





Basic information	
2007/2023(INI) INI - Own-initiative procedure	Procedure completed
Modernising labour law to meet the challenges of the 21st century: Green Paper Subject 2.30 Free movement of workers 4.15.12 Workers protection and rights, labour law	

Key players				
European Parliament	Committee responsible		Rapporteur	Appointed
	EMPL	Employment and Social Affairs	PROTASIEWICZ Jacek (PPE-DE)	13/12/2006
	Committee for opinion		Rapporteur for opinion	Appointed
	ECON	Economic and Monetary Affairs	GOTTARDI Donata (PSE)	13/03/2007
	ITRE	Industry, Research and Energy	The committee decided not to give an opinion.	
	IMCO	Internal Market and Consumer Protection	DE VITS Mia (PSE)	01/03/2007
	JURI	Legal Affairs	The committee decided not to give an opinion.	11/06/2007
	FEMM	Women's Rights and Gender Equality	LIOTARD Kartika Tamara (GUE/NGL)	24/01/2007
European Commission	Commission DG		Commissioner	
	Employment, Social Affairs and Inclusion		ŠPIDLA Vladimír	

Key events			
Date	Event	Reference	Summary
22/11/2006	Non-legislative basic document published	COM(2006)0708 	Summary

15/02/2007	Committee referral announced in Parliament		
18/06/2007	Vote in committee		Summary
25/06/2007	Committee report tabled for plenary	A6-0247/2007	
10/07/2007	Debate in Parliament		
11/07/2007	Decision by Parliament	T6-0339/2007	Summary
11/07/2007	Results of vote in Parliament		
11/07/2007	End of procedure in Parliament		

Technical information	
Procedure reference	2007/2023(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Strategic initiative
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Stage reached in procedure	Procedure completed
Committee dossier	EMPL/6/45736

Documentation gateway				
European Parliament				
Document type	Committee	Reference	Date	Summary
Committee draft report		PE386.608	17/04/2007	
Committee opinion	FEMM	PE386.537	08/05/2007	
Amendments tabled in committee		PE388.472	21/05/2007	
Committee opinion	ECON	PE388.401	05/06/2007	
Committee opinion	IMCO	PE388.479	06/06/2007	
Committee report tabled for plenary, single reading		A6-0247/2007	25/06/2007	
Text adopted by Parliament, single reading		T6-0339/2007	11/07/2007	Summary
European Commission				
Document type	Reference	Date	Summary	
Non-legislative basic document	COM(2006)0708 	22/11/2006	Summary	

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

PURPOSE: to launch an EU-wide public debate on how labour law can support the Lisbon Strategy's goal of achieving sustainable growth with more and better jobs.

CONTENT: the future challenge for labour law is to offer both flexibility and job security. The drive for flexibility has given rise to increasingly diverse contractual forms of employment, which can differ significantly from the standard contractual model in terms of employment and income security and the relative stability of the associated working and living conditions.

In 2003, the "European Employment Task Force" observed that a two-tier labour market might emerge divided between permanently employed "insiders" and "outsiders" – outsiders being those who are unemployed and detached from the labour market as well as those precariously and informally employed. The Task Force asked the Member States to assess, and where necessary alter, the level of flexibility provided in standard contracts in areas such as period of notice, costs and procedures for individual or collective dismissal or the definition of unfair dismissal.

A proliferation of different contractual forms has emerged in the absence of a more comprehensive adaptation of labour law and collective agreements to rapidly changing developments in work organisation and society. By availing of non-standard contractual arrangements, businesses seek to remain competitive in the globalised economy by avoiding inter alia the cost of compliance with employment protection rules, notice periods and the costs of associated social security contributions. Administrative burdens associated with the employment of regular employees also have a significant influence on employment growth, particularly in small firms. Non-standard as well as flexible standard contractual arrangements have enabled businesses to respond swiftly to changing consumer trends, evolving technologies and new opportunities for attracting and retaining a more diverse workforce through better job matching between demand and supply. Workers are also afforded greater choice particularly as regards arrangements for working time, increasing career opportunities, a better balance between family life, work and education as well as more individual responsibility.

Fixed term contracts, part-time contracts, on-call contracts, zero-hour contracts, contracts for workers hired through temporary employment agencies, freelance contracts, etc., have become an established feature of European labour markets. The share of total employment taken up by those engaged on working arrangements differing from the standard contractual model as well as those in self-employment has increased since 2001 from over 36% in 2001 to almost 40% of the EU-25 workforce in 2005. Part-time employment, as a percentage of total employment, has increased from 13% of total employment to 18% in the last 15 years. It has accounted for a larger contribution (around 60%) to employment creation after 2000 than full time standard employment. Part-time working remains predominantly a feature of female employment – with nearly one-third of women in employment having a part-time job compared with only 7% of men. Fixed-term employment has increased as a percentage of total employment from 12% in 1998 to over 14% in 2005 in the EU-25. Unlike part-time work, fixed-term employment does not exhibit significant gender differences.

Self-employment is also providing a means of coping with restructuring needs, reducing direct or indirect labour costs and managing resources more flexibly in response to unforeseen economic circumstances. It also reflects the business model of service-oriented business delivering completed projects to their customers. In many cases it reflects a free choice to work independently despite lower levels of social protection in exchange for more direct control over employment conditions and terms of remuneration. Self-employed workers in the EU-25 numbered over 31 million in 2005 or 15% of the total workforce. Those who are self-employed on their own account and without employees constitute 10% of all workers in the EU-25. Although agriculture and retailing still hold the larger share of this category, it is a growing feature of the construction and personal services sectors associated with outsourcing, subcontracting and project based work.

However, there is evidence of some detrimental effects associated with the increasing diversity of working arrangements. There is a risk that part of the workforce gets trapped in a succession of short-term, low quality jobs with inadequate social protection leaving them in a vulnerable position.

The recent Employment in Europe 2006 report refers to findings that stringent employment protection legislation tends to reduce the dynamism of the labour market, worsening the prospects of women, youths and older workers. The report underlines that deregulation "at the margin", while keeping stringent rules for regular contracts largely intact, tends to favour the development of segmented labour markets with a negative impact on productivity. It also stresses that workers feel better protected by a support system in case of unemployment than by employment protection legislation.

The Integrated Guidelines for Growth and Jobshighlight the need for the adaptation of employment legislation to promote flexibility combined with employment security and reduce labour market segmentation. Social dialogue also plays a key role in framing collective and/or firm level solutions enabling "insiders" as well as "outsiders" to make successful transitions between different employment situations while also assisting businesses to respond more flexibly to the demands of an innovation-driven economy and to changes in the competitive landscape brought about by restructuring.

Other policy components of the "flexicurity" approach include life-long learning enabling people to keep pace with the new skill needs; active labour market policies encouraging unemployed or inactive people to have a new chance in the labour market; and more flexible social security rules catering for the needs of those switching between jobs or temporarily leaving the labour market.

This **Green Paper**, therefore, examines the role labour law might play in advancing a "flexicurity" agenda in order to support a fairer, more responsive and more inclusive, labour market. As such, it seeks to:

- identify key challenges. Attention is given, in particular, to the scope of personal labour law rather than issues of collective labour law;
- engage the Member States, social partners and other relevant stakeholders, in an open debate on how labour law can promote flexibility as well as job security;
- examine how different types of contractual relations, together with employment rights applicable to all workers, could facilitate job creation and assist both workers and enterprises by easing labour market transitions, assist in life-long learning and foster workforce creativity;
- contribute to the Better Regulation agenda by promoting the modernisation of labour law. Particular consideration must be given to the challenges faced by SME's in dealing with administrative costs imposed by both Community and national legislation.

An open consultation will be held over a four month period. Based on the responses received, the Commission will prepare a Communication in the course of 2007, which will be prepared within the context of a wider topic on flexicurity.

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

2007/2023(INI) - 11/07/2007 - Text adopted by Parliament, single reading

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 through 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.