



Europe for Employers

Mapping a Maze



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EUROPE for EMPLOYERS

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Preface

Most of the new employment law in the United Kingdom over the last generation has derived directly or indirectly from European Union regulation and decisions of the European Court of Justice (ECJ). Negotiations at European level between employer and union representatives are influencing employment regulation and the employment relations agenda in the EU's 27 Member States. Governments are co-ordinating their employment-related policies under the umbrella of the Lisbon Strategy and the EU's Employment Guidelines. The large influx of workers from Eastern Europe into the UK and some other countries is a tangible effect of the principle of the free movement of workers that is built into the EU's foundation. European agencies such as the European Foundation for the Improvement of Living and Working Conditions and the European Health and Safety Agency produce a constant stream of employment-related information and advice.

It would be perverse to argue that Europe does not matter to British employers. Clearly it does matter and for the foreseeable future the importance of EU employment issues is not likely to decrease for UK employers.

As with so much that comes from the EU, however, the content is complex, the language is technical and the presentation can be unclear. But it is possible to make the EU employment policy scene accessible to non-specialists and that is the aim of this introductory guide.

The first chapter gives an overview of the European labour market, including comparative data showing the UK's relative performance. This contextual information is important as many EU initiatives in the employment policy field are based on analysis of the relative success factors behind the labour market performance of different countries. The next three chapters look at the three principal methods of integrating European employment practice: regulation, social dialogue and policy co-ordination. The fifth chapter highlights a few current (2007) priority issues to give a flavour of the breadth of the Brussels agenda and its potential relevance to workplaces in Britain. The last chapter is a short discussion of the overall effectiveness of the efforts at European level to bring a coherent social dimension to the development of the single European market.

The overall purpose of the guide is to give busy people an overview of a complex system of regulation, policy and social dialogue which is increasingly influential in workplaces throughout Europe. It has been written with the interests and needs of employment relations practitioners in HR departments in mind, but it is hoped that it may also be of interest to union officials, civil servants, employment lawyers, researchers and lecturers and their students.

October 2007

Chapter 1 – The EU labour market

Trends in employment and unemployment

“More and better jobs” is the slogan which unites the interests of employers, unions, politicians and bureaucrats. In 2000 the Member States of the EU agreed on what is known as the Lisbon Strategy, designed to make Europe the most dynamic, knowledge-based economy in the world by 2010. An overall employment rate of 70% was set as a target for 2010; other targets were set as 60% for women and 50% for older workers. Progress has been made in some countries, including Britain (which now exceeds all the Lisbon targets), but in most countries the position is somewhat disappointing and the EU overall is unlikely to meet the 2010 targets.

Table 1 employment rates (%), 2005	EU-25	UK	France	Germany	Highest country	Lowest country
Overall (15-64)	63.8	71.7	63.1	65.4	Denmark: 75.9	Poland: 52.8
Women (15-64)	56.3	65.9	57.6	59.6	Denmark: 71.9	Malta: 33.7
Older workers (55-64)	42.5	56.9	37.9	45.4	Sweden: 69.4	Poland: 27.2

Source: Eurostat

About 20 million people are classified as unemployed in the EU, as against a 2005 workforce of just over 200 million. A further 90 million are classified as “economically inactive people of working age.” The rate of long term unemployment is reducing in most countries. At the same time youth unemployment rates are stubbornly high in many countries.

Table 2 unemployment rates (%) -2005	EU-25	UK	France	Germany	Highest country	Lowest country
Overall (15-64)	8.7	4.7	9.5	9.5	Poland: 17.7	Ireland: 4.3
Long term* (15-64)	3.9	1.0	3.9	5.0	Slovakia: 11.7	UK: 1.0
Youth (15-24)	18.5	12.9	22.3	15.0	Poland: 36.9	NL: 8.2

* Long term unemployment is defined as for 12 months or more

Source: Eurostat

As in the UK, most EU employment is now in services (70.4%), as opposed to industry (24.7%) and agriculture (4.9%).

The net increase of 18.5 million new jobs in the EU between 1995 and 2005 was concentrated mainly in small and medium enterprises (SMEs) and in public services.

Contracts of employment

Most European workers are in open-ended contracts (85%), but the use of fixed-term contracts has increased from 12% in 1997 to nearly 15% in 2005. This growth is particularly concentrated in certain countries, and in the UK the use of FTCs remains well below average, at under 6%.

Part-time work is also growing rapidly in Europe but, again, with large variations between countries – the proportion varying from 2% of jobs in Bulgaria to 46% in the Netherlands. The UK figure is 25%, somewhat above the EU average of 18%. Most part-timers are women and most choose this form of work; however, surveys suggest that about one in five part-timers would prefer to work full-time. Self-employment is decreasing slowly in most countries. The British rate (just under 13%) is below the EU average of just under 16%.

Levels of job protection in the different countries can be measured on a scale developed by the OECD. This indicates a higher degree of job protection in the EU (2.4) than in the other OECD countries (1.75). The UK has the lowest degree of job protection on this scale of all the EU countries at 1.1.

Working time

Britain has the highest proportion of full-timers usually working longer than 48 hours a week (18%, as opposed to an EU average of just under 10%). However, at the same time the UK's average working hours *per employee* is slightly below the EU average, an apparent paradox probably explained by our relatively high proportion of part-timers and their average hours being lower than the EU average. Over a long perspective, working time is decreasing in all developed countries, as shown in Table 3 on page 2.

Recent research by the European Foundation for the Improvement of Living and Working Conditions indicates big disparities between the Member States in average annual levels of holiday. Including both annual leave and public holidays, Estonia has the lowest total, 26 days and Sweden the highest, 43 days: a difference of nearly three and a half weeks a year. The UK figure is 33, just below the EU average of 34. France's figure is 36 and Germany's 40.

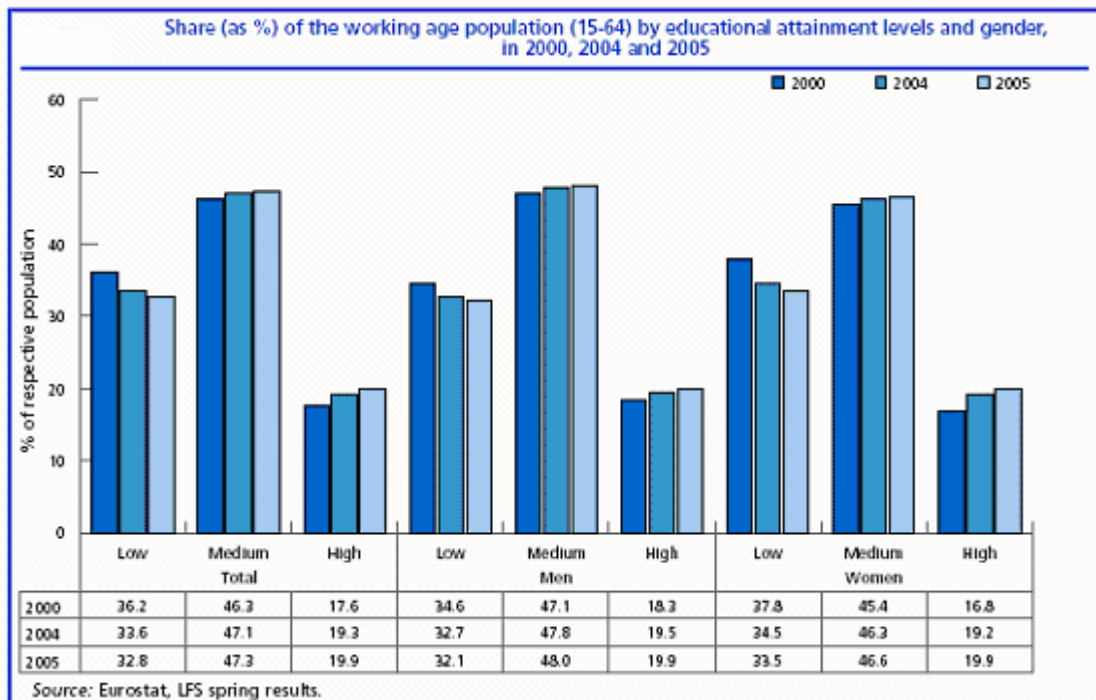
Table 3 average annual working hours per employee	1983	2005	% change, 1983-2005
UK	1713	1672	-2.4
France	1759	1535	-12.7
Germany	1543 (1994 fig.)	1435	-2.2
USA	1825	1804	-1.2
Japan	2095	1775	-15.3
Canada	1780	1737	-2.4
Australia	1853	1811	-2.3

Source: OECD

Education and skills

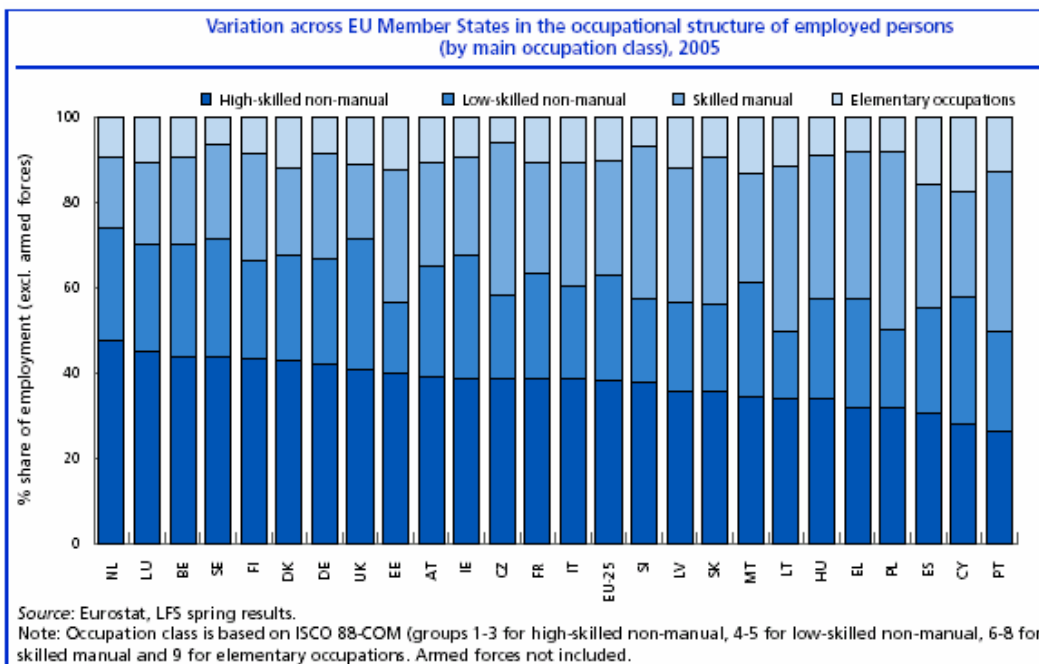
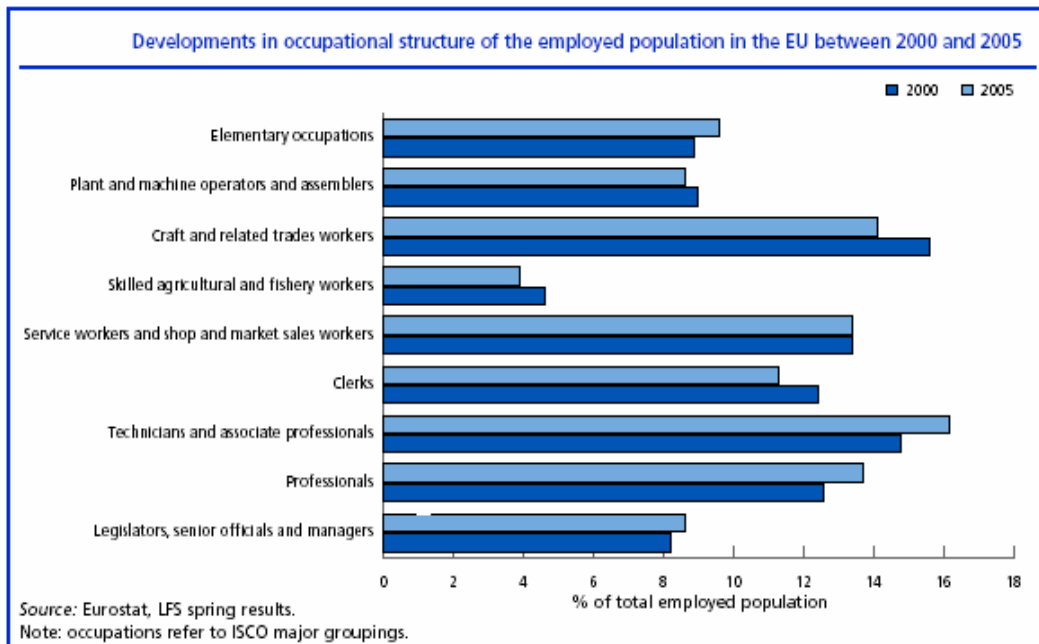
For both men and women in the workforce, the proportion with higher educational qualifications is increasing, while that with low educational qualifications is reducing; this is shown in Chart 1 below. Yet 20% of pupils have serious reading problems, as against an EU benchmark of 15%, and nearly a sixth of pupils leave school early as against the EU benchmark of a tenth. (Eurostat figures indicate that the UK workforce has the highest overall level of educational attainment in the EU; this may be a misleading result arising from how the statisticians classify particular UK qualifications.)

CHART 1



Skill levels are also increasing as jobs change in the context of the continuing shift from industry to services. Chart 2 on page 4 shows the change between 2000 and 2005 in certain broad occupational categories, while Chart 3 illustrates the skill mix for each country. The UK's skill mix is at the higher end of the range.

CHARTS 2 AND 3



Income distribution

Low pay, defined as two thirds or less of median earnings for the country concerned, affected 8.6% of the Danish workforce in 2000, but as many as 19.4% of the British workforce. Generally speaking, income differentials are widest in Britain among the larger EU countries. There is evidence that differentials are widening across Europe as a whole.

The probability of leaving low paid jobs increases over time but at a decreasing rate. After seven years, according to European survey information,

44% of low paid workers had found jobs at median or higher pay, but 26% were still in low paid jobs and 30% were no longer in employment at all.

The gender pay gap, as measured by average female hourly earnings as a percentage of their male equivalent, is 15% over the EU as a whole. The UK gap is wider, at 20%, but has reduced somewhat in recent years. The lowest gender pay gaps are in Malta and Portugal (under 5%), while in Germany, Estonia, Slovakia and Cyprus they are above 20%.

Accidents at work

The United Kingdom has always had one of the lowest rates of fatal accidents at work and the rate continues to reduce on a long term trend. Taking the 1999 rate for each country as 100, the index of serious (ie fatal and other serious cases) accidents at work in 2004 was as follows: UK – 88; France - 90; Germany – 73; EU-25 – 79. These marked reductions in serious accidents may well be another consequence of the shift to a service economy, but they do not reflect the growing incidence of less tangible health and safety risks, such as stress and harassment.

Working conditions

The Dublin-based European Foundation for the Improvement of Living and Working Conditions published its fourth survey of European working conditions in 2006. This is a major exercise involving structured interviews in 31 countries with nearly 30,000 employees in total, a figure far in excess of most political opinion polls. Among the most striking, and sometimes counter-intuitive, points to emerge from the results are these:

- Full-time female employees work on average for 67 hours a week, including any second jobs, travel to work and unpaid work (usually in the home). The male average is 54 hours a week.
- Workplace violence, or threats of it, are most prevalent in Britain and Ireland.
- Under 30% of European employees received training at work in 2005; the UK figure was over 40%.
- In most countries employees perceive that work has become more intense since these surveys started in 1991, but the UK shows the opposite trend since 1995. Similarly, the UK shows the lowest perception of adverse impact on health arising from work and one of the lowest sickness absence rates (under 4 days a year; this is well below the results from surveys of UK employers).
- Five out of six European workers say they are “satisfied” or “very satisfied” with their working conditions. The UK satisfaction rate is higher still, behind only Denmark and Norway.

Demography

Labour market prospects in Europe are deeply affected by current and future demographic developments of a dramatic nature. The population of the EU is already ageing. It is set to reduce in total as well. Major inter-regional and ethnic shifts are also under way. Although population reductions have some advantages, for instance environmentally, all these changes will affect the supply of labour, the demand for goods and services, the capacity for growth and levels of public expenditure on pensions and health and social services. Continued high levels of immigration into Europe will play some part in helping Member States to meet the challenges ahead, but by themselves will not be enough to bridge the gap created by historically low fertility rates in almost every EU country.

BOX 1: DEMOGRAPHIC CHANGE

Between now and 2050, the population of the EU is forecast to fall by 8.7 million (1.9%). Within this overall picture, there will be markedly different results for different countries. Some, like France and the UK, are expected to continue to grow. Others will see quite dramatic falls. Germany's population for instance is forecast to fall by 8 million over the period. Bigger proportionate falls are expected for many of the new Member States. Already the population in one third of the EU's regions is falling.

By 2050, the number of people below the age of 24 is forecast to fall by about 28 million while the number of people above 65 will increase by about 58 million.

The old age dependency rate (the number of people aged 65+ as a proportion of those aged 15-64) was under 25% in 2004 and is expected to be over 50% by 2050. By this point there would be just under two people in work for every person of what we now consider to be pensionable age, compared with the current 4:1 ratio.

On present policies, this reduction and ageing of the population is expected to halve the annual EU growth rate and to increase public expenditure by 10% or the equivalent of 4% of GDP.

After increasing by eight years since 1960, life expectancy at birth could rise by a further five years by 2050.

Fertility rates in all EU countries are currently below the 2.1 level needed for long term sustainability, yet surveys show that there is a gap between the number of children European women aged 40-54 would like to have (2.35) and the number they actually have (1.95).

Chapter 2 – Regulation

Regulation, adjudicated by the European Court of Justice, is of course the most direct way of integrating Europe. Employers need to be aware of the range of regulation in three fields in particular: employment, equalities and health and safety.

Employment directives

The adoption of legislation setting minimum labour standards and workers' rights has always been one of the EU's top social policy priorities. Originally the impetus came from the principle of the free movement of people, goods and services and the consequent need to ensure the portability of social protection rights across borders within the EU. This process is indeed not yet complete as current discussions about the portability of pension rights demonstrate.

The principle of the free movement of people has been adjusted in a pragmatic way to allow the older Member States a short period before they have to open their labour markets to workers from the new Member States which joined in 2004 and 2007. This option was not taken up by the UK government in relation to the ten countries which joined in 2004 although more stringent provisions have been adopted in relation to Bulgaria and Romania when they joined in 2007.

Regulation relating strictly to employment standards (as opposed to health and safety and equality legislation, which were early concerns of EU policy makers) began to gather pace only following agreement on the Single Market in the 1980s and the adoption of the European Social Charter in 1989. At the time, concern was growing in many quarters, including trade unions, about the perceived absence of a "social dimension" in the European policy agenda.

The underlying objective of much of the new legislation adopted since 1990 has therefore been to ensure that the development of the Single Market does not lead either to a lowering of labour standards (what the unions sometimes refer to as a "race to the bottom") or to distortions in competition (sometimes referred to as "social dumping", the process by which, it is argued, advantages taken unfairly in country A can lead to adverse consequences in country B). The European Commission also sees labour law as a useful instrument in helping economies to adapt to changing forms of work organisation and thus to be more competitive globally.

There are European directives on fourteen employment law issues, probably the most important and far-reaching being those of the 1993 Working Time Directive, the 2001 Transfer of Undertakings Directive (a consolidation of an earlier version and of other measures) and the 2002 Information and Consultation of Employees Directive.

The full list of employment law directives, as registered on the European Commission's website, is as follows:

1. Collective redundancies
2. European Works Councils
3. European Company Statute
4. European Co-operative Society
5. Information and Consultation of Employees
6. Transfer of Undertakings (previously known as the Acquired Rights Directive)
7. Employer Insolvency
8. Fixed-Term Work*
9. Health and Safety in Fixed-Term and Temporary Employment
10. Information on Individual Employment Conditions
11. Part Time Work*
12. Parental Leave
13. Posting of Workers
14. Working Time
15. Young People at Work.

*these directives enacted framework agreements negotiated between the European social partners (see chapter 3 below).

The text of these directives and related documents can be viewed online in English at http://ec.europa.eu/employment_social/labour_law/index_en.htm. Information about how the directives are transposed into domestic legislation for implementation in the UK can be found on the website of the Department for Business, Enterprise and Regulatory Reform (BERR): <http://www.berr.gov.uk/employment/index.html>.

Appendix 1 tabulates the European employment directives, their dates and the relevant UK legislation implementing them.

Equality directives

Equality between men and women, the prohibition of discrimination on the basis of nationality and the free movement of workers across borders between Member States are three bedrock principles built into the 1957 Treaty of Rome. These fundamental rights could indeed be said to be hard-wired into the institutional fabric of the European Union.

BOX 2: GENDER EQUALITY – EXTRACTS FROM THE TREATY OF ROME

Article 2

“The Community shall....by establishing a common market and an economic and monetary union and by implementing common policies or activities....promote...a harmonious, balanced and sustainable development of economic activities, a high level of employment and of social protection, **equality between men and women.....**”

Article 3 (2)

“In all the activities referred to, the Community shall aim to **eliminate**

inequalities, and to promote equality, between men and women....”

Article 13 (1)

Empowers the European institutions to take “appropriate action to **combat discrimination based on sex**” [and on racial and ethnic origin, religion or belief, disability, age or sexual orientation].

Article 141 (1)

“Each Member State shall ensure that the **principle of equal pay for male and female workers for equal work or work of equal value is applied.**”

Article 141 (3)

“The Council shall adopt measures to **ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation.**”

The provisions of the EC Treaty regarding equal treatment between men and women have been in force in a number of fields covered by European legislation over the past 30 years, with extensive case law being developed by the ECJ. Legislation on other discrimination grounds is more recent. The whole body of equality legislation is kept under review by the Commission as it is responsible for monitoring the application of the principles enshrined in the Treaty and for proposing new legislation where appropriate.

Existing legislation in the field of equal treatment between men and women falls under five headings:

- Equal treatment in employment and occupation
- Pregnant workers and parental leave
- Equal treatment in statutory social security
- Equal treatment of self-employed persons and assisting spouses
- Equal treatment in access to goods and services.

Wider anti-discrimination directives at EU level cover:

- Race equality
- Employment equality.

The first of these directives prevents discrimination on the grounds of race and ethnic origin, while the second prevents it on the grounds of religion or belief, disability, age or sexual origin. Both were passed in 2000.

Appendix 1 tabulates the relevant European legislation, including pending proposals, and the corresponding implementing measures in the UK. It should be noted that as much of UK equalities legislation pre-dates and/or matches the spirit of EU law, not all of the EU directives in this field have matching UK implementation measures.

Health and Safety directives

“The need to improve working conditions is a collective concern, prompted by both humanitarian and economic considerations.” (EU Health and Safety website).

There are more health and safety directives than employment or equality ones, but some of them relate only to specific workplaces (eg ships) or sectors (eg mining) or risks (eg VDUs).

The over-arching health and safety directive, the Framework Directive, dates back to 1989 and is sometimes described as having been modelled on the UK's 1974 Health and Safety at Work Act (HASAWA). It is this Framework Directive that sets out general principles applicable to all sectors of activity (except certain specific public service activities, such as the police and the armed forces). These general principles include the employer's "duty to ensure the safety and health of workers in every aspect"; workers' obligations; the principles of prevention and risk assessment; training; and consultation of workers' representatives.

The more specific health and safety directives underneath the General Framework are as follows, a list which indicates the notable range and detail of the European health and safety regime¹:

Workplaces and work equipment

- Workplaces in general (1989)
- Work equipment (1989, modified in 1995 and 2001)
- Personal protective equipment (1989)
- Medical treatment at sea (1992)
- Safety signs (1992)
- Fishing vessels (1993)
- Explosive atmospheres (1999)

Sectors of activity

- Mobile construction sites (1992)
- Mineral extracting industries (1992)
- Surface and mineral extracting industries (1992)

Specific risks

- Asbestos (1983, modified in 1991 and 2003)
- Manual handling of heavy loads (1990)
- Visual Display Units (1990)
- Carcinogens (1990/1997/1999)
- Physical Agents (1986 and 2003 – noise; 2002 – vibration; 2004 – electromagnetic fields)
- Chemical Agents (1998; indicative limit values-1991; indicative occupational exposure limit values – 2000; 2006)
- Biological Agents (2000, which codified and repealed four previous directives)

Category of workers

- Pregnant workers (1992)
- Young workers (1994).

¹ It should be noted that for the purposes of EU legislation, the Working Time Directive is considered a piece of health and safety legislation but is listed in this guide under the heading "employment directives".

The process of making a European directive

The key institutions in Brussels are the European Commission, the European Council and the European Parliament. Each has a part to play in the making of European law. They are briefly described in **Appendix 2**. The social partners also have an important role to play, as described in chapter 3.

Law at European level can be:

- Primary, ie the Treaties and other agreements having similar status
- Secondary, ie regulations, directives etc
- Case law, ie judgments of the European Court of Justice.

Primary legislation is agreed on the basis of direct negotiations between the Member States. Such agreements take the form of Treaties which are subject to ratification in national parliaments. This is also true for subsequent amendments.

Secondary legislation is drawn up using a variety of different procedures depending on the Treaty article chosen by the Commission as a legal basis for the proposal in question. *Regulations* are the most powerful instruments as they are binding and directly applicable in all Member States, without any implementing national legislation. *Directives* are binding on the Member States in relation to the results to be achieved by the given deadline, but they have to be implemented in national legislation in accordance with the Member State's own procedures. There can be long delay between the approval of a directive by the European Council and national implementation. *Decisions* may be issued by the Council or Commission and are binding on those to whom they are addressed, normally a specific Member State or enterprise. No national implementing legislation is needed. *Recommendations and opinions* have no binding effect and may be issued by the Council or the Commission.

Case law results from judgments of the ECJ or the Court of First Instance, often in response to referrals from national courts or as a result of actions brought by the European Commission in its role as guardian of the Treaties. It is usually the Commission that first proposes legislation (although the social partners also have this power in the employment relations field), with the Parliament and the Council deciding whether to adopt, amend or block the proposal. Every proposal has to be based on a specific article in the Treaty. The chosen article will determine the legislative procedure to follow. The three main procedures are consultation, assent and co-decision. For the purpose of initiatives in the field of employment law, the most important procedure is co-decision. Currently this is used in forty three policy areas.

As it is so important, and so complex, a flowchart with the various steps in the process is included as **Appendix 3**. In summary the main elements are as follows:

- The Commission prepares a legislative proposal after intensive consultation (usually through documents called Communications, White and Green Papers or Consultations). The social partners are included in consultations concerning employment-related issues and can choose to take on the responsibility of negotiating agreements in the employment relations field. Once a proposal has been given corporate approval within the Commission (through the College of Commissioners), it goes simultaneously to the Parliament and the Council.
- In the Parliament, the proposal will be allocated to a specialist committee for them to prepare a report. There are established procedures for the political groups to decide amongst them who will have the influential role of acting as rapporteur for the particular topic and thus having the opportunity to influence events by preparing the first draft of the report.
- Once the rapporteur's report has been produced it is discussed in committee and a deadline is set for amendments to be submitted. Votes are then taken if necessary and eventually the committee's report is given a first reading by the full Parliament, "in plenary". A simple majority is necessary for a committee's report to be adopted by the Parliament.
- If the Parliament's position amends the Commission's original proposal, the Commission can alter its position to take all or some of the parliamentary amendments into account.
- At the same time, the European Council will be discussing its own position. The Council has three options: to accept the original Commission proposal without amendment; to accept the Parliament's amended version of the Commission's original proposal; or to come up with its own position.
- If the Parliament introduces amendments, a qualified majority (as opposed to unanimity or a simple majority) is needed in Council if the Commission accepts the parliamentary amendments into its new proposal. If this is not done, unanimity will be required in Council to adopt the revised Commission proposal.
- Should the Council disagree with some or all of the amendments made by the Parliament, a common position is drafted together with a statement of reasons for the disagreement. This is then forwarded to Parliament with a statement from the Commission on whether it agrees or disagrees with the Council's common position. This document is then considered in a second reading by the Parliament, where the Council's common position can be accepted or it can be rejected and further amendments proposed.
- In the latter event, the text goes back to the Council for further discussion. If the Parliament's amendments are approved, the legislative act can be signed. If however the amendments are not accepted by the Council, a Conciliation Committee is convened. This is

composed of an equal number of representatives from the Parliament and from the Council. If the Conciliation Committee reaches agreement, the text passes again to the Parliament and the Council for discussion. At this point the proposal, as revised by the Conciliation Committee, can either be accepted by both sides or rejected by one or both sides, in which case the legislative process is terminated without result.

This extremely complicated procedure naturally leads to long delays before proposals become law and in some cases (eg Temporary Agency Workers) the deadlock between and within institutions can last for several years.

Once an employment directive is adopted, Member States are usually given a set period (often 2-3 years) within which to implement it through national legislation.

Chapter 3 - Social Dialogue

Background

In the European context, the term “social dialogue” relates both to tripartite consultation between European institutions and the representatives of employers and trade unions, as well as to the “autonomous” (ie independent) dialogue between the social partners themselves. Both forms of social dialogue are important, the first because employers and unions have a role in policy formulation over a wide range of issues, and the second because of the potential impact of the agreements reached between the social partners.

European social dialogue is wide-ranging, but one subject it does not cover, and is not legally able to cover, is wages. Pay is a national, sectoral or local issue.

European social dialogue takes place either at *cross-sector* level (covering the entire European labour market) or at *sectoral* level.

“Social partners” are trade unions and employers’ organisations.

Formal social dialogue at European level was launched in 1985 when Jacques Delors was president of the EU. It was very much his own brainchild and he saw social dialogue as a way of involving those closest to the world of work in a wide range of policy issues. The belief was, and remains, that the social partners bring a special understanding of the workplace to the process of policy formulation; and also that this involvement is a valuable expression of the principle of participatory democracy. In this way, it is hoped, social dialogue helps to ensure that labour market regulation goes with the grain of workplace realities. These attitudes help to place European social dialogue and the European social partners in a more central position in relation to policy than has normally been the case in a number of Member States, including the United Kingdom.

Three phases have been identified in the development of European social dialogue at cross-sector level. In the initial phase (1985-1991) the main focus was on procedural issues and defining the future role of the social partners. A consolidation period followed (1992-2001), which saw three framework agreements between the social partners (parental leave; part-time work; and fixed-term work) become European directives. In the current phase since 2002, the social partners have sought to move from an agenda largely determined by the Commission and from agreements becoming directives towards a more “autonomous social dialogue” where the initiative is taken by the social partners themselves as well as by the Commission.

Unions and employer organisations in Europe

As in Britain, the long term trend in Europe is that union membership is ageing and declining. It is also increasingly concentrated in the public sector. UK union membership is slightly above average for Europe as a whole.

Table 4 % of workforce belonging to TU, 1995 and 2004	EU-25	UK	France*	Germany	Denmark**
1995	32	33	9	29	84
2004	25	26	8	20	80

* lowest density country *Source: Industrial Relations in Europe 2006*

** highest density country

Almost all of the Member States in eastern Europe have seen very sharp reductions in union membership since the fall of communism. It is also noticeable that low trade union density does not necessarily indicate low levels of industrial action, for instance in France.

Although under a third of European employees belong to a trade union, over half of EU workplaces have some kind of union representation, suggesting that in most workplaces with union members they are in a minority compared to those not belonging to any union. This does not however mean that non-members will not take part in official industrial action, should the need arise.

Employers are more likely than employees to belong to their own representative organisations. The EU average is 56%, the UK figure being 41%. The highest density is in Austria (100%) and the lowest is in Poland (20%). France has a high density, (nearly 80%) and Germany's is over 60%. (*Source: Industrial Relations in Europe, 2006.*)

Pay bargaining takes place at different levels in different countries. In the UK, and in most of the new states, the dominant bargaining level is the individual enterprise or company. In almost all of the older states (EU-15), the dominant level for pay bargaining is the relevant industrial sector. Exceptions are the UK as noted and Finland and Ireland where the dominant level is cross-sector, covering all of the labour market, both private and public.

Similarly, there are important distinctions in how workplace representation operates. The European Commission identifies six models, as follows:

1. Single channel via union: eg Poland, Sweden, Ireland
2. Single channel via either union or non-union: eg UK
3. Single channel via union or, if not, via non-union: eg Finland
4. Dual channel where union channel dominates: eg Italy

5. Dual channel where works council complements union: eg France, Spain
6. Dual channel where works council dominates: eg Germany.

The European social partners and the Social Dialogue Committee

Workers are represented at European cross-sector level by the ETUC (European Trade Union Confederation). Employers have three representative bodies: BUSINESSEUROPE (previously known as UNICE until early 2007) speaks on behalf of private sector businesses; CEEP represents public service employers; and UEAPME stands for small and medium enterprises. The UK organisations affiliated to the European social partners are the TUC, the CBI and CEEP UK. UEAPME does not currently have a UK affiliate.

In addition to social dialogue between the cross-sector social partners, there is sectoral social dialogue in some 33 separate sectoral committees ranging from agriculture to woodworking (see below).

The formal framework for the tripartite social dialogue between the European Commission and the cross-sectoral social partners is the Social Dialogue Committee. This meets quarterly to discuss key items on the Commission's legislative and policy agenda and provides the opportunity for the social partners to inform the Commission on progress in their own autonomous activities. Additionally, many informal meetings take place between Commission representatives and the secretariats of ETUC, BUSINESSEUROPE, CEEP and UEAPME to discuss day to day issues.

The development of cross-sector dialogue

Social dialogue has been an integral part of the so-called "European social model" since the inception of the European Treaties. In the early years, the process was largely limited to consultation and discussion in various advisory committees.

This changed in 1985 when Jacques Delors, the then President of the Commission, launched the bipartite, autonomous social dialogue process alongside the existing tripartite arrangements. The next important step in the evolution of European social dialogue then came in 1991 when the cross-sector social partners signed an accord whereby agreements negotiated between them could, if they so wished, be given legal effect at EU level and transposed into national laws. This agreement was subsequently incorporated into the Amsterdam Treaty as Articles 138 and 139. This development was immensely significant because it gave the social partners the power of framing legislation.

Under the European Treaty the Commission is obliged to consult social partner organisations on issues of direct relevance to management and labour and to give them the opportunity to open autonomous negotiations. If the social partners do not agree among themselves on whether they wish to negotiate, the initiative goes back to the Commission to draft legislation,

usually in the form of a Directive. This has happened in recent years in relation both to occupational pensions and to revisions to the Working Time Directive, although in neither case has the Commission so far [October 2007] been able to achieve a political consensus with the Council of Ministers and the Parliament.

A range of issues has been the subject of successful negotiations between the cross-sector partners under the terms of the Amsterdam Treaty. Three agreements have been implemented by Directive and subsequently transposed into national legislation: these are the agreements on parental leave (1995), part-time work (1997) and fixed-term contracts (1999). Social partners also opened negotiations on the rights of temporary agency workers in 2000, but failed to reach agreement, a failure that has been reflected so far in a lack of consensus on this issue between the Commission, the Parliament and the Council of Ministers representing the Member States.

More recently, the social partners have not chosen to implement their agreements by means of directives. Instead they have concluded “autonomous” agreements “to be implemented in accordance with the procedures and practices specific to management and labour in the Member States.” Such agreements have been concluded on telework (2002), stress at work (2004) and violence and harassment in the workplace (2007). Box 3 highlights the arrangements for implementation and monitoring in the first of these “autonomous” agreements.

BOX 3	Follow-up and monitoring provisions in relation to the Telework agreement
Follow-up	“In the context of Article 139 of the Treaty, this European framework agreement shall be implemented by the members of UNICE/UEAPME, CEEP and ETUC...in accordance with the procedures and practices specific to management and labour in the Member States. The implementation will be carried out within three years after date of signature of this agreement [ie by 16 July 2005]. Member organisations will report on the implementation of this agreement to an ad hoc group set up by the signatory parties, under the responsibility of the Social Dialogue Committee. This ad hoc group will prepare a joint report on the actions of implementation taken. This report will be prepared within four years after the date of signature of this agreement.”
Monitoring	There was a joint implementation report by the social partners in 2006. Additionally, the Commission is monitoring the agreement to assess the extent to which it has contributed to the achievement of Community objectives.

In Britain, the agreement was implemented by means of a guide on telework that was produced by representatives of the UK affiliates of the European social partners, working under the chairmanship of what was then the DTI and is now BERR, the Department for Business, Enterprise and Regulatory Reform. This was an ad hoc procedure that had to be arranged because in

the UK, possibly uniquely within the EU, there are no “procedures and practices specific to management and labour in the Member States” which cover the interests of all the UK affiliates to the European social partners. Notwithstanding the need to solve this procedural issue, the UK was the first country to implement the European agreement, helped no doubt by the fact that the text of the agreement was in English and that there was no need for arguments between the national social partners over translation. (All cross-sector social partner texts are now developed in English and only translated into other languages after agreement has been reached at European level.) Another reason for the relative ease of the UK implementation process was that, unlike in some other countries, the question of implementation via national legislation or national collective bargaining simply did not arise.

UK implementation of the second autonomous agreement of the European social partners, concerning work-related stress, was equally rapid. National guidance on its transposition was again facilitated through a joint working group of the UK affiliates of the European social partners. DTI again chaired the group. The Health and Safety Executive attended the meetings which greatly helped the process as HSE was at the same time putting forward Management Guidelines on dealing with work-related stress. The result was, again, a guidance booklet issued by the social partners.

Another important development in the autonomous European social dialogue process has been the adoption of three year work programmes. The first covered 2002-5 and included issues such as EU enlargement (and the implications for European social dialogue), employment policy, equal opportunities and lifelong learning. Under this first programme, agreements were reached known as “frameworks of action” on equal opportunities and the lifelong development of competencies. These frameworks set priorities for action in these areas at national level and are followed up by annual progress reports.

The second social partner work programme was agreed in early 2006 to last until the end of 2008. The centrepiece of this programme is a joint analysis of key challenges facing the EU labour market, the conclusion of which is due in the autumn of 2007.

These autonomous agreements and frameworks of action are of particular importance as they demonstrate the effective engagement of the social partners in areas which might otherwise become the subject of legislative initiatives by the Commission.

Sectoral social dialogue

Starting in 1998, formal sectoral social dialogue committees have now been established in 33 fields, such as agriculture, postal services, textiles and clothing, construction, railways and hospitals. A full list is at **Appendix 4**.

The European Commission pays for the travel and accommodation costs of the members of these committees and also meets the costs of room hire and

interpretation. The same arrangements apply to the cross-sector dialogue. This is a substantial investment on the part of the Commission and is an indication of the importance they attach to European social dialogue.

Sectoral social partners are consulted, like their cross-sector counterparts, on key initiatives from the Commission, both of a general nature (such as the 2007 green paper on Labour Law) and of a sector-specific nature.

Agreements made by sectoral social partners can, as with cross-sector dialogue, become directives but this rarely happens, an example being the 2004 agreement in the railway sector concerning working time in the context of cross-border operations.

Analysis of the output of the sectoral committees indicates that the most popular theme relates to sectoral education and training issues. Other popular topics include restructuring, health and safety, capacity building in the new Member States, gender equality/anti-discrimination, corporate social responsibility, demographic change and sector-specific social policy initiatives.

An interesting innovation in 2006 saw the first multi-sectoral agreement. This related to the handling and use of crystalline silica and the management of the associated health and safety risks. The agreement covered eleven different industrial sectors. This multi-sectoral approach could become a model for the future to deal with issues that straddle more than one sector but do not cover all or even most sectors. Another potential area for a multi-sectoral approach could for instance be the issue of violence and harassment in the workplace from third parties such as customers and service users, which is a major issue affecting public transport, hospitals, shops, banks, restaurants etc.

Chapter 4 – Policy co-ordination

The third method of European social integration, after regulation and social dialogue, is through the co-ordination of policy between the European Commission and the Member States. This is not legally binding, but it is an increasingly effective method of determining good practice and using a combination of international comparisons and peer pressure to spread it through national policy making.

The European Employment Strategy

From the start of the European “project” in the 1950s, economic integration and other internal market goals have been centre-stage, with social policy issues somewhat in the background. However, in the 1970s concern about unemployment grew and Europe adopted a Social Action Programme, aimed at spreading the benefits of economic integration more widely throughout society. This period also saw the passage of the first significant employment law Directives, such as those on collective redundancies, transfer of undertakings, equal pay and equal treatment.

The next key landmark was Jacques Delors’ white book on Growth, Competitiveness and Employment in 1993. This formed the basis of an emerging strategy and helped to build a political consensus for economic and monetary union. Due partly to the EU’s lack of legal powers in relation to employment, and partly to the recognition that a more “voluntary” approach was needed to accommodate the very different national context, European leaders agreed in 1994 on key employment objectives to be pursued at national level.

These included: the development of human resources through vocational training; the promotion of productive investment through moderate wage setting; the efficiency of labour market institutions; the identification of new sources of jobs through local initiatives; and the enhancement of the ability to get jobs for specific target groups.

This political accord gained legislative back-up through the 1997 Amsterdam Treaty. While this confirmed that employment policy is a matter for national governments, Article 126 recognised it as a matter of common concern and required Member States to develop a co-ordinated European Employment Strategy (EES). The new Article 128 provided the framework for doing this through a so-called “management by objectives” approach involving the annual drafting of European employment guidelines. These are prepared by the Commission and approved by the European Council. The guidelines have to be taken into account in national action plans (NAPs), which are later assessed through a Joint Employment Report from the Commission and the Council as preparation for setting the next year’s guidelines.

In 2000 this process was broadened to include the issuing of specific recommendations to individual countries, based upon proposals by the Commission (the so-called “open method of co-ordination”, OMC).

The Lisbon summit in 2000 set full employment as the overarching long-term goal for the European economy, with ambitious targets as described in chapter 1 above. Subsequent summits have added other priorities as well, including in relation to skills, mobility, lifelong learning and quality in work. Following each such initiative the employment guidelines are adjusted accordingly.

The first evaluation of the EES was in 2002, after five years of operation. This independently performed exercise identified a significant improvement in EU labour market performance: 10 million new jobs had been created between 1997 and 2002 and 4 million fewer people were unemployed. While accepting the difficulty of establishing clear causal links between the EES and employment creation, the study highlighted significant changes in national policies, concluding that there was increasing convergence towards the objectives set out in the employment guidelines; particular examples included the reform of public employment services and an increasing emphasis on lifelong learning. However the study also highlighted a number of weaknesses, partly relating to continuing difficulties in getting the most disadvantaged groups into work and partly relating to new challenges, such as emerging skills gaps, demographic changes, globalisation and enlargement of the EU.

After strong employment growth in the late 1990s, progress slowed, halted or even went into reverse in some countries from 2000/1 onwards. This led the European Council to set up a high level task force in 2003 to look at the measures needed to get the EES and the Lisbon strategy back on track.

The task force was chaired by a former Dutch prime minister, Wim Kok. His report in late November 2003 emphasised the continued need for reform in four key areas:

- Increasing the adaptability of workers and of enterprises
- Making the labour market more attractive to more people
- Investing more in human capital and using the investment more effectively
- Ensuring effective implementation of reforms through better governance.

In response, the European Council adopted ten priority guidelines and associated targets (see **Appendix 5**) as the benchmarks for Member States' national employment policy measures. The Commission at the same time recognised that the EU would miss the intermediate employment target rate of 67% for 2005 and that without major improvements the 2010 target of 70% would also be missed. Considering that the actual rate in 2005 was only 63.8% it seems more realistic to adjust the 2010 target to the intermediate aim of 67%.

In 2005 the Commission decide to re-launch the Lisbon Strategy. The aim was to co-ordinate economic and employment policies more closely and by that means to achieve sustainable growth and increase job opportunities. As a

result Member States are now required to draft annual “National Reform Programmes” setting out their combined plans for economic growth and employment policy priorities.

Programmes and projects supporting the EES

The EES is supported by the European Social Fund (ESF) and other Community programmes such as PROGRESS and the Lifelong Learning Programme. These are briefly described at **Appendix 6**.

The EES is accompanied by a number of research programmes and projects, among which the most important is probably the Mutual Learning Support Programme (MLSP). This promotes the identification and exchange of good practices in employment policies and the potential for their successful transfer to other countries. For more information, www.peerreview.employment.org can be consulted.

The Employment and Social Protection Committees

Assisting the operation of the EES are the Employment Committee and the Social Protection Committee. These were established for the exchange of information between the Commission and the Member States in the fields of employment and social protection. Cross-sector social partner organisations are invited to these Committees as observers.

In both of these policy fields the Commission has established an Open Method of Co-ordination (OMC). This means that the Commission sets priorities for action in the light of common challenges facing Member States in relation to labour market, social and demographic trends. This is also coupled with a mutual learning process, allowing Member States to learn from experience elsewhere.

The Social Protection Committee is composed of two delegates from each country and Commission representatives. Its current priorities are:

- Make work pay and provide secure income
- Make pensions safe and pension systems sustainable
- Promote social inclusion
- Ensure high quality and sustainable health care.

The committee follows the OMC in relation to social inclusion and pensions, and exchanges good practice information in these areas.

The Employment Committee has a similar composition to its social protection counterpart. It plays an important role in the development of the European Employment Strategy and in assisting co-ordination between Member States on employment and labour market policies in the context of the Lisbon Strategy (see above).

Specialist agencies and advisory groups

The development of employment and social policy at European level is assisted by various specialist agencies, established and funded by the Commission; and by advisory committees and ad hoc task groups. The main employment-related agencies are the European Foundation for the Improvement of Living and Working Conditions (based in Dublin); the European Agency for Safety and Health at Work (based in Bilbao) and the European Centre for the Development of Vocational Training (based at Thessaloniki). Cross-sector social partner organisations are represented on the governing bodies of each of these agencies.

The European Foundation for the Improvement of Living and Working Conditions was set up in 1975. It provides survey results, knowledge and advice stemming from independent research to governments, employers, unions and the Commission. Of particular note are the four very large-scale employee surveys the Foundation has carried out, the most recent one having been reported in 2006.

The Foundation organises its work around three areas:

1. workplace conditions: including work organisation, time issues in the workplace; flexibility, monitoring of changes in working conditions.
2. living conditions: issues that affect the everyday lives of Europe's citizens, including the balance between work and family life, the provision of social public services and promoting integration into employment.
3. industrial relations: industrial change and corporate restructuring; employee participation in decision making, the Europeanisation of industrial relations.

The Foundation has set up a monitoring centre on change (EMCC) to analyse and anticipate industrial and company change.

Foundation reports can be obtained free of charge or ordered online from www.eurofound.europa.eu.

The European Agency for Safety and Health was formed to bring together and share Europe's vast pool of knowledge and experience on occupational safety and health issues, particularly good prevention practices.

The Agency has developed a comprehensive website network of safety and health websites. It runs campaigns and has a comprehensive publications programme. National lead organisations (such as the HSE in the UK) coordinate and disseminate information from the Agency within their individual countries. The Agency co-operates with similar organisations outside the EU. Further information can be obtained on the Agency's website: <http://osha.europa.eu/>.

The European Centre for the Development of Vocational Training (Cedefop) aims to promote lifelong learning throughout the EU, by providing information on and analyses of vocational education and training systems, policies, research and practice.

Cedefop's medium-term priorities are to:

- improve access to learning, mobility and social inclusion
- enable and value learning
- support vocational networks and partnerships in the enlarged EU.

The Centre's work programmes and annual reports are available at <http://www.cedefop.europa.eu>. Cedefop also operates an interactive website called the European Training Village at www.trainingvillage.gr.

Advisory Committees on Equalities and on Health and Safety meet three or four times a year. They bring together expert representatives from the Commission, the Member States, the Social Partners and other stakeholders in order to discuss new policy issues and to hear each other's views.

High Level Task Groups are set up at the request of the European Council on an ad hoc basis to prepare or support policy discussions at EU level. Membership usually includes academics and other experts, as well as the usual European stakeholders. Social partner organisations are not always represented, but they are always consulted both as the task groups proceed in their work and on the drafts of final reports, which can become very influential as in the case of the Kok report on the Lisbon Strategy, mentioned above. Recent and current topics for these high level task groups include demographic change, industrial change and social dialogue as well as the progress of the European Employment Strategy.

Education and training

The EU has no right of initiative in relation to European training and education policy, as these matters remain within the competence of Member States. However, both through voluntary policy co-ordination between the Member States and by funds such as the Lifelong Learning Programme, the Commission is increasingly influential in this field.

In relation to education, the legal basis for this activity was established by Article 149 of the 1992 Maastricht Treaty: "the Community shall contribute to the development of quality education by encouraging co-operation between Member States and, if necessary, by supporting and supplementing their action, while fully respecting the responsibility of the Member States for the content of teaching and the organisation of education systems and their cultural and linguistic diversity."

Similarly, Article 150 of the same Treaty requires the Commission to implement a vocational training policy to support and supplement the action of

the Member States, again while respecting the responsibility of the latter in relation to the content and organisation of vocational training.

Even before the Maastricht Treaty there was considerable interest in this field, not least because the principle of the free movement of workers leads naturally to arrangements for the comparability and mutual recognition of vocational qualifications, in order to make a reality of the ability to work in another EU country.

The key policy document for the coming years is the Education and Training 2010 Work Programme. This aims to make the EU a world leader in education and training systems by 2010. It is the policy response to the Lisbon Strategy in the field of education and training and it reflects the realisation that this field of activity is central to the Lisbon objective of making the EU a world leader among knowledge-based economies.

As mentioned above, one of the major obstacles for people wanting to work or learn in another EU country is that their qualifications and competences may not be accepted because of the diversity of national qualification systems and education and training structures. The EU is therefore introducing various instruments to facilitate the transfer of qualifications and competences for academic or professional purposes, some of which are referred to below.

The objective of the planned *European Qualifications Framework (EQF)* is to link qualifications at the national and sectoral levels, enabling them to relate to each other so that somebody qualified in country A does not have to qualify again if he or she wishes to work in country B in the same occupation.

Alongside EQF, there is *ECVET*. This is the European Credit Transfer System in the area of vocational education and training.

Europass assists mobility by providing a voluntary Europe-wide means of recording periods of training outside the “home” Member State. Similarly, a common European format for CVs has been recommended by the Commission.

At this stage, all these instruments are voluntary but the underlying objective of making a reality of a European labour market, so that many more than the current 1.5% of employees work in another EU country, is clear enough.

Professional recognition in the regulated professions is presently covered by a set of directives specifying the rights of individual citizens in the field of qualifications. In the near future these will be replaced by a single directive covering all regulated professions.

Supporting these various instruments and measures is the *Lifelong Learning Programme*, with a huge annual budget of 7 billion euros concentrated on fostering interchange, co-operation and mobility between education and training systems in the EU.

Chapter 5 – Current agenda priorities

In 2007 the main employment priorities on the agenda in Brussels, in addition to the enduring theme of “more and better jobs”, include topics such as the following:

- Flexicurity
- Breaking the legislative deadlock on Working Time and Temporary Agency Workers
- The Green Paper on Labour Law
- Social partner negotiations on the EU’s current labour market challenges
- Consultation of the social partners on the reconciliation of work and private life.

Each of these topics is explained briefly below, just to give a flavour of the breadth of the European agenda. Other current topics include a draft directive on occupational pensions that is designed to increase worker mobility between countries; the gender pay gap; a new European health and safety strategy for 2006-10; and the continuing development of a European Qualifications Framework.

Flexicurity

Globalisation and the rapid development of new technologies have intensified economic competition and increased the pace of change. Overall the result has been growth and net creation of jobs, but for many individuals and enterprises the changes have been painful, including restructuring, bankruptcy and long-term unemployment.

To survive in this increasingly competitive environment, workers and enterprises need to be more adaptable and flexible than ever before. This recognition naturally leads to calls for reforms aimed at creating more flexible labour markets. At the same time, although the great majority of European workers are on standard, open-ended employment contracts, more and more are in “atypical contracts”, such as fixed-term or temporary agency work. These workers are at higher risk than others of becoming trapped in insecure, low-paid work and in many countries “undeclared work” without social protection rights is rife. This obviously creates the potential for “social exclusion” and all the problems that tend to flow from that.

So the policy puzzle is how to combine the drive against social exclusion with the imperative to compete in a global economy. The Commission’s answer is the so-called flexicurity approach: policies which combine employment (rather than job) security with flexibility. The goal is to balance the following features:

- An Employment Protection Legislation (EPL) framework which allows for labour market adjustments in line with economic demands; sometimes this is referred to as an easier “hire and fire” regime

- Effective Active Labour Market Policy (ALMP) supporting transitions between jobs
- Strong lifelong learning policies supporting labour adaptability (or re-skilling) throughout working life
- Modern social security systems combining the need to facilitate labour market mobility and transitions with the provision of adequate income support during all absences from the labour market.

Variations of these approaches have clearly been successful in Denmark and the Netherlands. The Commission has attempted to create research models to assess the strength of the links between innovation in these policy areas and positive labour market performance, since it is often difficult to gain political support for some of the changes required in some countries.

(From a UK perspective however, one can make the observation that we have high employment levels and a generally fairly healthy labour market, without the very high level of public investment in social security and lifelong learning that is characteristic of the Scandinavian economies.)

The Commission published a paper on this topic in June 2007 (Towards common principles of flexicurity). The cross-sector social partners' response to this will be based to a large extent on the outcome of their current negotiations on Europe's key labour market challenges (see below).

Legislative deadlocks

Fresh attempts are expected to be made under the Portuguese presidency in the second half of 2007 to find agreement between the Member States, and then with the Commission and the Parliament, on two directives that have been stalled for some time.

The first relates to revisions to the *Working Time Directive* in the light of the European Court of Justice's judgments to the effect that inactive on-call time on the employer's premises counts as working time for the purpose of the 48 hour week limit. After much negotiation over a number of years, there is now a political consensus among the Member States that such time should not count as working time; but there is also continuing deadlock on whether the right of individuals to opt out from the 48 hour limit should be removed at a specified future date. The UK and a number of other countries are opposed to removing the individual opt-out, though they would accept more stringent rules for its application. France, however, and her allies are determined to get agreement on a definite future date for the individual opt-out to go as an integral part of an overall revision to the directive to deal with the on-call problem.

The second legislative blockage concerns *Temporary Agency Workers*. The cross-sector social partners attempted to reach agreement on this in negotiations which started in 2000, but failed to do so. The main sticking point was whether the temporary agency worker should be compared for pay etc purposes with someone doing equivalent work in the user firm or with an equivalent temporary worker employed by the same agency. This difference

of view partly reflects differences in current national laws among the Member States. Another important sticking point is over the length of the “qualifying period” on a particular assignment for a temporary agency worker to obtain these rights.

After the social partners’ failure to find agreement, the Commission prepared a draft Directive which defined the comparator as someone employed on the same or similar work in the user organisation, but only once the temporary agency worker had been on assignment for at least six weeks (the “qualifying period”). So far the Commission’s compromise has not been acceptable to some governments, including the UK’s, so the issue remains deadlocked in the Council of Ministers, unless the Portuguese can find a way forward.

Labour law green paper

In November 2006, the Commission issued a green paper on labour law. This is of course a highly controversial field. Views range from the position that more labour law is needed at European level to discourage individual countries from seeking unfair competitive advantage by driving down the level of legal protection for employees (sometimes this is referred to as “social dumping”) to the opposite position that the existing level of employee entitlements in European law fatally weakens Europe’s competitive position in the global economy. Many more responses to this green paper were received than is normally the case for an employment consultation and to judge by the tone of the debate that has already taken place on this in the Parliament, the Commission will have difficulty in charting a way forward that commands general consent.

The green paper recognised that labour law has an important role to play in achieving greater adaptability, both for workers and for organisations. The Commission indicated that it is pleased that many Member States have begun to reform their labour law, with one result being an increase in flexible employment contracts. However this potentially leads to the emergence of a divided labour market, with relatively favoured “insiders” benefiting at the expense of much less secure “outsiders”. The phenomenon of “undeclared work” which is endemic in some parts of the economies of southern and eastern countries is a particularly telling example of this kind of insecurity, with those involved having few or no social protection rights should they lose their job. Clearly labour law is not the only factor here: other policies, especially in relation to lifelong learning, the policing of undeclared work and the operation of unemployment benefit, also have their part to play. But, interestingly, the green paper did come off the fence to the extent of acknowledging that there is evidence that high levels of statutory employment protection can reduce employment opportunities for certain groups, particularly the most disadvantaged groups.

A further “communication” will be issued by the Commission on labour law towards the end of 2007. This will almost certainly look towards flexicurity (see above) as the way to square the circle between the flexibility for employers and security for workers.

Current social partner negotiations

The cross-sector European social partners intend to complete in the autumn of 2007 a joint analysis of the key challenges facing Europe's labour market. The joint analysis is the centrepiece of the social partners' 2006-8 work programme. It is designed both to inform the remainder of the work programme and to influence the Commission's policy formulation process, particularly in relation to flexicurity.

The joint analysis is based on the social partners' commitment to the aim of the Lisbon Strategy to turn Europe into the world's most dynamic knowledge-based economy, capable of sustainable economic growth, with more and better jobs and greater social cohesion.

The social partners recognise that this means improving Europe's competitiveness in high value added products and services and securing Europe's place on world markets by moving up the ladder of innovation, technology and productivity. Europe cannot compete with low wage countries for labour intensive products.

The text of the agreement is likely to run to about 60 pages. Most of it will be an economic and social analysis, a valuable exercise in itself considering that it is being conducted jointly by employer and union representatives. There will then be a section highlighting the main challenges, in four fields:

1. Active labour market policies and demand policies
2. Social protection, social cohesion and social inclusion
3. Labour regulation and industrial relations
4. Flexicurity.

The final section of the text will identify the social partners' priorities for their own action and their recommendations to other stakeholders, in particular the Commission and the Member States.

Reconciliation of work and private life

Driven partly by the practical need to improve Europe's fertility levels without reducing the supply of labour and partly by principled considerations of gender equality, the Commission published a new consultation paper in the summer of 2007 on the reconciliation of work and family life. This is a "second stage consultation" and it makes clear the Commission's determination to press ahead in this field despite the opposition to further regulation previously expressed by employer organisations.

The latest paper includes a range of issues, some of them with significant financial and operational implications for employers:

- Paid paternity leave
- Leave to care for dependent family members
- Adoption leave
- Reviewing the duration of, and payment during, maternity leave
- Protection of women returning from maternity leave
- Incentives (especially for men) to take parental leave, including duration, payment and timing.

The cross-sector social partners have agreed to establish a joint working group to assess the effectiveness of existing regulations in this area and the costs and benefits of other measures to improve work-life balance. In the light of this, the Commission has undertaken not to pursue further legislative action in this area until the social partners have finished their deliberations, and any resulting negotiations. Once the social partners have finished their joint analysis of labour market challenges (see above) this subject will become their next top priority.

Chapter 6 – Discussion

The overview given in the previous five chapters is necessarily somewhat superficial but it shows clearly both the breadth of the employment agenda in Brussels and the complexity of the systems and procedures designed around it.

The attempt to give Europe a “social dimension” alongside the original concept of a common market is aimed essentially at improving the functioning of Europe’s labour markets, and by that means improving economic performance and enhancing social cohesion.

It would be wrong to doubt the commitment, goodwill and talent that are embodied in this effort. But it remains very difficult to chart cause and effect between policy/law/social dialogue on the one hand and actual labour market outcomes on the other and thus to demonstrate the effects of the policy effort

It is true that Europe’s “social model” is more advanced than those in almost all countries outside the EU. It is also true that the first half century of European co-operation in the EU and its predecessors has seen big improvements in working and living conditions for the majority of people. We live for longer and have shorter working weeks and longer holidays. Our disposable incomes are higher in real terms, more people have the benefit of full education, and there are fewer accidents at work and in everyday life. Yet how much of that enormous success in the social field has flowed naturally from 60 years’ peace and from free markets, and how much is attributable, directly or indirectly, to specific legislative and policy interventions is essentially unknowable.

Nonetheless, an attempt has been made in the final chapter of *Industrial Relations in Europe, 2006* to trace links between socio-economic success and key features of industrial relations systems. This final chapter is entitled “Industrial relations and economic performance: an overview of research results” and it was drafted by Professor Henri Nadel of the University of Paris VII. His aim is to examine the question whether over the long run social expenditures can be considered as *investments* as well as *costs*. His starting point is that while social equity is an intrinsic value, namely that of justice, the social dimension of Europe has to be justified not just on its own terms but also “in terms of economic efficiency and as a productive factor.” Professor Nadel starts by looking at the available comparative indices of economic and social performance, some of which are highlighted in the table on the next page.

Table 5 Economic and social comparisons (EU-15 league positions)	GDP per head <i>OECD</i>	Growth competitiveness index (2005) <i>World economic forum</i>	Human development index (2003) <i>UNDP</i>	Taxation index (2003) <i>Forbes</i>
UK	11	5	8	2
Germany	5	6	12	9
France	8	12	9	15
Finland (best overall)	10	1	2	9
Greece (worst overall)	14	14	14	10

After analysing the available economic and social data and attempting to link them to features of national industrial relations systems, Professor Nadel's central conclusion is that, despite the acknowledged technical difficulties of assessing comparative performance, it appears that "income inequalities and wage distribution are more limited, average wages, fringe benefits and training are higher and unemployment on the whole is lower and less persistent in systems with high union density and high coverage by collective bargaining."

From a European perspective this may be fair, but not for the first time the UK appears to be an outlier here. Although our income differentials are wider than in most countries, we have high levels of employment and wages and our training performance is relatively good. Yet union density rates here are only average and collective bargaining coverage is distinctly uneven and highly decentralised outside the public services.

Britain may in many ways be more different in its social and employment policy from the other EU-15 countries than they are from each other. That is not however a good reason for UK employers and trade unions to stay aloof from what happens in Brussels since it so clearly affects us profoundly through the tripod of law, policy and social dialogue. By engaging with Brussels we can gain three valuable advantages:

- Early warning of what is on the horizon
- The opportunity to learn from elsewhere
- The chance to influence outcomes.

Standing aside from the EU policy process would mean rejecting the opportunity to influence policies which could be costly or difficult to implement at home. For public employers in Britain this opportunity to influence outcomes is through membership of CEEP UK, which represents NHS, local government, central government and university employers as well as Transport for London. For details, consult www.ceepuk.org or contact our Policy Officer, Dr. Tina Weber, tina.weber@lge.gov.uk.

Appendix 1 – List of Employment and Equality Directives

EU employment-related directives with reference to the UK implementing legislation

Title of EU Directive	Year (including amendment)	Relevant UK legislation
Collective redundancies	1975/1992/1998	Trade Union and Labour Relations (Consolidation) Act 1992
Transfer of undertakings and businesses (previously Acquired Rights Directive)	1977/2001	Transfer of Undertakings (Protection of Employment) Regulations 1981 (now replaced by 2006 Regulations)
Employer insolvency	1980/2002	Employment Rights Act 1996 Pension Schemes Act 1993
Information on individual employment conditions	1991	Employment Rights Act 1996
Working Time	1993/1999/2000/2003	Working Time Regulations 1998
Young people at work	1994	Working Time Regulations 1998, Working Time (Amendment) Regulations 2002
European Works Council	1994	Transnational Information and Consultation of Employees Regulations 1999
Parental Leave*	1995	Employment Relations Act 1996 and Maternity and Parental Leave Regulations 1999
Posting of Workers	1996	Employment Relations Act 1999 Equal Opportunities (Employment Legislation) (Territorial Limits) Regulation 1999
Part-time Work*	1997	Part-time Workers (Prevention of Less Favourable Treatment Regulations) 2000
Fixed-term Work*	1999	Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002
European Company Statute	2001	The European Public Limited Liability Company Regulations
Information and Consultation of Employees	2002	The Information and Consultation of Employees Regulations 2004

*these directives enacted framework agreements negotiated between the European social partners.

EU equal treatment legislation

Heading	Existing European legislation and pending proposals (in chronological order)
EQUAL TREATMENT BETWEEN MEN AND WOMEN	
<p>Equal treatment in employment and occupation</p> <p>[Sex Discrimination Act 1975 and Regulations 2005; Equal Pay Act 1970]</p>	<ul style="list-style-type: none"> • Council Directive 75/117/EEC on the approximation of the laws of the Member States relating to the application of the principle of equal pay for women and men • Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion and working conditions • Council Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes • Council Directive 96/97/EC amending Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes • Council Directive 97/80/EC on the burden of proof in cases of discrimination based on sex • Council Directive 98/52/EC on the extension of Council Directive 97/80/EC on the burden of proof in cases of discrimination based on sex to the UK • Directive 2002/73/EC amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion and working conditions • Proposal for a Directive on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast version) – COM/2004/0279 final
<p>Pregnant workers and parental leave</p> <p>[Employment Relations Act 1996 and Maternity and Parental Leave Regulations 1999]</p>	<ul style="list-style-type: none"> • Directive 92/85/EEC on the introduction of measures to encourage the improvement in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding • Council Directive 96/34/EC on the framework agreement on parental leave concluded by UNICE, CEEP and ETUC • Council Directive 97/75/EC amending and

	extending, to the UK Directive 96/34/EC on the framework agreement on parental leave concluded by UNICE, CEEP and ETUC
Equal treatment in statutory social security	<ul style="list-style-type: none"> • Directive 79/7/EEC on the progressive implementation of the principle of equal treatment of men and women in the field of social security
Equal treatment of self-employed persons and assisting spouses	<ul style="list-style-type: none"> • Directive 86/613/EEC on the application of the principle of equal treatment between men and women engaged in activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood.
Equal treatment in access to goods and services Sex Discrimination Act 1975	<ul style="list-style-type: none"> • Directive 2004/113/EC implementing the principle of equal treatment between men and women in the access to goods and services
ANTI-DISCRIMINATION LEGISLATION	
Race equality [Race Relations Act 1976 as amended in 2000 and 2003 Regulations]	<ul style="list-style-type: none"> • Racial Equality Directive 2000/43/EC implements the principle of equal treatment irrespective of race or ethnic origin
Employment Equality [Employment Equality (Age) Regulations 2006 Employment Equality (Sexual Orientation) Regulations 2003 Employment Equality (Religion and Belief) Regulations 2003 Disability Discrimination Act 1995 (as amended)]	<ul style="list-style-type: none"> • Employment Equality Directive 2000/78/EC implements the principle of equal treatment in employment and training irrespective of belief, disability, age or sexual orientation

Appendix 2 – Institutions of the EU

The European Commission

The European Commission is responsible for ensuring the implementation of the European treaties. Its primary function is to prepare legislation for the consideration of the European Council and the European Parliament. It has the power to take legal action against companies or Member States if they contravene or fail to implement EU rules.

The Commission operates through 27 Directorates General (DG), each with its own particular sphere of policy and legislation. The key DG active in the area of employment issues is the DG Employment, Social Affairs and Equal Opportunities. The current Commissioner is Vladimir Spidla, former Prime Minister of the Czech Republic. His Director General is Nikolaus van der Pas.

The President of the Commission itself, currently Jose Manuel Barroso who previously was Prime Minister of Portugal, is nominated by the Member States and then approved by the European Parliament. Each Member State nominates its own Commissioner (the UK's nominee is currently Peter Mandelson, the Trade Commissioner). The European Parliament cannot reject individual nominations, but it can reject the entire Commission, a power that has been used in the past.

The European Council and the Council of Ministers

The European Council brings together the 27 Heads of State or Government and the President of the Commission. The Presidency of the European Council is separate from the Presidency of the Commission and rotates between the Member States every six months. The 2007 Presidencies were held by Germany and Portugal and the 2008 ones will be held by Slovenia (the first of the new Member States to do so) and France. The UK last held the Presidency in the second half of 2005.

The Presidency of the European Council is an influential role as the ability to set the agenda allows national concerns to be given priority. Council meetings of different Ministers also take place during each Presidency. The key meeting of relevance to employment issues is the Council of Employment and Social Affairs Ministers.

Outside the six-monthly or quarterly meetings of Ministers, the business of the Council is conducted by permanent Brussels-based representatives of civil servants seconded from their home departments. The UK grouping of these civil servants is known as UKREP.

Together with the Parliament, the Council is the supreme legislative authority in the EU. It takes decisions by unanimity, simple majority or “qualified” majority, depending on the Treaty base of each legislative proposal. Many employment-related issues are subject to QMV, qualified majority voting. This allows for proposals to be defeated by so-called “blocking minorities”.

The European Parliament

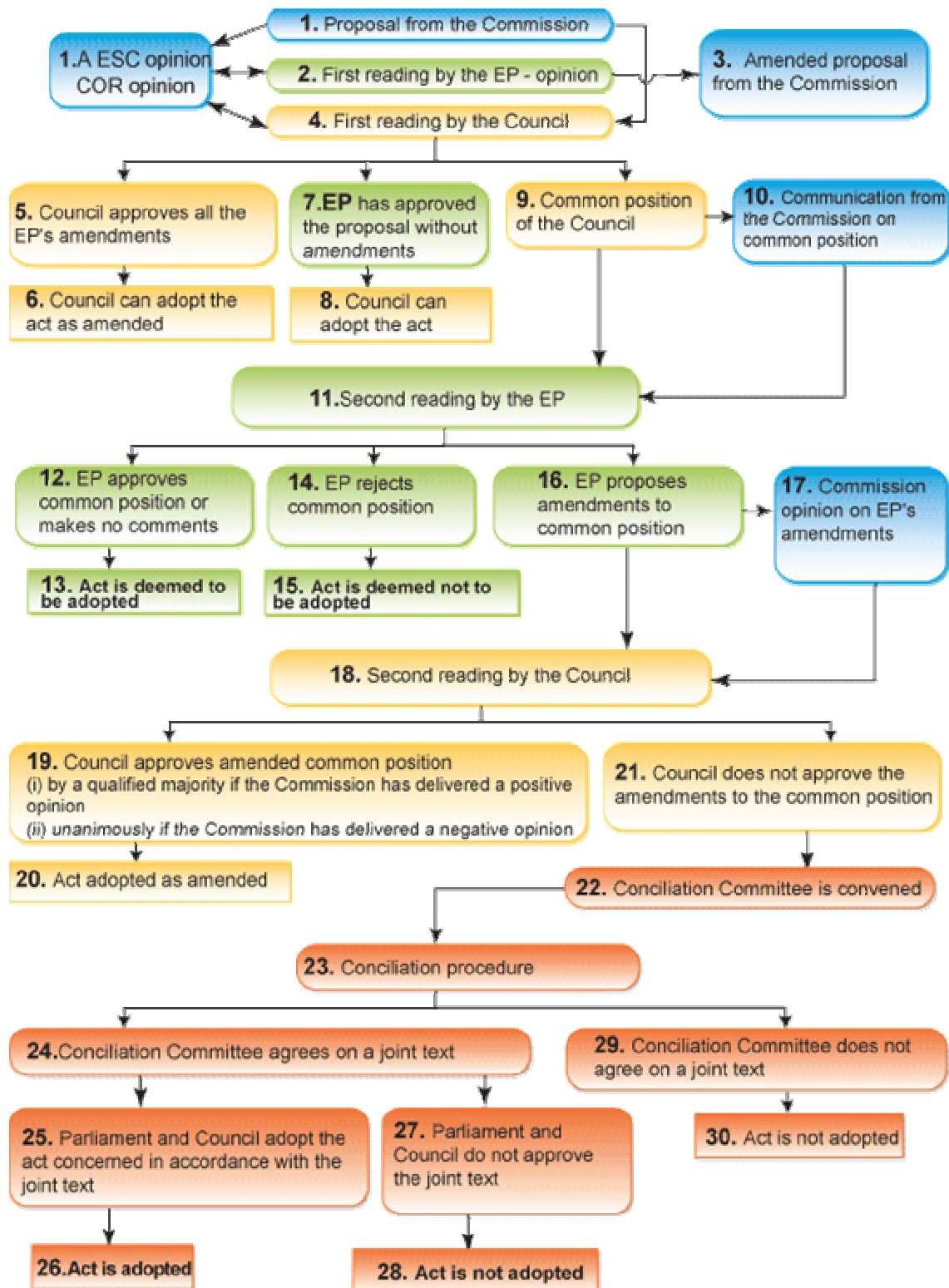
The Parliament is directly elected by citizens of all EU Member States every five years. The 1992 Maastricht Treaty and the 1997 Amsterdam Treaty turned the Parliament from a consultative assembly into a legislative parliament which shares power with the Council of Ministers in most areas of EU law.

The elections in 2004 for 25 countries returned 732 MEPs and shifted the political balance from centre left to centre right. There are seven main political groups:

- EPP: European People's Party and European Democrats. This group is currently the largest and currently includes the British Conservative MEPs
- PES: the Socialist Group, including Labour MEPs from the UK
- Alliance of Liberals and Democrats for Europe, including British Lib Dem MEPs
- Group of the Greens/European Free Alliance
- Group of the European United Left/Nordic Green Left
- Independence/Democracy group, including UKIP MEPs from Britain
- Union for Europe of the Nations Group.

Most of the work of the European Parliament is done in 20 specialised Committees. The most important Committee for the purpose of labour law and employment policy is the Employment and Social Affairs Committee. It is within these Committees that reports are first prepared which propose amendments to legislative proposals put forward by the Commission.

Appendix 3 - Flowchart of the co-decision procedure



Appendix 4 – List of Sectoral Social Dialogue Committees

Agriculture
Audio-Visual
Banking
Chemical Industry
Civil Aviation
Cleaning Industry
Commerce
Construction
Electricity
Extractive Industry
Footwear
Furniture
Gas
Hospitals
HORECA (Hotels, Restaurants, Catering)
Inland Waterways
Insurance
Live Performance
Local and Regional Government
Personal Services
Postal Services
Private Security
Railways
Road Transport
Sea Fishing
Sea Transport
Shipbuilding
Steel
Sugar
Tanning and Leather
Telecomms
Temporary Work
Textile and Clothing
Woodworking.

Appendix 5 – EU Guidelines on Employment Strategy

Guideline	Aims	Associated targets
Active and preventative measures for the unemployed and inactive	<ul style="list-style-type: none"> To prevent inflow to long-term unemployment To modernise labour market institutions To strengthen evaluation 	<p>Every unemployed person to be offered a new start before reaching six / twelve months of unemployment (young people / adults)</p> <p>By 2010, 25% of long-term unemployed to participate in active labour market policy measures</p>
Job creation and entrepreneurship	<ul style="list-style-type: none"> To foster entrepreneurship and innovation by simplifying and reducing administrative and regulatory burdens for start-ups and SMEs To promote education and training in entrepreneurial and management skills 	
Address change and promote adaptability and mobility in the labour market	<ul style="list-style-type: none"> To review and reform overly restrictive elements in employment legislation, develop social dialogue and foster corporate social responsibility To promote diversity of contractual working arrangements (e.g. to help achieve better work/life balance) To foster access to training To improve working conditions and health and safety To design and disseminate innovative forms of work organisation which improve productivity and quality in work To address skill shortages 	<p>By 2005, all jobseekers in the EU should be able to consult job vacancies through the Member States' employment services</p>
Promote development of human capital and lifelong learning	<ul style="list-style-type: none"> To implement lifelong learning strategies To reduce skills mismatch 	<p>By 2010, at least 85% of 22-year olds to have completed upper secondary education</p> <p>Average participation in lifelong learning should be at least 12.5% of the adult working age population</p>
Increase labour supply and promote active ageing	<ul style="list-style-type: none"> To increase labour market participation of all groups by increasing attractiveness of jobs, making work pay and raising skills To promote active ageing and 	<p>By 2010 to achieve an increase by five years of the average exit age from the labour market</p>

	<p>reduce early exit Where necessary to give consideration to the additional labour supply resulting from immigration</p>	
Gender equality	<p>To combine gender mainstreaming and specific policy actions to encourage female labour market participation To reduce gender gaps in employment and unemployment To introduce measures to improve the reconciliation of work and family life</p>	<p>To achieve, by 2010 a substantial reduction in the gender pay gap By 2010 to provide childcare to at least 90% of children between the ages of 3 and mandatory school age and 33% of children under the age of 3</p>
Promote the integration and combat discrimination against people at a disadvantage in the labour market	<p>To foster the integration of disadvantaged groups in the labour market (e.g. low skilled workers, immigrants, ethnic minorities etc.)</p>	<p>To achieve, by 2010 an EU average of no more than 10% early school leavers; a significant reduction in the unemployment gaps for people at a disadvantage according to national targets; a significant reduction in unemployment gaps between non-EU and EU nationals</p>
Make work pay	<p>To reform financial incentives with a view to making work pay (by reviewing tax and benefits systems)</p>	<p>To achieve, by 2010, a significant reduction in high marginal effective tax rates and the tax burden on low paid workers</p>
Transform undeclared work into regular employment	<p>To eliminate undeclared work</p>	
Address regional employment disparities	<p>To reduce regional employment and unemployment disparities by providing favourable conditions for private sector activity in regions lagging behind and ensuring that public support in these regions is focussed on investment in human capital</p>	

Appendix 6 – The European Social Fund and Related Programmes

There are three key funding programmes supporting the European Union's objectives and policies in the field of employment and social affairs:

- The European Social Fund (ESF)
- PROGRESS
- The European Globalisation Adjustment Fund

European Social Fund

The ESF was first set up in 1957 as a tool for investing in the skills and capacities of European citizens and therefore increasing employability and adaptability. It is one of the EU's Structural Funds, set up to reduce differences in prosperity and living standards between EU Member States and regions, and therefore promoting economic and social cohesion.

Funding from the ESF is spread across the Member States and regions, in particular those where economic development is less advanced. Over the period 2007-2013 some €75 billion will be distributed to the EU Member States and regions.

ESF strategy and its budget are negotiated between the European Commission and the Member States. Each Member State draws up an Operational Programme setting out national priorities for the use of ESF funding. This is then implemented through a wide range of public and private sector organisations including regional and local government and the social partners.

In the current programming period, the ESF's fields of activity include:

- Workers and new skills
- Businesses undergoing change
- Access to employment and social inclusion
- Education and training
- Women and jobs
- Fighting discrimination
- Working in partnership
- Better public services
- Transnational projects and networks
- Innovative actions

For further information on the ESF see
http://ec.europa.eu/employment_social/esf/index_en.htm

PROGRESS

PROGRESS is the EU's new employment and social solidarity programme. Working alongside the ESF, it started in 2007 and will run until 2013. This programme replaces the four previous ones that ended in 2006 covering actions against discrimination, equality between men and women, employment measures and the fight against social exclusion. The EU opted for a single programme to rationalise and streamline EU funding and concentrate its activities.

The new programme supports policy development in the following areas:

- Employment
- Social inclusion and protection
- Working conditions
- Non-discrimination
- Gender equality

PROGRESS has six general objectives. These are:

- To improve the knowledge and understanding of Member States' situation through analysis, evaluation and close monitoring of policies
- To support the development of statistical tools, methods and common indicators in the areas covered by the programme (broken down by gender and age group where appropriate)
- To support and monitor the implementation of Community law and policy objectives in the Member States to assess their effectiveness and impact
- To promote networking and mutual learning and identify and disseminate good practice and innovative approaches at EU level
- To enhance stakeholder and general public awareness about each policy area
- To boost the capacity of key EU networks to promote, support and further develop EU policies and objectives.

The programme has a global budget of about € 750 million for seven years.

For further information see

http://ec.europa.eu/employment_social/progress/intro_en.htm

The European Globalisation Adjustment Fund

The EGF was formally established in January 2007 with the aim of helping workers made redundant as a result of global trade patterns to find another job as quickly as possible. The idea for the fund came out of the 2005 Commission Report 'European Values in a Globalised World'.

The fund's main characteristics are that it:

- Is a 'rapid response' fund
- Is time limited, rather than for longer-term intervention
- Provides one-off support – Member States submit applications for funding based on a specific restructuring case
- Is specifically focussed on individuals, rather than the companies or sectors affected – this extends to individual workers affected in the supply chain
- Must be directly linked to the opening of markets and international competition – the fund has been presented as a "sign of solidarity from those who benefit from the openness [of trade] to the few who face the sudden shock of losing their job". There are claims that it is a political move by the EU to engage with citizens on the ground who are directly and adversely affected by globalisation.

The fund is able to provide up to €500m of support a year and Member States can receive up to 50% of the costs of their restructuring action plans.

A wide range of activities can be funded, ranging from job-search assistance, guidance and (re)training, through financial measures such as job-search allowances. Action to stimulate the integration of disadvantaged and older workers is particularly encouraged.



CEEP UK represents British public employers in Europe through membership of CEEP, the European public services employers' organisation.

For more information, please consult our website (www.ceepuk.org) or contact Tina.Weber@lge.gov.uk

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