



**Joint CEMR/EPSU response to the European Commission's
Green Paper COM (2006) 708
Modernising Labour Law to Meet the Challenges of the 21st Century**

1. CEMR Employers' platform (CEMR-EP) and EPSU, the social partners within the local and regional government sector have discussed the Green Paper on Labour law, as the Commission has called for. We welcome the debate on how labour law at national and European level can support the Lisbon Strategy for growth with more and better jobs. However, successful economies are influenced by many other factors than labour law such as economic history and development, investment, access to natural resources, age profile of the population, and the challenges of competition from other countries in a globalised world, etc.
2. Having established that labour law is merely a factor in the development of successful and cohesive societies, it is recognised that the Green Paper does raise a number of significant issues that are of importance in the functioning of the labour market.

The need to take into account national and sectoral contexts

3. CEMR-EP and EPSU are willing to take part in the development of a well functioning labour market, at national and European level. Labour law, and associated measures, evolve with time as with any other area of law. However, account needs to be taken of national contexts regarding the role of labour law, status of collective agreements and any labour market features that are supported by the national tax and social security systems. The contribution of the Employment Committee and The Social Protection Committee to the debate on flexicurity seems to accept this principle as it states '*The optimal balance between flexibility and security differs between countries, e.g. due to differences in institutional settings and business climate. Each country has to choose the right combination itself.*'
4. Organisations and services need to adapt to a constantly changing environment in order to reflect the needs and demands from citizens. The best method to create an adapting environment is of course when employers and employees see the need for change together and get the opportunity to identify and develop better ways of working. In this regard the Open Method of Co-ordination (OMC) could be a good tool to highlight good practice across Member States.

5. Many local and regional governments across the EU have already introduced a series of reforms aimed at improving the quality and efficiency of local public services. These reforms include investment in the quality of employment in the sector, e.g. through workers' information, consultation and participation procedures, investment in the skills and education of employees, equal opportunities, positive working conditions and high standards of health and safety in the workplace. It is important to maintain and develop this approach to the needed reforms especially in the light of the challenge posed by the demographic changes and the ageing workforce in the local and regional government. We will in the coming decade need to recruit a large number of new employees among the young, women and immigrants. Their working conditions, skills, health and safety and employability are important matters for the social partners.

Individual versus collective issues

6. As the Commission writes in the Green Paper, the focus is mainly on the personal scope of labour law rather than an issue of collective labour law. We see this as a general weakness in the overall analysis. We would like to point out the role that social partners play through collective agreements, joint initiatives and guidance, which can also have the effect of establishing individual rights and enabling flexibility and transition. We, the social partners do not see labour law, devised in the right way as an obstacle for labour market mobility, increased employment and productivity.
7. CEMR-EP and EPSU support the following statement by the Commission in the Green Paper: *“Collective agreements no longer play a merely auxiliary role in complementing working conditions already defined by law. They serve as important tools adjusting legal principles to specific economic situations and to particular circumstances of specific sectors”¹.*
8. The social partners consider that the right balance of flexibility for employers and security for employees is needed if we are to succeed in forming a social Europe that creates more and better jobs. We see collective agreements and labour law as positive instruments that can provide security for employees and flexibility for employers.
9. We believe in the necessity for strong, autonomous, social partners who can represent the interests of employers and employees at a national and local level. There are many possibilities within Member States to achieve this, according to their national systems. Social partners can work together to develop legislation, guidance, and to conclude collective agreements that cover large parts of the labour market and that can be adapted from sector to sector in line with the needs of the employers and the employees. We see the social dialogue as an important possibility and way

¹ COM (2006) 708 final, page 5

to secure and develop that flexibility and security which is important for the fulfilment of the Lisbon Strategy.

10. It remains of great importance to strengthen social dialogue in the recently joined Member States and in candidate countries with the future and continued support of the Commission, in order that social partners in these States can contribute fully.

Equality and resources for improvements

11. Across Europe, in employment, education and the provision of services there is an increasing focus on gender equality and more legislation in this area at EU level and at national level. In most Member States women dominate the public sector labour market, and the working conditions in local and regional government are therefore an important factor for the ability of women to improve their position in the labour market. Although the issue of equality is not addressed in detail in the Green paper, we agree with the Commission that there is a strong gender dimension to the risk of having a weaker position in the labour market.
12. It is of decisive importance to find procedures to maintain and strengthen women's position in the labour market if we are to reach the goal in the Lisbon Strategy regarding women's participation in the labour market across the EU. However, it is also recognised that some of the measures that might be envisaged, such as improvements in the provision of care services have a direct impact on the local government sector and would need adequate resources.

More and better jobs

13. As we point out in our joint statement on the EU employment policy we "recognise the central role of local government and of social partners in achieving *"more and better jobs"*, a central objective of the Lisbon Agenda; CEMR-EP and EPSU have been active in strengthening and facilitating the implementation of previous employment guidelines locally, not only for the overall employment strategy but specifically in the field of equal opportunities and new organisation of work"².
14. Local government employers and trade unions work within a context that is influenced by political considerations and the preferences of local populations expressed by their elected councilors. This has an effect on the way in which local government employers and trade unions can cooperate and negotiate on measures to improve and increase employment opportunities, including, where appropriate,

² CEMR Employers' Platform and EPSU Joint Statement on the EU Employment Policy
Agreed by the employment workshop 19 May 2005, Brussels Adopted by the EPSU Executive Committee, 7 June 2005

issues such as redistribution or reorganisation of working time, planning and organising of work, new working arrangements, etc.³

15. Social dialogue and collective agreements about training, skills development etc. can promote a skilled, trained and adaptable workforce and by this create a better environment for job transition. In addition, social dialogue processes are a key feature for reorganisation and can help create the right environment to enable employees to adapt to change at the workplaces. The social partners have a specific responsibility and also possibilities in this context to get/create possibilities for people to be more employable and into/change to new jobs.

16. We have already considered this issue and as social partners wrote in our joint statement on social dialogue that in *“labour intensive public services, the reorganisation of the work processes and administrative structures are often the main instruments for adapting to the changing environment. A long-term vision of employment, including education and training and the continuous development of professional skills and adaptability of employees, helps to facilitate change. Successful management of change, in particular, demands dialogue and co-operation between social partners in all organisations”*⁴.

Conclusion

17. CEMR-EP and EPSU point out that many aspects of labour law are today issues primarily for the Member States, and discussion on reforms is first and foremost needed at this level. In the Green Paper on European labour law the Commission suggests that there is a need for reforms at European level concerning different aspects of social policy and labour law. CEMR-EP and EPSU consider that Community level action should:
 - ✓ concentrate on preventing unfair competition and social dumping between Member States
 - ✓ continue to promote initiatives aimed at achieving equal treatment and non-discrimination. It is noted that significant progress has been made in these areas resulting in Directives on equal treatment in employment and occupation.
 - ✓ focus on activating the labour market actors to assess the national legislation and other norms, efficiency of methods for instructing and guiding the development of labour markets
 - ✓ support the development of social dialogue across Europe.

³ See same joint statement

⁴ CEMR – EPSU joint statement on the development of social dialogue in local and regional Government (adopted at the plenary meeting of the sectoral social dialogue Committee on local and regional government held on 29 November 2006)

- ✓ actively fund and encourage projects aiming at improved effectiveness and capability to produce innovation and higher quality of working life, including public services.

18. CEMR-EP and EPSU also underline that the European Commission should prioritise the involvement of the social partners in any follow-up to the Green Paper.

Brussels, 3 April 2007