a non-profit organisation supporting good legislation for the benefit of the nation

DG EMPL/F/2
J-37 05/26
European Commission
B-1049 Brussels.
Belgium

22 March 2007

Dear Sirs,


We would appreciate a confirmation from you that this will be considered for the consultation period.

Thanking you,

David Skinner
Christian Business-owners Interest Organisation.
Sweden.
SUBMISSION CONCERNING
THE GREEN PAPER
COM(2006)708

Modernising labour law to meet the challenges of the 21st century

.DG EMPL/F/2
J-37 05/26
European Commission
B-1049 Brussels

Christian Business-Owners Interest Organisation
Box 487
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Sweden
Introduction

The Christian Business-owners Interest Organisation is a registered organization in Sweden that represents the concerns and viewpoints of many small business owners and we thank you for this opportunity to present our Submission to this Green Paper.

We believe that this Green Paper could become an important step in promoting the necessity of Member States reviewing their existing national legislation on labour law. On this point we would note that the relevant legislation in Sweden has not been reviewed or modernized for many years under the socialist governments and we believe that it is vital that it is done now.

We welcome the stated objectives of the Green Paper which include the following:

1. How to achieve sustainable growth with more jobs.
2. The need for social cohesion.
3. Greater flexibility in a labour market that is fairer.
4. The need for businesses, as well as workers, to grasp more clearly their rights.
5. To review overly-protective, traditional models that tend to reduce the dynamism of the labour market.
6. To consider innovative and alternative contractual models that can enhance competitiveness.

Comments on these Objectives as bearing on the Swedish model.

The Swedish model of collective bargaining established since the Saltsjöbaden Conference was intended to be self-regulating and equitable to both sides of the labour market. Employers and employee associations were given freedom to determine the terms and conditions of the functioning of the labour market without hindrance from the government. This, of course, was influenced by the policies of successive socialist governments and went as far as introducing into the Swedish Constitution the declared right of employee associations to take industrial action to force a collective agreement upon the employer.

It is true to say that the Swedish labour market has been characterized by strong trade union movements who regulate it by enforcing collective agreements in almost all sectors. Over the years, the socialistic principles that have influenced the Swedish Model has resulted in a steady movement of the balance of opportunity and power firmly towards the trade unions away from the employer and we now see that the original objectives have been lost.

Recently, the largest trade union organization in Sweden stated "that it is not the existing work as such that should be protected but the employee having that work". We consider this typical viewpoint as indicative of the unequal struggle that exists in our labour market – it is in direct conflict with the stated concern of the Green Paper to achieve sustainable growth with more jobs.
The previous governments of Sweden have surrendered their responsibility to ensure a fair and socially-cohesive labour market to the trade unions who have then taken full liberty of their rights of taking industrial action to subdue businesses into acceptance of their demands.

Today we are witnessing situations in the Swedish labour market that exposes serious abuses of power and disproportionate action being taken by the trade unions, resulting in conflicts that are quite unnecessary. In many instances, the prevailing employment conditions are equal or higher than those stated in the relevant collective agreement; and still the trade union insists on the business-owner signing it, even if there is just one worker!

The Swedish media has hi-lighted the aggressive methods and threatening behaviour that often accompanies the industrial action.

We deplore the aggression by which the trade unions intimidate many small businesses that are too weak to express and stand by their own rights and suffering and anxiety is caused.

The ability and willingness of the social partners to negotiate and cooperate is now in question and changes are needed before it is too late.

Questions

1. We consider that the priorities for a meaningful labour law reform agenda would be the review of the collective bargaining system in every Member State. It should be made clear that the priority is to have a fair and equitable balance of opportunity between the labour partners and if necessary, new legislation to enforce this. Greater emphasis must be placed on the needs of SMEs (say up to 25 employees) who would not have the same opportunity to negotiate on a “level playing field”.

2. Yes, adaptation of labour law and collective agreements can contribute to improved flexibility and employment security.

This will only happen if the adaptation goes as far as providing a more fairer and more equitable labour market which recognizes the need for SMEs to have greater legislative protection against coercion from the trade unions.

3. It is clear that in Sweden, existing regulations do hinder entrepreneurial activity and improvements can only be made in the pursuing of legislation that exempts SMEs from collective agreements. Where employment legislation that protects the rights of workers is firmly in place then there is no possibility of any abuse of workers rights. The size of the enterprise is critical and must be considered for.

4. Recruitment under permanent and temporary contracts can be facilitated by legislation so as to allow for more flexibility within these contracts. Any discussion that suggests the possibility for an employee to take a leave from his/her employment, for a certain period, to test another employment, without losing the first employment if, after this period, he/she wants to go back should be resisted strongly. The demand for flexibility must apply to the employer as well as the employee; and once again, the small business, of up to 25 employees, would find this situation totally unviable.
5. A well-designed employment protection scheme should be administered by the government and not by trade unions.

6. Again, we would state that any initiative to promote access to training and transitions for upward mobility for the worker should be the role of the government and legislation, not by collective agreements.

7. Greater clarity is needed in each Member States’ legislation to define the difference between employment and self-employment.

8. The introduction of a legal minimum wage level would provide a good starting point for a “floor of rights”

9. The principal contractor should have the responsibility for being accountable for compliance to employment rights. Again, a legal minimum wage would be helpful in this context to prevent exploitation of workers in “three way relationships”.

10. The employment agency must be responsible for its workers and legislation should be provided to ensure compliance.

11. Collective agreements is not the answer to greater flexibility concerning the organization of working time. This should be provided for by amending and strengthening existing employment legislation.

12. The question of defining the applicable law where workers are operating in transnational context must be looked at in a broader perspective rather than simply saying that the national law/agreements of the country where there is the activity should apply. EU Community law should apply as we are dealing with a situation where two EU Member States are involved – this is the common-sense situation.

13. We believe that the governments ministries have the responsibility to monitor the application of the law, collecting reliable data and conducting any surveillance as needed. Effectiveness in this area will be achieved through closer cooperation between relevant authorities, rather than delegating this important issue to trade unions.

14. Combating undeclared work should be the responsibility of the authorities and further EU initiatives may be needed to promote this.

Thank you for considering this Submission.

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