

Procedure file

Basic information		
INI - Own-initiative procedure	2009/2220(INI)	Procedure completed
Atypical contracts, secured professional paths, flexicurity and new forms of social dialogue		
Subject		
4.10 Social policy, social charter and protocol		
4.15.03 Arrangement of working time, work schedules		
4.15.04 Workforce, occupational mobility, job conversion, working conditions		
4.15.12 Workers protection and rights, labour law		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	EMPL Employment and Social Affairs		17/12/2009
		PPE GRUNY Pascale	
		Shadow rapporteur	
		S&D COFFERATI Sergio Gaetano	
		ALDE HARKIN Marian	
		Verts/ALE SCHROEDTER Elisabeth	
		ECR CABRNOCH Milan	
European Commission	Commission DG	Commissioner	
	Employment, Social Affairs and Inclusion	ANDOR László	

Key events			
17/12/2009	Committee referral announced in Parliament		
02/06/2010	Vote in committee		Summary
09/06/2010	Committee report tabled for plenary	A7-0193/2010	
05/07/2010	Debate in Parliament		
06/07/2010	Results of vote in Parliament		
06/07/2010	Decision by Parliament	T7-0263/2010	Summary
06/07/2010	End of procedure in Parliament		

Technical information

Procedure reference	2009/2220(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative
Legal basis	Rules of Procedure EP 54
Stage reached in procedure	Procedure completed
Committee dossier	EMPL/7/01744

Documentation gateway

Committee draft report	PE439.183	08/03/2010	EP	
Amendments tabled in committee	PE439.982	31/03/2010	EP	
Committee report tabled for plenary, single reading	A7-0193/2010	09/06/2010	EP	
Text adopted by Parliament, single reading	T7-0263/2010	06/07/2010	EP	Summary
Commission response to text adopted in plenary	SP(2010)6850	29/11/2010	EC	

Atypical contracts, secured professional paths, flexicurity and new forms of social dialogue

The Committee on Employment and Social Affairs adopted the own-initiative report by Pascal GRUNY (EPP, FR) on atypical contracts, secured professional paths, flexicurity and new forms of social dialogue.

Members recall that non-standard employment has grown significantly since 1990 and the jobs lost as a result of the present economic crisis were primarily those in the atypical sector. The unemployment rate in the EU27 was 10% in 2009 and these job losses have resulted in a dramatic increase in levels of poverty. The number of people living in in-work poverty is increasing, having reached 8% of the European workforce, with women, who represent a significant segment of those working on atypical contracts, being the most affected by the rising unemployment in this sector.

Atypical contracts: MEPs call on the Council to adopt clear guidance and concrete measures aimed at safeguarding decent work and quality employment and creating sustainable job opportunities in the framework of the EU2020 Strategy. Member States are urged to put in place a more balanced and fair implementation of flexicurity principles.

In the current context of crisis, noting the wide variety of labour traditions, contractual forms and business models existing in labour markets, Members recommend the adoption of a bottom-up approach in developing new employment strategies so as to facilitate dialogue and the involvement of political and social authorities at all levels. They draw particular attention to the special position of independent freelance workers because this form of activity can represent a 'way in' or an alternative to the labour market. Given the growing popularity of this activity, Members call for measures to be taken to minimise the burden of regulation and to encourage and support independent freelancers in launching/growing independent freelance businesses and to promote lifelong learning for this group.

MEPs also consider that all workers, whatever their employment status, should be guaranteed a set of core rights. They recommend that the priorities for labour law reform, where it is needed, should focus on:

- urgent extension of the protection of workers in atypical forms of employment;
- grouping atypical contracts together for the purpose of simplification;
- the sustainable creation of normal employment relationships;
- clarification of the situation of dependent employment, including preventive action with regard to the health and safety of atypical workers;
- action against undeclared work;
- support for the creation of new jobs, including under atypical contracts, and
- the facilitation of transitions between various types of employment and unemployment, through the promotion of policies such as special employment allowances, lifelong learning, retraining and on-the-job training.

Members also underline the importance of more flexible working arrangements for workers with care responsibilities, including leave entitlements and flexi-time, part-time and home-working arrangements. Flexible working conditions should go together with respect for the rights of atypical workers, guaranteeing their equal treatment with that of workers on standard fulltime contracts, on the basis of the maximum level of worker protection and in accordance with all the applicable directives.

Noting the overrepresentation of women, older people and young people in atypical work, Members urge Member States and the Commission to facilitate the transition of these groups into permanent employment and, in particular, to promote measures that enable men and women to balance work, family and private life. They are also invited to ensure that the use of atypical contracts does not hide forms of illicit employment but facilitates the transition to the genuine participation of young people and the unemployed in the labour market, by providing a framework that increases both their employability and competitiveness.

In parallel, Members stress that recourse to atypical forms of employment should be a personal choice and not an imposition dictated by increasing barriers to labour market access for certain groups or the lack of high-quality jobs. Overall, however, the report considers that even if workers are properly protected and if it allows the transformation, in time, of their job into stable employment, atypical forms of employment can represent an opportunity.

As far as the question of reentering the labour market is concerned, Members consider that the unemployed should be supported both by a solid social security system and by an efficient system of active policies, so that they can re-enter the labour market quickly.

Members also stress the importance of prevention and deterrent penalties as means of fighting illicit employment. They take the view that combating illicit employment should be accompanied by measures to create viable and sustainable employment alternatives and to support people in gaining access to the open labour market.

Members call for the standard employment model to be updated: permanent contracts with shorter full-time employment as the general norm, and the introduction of norms for part-time employment, so that only substantiated and socially protected part-time work (15-25 hours weekly) will be offered to those who wish to work part-time; stresses the need to put full-time and part-time employment on an equal footing as far as hourly wages, entitlements to education and lifelong learning, career opportunities and social protection are concerned.

Flexicurity and secured professional paths: Members call for current thinking on flexicurity to be updated at European level in the light of the present crisis, so as to help increase both productivity and the quality of jobs by guaranteeing security and the protection of employment and workers' rights. While this review is necessary, the social partners should only support labour-law and labour-market reforms only if they also aim at effectively reducing differences in treatment between different types of contracts. They point out that the application of flexibility principles requires adequate social protection, ensuring that people can live and develop, together with special support for job seekers and solid labour laws for all kinds of employment based on a clear institutional framework, and needs to be accompanied by increased protection mechanisms to prevent hardship. Members believe that flexicurity cannot function properly without strong social protection and support for people re-entering the labour market. They call on the Commission to continue its efforts to achieve balanced implementation of flexicurity policies and to assist Member States and the social partners in implementing the principles of flexicurity. Members also stress the importance of the security aspect of flexicurity, which needs to provide support in job-seeking for workers in transition situations and guarantee them decent living conditions.

In parallel, MEPs call for the creation of a favourable business environment by the enhancing of legal certainty and transparency for both employers and workers with regard to the scope, coverage and enforcement of labour law. In this regard, companies should be able to find on the labour market the forms of contract that would best enable them to meet their requirements in terms of the flexibility needed to respond to unpredictable fluctuations in market demand. They call for the creation of flexible and secure contractual arrangements ensuring equal treatment in the context of modern work organisation in which contracts of an indefinite duration should continue to be the main form of employment.

Members also condemn the replacement of regular employment with forms of atypical contract. These contribute to poorer and more uncertain working conditions and destabilise the European social model. All necessary means to combat these practices must be found.

Member States are also urged to:

- to implement policies that enable all people, including the weakest and most disadvantaged, to have effective access to the labour market;
- to create new job opportunities, including those under atypical contracts;
- to implement measures to enable workers to return to work following parental leave;
- to strengthen support schemes, particularly for the low-skilled and disabled, by means of pathway approaches, personalised counselling, intensive (re-)training of workers, subsidised employment and start-up grants for the self-employed and businesses;
- to eliminate administrative burdens in order to improve the business environment, particularly for SMEs;
- not to allow redundancies on solely economic grounds until every effort has been made to (re)train workers.

New forms of social dialogue: Members believe that the formal recognition of the role of the social partners in the new Treaty constitutes progress. They note that the involvement of the social partners and civil society organisations in policymaking and implementation varies widely across the Member States and believe that the quality of the social and institutional recognition which the social partners enjoy should at national level be further enhanced and more substantial in nature. They believe that collective bargaining allows employers and employees to find efficient solutions to deal with the economic downturn. They would also like to see the social partners involved in an institutionally formalised and substantial way, and on an equal basis, in public policy-making.

Lastly, MEPs call on the Commission and national governments to take responsibility for the situation of the 'outsiders' (employees with atypical or 'very atypical' contracts) and to ensure that their rights and social-protection requirements are balanced with those of the 'insiders'.

Atypical contracts, secured professional paths, flexicurity and new forms of social dialogue

The European Parliament adopted a resolution on atypical contracts, secured professional paths, flexicurity and new forms of social dialogue.

Parliament recalls that non-standard employment has grown significantly since 1990 and the jobs lost as a result of the present economic crisis were primarily those in the atypical sector. The unemployment rate in the EU27 was 10% in 2009 and these job losses have resulted in a dramatic increase in levels of poverty. The number of people living in in-work poverty is increasing, having reached 8% of the European workforce and the proportion of low-wage earners is currently about 17%. It states that women, who represent a significant segment of those working on atypical contracts, are the most affected by the rising unemployment in this sector.

Atypical contracts: Parliament invites the Council to adopt clear guidance and concrete measures aimed at safeguarding decent work and quality employment and creating sustainable job opportunities in the framework of the EU2020 Strategy. Member States are urged to put in place a more balanced and fair implementation of flexicurity principles.

In the current context of crisis, noting the wide variety of labour traditions, contractual forms and business models existing in labour markets, Parliament states that it is important to maintain acquired social rights and recommends the adoption of a bottom-up approach in developing new employment strategies so as to facilitate dialogue and the involvement of political and social authorities at all levels.

Parliament draws particular attention to the special position of independent freelance workers because this form of activity can represent a 'way in' or an alternative to the labour market. Given the growing popularity of this activity, Members call for measures to be taken to minimise the burden of regulation and to encourage and support independent freelancers in launching/growing independent freelance businesses and to promote lifelong learning for this group.

Parliament also considers that all workers, whatever their employment status, should be guaranteed a set of core rights. It recommends that the priorities for labour law reform, where it is needed, should focus on:

- urgent extension of the protection of workers in atypical forms of employment;
- grouping atypical contracts together for the purpose of simplification;
- the sustainable creation of normal employment relationships;
- clarification of the situation of dependent employment, including preventive action with regard to the health and safety of atypical workers;
- action against undeclared work;
- support for the creation of new jobs, including under atypical contracts, and
- the facilitation of transitions between various types of employment and unemployment, through the promotion of policies such as special employment allowances, lifelong learning, retraining and on-the-job training.

Parliament underlines the importance of more flexible working arrangements for workers with care responsibilities, including leave entitlements and flexi-time, part-time and home-working arrangements.

Flexible working conditions should go together with respect for the rights of atypical workers, guaranteeing their equal treatment with that of workers on standard fulltime contracts, on the basis of the maximum level of worker protection and in accordance with all the applicable directives.

Noting the overrepresentation of women, older people and young people in atypical work, Parliament urges Member States and the Commission to facilitate the transition of these groups into permanent employment and, in particular, to promote measures that enable men and women to balance work, family and private life. They are also invited to ensure that the use of atypical contracts does not hide forms of illicit employment but facilitates the transition to the genuine participation of young people and the unemployed in the labour market, by providing a framework that increases both their employability and competitiveness.

In parallel, Members stress that recourse to atypical forms of employment should be a personal choice and not an imposition dictated by increasing barriers to labour market access for certain groups or the lack of high-quality jobs. Overall, however, the resolution considers that even if workers are properly protected and if it allows the transformation, in time, of their job into stable employment, atypical forms of employment can represent an opportunity. These contracts must go hand in hand with support for workers who find themselves in situations of transition from one job or employment status to another through targeted active employment policies. Parliament points out that phasing out precarious employment needs a strong commitment from Member States to provide through their labour market policies adequate 'stepping stones' for the transition from precarious employment to regular permanent employment with enhanced workers' rights and social protection.

As far as the question of re-entering the labour market is concerned, Parliament considers that the unemployed should be supported both by a solid social security system and by an efficient system of active policies, so that they can re-enter the labour market quickly.

Parliament also stresses the importance of prevention and deterrent penalties as means of fighting illicit employment. It takes the view that combating illicit employment should be accompanied by measures to create viable and sustainable employment alternatives and to support people in gaining access to the open labour market.

Parliament calls for the standard employment model to be updated: permanent contracts with shorter full-time employment as the general norm, and the introduction of norms for part-time employment, so that only substantiated and socially protected part-time work (15-25 hours weekly) will be offered to those who wish to work part-time. It stresses the need to put fulltime and part-time employment on an equal footing as far as hourly wages, entitlements to education and lifelong learning, career opportunities and social protection are concerned.

Flexicurity and secured professional paths: Parliament calls for current thinking on flexicurity to be updated at European level in the light of the present crisis, so as to help increase both productivity and the quality of jobs by guaranteeing security and the protection of employment and workers' rights. While this review is necessary, the social partners should only support labour-law and labour-market reforms only if they also aim at effectively reducing differences in treatment between different types of contracts. It points out that the application of flexibility principles requires adequate social protection, ensuring that people can live and develop, together with special support for job seekers and solid labour laws for all kinds of employment based on a clear institutional framework, and needs to be accompanied by increased protection mechanisms to prevent hardship. Members believe that flexicurity cannot function properly without strong social protection and support for people re-entering the labour market. They call on the Commission to continue its efforts to achieve balanced implementation of flexicurity policies and to assist Member States and the social partners in implementing the principles of flexicurity. Members also stress the importance of the security aspect of flexicurity, which needs to provide support in job-seeking for workers in transition situations and guarantee them decent living conditions.

In parallel, Parliament calls for the creation of a favourable business environment by the enhancing of legal certainty and transparency for both employers and workers with regard to the scope, coverage and enforcement of labour law. In this regard, companies should be able to find on the labour market the forms of contract that would best enable them to meet their requirements in terms of the flexibility needed to respond to unpredictable fluctuations in market demand. They call for the creation of flexible and secure contractual arrangements ensuring equal treatment in the context of modern work organisation in which contracts of an indefinite duration should continue to be the main form of employment.

Parliament also condemns the replacement of regular employment with forms of atypical contract. These contribute to poorer and more uncertain working conditions and destabilise the European social model. All necessary means to combat these practices must be found.

Member States are also urged:

- to implement policies that enable all people, including the weakest and most disadvantaged, to have effective access to the labour market;
- to create new job opportunities, including those under atypical contracts;
- to implement measures to enable workers to return to work following parental leave;
- to strengthen support schemes, particularly for the low-skilled and disabled, by means of pathway approaches, personalised counselling, intensive (re-)training of workers, subsidised employment and start-up grants for the self-employed and businesses;
- to eliminate administrative burdens in order to improve the business environment, particularly for SMEs;
- not to allow redundancies on solely economic grounds until every effort has been made to (re)train workers.

New forms of social dialogue: Parliament believes that the formal recognition of the role of the social partners in the new Treaty constitutes progress. It notes that the involvement of the social partners and civil society organisations in policymaking and implementation varies widely across the Member States and believe that the quality of the social and institutional recognition which the social partners enjoy should at national level be further enhanced and more substantial in nature. Members believe that collective bargaining allows employers and employees to find efficient solutions to deal with the economic downturn. They would also like to see the social partners involved in an institutionally formalised and substantial way, and on an equal basis, in public policy-making even if the quality of social dialogue varies greatly from country to country and from sector to sector.

Lastly, Parliament calls on the Commission and national governments to take responsibility for the situation of the 'outsiders' (employees with atypical or 'very atypical' contracts) and to ensure that their rights and social-protection requirements are balanced with those of the 'insiders'.

It should be noted that a replacement resolution proposed by the Greens/ALE was rejected in plenary.