Open Consultation

European Commission
Green Paper:
"Modernizing labor law to meet the challenges of the 21st century"

Contribution from AmCham Slovakia

1. The key policy challenge – A flexible and inclusive labor market

1. What would you consider to be the priorities for a meaningful labor law reform agenda?

The priorities of a meaningful labor law reform should be to bring more flexibility to employment relationships. We are of the opinion that the interference of employees’ representatives (especially trade unions) does not contribute to the flexibility of employment relations.

Positive changes could include, for example:
- overtime – no strict limitation of overtime hours, but make it rather more attractive financially; 8 hours per week as an average for 12 months without Trade union approval, based on an agreement between the employer and the employees
- plan of vacation – to allow the employer to approve plan of vacation without Trade union approval
- to unify the process of working time distribution (even, uneven) without Trade union approval
- if the employer has no collective labor agreement (CLA) to have the possibility to pay costs in social area as the employer has an CLA (social costs could be paid as a costs expenses)

We would recommend a new approach - to define only necessary provisions in the labor code and let much more room for potential agreements between employer and employees.

2. Can the adaptation of labor law and collective agreements contribute to improved flexibility and employment security and a reduction in labor market segmentation?

Yes, if the changes in the labor law and collective labor agreements will support flexibility.

3. 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?

The Existing Labor code is acceptable for enterprises, compared to the previous Labor code (before 2003) and gives employers an adequate space for productivity increase. We would
like to point out that the proposed version of the Slovak Labor Code currently being discussed may be a step back.

4. 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?

_In the Slovak Republic, regulation for recruitment means no problem at present time. Contract termination conditions represent much bigger issue. Temporary workers should not be discriminated by salary and/or working conditions. But, on the other hand, to have “comparable” conditions after some time – to became equally efficient as permanents in (example) 6 month, trained as permanents etc. Basically, contract termination for temporary workers should be easier than for permanents. The solution for the service quality could be the system of licenses – in order to avoid subjects with insufficient experience and education providing this kind of service._

2. Modernizing labor law

2.1. Employment transitions

5. 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?

_This question is hard to answer from the employer’s side, however, active labor market policies, such as re-qualification and special training may prepare job seekers better for the needs of the labor market._

6. 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?

_This question is more for social authorities._

2.2. Uncertainty with regard to the law

7. 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?

_The current definition in the Slovak legislation is sufficient. Therefore, we do not think that this area (field) needs more explanations._

8. 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?

_We are of the opinion that the current regulation of labor law contained in the current Labor Code and other labor law regulations provide sufficient security of employees' rights regardless of the type of contract. There is no need to establish a “floor of rights”._
2.3. Three Way Relationships

9. 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"?

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10. Is there a need to clarify the employment status of temporary agency workers?

*It will be beneficial to have the responsibilities of all three parties and the employment status of temporary agency workers more precisely described. In addition, we propose obligatory insurance for responsibility for each temps company.*

2.4. Organization of working time

11. 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?

*EU – Community and also Member States should not have influence to the organization of working time. The individual agreement with an employee should prevail over the rigid legislation and no Trade Union interference is necessary. Employer should, of course, remain responsible for respecting the health and security rules in defining such flexibility.*

2.5. Mobility of workers

12. 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?

*Community and also Member States should not have influence on the mobility of workers. It should be based only on an agreement between the employer and employees.*

2.6. Enforcement issues and undeclared work

13. Do you think it is necessary to reinforce administrative co-operation between the relevant authorities to boost their effectiveness in enforcing Community labor law? Do you see a role for social partners in such cooperation?

*It looks necessary for authorities, but we do not think it is necessary for social partners.*

14. Do you consider that further initiatives are needed at an EU level to support action by the Member States to combat undeclared work?
In our opinion, the current Slovak legislation, especially the Act against illegal employment is sufficient. We see the necessity to decrease the number of the regulated points/topics to let more freedom for agreements between employers and employees in the Labor Code.

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