BDA
BUNDESVEREINIGUNG
der Deutschen Arbeitgeberverbände

Position

on European Commission's green paper "Modernising labour law to meet the challenges of the 21st century"

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1. European labour law must not place a brake on the Lisbon process

The European Commission's green paper "Modernising labour law to meet the challenges of the 21st century" sets out to launch a debate on how further development of labour law can have a positive impact in terms of the Lisbon strategy. In the Commission's view, the green paper should constitute the basis for the future development of labour law in Europe. The aim is that the responses to the specific questions it asks from national players should give pointers for how the provisions of labour law can be structured at European and national level in such a way that this objective can be achieved.

We support the objective of combining greater flexibility with the need to maximise security for all. However, the content of the green paper veers away from this objective. It is suggested that regulation needs to catch up in many areas. Every initiative to improve flexibility is closely linked to an ostensible need to further enhance employee rights. For instance, the green paper asks how the uptake of fixed-term contracts can be made easier while simultaneously ensuring appropriate social protection. This gives the impression that fixed-term or permanent contracts currently offer the employee inadequate protection.

There is already a plethora of employee regulation, not only at European level through numerous directives but also at national level through transposition of European provisions and purely national employee protection systems. Additional jobs and an increase in competitiveness can only be achieved by dismantling regulation and creating flexibility. It is right that flexibility and security should be weighed against each other in a responsible manner. However, in the past only supposed security has been extended with ever more regulation. As a result, flexibility in labour law has suffered greatly, and sometimes eliminated completely. Yet, in the context of extremely rapid progress, rapidly evolving markets and changing market conditions, flexibility is also an absolute pre-condition to generate long-term security for employees. A high level of flexibility is a condition for security.

The general political climate after the informal meeting of EU Labour and Social Affairs Ministers on 18-19 January 2007 shows that there is still no general realisation that security and job creation can only be the result of flexible rules and not the reverse. In particular, the employment engines of temporary work and fixed-term contracts addressed in the green paper must not be suffocated with further rules. There is also no cause to discuss the definition of employee or possible problems with false self-employment at European level, because there are a multitude of rules and demarcations that have developed to reflect traditions at national level. Furthermore, cross-border activity by employees must be promoted through flexible framework conditions to give a stimulus to job

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creation. Neither is there any cause to harmonise protection rights, since all Member States have enshrined in their legal systems employee protection rights which go well beyond minimum standards.

For that reason, a uniform European labour law is also the wrong approach. It would be incompatible with the principle of subsidiarity and would wipe out the advantages of legal orders that have developed in different ways. Europe can only become the most competitive region in the world if existing over-regulation at European level is thinned out and limited to minimum standards so that Member States have the necessary margin for manoeuvre to create flexible protection systems that meet their own needs and the specific needs of their labour markets. Such tailormade systems are the only way to preserve and create jobs while ensuring the necessary employee security.

Europe's Member States need modern labour market charters which marry the necessary social protection with "carrots and sticks" to inject greater mobility and flexibility into the labour market – the concept of flexicurity. The aim must always be rapid placement in new jobs with a future. This has priority over mere welfare benefits to and administration of the unemployed. It includes structuring transfer payments in such a way that there are sufficient incentives not only to look for but above all to take up a new job rapidly. At the same time, an active labour market policy in the Member States must be geared to comprehensive placement support, in particular in terms of activation, mobilisation and – where necessary – qualification of the unemployed.

Security on the basis of far-reaching flexibility can never mean only preserving existing jobs. Rather, it is about the chances for those who have lost their job to get back to work quickly. Hence, the question of the future of labour law must be closely linked to the European objective of better regulation, a comprehensive dismantling of bureaucracy and the right flexible conditions for more competitive jobs in Europe.

2. Correct analysis, wrong conclusions

The green paper contains a series of correct analyses regarding the current situation of labour law. For instance, the European Commission rightly points out that rapid technological progress and ever fiercer competition as a result of globalisation have highlighted the need for flexibility. It might emerge from the debate that traditional employment models are not optimal for all employees with regular permanent work contracts if they want to seize the opportunities offered by globalisation. Conditions that place too much emphasis on protection could discourage employers from taking on employees during periods of economic upturn. Alternative work contract models could improve the scope for companies to develop the creativity of all their employees with a view to gaining a better competitive edge.

However, the individual considerations linked to the analysis lead to the wrong conclusions. Examples include observations on extending sub-contractor liability or creating a convergent definition of 'worker'. The European Commission continues to distinguish between 'standard' and 'non-standard' work contracts. Furthermore, in some of the questions it refers not only to the law but also to collective agreements. Yet, the arrangements for collective agreements vary greatly from one EU Member State to the next. In Germany, for instance, the autonomy of the social partners is the pre-condition for activity in this area, whereas in other EU Member States government involvement in cross-sectoral negotiations is usual. Against the background of these differences, influence over collective agreements must be rejected.

3. Comments on the questions raised by the European Commission

Question 1 from the European Commission's green paper:
What would you consider to be the priorities for a meaningful labour law reform agenda?

BDA's response:
European businesses need a simple, coherent and stable regulatory environment in order to be able to operate competitively on the global market. A meaningful reform of labour law should concentrate on dismantling bureaucracy, deregulation and greater flexibility. Reforms to labour law must be used to remove rules which weigh down on companies and their jobs. Necessary restructuring measures must be made easier to plan, more rapid to implement and more cost-effective. Reforms can help to increase the worker mobility repeatedly called for by the European Commission. In addition, it is essential that workers can be deployed more flexibly in order to take account of irregular production cycles. Existing directives must be revisited to see whether their regulatory scope can be narrowed or they can be repealed altogether. New directives should not put in place any additional burdens on companies. Furthermore, each Member State must carry out this task in the light of its own needs, for instance facilitating entry into work forms such as fixed-term work contracts by removing unnecessary bureaucratic hurdles.

a) Dismantling bureaucracy

There is an urgent need to dismantle bureaucracy in order to liberate companies from expensive and time-consuming activities, thereby giving them more space to concentrate on their own productive activities. Labour law rules at EU level comprise various aspects which place a heavy bureaucratic burden on companies.

- Instances of this include the anti-discrimination directives 2000/43/EC and 2000/78/EC:

There is no convincing explanation of the need to extend discrimination on the basis of gender, e.g. as in directive 76/207/EEC, to include other criteria such as religion, age, sexual orientation, in particular in the area of labour law. This extension is neither necessary nor desirable and leads to an excessive bureaucratic burden on companies.

- The transfer of undertakings directive 2001/23/EC also constitutes a considerable burden on companies with unnecessary bureaucracy. According to article 7 paragraph 6 of this directive, Member States must provide that, where there are no representatives of the employees in an undertaking or business through no fault of their own, the employees concerned must be informed in advance of:

  - the date or proposed date of the transfer,
  - the reason for the transfer,
  - the legal, economic and social implications of the transfer for the employees,
  - any measures envisaged in relation to the employees.

This provision increases the bureaucratic conditions for a transfer of undertaking and reduces companies' flexibility and competitiveness. In particular, the reach of the required information is not clear. The lack of clarity is problematic for German labour law and can have serious consequences against the background that an employee can contest a transfer of his work contract. This lack of clarity involves the incalculable risk for both seller and buyer that employees can contest the transfer of their work contracts, even a long time after the event. This makes serious business planning virtually impossible.

b) Deregulation

The strain on companies needs to be relieved through a reduction in the existing hurdles so that in future they can react more flexibly to changes than is currently the case. That is why the European Commission rightly cites the 2006 report on employment in Europe which says that the dynamism of the labour market is held back by strict employment protection rules, thus confirming the need for deregulation.

An example of European rules which urgently need to be deregulated is the visual display unit directive 90/270/EEC:

The visual display unit directive contains obligations which small and medium-sized enterprises in particular are not in a position to meet. For instance, the directive provides that, when designing, selecting, acquiring and modifying software and shaping activities which involve visual

display units, the employer must evaluate technical details of a software package to see whether they can be adapted to match the user's level of knowledge and experience. The rules governing breaks from work on visual display units should be limited to monotonous activities which genuinely cause a strain.

In addition to the institutions of the European Union, EU Member States must make their own contribution to deregulation, e.g. by avoiding "gold-plating" when transposing directives into national law. The European Commission has repeatedly – and rightly – called for this. From the German perspective, the recent transposition of European directives in the General Equal Treatment Law is a glaring negative example of gold-plating when transposing European rules.

c) More flexibility

In the green paper on labour law the European Commission underlines that rapid technological progress and ever fiercer competition as a result of globalisation clearly necessitate greater flexibility. This correct analysis must be clearly reflected in the work of the European institutions in the field of labour law.

An example of inflexible rules is the working time directive 2003/88/EC:

Under the working time directive, the reference period for calculating maximum weekly working time is four months. Under certain conditions, it is possible to extend this period to a maximum of twelve months. However, if a craft business receives a large order which would result in a need to exceed the statutory weekly maximum working time over a period of, say, eighteen months, this would not be possible even though these working times could subsequently be equalised if the order situation so permitted. If the reference period for calculating maximum weekly working time could be extended beyond twelve months, firms subject to a fluctuating order book could preserve jobs, something which is not always possible in the current legal situation.

Question 2 from the European Commission's green paper:
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?

BDA's response:
Labour law can be adjusted in such a way that it allows flexibility and at the same time increases the employment security of workers. For the European level, the example of the working time directive given in response to question 1 shows how flexible rules could make it possible for companies to react rapidly to a fluctuating order situation and hence increase employment security. At national level, for example, Germany

urgently needs to adjust the notice rules for older workers in such a way that older people find a new job as rapidly as possible. The rule currently under discussion whereby an older worker threatened with unemployment first has to be unemployed for four months before he can take up a fixed-term position without giving a reason thwarts all efforts to improve employment security and minimise unemployment. Another example is the issue of protection against dismissal. In this case, the higher the hurdles for companies wishing to plan and implement restructuring operations rapidly and cost-effectively, the more companies are forced to fall back on flexible instruments such as temporary workers. This is an example of how deregulation can reduce the segmentation of labour markets.

In Germany, negotiation and modification of collective agreements falls within the autonomy of the social partners. Although in many German sectors the sector-wide agreement continues to be the central instrument for shaping industrial relations, the social partners are today conscious of their responsibility for ensuring that the centrally agreed conditions for a certain sector must leave companies scope to take account of different business situations and fiercer global competition. For that reason, collective agreements are constantly being further developed and modified to meet the needs of companies. The social partners are in the best position to identify workable and business-oriented solutions.

Question 3 from the European Commission's green paper:
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?

BDA's response:
The current statutory rules often constitute an unduly rigid corset and do not comprise the necessary flexibility which countries in today's circumstances need to stand their ground in global competition. As an example for the European level, the working time directive instanced in response to question 1 can be mentioned once again. At national level, examples in Germany include the law governing protection against dismissal and the rules on fixed-term work contracts (see responses to questions 2 and 4).

Small and medium-sized enterprises in particular suffer from rigid and complicated rules. They do not have the human resources needed to come to grips with complicated rules and regulations, and have to buy in expensive external expertise. Legal issues and the associated paperwork tie up capacities in SMEs which are then not available for other activities such as research and development. Furthermore, in SMEs it is

often possible to deal with questions and problems in direct discussions between employer and employee.

The European Commission rightly establishes that the bureaucratic effort associated with recruitment has a large influence on employment growth, especially in small firms. An example of these rules which weigh heavily on SMEs is directive 91/533/EEC on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship:

Under this directive, the employer is obliged to give the employee, within two months of his starting work, a written document describing the essential content of the employment relationship. For employees working abroad, there are additional provisions. Modifications to the employment relationship have to be notified in writing within one month.

The administrative burden imposed by these rules falls particularly heavily on small and medium-sized enterprises, which have to make considerable administrative efforts to be able to meet these high requirements within the deadline. The bureaucratic apparatus created is ill-suited to the structures in SMEs. In the case of SMEs with their manageable size, the objective of the directive – information to employees – can be achieved in direct discussions between employer and employee, involving little bureaucratic effort. Areas of doubt can be clarified directly between the parties concerned.

In this connection, too, we believe that there is no need for a European debate on collective rules at the level of the Member States.

Question 4 from the European Commission's green paper:
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?

BDA's response:
Excessive employee protection rules mean that companies are reluctant to recruit employees and that they therefore act like a boomerang. An example from Germany is the law governing protection against dismissal, which in Germany is shaped as protection of the status quo. A decisive criterion for greater flexibility in labour law is more contractual freedom. For instance, it would be sensible for the rules on protection against dismissal to make it possible to reach a binding agreement on a contractual compensation option at the start of or during an employment relationship. This alone is compatible with the reaction capacity need by companies in global competition. At the same time, fewer rules are

needed. Negative examples of policies which have the opposite effect are amongst others the so-called anti-discrimination directives.

In addition, flexible rules on fixed-term work contracts are a necessary instrument to create jobs and therefore reduce unemployment. Fixed-term jobs – as one of many forms of employment relationship – are an important springboard into the labour market, as the European Commission rightly underlines. The national rules implementing the EU directive on fixed-term work contracts in Germany are much too strict to allow the potential available in this area to be fully exploited. In particular, that rule that a fixed-term work contract with no specific justification is only possible on initial recruitment is highly counterproductive.

At European level, fixed-term employment relationships are already sufficiently protected by the directive based on an agreement between the social partners. Burdensome rules are the equal treatment directives 2000/43/EC and 2000/78/EC, which stand in the way of recruitment. On its own, the reversal of the burden of proof leads to considerable documentation and archiving obligations for the employer, which may typically receive more than 300 applications for each position advertised.

Question 5 from the European Commission's green paper:
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?

BDA's response:
Flexible rules on protection against dismissal are essential to facilitate adaptability to constantly changing production and service conditions. At the same time, they help job-seekers to find a new position more quickly. Considerable efforts still have to be made in this area at national level in Germany. In addition to allowing the contractual option of agreeing a compensation option at the start of or during an employment relationship, all the conditions for the validity of German legislation on protection against dismissal need to be reconsidered. For instance, the burden on small companies could be perceptibly lightened if the law on protection against dismissal were applicable only to firms with more than twenty employees. The positive attitude of workers vis-à-vis flexible protection against dismissal emerges clearly from the Report on Employment in Europe 2006, which finds that employees in countries with the most extensive provisions on protection against dismissal feel most insecure about the possibility of losing their employment, whereas employees in countries with very weakly developed provisions on protection against dismissal feel the highest employment security.

On the other side, a well thought-through benefit system is important and necessary. However, exactly what constitutes "a well thought-

through benefit system" should be decided in the individual Member States on the basis of the different structures of transfer systems for unemployment (e.g. financed out of contributions from employers and employees or from the general taxation system). Generally speaking, benefit systems should be geared to activation and mobilisation of job-seekers. Experience shows that recipients of wage replacement benefits which are available for a longish period and are not linked to a clear requirement profile tend to use their rights to the greatest extent possible and hence to lengthen the duration of unemployment. But the longer unemployment lasts, the more difficult it is for most unemployed persons to gain a new foothold in the labour market. Against this background, economical activation measures can also make sense: they can support a rapid return to employment but also be used to verify job-seekers' willingness to cooperate.

Question 6 from the European Commission's green paper:
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?

BDA's response:
The transitions between different forms of contract can be boosted through dismantling of obstacles to recruitment (see also response to question 4). In addition, the European Commission rightly points out the link between the degree of flexibility in work contracts and recruitment, maintenance in employment and career development. The greater the flexibility and the fewer obstacles to recruitment, the greater the willingness of companies to take on employees. The employment opportunities created in this way can contribute to the shaping of continuously active working life.

The area of self-employment also needs to be borne in mind. Facilitating transitions from a work relationship or from unemployment to self-employment can also make a decisive contribution to an active working life.

In the light of demographic developments and the associated longer working life, the issue of "lifelong learning" and hence maintenance of employability plays an important role. Maintaining employability is in worker's very best interests, and they must take responsibility accordingly. Companies already make their contribution. The extent to which access to training (it is clear from the overall context that this does not mean "education" but "training") is helpful for improving employability must be explored for each individual person and each company. A general right to training is not the right approach: it disregards individual needs and burdens companies with new costs.

The negotiation and modification of collective agreements falls within the autonomy of the social partners in Germany. The social partners can promote maintenance in employment through appropriate measures, and have already done so in the past through a wide range of measures. For instance, these include agreements on qualification of employees and transfer redundancy plan concepts.

Question 7 from the European Commission's green paper:
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?

BDA's response:
Against the background of the different national legal systems, it is already possible to find tailormade solutions to distinguish between employment and self-employment. This means that individual cases can always be assigned to one of the two categories. The point here is not whether a Member State works on the basis of statutory definitions or makes a distinction in line with jurisprudence. For instance, Adalberto Perulli establishes in his study on economically dependent employees and employee-like self-employed (Adalberto Perulli, Economically dependent / quasi-subordinate employment: legal, social and economic aspects, page 13) that statutory definitions do not frame the concepts more clearly and precisely than jurisprudence can. The introduction of statutory definitions would force the concepts into a rigid and inflexible straitjacket. Accordingly, the introduction of a definition of employment and self-employment at European level is therefore superfluous. In addition, continuously changing conditions on global markets and national labour markets do not lend themselves to a single European solution.

Furthermore, harmonised criteria for defining self-employment and the associated legal uncertainties would discourage the creation of new businesses. For instance, a self-employed person is often dependent on one or two employers in the early stages, although this situation can only change over time. This and similar criteria for definition of self-employment do more damage than good.

Question 8 from the European Commission's green paper:
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?

BDA's response:
A floor of rights, at European level, dealing with the working conditions of all workers regardless of the form of the work contract is not the right way forward. It would create the danger that elements of external systems will be incorporated in individual national legal orders, leading to

more bureaucracy and less flexibility. Such a floor of rights already exists at national level in Germany. For instance, numerous protection clauses can be deployed for all types of employment relationship. They apply, inter alia, for persons with fixed-term or part-time contracts as well as employees with permanent full-time contracts.

A further extension of protection provisions to self-employed persons would not be appropriate, and would also be counterproductive. The customer of a self-employed person clearly has no influence over the latter's working conditions. In addition, it is precisely the different ways in which activities can be performed which creates the essential flexibility needed for companies to be able to react quickly to new challenges. The European Commission therefore rightly refers to critical voices which fear that an extension of minimum requirements will lead to restrictions on the use of these contractual agreements. As mentioned by the European Commission, the existing rules on self-employed commercial agents describe a special case and cannot be applied generally.

An extension of protection rules to further categories would contribute to more and more damaging legal uncertainty, and would therefore have a negative effect on the willingness of companies to use these forms of employment.

Question 9 from the European Commission's green paper:
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"?

BDA's response:
Clearer rules on the responsibilities of the various parties within multiple employment relationships are not necessary, since these responsibilities are already unambiguously regulated. In the area of temporary work, there is a work contract between the temporary work agency and the worker. The same applies for the contractual relationship of a worker to his employer when the latter is a subcontractor.

Subsidiary liability of the main contractor for compliance with working conditions vis-à-vis the employees of other undertakings should be rejected. Such subsidiary liability would lead not to unambiguous clarification of responsibilities but to incalculable risks for contractors. Responsibilities are clear where each employee has to abide by the rules agreed with his contractual partner. In addition, it must be remembered that the responsibility of the state for ensuring that laws are complied with cannot be transferred to a main contractor who cannot in practice perform such supervision. Experience with similar rules in the area of

posting of workers shows that the main contractor is overwhelmed with bureaucracy and additional costs, without any corresponding additional benefit.

Appropriate protection of employees in triangular legal relationships is ensured by the contracting partners being able to complain about compliance with the relevant rules. This is the necessary but also the sufficient protection for each party to the agreement.

Question 10 from the European Commission's green paper:
Is there a need to clarify the employment status of temporary agency workers?

BDA's response:
The question of between whom there is a contractual relationship in a triangular relationship such as with temporary work has been unambiguously clarified, as the European Commission itself observes in the green paper. A contractual work relationship exists between the temporary work agency and the temporary worker, just as there is between other employers and their employees. The particularities which apply for temporary work relationships, such as transfer of the temporary worker to a user company, have no consequences for the employment status of the temporary worker. Hence, a clarification of employment status specifically for temporary workers is not necessary. In addition, the fact both that social-partner negotiations on temporary work broke down and that the draft directive on this issue has been blocked in the Council for years makes it clear that there is no need for rules at European level.

Question 11 from the European Commission's green paper:
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?

BDA's response:
Fiercer competition and longer machine running times mean that the organisation of working time needs to be adjusted to reflect the changed situation. Flexible possibilities for the organisation of working time without neglecting rest time for workers can help companies with fluctuating order books to secure jobs. Hence, it should be possible to extend the statutory reference period for calculation of maximum weekly working time to twelve months and longer. If a craft business receives a large order which would result in a need to exceed the statutory weekly maximum working time over a period of, say, eighteen months, this would not be possible now even though these working times could subsequently be equalised if the order situation so permitted.

The organisation of on-call duty is also an important aspect of the organisation of working time. Whereas the active times obviously count as working time, inactive periods should be regarded as rest periods. This will not endanger worker health and safety since the work of, say, a works fire service during on-call duty is limited to rare emergencies and other incidental periods of work.

In addition, the opt-out which makes it possible to depart from maximum weekly working hours helps small and medium-sized enterprises in particular to balance out fluctuations in orders and secure employment. Practical application of the existing working time directive has shown that the opt-out clause provides scope for wide-ranging flexibility without disregarding health and safety aspects.

A revision of the working time directive could help to shape working hours more flexibly. At working level, the Council of Ministers has already reached consensus that the inactive part of on-call duty is not working time and that this time can be credited to rest periods through national legislation or collective agreement. The current impasse in the Council on revision of the working time directive due to the opt-out clause must be overcome, and the revision pushed forward on the basis of what the Council has already reached consensus on.

The Community should give priority to classifying the inactive part of on-call duty as rest time and on extending the reference period for calculating maximum weekly working time. By contrast, it is not necessary to focus on the opt-out clause.

Question 12 from the European Commission's green paper:
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?

BDA's response:
The fundamental rights of workers operating in a transnational context are already covered by the European posting of workers directive and national laws implementing this directive. As a result, posted workers are guaranteed the fundamental work and employment conditions that apply in the Member State where the work is performed. This directive very deliberately refers to the rules in the relevant Member State – including for the definition of employee – in order to ensure fair competition.

The added value of a harmonised definition of employee is not apparent, and this would in any event run counter to the principle of subsidiarity. The definition of employee is an element of the diverse national labour law systems. Harmonisation would create additional problems since the national definition of employee would be supplemented with characteristics foreign to the legal situation that has evolved in each individual country.

Against this background, BDA believes that the margin for Member States to manoeuvre in this area should not be restricted.

Question 13 from the European Commission's green paper:
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?

BDA's response:
With increasing transnational activity by individuals, the need for transnational networking and close cooperation is increasing. Despite first initiatives, there is still considerable room for improvement here. Networking of all interfaces at national level, as is the case in Germany between federal and provincial supervision authorities, can also contribute to more effective implementation of existing rules.

The social partners shape legislation in the framework of the social dialogue on the basis of articles 138 and 139 TEC. However, it is not the task of the social partners to take care of implementation of laws. That sovereign task must continue to be the responsibility of the state.

Question 14 from the European Commission's green paper:
Do you consider that further initiatives are needed at an EU level to support action by the Member States to combat undeclared work?

BDA's response:
Undeclared work must be effectively contained. In this regard, it is of decisive importance to combat not primarily the symptoms but the main causes of illegal employment. The essential reasons for the expansion of the clandestine economy lie to a large extent in the increasingly restrictive and bureaucratic regulation of the labour market. Corrections on these points not only would improve the climate for economic dynamism and the creation of regular jobs, but would also contribute effectively to driving employment out of illegality.

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