

Social and Employment Balance of Competences

Brussels Roundtable Event 13 November 2013

Before discussion started on the 3 main questions, attendees raised some questions about the scope of this particular call for evidence. These included pensions portability, co-ordination of social security and the European Semester.

Question 1: Is EU intervention in social and employment areas a necessity for the function of the single market (SM) or are these interventions desirable on their own? (And to what extent?)

Summary:

Key issues within discussion of this question included:

- Concerns about the question wording suggesting it had to be either/or; additionally some comment that there felt an inherent bias in the question wording.
- Debate on the strategic objectives – what exactly are we aiming for with the Single Market?
- Clear different perceptions
- Moral and other imperatives to intervention

Detail:

Discussion began with a “question on the question”. One attendee felt strongly that the way the question was posed suggested there was either or, and that posing the question in this way was damaging. It was about defining what we meant by the good functioning of the single market. There appeared to be mixed views about what the single market actually needs to achieve.

Many contributors commented that it helped to break down and consider the question by example. Examples raised included:

- Pregnant Workers Directive: different views were expressed. On the one hand it is right that we should pursue this good social aim and address at EU level; on the other that the EU should not be dictating maternity leave practices to Member States – that this was an example where EU intervention would be going too far.
- Accessibility Act (not in scope of social and employment but illustrated this tension)
- Equal Pay: this may have been in place originally for free market reasons, but legislation in this area has developed
- Free Movement of People/ Posting of Workers interventions: cited as examples of single market interventions, but where their final form may in fact act against, or not as strongly or, those single market aims. A risk that in pursuit of both goals, neither may be achieved.

Another view was that the moral argument was important but so was providing a level playing field. The UK knew what it was signing up for, values included, so why did we need to have this debate now?

On attendee suggested that if one MS wished to take control domestically then you would have to assume that all other MS would get the same; this would no longer be a single market but an integration of individual markets. This would also create a problem of exploitation of workers, some business' and would therefore be a disadvantage.

The view was expressed that there were already daily discussions in the course of EU business around proportionality and subsidiarity – these were not new but part of EU life. One attendee commented that Social Partner agreements did not follow these tests/ were not subjected to the same scrutiny.

Question 2: What is the evidence that EU action in social policy advantages/disadvantages member states?

Summary:

This was a broad discussion. Some of the key issues raised were:

- It can be difficult to judge the overall benefit and will be easier to look at examples. There some positive social equality and HSE examples.
- A question was raised about whether there was too great a focus on outcomes rather than processes.
- It was suggested that the economic crisis can lead to different judgements.

Detail:

Thought processes include – people/mechanisms, other costs admin burden but country may not need it at that time. Not all Member States might have the same problem and hence need the legislation. There is question about proportionality.

Member States may be assuming same aims/objectives but they will have different views on how to achieve these objectives. You would expect convergence of growth but there is evidence on divergence of outcomes (e.g. unemployment rate in MS across EU). The latter is against Single Market operation.

Other MS view – Social Policy over last 20-25 years played a key role in shaping the legislation (positive impact). MS have different views on proportionality.

It could sometimes help MS to be told that EU has forced new social legislation.

Pure Social Policy – not much input due to limited competence. There is only the European social charter but it has played a role in shaping.

The scrutiny of EU action and legislation varies from time to time depending on what the issue is. In the case of some EU law it is at the wrong time to

bring it in and not necessary. This leads to greater administration for MS. Some states may have a similar law in place but have to do all that work for minor change. All MS should be allowed greater flexibility. If MS are already meeting the aim of a new legislative proposed/introduced it should not be forced to implement.

Is there sometimes too much focus on process rather than outcomes? Too much prescription on how we are supposed to reach outcomes?

MS should be allowed to enforce laws differently if it gives the same outcome. New legislation is a big burden and there is no need for it or MS don't actually want what the Commission proposes. They should look to different areas because it should not always be bad regulations, but give more freedom instead.

There was a difference of opinion about whether or not the UK would have social policy without the EU with some suggesting it would not [and that the EU helped union representation] whilst others said that if the UK had a free choice, then they would have these laws anyway.

It was stated that there was Political influence (all levels of Gov't) in the EU that had to be used in order to show the MS that the country has recognition in EU matters and they do this in order to be voted back in at the next elections.

There was a discussion about the different institutions. The EP has a big role – and has shown some sign of preference for maximum standards. The Commission/Council may be reasonable.

It is different to National Parliaments – legislative machine not always perfect. Just more players at the EU legislative level.

Specifically in relation to the Employment Committee – it was suggested that the majority have (?) left and there is a question regarding balance in committee.

Crisis has brought a different angle to matters ...costs are a bigger deal at the current time.

Cost of measure is very important - EP process need to factor costs/impacts more. But EP does not have that line. Only national parliamentarians have that responsibility/accountability.

Case for EU action but not always legislative action. AWD admin burden is a good example for this. Gender quotas – UK = positive process. There were also comments raised on uncertainty over ECJ rulings.

Business want high importance on evidence base.

Question 3: How could action in social policy be undertaken differently?

Summary:

The discussion focussed primarily on the role of social partners and impact assessment:

- There is a spectrum of possible reforms that should be considered for social partner agreements
- The standard of IAs can be made better. MEPs should use IAs better and proposals should be less politically driven.

Detail:

Many different means by which better outcomes can be achieved. Should all social policy be subject to social dialogue?

Page 20 paragraph 28 of CFE is controversial – some objective to putting this in black and white

On social partners, the following points were raised:

- Understanding their role and where not a part of UK traditions.
- Need some reform some accountability for SPAs
- Autonomous social policy in treaties cannot change. Could it support be better? E.g. with analytical legal input?
- SPs – right of initiation
- Spectrum of potential amendments to the SPA process

On Impact Assessments, the following points were raised:

- There was a discussion of the rigour of IA process at EU level: Board member cannot be conflicted; Need approval to go forward
- There are examples where policies are not evidence based and are driven politically. Impact Assessments are required in more instances.
- IA board needs to see significant improvement in IA quality. They want to see negative opinions binding. The level of scrutiny is not the same for EP (e.g. amendments). MEPs could get more non-political input to this

We can work with other MS more on social policy – not just with EU initiative in the background. This is something that is presented in the CBI report lesson.

There is a need for softer co-operation and greater information sharing across MS.