

Final statement from the Federation of Catholic Family Organisation in Europe (FAFCE) on the Green Paper, "Modernising labour law to meet the challenges of the 21st Century" COM (2006) 708.

### **Fundamental considerations**

It is with great care that we, as the Federation of Catholic Family Organisation in Europe (FAFCE), consider the debate on the Flexicurity agenda to which the Green Paper, "Modernising labour law to meet the challenges of the 21st Century" pays dues. The Green Paper's stated aim is to make the Lisbon Strategy fair.

However, we assume that the art term "Flexicurity", drawn from flexibility and security, further enhances flexibility demands in the employment law arena and at the same time weakens the principle of social security.

We feel the need for the perspective on families in the analysis of the Green Paper, since no area of daily life affect families more than the working world. The impact on the family of continued flexibilisation in employment law is not given enough consideration in this Green Paper.

The Lisbon Strategy, which this is actually all about, cannot be successful if it only aligns itself with employment promotion and does not take into account the demographic challenge facing Europe in all political fields. To this effect, the commission itself came within the scope of the demography forum in October 2006. The Commission of the Bishops' Conferences of the European Community (COMECE) had already emphatically referenced this connection in 2004.<sup>1</sup>

EU policies must take a reinforced view of family living conditions, as without incentives in the EU member states for a family policy which is based on reliability and sustainability; there can be no solution to the demographic problem. As always, European men and women's desire to have children is higher than the actual birth rate.<sup>2</sup> At the same time, families enjoy a very high significance in personal priority lists of European men and women (97% find families important).<sup>3</sup>

Further efforts are needed in order to live up to the claim in article 33 of the European Union's Charter of Fundamental Rights, according to which "the legal, economic and social protection of the family will be ensured".

For this reason the Federation of Catholic Family Organisation in Europe (FAFCE) has for many years been demanding the introduction of family-mainstreaming into all relevant EU political fields.

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<sup>1</sup> COMECE "A family strategy for the European Union An impetus to make the family an EU priority", Brussels 2004.

<sup>2</sup> Source: Charlotte Höhn, Andreas Ette, Kerstin Ruckdeschel, Eds: "Kinderwünsche in Deutschland- Konsequenzen für eine nachhaltige Familienpolitik“, ["The desire to have children in Germany - consequences for a sustainable policy"] BIB, Robert-Bosch-Foundation, Stuttgart 2006, illustration 1 and 2 in the appendix draw the European comparison.

<sup>3</sup> Eurobarometer European Social Reality Nov.-Dec. 2006 in the EU-25, published February 2007

Therefore we emphatically welcome the initiative for the establishment of a "European Family Alliance"<sup>4</sup>, which will be undertaken within the scope of the German council presidency, as well as the suggestion for a European social and economic committee, the development of a long-term, applied action plan for families, and the creation of a European family pact.<sup>5</sup>

Without a family-friendly working and living world there can be no incentives for European men and women to fulfil their desire to have children. Without long-term measures for the solution to the demographic problem, the Lisbon Strategy also cannot be successful.

### **1. In your opinion, which points should be at the top of an agenda for a meaningful employment law reform?**

The impact of an employment law reform on the family situation must, in view of the demographic situation, be placed more firmly in the centre of analyses and discussions.

Further segmentation of the job market into traditional jobs and so-called atypical and temporary employment must be averted. Regular employment is essential. It gives security and strengthens long term competitiveness. Already young people, who not only have to manage entry into employment but also the decision regarding starting a family, need security for their own career development and for the family that they would like to care for under their own steam. It should therefore be ensured that regular full-time employment serves as an independent livelihood and the number of those who, despite being employed, have no adequate basis of existence, must not increase further. Underage children in this situation are at an additional risk of poverty. This applies to single parent families in particular. We need legal minimum regulations for risky and atypical employment just in order to fight child poverty.

For a family-friendly arrangement which facilitates the compatibility between family, private and working lives, we need a pan-European replacement for a better balance between time, money and infrastructures for families. The guiding principle for us is freedom of choice. Parents must be free to decide how they want to raise, educate and care for their children.

Parents need **time** for their children so that family life is possible. For this reason, incentives must be created in order to enforce generous parental leave regulations. The guidelines for maternity leave protection and parental leave<sup>6</sup>, which determine minimum standards across Europe, must be reviewed urgently. Likewise it must be reconsidered that similar time for caring for ill family members should also be introduced. Men and women must not be discriminated against if, as a result of their parental or care benefits, the job market is merely restricted or nothing is available.

Families need **money** in order to secure their subsistence. Since the costs of bringing up children are for the most part privatised, the advantages only increase; for example, for the protection of the social system to prove advantageous, it must come down to the sharing of the family burden. The tax burden for families, as well as the burden of excise duties must be minimised. The minimum living wage for families must be regularly adjusted and remain tax

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<sup>4</sup> European Council 6-9.03.07 presidency conclusion, 7224/07 CONCL 1, number 20

<sup>5</sup> EWSA 14/03/07 SOC committee hypothetical probe statement, "The family and demographic development", SOC/245, CESE 423/2007 (fr) CF/MF/av

<sup>6</sup> Guideline 92/85/EEC dated 19/10/92 and guideline 96/34/EC dated 19/06/96

free. Not only is tax relief necessary, but also direct financial aid. Income development must be guided by that so that families can meet their living needs.

Parents need a family-friendly **infrastructure** for the compatibility of their family, private and working lives. Amenities for child care must be needs-based, available, affordable and above all high quality. Child care must always be fulfilled by an integrated right to education. Parents need support in their care remit. Family and parent training as well as marriage guidance counselling are therefore eligible and should be acknowledged as training leave in the scope of the promotional concept for lifelong learning. Parents need a family-friendly working environment. Employers who offer good general conditions here will benefit from this in the long run.

**2. Can an adjustment of employment laws and wage agreements be conducive to an increase in flexibility and job security as well as a decrease in the segmentation of the job market? If yes, how?**

If the flexibilisation of employment law is oriented towards the principles of "good work" and increased family-friendliness, there are, should the occasion arise, chances to encourage job security. However, doubts as to whether this will succeed, must be credibly removed.

Good work means employment rights and participation, fair wages, health and safety protection in the workplace, as well as a family-friendly work organisation. Good and fair working conditions as well as adequate social security are vital for people's acceptance of the European Union.<sup>7</sup>

Increased flexibility in the job market must be associated with adequate employment rights. Employees must be able to observe their right to participate in collective lobbies. Member states and social partners must take responsibility to ensure that flexibilisation does not lead to a reduction in employees' social security.

Employment law reform is not the European Community's responsibility. The Commission rightly recognises that at best it has a co-ordinating function.

**3. As the existing regulations operate, are there laws or wage agreements, whether obstructive or constructive, for companies and employees who make use of the chances to increase productivity and want to conform to the introduction of new technologies and the changes associated with international competition? How can the relevant regulations for small and medium-sized businesses be improved through simultaneous adherence to aspirations?**

Fundamentally we assume that the existing regulations as well as adequate wage agreements, which are oriented towards the principles of "Good Work" (see above for definition), are not too rigid.

The goal orientation of the varying regulations will be determined following the evaluation of this question. If it has to do with better participation and the potential of parents who educate

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<sup>7</sup> Here FAFCE joins the informal meetings of the Ministers for Employment and Social Affairs in Berlin from 18th-20th January.

as well as the family-friendly arrangement of gainful employment, the need for change may be granted should the occasion arise.

When faced with the foreseen lack of skilled personnel, employers will benefit in the long run if they create family-friendly general conditions in time.

A sheaf of measures contribute to making the working world family-friendly. Employment regulations and care opportunities have a key function here.

Gainfully employed parents normally combine their own care with institutional child care offers and further support services. Companies should not leave them alone in this task. In-house supported child care also pays for itself economically. This is shown by a vast number of studies. Belonging to the varied possibilities of company supported childcare are:

- Day care support, placement of babysitters
- Security of voucher rights in existing child care establishments
- Establishment of an internal day care facility for children
- Exemption for unforeseen care needs
- The possibility of taking the child to work in cases of need

With everything, quality standards are also borne in mind, such as the question of time spent in external care, since the welfare and promotion of children must always remain in the foreground.

In practice it is frequently alleged that small and medium-sized businesses are overwhelmed by family oriented measures. Therefore models for external combined systems can illustrate alternatives. Thereby, with the help of external management, small and medium-sized businesses could also allow their employees the possibilities of statutory and even more long term company parental leave, for example with a re-employment guarantee which is not given to an individual enterprise but a group. The group can also offer qualification and re-entry courses for parents during the family phase and can co-ordinate as well as concentrate on child care support.

- 4. How could the acceptance of temporary or long-term jobs according to employment or wage agreement laws be facilitated, so that within the scope of the underlying employment contracts a higher degree of flexibility is enabled and at the same time, however, adequate job security and adequate social security is ensured?**

See answers to questions 6 and 8

- 5. Would it be helpful to consider a combination of flexible employment protection acts and well thought-out benefits for the unemployed not only in the form of wage replacement benefits (e.g. passive service of the labour market policy) but also in the form of active measures?**

Here there are very different care standards and traditions in the EU member states.

From the family perspective it should be ensured that the minimum standards of protection against unlawful dismissal during maternity leave and parental leave are improved. It should be further ensured that parents who observe care responsibilities are not discriminated against.

- 6. Which roles could laws and/or wage agreements negotiated by social partners play with regard to the promotion of access to training and the facilitation of transition between various types of contracts with the aim of securing an increasingly better job situation during the course of a continuous, active career?**

Businesses and employees benefit from that if during the statutory and company parent time the possibilities for part-time work and/or substitute possibilities (holiday or sickness replacements) are in place. Contact between businesses and employees remains through temporary seasonal employment. The introduction of new technology, the restructuring of labour organisations and much more demand the continued self-improvement of all employees. For both sides preventing the sacrifice of qualifications as a result of a break is preferable. This can be avoided by training and qualification measures during parental leave, and through company information and other re-entry aids.

It should also be ensured that parents who have devoted themselves exclusively to bringing up their children and who plan a return to work can actually demand further available training. In a few EU countries there is a legal entitlement. In the other EU member states it would be sensible to legally regulate these entitlements.

Training leave entitlement should be established by law in order to ensure that lifelong learning is possible.

- 7. Is increased clarity required with regard to the legal definitions of employment and independence applicable in the member states in order to facilitate "bona fide" reciprocal transitions between employment and independence?**

No answer

- 8. Is a cadre of rules which regulate the working conditions of all those who are employed independently from their employment contract needed? In your opinion how would minimum requirements of this type affect the creation of workplaces and occupational health and safety?**

A cadre of minimum requirements for working conditions is necessary and preferable. Here the definition of "Good Work" (see above) is also deemed to be the benchmark by the Ministers for Employment and Social Affairs. Job security strengthens long term competitiveness.

- 9. In your opinion should the responsibilities of individual parties in multilateral industrial relations be more clearly regulated in order to determine who is responsible for compliance with employment law? Could the order of subsequent liability be an effective and practicable possibility to guarantee the involvement**

**of subcontractors in these responsibilities? If no, do you see other possibilities of ensuring adequate occupational health and safety in "trilateral employment"?**

No answer

**10. Do you consider it necessary to clarify the employment status of contract workers?**

In European member countries in which contract workers do not enjoy trade union protection, there is a need for action in order to find regulation.

**11. How could minimum requirements in conjunction with organisation of working hours be changed so that they not only lead to more flexibility for employees, but also to a higher level of protection for the health and safety of the employee. With which aspects of a labour organisation should the Community deal with as a priority?**

As far as the family perspective is concerned, the flexibilisation of working hours assumes particular importance. Above all this applies to the possibilities of additional part-time work, for example, even in executive positions. There are a vast number of working hours models that help families to organise their family life: flexitime, part-time, job sharing, annual working hours, lifetime working hours. A statutory entitlement to part-time work can be very helpful.

Even small businesses are also requested to configure working hours (start, duration, end) more flexibly within the context of company requirements and in calibration with the respective cases of parents. Flexible breaks also come under this along with the possibility of short-term exemption such as when a child is ill.

Constantly changing working hours can, however, be detrimental to the arrangement of family life, as reliable time is one of the most critical elements of caring for relationships within families. Therefore as the Federation of Catholic Family Organisation we also champion above all else that the EU working hours guidelines include protection against working on Sundays. The establishment of Sundays and the gradual establishment of Saturdays as non-working days in industry is a cornerstone of European working culture which allows collective time for family life.

The member states should create legal general conditions which allow parents to take three years of family time. On top of that the economy should observe its socio-political responsibilities and support further development of statutory protection of "family breaks" or even strive for adequate wage agreement regulations. Businesses should not discriminate against parents who make use of their parental leave and should promise reliable and adequate re-employment.

**12. How can the employment rights of those in work be transnationally guaranteed throughout the Community, especially in respect of those who cross borders to get to work? In your opinion is there a need for a coherent definition of the concept of "employee" in the EU guidelines in order to ensure that these**

**employees can be guaranteed their employment rights regardless of which member state they work in? Or are you of the opinion that the formal arrangement of the member states should not be restricted on this issue?**

In order to counteract "wage and rights dumping", the EU needs a coherent definition of the concept of "employees", above all even in respect of the services directive.

**13. Do you consider enhanced management collaboration between the relevant authorities necessary in order to enforce collective employment rights more effectively? In your opinion could social partners play a part in this collaboration?**

An enhanced collaboration is useful in adherence to subsidiarity principles in order to guarantee the protection of employees.

An exchange on a European level, particularly the social partners, is desirable.

**14. In your view is there a need on an EU level to take further measures in order to support the member states in the fight against illegal employment?**

Measures for the fight against illegal employment are to be welcomed. The evaluation of the implementation of reduced VAT rates for labour intensive services should also grasp whether families can benefit from that.<sup>8</sup>

31. March 2007

Elisabeth Bußmann  
(President)

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<sup>8</sup> Testing of the recently composed Appendix H to the guideline 77/288/EWG. What is relevant to families is the renovation and repair of private accommodation, the cleaning of private households and in particular, domestic care services.