

Working Group XI

Working Document 14

Working Group XI “Social Europe”

Subject: **Comments on paragraphs 4 to 7 of the Mandate
by Mr Peter Hain**

Members of Working Group XI on “Social Europe” will find hereafter a paper by Mr Peter Hain, member of the Convention.

Convention on the Future of Europe: the Social Europe Working Group

Comments on paragraphs 4 to 7 of the mandate of the working group from Peter Hain, UK Government representative

I welcome this opportunity to provide further comments on the questions of the mandate. I look forward to elaborating on these points as discussions in the Social Europe working group progress onto these issues.

The Union can be proud of its efforts so far in giving its citizens a higher standard of living and greater social cohesion. But too many Europeans remain on the margins of society and millions are without work. How can the problems of social exclusion and unemployment be addressed?

I do not believe that a major revision of the social provisions of the Treaty would necessarily improve social cohesion or employment levels. However I do think that much more could be done through benchmarking and the exchange of best practice under the open method of co-ordination. Also the social dialogue could make an improved contribution to improving social cohesion, if it is revived and made more imaginative.

My comments below expand on these thoughts in the order of points 4 to 7 of the mandate.

4. The Open Method of Co-ordination

The Treaty could be amended to emphasise the importance of the use of the open method of co-ordination, for example in areas such as employment.

Since 1997 there has been a considerable expansion of benchmarking and peer review within the EU in the employment and social field: the Employment Guidelines; the extension of the “open method of co-ordination” to social inclusion agreed at Lisbon; and the decisions to extend co-operation in pensions and health-related areas, such as long term care for elderly people.

The key task of the Employment, Social Policy, Health and Consumer Affairs Council would be to define the main challenges facing the EU if we are to meet the Lisbon goals in these areas. The Council should discuss and share best practice on how these challenges could be met. This could include ideas to:

- Raise rates of employment participation, especially for older workers and female workers, through targeted measures to reintegrate the workless into the labour market;
- Reform welfare systems to make work pay;
- Promote employability through modernising training systems, tackling adult illiteracy, expanding lifelong learning, and encouraging higher education institutions to increase access to students from disadvantaged social groups;
- Reform pensions to ensure financial sustainability as the EU population ages;
- Meet the challenges of a more diverse, equal and multi-ethnic European society, in the context of enlargement; and
- Tackle the multiple causes of social exclusion and poverty.

Member States would draw up Action Plans in these areas. Inevitably, they would have to be less precise in some areas than others. But Member States would report annually on progress made. And the Commission would also analyse and review the Action Plans. The European Parliament and Committees of the appropriate National Parliament would debate the Commission's findings. The Commission would have the power to make formal non-binding recommendations to Member State Governments and directly inform National Parliaments of their views with the intention of opening up the peer review process and making it part of national political debate.

This strengthened and streamlined process of social and employment benchmarking would enable Europe to set common goals, while retaining the national flexibility to tackle them. Of course we should avoid setting EU wide "measurable objectives" or "targets" which are inappropriate given the diversity of social systems in Member States. Benchmarking should take place not just against the best within the EU but also against the best in the world.

5. The relationship between economic and social co-ordination

I support the integration of social and employment objectives into the Broad Economic Policy Guidelines.

6. Qualified Majority Voting and Co-decision

In the enlarged Union it is right that we look again at procedures and decision-making processes. Work elsewhere in the Convention has done this. In some policy areas (such as aspects of Justice and Home Affairs) greater application of QMV may be desirable. However in the area of social policy the areas that currently require unanimity cover issues at the heart of industrial relations and social security in each of our countries.

Different Member States have very different systems. These have developed over many years to take account of particular traditions and cultures. Codetermination, for example, is an area where radical differences in approach exist between Member States. It is central to the German business model, but it is not part of the Scandinavian model, nor is it part of the British model where voluntary, non-binding collective agreements are the norm. Failing to recognise this diversity could have a serious effect on the future of industrial relations in each of our systems.

Since 1997, the UK Government has been engaged in a delicate balancing act, providing a better working environment through its fairness at work programme but maintaining the flexibility of the UK labour market. We do not want to see that balance upset. Indeed, there are arguments for some competence (such as on collective representation and defence) to be returned to Member States because of the close correlation with the areas excluded under Article 137.5. Similarly, we believe that the funding and organisation of social security systems is for Member States to decide in the light of their own needs and priorities.

7. The role of the Social Partners

A common complaint is that social dialogue at European level is “blocked”. The employers see the unions as wanting to use social dialogue to extend workplace regulation using the Article 139 procedures. As a result they hold back from any willingness to negotiate on issues, so that the Commission has then to decide whether to bring forward a legislative proposal of its own: the employers look to the Council to block this.

This situation is sterile. Both employers and trade unions should show imaginative leadership in reviving social dialogue and building social partnership. Reviving the social dialogue is crucial if we are serious about improving social cohesion. The employers should be encouraged to take social dialogue seriously – but the unions need to provide some assurance that they are not seeking prescriptive legislation through the back door.

The autonomous work programme announced on 28 November 2002 is a good start to re-energising the social dialogue. We need to leave scope for the social partners to identify their own areas of activity, linked to the delivery of the Lisbon goals or to the challenge of raising productivity. But there are certainly many topics where social dialogue ought to be fruitful, for example:

- A company framework for lifelong learning (employee entitlements and obligations, course attendance and performance responsibilities);
- Overcoming obstacles to labour mobility within the Union;
- New forms of work organisation;
- The future of occupational and new second tier pensions;
- How good practice in companies can best be transferred; and
- How to support and sustain a diverse workforce, including attention to work-life balance and reducing the pay gap.

The EC Treaty accords the social partners a powerful role under Articles 138 and 139. That role needs to be undertaken responsibly. I believe that the social partners can take on board much from the Commission’s Better Regulation Package and Good Governance initiatives, in particular the preparation of impact assessments and measures to improve transparency. The social partners also need to be able to speak for as wide a constituency as possible.

A key part of this responsibility lies in ensuring that the social dialogue is fully representative of its wider constituency, both employers and employees. Greater consideration should be given to the way in which the excluded (including the unemployed) are included in this process. One significant category of those currently inadequately represented within the social dialogue are small and medium-sized enterprises (SMEs), which make up 98% of the EU’s businesses and 56% of the EU’s employees.

The Treaty currently notes in Article 137 the need to avoid imposing administrative, financial and legal constraints which would hold back the creation and development of small and medium-sized undertakings. I support retention of this provision, but believe the Union needs to establish an effective mechanism to ensure it is fully achieved. I propose that the Social Europe Working Group should recommend that a report be produced examining the current position of SMEs in relation to the social dialogue – both in terms of their input to it, and its impact on them; and putting forward conclusions on how to improve this.

The UK Government welcomed the social partners' intention to take responsibility themselves for implementing their agreement on teleworking in accordance with the procedures and practices specific to management and labour and the Member States. This has provided a welcome boost to the social dialogue process. But such voluntary agreements should not form part of Community law. Their merit is in their flexibility so that they can be adapted to the national traditions and practices of the social partners in each member state. Legally binding collective agreements are not the norm in all countries. The UK for example, has a voluntarist and decentralised approach to social dialogue – the social partners can make their agreements legally binding if they want to but they invariably decide not to do so.

Finally, there is nothing currently stopping the social partners reaching agreements between themselves on matters such as pay or the right to strike. They are not constrained by the Treaties and can act freely outside them. There is no need to write specific provisions in the Treaty unless the desire is to create EU-wide laws and as I have argued before, the areas currently excluded by Article 137.5 are of such sensitivity and so rooted in national traditions, cultures and practices that they should remain the preserve of Member States.