

THE **Flexicurity** DEBATE AND THE CHALLENGES FOR THE TRADE UNION MOVEMENT

introduction

EUROPE IS IN THE PROCESS of organising a discussion on how to increase the flexibility of the European labour market while at the same time safeguarding security: the famous “flexi-curity” concept. The aim is to decide on common principles by the December 2007 European Council.

This discussion has started off with a number of claims. It is claimed that the adaptability of European companies represents a standstill. That the business climate for creating employment needs further improvement. That workers in Europe should give up on job protection in return for employment security.

For the ETUC, such claims are non-starters as argued in this document.

The first part documents that existing systems of job protection do not prevent European business to engage in structural change. Flexibility is already high in many European member states. It also shows what ‘flexibility’ – in the sense of ‘free firing’ or an endless diversity of work contracts”- is really about and, most importantly, who really stands to gain from this.

In the second part we put forward a number of principles describing what a meaningful discussion on the balance between security and flexibility should really be about.

These principles were presented and discussed by the ETUC’s Executive Committee, on 21 March 2007.

I. Flexibility and Security in Europe: A few basic facts

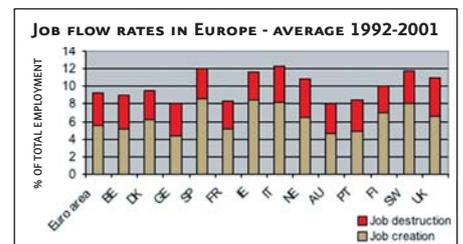
Business in Europe is already enjoying high adaptability

The process of ‘creative destruction’ is at the heart of the flexibility debate. Globalisation and the emergence of low-cost competitors require a European labour market that can handle rapid change. Workers should move from jobs that are bound to disappear to the jobs being created in new sectors and activities that are more in line with European competitive advantage.

A look at what is really happening on labour markets shows that Europe **keeps** up with the pace of change. European economies are able to create and destroy jobs in an intense way (see graph below). Around 3 to 4% of jobs – or 7 million of jobs at the level of the EU-15 - are destroyed each year. This includes countries with a robust system of job protection such as Spain, Sweden, the Netherlands, Italy. At the same time, these countries are also enjoying high rates of job creation as can be seen from the 8.6% job creation rate in Spain and Sweden. Identical conclusions can be drawn from comparisons between Europe and the United States¹.

In contrast to widespread beliefs, European business does not face a standstill!

	Job flow rates	
	creation	destruction
Euro area	5,6	3,7
BE	5,2	3,8
DK	6,2	3,3
GE	4,4	3,7
SP	8,6	3,4
FR	5,1	3,2
IE	8,5	3,1
IT	8,2	4,1
NE	6,5	4,3
AU	4,6	3,4
PT	4,9	3,5
FI	7	3
SW	8,1	3,6
UK	6,6	4,4



Source: Amadeus database

How to explain this seeming paradox between the existence of robust job protection in many European countries on the one hand and dynamic labour markets on the other? Part of the reason lies in the fact that economies with low job protection are relying more on other instruments to have business share in the burden of adjustment. Firing practice in the US for example is conditioned by judicial practice and by ‘experience rating’ systems confronting firms that are laying-off with higher social contributions into unemployment benefit systems. Another reason is that job flow rates are measured on an annual basis. Job protection systems may ‘bite’ within a period of a couple of months but do they do not hamper firms in destroying jobs over a period of one year. In this way, many job protection systems in Europe are already striking a certain balance between flexibility and security. They provide workers with job security over a certain time period, while at the same time allowing firms to retrench over a time frame of one year.

Excessive flexibility will hit vulnerable workers hard and split society in two

Business in Europe already has the possibilities to adapt. And thanks to wage moderation efforts by workers, business is also enjoying historically high profits. Why then this business driven agenda of more flexibility?

The answer is that lower job protection and an endless variety of work contracts

¹ For further reading see ETUI Benchmarking Working Europe 2007, chapter I.

will be to the detriment of many vulnerable workers, while CEO's and managers will see their wages and perks soar.

Youngsters, less skilled, women, migrant workers will come under much pressure. Faced with the threat of being fired easily and replaced by someone else, these workers will find it very hard to stand up against the employers' pressure to cut wages, work unpaid overhours or work under contracts of bogus self employment offering no or reduced access to social security.

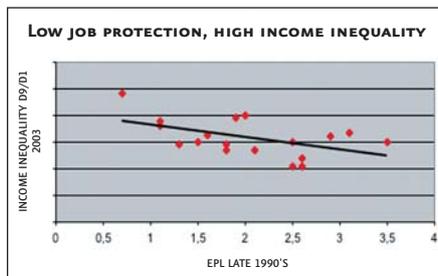
At the same time, the motivation and attachment of these workers to their work place will logically be reduced: if employers are 'pretending' to offer work contracts and pay, workers in turn will 'pretend' they are working. As a result, more supervisors and managers in the workplace will be necessary to ensure that the efficiency of the firm does not suffer too much. It is no coincidence that economies with low job protection employ substantially more managers than economies where job protection is robust. In the UK and the US, where job protection is low, the share of managers in total employment is over 10%. In the continental economies of Europe, their share is limited to 4 or 5%.

The link between weak job protection and high and rising inequality is clear: with firms in need of more but scarce managers and supervisors, their wages and perks will rise exponentially. In turn, this will be financed by cutting wages of vulnerable workers.

The graph below compares job protection systems and inequality across OECD countries. Excessive flexibility and high inequality are going hand in hand.

Countries with low job protection experience substantially higher inequality

	EPL late 1990's	d9/d1 2003
Australia	1,5	3
BE	2,5	2,1
CA	1,1	3,8
CZ	1,9	3,9
DK	1,8	2,7
FI	2,1	2,7
Fr	2,9	3,2
GE	2,5	3
JP	1,8	2,9
KOR	2	4
NZ	1,3	2,9
NO	2,6	2,1
PR	3,5	3
SP	3,1	3,36
SW	2,6	2,4
SZ	1,6	3,24
UK	1,1	3,6
US	0,7	4,83



Low job protection of workers splits society into an underclass of workers on the one hand and, on the other hand, an elite for whom 'the sky is the limit'. Europe, with its attachment to values of equity, fair working conditions and fair treatment should avoid at all costs these pitfalls of 'free firing' and excessive flexibility.

II. The trade union agenda

For the trade unions, flexicurity is not about **one** model of labour market structure and it is not about **one** set of policy prescriptions to achieve economic success. Instead it is about finding a socially acceptable balance between the needs of adaptable enterprises/workplaces and a long-term objective of human, social and sustainable development; such a combination can be found between one or more types of flexibility and of security. In other words, there are different models of flexibility/security possible in Europe, with each of them depending on certain characteristics of industrial relations systems at national level. This socially acceptable balance, which must lead to a win-win situation, is decided primarily by the social partners themselves, through negotiations.

A trade union agenda on flexicurity should therefore stress that, what the European economy needs is more **and** better jobs, the capacity to respect and enforce existing EU and national legislation in the social policy and labour market field, the fight against undeclared work and the respect and promotion of the role of the social partners, including strong collective bargaining systems. It is deplorable if the Commission flexicurity agenda leads to more competition for the low skilled, instead of the macro economic policy contributing to a growing economy and more and better jobs.

The ETUC considers that the following seven principles must be at the basis of any flexicurity approach:

1. Fight precarious jobs and promote the quality of work

Precarious jobs are not only precarious for the worker but have an adverse effect for the labour market and the economy as well. A rising proportion of fixed-term contracts has a negative effect on productivity, with temporary agency workers in particular have much less access to employer supported training². Workers caught in chains of irregular job contracts will have less stable and lower incomes, leading to an increased incidence of poverty. Increased job insecurity will also lead to higher precautionary savings, implying a setback in aggregate demand and growth. New types of flexible employment may have worse health impacts than permanent employment³. Working conditions of non-permanent workers are worse than those of permanent workers. Workers in flexible employment are exposed to more hazardous or dangerous work environments. Compared to permanent workers, employees with temporary contracts are much more exposed to poor working conditions and lower health and safety protection (such as vibrations, loud noise, hazardous products or repetitive tasks)⁴.

Finally, it is to be noted that European workers themselves attach a lot of value to the security of their jobs. Three quarters of European workers find the security of their job the most important element of a quality job⁵. And an overwhelming majority of Europeans think that loosening job protection will reduce employment performance⁶.

For the ETUC, the agenda of flexibility/security cannot be seen separate from the agenda of 'quality of work'. Job quality is indispensable in order to guarantee that the balance between flexibility and security will be a real and not a one-sided balance to benefit of employers and profits.

Job quality is also important to get the employers back into the equation. Indeed, with the present flexicurity approach, in particular its accent on external flexicurity, business is having it too easy and is trying to enjoy a 'free lunch'. European business is trying to get away from any responsibility for its workforce (paying a decent wage, investing in the human capital of their workers, getting rid of workers as easily as possible, offering insecure contracts) while expecting that

² <http://www.eurofound.eu.int/ewco/2005/o8/PT05o8NUo2.htm>

³ Types of employment and health in the European Union, The Dublin foundation 2002

⁴ Ibid

⁵ Dublin Foundation, Fourth Survey of working conditions 2006

⁶ Financial Times enquiry

others (the public actor, workers) step in and pay for social security systems, training and lifelong learning. With a 'job quality' agenda, the burden of adjustment can be shared between workers and business.

2. Focus on upwards instead of downwards flexibility and improve work organisation

From a worker's point of view one can argue that there is not too much flexibility but too little. Many workers experience a rigid, controlled working life where their potential and their knowledge is not fully used, they have little influence in controlling the direction of the work and they have little possibilities of adjusting their working time. Pushing for a flexible, participatory working life should be in the interest of trade unions. Labour market flexibility, defined as being **upward** flexibility is important for workers as well as for the economy as a whole. It is an essential part of economic development; it allows the to reply to globalisation by moving up the value added chain, thereby providing workers more options on the labour market. Positive flexibility is important for workers in order to find new jobs and make a career. Lifelong learning is an essential element, but also development of work organisation towards more sustainable, learning workplaces.

Furthermore, a dynamic labour market must allow for certain individual rights that have to be collectively guaranteed: the right of access to lifelong learning, the recognition and transferability of formal and informal competences, the offer of special programmes in case of jobs being threatened by restructuring or industrial change, ensuring the safeguard of professional paths through professional re-qualification, as well as the maintenance of rights and support to income during transitions between posts inside the same organisation or enterprise or in the case of transition to another job, another workplace or another country.

In one word, transitional labour markets require a 'security-mix': job protection

security, protected transitions and a balance between internal and external flexicurity are the right ingredients for a successful strategy.

3. Safeguard employment protection legislation and complementing it with labour market policies promoting upward mobility

There are indications⁷ that some Member States and the Commission see flexicurity as a means of reducing employment protection legislation (EPL) and/or of putting a vast amount of different work contracts at the disposal of employers in the hope of making the European labour market more flexible and dynamic. However, advocating a reduction in EPL is at odds with current policies and research results that do not find any substantial evidence that EPL would be an obstacle to a high employment rate or job flows on the labour market.

First, the European labour market/the European economy is vital and flexible. The economic growth is overall on par with the US- even though there are differences. Europe has a world class export sector, a large part of the biggest companies and world leading companies. While the overall trend for the United States is that the rate of job creation and job destruction is declining, indicating that the labour market (or at least the US one) is becoming less and less dynamic⁸, data from European economies⁹ indicate that job creation and job destruction is on par with US. This indicates that despite having a more regulated labour market, European economies are offering the same dynamics but more protection for workers compared to the American labour market.

Second, in its new employment report¹⁰ which is a follow up to the jobs study in the middle of the 1990s, the OECD has also made the case that EPL does not prevent lower employment rates. Furthermore the OECD also says that negative consequences of high unemployment benefits can be offset by active labour market policies and stringent job search policies. Research also confirms that fundamentally different

labour market models - ranging from the 'American Model' to the much more regulated and coordinated Scandinavian systems - are compatible with low unemployment¹¹.

Third, even the Commission itself writes in the recent Employment in Europe 2006 that more liberal employment protection legislation has, at best, mixed effects on productivity and growth. Moreover, stricter legislation favours investment in human capital or skills that would otherwise remain at sub-optimal level, thereby having a positive effect on productivity and growth. More strict employment protection legislation could be an incentive to respond to external change by innovation and internal and functional flexibility instead of layoffs. More stable employment relationships enhance the cooperation of employees and their personal initiative at work, thereby contributing to productivity enhancements.

Finally, job protection systems, in particular advance notification before lay offs, function as an 'early warning' system, giving workers that are fired to prepare themselves for change and to start looking for a new job or a retraining programme on time. As a result, the time spent in unemployment is reduced and workers find a new and productive job more easily¹².

The ETUC stresses that this latter dimension of job protection systems opens up possibilities for a positive agenda of structural reform and change. Instead of attacking job protection systems by presenting low job protection as the price to pay for access to training and lifelong learning, policy should use job protection and advance notification as a way to immediately assist and support workers that are to be unemployed. Advance notification makes it possible to combine a certain protection of the existing job with preparing workers for a change in jobs. This is a much better approach than having people become unemployed and then 'activate' them after one year of being unemployed.¹³ Concerning a variety of and work contracts, the principle agreed by social partners in the fixed term contracts agreement that

⁷ Green Paper on labour law, Joint Employment Report ("Labour code reviews are by far the most widespread type of measure. Member States are increasing contractual diversity but generally do not focus on transitions between types of contracts. There are few examples of measures aimed at redesigning Employment Protection Legislation for regular contracts to promote more flexibility and transitions (including LV, PT). Some countries, such as EE and SI, announce new reviews of their labour codes with a view to making them more flexible. In other cases political sensitivity causes delays in policy making (CZ, PL) or abandonment of previous plans, such as the announcement by DE to extend probation periods in exchange for the abolition of fixed term contracts. Policies to introduce flexibility 'on the margins' are still pursued (FR, PL)"., COM planning 2008,

⁸ Presentation by Donald Storrie, Flexicurity and Employability seminar Dublin 22-24 May 2006 - http://www.eurofound.eu.int/docs/events/fss/o6o522/Storrie_pres.pdf.

⁹ Mörtvik. Turboekonomi. TCO Premiss förlag 2006

¹⁰ OECD Employment Outlook 2006 - Boosting Jobs and Incomes

¹¹ Fighting unemployment Howell ed.

¹² Collective bargaining information bulletin 2006/3 R Janssen

¹³ For practical examples on collective agreements using this approach - see Collective bargaining information bulletin 2006/3

atypical forms of work should remain the exception and not become the rule should continue to be stressed by the ETUC.,

4. Maintain a broad approach to balancing flexibility with security

In today's policy discussion, there is a bias to focus on one single model of flexicurity - the Danish model of external flexicurity. Although the model - in combination with growth supportive macro economic policy, high levels of social trust, high educational levels of the population at working age and omnipresent trade unions - has worked well for Denmark, it should be underlined that other approaches are also possible and performing adequately. Other models of flexibility/security are:

>> The Dutch inspired model of 'equivalent rights approach', allowing certain forms (not all!) of flexible work but at the same time ensuring that flex workers have equivalent rights, which is important, amongst other things, to ensure mobility out of these flex contracts and into regular jobs

>> The German inspired model of internal numerical flexibility in which jobs are secure but working time and organisation is flexibilised, mostly by collective bargaining agreements.

>> The model of internal functional flexibility in which workers move inside the firm from one job to another job.

>> And finally, a new model may be developing itself in Southern Europe where trade unions and governments are tackling the excessive flexibility in their labour markets by, on the one hand toughening up labour law (ending the practice of chains of fixed term contracts) and, on the other hand, using tax policy to sanction 'bad' employers and reward and promote 'good' employers offering regular work contracts.

In the ancient world, it was the case that all roads were leading to Rome. In today's modern world, there are different roads leading to different places and flexicurity models (Copenhagen, Berlin, Amsterdam, Madrid).

5. Improve social welfare systems

In Europe, each year, more than 14 million people leave their job for reasons as dismissal, end of temporary job, family illness, education or other reasons¹⁴.

Focussing on employability is not enough. In order to facilitate transitions workers need some stability, security and predictable labour markets.

One major aspect of the discussion on flexi-

curity is who should carry the risk for unemployment, sickness and other of life's risks. In this discussion there is of course a danger if the focus rests on a trade off where more liberal dismissal rules is exchanged for a "modern" welfare system, with perhaps a restricted access to benefits, lower benefit rates, the obligation to take up any type of employment, which increases the risks for the individual. One of the neo-liberal economic theorems is that a higher individual risk for workers also "encourages" labour market participation.

However there is strong evidence that active labour market policies and a high level of benefits encourage labour market participation not the opposite¹⁵. It is also important to focus on including into the social security system those groups who are most exposed to the "flexibility part of flexicurity" e.g. women, migrant workers, disabled, youth, workers with atypical contracts.

Readiness for and confidence in change is created through welfare systems where individuals have opportunities for education, rehabilitation and adjustment. A universal welfare policy, active labour market policies and strong trade unions create a social infrastructure that facilitates adaptation, and also makes workers more open to change and to adapt.

6. Integrate flexicurity policy with macro economic policy

Flexibility (and neither does flexicurity), as argued and shown above, does not create one single job. Flexicurity might ease adjustment on the labour market somewhat and provide for a smoother transition between jobs but it does not increase total employment performance.

This implies flexicurity policies should be implemented together with macro economic policies supporting growth and the creation of new and additional jobs. Denmark for example only started to register economic success and employment growth after the government in 1993 used fiscal and monetary policy to boost demand and growth in the economy. Therefore, we cannot accept to discuss 'flexicurity' without discussing growth enhancing macro economic policies. Implementing 'flexicurity' without positive macro policy makes no sense at all. Our objective is to have more and better jobs, not to have workers compete more with each other for the same amount of jobs and resulting in poorer wage conditions.

This also links up with the discussion the

Commission in particular is trying to impose by arguing that, even if loose EPL does not create extra jobs, it will reduce unemployment of those workers that are most at risk on the labour market (youngsters, women, low skilled). This approach of playing some workers out against other workers ('insiders' versus 'outsiders') should be strongly rejected. We should argue that substituting protected and decent jobs for insecure poverty jobs is not a solution at all, also not for those groups now confronted with high unemployment. This approach of 'precarising' a big part of the workforce will only result in even higher profits and higher incomes for elite groups such as CEO's. The effect is exactly the opposite of the one Europe seeks to promote: corporate social responsibility and social cohesion. Our argument should be that, instead of creating more job openings by firing workers more easily while keeping the same amount of jobs, we should provide more job openings substantially more jobs. More and better jobs should be the answer, not less and worse jobs.

7. Improve social dialogue and collective bargaining

Social partners, collective agreements and workers' participation increase flexibility and economic development in the labour market through setting rules for the whole labour market making firms compete with productivity instead of wage competition. Unions give workers a direct voice to management, making it more likely that conflicts will be resolved through discussion rather than through the employee leaving the work place. Unionisation reduces unwanted turnover, making it more likely that employees will develop valuable job-specific skills.

The most essential part of flexicurity is the involvement of the social partners. They define the balance between flexibility and security, and in doing so legitimise and set the rules of the labour market. They need instruments that will allow them to anticipate change and to control the respect and implementation of both collective rights and individual pathways.

Trust between the social partners is very important for a well functioning labour market and when in many of the new Member States the social dialogue is inadequate and social partners weak this reduces the ability to agree on the balance on the labour market.



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¹⁴ Eurofound

⁸ Esser, Ingrid. Why Work?: Comparative Studies on Welfare Regimes and Individuals' Work Orientations