Modernising labour law to meet the challenges of the 21st century: Green Paper

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The European Parliament adopted, subject to amendments, the report by Jacek PROTASIEWICZ (EPP-ED, PL) on modernising labour law to meet the challenges of the 21st century. It was adopted by 479 votes in favour to 61 against with 54 abstentions.

The Parliament welcomes a new approach to labour law that aims to cover all workers regardless of their contractual situation. It welcomes discussions on the need to improve labour law to meet the challenges of the 21st century, which mean that employers and employees alike require greater flexibility, and the need to provide greater security than may currently be associated with non-standard forms of employment, and to enhance the protection of vulnerable workers, in order to create more and better jobs and greater social cohesion, thereby helping to achieve the goals of the Lisbon Strategy.

Parliament calls for the creation of flexible and secure contractual arrangements in the context of modern organisation of work. It considers that among the priorities for labour law reform within Member States are:

- facilitating the transition between various situations of employment and unemployment;
- ensuring appropriate protection for workers in non-standard forms of employment;
- clarifying the situation of dependent employment and the grey areas between self-employment and employees with a dependent employment relationship;
- taking action against undeclared work.

MEPs stress the social and economic priority of getting more people into employment in order for the European economy to be able to compete globally and to fulfil the promises of social security;. They underline that the high unemployment in Europe today undermines wealth and future prosperity as well as European competitiveness and, even more importantly, creates social segregation.

Strengthen the indefinite employment contract: regretting that the social partners were not consulted on the future of European social policy, the Parliament considers that, if labour law is to meet the challenges of the 21st century, it must focus to a large extent on employment security throughout a worker's life rather than protecting particular jobs, making it easier both to enter and to stay in the labour market and to change from unemployment to employment and from one job to another through the use of active labour policies focused both on human capital development to enhance employability and on creating a supportive business climate as well as improving the quality of jobs.

It notes that the permanent full-time contract is the common form of the working relationship and as such should be seen as the reference for a coherent and consistent application of the principle of non-discrimination. Therefore, it believes that European labour law should recognise employment contracts of an indefinite duration as the general form of employment where adequate social and health protection is provided and respect for fundamental rights is ensured.

Parliament strongly disagrees with the analytical framework presented in the Green Paper, which claims that the standard indefinite employment contract is outdated, increases labour market segmentation and the gap between "insiders" and "outsiders", and must therefore be regarded as an obstacle to employment growth and improved economic dynamism. For the Parliament, labour legislation is only efficient, fair and strong if it is implemented by all Member States, applied equally to all actors and controlled on a regular

basis and in an efficient manner. It requests that within the "Better legislation" initiative the Commission should strengthen its role as Guardian of the Treaty concerning the implementation of social and employment legislation.

The report points out that there is no evidence for the claim that reducing dismissal protection and weakening standard employment contracts facilitates employment growth; points out that the example of the Scandinavian countries shows clearly that a high level of dismissal protection and employment standards is fully compatible with high employment growth. Parliament expresses its deep conviction that creating insecure, poorly-paid jobs is not an appropriate response to the relocation trend affecting more and more sectors; considers, on the contrary, that it is investment in research, development, training and lifelong learning which will be able to boost those sectors which are currently suffering from a lack of competitiveness.

Equal treatment: MEPs stress that the Green Paper should focus on labour law itself. They urge the Commission to promote collective labour law as one of the means of increasing both flexibility and security for workers and employers. They firmly believe that any form of employment, whether non-standard or otherwise, should carry with it a core of rights regardless of the specific employment status, which should include: equal treatment, workers" health and safety protection and provisions on working /rest time, freedom of association and representation, collective bargaining, collective action, and access to training. At the same time, they stress that these matters should be adequately enforced at Member State level, taking into account the different traditions and social and economic circumstances in each country; underlines that Community legislation is not in contradiction to national legislation, but should be viewed as complementary.

Parliament request that all workers have access to the same level of protection and that certain groups are not excluded by default from the broadest level of protection, such as is currently often the case for seafarers, workers on vessels and offshore workers as well as workers in road transport; requests that efficient legislation should apply to all persons regardless of the place where they work.

It notes with great concern that the Green Paper, while recognising that the current labour market conditions create gender inequality, for example in terms of the gender pay gap and occupational and sectoral segregation, totally ignores the obligations and responsibilities under the Commission Communication 'A Roadmap for equality between women and men'. Although the Parliament recognises that women face an imbalance between their professional and private lives, it ignores the urgent need for action to reconcile professional and private life with demographic challenges,

Parliament is of the opinion that reforms of labour law should facilitate companies' investment in the skills of their workers, stimulate workers to upgrade their own skills and guarantee the intervention of social security systems to ensure such an approach. It stresses the importance of arriving at a degree of consistency in the field of labour law, which may be achieved though directives and collective agreements and the open method of coordination and urges the Commission to take account of the vast differences that exist between national labour markets and the Member States' competency in this area.

As regards cross-border workers, Parliament considers that the rights of cross-border workers could be adequately protected under the relevant legislation if it were effectively implemented and that the aim of adopting a single definition of a worker and a self-employed person under Community law is extremely complex because of the very different social and economic realities and traditions in the individual Member States.

Flexicurity: MEPs strongly condemn any abusive replacement of regular employment with new forms of employment without any imperative economic necessity, only the aim of maximising short-term profits to a far greater extent than normal, at the expense of the general public, employees and competitors. They stress that any such action violates the European social model, as it lastingly destroys the consensus,

fairness and trust between employers and employees and urges Member States and the two sides of industry to take action in this regard in order to halt any irresponsible abuses. They recall that flexicurity is defined as combining flexibility and security in the job market in a way that helps increase both productivity and the quality of jobs by guaranteeing security, while at the same time allowing firms the flexibility needed to create jobs in response to the changing needs of the market. Flexicurity can only be achieved by effective and modern labour law that reflects the changing realities of work according to the Parliament. Parliament also believes that older workers should be able to remain in the workforce on a voluntary and flexible basis, supported by appropriate training and healthcare at work. MEPs call on the Member States to strengthen rights for parental leave and childcare provisions at both national and European level for both men and women.

Social dialogue: the Parliament highlights the valuable role played by the social partners which already achieved some success in reforming labour markets. It calls on the Commission and the Member States, under the "Better legislation" initiative, to cooperate constantly with the social partners, and where appropriate other, relevant, representative civil society bodies on any legislation in the labour law or social policy fields, with a view to simplifying administrative procedures facing SMEs and new firms in particular, making their financial situation easier to increase their competitiveness in order to create jobs. It stresses the need to regulate joint and several liability for general or principal undertakings, in order to deal with abuses in the subcontracting and outsourcing of workers and to set up a transparent and competitive market for all companies on the basis of a level playing field regarding respect for labour standards and working conditions. In particular, the Parliament calls on the Commission and the Member States to clearly establish who is responsible for compliance with labour law and for paying the associated wages, social security contributions and taxes in a chain of subcontractors. The Commission is called upon to facilitate the establishment of a dispute settlement system, to enable the European agreements between social partners to develop into an effective and flexible tool that can foster a more effective regulatory approach at European level.

Lastly, Member States are called upon to remove the restrictions on access to their labour markets and thus improve worker mobility within the EU, thereby enabling the goals of the single market and the Lisbon Strategy to be achieved more swiftly.