REPORT OF THE DISCUSSION FORUM ON THE GREEN PAPER ON MODERNISING LABOUR LAW

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1. Method and Orientation; 1.1 Orientation; 1.2 Method; 2. Modernising and Increasing the Flexibility of Labour Law (Cluster 1); 2.1 Priorities; 2.2 Flexibility, Employment Security and a Reduction in Labour Market Segmentation; 2.3 Hindering or Stimulating Effect of Current Regulations; 2.4 Simplifying, Increasing Flexibility, Employment Security and Protection for All;
3. Passive and Active Labour Market Policy, Training (Cluster 2); 3.1 Relationship Between Labour Law and Social Security Law; 3.2 Training; 4. Legal Definition of the Employment Relationship and Basic Rights for All Work (Cluster 3); 4.1 Definitions of Employment and Self-Employment; 4.2 Minimum Employment Rights; 5. Multiple Employment Relationships (Cluster 4); 5.1 Multi-Party Relationships: General; 5.2 Temporary Agency Workers; 6. Working Hours (Cluster 5); 7. Transnational Contractual Relations and the Community Concept of Employer (Cluster 6); 7.1 Workers Operating in a Transnational Context; 7.2 The Community Concept of the Employer; 8. Enforcement and Undeclared Work (Cluster 7); 9. Questions not Asked (Cluster 8); 9.1 Limited Attention to Collective Labour Law; 9.2 Attention to the Environment.

On 1 and 2 February 2007 the Institute for Labour Law (Instituut voor Arbeidsrecht) of the Catholic University of Leuven and the Department of Social Law and Social Policy (Departement Sociaal Recht en Sociale Politiek) of Tilburg University organised a two-day discussion forum on the Green Paper of the European Commission on Modernising Labour Law (COM 2006/708 of 22 November 2006). Day 1 was held at the Catholic University of Leuven and day 2 at Tilburg University.

This forum brought together a group of academics and lawyers from Belgium and the Netherlands, all of whom specialise in labour law and employment relations. The participants were:

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The purpose of the discussion forum was to exchange ideas about the Green Paper and the questions posed by it. This exchange of ideas is summarised below as objectively as possible. This report is open for inspection and has been compiled for submission to the European Commission Directorate General of Employment, Social Affairs and Equal Opportunities.

The discussion was organised as far as possible according to the chronology of the questions posed by the Green Paper to ensure that the document fits in with the structure and communication strategy on which the Paper is based. However, it is preceded by an introductory discussion of preliminary observations, such as the method and general orientation of the Green Paper, and concludes with a section on questions that are not addressed in the Green Paper, but which cannot be avoided in the modernisation of labour law.

1. METHOD AND ORIENTATION

1.1 Orientation

The Green Paper is entitled “Modernising Labour Law to Meet the Challenges of the 21st Century.” The Paper broaches this subject in the context of the Lisbon Strategy, to which the notions of flexibility, security and the challenges of the European labour market are central. What emerges from the discussion is that the call for modernisation of labour law is certainly opportune, although a flexicurity approach may not be the only, or even the most preferred, approach to take in this