



15 October 2013

### **Roundtable: The future of EU labour law – challenges and priorities in adapting labour law to economic realities at EU level**

**21 October 2013, Brussels**

**Renate Hornung Draus, BDA, Chair of BUSINESSEUROPE Social Affairs Committee**

#### General points:

- **We have a comprehensive employment and social legal framework in the EU. A lot of issues have already been regulated.** There are around 70 social regulations in place, including 56 labour law and health and safety directives, 3 non-discrimination directives, 7 gender equality directives, as well as 2 regulations on social security coordination and worker mobility. Social partners have been contributing constructively to the EU legal framework with the agreements on directives on part-time and fixed-term work as well as parental leave.
- **It is important not to forget that EU social and employment policy is not only about EU labour law and EU labour market regulation. European Semester process and open method of coordination** are important EU instruments to help Member States implement a common vision set out in the Europe 2020 strategy and achieve objectives of employment policy. In particular, **Country Specific Recommendations** should encourage and support the process of national labour market and educational system reforms to facilitate creation of open, dynamic and mobile labour markets across the EU.
- **EU labour market regulation** should focus on issues where action at EU level adds significant value compared to actions by Member States. In the current economic and social circumstances particular attention should be paid to advancing legal acts which can support growth, productivity and job creation. This means
  - **further development of the Single Market for persons** (for example it is important that Member States timely transpose and implement the directive on the mutual recognition of professional qualifications in order to facilitate access to professions and mobility;
  - **addressing skill shortages and boosting competitiveness through exchange of knowledge** e.g. through the adoption and implementation of the Intra-corporate transferees directive.



## SPEAKING NOTES

On part-time / fixed-term work directives / single-open ended contract (STREAM II):

- **BUSINESSEUROPE believes that there is no need for any legislative action at the EU level with respect to the part-time and fixed-term work directives.** This is also a conclusion of the draft report presented by GHK (*a consultancy working for the Commission*) to the Commission's advisory group working on the evaluation of the directives, in which BUSINESSEUROPE took part.
- Large majority of national social partners surveyed by GHK indicated that **there is no discrimination of part-time and fixed-term employees.**
- **Flexible forms of employment can benefit both companies and individuals.** For companies a broad range of contractual arrangements is necessary to meet business needs and deal efficiently with uncertainties of market environment. For individuals, they may help to balance work with other life activities or to gain diverse professional experience.

Benefits of both part-time and temporary employment are broadly recognised. 77% of National Social Partners surveyed by GHK said "increased flexibility to balance work and life" is an important reason for working part-time. And 63% thought fixed-term employment is a "very or quite important" route to the labour market.

- **BUSINESSEUROPE do not support the idea of introducing single open-ended contracts for all employees in all countries:**
  - **A single open ended contract would not respond to the needs of employers** to be able to adapt the workforce to different market and internal circumstances
  - **A single open ended contract may be confusing for employees.** It may lead to uncertainty or unrealistic expectations regarding the length of the contract (for example a person employed only to deal with seasonal increase in demand may not be aware of this fact or may not fully realize it)
  - Moreover, **while segmentation of labour market is a problem in some countries, it is not an EU-wide issue.** Fixed term work is not a mass phenomenon, standing at 11% on average in the EU (*according to GHK report*). The average EU trend in the incidence of fixed term work since 2000 has been flat. And the transition rates from fixed term to open-ended employment differ widely between countries. A "one-size fits all" regulatory solution at the EU level would not respond to various needs on the ground.
  - **There are more effective ways in which the EU can encourage Member States to reduce labour market segmentation where it occurs.** For example, Country Specific Recommendations can be used to encourage Member States to review employment protection legislation, especially for permanent contracts, and lighten it where it is excessive. This would stimulate job creation as well as help more people progress from temporary to open ended employment. Adapting educational systems to the needs of labour



## SPEAKING NOTES

market and fostering life-long learning will also help address the problem of segmentation.

### On information and consultation / quality framework for restructuring (STREAM III):

- **EU legislation on consultation and information of workers provides a comprehensive regulatory framework for dialogue between managers and employees in times of change.** These include European Works Council Directive (2009/38/EC); Directive establishing a general framework for informing and consulting employees (2002/14/EC), Transfer of Undertakings Directive (2001/23/EC) and Collective Redundancies Directive (98/59/EC). Various additional national rules and support instruments aimed at providing protection for workers in case of termination of contract are also in place. There is no need for further EU legislation.
- The **European Commission’s “fitness check” of EU information and consultation directives concludes they are generally relevant, effective, coherent and mutually reinforcing.** It thus comes as a surprise to BUSINESSEUROPE that the Commission considers launching social partners consultations on consolidation of the three I&C directives. There would be no good reason for starting such a legislative process.
- With regard to information and consultation legislation the **priority for business is that Member States ensure that their national legal frameworks for information and consultation of workers are clear and manageable.** Decision-making processes should not be unnecessarily delayed by over-prescriptive rules and any conflicts between management and employees that may inevitably arise should be resolved efficiently. In some countries, national legal frameworks – which sometimes go well above the requirements of the EU directives - may require simplification.

### On the “quality framework on restructuring”:

- **Any policy approach to restructuring should recognise that change is widespread in today’s economies** and that restructuring processes are necessary for companies to enhance productivity, and consequently to create jobs and increase prosperity of the society. A **policy framework on restructuring should thus focus on facilitating not preventing changes.** This means primarily lifting obstacles to economic and employment growth.
- In its Industrial Compact from May 2013 BUSINESSEUROPE outlined a **pro-industrial growth framework for the EU** focused on:
  - A competitiveness-oriented external and internal trade policy agenda
  - An EU energy policy that addresses security of supply and climate/environmental concerns in a cost-competitive manner
  - Improving access to corporate finance
  - Securing the access to raw materials at competitive prices
  - Ensuring the availability of skilled workforce.
- With regard to **employment policies, the aim should be to create open, dynamic and mobile labour markets.** Europe 2020 strategy has rightly



## SPEAKING NOTES

**prioritised reforms to improve flexibility and security of employment, thereby contributing to job growth and smooth labour market transitions.**

To support adaptation to change among companies and workers it is important to:

- ensure availability of different contractual arrangements in the labour markets;
- provide for necessary working time and wage flexibility, while respecting the autonomy of social partners in the collective bargaining process;
- recognise skills are crucial for both competitiveness and employment security;
- promote a culture of constructive employee involvement in the workplace, while ensuring legal framework for information and consultation is clear and manageable;
- ensure that any conflicts that may arise during restructuring processes are resolved efficiently.

### On undeclared work:

- From business perspective, undeclared work distorts competition between companies which obey the rules and those which do not.
- Member States differ in terms of the scale and types of undeclared work and motives for engaging in such work. Deterring and preventing undeclared work is a task primarily of national authorities.
- If the EU platform on undeclared work is created it should:
  - focus only on exchange of best practice, on issues – transnational and domestic - which are of shared interest to the Member States
  - membership should be voluntary to ensure that those involved are truly interested in the cooperation
  - bogus self-employment should not be discussed by the platform as it is a separate problem. It is not an undeclared, but wrongly declared activity.
- For subsidiarity reasons, BUSINESSEUROPE is sceptical about establishing “common principles for labour inspections” at EU level. There is currently a wide diversity among Member States in terms of how inspections and controls are organised. Member States should retain the competence to adapt the methods and practices used to their labour market and institutional context.

\*\*\*\*\*