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Briefing paper

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

Priorities of the churches

On the basis of article 137 of the Treaty, the Community shall support and complement the activities of the Member States in the area of social policy. In particular, it defines minimum requirements at EU level in the fields of working and employment conditions and the information and consultation of workers. Community labour law was designed with the aim of ensuring that the creation of the Single Market didn't lead to a lowering of labour standards or distortions in competition. But it has also been increasingly called to play a key role in making it easier for the EU to adapt to evolving forms of work organisation.

In December 2006 the European Commission launched a broad public debate on the need to review current labour law systems. CSC reported on this in its Electronic Bulletin No. 3 from 20 December 2006. The discussion paper "Green Paper on Modernising labour law to meet the challenges of the 21st century" asks Member States, employers and workers' representatives how labour law at EU and national level can help the job market become more flexible while improving security for workers. The consultation will remain open until 31st March 2007.

According to the European Commission, the key policy challenge is to provide a "flexible and inclusive labour market":

The Consultation is raising 14 questions:

1. *What would you consider to be the priorities for a meaningful labour law reform agenda?*
2. *Can the adaptation of labour law and collective agreements contribute to improved flexibility and employment security and a reduction in labour market segmentation? If yes, then how?*
3. *Do existing regulations, whether in the form of law and/or collective agreements, hinder or stimulate enterprises and employees seeking to avail of opportunities to increase productivity and adjust to the introduction of new technologies and changes linked to international competition? How can improvements be made in the quality of regulations affecting SMEs, while preserving their objectives?*
4. *How might recruitment under permanent and temporary contracts be facilitated, whether by law or collective agreement, so as to allow for more flexibility within the framework of these contracts while ensuring adequate standards of employment security and social protection at the same time?*
5. *Would it be useful to consider a combination of more flexible employment protection legislation and well-designed assistance to the unemployed, both in the form of income compensation (i.e. passive labour market policies) and active labour market policies?*
6. *What role might law and/or collective agreements negotiated between the social partners play in promoting access to training and transitions between different contractual forms for upward mobility over the course of a fully active working life?*
7. *Is greater clarity needed in Member States' legal definitions of employment and self-employment to facilitate bona fide transitions from employment to self-employment and vice versa?*
8. *Is there a need for a "floor of rights" dealing with the working conditions of all workers regardless of the form of their work contract? What, in your view, would be the impact of such minimum requirements on job creation as well as on the protection of workers?*
9. *Do you think the responsibilities of the various parties within multiple employment relationships should be clarified to determine who is accountable for compliance with employment rights? Would subsidiary liability be an effective and feasible way to establish that responsibility in the case of sub-contractors? If not, do you see other ways to ensure adequate protection of workers in "three-way relationships"?*
10. *Is there a need to clarify the employment status of temporary agency workers?*
11. *How could minimum requirements concerning the organization of working time be modified in order to provide greater flexibility for both employers and employees, while ensuring a high standard of protection of workers' health and safety? What aspects of the organization of working time should be tackled as a matter of priority by the Community?*
12. *How can the employment rights of workers operating in a transnational context, including in particular frontier workers, be assured throughout the Community? Do you see a need for more convergent definitions of 'worker' in EU Directives in the interests of ensuring that these workers can exercise their employment rights, regardless of the Member State where they work? Or do you believe that Member States should retain their discretion in this matter?*
13. *Do you think it is necessary to reinforce administrative co-operation between the relevant authorities to boost their effectiveness in enforcing Community labour law? Do you see a role for social partners in such cooperation?*
14. *Do you consider that further initiatives are needed at an EU level to support action by the Member States to combat undeclared work?*

Priorities of the churches

Employment and social cohesion

In earlier statements, CEC member churches pointed out that unemployment linked with broader social policy, as one of the aspects of globalisation, needs to be a constantly present point on the agenda of the churches in Europe. Churches in Europe are concerned that the high level of unemployment in many European countries is a fundamental challenge to the functioning of the social systems and provides a fruitful ground for extremism and intolerance in society. “One of the greatest challenges for the policy of the Union, European countries, Member states of the Union and all others is the continuing high level of unemployment, which leads to the social exclusion of a growing part of the population. The EU has to be reminded that economic growth is not a guarantee against poverty and social exclusion. Although often described as the key objective for the European Union, economic growth does not automatically lead to a higher quality of life. Everyone must have the right to live in dignity.”¹ It is for this reason that most of the churches in Europe actively contributed to and later welcomed the formulation of the statement in the Preamble of the Draft EU Constitutional Treaty, which describes the future economic policy of the EU: “The Union shall offer its citizens an area of freedom, security and justice without internal frontiers, and a single market where competition is free and undistorted... the Union shall work for the sustainable development of Europe based on balanced economic growth, a highly competitive social market economy, aiming at full employment and social progress, and with a high level of protection and improvement of the quality of the environment.”²

New opportunities for “more and better jobs”

A major concern of CSC in relation to labour law will therefore be to open new opportunities for “more and better jobs”, as it was originally formulated in EU’s Lisbon strategy. At the same time we will have to monitor very carefully that more flexibility does not lead to less social security. We would therefore like to inform the European Commission about the different experiences of European churches and church organisations with their social security systems.

Anti-discrimination, health and safety protection

In this context, the quality of work is an important issue: Anti-discrimination, health and safety protection. This also concerns churches and church-related organisations as employers. In earlier legislation, the EU explained also with relation to labour law: “Member States may maintain national legislation in force at the date of adoption of this Directive or provide for future legislation incorporating national practices existing at the date of adoption of this Directive pursuant to which, in the case of occupational activities within churches and other public or private organisations the ethos of which is based on religion or

¹ European churches living their faith in the context of globalisation. A position paper of the Church and Society Commission of the Conference of European Churches, p. 23.

² European churches living their faith in the context of globalisation, p. 37.

belief, a difference of treatment based on a person's religion or belief shall not constitute discrimination where, by reason of the nature of these activities or of the context in which they are carried out, a person's religion or belief constitute a genuine, legitimate and justified occupational requirement, having regard to the organisation's ethos. This difference of treatment shall be implemented taking account of Member States' constitutional provisions and principles, as well as the general principles of Community law, and should not justify discrimination on another ground. Provided that its provisions are otherwise complied with, this Directive shall thus not prejudice the right of churches and other public or private organisations, the ethos of which is based on religion or belief, acting in conformity with national constitutions and laws, to require individuals working for them to act in good faith and with loyalty to the organisation's ethos.”³

Working conditions and family life

Another important element for churches is the impact of more flexible working conditions on the private life of people and the need for “a new quality of relations between generations, between family life and work”, as has been formulated in the Contribution of European churches, diaconal, migrant and youth organisations to the EU Green paper on demographic changes.⁴

Life-long learning

Life-long learning is of growing importance for an increase of work flexibility. Churches have a longstanding tradition of education and professional training, which should be taken into account. They will as well raise the question of the impact of higher flexibility on the less-skilled or on handicapped people.

Mobility and migration

A higher mobility of workers will lead to increasing employment dependencies in EU Member States. This raises questions of integration of migrants, legal security for Non-EU-citizens, anti-discrimination.

Further information

www.cec-kek.org

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

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

³ Art. 4 of the COUNCIL DIRECTIVE 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation. Cf. Rec 24: “The European Union in its Declaration No 11 on the status of churches and non-confessional organisations, annexed to the Final Act of the Amsterdam Treaty, has explicitly recognised that it respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States and that it equally respects the status of philosophical and non-confessional organisations. With this in view, Member States may maintain or lay down specific provisions on genuine, legitimate and justified occupational requirements which might be required for carrying out an occupational activity.”

⁴ Strengthen a mutual sense of responsibility in European societies. Contribution of European churches, diaconal, migrant and youth organisations to the EU Green paper on demographic changes. October 2005.