



Modernising Labour Law

The Outcome of the public consultation on the Commission's 2006 Green Paper

Temporary Work Sectoral Social Dialogue Committee Brussels 7th November 2007

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What role can **labour law**
play in advancing a
« **flexicurity** » agenda
to support a fairer, more
responsive, more inclusive
and more competitive
labour market?

Green Paper 22 November 2006



7 Themes x 14 Questions



- A Flexible & Inclusive Labour Market
- Facilitating employment transitions
- Uncertainty with regard to the law
- **Three Way Relationships**
- Organisation of Working Time
- Mobility of Workers
- Enforcement of employment rights & combating undeclared work



Outcome of Public Consultation



- **Institutions** – EP, EESC, 25 MS, National Parliaments
- **EU Social Partners** [3 x **Sectoral SDCs**]
- **EU Industry bodies**, NGOs, etc
- **National Social Partners**,
- **National NGOs & regional authorities**
- **Enterprises**
- **Labour lawyers & “Think Tanks”**
- **Individuals**

> 450 responses



Social Partner Responses



- Why public consultation, not Article 138 *social partner* consultation?
- Analytic framework: Relationship between Labour Law, Lisbon Strategy & broader “*Flexicurity*” agenda
- Relevance of “*Insider / Outsider*” dichotomy
- Focus on individual employment relationship too restrictive?
- Significance of standard employment contract *vis-à-vis* new flexible work contracts

continued/



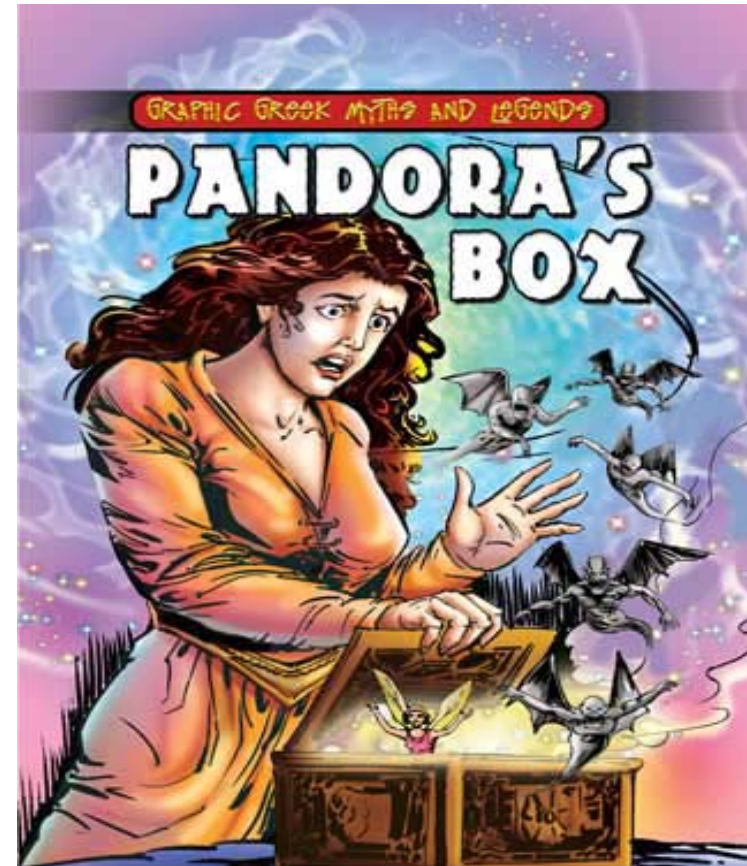
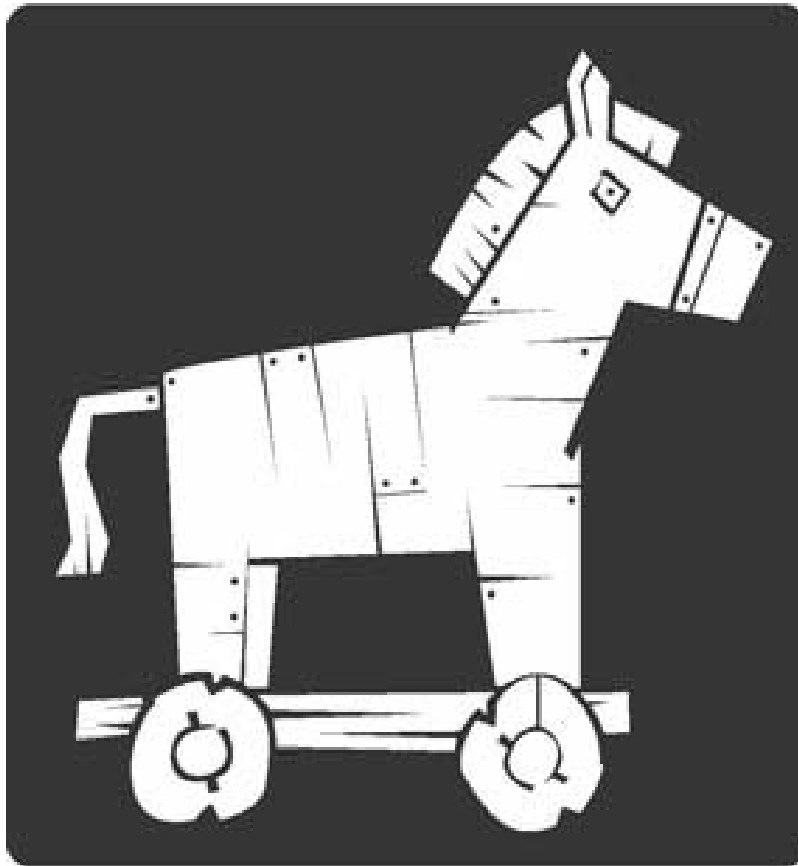
Social Partner Responses (continued)



- Relevance of change in **design/severity of employment protection** measures for better employment transitions
- **Integrity of Industrial Relations** systems
- **Labour law & commercial law** codes - respective contract forms should be distinguished
- **Subsidiarity** – shared disinclination for harmonisation of labour rules or framing a uniform Community definition of “worker”
- Differences in views on “**added value**” of **EU** in promoting labour law reform and setting minimum standards



Divergent Perspectives of Social Partner





Commission Communication

**Towards Common Principles
of Flexicurity:
More and better jobs
through
flexibility and security**

27 June 2007



EP Resolution 11th July 2007



- **Treaty competences** in social policy field & principle of subsidiarity
- Conduct of **social dialogue** and its relation to **Better Regulation** agenda
- **Technical Support & Transnational Agreements**
- Development of the **Open Method of Coordination** of Employment Policies



EP Resolution - Labour Law Priorities



➤ **..certain forms of non-standard contracts...contribute both to improving the EU's economic competitiveness and also to catering for different needs of workers... must go hand in hand with support for workers who find themselves in situations of transition from one job to another or from one employment status to another..**

➤ **...any form of employment, whether non-standard or otherwise, should carry with it a core of rights** regardless of the specific employment status..and should be adequately enforced at MS level, taking into account the different traditions and social & economic circumstances..

➤ **Calls for the creation of flexible and secure contractual arrangements** in the context of modern work organisations.



Follow Up Communication, October 2007



**Communication + Services Working
Document containing summary of
responses**

**Full publication of responses on DG
EMPL website**

**Conclusion of the public consultation
process**



Follow Up Communication, October 2007



Commission does not propose any new legislative initiatives

It encourages social partners to negotiate on life long learning

It identifies areas where there is a need for
**further cooperation,
legal clarity &
more and better information.**



OMOC and the Community Method

- Some tricky problems affecting the individual employment relationship require further attention – it is proposed that this be done in the context of the open method of coordination rather than immediate legislative proposals.
- This does not imply any retreat from the right of initiative or less reliance on the importance of legislative measures, *per se*
- Respondents to the public consultation emphasised the need for better implementation and enforcement of existing legislative measures and the completion of the key legislative proposals (OWT, TAW, Pension portability) still on the Council agenda.



Areas identified for further attention



- **The prevention and combat of undeclared work, especially in cross-border situations**
- **The promotion of training and life-long learning to ensure greater employment security over the life cycle**



Identified Areas (continued)



The interaction between
labour law
&
social protection rules
in support of
efficient labour market transitions
&
sustainable social protection
systems



Identified Areas (continued)



- The clarification of **the nature of the employment relationship** to promote greater understanding and facilitate cooperation across the EU
- The clarification of **the rights and obligations of the parties involved in sub-contracting chains**, to ensure that workers are not deprived of the effective use of their rights.




Next Steps



The Commission considers that the most appropriate avenues for pursuing the issue arising from the public consultation are

- **The national reform process under the EU's strategy for Jobs and Growth**
- **The integrated approach to developing & implementing *flexicurity*-based principles**





**Outcome of the public consultation on
the Green Paper:
Modernising Labour Law
to meet the challenges of the
21st Century**

**For access to the responses see the DG
EMPL public consultation pages**

http://ec.europa.eu/employment_social/labour_law/green_paper_responses_en.htm