CECOP
CICOPA Europe

European Confederation of
Worker Cooperatives,
Social cooperatives and
social and participative enterprises

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Green Paper:
« Modernising labour law to meet the challenges of the 21st century
European Consultation"

CECOP's draft position

Second secretariat's draft on the basis of the first draft approved by the Executive Committee (EC) and with the inputs expressed during the CECOP seminar on labour law (27.02.2007) including contributions from CECOP member organisations

General considerations

CECOP wishes to contribute to the debate opened by the Green Paper by focusing first and foremost on the concrete model provided by cooperatives in this field. Cooperatives are a particularly important model to be studied in the ongoing debate on labour flexibility and security, because it is through flexibility that those enterprises build security.

Indeed:

- Cooperatives are first and foremost member-based enterprises, the members being, ultimately, physical persons rooted in their community, and taking their entrepreneurial decisions in a democratic way. Because of their member-based characteristics, they do not normally delocalise, thus providing an important component of labour security to their workforce. At the same time, this basic security level is further enhanced by the fact that cooperatives generally require a high level of flexibility in order to both serve the needs of their members and their communities, and compete in the globalised economy; this characteristic tends to provide them with an important level of entrepreneurial vitality while not delocalising.

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- In most EU countries, cooperatives, most of which being SMEs, have established among themselves entrepreneurial instruments that reproduce the same horizontal governance system that exists at the grassroots enterprise level, such as financial tools, consultancy services, joint purchase consortia, groupings to compete for public tenders, as well as full-fledged horizontal groups, in which, in some cases, a system of workers' redeployment from one enterprise of the group to another concretely provides security through flexibility in times of economic difficulties in one enterprise of the group.

- Among the seven operational principles that are part of the cooperative standards enshrined in the Statement on the Cooperative Identity (approved by the general assembly of the International Cooperative Alliance in 1995), one is on education and training. In fact, cooperatives dedicate a substantial part of their resources to education and training to their members and staff, and have gained a substantial experience in this field over decades. Life long learning is a very important component in the capacity of cooperatives to combine flexibility with security.

- In most cooperatives in industry and services (known as worker cooperatives), the specific labour relation experienced by the workers-owners of the enterprise, called "worker ownership" and characterised by democratic management, is a strong element by which labour flexibility and security can be fully combined. Workers are sovereign in their entrepreneurial decisions and fully responsible for the choices they make. At the same time, the labour standards which they enjoy are generally similar or higher than in other types of enterprises.

- Cooperatives providing employment to disadvantaged workers (known as B type social cooperatives) such as disabled, long-term unemployed, socially marginalised persons, etc, are also characterised by worker ownership and a high level of flexibility in management and a total exposure to market competition. At the same time, they provide sustainable jobs to persons who would otherwise find it extremely difficult (and in some cases virtually impossible) to find one. This is, in our view, fundamental because the modern production system tends to exclude a certain fringe of the population who ends up having no access to the labour market. There is a fundamental need to rethink employment as an instrument of social well-being (federsol).

- Cooperatives specialised in the provision of social and community services (known as A type social cooperatives), are also characterized by worker ownership, require a very high level of service flexibility in order to increase their entrepreneurial strength and thus also their level of labour security.

- The capacity of cooperatives to provide decent and sustainable jobs in the globalised world is one of the main reasons why over 100 states, together with trade unions and employers' organisations from all over the world, elaborated a world wide instrument on cooperatives within the framework of the International Labour Organisation. ILO Recommendation 193 on the Promotion of Cooperatives was approved in 2002 with an almost total unanimity,

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and with a positive vote by all EU member states (including all the countries that have joined the EU since then), as mentioned within the European Commission's 2004 Communication on Cooperative Societies in Europe. It contains all the cooperative standards previously agreed upon among cooperatives throughout the world, as well as all the fundamental ILO labour standards. It recognises the importance of cooperatives in job creation, and proposes a number of concrete policy measures aimed to improve their productivity, strengthen their competitiveness, and develop their business potential.

- In order to ensure the specific standards through which worker and social cooperatives can provide secure jobs through their intrinsic flexibility, a World Declaration on Worker Cooperatives, based on ILO Recommendation 193, was approved at the 2005 general assembly of the International Cooperative Alliance. It formally states that worker ownership is a third type of labour relation, alongside wage-based labour and self-employed labour.

Within the framework of the Green Paper, we strongly invite the Commission to better study and understand the best practices of enterprises represented by CECOP at the European level (worker cooperatives, social cooperatives and participative enterprises), with their specific labour relation, because many of the questions posed by the Green Paper can find concrete solutions inspired by the entrepreneurial experience of those enterprises. In this sense, those enterprises can provide more than simply best practice: they can provide good instruments of active labour policies (Legacoopsociali).

For this reason, we also request the Commission to formally recognise that this type of enterprises represent a distinctive and unified type of labour relations, beyond the diverse national legal frameworks in which it is configured.

General problems faced by the text of the Green Paper

The Green Paper contains references to previous texts on labour law in the *Acquis Communautaire*, but without listing them exhaustively and without taking them fully into account. It would be convenient to list all the European texts on labour law which are on the Commission's website.

Many research tracks and propositions have been drafted in the 2003 Task force report: why the Green Paper does not take them into account?

Different social dispositions in the member states depend on the nature of the employment contacts: it would be convenient not to touch to the already acquired rights. An inventory of the different national legislations should be made.

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The text does not make any reference to the International Labour Organisation (ILO) conventions or recommendations that the different EU member states have adhere to or directly approved.

The drafting of the questions raises coherence problems and partial incompatibilities between the English and the French version.

As the green paper seems to deplore the excess of atypical work contracts, the European Council, in the integrated for growth and employment 2005-2008 proposed by the Commission, considers that the issue is to "to improve the adaptability of workers and enterprises and the flexibility of labour markets thanks to the diversity of work contract".

Many questions require political answers rather that juridical ones.

If we consider the European texts, we realise that there is no directive on "economically dependant workers", "workers participation to benefits", "fair income", "modernisation of work organisation", "temporary workers". Studies have been however carried out by the Commission on these topics but the procedures seem to be at a full stop. Well, issues such as "the modernisation of the work organisation" and "the temporary work" are included in the green paper.

As the green paper asks for a harmonisation of labour law, we can see in other European texts notions such as migrant workers or relocated workers (services directive).

Whereas in the introduction text, it is specified that « *The focus is mainly on the personal scope of labour law rather than on issues of collective labour law* », questions 2, 3 , 4 and 6 are about collective labour law.

Questions :

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

A first priority at the EU level should be to aim at general and basic principle that should be enforced across the EU (scmvd), but by leading the convergence process towards the countries where the labour standards are the highest, not the lowest. Harmonisation cannot be a medium point between various legislations, but should aim at reaching gradually the best conditions existing in the socially most advanced countries (balance between security and regulated flexibility) (ancpl).

Competition between different national legal statuses should be avoided: complementariness should be encouraged (cgscop).

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Among the recommendations of the 2003 Wim Kok Task force report, around three central topics namely invest in the human capital, increase the adaptability capacity, and make of employment an option for everyone, we consider the first one, namely investment in human capital, as being the most important one (ancpl, ancst,nauwc).

Indeed, business flexibility and labour security can be solved in training (coops uk). The flexibility of labour relations and the mobility of workers need to be accompanied by a supply in terms of training and re-skilling that really responds to the demand of the enterprises. Proper training policies should, in turn, be based on surveys of the economic tendencies. For example, the loss of jobs in industry can be largely compensated by jobs in services, and in particular social services, but the exact tendencies need to be carefully studied (ancst).

Beyond training itself, information systems on how to create or find employment should be improved. In particular, there is a general lack of information in government labour offices across the EU concerning the employment and job creation possibilities in cooperatives, which however create long-term employment characterized by participation in processes and responsibilities and the absence of delocalisation (nauwc, secretariat).

On the other hand, a proper balance should be found between a) favouring different labour contracts in the various sectors (Federsol), and b) avoiding the multiplication of various contracts which make it increasingly difficult for the worker to understand the legal status which he/she is entering in, and contribute to creating big disparities even inside the same enterprise (cgscop).

Harmonisation should take into consideration the specificity of certain labour statuses, such as the one of worker-member of a cooperative, which is not in competition with the one of conventional wage-earner: its difference has to do with a different level of commitment and responsibilities, thence also of rights. The work contract of the worker-member of a cooperative runs counter to the idea that the work contract boils down to being a kind of support to be the object of regular adaptations (in terms of flexibility or security): its essence is upstream, and is one of the tools of the production of economic and social value (cgscop).

Similarly, the specific status of disadvantaged workers in social cooperatives should be valued and encouraged (federsol). The fact that specific legislation on worker-members and on the disadvantaged worker in a social cooperative exist in different EU countries should be taken into consideration; the absence of worker-member legislation has, in turn, created problems in some other EU countries (coops uk).

Cooperatives in general, which are configured in general cooperative legislation in most EU countries, should be ensured an equal treatment in terms of registration procedures or other barriers (nauwc).

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Labour law reform should include career planning, favouring differences based on merit rather than on standardisation of hierarchical advancement, based on a Taylorist organisational model (federsol).

An important objective to be considered by labour law in Europe is the increase of employment in the territories (eg Southern Italy) and the segments of the population (lonely women, youth, over 50s, long term unemployed) that are furthest from the Lisbon objectives (ancst, nauwc, federsol).

There should be clear and active policy measures aimed at encouraging the creation of enterprises and jobs. Those measures are presently largely lacking throughout the EU (Ancpl, Legacoopsociali, secretariat).

2. Can the adaptation of labour law and collective agreements contribute to improved flexibility and employment security and a reduction in labour market segmentation? If yes, then how?

The drafting of the question is ambiguous. It is clear that adapting labour law and collective agreements can contribute to "improve flexibility and employment security and reduce labour market segmentation". In the same way, it could provoke the opposite result: it depends on the legislator's will and the way the problem is handled. The real question is thus "how" (second part of the question).

Concerning the relation between flexibility and security, we need to make the following considerations:

On the one hand, flexibility is a demand to face competition in as much as it does not derive towards precariousness, namely abuses deriving from the utilisation of a non-ending succession of short term contracts (ancpl, ancst). What has sometimes been done under the name of "flexibility" was in fact precariousness or even some kind of wild regulation (coceta).

On the other hand, the security principle mentioned here is in fact targeted mainly at providing more security to the enterprise, rather than to the worker. Under the so-called postulate that the firing of a worker can be more economical because the indemnities that he/she receives become lower, it is implied that the enterprises will be able to contract workers more easily because it will also be easier to fire them (coceta).

In the debate on the relationship between flexibility and security, and on the so-called flexsecurity concept, we need to emphasise the example of cooperatives as a good practice. Cooperatives are the major type of enterprise that manage flexsecurity in a socially responsible manner. On the one hand, being enterprises, they have to implement the law, thus complying with all of its requirements and thus all minimum standards. On the other hand, being member-based enterprises rooted in their territories and communities, with other objectives than the remuneration of capital (definition), open to all (1st cooperative principle) and

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committed to the community (7th cooperative principle), they do not delocalise even while they seek the highest possible level competitiveness, and do not easily fire workers coming from the very community to which they are committed. But, at the same time, being by definition member-based (they are associations of persons, not of capital) and thus participatory, their management can be, and usually is, highly flexible and thus responsive to the flexibility demands induced by competition (Fkü, secretariat).

3. Do existing regulations, whether in the form of law and/or collective agreements, hinder or stimulate enterprises and employees seeking to avail of opportunities to increase productivity and adjust to the introduction of new technologies and changes linked to international competition? How can improvements be made in the quality of regulations affecting SMEs, while preserving their objectives?

To respond to the first part of the question, here are a few national examples.

In Poland, none of the previous changes made in labour law as well as law about collective agreements had any impact on labour market flexibility or security. On the contrary, non – registered employment is growing. The main reason is a lack of motivation of employers to create new jobs because of a lack of assistance from state in this matter, as well as high costs for employers. Trade unions so far have not had a big influence on creating new employment (nauwc)

Over the last few years, in Spain, there have been various labour reforms, with the aim to improve the labour market and enterprise competitiveness. However, those reforms have not attained their stated objectives. Some of them generated more employment precarity, given the increase of temporary contracts, and even though, through two successive reforms, those temporary contracts have been transformed into long term ones through social security procedures. From this point of view, Spain is an example showing that the problems of employment precarity and lack of competitiveness are not related to labour law, but to the type of growth model proposed (coceta)

In Italy, with the legislative decrees for part time work and the "Biaggi" law 30 of 2003, many new types of contracts have been introduced, resulting in an improvement of labour market flexibility and efficiency and increasing enterprise competitiveness, thus favouring a decrease in unemployment rate. This confirms that a good regulation can be useful to the enterprises and to the workers. It is also a good example of a good cooperation between collaboration and collective agreements, although the trade unions should be more open to correct some rigidity of the latter. However, the labour market is still excessively segmented, and not yet endowed of a proper combination of flexibility and security. The present regulation does not sufficiently stimulate the adaptation of the productive system and of the workers' skills to the changes coming from the new Technologies and international competition. It is still necessary to harmonise the regulations and the costs for the various categories of labour relations, and to have a more rapid judiciary labour system than it is at present (ancpl, ancst).

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This is the response to the second part of the question.

It is doubtful whether an inflation of juridical norms will deliver measures aimed at developing the productivity and innovation of SMEs, considering that, unlike for large enterprise which can afford entire legal departments, it is already often very difficult for them to come to grips with the already existing complexity in the field of labour legislation (cgscop).

The focus should in turn be strongly on collective agreements, including for cooperatives (fkü), and, more specifically:

- Collective agreements should be able to adapt to the reality of SMEs, finding solutions that do not copy the practice of the large enterprises, but instead can encourage the growth and employment potential of the SMEs (ancst).
- The diversification of collective agreements in the various sectors should be encouraged. The existence of a diversity of collective agreements for the regulation of various sectors is a good indicator of a society which has reached a satisfactory level of evolution and sophistication in terms of dialogue between the social partners. It also represents a guarantee for a good level of security and flexibility (federsol).

The extention of the norms that encourage regroupings and consortia, like those which cooperative SMEs practice in a number of EU countries, could also give good results. SMEs often do not have adapted instruments on the side of security and on the side of services and training (ancst).

The legislation should encourage the enterprises that commit themselves to develop stable and long term jobs, like cooperatives often do, without considering the corresponding support measures as state aid incompatible with the European state aid regulation (ancst).

Finally, at the European level, there should be a promotion of best practice in the area of improvement of regulations affecting SMEs and in particular of collective agreements (nauwc, fkü). There are, in particular, a number of national best practices in the field of collective agreement involving the organisations of cooperatives (fkü, secretariat).

4. How might recruitment under permanent and temporary contracts be facilitated, whether by law or collective agreement, so as to allow for more flexibility within the framework of these contracts while ensuring adequate standards of employment security and social protection at the same time?

Referring back to our response to question 3, the level of employment flexibility and security is linked both to an efficient legislation that incorporates the inalienable social standards, and a proper system of work contracts within the framework of collective agreements, taking into consideration that an international effort is needed in order to foster a process of just and inclusive globalisation, with tangible opportunities in all countries (ancpl, fku). The collective agreement system should also be able to generate a general feeling that the employee is safe, which is not the rule, especially in central-eastern Europe (nauwc).

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As far as permanent contracts are concerned, the testing period should be sufficiently long so as not to discourage its utilisation. Concerning temporary work contract, the incessant repeat of contracts should be avoided, so as to avoid long term precarity (ancst). The perceived lack of flexibility of some temporary work contracts is due to the fact that the latter have been designed with the aim to combat proven abuses (cgscop).

There should be an analysis of the sectors and activities where temporary work contracts should be encouraged (coceta). The social services in which social cooperatives are deeply involved requires a high level of flexibility, which thus becomes a guarantee of continuity and labour stability because the production processes need to be flexible in order to maintain their level of compettiveness (federsol). The rule should be permanent contracts, temporary contracts should be for temporary activities (coceta, ancpl).

Here, it is necessary to underline, once again, the best practices that cooperatives can offer.

- First, at the enterprise level, cooperatives, and especially worker and social cooperatives that base their governance and management on the institution of the worker-member, are among the best examples of enterprises where the level of employment creation is growing, while maintaining a high level of employment flexibility and employment security.
- Secondly, cooperatives across Europe have developed cooperative solutions, eg cooperative groups and consortia, able to manage the rehabilitation and redeployment of workers.

(fku, secretariat)

5. Would it be useful to consider a combination of more flexible employment protection legislation and well-designed assistance to the unemployed, both in the form of income compensation (i.e. passive labour market policies) and active labour market policies?

A first remark is that, when reading the Green Paper, most of the work contracts seen as "atypical" are most of the time proposed by the employers in order to give more flexibility for them in terms of worker protection arrangements (reduction of the notice period, calculation of indemnities, false self-employed, etc…) (secretariat).

Increased flexibility in labour relations and higher and a more efficient state tutelage and guardianship in the labour market encourage the competitiveness of enterprises and encourage the mobility and re-skilling of workers (ancpl, ancst, fku)). States should focus on preventing long-term unemployment (nauwc), which leads to a vicious circle of which many workers never get out (nauwc, coceta): for this, the security of unemployment benefit is not sufficient (scmvd), active training and re-skilling are also essential (fku). The homogenisation of direct and indirect taxes, linked to various labour relations, appear to be necessary in order to avoid that such flexibility be utilised as an instrument of reduction of the labour costs, and not only as an instrument to face production demands (ancst, ancpl, fku).

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Concerning the relation between active and passive labour market policies, the Spanish example seems to suggest that the former should not be launched at the same time as the latter. Between 1975 and 1982, Spain flexibilised the measures aimed at breaking indefinite labour relations. The state established a Wage Guarantee Fund that provided indemnities in a given percentage if it could be proved that the enterprises could not face such indemnities. The consequence of this was a massive amount of lay-offs, large enterprise restructuring, as well as a financial ulcer for the state. At the same time, the public administration was supposed to promote employment, through incentives for the enterprises that employed unemployed persons.

A Spanish policy measure which is still in force and, instead, proved to be very efficient , is the capitalisation for unemployed persons: it is the payment of a one-time lump sum to unemployed persons who plan to create a worker cooperative or an employee-owned enterprise, equivalent to two years' unemployment benefit, and to be invested in the new enterprise. This made it possible to create many worker cooperatives and employee-owned enterprises since 1980 (coceta, secretariat).

6. What role might law and/or collective agreements negotiated between the social partners play in promoting access to training and transitions between different contractual forms for upward mobility over the course of a fully active working life?

The following priorities emerge in this respect.

Life long learning (LLL). In a "social state" aiming at social inclusion, the state must spend very substantially in training and should accompany the worker towards new work opportunities. Only through a constant training, both theoretical and practical, and a constant upgrading, can the worker improve and develop opportunities of personal growth. The training programmes are at the root of workers' dignity and create development and growth for the enterprise as well. For this reason, it is necessary to make sure that training be adapted to each specific job and give its full potential to the person's skills, so that he/she can develop his/her job in the best conditions both for him/herself and for the enterprise (ancpl, ancst, fku).

Legal support to LLL. Life long learning must be guaranteed by legislation, which should also provide specific support for social economy enterprises, including cooperatives, to do life long learning (see below) (coceta, ancpl).

Financial incentives to LLL. Legislation can also have an impact if it encourages investments in training, both through fiscal measures and through subsidies for periods in which the worker is absent from work in order to get trained (federsol, fku).

LLL and collective agreements. More attention should be paid to the question of life long learning in the collective agreement. Inside the collective agreements, possibilities of self-education as well as carrier path should be included. (ancst, nauwc, federsol, fku). There should be clauses on LLL in collective agreements in all enterprises (coceta).

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Enterprise practice and LLL. The possibility to identify, recognise and value the forms of organisational learning and on the job training which characterises the enterprises with a high participatory contents and high variability of the production process, such as cooperatives are. Cooperatives are enterprises based on learning (6th cooperative principle "Cooperatives provide education and training for their members, elected representatives, managers, and employees so they can contribute effectively to the development of their cooperatives" – ILO Recommendation 193 on the Promotion of Cooperatives, annex). Legislation should foresee that life long learning be carried out through the enterprises of the social economy, and in particular cooperatives, as worker, at a certain moment of their working life, can not only be trained within a cooperative, but even become a member of the latter.

7. Is greater clarity needed in Member States' legal definitions of employment and self-employment to facilitate bona fide transitions from employment to self-employment and vice versa?

Yes, a high level of clarity is needed in order to avoid hybrids (fku).

Given the complexity of the European picture in this field, it would be very important that the Commission produce a comparative survey (ancst).

In the specific field of cooperatives, there is a need for a better understanding of the figures of the worker-member and the non-member-worker, and the relation between both (fku and secretariat, inspired by coceta comment. Those figures are clarified in different fashions in the various national legislations and collective agreements, but there is a need for a better understanding at the European level (ancst, fku). Of course, subsidiarity should remain in this field as well (fku).

Legal clarity is a necessary basis for a correct legal tutelage of the labour relations. In Italy, a law on worker-members of cooperatives was voted (law 142 of 2001, modified by law 30 of 2003), in order to fill in the legal void concerning the figure of the worker-member. One of the important effects of the law has been to generate visibility and sharing of the organizational and functional norms of cooperatives on the part of the worker-members (federsol).

8. Is there a need for a "floor of rights" dealing with the working conditions of all workers regardless of the form of their work contract? What, in your view, would be the impact of such minimum requirements on job creation as well as on the protection of workers?

It is necessary to reach a minimum legal protection of the fundamental workers' rights (association, trade union activities, strike, maternity, notice, sickness, accident and maternity leave, workers' information, consultation and participation etc), taking into consideration, however, that collective agreements must produce a further definition of such rights, according to the various sectors, markets, contexts, and professional profiles (ancpl, ancst,

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nauwc, fku, coceta). This "floor of rights" should also include the ratios of taxes corresponding to the various forms of labour contract (ancst). Such basic floor of rights is particularly important for the new EU member states from Central and Eastern Europe which have a totally different background in terms of recent history: the difference between the situation in those countries and those of the EU-15 should be formally recognised by the Commission, and the Commission should take it into account in the implementation of this common floor of rights in these countries. In the same way, the concrete situation of those countries should be fully taken into account in the framework of such regulation (ucecom, nauwc, fku) and in its implementation measures.

A basic package of worker's rights already exists for cooperatives: it is formulated in the ILO Recommendation 193 for the Promotion of Cooperatives. Although an ILO recommendation is not as compulsory as a convention (which has the juridical status of an international treaty after ratification by a state), it is nevertheless an important document which should be taken into account and which the ILO member states are obliged to report on. Furthermore, all 27 EU member states formerly approved the Recommendation in Geneva in June 2002 (secretariat, fku).

We believe that there should be a basic floor of rignths

Cooperatives, however, do not content themselves to abide by minimum worker rights. The specific place which the person have within a cooperative, committing the person to the entreprise's objectives, has always prompted cooperatives to establish a worker status which provides higher protection than the average (cgscop, coceta, fku).

9. Do you think the responsibilities of the various parties within multiple employment relationships should be clarified to determine who is accountable for compliance with employment rights? Would subsidiary liability be an effective and feasible way to establish that responsibility in the case of sub-contractors? If not, do you see other ways to ensure adequate protection of workers in "three-way relationships"?

Yes. The responsibility for the working place and for the enteprise in co-operatives is obvious (nauwc, fku, coceta, scmvd).

Recently, in Italy, a series of legal instruments have been approved (Law 30/2003, Decree of application n. 276/03, Legislative Decree 223/06 transformed into Law 248/06, Financial law 2007) which define the responsibility for irregularities in the fields of wage and tax compensations of all the chain of workers (ancpl, ancst).

In Spain, the concept of contracting and subcontracting is regulated by law. Nevertheless, there are scenarios that can escape the legislation in the case of activities that are not those of the main enterprise. Thus, it is necessary to establish a proper legal regulation that defines the respective responsibilities, bringing about more legal security of the workers and avoiding

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fraudulent practices on the part of the enterprises, thus generating more clarity in the contracting and subcontracting relations, and allowing for job creation (coceta).

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

Yes.Europe has started to discuss the problem. The procedure seems to be at a standstill. It appears to be properly clarified, eg Italy and Spain (ancpl, ancst, confesal)

11. How could minimum requirements concerning the organization of working time be modified in order to provide greater flexibility for both employers and employees, while ensuring a high standard of protection of workers' health and safety? What aspects of the organization of working time should be tackled as a matter of priority by the Community?

This should be done first of all through the development of various collective agreements relative to the various sectors and their characterstics, the working time being one of the elements that are most linked to each production sector and to its productive process. Therefore, a good and diversified application of the collective contracts allow a transparent management of the labour relations, as well as a proper compliance of the labour rights.

A proposal would be to modify the present European directive on working time could offer more flexibility while maintaining proper level of occupational health and safety, in order to extend to 12 months (against the present 4 months) the period which national laws can use as a time reference to implement the weekly timetable as an average between high and low levels of presence at work, leaving to collective agreements the task to define the concrete implementation modalities (ancst, ancpl, federsol, fku). It is essential that a given compensation always correspond to a number of working hours, but it is essential to allow for flexibility in the management and concertation between the worker and the enterprise concerning the working timetable. In this way it is possible to concretise a mutual interest between the demands of production and the satisfaction of the extra-work need of the worker, and in particular health and family (federsol, ancpl).

12. How can the employment rights of workers operating in a transnational context, including in particular frontier workers, be assured throughout the Community? Do you see a need for more convergent definitions of 'worker' in EU Directives in the interests of ensuring that these workers can exercise their employment rights, regardless of the Member State where they work? Or do you believe that Member States should retain their discretion in this matter?

A gradual uniformisation of the labour rights should be put in place at the EU level, through collective agreements, with the purpose of reaching situations of excellence (ancpl). In this respect, the method of open coordination can provide satisfactory results (ancst), but thre could also be a community directive obliging the member States to consult each other on this

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topic (ancpl). Meanwhile, it is understood that, when a worker coming from a country with a higher level of labour rights goes to work in a country where those rights are lower, within the framework of his/her enterprise, his/her labour rights remain unchanged (ancpl).

It should be added that, whereas noone could possibly oppose the idea to build a "common trunk" of labour rights with national peculiarities, the definition of "common trunks" at the community level has unfortunately been, in the past, characterised by:

- Minimalist definitions of rights aligned on the lower common denominator (downwards harmonisation)
- The refusal to take in to account specific regimes.

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

Yes, control is a key measure in the concrete implementation of security with flexibility (coceta).

It should be clear that administrative law enforcement *per se* is not the task of the social partners, but of the public authorities (scmvd). Cooperation between the different member states' administrations, and the sharing of databases, is indeed a very relevant element in controlling the compliance to the labour legislation (ancst, federsol, coceta).

This being said, the social partners can work in the same direction, thanks to the direct knowledge which they have. The representative organisations of cooperatives,, which employ more than 5 million workers in Europe, and notably those representing worker cooperatives and worker-owned enterprises, which employ nearly 1,5 million workers, are ready to cooperate fully in this, both the ones working at the European level (such as CECOP) and at the national level (ancst, ancpl, federsol, fku, coceta, nauwc, cgscop).

14. Do you consider that further initiatives are needed at an EU level to support action by the Member States to combat undeclared work?

Yes. They should not only focus on only undeclared work, but also on declared work with reduced work guaranties similar to the undeclared work, through an instrumentalization of the existing models.

On the other hand, monitoring activities, which are essential, are not sufficient. It is necessary to design and implement incentives that create competitive advantages only to enterprises that can demonstrate that operate in full compliance with legislation (ancpl). It would also be useful to define a common EU information protocol on the enterprises that have been the object of severe sanctions for the violation of norms in the field of violations of labour standards (ancst, scmvd). It would also be useful to combat, through the open coordination method, phenomena that distort the labour market and are already present in various EU

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countries, such as false worker cooperatives (ancst). Good practice should also be encouraged (nauwc). The role of the social partners in this work is also fundamental (coceta).

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