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on modernising labour law to meet the challenges of the 21st century
(2007/2023(INI))

Committee on Employment and Social Affairs

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on Modernising labour law to meet the challenges of the 21st century (2007/2023(INI))

The European Parliament,

- having regard to the Commission’s Green Paper - Modernising labour law to meet the challenges of the 21st century (COM(2006)0708),
- having regard to the European Social Charter,

having regard to the Report of the High Level Group on the future of social policy in an enlarged European Union of May 2004,
- having regard to Commission’s Community Lisbon Programme and its implementation in 2006 (SEC(2006)1379),
- having regard to the Commission’s Social Agenda 2006-2010,
- having regard to the national Lisbon reform programmes as presented by the Member States,
- having regard to the Commission’s Communication entitled ‘Global Europe: competing in the world’(COM(2006)0567),
- having regard to the Commission’s Communication on Integrated Guidelines for Growth and Jobs (2005-2008) (COM(2005)0141),
- having regard to the European Council conclusions of March 2000, March 2001, March and October 2005 and March 2006,
- having regard to its resolution of 23 March 2006 on demographic challenges and solidarity between generations¹,
- having regard to its resolution of 6 September 2006 on a European Social Model for the future²,
- having regard to Rule 45 of its Rules of Procedure,
- having regard to the report of the Committee on Employment and Social Affairs and the opinions of the Committee on Economic and Monetary Affairs, the Committee on Industry, Research and Energy, the Committee on Internal Market and Consumer Protection and the Committee on Women’s Rights and Gender Equality (A6-0000/2007),

¹ OJ C 292 E, 1.12.2006, p. 131.

² P6_TA(2006)0340.

- A. whereas economic growth is a necessary precondition for employment growth,
- B. whereas, at a time of globalisation, rapid technological progress, and increased competition stemming from changing consumer demand, modernisation of labour law is a key element in ensuring that both enterprises and workers are able to adapt successfully,
- C. whereas one of the signs of a changing labour market is the existence of new forms of contracts, whose popularity in the European Union is systematically increasing both because of the needs of employers forced to react to changing market conditions and the expectations of workers, particularly parents bringing up children and young people in education wanting greater freedom to determine their working hours in order to achieve a better balance between family life, work and education,
- D. whereas part-time employment has accounted for around 60% of newly-created jobs in the European Union since 2000, in other words more than standard full-time employment, and whereas 68% of part-time workers are satisfied with their working hours,
- E. whereas around 60% of those who had taken up non-standard contractual arrangements in 1997 had standard contracts in 2003, indicating that diversity of labour contracts is an effective method both of bringing newcomers into the labour market and enabling those not in full-time work, whether voluntarily or not, to maintain contact with the labour market,
- F. whereas new forms of work arrangements are to a large extent taken up by workers wanting to find legal employment, and self-employment is often the preferred choice of those over 40 who would otherwise have problems in finding work, with the result that these new forms of employment contribute to reducing unemployment and illegal working and help to resolve problems deriving from the ageing of European societies,
- G. whereas in some Member States collective bargaining helps the labour market to operate flexibly, while in many other countries with different traditions and social conditions only a small percentage of workers belong to trade unions,
- H. whereas action at EU level must respect Member States' competence in the field of labour law and the principles of additionality and proportionality,
 - 1. Welcomes the Green Paper on 'Modernising labour law to meet the challenges of the 21st century' and stresses that the main aim of changes to EU labour law should be to create more jobs, thereby helping to achieve the goals of the Lisbon Strategy;
 - 2. Considers that, if labour law is to meet the challenges of the 21st century, it must focus to a large extent on employment security rather than protecting particular jobs, making it easier to enter or stay in the labour market both for persons beginning professional activity and those who, whether willingly or otherwise, find themselves without permanent employment;
 - 3. Notes that supporting flexible labour law is not only key for improving the EU's economic competitiveness but will also cater for the differing needs of workers, bearing in mind the stage of life they are at and their job prospects; at the same time recognises that

flexibility must go hand in hand with support for workers who find themselves in a period of transition from one employment status to another;

4. Firmly believes that flexible and fair employment should be based on minimum basic rights ('a floor of rights'), which should include: non-discrimination, workers' health and safety protection and provisions on working time; at the same time stresses that these matters should be decided at Member State level, on the basis of different traditions and social and economic circumstances, but also with due regard for proportionality and without jeopardising the creation of new jobs;
5. Considers that an over-stringent labour law framework could deter employers from taking on new workers even during times of economic growth, thereby worsening job prospects, particularly for women, workers entering the labour market and older workers wishing to continue working after retirement age;
6. Notes that over-stringent employment contracts are a major factor promoting employers and workers to resort to clandestine employment and therefore considers that the best way to combat this phenomenon is to make legal employment easier; insists therefore that all Member States should remove unwarranted and over-restrictive bureaucratic requirements for employment and reduce excessive non-wage labour costs;
7. Endorses the Council's aim of mobilising all appropriate national and Community resources to develop a skilled, trained and adaptable workforce and labour markets responsive to the challenges stemming from the combined impact of globalisation and of the ageing of European societies;
8. Believes that individual motivation and willingness are the most important factors as regards participation in the process of lifelong learning and calls for the development of an education market and schools which meet labour market requirements and workers' and employers' individual expectations; urges that entrepreneurial studies and personal career management be included in school syllabuses;
9. Points to the urgent need to improve the educational level of the population in the EU and urges the Commission, Member States and employers to view lifelong learning as a sound investment in the development of human capital and the most effective means of overcoming long-term unemployment;
10. Urges the Commission to take account of the vast differences in the labour market traditions and realities in the Member States, as well as their different levels of development, which mean that harmonisation of labour law at European Union level is neither possible nor necessary; stresses that the introduction of new regulations is not a panacea for the failure to implement existing provisions properly;
11. Considers that the rights of cross-border workers are adequately protected under the legislation, but that the aim of adopting a single definition of a worker and a self-employed person under Community law is unrealistic because of the very different social and economic realities and traditions in the individual Member States;
12. Urges that the open method of coordination be used in the sphere of employment policy

and social policy as a useful instrument for exchanging best practice so as to respond to joint challenges in a flexible and transparent manner and taking into account the diverse conditions which are of crucial importance for labour markets in individual Member States;

13. Calls on the Commission to continue collecting and analysing information on national labour markets so as to ensure that exchanges of good practice in connection with the employment policies pursued in individual Member States are based on reliable data;
14. Calls on the Member States to review social security systems, particularly those granting unemployment benefit, with a view to providing incentives for employment; considers that reducing periods spent without work is the most effective way of combating unemployment and therefore calls on the Member States to cut the average duration of job search in Europe;
15. Calls on the Commission and Member States to recognise that the law has an immense influence on the behaviour of enterprises, and that their confidence in stable, clear and sound provisions is a key element when taking decisions to create more jobs;
16. Calls on the Commission to consider introducing into EU legislative practice an automatic mechanism for systematically reviewing the impact of Community laws on job creation within the EU;
17. Calls on the Commission to launch an information campaign aimed at drawing attention to the adverse effects clandestine work can have on national social security systems, public finances and on workers themselves;
18. Highlights the role of the social partners in informing and educating workers and employers on their rights and obligations in an employment relationship and on the enforcement of existing law in this area and therefore calls on the Commission to provide technical support for the development of strong employers' associations and encourage them to cooperate with their counterparts in other EU countries in order to highlight the benefits of employers meeting their obligations to their workers;
19. Points to the positive role that corporate collective bargaining can play in increasing the productivity of firms, thereby encouraging growth in employment, and points to the possibility of changing the law so as to strengthen the role of such agreements at company level;
20. Calls on the Commission to cooperate constantly with the social partners, particularly under the programme to improve law-making and reduce administrative burdens on businesses, especially small and medium-sized undertakings and new firms, which play a key role in creating new jobs;

21. Calls on the Member States to reduce the restrictions on access to their labour markets and thus improve worker mobility within the EU, thereby enabling the goals of the Lisbon Strategy to be achieved more swiftly;
22. Instructs its President to forward this resolution to the Council and Commission.

EXPLANATORY STATEMENT

The aim of the Commission's Green Paper on 'Modernising labour law to meet the challenges of the 21st century' is to launch a public debate in the EU on how labour law can be modernised to meet the main challenges deriving above all from globalisation and the ageing of European societies. Moving labour law in this direction seems to be vital if the two most important aims of the Lisbon Strategy - making the EU the world's most competitive economy by 2010 and creating high levels of employment - are to be achieved.

Since growth in employment is possible only in combination with economic growth, modernisation of labour law must take into account the expectations of both workers and employers. In fact, these are not completely divergent in the European Union, where a culture of conflict - the philosophical basis of labour law, which was originally intended to protect the weaker party in the employment relationship - is gradually being replaced by a culture of cooperation. At present, the shared aim of workers and employers is to be able to adapt to changing conditions stemming from rapid technological development, increased competitiveness - a consequence of both globalisation and changing consumer demand - and also from the very swift development of the services sector. At the Hampton Court Summit in October 2005, taking these factors into account, the European Council adopted, a Commission communication on European values in a globalised world, which called on the Member States to apply active labour market policies and promote flexibility and adaptability designed 'to protect people rather than jobs'. The communication also pointed to the need to improve the regulatory environment at EU and national level, so as to 'free businesses and citizens from unnecessary costs and red tape'.

The Green Paper appears to be a continuation of the line of thinking which holds that the creation of a more flexible labour law framework is essential. This does not mean a radical retreat from compulsory standards of employment security, but may require changes in the quality of those standards reflected in a change from the concept of 'job security' to that of 'employment security' and from the notion of 'security with a job' to that of 'security of a job'. Labour law geared essentially to protecting workers employed under standard labour relations based on permanent labour contracts will not deter those not in conventional employment from responding flexibly to market needs. Over-strict regulation of the labour market has adverse effects on economic growth and growth in employment, deterring employers from offering legal work and encouraging both employers and workers to resort to the black market.

Lack of flexibility in labour law also results in the development of alternative forms of employment which, as statistical data show, increase job opportunities for persons beginning their working life, as well as those of retirement age or wishing to return to work after a break. These also provide young students or parents bringing up children with an easy way of combining work with study or family life. Given the growing popularity of such forms of employment, as well as their favourable effects as regards making it easier to enter and stay in the labour market, labour law must respect them, while at the same time protecting the workers concerned from discrimination and ensuring the maintenance of certain minimum

rights, to be determined according to the traditions and social and economic conditions of each Member State. However, there is no need to seek to eliminate the differences between traditional and alternative forms of employment. Establishing common minimum employment standards for all forms of employment would not only be very difficult, but could lead to the erection of further barriers to access to the legal labour market for many social groups, including those most vulnerable to marginalisation.

The creation of new uniform standards and definitions at Union level should be approached with particular restraint. The differences between Member States are so great that introducing such uniform measures could have the effect of reducing economic efficiency and thus adversely affecting employment levels. The European Union has an impressive array of regulations governing the labour market and there is no need to introduce new ones. However, there is a need for a routine review of existing legislation to gauge its impact on the operation of enterprises, particularly SMEs and on employment levels in the Union.

In this connection, it would undoubtedly be useful for the Member States to adopt a bolder policy aimed at completing the single market, with particular reference to the free movement of workers and services. The efforts undertaken by the Community institutions should result in the removal of barriers and difficulties arising at supranational level, since these continue to be a major factor hampering the growth of mobility for European citizens, which is crucial to economic growth and hence to employment. The open method of coordination should serve as a framework for more dynamic exchanges of positive experience by Member States in the field of active labour market policies.

The Commission report on flexibility and security in EU labour markets explicitly points out that, from a long-term prospective, providing competent training for people without work has a much greater positive influence in helping them cope in the labour market. Hence greater emphasis must be placed on the availability and quality of training both for workers and the unemployed. However, because individual motivation is of key importance to the success of any learning process, appropriate courses, such as entrepreneurial studies and personal career management, should be a permanent feature of school syllabuses.

The Lisbon strategy goals relating to professional activity have been attained in four EU countries, which considerably differ from others by virtue of the numerical strength and level of activity of their trade unions. However, social dialogue on questions crucial to economic development, and thus to increased employment, is needed everywhere. In addition to dialogue at European and national level, emphasis should also be placed on the value of dialogue at industry level, which provides a better framework for responding to changing market conditions. A healthy social dialogue makes it possible to overcome tensions and build trust between workers and employers. The social partners could make a positive contribution by encouraging those outside the labour market to take advantage of alternative forms of employment in situations where traditional contracts are not available. Such alternatives are better than unemployment. The Commission and the Member States' governments should support the development of strong social partners and, in the context of labour law, encourage cooperation and exchange of positive experiences between organisations, as well as promoting training and information campaigns aimed at workers and employers concerning workers' rights and the adverse effects of failure to comply with labour law requirements.