

EMPLOYMENT RELATIONS POLICY AND DEVELOPMENT TRENDS IN THE EU

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ÖZET

Avrupa Birliği'ne üye ülkeler, büyüyen ekonomik aktiviteleri bir düzen içerisinde yürütmek için, uluslararası politik bir yapı oluşturmuşlardır.

1957'de Roma'da yalnızca 6 üye ülkenin imzaladığı kuruluş anlaşmasından beri, zaman içinde ve üye ülkelerin büyümesiyle direktiflerde pek çok revizyon yapılmıştır. Başlangıçta, Birlik ortak bir pazar kurmayı amaçlamış, gümrük vergilerinin kaldırılması hedeflenmiş ve amaçlar hemen hemen tamamıyla ekonomik ortaklık olmuş ve adı da Avrupa Ekonomik Topluluğu olarak belirlenmişti. 1992 yılında, Maastricht'te diğer bir anlaşma imzalandı ve buna, Avrupa Birliği anlaşması denildi. Bu yeni anlaşmanın imzalanmasıyla siyasi birliğe doğru önemli bir adım atılmış oldu.

Maastricht anlaşması, 1997 yılında Amsterdam anlaşması ile revize edildi ve üye ülkelerdeki toplum kurallarının 2 önemli alanı yeniden ele alındı. Bunlardan biri, Eğitim, Mesleki Eğitim ve Gençlik diğeri ise, İstihdam konusuydu.

Revize edilen bu iki önemli Sosyal Politika'dan İstihdam, üye ülkelerin iş hukuku kurallarında; çalışma saati, ana-baba izni, yarı zamanlı iş gibi konularda pek çok yeni direktif oluşturdu. Örnek olarak, çalışma saatleri ile ilgili direktif, Alman İş hukuku kanununun özellikle hastanelerdeki çalışma saatlerinin değiştirilmesine sebep olmuştur.

ABSTRACT

The European Union Member States have created a supra-national political structure in order to keep pace with the growing economic activities. Since the signing of construction agreement in 1957 by only six Member States, during the time and the growth of the Member States there have been a lot of amendments made in the directives. In the beginning the Community aimed to establish a common market, abolish customs duties and the objectives had been almost entirely economic and its name was European Economic Community. In the year of 1992, another treaty had been signed in Maastricht, and was called the treaty of European Union, and it has taken a major step forward towards a political Union by signing of the new treaty. The treaty of Maastricht has been amended by the Treaty of Amsterdam in the year 1997 and two additional fields of community policies were amended in the Member States. The one is called Education, Vocational Training and Youth and the other is called Employment. Employment, this is one of these amended social policies, created new directives in the Employment Policies of EU Member States such as working time, Parental Leave, Part Time Work, Fixed Term Work and some others. As an example the directive concerning working time has forced to change rules of German labour law concerning working time, especially in hospitals.

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1. INTRODUCTION

National Labour Law is a “political” law in the sense that it depends on historical and concrete characteristics of the economy as well as of the society of the state concerned. On the one hand, national labour law depends on the prevailing sector of the economy (that means the agricultural sector, the industrial and the service sector), or on the fact, if there are large or small enterprises, and so on. On the other hand it is relevant, what tradition the trade unions and the associations of employers have, that means: how industrial relations have developed, and what role the state has assumed in that area, especially on the social security field. All this has influenced the web of national labour law. For instance in Germany we subdivide labour law into employee-employer-relations law, collective labour law including the law of social partner agreements and strikes, and public labour protection law including health and safety regulation.

The European Community has created a supra-national political structure in order to keep pace with the growing supranational economic activities, mostly promoting this process, and sometimes following it up. The Community, as a political and juridical structure, meets necessarily national labour law and has to decide if the Member States shall retain the competence of legislation in this sector, or if the national law shall be harmonized, or if it only shall be tried to co-ordinate the Member State’s policy.

In part 2 I will explain which of these three ways the Community has gone in the past.

In part 3 I present the ideas and questions of a recent Green Paper of the Commission called “Modernising labour law to meet the challenges of the 21st century”.

In part 4 I try a Fundamental Rights Approach towards European labour law, looking at the Charta of Fundamental rights of the European Union from

the year 2000, which had been amended to the draft of a Constitution for Europe in the year 2004.

But before starting I want to show you two diagrams, illustrating the variety of the labour law and social security situation within the EU. As you see

Appendix 1 shows the minimum wages per hour in the Member States in the year 2007 (as far as there are legal provisions).and

Appendix 2 shows a plane with the two dimensions “strictness of Employment protection legislation “(EPL) (horizontal) and “social security” (weighted on 5 security benefits, vertical).

You can see the indicators of 16 European countries in the year 2003 and some years earlier. For this moment let us only regard the newest indicator from 2003. I will show you the same diagram later a second time, and then the development within the last years (shown by the dynamic trajectories) will be considered.¹

2. THE ACQUIS COMMUNITAIRE OF EC LABOUR LAW

The question if the Community or the Member States are competent to engage in a certain field of policy or to adopt legislation depends from the treaty establishing the EC. Originally signed in 1957 in Rome by only six Member States, during the time and the growth of the EC there have been a lot of amendments. Telling the history of the EC, it sounds like a journey through several towns of Europe: Maastricht – Amsterdam – Nizza and so on. Each Name of a town, where the treaty has been amended, reminds of a special époque of the developing process.

In the beginning the Community aimed to establish a common market, especially by the mean of abolishing customs. The objectives had been almost entirely economic. Its name was „European Economic Community“. In Maastricht another treaty had been signed in the year 1992, called the treaty on

¹ Seifert / Tangian (2006): Globalization and deregulation. Does flexicurity protect atypically employed ?, WSI Discussion paper Nr. 143, www.boeckler.de/pdf/p_wsi_diskp_143.pdf

European Union. The new treaty marked a step forward towards a political Union. To day treaties, the treaty establishing the „European Community“, as it is called now, and the treaty on „European Union“, complement one another. The decisive text which describes the community policies and the community decision making process is still the treaty establishing the European Community, until a treaty establishing a Constitution for Europe will be signed. The way the different treaties exist side by side, reminds us that we look at development transitions more than at a final state.

The treaty of Maastricht has been amended and consolidated by the Treaty of Amsterdam in the year 1997. Two additional fields of community policies were amended in the EC Treaty there. The one is called „Social policy, education, vocational training and youth“ (Part three title XI, -Text 2-), and the other is called „Employment“ (Title VIII, -Text 1-). Thereby the Community had acquired some legislative competence on the field of labour law.² I say „some legislative competence“, because we have to differ as to whether by the treaties there is meant an exclusive jurisdiction or only a concurrent or parallel jurisdiction. The European Court of Justice (ECJ) plays an important role for the interpretation of the treaties, and that means, also for the question, how the powers between the Community and the Member States are divided. In general, the jurisdiction of the Community has been limited in the year 1992 by the principle of subsidiary (Art.5 EC Treaty):

„The Community shall act within the limits of the powers conferred upon it by this Treaty and of the objectives assigned to it therein.

In areas which do not fall within its exclusive competence, the Community shall take action, in accordance with the principle of subsidiary, only if and in so far as the objects of the proposed action cannot be sufficiently achieved by the Member States and can

² A comprehensive presentation of the *acquis communautaire* of the EC labour law is given by Roger Blanpain (2006): *European Labour Law*, tenth revised edition, Kluwer Law International, The Hague

therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community.

Any action by the Community shall not go beyond what is necessary to achieve the objectives of this Treaty“

2.1. Social Policy (Part three, Title XI, EC Treaty)

In the nineties of the last century Community legislation had been adopted on the field of labour law mainly derived from the articles concerning Social Policy (Title XI). There had been several directives created concerning Working Time (1993)³, Parental Leave (1996)⁴, Part-Time Work (1997)⁵, Fixed-Term-Work (1999)⁶ and some others.

Before the Title XI was amended to the EC Treaty in Amsterdam, the Member States without the UK had an “Agreement on Social Policy”, which was the basis of the Directive on European Works Councils or Procedures.⁷ Since the year 1998 it is extended to the UK.

„Directive“ sounds like soft law, but that is not true. Art. 249 of the EC Treaty knows four categories of governing acts. I.e. „Regulation“ (which has direct effect for the citizens), „Directive“, „Decision“, and „Recommendation“.

A directive „shall be binding, as to the results to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods“ (Art. 249 EC Treaty). That means that the directive must be implemented on the level of a Member State in order to become national law. But the ECJ plays a great role by interpreting the treaty, and he decided, that under certain circumstances even a directive is capable of having direct effect.

³ 93/104/EC, which later was replaced and amended by Directive 2003/88/EC, O.J., L 299, 18 November 2003

⁴ 96/34/EC, O.J., L 145/4, 19 June 1996

⁵ 97/81/EC, O.J., L 14/9, 20 January 1998

⁶ 99/70/EC, O.J., L 175, 10 July 1999

⁷ 94/45/EC, O.J., L 254/65, 30 September 1994

As an example the directive concerning working time has forced to change rules of German labour law concerning working time, especially in hospitals.⁸ Sometimes one can hear complaints that European law removes German labour law.⁹

Title XI (Social policy...) has introduced the „Social Dialogue“, which contains an additional way of creating law through collective bargaining by the social partners (Art. 138, 139 EC Treaty). It is possible that their agreements are transformed into directives by a Council decision.¹⁰ On the background of German collective labour law this sounds familiar, but from other national conveniences in labour law it may sound „revolutionary“.¹¹

2.2. Employment (Part three, Title VIII, EC Treaty)

The mentioned directives follow more or less the idea of creating minimum standards. In recent times the European Employment Strategy, based on Title VIII (Employment), plays an even greater role in EC labour law regulation. The Employment Guidelines of Helsinki from the year 2000 have posited four pillars of the European Employment Strategy (EES): „employability“, „entrepreneurship“, „adaptability“ and „equal opportunities“.

Brian Bercusson of the European Trade Union Institute in Brussels is speaking of a „paradigma shift in EC labour law“.¹² That means that the emphasis is laid upon the policy process more than upon the process of adopting and harmonising legislation. This political process is called the “Open Method of Co-ordination“, and is presumed to be a supranational form of governance.¹³ It does not include a procedure like the „social dialogue“

⁸ Schliemann (2004): Allzeit bereit. Bereitschaftsdienst und Arbeitsbereitschaft zwischen Europarecht, Arbeitszeitgesetz und Tarifvertrag, in: Neue Zeitschrift für Arbeitsrecht, p.513 - 518

⁹ For instance Bauer/Arnold (2006): Auf „Junk“ folgt „Mangold“ – Europarecht verdrängt deutsches Arbeitsrecht, in: Neue Juristische Wochenschrift, p.6 - 12

¹⁰ For example Directive 96/34/EC; 97/81/EC; 99/70/EC (Fn. 5 - 7).

¹¹ Bercusson, Freedom of assembly and of association, in: Bercusson (ed.) (2006): European Labour Law and the EU Charter of Fundamental Rights, Nomos, Baden-Baden, p.133 – 169 (168)

¹² Introduction, in: Bercusson (fn.12), p. 35

¹³ Regent (2002): The Open Method of Co-ordination: A supranational form of governance? International Institute for Labour Studies, Geneva

which is provided in Title XI, but this method has the advantage, that labour law regulation is not further regarded as an isolated field of policy, but is seen in it's interdependence with employment policy

2.3. Principles, especially Art. 13 (Part one, EC Treaty)

Recently Art.13 was amended amidst the introducing principles of the treaty.

“Without prejudice to the other provisions of this Treaty and within the limits of the powers conferred by it upon the Community, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation...”

In regard of this article in the year 2000, the Community adopted a directive implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.¹⁴ This directive also contains labour law, because it provides protection against such discrimination in the field of employment and occupation. In the same year there followed a second directive establishing a general framework for equal treatment in employment and occupation.¹⁵ Just to give an example of the relevance of this directive for the German labour law: One rule of a German law for part-time and fixed-term work allowed the limiting of appointments of employees elder than 52 years without any special reason. The European Court of Justice (ECJ) has judged that this rule violates directive 2000/78/EC, because elder people are discriminated. The ECJ decided that German courts should not apply this rule.¹⁶

¹⁴ 2000/43/EC, O.J., L 180, 19 July 2000

¹⁵ 2000/78/EC, O.J., L 303, 2 December 2000

¹⁶ ECJ, 22.11.2005; Bauer/Arnold (fn.9)

3. THE GREEN PAPER: MODERNISING LABOUR LAW TO MEET THE CHALLENGES OF THE 21ST CENTURY

In part two I tried to give an impression of the to-days substantial *acquis communautaire* of common European labour law. My approach has been typically juristic, looking at if the EC Treaty had conferred legislative competence on the field of labour law to the community, and I have searched to see if this competence has been used for adopting EC law in the past. But the Community decision-making process can hardly be understood with traditional juristic concepts in one's mind. Having studied law in Germany in the post-war area, and not being acquainted with a common-law-tradition, I'm accustomed to look for clear, strictly written competences and the hierarchy of legal sources. Opposite to this way of thinking, the European Community decision process is revealed to be a web of political and juridical means, of hard and soft law. In general the EC Treaty recognizes the sovereignty of the Member States in the field of social policy (including labour law). Nevertheless the Community institutions and especially the Commission start political initiatives in this field, which in fact may have great influence upon the political and legal chances in the member states.

Such an initiative is the Green Paper „Modernising labour law to meet the challenges of the 21st century“, which was published in November 22nd of the year 2006.¹⁷ The Member States, social partners and other stakeholders had been asked to study this paper and to send back answers until the end of March 2007. Afterwards a follow-up-Commission Communication in June 2007 will be published. The objective is to outline a set of common principles in favour of a „flexicurity“-approach by the end of 2007. Member States shall be helped to steer a reform process of their national labour law.

¹⁷ COM (2006) 708

At the Lisbon summit of 2000 the EU had already referred to a concept of flexicurity, and since a meeting in Villach in January 2006 this is a top theme in the European Commission. But what does it mean?

In the old member states of the EC between the sixties until the eighties it had been usual that workers had been employed full-time and without any fixed term of their contract. Additional to this typical employment relation, employment protection legislation had been developed. For instance in Germany dismissals are only allowed in certain cases, the conditions of which must be proved by the employer. In most cases employees agree with the dismissal, if the labour courts propose a severance pay, which seems sufficiently high to them. This labour law regulation is completed by a social unemployment insurance scheme.

Since about 15 or 20 years one can observe what in Germany is called the „destruction of the standard contractual model“. While unemployment increases, a growing number of employees are working part-time, within fixed-term contracts, they are hired temporarily by employment agencies, or they are informally employed. A report to the European Council from 2003 fears that the labour market may split into „permanently employed ‚insiders‘ and ‚outsiders‘, including those unemployed and detached from the labour market, as well as those precariously and informally employed“.¹⁸ As you see

Appendix 3 shows the growth of atypical employment in Germany between 1991 and 2004, especially of part-time work, fixed-term-work and agency work¹⁹

The Green Paper analysis this development as the result of a „clear deficit between the existing legal and contractual framework, on the one hand, and the realities of the world of work on the other“.²⁰ The „realities of the world of

¹⁸ Green Paper, p.3, referring to the Report of the European Employment task force, chaired by Wim Kok.

¹⁹ Seifert / Tangian (fn.2), p.10

²⁰ Green Paper, p.4

work“ are described as the growing necessity of higher competitiveness of undertakings, combined with higher productivity, due to the economic globalisation, as well as a significant growth of the services sector. Non-standard contracts shall enable „business 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“.²¹ According to this view the Green Paper fears that employers in the near future will increasingly recourse to alternative forms of employment, if standard employment contracts are not adapted to what are called the new economic necessities.

Following the analysis of the Green Paper, there will be no other way to promote competitiveness of European economy than accepting a process of increasing flexibility of labour markets as well as of labour relations. This flexibility means lower job security and lower social security for working people. Following this way, the paper prognosticates on the other hand a better economical performance and less unemployment. There is a shift promised from job security towards employment security. The policy of flexicurity aims to compensate decreasing job security, which accompanies this shift, by increasing social security. Mere flexibility shall be transformed into „Flexicurity“.

In the words of a usual definition, flexicurity means

*„a policy strategy that attempts, synchronically and in a deliberate way, to enhance the flexibility of labour markets, work organization and labour relations on the one hand, and to enhance security –employment security and social security- notably for weak groups in and outside the labour market on the other hand“.*²²

²¹ Green Paper, p.7

²² Withagen and Tross, cited by Tangian (2007): Flexibility – Flexicurity – Flexinsurance: Response to the European Commission's Green paper „Modernising Labour Law to Meet the Challenges of the 21st Century“, WSI-Discussion Paper Nr. 149, http://www.bosckler.de/pdf/p_wsi_diskp_149_e.pdf, p.10

In part two I have mentioned that the European Employment Strategy influences the development of European labour law. The Green Paper continues this interference between employment policy and labour law regulations.

Giving an example what can afford „flexicurity“, the green paper refers to an Austrian law from the year 2002 (Abfertigungsgesetz). In the past in case of dismissals the workers could receive a severance pay from their former employer. The amount depended on the time the employment had lasted. If employees had changed their working place by their own, they lost the right to receive such a severance pay. Now the „Abfertigungsgesetz“ allow workers to leave their working place without losing the right to severance pay, because it is paid not by the single employer, but by an insurance to which all employers at national level contribute. At the same time, if in an economic crisis a firm has to dismiss a lot of workers, the costs of severance payments do not threaten the firm's existence.²³

In December 2006 there was an expert meeting discussing this Austrian example of flexicurity. Mr. Hakan Ercan from the Middle East Technical University commented this example on the institutional and legal background in Turkey. I learned that labour market regulations and employment policies had been one of the most important areas for Turkey in the adopting of the EU acquis, and that a new Labour Act Nr. 4857 had been put into effect, including a Job Security Act, in the year 2003. So the conflict between an economically argumentation in favour of labour flexibility on the one side and the worker's need for job security on the other is familiar in the political area in Turkey, as well as the concept of flexicurity. – Obviously severance pay regulations play an important role in labour regulation in Turkey, and Mr. Ercan remarks, that Turkey has „one of the more generous and rigid implantations of this

²³ Green Paper p.10

inflexibility and job security institution on paper“. He pleads for a similar system as has been introduced in Austria.²⁴

In the controversial discussion of this flexicurity-paper, as far as I have seen, there is consensus that the structural change of labour market is a great challenge to policy. In the political arena labour law policy plays only one role besides other policies. The Green Paper itself recognises that a „review of the tax wedge may also be needed to facilitate job creation, especially for low wage employment“. ²⁵ More general there are proposed interactions between labour law legislation, taxation and insurance elements.²⁶

Also the constraintment of the openness of financial markets is proposed by critical voices.²⁷

Besides this necessary enlargement of the viewpoint the discussion partners agree with the abstract idea of flexicurity as a compensation of the relaxation of labour protection by advances in social and employment security. The critical voices point at the fact that „contrary to the theoretical opinions and political promises, the current deregulation of European labour markets is not adequately compensated by improvements in social security. Flexibilization resulted in an increase of unemployment and in a disproportional growth of the number of atypically employed...The average employment status in the society decreases, on the average disqualifying employees from social security benefits, even in the background of some institutional improvisations“. ²⁸

Hartmut Seifert and Andranik Tangian are engaged in monitoring effects of flexicurity policies in Europe.²⁹ Appendix 2 shows the results of their investigation. The dynamic trajectories are indicating that within the last years the decrease of the employment protection law in none of the 16 countries was

²⁴ [http://www.mutual-learning-employment.net/stories/storyReader\\$195](http://www.mutual-learning-employment.net/stories/storyReader$195)

²⁵ Green Paper p.4, fn.7

²⁶ Tangian (fn. 23), p.19

²⁷ Tangian (fn. 23), p.13, 26

²⁸ Tangian (fn.23), p.25

²⁹ Seifert / Tangian (fn. 2)

compensated by an increase of social security. Otherwise the trajectories ought to go in “north-west” direction.

Theoretically doubts on the Green Papers concept of flexicurity arise, because the decreasing job security should be compensated by social security guaranteed by the state. Since the state budget originates from taxpayers, the employees contribute to this benefit, while employers profit from the cheaper workforce. „Therefore, such a flexibilization scenario (may turn out) to be a long-running indirect governmental donation to the firms“.³⁰ To avoid this effect, it is suggested by critical experts that the lower the employment status of the employees of a firm is, the higher contributions the employer has to pay to social security. Thus the responsibility for the needs of the unemployed is not transferred to the state but recovered by corresponding insurance contributions.

So it depends on several factors whether a flexicurity policy is apt to cope with labour market chances. Critics especially miss a clear definition of what is meant by the Commission, as well as an empirical feedback to the theoretical assumptions of this policy.

For my opinion the abstract idea of flexicurity is an invitation to think over and prove empirically the complex relations between different factors such as employment protection legislation, taxation and insurance systems. As often, the rhetoric of European community programs is rich enough to pursue the one aim as well as the other, for instance pursuing social inclusion as well as competitiveness of undertakings, development of the Community as a whole as well of specific regions, sustainable economic growth in the sense of ongoing growth as well as in the sense of saving on natural resources. In effect this ambiguity evokes public discussion and even political struggle, which is necessary for a democratic society.

³⁰ Tangian (fn. 23), p.14

4. A FUNDAMENTAL RIGHTS APPROACH TOWARDS EUROPEAN LABOUR LAW

In part two I have tried to outline the *acquis communautaire* of EC labour law, consisting in directives and jurisdiction of the ECJ on the basis of the EC Treaty. At the summit held in Nizza in the year 2000 a European's Charta of Fundamental Rights had been proclaimed.³¹ It contains, in several chapters, articles about Dignity, Freedoms, Equality, Solidarity, Citizen's Rights, and Justice.

This Charta is not adopted until now as law by the European institutions. Nevertheless the ECJ refers to it as part of the constitutional law heritage of Europe. Thus it is not irrelevant in the juridical intercourse. The significance of the Charta still grew, since it has been incorporated as Part II into the Treaty Establishing a Constitution for Europe in the year 2004, which presented a draft of a constitution.³² In the sphere of law as well as of policy, thinking in terms of fundamental rights has developed amazingly. The result is that we can expect –and hope- that fundamental rights in a near future will be expressively part of the EU *acquis communautaire*, as they had been adopted as law before by the European Convention on Human Rights of the European Council and its Member States.

A fundamental rights approach towards law, including labour law, reminds of the fact that law as a whole concentrates upon persons. Thinking about economy in the terms of fundamental rights reminds that economic performance is not a worth in itself, but only under the aspect of what it means for persons, their life and their dignity. Thus persons are respected in their role as consumers, as well as employees, or as employers or self-employed.

³¹ O.J., C 364/10, 18 December 2000

³² O.J., C 310/1, 16 December 2004. In 2004 there had been added some amendments to the original text of the year 2000; both texts can be compared in: Bercusson (fn 12), appendix 1

Let us look at the significance of the Charter for the field of labour law. What is its application? Even if the Constitution would be adopted as law, it will not shift the competence from the Member States automatically to the Union.

“Article 51: Field of application

1. *The provisions of this Charter are addressed to the institutions, bodies, offices and agencies of the Union with due regard for the principle of subsidiarity and to the Member States only when they are implementing Union Law.*
2. *This Charter does not extend the field of application of Union law beyond the powers of the Union or establish any new power or task for the Union, or modify powers and tasks defined in the other Parts of the Constitution.”*

(European’s Charter of Fundamental Rights)

The second question concerning the Charter in the social and labour law field is connected with the distinction between “hard (justiciable) civil and political rights” and fundamental social rights as mere “soft (programmatic) rights”. The last would only declare that the EU recognises them as a political objective to create proper conditions for the implementation of this category of rights. - The European Council at Nice decided in the year 2000 not to separate these two categories of rights into one chapter for (hard) civil and political rights and another chapter for (soft) social rights with explicit programmatic character. Thus the fundamental social rights tend from “soft” to “hard”, and the ECJ will have remarkable influence on the development.

Just to give one example of the case law of the ECJ:

In the year 2001 a trade union of employees of broadcasting stations in the UK lodged a complaint about a regulation concerning paid annual leave. The entitlement to paid leave had been subject to a qualification period of 13 week’s employment. Such a qualification was not provided in the EC Working

Time Directive. The ECJ decided that the UK Government's implementation of the Directive was against EC law. The Advocate General Tizzano argued in his advisory Opinion, that

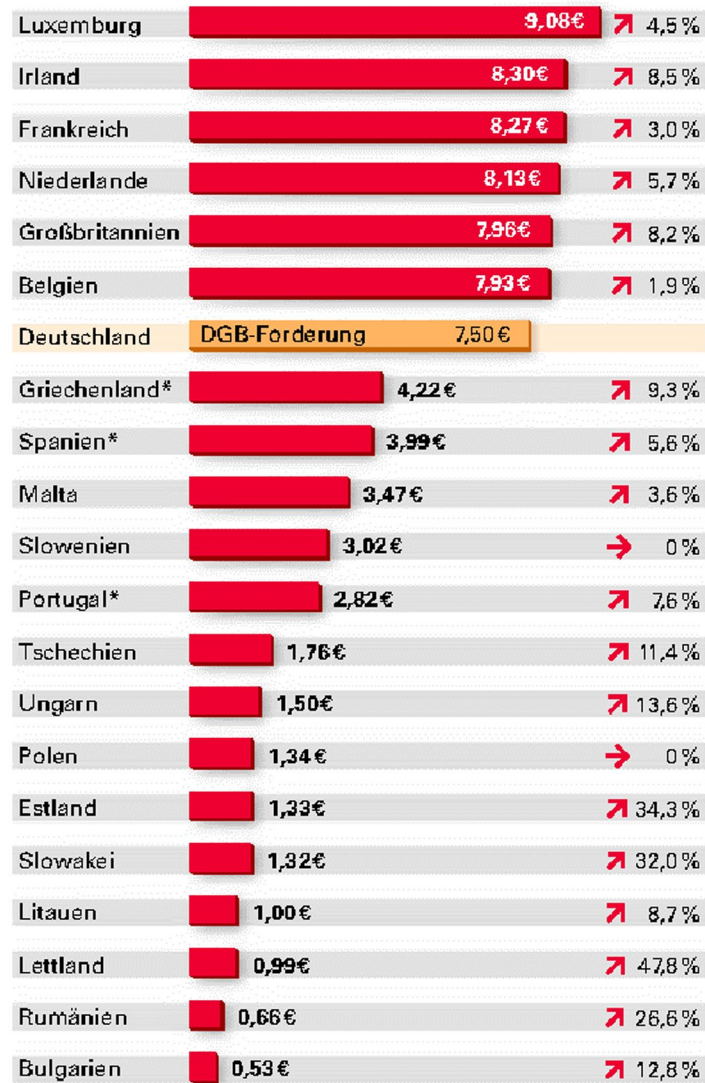
“the relevant statements of the Charter cannot be ignored; in particular, we cannot ignore its clear purpose of serving, where its provisions so allow, as a substantive point of reference for all those involved – Member States, institutions, natural and legal persons – in the Community context. I consider that the Charter provides us with the most reliable and definitive confirmation of the fact that the right to paid annual leave constitutes a fundamental right”

This was called a “worst nightmare of those who fought against the inclusion of fundamental social rights, including trade union rights, in the EU Charter”.³³

³³ Berussou / Clauwaert / Schömann, Legal prospects and legal effects of the EU Charter, in: Berussou (fn.12), p. 46

Appendix 1 Minimum wages per hour in Europe 2007

increase from
January 1st 2006 to
January 1st 2007

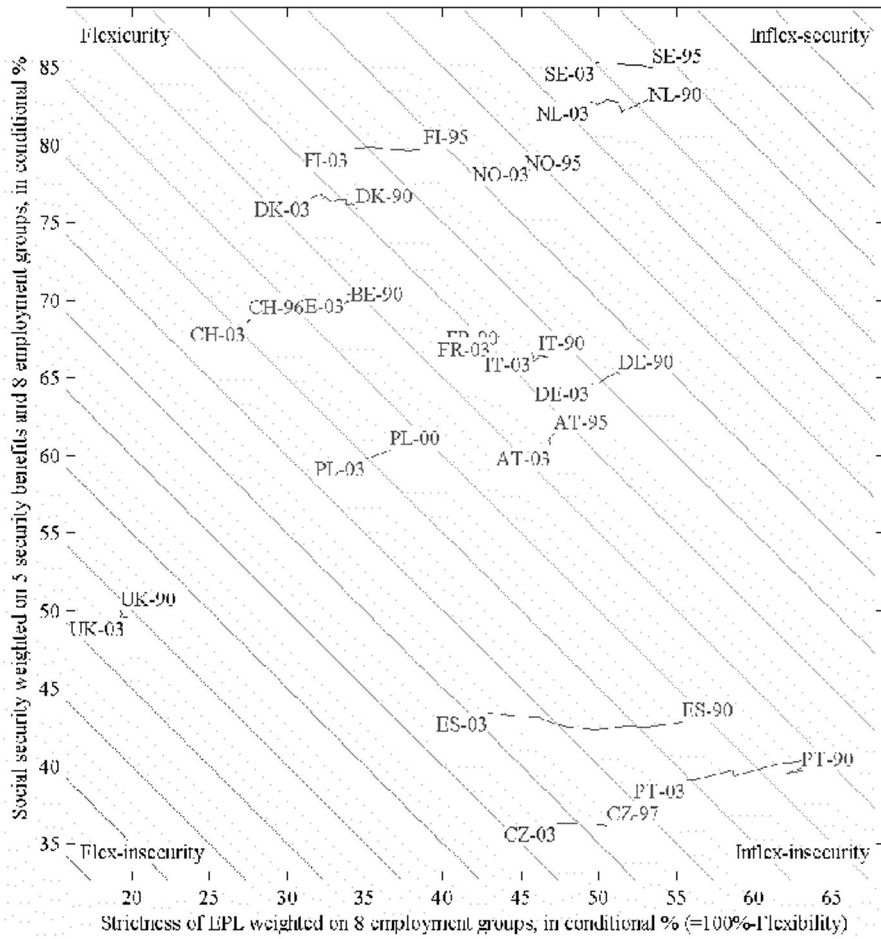


*Basis: 14 obligatory month wages

Source: Eurostat 2007, calculated by WSI, exchange rates of January 8th 2007
Boeckler impuls 1/2007, www.boeckler.de/pdf/impuls_2007_01_1.pdf

Appendix 2

Flexibility-Security trajectories in the background of diagonal flexicurity isolines



Source: Seifert / Tangian (2006): Globalization and deregulation. Does flexicurity protect atypically employed?, WSI Discussion paper Nr. 143, www.boeckler.de/pdf/p_wsi_diskp_143.pdf

Appendix 3

Table 2: Growth of atypical employment in Germany (Source: Statistisches Bundesamt 2003; Bundesagentur für Arbeit 2004; Rudolph 2004)

	Total employ-ees ¹⁾	Part-time work ²⁾		Fixed-term employees ³⁾		Temporary agency work ⁴⁾	
		Number of part-time workers in 1,000	Percentage of total employees	Number of fixed-term employees in 1,000	Percentage of total employees	Number of agency workers in 1,000	Percentage of total employees
1991	33,887	4,736	14.0	1,888.9	5.4		
1992	33,320	4,763	14.3	(FXA)	6.7		
1993	32,722	4,901	15.0	1,802.7	5.3	121.4	0.4
1994	32,300	5,122	15.9	1,946.9	6.8	136.5	0.4
1995	32,230	5,261	16.3	1,929.4	6.8	176.2	0.5
1996	32,189	5,340	16.6	1,956.5	6.9	177.9	0.6
1997	31,917	5,659	17.7	2,067.2	7.4	212.7	0.7
1998	31,878	5,684	18.5	2,149.3	7.7	252.9	0.8
1999	32,497	6,323	19.5	2,344.1	8.3	286.4	0.9
2000	32,638	6,478	19.8	2,282.8	8.0	339.0	1.0
2001	32,743	6,798	20.8	2,297.6	8.0	357.3	1.1
2002	32,469	6,934	21.4	2,149.9	7.5	336.3	1.0
2003	32,043	7,168	22.4	2,211.1	7.8	327.3	1.0
2004	31,405	7,168	22.8	2,249.2	8.1	399.8	1.3

1) excludes trainees

2) Figures for April

3) private sector blue- and white-collar workers

4) Figures for end June

Source: Seifert / Tangian (2006): Globalization and deregulation. Does flexicurity protect atypically employed ?, WSI Discussion paper Nr. 143, www.boeckler.de/pdf/p_wsi_diskp_143.pdf

Note: This article has been delivered as a conference by Prof. H. Burghardt

At Beykent University in may7,2007.

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35. *Source: Seifert / Tangian (2006): Globalization and deregulation. Does flexicurity protect atypically employed?, WSI Discussion paper Nr. 143, www.boeckler.de/pdf/p_wsi_diskp_143.pdf*

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