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Will UK deal on agency workers pave the way for EU Directives?

An agreement reached between the UK government and representatives of both sides of industry on the rights of agency workers is being seen as the best chance yet to solve the impasse between Gordon Brown and most of his European colleagues on agency work, which is also blocking progress on the revision of the European Working Time Directive. The recent UK agreement between the government and the CBI and the TUC would give the UK's estimated 1.4 million agency workers rights to equal treatment after 12 weeks in the same job. The deal covers basic pay and working conditions but not occupational sick pay or pension provisions offered by employers. The agreement, which is currently considered likely to lead to the introduction of new legislation by 2009, led to the withdrawal from Parliament of Labour MP Andrew Miller's Bill on Agency Workers.

In Brussels, CEEP has called this development in the UK "very welcome" as it may at last unblock the logjam at European level with regard to the Working Time and Agency Workers' Directives, passage of which had been linked by the Portuguese Presidency last year. Business Secretary John Hutton said "This is the right deal for Britain. Today's agreement achieves our twin objectives of flexibility for British employers and fairness for workers. It will give people a fair deal at work without putting their jobs at risk or cutting off a valuable route into employment." The CBI, on the other hand, while welcoming the deal, stated that this should be considered the "least worst" solution for the UK.

However, it is by no means guaranteed that the UK agreement will be enough to persuade Britain's European partners to abandon their plans to grant equal rights to agency workers after only 6 weeks or even sooner. The latter is an option clearly favoured by the current majority in the European Parliament which has the final say on the implementation of a European Directive on agency workers (new elections to the European Parliament are due to take place

Therefore, while the UK deal may be a step in the right direction, it by no means guarantees a positive outcome at the upcoming Employment and Social Affairs Council to be held under the Slovenian Presidency on 9-10 June 2008. This is perhaps underlined by a statement issued by European Social Affairs Commissioner Spidla last week in response to the UK agreement in which he said "I welcome the agreement between the UK social partners, it is a milestone for social dialogue in the UK and an important step towards fair treatment of agency workers both in the UK and in Europe. I hope it paves the way for agreement and the EU Agency Workers Directive in the Council next month", but added "I hope this is another step towards equal treatment of agency workers as of day 1—unless social partners agree otherwise". This might hint towards an accord which might set a shorter qualification period but would allow social partners themselves to reach different agreements. It would then depend whether the UK accord is seen to qualify as such an agreement. It remains difficult to see why the trade unions would agree to such a step, if it were possible to achieve more favourable treatment under an EU Directive.

Estimates by the CBI suggest that should the 12 week "qualification period" be accepted, under half of agency work contracts would be affected by a new Directive as most assignments last less than 12 weeks.

Should agreement be reached by Social Affairs Ministers in June, this is also likely to pave the way for the revision of the European Working Time Directive, with current proposals addressing the difficulties caused by the SIMAP and Jaeger judgements regarding on-call time and compensatory rest periods. On the other hand, current proposals for a revised Directive are set to significantly strengthen provisions protecting workers against potential abuses of the opt-out provisions.

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Education employers meet to discuss possible European social dialogue

Introduction

Representatives of British school and university employers participated in a seminar for education employers from nearly 20 EU countries held in Brussels on 20 May 2008.

The seminar was funded and facilitated by ETUCE as part of their Commission-funded project concerning social dialogue in education at European level. ETUCE, the European organisation representing education trade unions, was represented through speakers in the morning session, but did not participate in the afternoon of this employers-only event. The meeting was chaired by representatives of CEEP, which had also provided a discussion paper to inform the debate among education employers. This debate focussed on the question whether there was a necessity of education employers to organise at the European level in order to be represented in crucial discussions on EU education and employment policies as they affect the skill requirements and working conditions of teachers, trainers and lecturers. Currently, the trade unions are represented at this level through the sectoral organisation ETUCE, whereas education employers are only represented through the cross-sectoral organisation CEEP, where it has national membership in this sector.

Discussions between ETUCE and European education employers have been ongoing on an informal basis for a number of years and have in recent years been followed on behalf of CEEP by Charles Nolda from the UK section of CEEP.

Presentations

In the morning, participants heard from Jackie Morin (Head of Unit, Social Dialogue and Industrial Relations, DG Employment, Social Affairs and Equal Opportunities). He gave a comprehensive description of the sectoral social dialogue system at European level, setting out its legal basis and historical evolution as well as some of the subject matters covered at this level. He emphasised that the role of the Commission is to promote and support social dialogue.

Speaking on behalf of CEEP, Rainer Plassmann (Secretary General) explained that CEEP, as a cross-sectoral player, is interested in facilitating sectoral social dialogue in order to improve CEEP's representativeness and to improve the links between sectoral and cross-sectoral level. CEEP has a role to play in trying to unify the actors in the public sector, and just as with HOSPEEM in the health field, facilitating Education social dialogue would be beneficial in that regard. Clarity among the employers about what their shared interests might be would, he felt, be all-important; and he suggested as possible themes the so-called "fifth freedom" (of knowledge), the question of mobility within Europe and the optimal organisation of education services. Rainer ended by expressing the hope that the seminar would lead to further action and follow-up by education employers all over Europe.

Martin Romer (Secretary General of ETUCE) made it absolutely clear that ETUCE would like to have an employer partner, believing it to be in their interest for the employers to be "organised, representative and strong" at European level. At the moment, in his view, the education employers' voice is going by default in key European policy debates about education, training and research and innovation. The scale and tempo of these debates had increased immeasurably because of the ambitions of the Lisbon strategy and while ETUCE was able to make its voice heard in those debates (either independently or through ETUC, the cross-sectoral Trade Union confederation), education employers were simply absent because of the lack of a European representative body and therefore there was a "missing link" with their natural cross-sectoral partner, CEEP. He listed a number of issues where he felt that joint work by the unions and the employers could be useful at European level: recruitment and retention; demography; mobility; teacher education; professional development and the possible elaboration for the education sector of existing cross-sectoral agreements on stress and violence and harassment in the workplace. He said that the agenda always had to be agreed between the social partners and could never be imposed unilaterally by one side.

Marta Branca (Vice Secretary General, HOSPEEM) explained in detail the evolution of HOSPEEM and its current range of activities.

She stressed the long period leading up to the establishment of HOSPEEM as the European representative body for employers in the health sector, while the different players got to know and trust each other. She felt that possibly the practical difficulties and the costs involved of obtaining sufficient secretariat support had been underestimated at the beginning and suggested that this should be addressed at an early stage. Marta gave an overview of HOSPEEM's activities, including agreement with the union side on a Code of Conduct on ethical cross-border recruitment and retention; a forthcoming workshop on future skill needs in the hospital sector; responding to Commission consultations on issues specific to the health sector such as needle-stick injuries; discussion with other sectors about the possibility of a multi-sectoral initiative on third party violence; and forthcoming negotiations on the next three year work programme for the Health sector's social dialogue committee.

Tina Weber (Rapporteur of CEEP's Social Affairs Committee) gave an overview of the EU education agenda, showing its links to the Lisbon strategy and listing the benchmarks for Education and Training. She emphasised that the agenda included VET and Higher Education as well as general education. Tina referred to the various initiatives in creating frameworks for cross-border transparency of qualifications and for the quality of teachers and their competences and qualifications. She also touched on the modernisation of universities and explained some of the funding arrangements, for instance in relation to Lifelong Learning. The progress towards the various benchmarks was explained and reference was made to the Commission's most recent progress report on Education 2010. She highlighted five potential areas for the involvement of Education Employers at European level:

- Education and Training 2010 Co-ordination Group
- Working/Cluster groups
- Peer Review programmes
- Advisory Group of LLL Programme
- Social dialogue on employment relations issues.

Charles Nolda (Chair of CEEP's Social Affairs Committee) made brief remarks on how he had approached the drafting of the discussion paper and what he saw as the most complex issues ahead, namely the scope of the exercise and fund-

ing arrangements.

General Discussion

This took the form of a tour de table guided by Tina Weber as Chair. Tina asked each country to address three questions: 1. do you wish to continue with the process of working towards European social dialogue for Education? 2. would you like to participate in a small group meeting on 3 July to look in more detail at three key issues, namely funding of a European organisation; priority subjects for social dialogue at European level; and the question of the scope of a possible social dialogue at European level and the consequences for representation? 3. what priorities would you suggest for early consideration as part of a work programme?

Each of the fifteen remaining countries gave their initial answer to these questions in the tour de table.

On the whole, there was a clear consensus in the discussion to the effect that 1. most countries expressed a clear willingness to continue the process, some in enthusiastic terms, but with others reserving their position pending consultation with more senior people at home; 2. nearly all countries wish to be represented in the small working group meeting on 3 July; and 3. a wide range of subjects was suggested for possible inclusion in an initial work programme, with training and qualifications of teachers, the implications for education of demographic change and the scope for cross-border benchmarking all being popular choices.

Agreement

The meeting closed with agreement that:

- CEEP would convene a small working group on 3 July to look at the identified issues in more detail
- Based on the discussion at the meeting on 3 July, CEEP would formulate a proposition or prospectus which would allow representatives to see what the implications of setting up an employers' organisation at European level would be and would circulate that to all countries by the end of July
- There would be a plenary seminar on 22 September to consider, and hopefully to decide on, the document prepared by CEEP after the meeting on 3 July.

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Diary of events

2 June, CEEP UK Executive, London
2-3 June, CEEP Transport Committee, Athens
9 June, CEEP Social Affairs Committee, Brussels
11-12 June, Employment Week, Brussels
25 June, CEEP SGI, Internal Market and Local Enterprises Committee, Brussels
10 September, CEEP UK Executive, London
23 September, CEEP Social Affairs Committee, Brussels

25 September, CEEP Delegates Committee/ General Assembly, Brussels
6 October, CEEP SGI, Internal Market and Local Enterprises Committee, Brussels
20 October, CEEP Transport Committee, Brussels
24 October, CEEP UK AGM, Winchester
6 November, CEEP UK Executive
17 November, CEEP Local Enterprises Conference, Brussels
15 December, CEEP Delegates Committee/ General Assembly, Brussels
17 December, CEEP SGI Committee

EU to issue new Social Agenda

The European Commission is due to publish its new Social Agenda in July 2008. The current Social Agenda, which sets out the Commission's legislative and policy priorities in the social and employment policy field over a five year period, runs out in 2010. Publication of its new priorities from 2010-2015 in 2008 will allow ample time for consultation. It also takes account of the fact that a new Commission will be put in place in 2009, following the European Parliamentary elections and the incumbent Commission has undertaken to refrain from taking any significant legislative initiatives in the 6 months leading up to the installation of the new Commissioners. The package issued with the Social Agenda at the end of June is rumoured to include proposals on the revision of the European Works Councils Directive and could revive proposals for an EU Directive on Patient's Rights, which was so controversially debated before Christmas last year.

However, at the same time, many items remain to be dealt with in relation to the current Social Agenda, including possible legislative proposals on parental leave, paternity leave, filial leave (leave to look after an older or dependent relative), maternity protection, protection of employee date, the portability of pensions, as well as the previously mentioned revisions of the EWC and Working Time Directives and the Directive on Agency Workers.

With regard to parental leave and other items falling into the bracket of "work life balance measures", it is likely that the European social partners will jointly take action to revise the existing parental leave Directive which arose from a social partner agreement, as well as discussing items such as other leave arrangements and flexible working.

Many of these items are likely to feature on the agenda of the upcoming CEEP Social Affairs Committee, due to be held on 9 June 2008 in Brussels.