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CSC Briefing paper

“Flexicurity”: European Union’s programme to modernise labour law

On 27 June 2007 the European Commission published a Communication on the modernisation of labour law *“Towards Common Principles of Flexicurity: More and better jobs through flexibility and security”*, proposing the establishment of common principles to modernise European labour markets.

The Communication is the result of a consultation process, which started in November 2006 with the publication of a Green paper on Labour law. The intention of the European Commission is to arrive at more coherent national strategies for flexicurity. The reasons for the need to change labour law are, according to the Communication, European and international economic integration, the development of new technologies, the demographic ageing of European societies and the development of segmented labour markets in many countries, where both relatively protected and unprotected workers coexist.

To achieve the objectives of the Lisbon strategy, the European Commission requires policies that address simultaneously the flexibility of labour markets, work organisation and labour relations as well as social security. The Communication points out four major policy components of the flexicurity concept: Flexible and reliable contractual arrangements, comprehensive lifelong learning, effective labour market policies and modern social security schemes. The European Commission stresses the necessary balance of these four factors, but is clearly promoting less strict employment protection legislation, combined with good social security systems and active labour market policies.

The Communication sets out proposals for eight common flexicurity principles:

1. Reinforcing the implementation of the EU's strategy for Jobs and Growth (“Lisbon strategy”);
2. Striking a balance between rights and responsibilities;
3. Adapting flexicurity to the specific labour markets and industrial relations of the Member States;
4. Reducing the divide between those in non-standard, sometimes precarious contractual arrangements, on the one hand and those in permanent, full-time jobs on the other;
5. Developing internal (within the enterprise) and external (from one enterprise to another) flexicurity;

6. Supporting gender equality and promoting equal opportunities for all;
7. Promoting a climate of trust between public authorities and social partners;
8. Ensuring a fair distribution of costs and benefits.

In four “flexicurity pathways” the European Commission suggests to tackle contractual segmentation, develop flexicurity within enterprises and increase transition security, provide more protection for weaker groups and promote upward mobility, and finally improve opportunities for benefit recipients and informally employed workers.

The position of churches and church-related organisations

In a joint contribution to the Green Paper, Church & Society Commission of the Conference of European Churches (CSC) together with the Churches’ Commission for Migrants in Europe (CCME) and the European Contact Group (ECG) had expressed their concerns about the ongoing high level of unemployment in the European Union and the increasing segmentation of the labour market. They stressed that, in Christian understanding, work is not just a productive factor but also a central element of human personality and of participation in society. The churches and church-related organisations asked that modernisation of labour law be instrumental to facilitate “good work” and its underlying principles, i.e. workers’ rights and participation, equal opportunities, safety and health protection at work and a family-friendly organisation of work. Individual flexibility and security should be secured in a legal framework and in collective agreements. Learning systems should be accessible and affordable for all members of society irrespective of the contractual form of employment.

The contribution of CSC, CCME and ECG stressed the high risks of flexible working contracts, where people find themselves transferred from one temporary contract to the other, without access to social security nor a chance to work under equal conditions as workers with a standard employment contract. It suggested that flexicurity should not be reduced to the liberalisation of employment protection legislation, but also focus on the flexibility of working hours and functional flexibility, e.g. by multiple deployment possibilities of workers due to a high, diverse level of professional skills.

The churches and church-related organisations expressed their concern about the impact of flexicurity measures on the marginalised in the labour market, who would need additional help to return to employment. They pointed out the need for a high level of mutual trust between the different stakeholders, if flexicurity is not to lead into a general feeling of insecurity in the society. They supported the creation of innovative arrangements providing for transitions between jobs without a break in employment and asked for a more consequent implementation of the existing rights on the protection of workers, especially with regard to the ongoing lack of equality between men and women on the labour market and the need to realise basic rights for migrants.

Having in mind the specificity of the work performed for churches and church-related organisations, the contribution of CSC, CCME and ECG recalled that the European Union should respect and not prejudice the status under national law of churches and religious associations or communities in the Member States and protect Sunday rest.

Comparing the Contribution of the churches and church-related organisations with the Commission’s Communication, one has to notice that the concerns about a better definition of flexicurity and the impact on the most marginalised in the labour market

have been taken up, although the request for complementary social policies remains very vague. The churches' proposals for better transition instruments from one job to the other are also reflected in the Commission's communication. Other concerns, like the impact on migrants, have not really been taken up. The specific working conditions of churches and church-related organisations are obviously not in the focus of the European Commission while they are intending to modernise labour law. The greatest distinction between the contribution of CSC, CCME, ECG and the Communication of the European Commission lies in the different assessment of employment protection legislation. Here the Commission's interest is to come to more flexible legislation while the churches are concerned about the impact on those who find themselves anyhow in a weak position on the labour market.

Generally the Communication of the European Commission does not refer directly to any of the responses to the Green Paper (published on the Commission's website). Therefore, the question has been raised by a number of stakeholders as to the extent that the European Commission takes their own consultations seriously.

The next steps

The intention of the European Commission is to facilitate a comprehensive debate between EU institutions, Member States, social partners and other stakeholders, so that the European Council may adopt, by the end of 2007, a set of common principles of flexicurity. These common principles shall then inspire and contribute to the implementation of the Integrated Guidelines for Growth and Jobs and, in particular, the Employment Guidelines.

The Portuguese Presidency is holding a conference on key challenges of flexicurity on 13-14 September in Lisbon. On the occasion of the 10th anniversary of the European Employment Strategy, another conference on "Employment in Europe: Prospects and Priorities" (8-9 October in Lisbon) will focus on the prospective and strategic dimension of European employment policies. The 2008 Tripartite Social Summit will also focus its discussion on flexicurity.

CSC and ECG are planning to hold a joint conference on employment and the churches on 20-22 February 2008 in Brussels.

For more information see:

Communication "Towards Common Principles of Flexicurity: More and better jobs through flexibility and security":

http://ec.europa.eu/employment_social/news/2007/jun/flexicurity_en.pdf

Green Paper on 'Modernising labour law to meet the challenges of the 21st century'

http://ec.europa.eu/employment_social/labour_law/green_paper_en.htm

Contribution of CSC in cooperation with CCME and ECG to the Green Paper:

<http://www.cec-kek.org/content/economic.shtml>