national webpage[40] and regional business link services regularly hold Employment Law Update events to provide their members with information on the rights and responsibilities of their staff.

Social Partners

EU-level Issues:

BusinessEurope, together with affiliates such as BDA, cites three examples of prescriptive minimum requirements in EU legislation which, in their view, create difficulties in their implementation at national level:

– The rules on defence of rights contained in directives 2000/43 and 2000/78 on non-discrimination can lead to considerable bureaucratisation of human resources management by making it necessary for personnel departments in companies to keep many documents for a long period to guard against possibly unjustified claims;

– The provision in Article 7 (6) of the Transfer of Undertakings directive [2001/23/EC] contains an open-ended requirement to inform individual employees of the date, reason and implication of transfers where there are no employees representatives, without setting any limits to this requirement.

– The Visual Display unit directive [90/270/EEC] requires the employer, among other things, to evaluate the technical details of software packages when designing, selecting, acquiring or modifying them to see whether they can be adapted to match the user's level of knowledge and experience.

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37 See: http://www.direct.gov.uk/Eaiployment/fs/en.

38 See: http://www.acas.org.uk - Acas (Advisory, Conciliation and Arbitration Service) aims to improve organisations and working life through better employment relations. It provides up-to-date information, independent advice and high-quality training, and works with employers and employees to solve problems and improve performance. Founded in 1975, it has over 30 years experience of working with people in businesses of every size and sector.

39 See http://www.worksmart.org.uk.

40 See http://www.businesslink.gov.uk .

Although many German business respondents at sectoral and enterprise levels, in particular, shared this perception of anti-discrimination regulations as administratively burdensome , they tend to view the problem as primarily an issue of "gold-plating", as they consider that German law actually exceeds the requirements of the European Directives.

The directive on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship (91/533/EEC) is also identified by the BDA as a set of regulations with a major impact on SMEs. In its view the objective of the directive – providing basic information to employees – could be achieved in direct discussions between employer and employee rather than through a written document that has to be updated whenever there are modifications to the terms of the employment relationship. A contrary view is taken by the Federal Austrian Chamber of Labour (BAK)[41] which calls for a strengthening of the obligation to provide appropriate documentation in the interests of greater transparency regarding conditions of employment.

Calls for reform of labour law to concentrate on dismantling bureaucracy, deregulation and greater flexibility are prominent in the response of German industry led by the BDA. The latter organisation calls explicitly for labour law reforms to remove rules that put burdens on companies and limit job creation.

CEEP calls for an assessment to be carried out, in accordance with the Commission's own Better Regulation agenda, to determine whether any existing legislation prevents the growth of productivity and employment. For all employers, it is crucial that new labour regulations undergo a rigorous test (regulatory impact assessment) of their economic and employment impact.

National level

Some employer organisations point to the contribution Member States can make to the Better Regulation agenda by ensuring proportionate measures and avoiding "gold-plating" when transposing EU directives into law.

Examples of specific rigidities in national labour law that are identified by BUSINESSEUROPE and UEAPME as obstacles to the better functioning of labour markets:

- In France the *"contrat de travail intermittent"*(intermittent employment contact) is particularly suited to the needs of companies in the retail and service sector. It is a permanent work contract for jobs that by nature alternate between work and non-work periods. The fact that this type of contract is only available to companies that have negotiated an agreement or through collective bargaining thus restricting it mainly to the larger companies is considered to be an obstacle to smaller companies seeking to make use of this type of contract [UEAPME]

- In France, the existence of various social thresholds constitutes a real obstacle for

[41] BAK is the umbrella organisation for the nine labour chambers in each of the nine Austrian Federal Provinces.

recruitment due to the administrative burdens attached to them. Going above the social threshold of 50 employees means an increase of 4.16% per hour worked. The reduction of red tape linked to social thresholds would be particularly welcome to smaller firms. [UEAPME]

- In Germany, the conclusion of fixed-term contracts is hindered by the "pre-employment prohibition" (*Vorbeschäftigungsverbot)*. The German "*Teilzeit- und Befristungsgesetz*" limits an employer's discretion to employ a person on a fixed term contract if that person has been previously employed on such a contract - even as a trainee - by the same employer. [UEAPME and BusinessEurope]

- In Germany, the law on protection against dismissals should be amended to allow the employer and the employee to agree on severance payment as an alternative to the employee's right to take legal action for wrongful dismissal.[BusinessEurope]

- In Spain, more flexibility is needed to allow companies to change working conditions (grouping of workers, tasks and functions, timetables, internal working time frameworks, remuneration systems) in order to anticipate change and meet market demands, as the requirements to be met under the current regulatory framework too rigid.[BusinessEurope]

- In Spain, the requirement to have an administrative authorisation prior to a collective dismissal slows down adjustment to change and distorts negotiations as in practical terms this authorisation significantly increases the cost of terminating the employment beyond the already high legal provisions (it can even triple this cost). This deters companies from hiring workers for an indefinite duration. [BusinessEurope]

- In Luxembourg, because private employment agencies can only provide temporary work services, a company looking to fill a permanent position will not be able to use the services and expertise of such agencies. This lack of flexibility reduces work opportunities for job-seekers and prevents them from accessing an alternative path to the labour market. [BusinessEurope]

- In the Czech Republic, employers believe that there is a need for radical labour deregulation to ease the conditions for temporary contracts, lift limitations on their renewal, remove constraints regarding the reasons to be given when notifying termination of an employment relationship, and having put in place a simpler and faster dispute settlement system.[BusinessEurope]

- In the Netherlands, legislation governing dismissals remains complex, rigid, and costly. Prior authorisation is required, resulting in long procedures. Moreover, very high compensation costs are imposed on the employer. This deters employers from hiring workers for an indefinite duration.[BusinessEurope]

The CEC notes that it is always easier to point to an administrative burden associated with a regulation rather than the cost of its absence. It would be worthwhile in the CEC's view to measure the cost of an absence of regulation for enterprises and for society as a whole (unfair competition, bad working conditions, workers' health, poverty).

The joint submission from the EU social partners in the local and regional government sector highlights the Open Method of Co-ordination (OMC) as an appropriate tool to identify good practice in employment regulation across Member States. It emphasises the role the social partners can play in facilitating the implementation of employment guidelines, especially in the field of equal opportunities and new forms of work organisation.

PART II THE THEMES OF THE CONSULTATION

6. PRIORITIES FOR LABOUR LAW REFORM

EU Bodies

The European Parliament's Resolution identifies priorities for labour law reform within Member States which should include:

(1) facilitating the transition between various situations of employment and unemployment;

(2) ensuring appropriate protection for workers in non-standard forms of employment;

(3) clarifying the situation of dependent employment and the grey areas between self-employment and employees with a dependent employment relationship;

(4) taking action against undeclared work.

The Resolution also calls, among other things, for action at EU level:

- to ensure that Community social and employment legislation is implemented by all Member States, applied equally to all actors and enforced on a regular basis;
- to take account of the vast differences that exist between national labour markets and Member State' competences so as to arrive at a degree of consistency in the field of labour law, which may be achieved though directives, collective agreements and the open method of coordination;
- to strengthen rights to parental leave and childcare provisions at both national and European level for both men and women;
- to ensure that European labour law recognises employment contracts of an indefinite duration as the general form of employment ensuring respect for fundamental rights;
- to ensure that working time arrangements are sufficiently flexible to meet the needs of employers and employees and to enable people to better balance work and family life as well as to safeguard competitiveness and improve the employment situation in Europe;
- to achieve the level of convergence necessary to guarantee that the implementation of the Community *acquis* is coherent and more efficient; this convergence should respect the rights of the Member States to determine what is an employment relationship;
- to clearly establish who is responsible for compliance with labour law and for paying the associated wages, social security contributions and taxes in a chain of

subcontractors through the regulation of joint and several liability for general or principal undertakings, in order to deal with abuses in the subcontracting and outsourcing of workers;

- to combat undeclared work by promoting of strong coordination between government enforcement agencies, labour inspectorates and/or trade unions, social security administrations and tax authorities.

Member States

The priority issues identified by the Member States in labour law reform are no less diverse than the range of traditions, legal practices, collective bargaining arrangements and national political pre-occupations across the EU-27. The urgent adoption of the draft directives on temporary agency work and the revision of the working time directive are specifically urged by AT, BE, CZ, and FR, while some other Member States refer in more general terms to the need to advance current proposals before embarking on any new initiatives. In the latter context, a number of Member States emphasise the need to re-assert the Commission's right of initiative under the Treaty with a view to developing a set of minimum social standards on the basis of the *acquis communautaire.*[42] The need to strengthen social dialogue and boost the capacity of the social partners to negotiate solutions themselves is also emphasised by several Member States. For other Member States, the main focus is, as outlined under sections 3 and 4 above, on avoiding further labour regulation, whether at EU or national level.

Social Partners

For BusinessEurope the priorities for a meaningful labour law reform agenda are to remove unnecessary rigidities that hamper job creation and to find new ways of providing security in the labour market. At European level, it considers that the Commission's approach of "think small first" should be applied by carrying out, before revising existing legislation or taking new initiatives, an in-depth impact assessment. Since BusinessEurope considers that existing rigidities mostly stem from national legislation, the detailed agenda for labour law reforms can only be decided upon at the national level (see pages 22-23 above under Better Regulation for examples cited by BusinessEurope of national legislative measures which it considers require attention in this regard).

For UEAPME, the overarching priorities are: (i) achieving greater flexibility on the labour market, which should go hand in hand with appropriate employment security for workers and companies alike, and (ii) the creation of a positive business environment by reducing non-wage labour costs. In both instances, the solutions are considered to lie exclusively with the Member States.

For ETUC and its affiliates urgent action is needed to strengthen the capacity of labour law in all its dimensions as outlined in the box below:

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[42] Several Member States refer to their support for a joint declaration "Enhancing Social Europe" signed by Labour Ministers from ten Member States on 14th February, 2007, and to the orientations on reinforcing the European Social Model in the European Council Conclusions of 8/9 March 2007 (paras 18 -20).

ETUC's identification of priority areas for EU action:

A. Action by EU Institutions, together with the EU Social Partners

Development of an EU-wide supportive legal framework, consisting of a combination of EU 'rules of the game' and certain EU minimum-standards. The rules should ensure respect for national social policy and industrial relations, while also ensuring the right for trade unions to organise countervailing power and industrial action in trans-national situations.

B. Calls on the Commission to promote:

- The extension of protection to new forms of work through the development of a "core of rights" to be guaranteed for all (dependent) workers regardless of their employment status – such rights to include the right of freedom of association and collective bargaining.
- Measures to improve the possibilities for reconciliation of work and, private and family life.
- A strong Temporary Agency Directive setting European minimum standards for agency work, to complement the Posting Directive.
- A European instrument regulating joint and several liability (or 'chain-responsibility') of user enterprise and intermediary in the case of agency work and subcontracting should be proposed.
- Revision of the Working Time Directive to establish a clear body of European minimum rules setting clear standards for maximum working hours and minimum rest, providing workers all over Europe with clear and unambiguous protection without any opt-outs.
- More convergent definitions of 'worker' to improve the coherence and proper enforcement of EU Directives. This should come about through the development of common criteria and guidelines for the definition of worker and self employment, as advocated by the ILO in its 2006 Recommendation.
- More and better enforcement of existing labour law and labour standards to combat undeclared work, and a stronger role for the EU in promoting more and better cooperation and coordination between national labour and social inspectorates.
- Tackling the growing informal economy and especially the exploitation of (undocumented) migrant workers, focussing on instruments and mechanisms to prevent and combat such exploitation.

In the view of ETUC these actions are required, at both national and EU level, to respond to current developments posing a challenge to labour law in the 21st century:

- In many Member States, employer strategies or deliberate labour law reforms have led to a two tier labour market on which increasing numbers of workers – and often the most vulnerable groups, such as women, young workers and migrants - are working under conditions of permanent precariousness.

- So-called 'standard' workers have also been faced with the 'flexibilisation' of working time, wages, and other contractual arrangements.

- The changes in production methods and work organisation, the spreading of subcontracting and outsourcing, and the increasing delocalisation of firms, along with the focus on financial capital as distinct from the actual enterprise, are together creating insecurity not only for the most marginal groups of workers on the periphery but increasingly also for 'standard' workers in core companies, who are also faced with restructuring and redundancies.

- In many countries, collective bargaining and the coverage of collective agreements are at risk of erosion, placing work and workers at greater risk.

- The increasing cross border mobility of workers, enterprises and services in an enlarging European Union challenges the capacity of national social and industrial relations systems to safeguard fair and just living and working conditions for all workers on their territory within a context of level playing fields and fair competition.

Social NGOs

Social NGOs consider that before new initiatives to promote greater flexibility are contemplated it is essential to make progress on labour law reforms that remain blocked in the decision-making instances of the European Union (i.e. portability of pension rights, revision of the working time directive and the draft temporary agency directive). The stalemate on these initiatives - which aim to improve the situation of workers in Europe – must end if the EU is to retain any credibility concerning the reform of labour law.

7. A FLEXIBLE AND INCLUSIVE LABOUR MARKET

EU Bodies

Both the EP and the EESC called for employment contracts of an indefinite duration to be recognised as the most common form of employment and the main frame of reference for providing adequate social and health protection and ensuring respect for fundamental rights.

Member States

Member States differed in the relative emphasis they attached to upholding the status of the standard, permanent employment contract form and safeguarding employment for workers engaged under different types of contract. There was, nonetheless, a broad welcome for a more in-depth exchange of experience, involving in particular the social partners, in order to develop a clearer understanding of the common challenges affecting the regulation of contractual arrangements.

If the labour market is to be made more flexible without undermining worker security then, in the view of FR, the notion of security of employment has to be given a more coherent and effective content. Legislation has a critical role to play in ensuring a better balance between the protection and flexibility associated with different types of work contracts and facilitating the transition from short-term contracts to contracts of indefinite duration.

Member States generally endorsed the need for an integrated approach, capable of bringing all the policy components of flexicurity into play together. AT thus warns against any tendency to treat the need for greater flexibility as just a unilateral demand directed at workers. On the contrary, flexibility also encompasses workers' need for more flexibility in working time, improvements in the work-life balance and opportunities to meet child care responsibilities. The gender-specific and age-specific dimensions of an integrated flexicurity approach also need to be addressed.

Achieving a balance between flexibility and security should not be assumed in the view of SE, to come down to a one-sided equation of more flexible labour legislation, offset by higher unemployment insurance. In Sweden, it can also be a matter of making compensation levels more flexible, while allowing the labour law system to provide security. The decisive factor must always, in SE's view, be the actual conditions and situation in each Member State.

Social Partners

ETUC points out that the great majority of employment relationships are still based on the concept of the indefinite employment contract and that the European Social Partners have re-affirmed that permanent contracts are the norm. In its view the 'indefinite' employment contract may well turn out to be a very modern and flexible concept, capable of offering the most appropriate contractual framework to employers and workers. In this regard, it recalls that the ECJ has confirmed in various cases that the right to enjoy an indefinite contract of employment and the principle of equal treatment limit the scope of Member States to 'flexibilise' their labour markets and labour law. ETUC sees no need for an 'alternative contractual model'. Instead, it should be sufficient to have a limited number of contractual forms, regulated in a transparent and enforceable manner, and the Member States should be encouraged to go in that direction.

Trade unions welcome the recognition in the Green Paper that social dialogue can help to improve the ability of the world of work and business to adapt to changed circumstances. In this regard, ETUC highlights the dual character of collective bargaining, as both an important "regulatory force" (to regulate contractual and employment relations as well as internal and external flexibility in a broad range of areas, from working time to agency work, from work organisation to the reconciliation of work, private and family life, etc.) and as a democratic and participatory process capable of promoting modernisation and change. Nordic trade unions suggest that EU labour law could confer a "semi-mandatory" character on the outcomes of collective agreements where they relate to the implementation of labour law Directives, i.e. affording employers and representative trade unions the possibility to deviate from detailed legislated regulations through agreements at national or sectoral level.

Social NGOs

Social NGOs stress the need for better coordination between labour law and employment policies on the one hand and social protections systems on the other hand. Social protection and minimum income should enable citizens to choose between employment, training and socially meaningful activity.

8. FACILITATING EMPLOYMENT TRANSITIONS

EU Bodies

The EP calls for the creation of flexible and secure contractual arrangements in the context of modern work organisations, emphasising, among other things, that:

- The mobilisation of all appropriate national and Community resources is needed to develop a skilled, trained and adaptable workforce and labour markets responsive to the challenges stemming from the combined impact of globalisation and of the ageing of European societies;

- Labour law reforms should facilitate investment by companies in the skills of their workers, stimulate workers to upgrade their own skills and guarantee the intervention of social security systems to ensure such an approach.

Member States

Member States view both the law and collective agreements as complementary instruments to promote access to training and facilitate the transition between different contractual forms for upward mobility over the course of a working life. In some Member States these complementary instruments may also define the respective competences of the key players in this domain: on the one hand, the public authorities at national and regional level responsible for the finding and delivery of further education and training, and, on the other, the social partners in the various occupational sectors whose agreements ensure workers have access to such education and continuing training.

Investments in skills development is central to achieving the goals of the Lisbon Strategy and to meeting the challenges that face the Union. Examples of innovative provisions in labour law to complement skills development programmes include the Austrian and Swedish educational leave regulations which enable workers to withdraw from work for a limited period, without terminating their employment contract, in order to be able to concentrate on further education.

In some Member States employers are legally and contractually obliged to ensure that their workers are provided with the necessary training to enable them to adjust to changing work practices. Appropriate training related to the employer's continuing operations may, as in the case of Finland, be specified by law as an alternative to laying off a worker whose original duties are no longer required.

Some Member States emphasise the need to mobilise public policy to reinforce personal support and social security measures to assist workers in transitional employment situations. For instance, FR considers, that severance payments, in terms of both the sum involved and the purpose, can help to achieve innovative solutions. Regardless of the temporary or permanent nature of the contract prior to any discontinuity in employment, the objective should be to support mobility by ensuring the transferability of training rights across the individual's working life.

Social Partners

Many respondents considered that labour law and collective agreements can together play a complementary role in promoting better access to training and life long learning. Trade unions and Social NGOs support the incorporation of a right to training within the overall framework of employment rights applicable to all workers. Investment and support for skills development are not the only vital elements facilitating employment transitions. The Federal Austrian Labour Chamber (BAK) calls for action at both national and local level to restrict the use of clauses in employment contracts that militate against mobility (i.e. prohibitions of employment during a continuing relationship and after its termination; clauses governing the repayment of training expenses, and forfeiture clauses in occupational pension commitments). UEAPME urges investigation at national level into how the continuity of social protection rights could facilitate transitions between employment and self-employment.

BusinessEurope and some of its national affiliates have reservations about the contribution legislation can make in influencing learning behaviour. In the view of BusinessEurope, the experience in Member States implementing a "right to training" demonstrates little impact for those workers who are most in need – the least qualified. UEAPME observes that even where a statutory right to training leave does exist, the legislation is usually implemented through collective agreements that stipulate the practical aspects of continuous training, i.e. when and how it takes place (during or after the working time) and how it is financed. Other respondents also consider that collective agreements negotiated at local or branch level are the most appropriate vehicle for influencing the content of company training plans and the design of individual training programmes.

Social partner respondents at EU, national and sectoral levels emphasise their established role in negotiating agreements concerning access to training and life long learning. The UK-based Chartered Institute of Personnel and Development (CIPD), however, questions the need for employers to negotiate on training since such negotiations might prove to be an inefficient way of determining training volumes and priorities.

UNI-Europa considers that some combination of statutory rights complemented by the inclusion of provisions on training in collective agreements, along with the development of social partner-managed schemes to provide life long learning, represents the best way of ensuring comprehensive and fair provisionfor tailored training activities. One example of good practice from among those identified by Uni-Europa is illustrated in the Box below, indicating how such a dual combination of law and collective agreements is playing a central role in promoting access to training and education and, consequently, allowing individuals to enhance their skills and knowledge for their current or future work.

Access to training: a complementary relationship between statutory provision and collective agreements

In many cases, national legislation determines what is to be negotiated (e.g. the Swedish Education Leave Act). In others, cross-sectoral collective agreements have set up training banks to ensure that all workers have a guaranteed number of paid hours available for professional and vocational training (e.g. Belgium).

Belgium provides an example of good practice where statutory rights are complemented by sectoral and company-level collective agreements to ensure that workers and companies are able to tailor their vocational training and development according to need, allowing mobility both between and within companies. For example, the Belgian joint auxiliary committee for employees (the biggest sectoral committee in Belgium covering over 350,000 workers) established individual training rights over 10 years ago. These rights are managed collectively through a joint training institute[43] and are enshrined in the sector's collective agreement. Since 2001, to implement the 2000 inter-professional agreement on life-long learning within the Belgian hairdressing, beauty and fitness sector, the social partners have operated a joint programme of continuous training for workers to maintain and improve their skills. This programme is financed through contributions to a fund, a third of which is available for union activities with the rest designated for joint social partner initiatives.

This scheme has been recently extended. Individual workers are granted a 'qualification card', on which they can collect training points when they undertake vocational training. Once they acquire a certain number of points, they receive a 'qualification bonus' on top of their pay (collective agreement concluded by joint committee 314 – 25 April 2005). Through this system, the social partners have created a "win-win" situation for both workers and employers in the sector.

Trade unions reject any assumption that incentives can be provided for easier labour market transitions by making employment protection law more flexible. Some trade unions indicate how labour law can actually enhance the ability of employees to handle changes on the labour market, for example by entitling them to take leave in order to study, to test another job or to pursue self-employment options. A good example of the latter possibility is the Swedish legislation on entrepreneurial leave. Since 1998, Swedish workers have had the right to take six months of leave from their employer to try to establish their own enterprise and the right to return to their work should their endeavours fail. Thus, potential entrepreneurs are supported by a safety net of employment security.

German trade unions and legal experts call for the development of new regulations to promote the transition from fixed-term or part-time contractual arrangements to full-time work. UNI-Europa points out that, collective bargaining is increasingly dealing with mobility between contractual forms, in recognition of the growing use of atypical employment contracts (e.g. in Italy, to ensure that part-time workers have priority in the filling of full-time positions).

The Nordic and German trade union confederations urge measures to promote greater worker mobility by enabling workers to carry rights forward when they change jobs. The security and adjustment agreements negotiated at national level in Sweden are an interesting example of the joint responsibility exercised by the social partners to cushion the impact of restructuring.

[43] CEFORA: the training institute centre of CPNAE - the Belgian joint auxiliary commission for employees.

Swedish Job Security and Readjustment Agreements

These security and readjustment agreements have been negotiated at national level by the social partners to help workers made redundant due to a shortage of work to find new jobs by means of adjustment measures and financial support. Employers are also given advice and support in the course of the adjustment process.

By supplementing the efforts of the public employment service, the agreements help improve the way the labour market functions, boosting the security of workers and facilitating geographical and occupational mobility in the labour market.

These agreements negotiated at national level ensure that necessary structural change can be more readily accepted by the employees who are most directly affected. All employees in the area covered by a security and readjustment agreement are covered, regardless of whether they are union members or not.

If an employee is given notice, the Job Security Council will take action and give the employee personal help to find a new job. Beyond advice, support and guidance, the Council usually offers financial support for skills development and retraining.

Social NGOs

Some respondents underline the need for tripartite social dialogue in this domain, and the need to involve other organisations, representing youth interests, for instance, in such agreements. Co-operation between all stakeholders interested in providing training to employees is considered necessary at national, regional and local level (public authorities, social partners, NGOs, training institutions). Social NGOs (including, the churches in particular) emphasise the contribution they make to education and training in many Member States and the active role they play as bridge builders alongside the social partners in the empowerment process by enabling individuals to take up a job. European churches also highlight the value of innovative approaches that provide for transitions between jobs without a break in employment e.g. the "work foundations" (*Arbeitsstiftungen*) in the Austrian system. Social NGOs particularly stress the contribution labour law should make to ensuring equal access to training and life-long learning for all. AGE – the European Older People's Platform - underlines the need to provide access for older workers to active labour market measures and the added value that older workers can provide through the transmission of necessary skills to younger workers. Improved procedures for the recognition of qualifications and diplomas in all work areas would also assist migrant workers. Many migrants are over-represented in low-skilled occupations despite high qualifications in their country of origin.

9. UNCERTAINTY WITH REGARD TO THE DEFINITION OF THE EMPLOYMENT RELATIONSHIP

EU Bodies

The EP considers that

- adopting a single definition of a worker and a self-employed person under Community law is extremely complex because of the very different social and economic realities and traditions in the individual Member States;

- an initiative is needed to achieving the level of convergence necessary to guarantee that the implementation of the Community *acquis* is coherent and more efficient; this convergence should respect the rights of the Member States to determine what is an employment relationship.

It also calls on the Member States to promote the implementation of the 2006 ILO Recommendation on the employment relationship[44] noting that the ILO Recommendation states that employment law should not interfere with genuine commercial relationships.

Member States

Most Member States favour continued reliance upon national law and well-tested legal procedures to resolve problems encountered in distinguishing between workers and self-employed persons. The complexity of these problems is acknowledged to have increased as a consequence of the cross border provision of services. Some Member States put forward examples of how mis-classification of the status of workers is addressed through established adjudication mechanisms and innovative administrative procedures, especially as regards the interface between the competent authorities responsible for labour inspection, taxation and social security.

The Spanish Government views its new Statute of Self-Employment as a unique example in the EU of systematic, uniform regulation for this category. However, it considers that the identification of categories such as "economically dependent worker" needs to be accompanied, by better clarification of the limits of these grey areas to distinguish between legal and illegal forms of work other than the genuine self-employed and to ensure adequate social protection. Most other Member States, however, are opposed to changes to labour law to accommodate any third intermediary category alongside those of dependent workers and independent self-employed workers. AT has taken steps, however, to ensure that *quasi*-freelancers – and certain other categories for whom labour law cannot provide a suitable framework – can be placed on a par with regular employees under social security law and brought within the scope of the severance payments law and the unemployment insurance system.

While German legislation does not provide for any legal status between that of self-employed and employee, DE explains that some labour law statutes do include the term "quasi-employee" to distinguish a group entitled to limited protection under labour law.

The limited labour rights afforded to those self-employed persons defined as "Quasi-Employees" under German law.

[44] ILO Recommendation 198 on the Employment Relationship adopted at the 95th session of the International Labour Conference in June 2006.

The German authorities point out that "quasi-employees" are not a third or intermediate category falling between dependent employees and independent self-employed persons under German labour law.

They are people who, because they are not part of a commercial organisation's structure and are generally free to determine how they spend their time, are not as personally dependent as employees. They are self-employed people. Since they are economically dependent upon a principal, however, and have a comparable need for social protection to an employee, some of the protective provisions of labour law apply to them.

The German legislator decides on a case-by-case basis, according to objective criteria, as to which provisions apply to the group of people defined as "quasi-employees". Examples of the limited labour law rights afforded this group include: access to labour courts, opportunity to conclude collective agreements, right to minimum amount of leave, coverage under the Employment Protection Act.

While it is generally acknowledged that the problem of concealed employment relationships has to be tackled at national level, some Member States (notably BE, DE, ES, FI and IE) draw attention to ILO Recommendation 198 on the Employment Relationship, which was adopted in 2006 with the support of the EU Member States, as a source of guidance on good practice in this regard. Both Germany and Spain consider that the ILO Recommendation can provide a basis for opening a dialogue at Community level on whether and how Member States can assist one another in developing criteria to distinguish between dependent employment and self-employment. Such an exchange of experience could in DE's view enable the Member States to develop a common understanding of how best to cope with the phenomenon of disguised employment relationships. It would also provide companies and employees in Europe with greater legal certainty and help to foster transitions between contractual forms and facilitate greater mobility of employees across Europe.

Most Member States are generally satisfied that they should decide for themselves what core social rights should be put in place at national level to ensure minimum protection for those engaged under different forms of contract. A number of Member States consider, however, that the development of the European social order (in line with the Treaty objectives in Article 137) and the shared endorsement of the ILO's "decent work" objective warrant an affirmation by the EU Member States of a set of principles that should apply to workers regardless of the legal form of their contract of employment such as: access to collective agreements; freedom of expression; recourse to the courts in the case of dispute; rules of burden of proof and the prohibition of discrimination. In this regard, both BE and LU also favour a Community initiative to support the principle of a minimum social income.

Social Partners

Most social partner interests are agreed that the Member State discretion regarding the definition of worker under most labour law directives needs to be retained and

that no third or intermediate category such as "economically dependent worker" should be introduced into labour law.

UNI-Europa considers that there is a pressing need for greater legal certainty and better enforcement of law in some Member States because grey zones between "the employed" and "independent service providers" are increasingly being exploited, in particular in the cross-border provision of services in order to circumvent the provisions of the posting directive. Priorities for action include the recognition of core labour standards covering all workers regardless of contract form (including collective labour rights), a broad definition of worker (i.e. all people who work for someone), the inclusion of the least economically dependent workers in industrial relations law and collective agreements, and a mandatory legal presumption of employment status.

Among business organisations it may be noted that organisations in the commerce and retail sectors most readily identify a need to review the extent to which labour law has kept pace with developments in the service sector. Thus the British Retail Consortium [BRC] "agrees with the Commission that the most constructive direction in which to take the matter of definitions is by opening up an EU-wide discussion in which Member States share the rationales behind their definitions, consider when to protect freedom of contract and allow parties to exclude employment protection and examine how and why harm is caused. The BRC agrees that there is a real need to protect workers who are forced into involuntary self-employment in order to exempt them from benefits and security which they would otherwise attract, and believes that initiating a debate as an opportunity to learn from experiences across the EU would be invaluable." Another UK business organisation, the West Midlands Chamber of Commerce expresses a similar aspiration: "We would welcome clarification, simplification and a common definition, particularly if the transition to self-employment (or vice-versa) were to be made across multiple EU states."

In a joint response, a number of major German commercial associations[45] signalled a positive interest in a more uniform Community definition of employee in the context of internationalisation and cross-border mobility.[46] In their view any EU formula would have to be a minimum standard to allow for significant national differences. It would, moreover, have an effect on all aspects of labour law thereby requiring consequential changes at national level. Such a minimum standard should allow for particular conditions in the Member States to be taken into consideration while making it easier than at present to prevent abuse. The objective should be to ensure, in line with the Posting Directive and its implementation at national level, that employees who work transnationally have the protection of the working conditions and employment rights in the country in which the work is performed.

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45 Joint Position paper of the Federal Association of Insurance Intermediaries (BVK); German Direct Selling Association (BDD); National Association of German Commercial Agencies and Distribution (CDH); German Franchise Association (DFV); German Association of Chambers of Industry and Commerce(DIHK); Verband der Privaten Bausparkassen e. V. (VdPB) (German Association of Building Societies).

46 Their joint response puts forward the text of a proposed definition devised in the context of current discussions on reform of the German labour code.

BusinessEurope sees no need for the generalisation of new legal categories such as "economically dependent workers" across Europe and is strongly opposed to measures aimed at explicitly or implicitly harmonising national definitions of employees and the self-employed at EU level. UEAPME considers that any move to do so would only undermine entrepreneurship. Attempting to introduce uniform European definitions risks the unintended consequence of reducing the options available to individual employees and creating complexity for employers. Employers consider that there are good reasons why almost all Member States have left it to their courts to define what is an employee – thereby allowing flexibility to consider all the aspects and make appropriate decisions on a case-by-case basis.

Business organisations and some trade unions indicated that the experiences gathered from national initiatives in the area might be shared at EU level so that the Member States and social partners can learn from each other. Business organisations point out that the concept of "economically dependent work" fails to take full account of the distinctive character of franchisees and self-employed salespeople who work for trading concerns with dependent workers. Such categories are clearly not principals and not employees.

UNI-Europa attests to the growth in recent years of the 'grey zone' between the worlds of "the employed" and "independent service providers", as companies search for ways to reduce their labour costs. It draws attention to the situation of freelance workers in audiovisual services or ICT services, as an example of a category of workers who often fall within this legal grey zone.

UNI-Europa points out that these workers are not entrepreneurs creating their own work. Rather they are dependent upon contracting companies and employers in these sectors. While some choose to work as freelancers from a strong labour market position, other workers are pressured or forced to give up their employed status, and the associated rights, and must shoulder the heavy costs of personal social protection. In these situations, criteria such as subordination or economic dependency are more difficult to discern (i.e. the subordination may not be contractual but de facto subordination).

Furthermore, since there are a number of sectors where freelance workers are more often employed by a number of clients in any one year (e.g. audiovisual services) they are unlikely to be covered by any definition that bases their economic dependence on a relationship with a single client for more than 75% of their work. With the exception of the elite, these freelance workers are dependent on the prevailing terms and conditions of the specific labour market. Despite this, in many countries, freelancers are denied their fundamental rights as workers to organise and collectively negotiate their terms and conditions. UNI-Europa's British affiliate BECTU describes the experience of many freelance workers as being of "independent choice but of chronic insecurity".

UNI-Europa proposes that national definitions of 'worker' should be extended to cover all people working for someone else thereby extending labour law coverage to atypical workers, including temporary, casual, freelance and tele-workers. As a consequence, all workers, even those who are the least economically dependent, would be subject to national industrial relations law and collective agreements.

Workers' representation bodies, at sub-national, national and European levels, should be allowed to legitimately represent these independent workers' interests.

Employer organisations maintain that within different national systems it is already possible to find tailor-made solutions to distinguish between employment and self-employment. In their view individual cases can always be assigned to one or other of the two main categories. Business organisations at EU and national level considered that attempts to devise any addition to these established categories would only lead to more damaging legal uncertainty and would have a negative effect on the willingness of companies to use these forms of employment.

EuroCommerce, FEDSA[47], DSE[48], and the German Federal associations HDE, BAG and BGA[49] consider it to be worthwhile pursuing the lessons of experience where legislative measures have been introduced to address the situation of economically dependent workers so that errors will not be repeated in other jurisdictions.

Lessons of experience: The German Self-Employment Promotion Act (Gesetz zur Förderung der Selbständigkeit) of 20 December 1999

A number of European and German employer organisations in the commerce sector, drew attention to the importance of learning from the experience with German Self-Employment Promotion Act (Gesetz zur Förderung der Selbständigkeit) of 20 December 1999. Given the importance of job creation to Europe's competitiveness, similar errors must be avoided at European level.

The Self-Employment Promotion Act introduced a legal presumption that a self-employed person is an employee if two of the following four criteria were fulfilled: no own employees; working regularly for only one principal; doing work typically performed by employees; no visibility of the entrepreneurial activities in the market. The impact on German unemployment rates was considerable (the result was that individuals were deterred from setting up their own business or working in a freelance capacity) and the legislation was subsequently repealed in 2002.

ETUC calls upon the EU Institutions, together with the Social Partners at EU level, to develop an EU-wide supportive legal framework, consisting of a combination of EU 'rules of the game' and certain EU minimum-standards stipulating a "core of rights" while ensuring respect for national social policies and industrial relations. Trade unions at national and sectoral level have reservations that a mandatory core of rights might actually dilute or detract from the gains made through collective bargaining. Some national trade unions echo the views of Member States and employers in maintaining that a *floor of rights* already exists at EU level through measures such as the Fixed Term and Part-Time Work Directives. The Swedish LO observes that the real problem, however, "*seems to be to have them fully implemented, applied and monitored.*"

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47 Federation of European Direct Selling.

48 Direct Selling Europe.

49 Hauptverband des Deutschen Einzelhandels (HDE) (Federation of German Retail Trade); Bundesarbeitsgemeinschaft der Mittel- und Großbetriebe des Einzelhandels e.V. \ Federal Association of Medium-Sized and Large-Scale Retail Enterprises (BAG); Bundesverband des Deutschen Groß- und Außenhandels e.V. BGA \Federation of German Wholesale and Foreign Trade.

Social NGOs and Labour Law Specialists

Social NGOs and some academic institutions favour the idea of a common set of rights linked to a commonly agreed definition of "worker" established under Community law, in order to underpin the principle of freedom of movement and to prevent any attempts to propel labour markets towards a race to the bottom. A crucial element in this set is the right to a minimum income indexed to the cost of living and to housing costs in particular. The right to a minimum income should be uncoupled from employment records and guaranteed to all as a fundamental right.

While some labour lawyers favour clearer definitions of dependent workers and independent self-employed workers[50], a number of academic institutes and practitioners consider that moving beyond the traditional employment / self-employment distinction is likely to yield a more satisfactory solution, since it is no longer considered a true reflection of, and adequate means to regulate, modern working and production methods.[51]

A continuum or set of concentric circles building upon basic guarantees of employment protection

Some responses from labour lawyers and social research institutes recall the ideas presented in the Supiot Report and in the analogous proposals put forward by Professor Marco Biagi in 1997 for an Italian Work Statute which held that attention should shift away from problematic binary distinctions and focus instead on employment protection provisions and their effectiveness, These European labour law experts would dispense with the rigid division between dependent and independent work and adapt the Supiot proposals[52] by identifying a continuum of activities to which a series of modulated and variable guarantees could be attached according to the workers' degree of dependence. Thus, employment protection might be represented by a series of concentric circles: a first circle relating to universal social rights; a second circle concerning rights based on non-professional work; a third circle concerning common rights connected with professional activity - certain bases of which are already present in Community legislation; and finally a fourth circle of rights applicable to subordinated work in the strict sense.

10. THREE-WAY RELATIONSHIPS

EU Bodies

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50 See report of the joint seminar on the Green Paper organised by the Instituut voor Arbeidsrecht [Institute for Labour Law] of the Catholic University of Leuven and the Departement Sociaal Recht en Sociale Politiek [Department of Social Law and Social Policy] of the University of Tilburg.

51 Marco Biagi Centre for International and Comparative Studies, University of Modena and Reggio Emilia; also IIPEC and Italian Labour Lawyers group.

52 European Commission, Transformation of work and the future of the labour law in Europe (SupiotReport),1998,available at: http://europa.eu.int/comm/employment_social/labour_law/docs/supiotreport_en.pdf..

The EP highlights the need to regulate joint and several liability for principal undertakings, in order to deal with abuses in subcontracting and outsourcing in the interests of a transparent and competitive market providing a level playing field for all companies.

Member States

A number of Member States (AT, BE, CZ, EL, FI and FR) specifically identify the adoption of the draft directive on temporary agency work as a priority issue for law reform at EU level. Among some new Member States such as BG and EE the regulation of the temporary employment market and establishing the legal status of temporary agency workers are matters they intend to resolve as a stated priority at national level.

Member States acknowledged the need for transparency and the provision of all necessary information to employees on who is accountable for compliance with their employment rights. While some Member States considered that the stipulation of responsibilities within multiple employment relationships should be explicitly regulated, other Member States expressed misgivings about the very existence of a "three-way relationship" in an employment context and are concerned about possible interference with the conduct of legitimate commercial relationships and the danger that a complicated legal intervention could result in administrative burdens and practical enforcement problems. DE, DK, ES, FI, FR, IT and NL described the different arrangements they have introduced to establish forms of joint or secondary liability in respect of sub-contracting relationships. At European level, FR considers that establishing shared joint responsibility principles would be a useful initiative as part of an integrated economic and social approach to supporting the internal market. ES considers, however, that as matters relating to entrepreneurial responsibility are complex and delicate, attempting to deal with this issue at European level could possibly disrupt social peace at national level. Accordingly, ES considers that any further development of the issue at EU level should only be pursued by means of recommendations, guidelines or the open method of coordination.

As the recent Finnish legislation derives from a tripartite initiative and emphasises the transparency of responsibilities and guarantees of protection for employees, some background information is provided in the Box below.

New Finnish law on subcontracting work

In their submission, the Finnish authorities state that the different parties to multiple employment relationships must have clear responsibilities. In their view contractors' obligations can be established in the context of temporary agency work and subcontracting activities without imposing on them specific economic liability for the employer obligations of another undertaking. Finland's new legislation entitled "The Contractor's Obligations and Liability when Work is Contracted Out Act" came into effect on 1 January 2007. The purpose of the Act is to promote equal competition between enterprises and to ensure observance of the mandatory terms of employment for workers.

Under the Act, enterprises must check that the enterprises concluding contracts with them fulfil their statutory obligations as contractual parties and employers.

Contractors are obliged to check the background of the contracting party with whom they are concluding a contract for the use of a temporary agency worker or for work based on a subcontract. The Act applies if the duration of the work of the temporary agency workers exceeds a total of 10 days or if the value of the remuneration for the subcontract exceeds EUR 7500. The contractor is obliged to pay a negligence fee if this check has been neglected. The fee is between EUR 1500 and no more than EUR 15000, depending on the degree of negligence.

The Act makes it easier for enterprises and legal persons governed by public law to prevent grey economy activity occurring when work is contracted out. It provides a minimum level that all contractors coming under the Act must observe. It improves the business environment and establishes preconditions of competition for conforming enterprises so that unfair competition does not adversely affect them.

For additional information see European Foundation, European Industrial Relations Directory Online: http://www.eurofound.europa.eu/eiro/2006/03/articles/fi0603039i.html.

Trade unions at EU and national level call for the adoption of a directive providing for minimum standards in agency work as a necessary complement to the Posting Directive and the Services Directive. ETUC and its sectoral affiliates also consider that a Community initiative is required in the form of an instrument to regulate the "chain responsibility" of user enterprises and intermediaries in the case of agency work and sub-contracting. The Nordic Council of Trade Unions view the new legislation enacted in Finland after tripartite discussions as an example of how the problems of workers engaged in extended chains of (often cross-border) sub-contracting can be addressed by making principal contractors responsible for the obligations of their subcontractors under a system of joint and several liability.

Social NGOs and Labour Law Specialists

Clear Community legal rules on the responsibilities of parties in multi-lateral business relationships and on the secondary liability of principal contractors are favoured by some social insurance providers[53]. They can encounter problems in making hirers liable for social security contributions owed by temporary work agencies.

A British academic, Dr. Barnard[54], confirms that it is not in the interest of any individual worker that there should be uncertainty about either the identity of their employer or their own status in employment law. She identifies a number of techniques used in national legal systems to address this problem and distinguishes between examples where action has been taken (i) by some legislatures in setting out to identify in statute who the employer is; (ii) by judicial tribunals which have adopted a creative approach to their task in establishing the existence of an *implied* contract in certain circumstances; (iii) by trade unions seeking to negotiate good practice terms with major companies covering equal opportunities and disciplinary and grievance procedures applicable for all their contracts with temporary agency businesses throughout a particular industry/sector - terms that were subsequently extended to include the fields of health and safety, welfare, parental maternity,

53 DSV- German social insurance umbrella organisations.

54 Catherine Barnard, Trinity College, Cambridge, UK.

paternity and adoptive leave, working time regulations, recruitment, training and appraisals (but noticeably not dismissals).

Sub-contracting across national frontiers is a factor in the increasing numbers of homeworkers whether they are classified as dependent piece-rate workers, who are supplied with work by an intermediary, agent or employer, or as self-employed or "own-account" workers, but who may also depend on intermediaries for designs, supply of raw materials, and even credit, as well as sales. Both categories among the growing numbers of low-paid, predominantly female, homeworkers can find themselves excluded from the scope of standard systems of labour law, social insurance and benefits and these may need to be flexibly applied to their situation. It is suggested[55] that existing corporate social responsibility codes and agreements among large retailers and other companies, which deal with conditions throughout the whole of their supply chain, might be strengthened by incorporating the principle of subsidiary liability for conditions applying to workers in these sub-contracting chains.

11. ORGANISATION OF WORKING TIME

EU Bodies

The EP acknowledges the need for working time arrangements to be sufficiently flexible to meet the needs of employers and employees and to enable people to better balance work and family life as well as to safeguard competitiveness and improve the employment situation in Europe.

Member States

A number of Member States (AT, BE, CZ, EL, FI) identify the revision of the Working Time Directive as a key priority for action at EU level, whereas in the view of some new Member States (BG and EE), no further EU measures are required in this area. Several Member States, notably AT, DK and IE, emphasises the need to leave scope for initiatives by the social partners to modify the provisions of the Directive and determine working time arrangements by collective agreements at industry level since they can respond most flexibly to the conditions specific to particular sectors.

Social Partners

ETUC and its affiliates recalled the positions they have taken since the first- and second-stage consultation of the EU social partners on the revision of the Working Time Directive in 2004. They want an unambiguous recognition of inactive on-call time as working time without any opt-outs. While a number of employer organisations and enterprises, notably from Germany, identify the Working Time Directive as an example of inflexible rules, other employer and trade union responses see the current proposals for the revision of the Working Time Directive as an example of how existing regulations at EU level are subject to review on a regular basis to take account of changes in the labour market as well as relevant case law. In

[55] European Homeworking Group.

this regard, CEEP calls for urgent resolution of the current stalemate on the revision of the Working Time Directive as the issue of the definition of inactive on-call time endangers the functioning of many public services based on 24/7 operations.

BusinessEurope and most of its affiliates consider EU regulation in this area to have been misconceived in its original form. Employers, however, urge the adoption of proposals to revise the Working Time Directive to solve the problems created for healthcare and the private economy as a consequence of the European Court of Justice judgment in the Simap/Jaeger case. They wish to see the opt-out provision retained as a way of ensuring greater labour market flexibility.

UEAPME also stresses the need for intervention at EU level to find a solution for the definition of on-call-time. However, working time is also a crucial component of internal flexibility. UEAPME wants to see efforts at national level across the Member States to ensure that the options which exist in the current working time directive for the social partners to negotiate specific arrangements for working time are better exploited at sectoral, company and individual level in order to better meet the needs for flexibility among employers and workers without increasing total working time.

Social NGOs

The Social Platform and its affiliates consider that labour law should guarantee reasonable and predictable working time for both women and men to ensure reconciliation between work and private life. Individuals active in the labour market should be given the opportunity to participate actively and collectively in the definition of patterns of working time. Some not-for-profit service providers express concern about the financial implications for social service providers of a failure to find a solution to the problem of on-call time[56].

12. ENFORCEMENT OF EMPLOYMENT RIGHTS AND COMBATING UNDECLARED WORK

EU Bodies

As already indicated in section I.5. above on Better Regulation, the EP Resolution highlights the importance of mechanisms to ensure fair and efficient enforcement of Community law. In addition the EP

- calls on the Commission to ensure coordination between the relevant national employment inspectorate bodies; stresses the need for Member States to bring their health and safety legislation into line with Community legislation;

- shares the Commission's approach to combating undeclared work through strong coordination between government enforcement agencies, labour inspectorates and/or trade unions, social security administrations and tax authorities.

Member States

[56] EASPD – European Association of Service Providers for Persons with Disabilities.

Significant support is voiced among Member States for action at EU level to combat undeclared work, given the steadily increasing supranational dimensions of the problem. However, the type of action advocated varies from support for declaratory instruments such as Council resolutions to the promotion of exchanges of good practice and administrative co-operation of a multi-lateral or bi-lateral kind. For example, Member States such as BE, DK, ES, EL, FI, FR, IT, PL support reinforced administrative co-operation.

Some Member States acknowledge the scope for promoting increased administrative co-operation between the relevant authorities at regional and national level but point to the problems encountered in extending such co-operation in order to more effectively enforce labour law at international level. There is general recognition, however, that the international provision of services has made administrative cooperation at a European level all the more necessary, with a need to make better use of the *SOLVIT* and IMI systems to monitor developments. Issues of enforcement and sanctions are considered by some Member States to be matters to be dealt with at national level, although this does not detract from the value they attach to reinforced administrative cooperation between relevant authorities – particularly across borders. Despite the enhanced cooperation between administrative authorities on the posting of workers, some Member States report that difficulties are still encountered in exchanging information on enterprises that post workers from their home country to another Member State. Member States differ in the value they place upon the development of multi-lateral co-operative mechanisms at EU level as compared with bilateral and wider agreements negotiated with contiguous Member States and established migration partners. PL questions the value of purely bilateral arrangements in the light of the asymmetry of labour flows and the uneven financial and administrative burdens that may arise.

Member States also acknowledge that the role of the social partners' in implementing Community rules differs between the Member States. Whereas the social partners' role in DE does not, for example, extend to ensuring law enforcement to the extent that it does in the Scandinavian countries, the social partners have nonetheless a key role to play role in combating undeclared work and illegal employment. Thus, in DE, business associations and trade unions are involved in the efforts to combat undeclared work and illegal employment in the form of action groups. Action groups have been created in the construction industry and in the forwarding, transport and logistics trade. Consequently, countering illegal unemployment and undeclared work is considered as a broad social responsibility in addition to the particular responsibilities borne by the territorial and federal public authorities.

Social Partners

The social partners reveal mixed views, reflecting their sectoral diversity as well as the differences in the way their organisations perceive the contribution they can make to assist the authorities in enforcing employment rights and combating undeclared work. Some organisations also refer to the agreement among the EU social partners to pursue discussion and joint analysis of this problem in the context of their 2006-2008 work programme.

Surveillance is the crucial issue from the perspective of the Nordic trade unions. Each Member State must have discretion in choosing the means to carry out such

surveillance. In SE and DK this surveillance is totally in the hands of the trade unions, which are concerned that EU rules should not prevent them carrying out their work.

ETUC and some EU sectoral federations[57] call for the establishment of a European 'Socio-Pol' or a permanent European coordination structure for the enforcement of Community labour law.

While agreeing that the EU can play a useful role in organising exchanges of experience between national labour inspectorates, employers point out that effective enforcement of Community law is primarily a matter for the national authorities. Since enforcement should not be assumed to consist only of sanctioning non-compliance, they highlight, as do some Member States[58], the importance of promoting awareness of employment rights among employers and workers alike**.** EU employer and business stakeholders also point out that EU technical assistance programmes[59] have provided financial support for capacity building among social partner organisations in the context of the enlargement of the EU, thereby enabling them to complement efforts to strengthen the enforcement of the Community *acquis.*

Social NGOs

The Social Platform calls for national administrative supervision to be reinforced to guarantee the full implementation and enforcement of labour law to secure both individual and collective rights. Current national labour inspectorates are understaffed and insufficient to ensure the effective implementation of labour law. Church organisations emphasise the training of relevant authorities as a priority. Some Social NGOs consider that the primary protective function of labour inspection should not be subordinated to enforcing immigration law. They stress that the protection of fundamental rights should apply to all workers regardless of their status or nationality[60] and urge EU Member States to ratify the UN Convention of the Protection of the Rights of All Migrant Workers and Members of Their Families (1990).

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57 Notably Uni-Europa and the European Federation of Building and Woodworkers.

58 See section I.5. [Better Regulation] above.

59 See also the calls in the European Parliament Resolution for continued technical support for the social partners.

60 Cf. in particular the Social Platform; Solidar – an international network of NGOs – and the Churches' Commission for Migrants in Europe (CCME).

Annex I: Abbreviations of Member State names

Belgium	**BE**
Bulgaria	**BG**
Czech Republic	**CZ**
Denmark	**DK**
Germany	**DE**
Estonia	**EE**
Ireland	**IE**
Greece	**EL**
Spain	**ES**
France	**FR**
Italy	**IT**
Cyprus	**CY**
Latvia	**LV**
Lithuania	**LT**
Luxembourg	**LU**
Hungary	**HU**
Malta	**MT**
Netherlands	**NL**
Austria	**AT**
Poland	**PL**
Portugal	**PT**
Romania	**RO**
Slovenia	**SI**
Slovakia	**SK**
Finland	**FI**
Sweden	**SE**
United Kingdom	**UK**

Annex II : Listing of all responses to the Green Paper. All the responses are accessible on the public consultation webpage at
http://ec.europa.eu/employment_social/labour_law/green_paper_responses_en.htm

EU Member States, national parliaments, political parties and other governments

Austria

Belgium

Bulgaria

Czech Republic

Denmark

Danish Parliament

Estonia

Finland

France

Germany

Bundesrat

SPD parliamentary party

Greece

PASOK opposition

Iceland

Ireland

Italy

Latvia

Lithuania

Luxembourg

Malta

Nederland

Norway

Poland

Portugal

Romania

Slovakia

Slovenia

Spain

Sweden

Swedish Parliament

U.K.

UK House of Lords

European Social Partners & Social Dialogue Committees

Association of Commercial Television in Europe (ACT)

BusinessEurope

CEA- European Federation of Insurance and Reinsurance National Associations

CEC- European Managers

CEEP- European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest

CEPI- European Coordination of Independent Producers

CESI - European Confederation of Independent Trade Unions

CoESS- Confederation of European Security Services

ETUC - European Trade Union Confederation

EUROCADRES

Eurocarers

EuroCommerce

European Banking Fed- EBF

European Broadcasting Union

European Federation of Building and Woodworkers

European Federation of Journalists

European group of the International Federation of Actors (EuroFIA)

European Metalworkers" Federation

European Transport Workers' Federation (ETF)

FERCO.European contract cleaning federation

FIEC -european construction industry confederations

HOTREC - Hotels, Restaurants & Cafés in Europe

SOCIAL DIALOGUE COMMITTEE for Live Performance joint position of Pearle and EAEA

SOCIAL DIALOGUE COMMITTEE IN THE AUDIOVISUAL SECTOR

SOCIAL DIALOGUE COMMITTEE for regional and local government public services joint position of CEMR/EPSU

The Federation of European Direct Selling Associations- FEDSA

The International Federation of Musicians (FIM)

UEAPME- EUROPEAN ASSOCIATON OF CRAFT, SMALL AND MEDIUM-SIZED ENTERPRISES

UNI-Europa

UNI-Europa - EURO-MEI

EU NGO's and EU Level Industry Bodies

AGE - European Older People's Platform

American Chamber of Commerce to the EU (AmCham EU)

Caritas Europa

CECOP - CICOPA Europe - European Confederation of Worker Cooperatives,
Social cooperatives and social and participative enterprises

CEEMET - COUNCIL OF EUROPEAN EMPLOYERS OF THE METAL, ENGINEERING AND TECHNOLOGY-BASED INDUSTRIES

CEP/CMAF - Conference of Co-operatives, Mutual Societies,
Associations and Foundations

Church and Society Commission of the Conference of European Churches (CSC of CEC) in cooperation with the Churches' Commission for Migrants in Europe (CCME) and the European Contact Group (ECG)

COMECE - Commission of the Bishops' Conferences of the European Community

COOPS.EUROPE - Cooperatives Europe

CPME: Standing Committee of European Doctors

Direct Selling Europe (a.i.s.b.l.)

EAPN - European Anti Poverty Network

EASPD- The European Association of Service Providers for Persons with Disabilities

ENPA – the European Newspaper Publishers' Association

Eurodiaconia - European Federation for Diaconia

EUROFEDOP The European Federation of Employees in Public Services

European Club for human resources (EChr)

European Homeworking Group

European Small Business Alliance (ESBA)

European Youth Forum

FEANTSA, the European Federation of National Organisations working with People who are Homeless

Föderation der katholischen Familienverbände in Europa
(FAFCE)

FSE - Federation of Scriptwriters in Europe

INTERGRAF.BE

Solidar

Social Platform

VDMA (Verband Deutscher Maschinen- und Anlagenbau e.V.)

National Social Partners & Other Industry Bodies

Amicus

APVD - Vente Directe

Arbeitgeberverband der Bekleidungsindustrie Aschaffenburg und Unterfranken e.V. DE

Arbeitgeberverband Gesamtmetall

Arbeitsgemeinschaft Selbständiger Unternehmer e.V. (ASU)

Association Française des Entreprises Privées (AFEP)-version francaise

Avedisco. Direct Selling Italy

Verein der Bayerischen Chemischen Industrie e.V.

Bund der Selbständigen / Deutscher Gewerbeverband, Landesverband Bayern

Bavarian Metal and Electricity Association

Bayerischer Ziegelindustrie-Verband

BayME - Bayerischer Unternehmensverband Metall und Elektro e. V.

BECTU UK Broadcasting Entertainment Cinematograph and Theatre Union

British Chambers of Commerce

British Hospitality Association

British Medical Association

British Retail Consortium

Bulgaria Industrial Association

Bulgaria_CEIBG.BG.aprosnik

Bulgaria_Chamber of Commerce and Industry

Bulgaria_CITUB.BG.stanovite

Bundersärztekammer

Bundesarbeitgeberverband Chemie

Bundesarbeitskammer Österreich

Bundesverband Druck u Medien -DE

Bundesvereinigung der Deutschen Arbeitgeberverbande

Business in Sport and Leisure

BVK--BDD-CDH-DFV-DIHK-VdPB (joint position)

CBI - Confederation of British Industry

CCP - Confederação do Comércio e Serviços de Portugal

CDA-Christlich-Demokratische Arbeitnehmerschaft Deutschlands

CFE-CGC Confédération française de l'encadrement - France

CGIL-CISL-UIL - Italian Trade Union centres

CGT Confédération Générale du Travail IBM France

CGTP-IN Confederação Nacional dos Trabalhadores Portugueses

CIPD - Chartered Institute of Personnel & Development UK

CNCE-GEIQ - France

Communication Workers Union -UK

Confcommercio

Confédération Générale du travail - Force Ouvrière

Confederation of UK Coal Producers

Confindustria

Construction Confederation UK

Cypriot Trade Union

Danish Employers Confederation.

Danish Financial Employers

Deutscher Führungskräfteverband

Deutsche Krankenhaus Gesellschaft

Deutscher Hotel- und Gaststättenverband (DEHOGA Bundesverband)

Deutscher Verein für öffentliche und private Fürsorge

DGB - Deutscher Gewerkschaftsbund

Deutscher Gewerkschaftsbund - Bezirk Sachsen

DJV - Deutscher Journalisten Verband

Engineering Employers Federation UK

Equity Performers Union - UK

Fédération de la Vente Directe

Fédération Française de la Franchise

FEDP - Fédération Européenne des Parfumeurs Détaillants

Finnish Confederation of Salaried Employees

Forum of Private Business UK

FS TRADE CCOO - Federació Sindical TRADE-Catalunya

German Bakers Confederation

German Fed Associations_HDE_BAG_BGA.DE

German Federal Armed Forces Association

Gesamtmetall - Gesamtverband der Arbeitgeberverbände der Metall- und Elektro-Industrie e. V.

Gesamtverband der Deutschen Textil- und Modeindustrie

Gewerkschaft vida

GMB Trade Union UK

GPA-DJP Gewerkschaft der Privatangestellten, GPA . AT

Grafiska Fackforbundet

Hauptverband des Deutschen Einzelhandels e.V.

Hungarian Hotel association

IBEC - Irish Business & Employers' Confederation

IG-Metall

Industriegewerkschaft Bauen-Agrar-Umwelt

Institute of Directors UK

Institute of Interim Managers UK

Irish Congress Trade Unions

KAV - Kommunaler Arbeitgeberverband Mecklenburg-Vorpommern e.V.

KFIO -Swedish Christian business owners

Kristelig Fagbevaegelse - Danish Christian Trade Union Movement

Landesverband Bayerischer Bauinnungen

Landesvereinigung Rheinland-Pfälzischer Unternehmerverbande

Landwirtschafskammer Österreich

Landesverband Groß- und Außenhandel, Vertrieb und Dienstleistungen Bayern e.V.

LO - Dalarna Disctrict

LO - Distriktet I Värmland

LO - Swedish Trade Union Confederation

Marburger Bund

MEDEF - Mouvement des Entreprises de France

Musician's Union UK

National Union of Journalists UK

Norwegian Confederation of Trade Unions - LO

OGB-LCGB- organisations syndicales luxembourgeoises

Österreichische Ärztekammer

Österreichischer Gewerkschaftsbund

PCG -Professional Contractors Group

PCS - Public & Commercial Services Union UK

Polska Konfederacja Pracodawcow Prywatnych Lewiatan

Quatros Tecnicos Union

OSZ - Odborové Sdruzeni Zeleznicaru - Ustredi

Recruitment Employers Confederation UK - REC

SACO - Swedish Confederation of Professional Organisations

SIF -Swedish White-Collar Union

SJF - Swedish Union of Journalists

SKTF- Swedish Union of Local Government Officers

Swedish Municipal Workers

TCO - Swedish Confederation of Professional

Employees

Trade Union Congress - UK

UGT- União Geral de Trabalhadores - Portugal

UIMM,Union des Industries et des Métiers de la Métallurgie

UK Federation of Entertainment Unions

UK Federation of Small Businesses

UK Local Government Employers

UK Royal College of Nursing

Union of Journalists in Finland - Suomen Journalistiliitto

Union of Shop, Distributive and Allied Workers UK

Unione Camere Veneto

VAV-Arbeitgeberverband Ernährung Genuss

Verband der Bayerischen Metall- und Elektro- Industie e.V.

VBW Vereinigung der Bayerischen Wirtschaft. e.V.

VDV Rheinland

VDV-Verband des Verkehrsgewerbes

Ver.di - Vereinte Dienstleistungsgewerkschaft

Verband der keramischen Industrie e.V

Verband der Kunststoff verarbeitenden Industrie in Bayern e.V

Verband N-O Textil-u-Bekleidungsindustrie

VOKA - Flanders Chamber of Commerce and Industry

Wirtschaftsjunioren Nordrhein-Westfalen

Wirtschaftskammer Österreich

Zentralverband des deutschen Handwerks

Zentralverband Gewerblicher Verbundgruppen ZGV

National NGO's and Regional Public Authorities

AmCham Solvakia

Amt der Vorarlberger Landesregierung

Bayerisches Staatsministerium

Bundeskammer für Arbeiter und Angestellte

Confederation of West Midlands Chambers of Commerce

Deutsche Sozialversicherung

Deutscher Verein für öffentliche und private Fürsorge e.V.

Diakonisches Werk Schleswig Holstein

Equal Opportunities Commission

Generalsekretariat der Österreichischen Bischofskonferenz, Rechtskommission der ComECE

GPA-DJP

IGMICK

Katholischer Familienverband Österreich

Kommissariat der Deutschen Bischöfe

Legacoop

National Group on Homeworking

Provincia di Roma

Spanish Business Confederation of the Social Economy

Sveriges Kommuner och Landsting

VDMA

Whistleblowers - EUGB

Entreprises and Other Organisations

Allianz Corporate Ireland

ARD-ZDF

BASF Chemical company

Beratungskontor GbR-DE.pdf

BOGESTRA

DA Direkt

Debeka General Insurance

Deutsche Eisenbahn Versicherung

Edscha Cabrio-Dachsysteme

Edscha Karosserieprodukte

Gothaer Finanzholding Koln

Jansen-DE

KAESER Kompressoren

Kurz

Leoni AG

PRISME

RENAULT

Sanofi

Signal Iduna

Sonax GmbH

Tele Dienste

Textil-Bekleidungsindustrie

Wolf GmbH

ZF Friedrichshafen AG

Zurich Beteiligungs AG

List of individual enterprises

Kermi GmbH

AUXILIA Rechtsschutz-Versicherungs-AG

Mainsite Services Gmbh & Co.KG

Barmenia Versicherungen

Westfälische Provinzial

Dichtungstechnik Wallstabe & Schneider GmbH & Co. KG

Dr. Karl Wetekam & Co. KG

InfraServ GmbH&Co Gendorf KG

Fendt-Caravan GmbH

Heinrich Mueller GmbH

Habermaaß GmbH

Individual Submissions via IPM Questionnaire

Number of Anonymous Submissions : 38

Dr. Michael Himmer

Radovan Burkovič

Alexander Hennemann

Detlef Ernst

Eck, Ines

Günter Zitzmann

Heinz Löhr

Klaus Holz

Herr/Frau Krupka

Melanie Zitzmann

Michael Hermann-Eisenhauer

Sabrina Poschke

Samantha Zitzmann

Herr/Frau Simon

Professor A.Tangian

Thomas Fenner

Luis González

Pedro Rabanal Carbajo

Benard

Sol Michel

M.N. Chaignot

Paolo Greco

Valeriu Zanfir

Magnus Berglund

David A Robinson

Derek Stevens

John Macmillan

Peter David Adams

Phil Wilson

Academics / Think Tanks

Association collective bargaining & labour relations

Avocats Européens Démocrates

Catherine Barnard

Centro Marco Biagi

CGIL - G.Arrigo

CGIL - P. Alleva

Deutscher Anwalt Verein

Deutscher Richterbund

DJB - German Federation of Lawyers

Employment Lawyers Association

European Institute for Construction Labour Research

European Study Group

Glamorgan University - PEEL

ICTUR

Institut International pour les Etudes Comparatives (IIPEC)

Italian consultants in labour law

Italian labour lawyers group

KU Leuven – UV Tilburg

Magistrats Européens pour la Démocratie et les Libertés

Martin Luther Universität Halle-Wittenberg

Universidad de Huelva - R.F. Villarino

VDJ - Vereinigung Demokratischer Juristinnen und Juristen

WSI - A. Tangian.