

FLEXICURITY IN THE FINANCE SECTOR IN EUROPE

**REPORTS AND CONTRIBUTIONS
FROM THE EUROPEAN SEMINARS
IN BUCHAREST
ROME
LONDON**

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INDEX

FOREWORD	page....
CHAPTER 1 THE EXPERTS	"
CHAPTER 2 THE QUESTIONNAIRES AND REPORTS FROM THE FINANCE UNIONS	"
CHAPTER 3 THE EWCs	"
CHAPTER 4 THE ROUND TABLE WITH THE SOCIAL PARTNERS	"
CHAPTER 5 THE FINAL ANALYSIS AND CONCLUSION	"

FOREWORD TO THE MAIN SEMINAR ARICCIA-ROME 26th MARCH 2007

We are gathered here for the presentation of the European Project, which will be as rational and concise as possible. However, I do not want to hide my emotions and I would like to express all my satisfaction and pride for the fact that we have been able to gather the trade unions of 22 European countries, including also the two countries (Luxembourg and Turkey) which are not physically represented here, but which support the Project and which took part in the preparatory meeting.

In practice, we have here all of the European Union, the candidate countries, and even Iceland, thanks to the NFU, which managed to involve it in the Project. So with Iceland, Cyprus and Malta we have all the European islands, from the northernmost to the southernmost ones, from the magic land of ice to the bright Mediterranean islands – all part of the big Europe. Let me sound rhetorical just for a moment, because if we do not dare to use some European rhetoric now, in what other trade-union meeting can we do so?

We are excited and happy. We thank all of you for your commitment and for your support to Fisac/Cgil. More in general, I would like to thank all the Italian trade unions affiliated with UNI, because it is also thanks to their strong support that the European Commission has decided to fund this Project – a project which passed a rigorous selection out of hundreds of other proposals.

One of the two main reasons for the Commission's approval of our Project on Flexicurity is indeed its unprecedented transnational dimension, thanks to the involvement of 35 trade unions from 22 countries.

I also have to apologize to the representatives of two countries, Bulgaria and Romania, and of two trade unions with which we have formed a close friendship in recent years. In fact, last year, when we presented the Project to the Commission, we correctly listed Bulgaria and Romania among the candidate countries, but on 1st January 2007 they became full EU members. Hence, I apologize for the fact that they are still listed as candidates: it was a mistake which we will soon correct.

As you know, the Treaty which gave origin to the European Union was signed here in Rome 50 years ago. Now, we are not here to join the official celebrations, which are more of an institutional pre-

rogative, but we still want to commemorate this anniversary with the same spirit with which Ezio Dardanelli commemorated the signature of the European Constitution in November 2004, during the international Seminar which many of you participated in.

So we also want to celebrate the 50th anniversary of the Treaty of Rome, because it is also thanks to that 50-year-old Treaty that, in our small way, we can gather here in representation of the workers of so many countries. It is thanks to that Treaty that we now have the financial resources which allow us to discuss and tackle issues which concern directly the workers we represent. Therefore, it is also thanks to that Treaty that we now have the opportunity to work together, to build Social Dialogue and to strengthen our cohesion and our bargaining power within the big multinationals of our sector, which are becoming increasingly influential and decisive for our future and for the future of our people.

Without that Treaty, without the EU, without the Social Charter of Nice, today we would not have the opportunity to work together, not only because we would not have the necessary resources, but also because we would have never had the possibility to meet and to even think of creating a trade union beyond our corporate, local or national borders.

Through this Project we want to make our contribution to the European debate on an extremely relevant issue for all the social partners: FLEXICURITY is not just a strange and effective acronym, but it represents a challenge to create a European, not only national, labour market which would help guarantee Europe high competitiveness – a competitiveness based on workers' skills, knowledge and professionalism and based on the provision of high-quality services to our customers and on the driving force of our sector for the entire European economy.

Such a labour market must be able to combine flexibility (both inbound and outbound) with universal social security measures which would not only protect workers after termination of employment, but which would also allow them to find new and better employment opportunities as soon as possible.

The key aspect of these active social security policies is life-long learning, a topic which we will debate in the next few days, and in particular this morning. I would also like to underline that, on this issue, UNI Finance drafted a Joint Statement in 2003 with our European social partners. This Joint Statement was then adopted during the national collective bargaining process.

This is the challenge, and also the theory, on which social partners in Northern Europe united their efforts. This is also a field which the European Commission considers strategic for the economic and social growth of the European Union.

Hence, the other main reason why the Commission approved our Project is that, not only it involves such a high number of States and trade unions, but that for the first time it also brings them together (at a transnational level) to make their autonomous contribution as social partners in this strategic field.

The flexicurity approach, which has now become European (no longer limited to the Nordic countries), must strive to stem the increasing job insecurity, also in our sector, without setting aside the need to be competitive, especially in a tripartite world in which Asia keeps on having annual growth rates around 10%.

We also have to take into appropriate consideration the general framework, which is undermining the basic principles of flexicurity, as our speakers, starting with Ugo Balzametti, will explain us. In fact, the flexicurity model has recently been weakened by the Green Paper on the job market and by the electoral trends emerging in Northern Europe, which have led to the establishment of governments that are now questioning the traditional Nordic welfare system.

In this regard, I would like to underline the importance of the critical, well-organized and well-reasoned reply of UNI Finance to the European Commission, which correctly denounces what I consider a fundamental and purely ideological contradiction of the Green Paper, which wants to implement flexicurity by making labour law more flexible.

Our discussion comes at a crucial time, in 2007, soon after the enlargement to 27 Member States. This is a time in which all the contradictions between the various versions of the European social model are coming to light. A time in which the transnational combination processes are rapidly advancing in our sector. And a time in which the European Commission pushes (in my opinion, with good cause) for the elimination of the remaining obstacles to freedom of establishment of banks and insurance companies within the EU and for the gradual integration of the European financial markets.

In short, the situation is such to favour the continuation and intensification of the transnational combination processes in our sector. Therefore, the trade unions must be able to react immediately at

all levels (corporate, national, European) to these processes, with the aim to give workers effective representation tools. It is thus necessary to promptly re-negotiate the existing EWC agreements, which now become outdated more rapidly, and to coordinate transnational policies more effectively, as UNI Finance has already been doing through its various networks. However, this Project and this Seminar itself represent an important opportunity in this regard, because we only rarely have the possibility to come together for so many days and with so many representatives.

On the one hand, we must become more active at a European level and address criticisms and proposals to the European Commission and Parliament. On the other hand, we should never forget a key point, i.e. that we first have to deal with our respective national Governments and that, before considering the European institutions as our interlocutors, we have to face the obstacles to social Europe coming from the European levels (the Council of Ministers and the European Council) which are not formed by Commission officials, but by our national Governments. In fact, as the President of the Italian Republic Giorgio Napolitano correctly pointed out about this 50th anniversary: *"...maybe the same Governments which held back the development of European decisions blame Europe and Brussels for the problems of their countries..."*

We will have a tight schedule in the coming days, but it is important to give everyone the opportunity to express themselves. This is why we have planned to alternate plenary sessions with working groups and why we have asked you to fill in the questionnaire about labour market, bargaining and flexibility in your countries. In fact, while it is clearly impossible to give the floor to 35 trade unions during the plenary session, in the working groups you will have the opportunity to talk about the situation in your companies or in your countries, based on the issues presented in the questionnaires and on the questions and observations raised by the experts.

We have invited several experts to give a speech, not only because their participation represents an added value, but also because it is important to listen before building our own opinions. This of course does not mean that we should pretend not to have our own ideas, but that we should take some time during the seminar to listen and to think and exploit the fact that we are not involved in a busy, time-consuming negotiation or political discussion.

We will of course get to talk about politics too, especially in the last

day, during the Round Table in which we will listen to the point of view of our social partners, of the European Banking Federation, on the issue of Flexicurity. It will be important to understand to which degree and purposes Flexicurity can be a field of European Social Dialogue in our sector. It will be important to assess whether it is really possible to revive social dialogue in a Europe which is now going through its most critical phase in history. In fact, after sounding a bit rhetorical and enthusiastic at the beginning of my speech, I think we actually all recognize that this is an extremely delicate time for Europe. And it is also to understand how to come out of this phase that we have arrived here from all over Europe for three days of discussion.

Mario Ongaro

International Officer - Bank Sector

Fisac/Cgil

[FISAC = Italian union of finance workers; CGIL = Italian General Confederation of Labour]

THE EXPERTS

Bucarest, 20 November 2006

Flexicurity in Denmark & the finance sector

Allan Bang
President of FSU/Denmark
UNI Finance President

“The Danish Model - Flexicurity”

The model combines:

- High mobility between jobs
- A comprehensive social safety net for the unemployed and
- An active labour market policy

Bucarest, 20 November 2006

Flexicurity in Denmark & the finance sector

Allan Bang
President of FSU/Denmark
UNI Finance President

Collective bargaining plays a role

- The collective bargaining system needs to be included:
 - Efforts to combine flexibility for enterprises and security for employees can be traced back to the beginning of the collective bargaining system in 1899.

Collective bargaining plays a role

Security is to be understood as regulations that gives employees security for employment and income irrespective of developments on the labour market or in the employee's own situation.

The decentralisation of the collective bargaining system has through the last decades increased the flexibility as well as the security.

The flexibility concept

- Adjusting the number of employees (hiring and firing)
- Working time flexibility
- Transferring employees between job functions
- Wage flexibility

Forms of flexibility on the Danish labour market

- High degree of job mobility: On average, between 25% and 35% of the Danish workforce change employers each year.
- Some of these job changes involve periods of unemployment: Between a third and a quarter of the labour force are affected by unemployment in a year.

Job mobility

- Denmark's high degree of job changes is comparable to USA and UK (In contrast the average period of time in the same job is 50% higher in Sweden than in DK)
- The most likely explanation is the ease with which employers can hire and fire employees.

Job protection

- Denmark is placed in a group of countries having the overall lowest protection of employees (together with the US, UK and Japan)
- On the positive side:
 - Facilitates the necessary changes due to new technology and national/international competition.

On the negative side:

- Will the enterprises have the incentives to develop the qualifications of their employees?
- The high mobility on the Danish labour market might risk to lead to under-investment in education and training.
- It might reduce the enterprises' sense of responsibility for occupational health risk and for employees with emerging health problems.

The collective bargaining system's contributions

Examples:

The security aspect

- Education, pension, maternity leave, maternity fund, sick children, increased protection in case of sickness

The collective bargaining system's contributions

Examples:

The flexibility aspect

- Flexible regulation for hiring and firing, working hours, overtime, individualised agreements, decentralised wage negotiations

The interaction between flexibility and security

- Combines the demand for increased flexibility in the labour market and the demand for increased security, especially for the disadvantaged groups.
 - The fundamental idea is that flexibility and security are not contradictory, but mutually supportive.
 - A high level of social security is the very precondition for a flexible labour market. Cuts in or limitations on social security will lead to a less flexible labour market.
- In DK it is difficult to find examples of flexicurity as a result of deliberate political strategies.
 - More likely it can be used to describe the characteristics of the Danish labour market.
 - It has been achieved through social compromises between the social partners and in the interaction with the political system – mutual respect.

Conditions for the Danish model

- The high job mobility fits the Danish industry structure dominated by small and medium sized enterprises.
 - The low level of employment protection is in line with a long traditions in the Danish Welfare state.
 - This has been acceptable for the Danish trade union movement because of the development of a public unemployment benefit and a cash benefit system.
-
- In the mid-1980s and early 1990s the third leg of the "golden triangle" was added:
 - The active labour market policy:
 - On the one hand motivating unemployed to seek and accept jobs,
 - on the other hand seeking to upgrade the qualifications of the unemployed.

The precondition for the Danish model

- The traditions for corporatist regulation of the labour market. This goes back to 1899:
- The trade unions recognised the rights of the employers to manage and distribute work in return for the employers acceptance of the workers right to union organisation.
- This supported the tradition of leaving it to the social partners themselves to negotiate wage and working conditions without state involvement.

Groups outside "The golden triangle"

- There is no special protection of older workers and no special cost associated with laying off older workers.
- For unskilled, or low skilled workers low employment protection and high job mobility mean that these groups are more often exposed to the employers "productivity test". This might exclude some workers from the labour market.

The challenges facing the Danish model

- Globalisation increases the demand for education and training of the work force.
- The relatively generous Danish income provision system for unemployed is under pressure.
- The labour market policy is undergoing considerable changes.

Part II: Flexicurity in the finance sector



Flexibility - Employability

Protocol on competence building

Purpose: to support certain employees' development and competence building in order to increase employees' employability within and outside the sector

An education course costs Euro 20 000



FSU pays 1/3

The company wants a department to be further qualified. It pays 2/3

Flexibility - Employability

In addition to the collective agreement Finansforbundet supports its members by paying the education fee and textbooks from its own resources



Employee

- Both unemployed & employed members are entitled to support
- Employees use their own free time on supplementary training



FSU can contribute up to € 800 per member/year

Flexibility - Employability

- FSU has a team of labour market consultants who advise and guide both unemployed and employed members.
- Members get individual advice about which competences they need and how this can be financed
- FSU organises projects for the unemployed in collaboration with public learning institutions (handelsskolerne) and the local employment centers (arbejdsformidling)



Flexibility - Employability

- Annual personal development dialogue with employers.
- The need for further education both seen from the employer and the employee side is discussed.
- An education plan is agreed upon.

We agree to give you free time for education and pay your normal salary. We will get a 50% refund from the state



Good agreement

I will get a higher market value

Flexibility - Employability

Local agreements on dismissals (fratrædelseskatalog)

Financing the education. If one or more employees are dismissed FSU and the employer try to reach an agreement. In that way the employer helps the employee with his/her further career. For instance, the employer supports the employee with X Euro for education (the employer does not have to pay tax of this amount) and furthermore the employee is free during the redundancy period (normally 6 months) to attend courses.



Employee

Education for 6 months with full salary + X Euro for education fee and textbooks



Working time flexibility

- Part time for older workers (58, 60, 62 years)
- Freedom of choice between overtime pay and time off (6th holiday week)
- Individual flexible working time (experiment)
- Can cover entire workplace or parts of it

see next slide

Working time flexibility

Individual flexible working time (cont.)

- Average working week is 37 hours
- Reference period is max 26 weeks
- Working week: 2, 3, 4, 5 or 6 days & max 48 hours
- Working day: min 4 hours and max 12 hours
- Local agreement can be terminated at 3 months notice
- Voluntary individual agreement can be terminated at 1 months notice

Working time flexibility

Individual flexible working time (cont.)

- Joint responsibility to organise working hours so that daily business operations are ensured.
- Additional payments:

Weekdays between 6 - 7 and 18 - 22	20%
Weekdays between 22 - 6	25%
Weekend and bank holidays 6 - 22	25%
Weekend and bank holidays 22 - 6	50%

Security

- Pension: 15,75% (10,5% - 5,25%)
- Maternity equalisation fund for the sector
- Time off to take care of sick children
 - 2 weeks if child is hospitalised

Security

Parental leave

- Legislation: Parents together have the right to 52 weeks leave with daily subsistence allowance
- Collective agreement gives the right to full pay for the following time span:
 - Mother: max 28 (4+14+10*) weeks
 - Father: max 14 (4+10*) weeks
- NB: The last 10 weeks with full pay has to be shared between the parents (and full pay only for the parent in the sector)
- Leave without pay, but full pension contribution has been extended to 60 weeks after child's birth

**Flexibility–Flexicurity–Flexinsurance:
Response to the European
Commission’s *Green Paper*
“*Modernising Labour Law to Meet the
Challenges of the 21st Century*”**

Andranik Tangian

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Privatdozent Dr., Dr. Sc. Andranik Tangian
WSI in der Hans-Böckler-Stiftung
Hans-Böckler-Straße 39
D-40476 Düsseldorf, Germany
Tel. +49 211 7778-0
Fax +49 211 7778-190
andranik-tangian@boeckler.de

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Wirtschafts- und Sozialwissenschaftliches Institut
in der Hans-Böckler-Stiftung, Düsseldorf

Abstract

The paper contains both critical remarks on and constructive suggestions to *Green Paper: Modernising labour law to meet the challenges of the 21st century* of the European Commission (2006a) which promotes flexicurity policies, that is, relaxing the employment protection legislation while providing advances in employment and social security for flexible workforces, like fixed-term, part-time and agency workers, or self-employed. The default assumption, that relaxing labour laws can be compensated by these advances, is criticised. These measures are regarded as too vague and insufficient, as also demonstrated in our previous study with empirical evidence.

Therefore, some additional measures are proposed to counterbalance the actual flexibilization of employment relations, including (1) *flexinsurance*, a kind of progressive flexibilization tax, meaning that the employer's contribution to social security should be proportional to the flexibility of the contract/risk of becoming unemployed, (2) elements of the *basic minimum income* model, (3) *constraining financial markets*, as well as (4) developing adequate *policy monitoring/evaluation* instruments. It is argued that all of these meet interests of social partners and solve contradictions between such European policies as flexicurity, make work pay, welfare-state policy, and civil-society policy.

Finally, we provide specific thoughts to 14 questions posed by the *Green Paper*.

Keywords: Flexicurity, labour market flexibility, social security, labour law, European employment strategy, Green Paper.

JEL Classification:

J21 Labor Force and Employment, Size, and Structure

J26 Retirement; Retirement Policies

J65 Unemployment Insurance; Severance Pay; Plant Closings

J83 Workers' Rights

J88 Public Policy

Introduction: *The Green Paper*

The *Green Paper: Modernising labour law to meet the challenges of the 21st century* of the European Commission (2006a) has been issued on November 22, 2006. Additionally to a fluent text it contains 14 questions in boxes. They are aimed at initiating an open internet debate (closing date March 31, 2007) on legislating the

flexicurity labour market policy, that is, relaxing the employment protection legislation while providing advances in employment and social security for flexible workforces, fixed-term, part-time and agency workers, or self-employed, as well as labour market outsiders. The results of the debate will be reflected in a Commission Communication on flexicurity to be presented in June 2007, 'which will set out to develop the arguments in favour of the "flexicurity" approach and to outline a set of common principles by the end of 2007 to help Member States steer the reform efforts' (European Commission 2006a: 4-5).

The *Green Paper* adduces three reference examples: 'the Dutch Flexibility and Security Act 1999, the Austrian Severance Act (*Abfertigungsrecht*) 2002 and the June 2006 Spanish decree easing the conversion of temporary labour contracts into open-ended labour contracts with reduced dismissal costs' (European Commission 2006a: 10). These reforms enhance labour market flexibility, in particular make dismissals easier, and at the same time provide some advantages for certain types of employees; see EIRO (2007) for details. These examples should additionally convince other Member States to pursue the flexicurity policy and to implement corresponding legislation reforms.

First of all it should be noted that the *Green Paper* is written in a particular way, channelling the debate towards certain conclusions. It presents the current deregulation of European labour market as a necessity by default, so that the only question to be discussed is how to relax the legislation to facilitate a further employment flexibilization. Social measures get much less attention.

However, the need for flexibilization of employment relations is not that evident. Neither it is clear from the *Green Paper's* preamble. For instance, why does globalization imply 'the shortening of the investment horizon' and 'the increasing demand shifts' which condition the need for flexibilization (European Commission 2006a: 5)? Conversely, globalization as a long-term world-wide trend should guarantee long perspectives and stable demand.

Or, is 'sustainable growth with more and better jobs' (European Commission 2006a: 3) really attainable due to flexibilization? In fact, sustainable growth means a non-inflationary development so much cared of by the European Central Bank. According to the Philips economic law of inflation-employment proportionality, a low inflation is attainable at the price of high unemployment. Then, if 'sustainable growth', where is the room for 'more and better jobs'? Isn't the flexibilization necessary for 'sustainable growth'?

just a substitute for latent unemployment and underpaid work? Or, if the European Commission advocates for flexibilization, why doesn't it provide an example itself by moving its permanent full-time staff to flexible contracts? Following the *Green Paper's* logic, then it could better meet 'the challenge of adapting to change' by 'just-in-time management' and 'foster the creativity of the whole workforce' (European Commission 2006a: 5).

These and other inconsistencies evoke doubts in the real necessity of flexibilization. At the same time the actual European trends significantly deviate from the concept of flexicurity intended. There are several causes:

lack of global political course,
contradictory social interests,
inconsistent European policies,
limitations of legislation alone to regulate flexible work,
lack of efficient steering instruments,
methodological gaps, and lack of adequate monitoring tools.

Taking into account all these deficiencies, the legislation changes advocated by the *Green Paper* look insufficiently motivated and little coordinated with social partners. Further deregulation measures in the near future are suggested to adopt under vague promises to improve employment and social security which can take years and which effects are not yet clear.

The paper begins with a brief history of flexicurity and then analyses the above enumerated causes of its inappropriate implementation, devoting a separate section to each item. Critics are combined with constructive proposals which may be useful for further policy design. Finally, specific thoughts to the 14 questions posed by the *Green Paper* are provided.

A brief history of flexicurity

In the larger part of post-war Europe employment relations were regulated by rather constraining employment protection legislation and collective agreements. The contradiction between the flexibilization pursued by employers and labour market regulation defended by trade unions made topical the discussion on flexibilization and employment protection legislation with regard to economical performance and unemployment.

The advantages and disadvantages of labour market regulation/flexibility versus employment were investigated in the two-volume *Jobs Study* by the OECD (1994), containing 'evidence and explanation' in favour of relaxing employment protection. It evoked numerous responses from scholars; for a review focusing

on European welfare states see Esping-Andersen (2000a–b). As concluded by Esping-Andersen (2000b: 99), 'the link between labour market regulation and employment is hard to pin down'. Under certain model assumptions, the same empirical evidence, that unemployment is practically independent of the strictness of employment protection legislation, was reported also by the OECD (1999: 47–132). There are even cases when the same legislative changes caused different effects. For instance, the impact of almost equal deregulation measures on the use of fixed-term contracts 'was sharply different' in Germany and Spain (OECD 1999: 71).

At the same time, a good labour market performance under little regulation was inherent in the Anglo-Saxon model, that is, USA, Canada, United Kingdom, and Australia (OECD 1994, Esping-Andersen 2000a). The deregulation of labour market in the Netherlands, which had a different kind of economy, coincided with the 'Dutch miracle' of the 1990s (Visser and Hemerijck 1997, Gorter 2000, van Oorschot 2001). A similar Danish practice in the background of 'Eurosclerosis' (Esping-Andersen 2000a: 67) was successful as well (Björklund 2000, Braun 2001, Madsen 2003 and 2004). All of these convinced some scholars and politicians in the harmlessness and even usefulness of labour market deregulation. It was believed that employment flexibility improved competitiveness of firms and thereby stimulated production, which in turn stimulated labour markets; for criticism on this viewpoint see Coats (2006).

The claims for flexibilization met a hard resistance, especially in countries with old traditions of struggle for labour rights. Wilthagen and Tros (2004: 179) reported with a reference to Korver (2001) that the *Green Paper: Partnership for a New Organisation of Work* of the European Commission (1997) 'which promoted the idea of social partnership and balancing flexibility and security' got a very negative response from French and German trade unions, because 'the idea of partnership represents a threat to the independence of unions and a denial of the importance of worker's rights and positions, notably at the enterprise level'. The ILO published a report, concluding that 'the flexibilization of the labour market has led to a significant erosion of worker's rights in fundamentally important areas which concern their employment and income security and (relative) stability of their working and living conditions' (Ozaki 1999: 116).

To handle the growing flexibility of employment relations with

lower job security and decreasing eligibility to social benefits, the notion of *flexicurity* has been introduced. The most cited definition of flexicurity is due to Wilthagen and Tros (2004)

[Flexicurity is] 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.

One can simply define it, following the analogy with the motto of Prague Spring 1968 'socialism with a human face':

Flexicurity is a deregulation of labour markets (= flexibilization) with 'a human face', that is, compensated by some advantages in social security, in particular, for the groups affected.

The main distinction captured by this simplified definition is that flexicurity differs from unconditional deregulation in introducing compensatory measures in social security and employment activation. Specific understandings (definitions) of flexicurity may depend on flexibilization steps suggested, tempo of deregulation, particular social advantages proposed, and estimates of their compensatory equivalence. A consensus in balancing these factors is not a pure academic question but rather an issue for bargaining between governments, employers, and trade unions, similarly to collective agreements. For instance, trade unionists define flexicurity as *social protection for flexible work forces understood as "an alternative to pure flexibilization"* (Keller and Seifert 2004: 226) *but not at the price of relaxing employment protection of normally employed.*

Wilthagen and Tros (2004) ascribe the conception of flexicurity to a member of the Dutch Scientific Council of Government Policy, Professor Hans Adriaansens, and the Dutch Minister of Social Affairs, Ad Melkert (Labour Party). In the autumn of 1995 Adriaansens launched this word in speeches and interviews, having defined it as a shift from job security towards employment security. He suggested compensating the decreasing job security (fewer permanent jobs and easier dismissals) by improving employment opportunities and social security.

For instance, a relaxation of the employment protection legislation was supposed to be counterbalanced by providing improvements to fixed-term and part-time workers, supporting life-long professional training which facilitates changes of jobs, more favourable regulation of working time, and additional social benefits. In

December 1995 Ad Melkert presented a memorandum *Flexibility and Security*, on the relaxation of the employment protection legislation of permanent workers, provided that fixed-term and agency workers get regular employment status, without however adopting the concept of flexicurity as such. By the end of 1997 the Dutch parliament accepted flexibility/security proposals and shaped them into the Dutch Flexibility and Security Act which came in force in 1999.

The OECD (2004b: 97–98) ascribes the flexicurity to Denmark with its traditionally weak employment protection, highly developed social security, and easiness to find a job; see also Madsen (2004) and Breedgaard et al. (2005). Regardless of the priority in inventing the word *flexicurity*, both countries were recognized as ‘good-practice examples’ (Braun 2001, van Oorschot 2001, Kok et al. 2004) and inspired the international flexicurity debate. Although some authors still consider flexicurity a specific Dutch/Danish phenomenon (Gorter 2000), the idea spread all over Europe in a few years; for a selection of recent international contributions see Jepsen and Klammer (2004).

At the Lisbon summit of 2000 the EU had already referred to this concept (Vielle and Walthery 2003: 2; Keller and Seifert 2004: 227, Kok et al. 2004), and after the meeting in Villach in January 2006 flexicurity became a top theme in the European Commission (European Commission 2006b) culminated now in the publication of the *Green Paper*.

Thus, after 10 years of debate flexicurity became an official issue both of the European employment and social policies.

Lack of global political course

To better understand our view at the background motivation for flexibilization, the driving force of the flexicurity debate, we provide a small historical retrospective.

The actual globalisation started in the 1970s was an extension and enforcement of the Western market economy as an instrument of East–West economical and political competition. The opening of financial markets in the 1970–1980s was thought to improve living standards in industrialized countries and to solve the poverty problem in the third world. Investments in countries with low labour costs promised cheap goods for consumers and high returns for investors. At the same time, the target countries were expected to profit from modern technologies and job creation (World Bank 2002). Not least was enhancing the Western economical and political presence in developing countries.

With the collapse of the Eastern block, the Western world lost its political opponent which in a sense had directed its development. As said in the novel *Indecision*: "During the Cold War you felt like you had a reason to get up in the morning. Now what have we got?" (Kunkel 2005: 92). Before 1990s both economical and technological progress were influenced by national and international long-running defence programs. The society had a high degree of ideological consensus, understanding of military expenses, and rather common political values. The market economy was an efficient instrument of related policies. After the Cold War had been over, the Western countries continued their development with no radical change. As winners in the world confrontation Western democracies declared themselves politically best and the self-regulating market economy was recognized as most dynamical. However both democracy and market economy with its self-optimization properties were overestimated. It is often missed that the self-optimization runs under given preferences of politic/economic agents, so that goals play the guiding role. Having lost their ideological opponent and military competitor, Western democracies turned to small issues within short periods between successive elections. As for the economy, it is known that an optimal development goes along some main trajectory, whereas short programs inevitably enter and leave it with great losses (von Neumann and Morgenstern 1944).

The coexistence of different social systems was as necessary for the world as several opposite parties are needed for a democratic country. Lacking any political alternative, the European social-democratic capitalism has shifted to the right, and this process continues. Trade unions, even those which did not collaborated with communists, much profited from their political presence with far-going claims. It worked by the same principle as formulated by the father from Truffault's film *400 Blows* (1959): "You ask for 1000 francs, so expect 500, will be glad for 300, get 100." With no communists who asked for 1000, it became difficult for trade unions to get even 100. For instance, in West Germany it was often said that the third side in collective bargaining was the DDR.

The response of the market with no ideological constraints and directing force was a struggle for resources, cheap labour and sale markets, and financial speculations with little social utility (for instance, yearly direct international investments attained its absolute maximum of 1492 Bio. US dollars in 2000, which is however less than the average amount of daily financial speculations;

UNCTAD 2002: 303). It goes well in line with Machiavelli's observation in *The Prince* that politics, lacking any guiding principle, is reduced to a continuous struggle for power with no moral limits. The market economy — an efficient weapon of the Cold War — turned against its owners after the war had been over. It is noteworthy that labour market deregulation reforms in Europe started in the early 1990s (European Commission 2006a: 5, see also Casey 2004) immediately after the collapse of the Soviet Union. Correspondingly, the Club of Rome foresees three scenarios of the world future (Radermacher 2006a–b):

A big war for resources and markets with a drastic reduction of the world population (15% likelihood)

The rich benevolently sacrifice their excessive well-being to help the poor (35% likelihood)

The 'brasilianization' of the world, meaning that the world population splits into a relatively small group of rich (people, countries) and a large group of poor (50% likelihood). Such a society is described in the novel *The Time Machine* by H. W. Wells (1895), where the bottom class of miserable Morlocks toils maintaining the underground machinery that keep the upper class of Elois docile and plentiful.

The contemporary development meets rather the third scenario (United Nations Development Programme 2002). During the last 30 years living standards, even in the United States, visibly improved exclusively for top earners: the middle class improved its welfare by 35%, whereas the top 0.1% multiplied it by factor 5 (Krugeman 2006). As for developing countries, the poverty problem was not solved and the inequality even increased (Stiglitz 2002).

One has to distinguish between goals and instruments to attain these goals. The much promoted sustainable development is often presented as a goal of the European Union which, in particular, requires flexibilization as an instrument to attain it. However, in the perspective of increasing income differences, the sustainable development looks rather as an instrument itself. As follows from the facts mentioned, the sustainable development is aimed not only to 'meet the challenge of India and China' (Coats 2006: 5, 23, OECD 2005: 25, UK Presidency of the EU 2005) but primarily to **sustain and multiply the superiority of the rich over the poor**. Indeed, if the European well-being was higher before the 'sustainable development' and flexibilization, what are they for?

All these trends are unacceptable for a large majority of popula-

tion. As said by the 6th Director General of the UNESCO René Maheu (1966: 34) ‘...The man has an almost unlimited capacity to suffer... It is in fact the injustice... which is intolerable’.

Thus, lacking the guiding political goal of the Cold War, the market economy started to work for itself, putting economic values over social ones. The worldwide increasing inequality shows that social priorities are considered secondary and that flexibilization of employment relations aimed at boosting business activities is most advantageous for owners and top managers.

Contradictory social interests

Obviously, every step towards a higher labour flexibility meets interests of employers. Businesses get rid of restrictions, managers improve performance by rotating and squeezing personnel, and firms gain higher profits. All expenses are recovered by the state — costly reforms and additional social security benefits. Therefore, such a flexibilization scenario turns out to be a long-running indirect governmental donation to firms. Since the state budget originates from taxpayers, the employees contribute considerably to the donation.

An innovative feature of this type of industrial relations is an active intermediation of the state. Formerly capitalist industrial relations were restricted to the axis employer–employee. The employer purchased not result of but capacity to work, and used this device to obtain the surplus value, qualified by Marx as exploitation. Now the industrial relations constitute no longer an axis but a circle employer–employee–state–employer with a sophisticated money loop through legislation, social security and tax systems. The exploitation is no longer restricted to relations between one employer and one employee but extended to relations of all employers and all employees, being redistributed through all these systems.

The globalization initiated by Western countries as an invitation to paradise is now transforming into an instrument of pressure. After governments had opened financial markets they began to warn: ‘If flexibilization required by employers will not be pursued, they will *legally* increase in foreign investments and move jobs to other countries with more favourable business conditions.’ Moreover, several countries were rapidly integrated into the EU, contrary to their readiness, facilitating export of jobs there.

How is it explained to the broad public? Sustainable development is presented as an objective aimed at higher living standards. Deregulation is needed to enhance the competitiveness of the

European economy to make it more powerful. To reconcile employees with individual inconveniences, the catchy word-slogan *flexicurity* is launched (the success of this concept is not least due to the positively sounding word itself). Everything looks fair: one commodity (labour rights) is exchanged for another commodity (social security), and the exchange rate being negotiated.

The bottleneck is that this apparent natural prerequisite leaves employees with no chance to win. In fact, the default assumption that everything can be bought and sold is not always true! In a sense, it is suggested that workers' social health (= the right to remain at work) is exchanged for a treatment (= social care in the form of advanced social security benefits). In other words, give your working hand and get prosthesis instead. However: Can a prosthesis, whatever its value, replace a healthy hand?

Therefore, from the viewpoint of trade unions, giving up labour rights for social benefits is not appropriate. Even if each particular compromise seems more or less fair, their succession can lead away from the social status quo and the employees can finally get nothing or very little for their pains. It can run as in the known tale about a man who exchanges a horse for a cow, then the cow for a sheep, and so on until he finds himself with nothing but a needle which he loses on the way home.

Trade unions doubt that better social guarantees can adequately compensate a higher *risk* to lose a job. The emerging disadvantages can be compensated only partially but never completely. Besides, entrusting the workers' welfare to the welfare-giver, the state, is unreliable. Every political change may result in social cuts (as now in Germany). Employment protection, on the contrary, enhances job security, consequently, a stable income even during recessions and political crises (Bewley 1999).

From the trade-unionist viewpoint, the sustainable development is necessary as long as it improves living and working conditions of *employees*. If under sustainable development the workers' well-being is not enhanced and a better labour market performance (if any) is attained at the price of stress and lack of confidence in the future then the sustainable development can be put in question. Indeed: Are higher industrial productivity and competitiveness the prime human goals? Why sustainable development is put beyond social values? In other words, is it more important to be economically rich rather than socially healthy?

If economy is not an objective but an instrument of politics, and if the sustainable development with obligatory flexibilization is real-

ly intended to contribute to the European social model then flexibility should be implemented with clear social priorities. However, as follows from our empirical studies (Tangian 2005–2006), the situation is far from being satisfactory. Instead of advantages in social and employment security, the deregulation-only policy is absolutely prevailing. We conclude that the contradictory interests of social partners are not deliberately taken into account in the actual policy implementations.

Perspectives of unconditional deregulation

Let us outline briefly what can happen if the labour market deregulation in Europe will further remain unconstrained.

Human resources. A further flexibilization can reduce the fraction of high qualified workers which skills are acquired due to long tenures. It can finally result in degradation of European human capital and, as its consequence, decline of quality of European products.

Career prospects. As already mentioned, flexible employment destroys career prospects. Indeed, each new job means a new start, often implying a starting salary, especially if an employee is little experienced in new tasks. Thereby, a higher risk of interrupted employment under flexibilization, or changes of employer increases the risk of remaining at the bottom of professional hierarchy.

Individualism and climate at work. The enhanced mobility with frequent changes of working teams means the non-belonging to any collective. It results in an individualistic psychology and no solidarity. If earnings and competitiveness are becoming the only sense of life, the social climate at work can hardly be good and relations between colleagues are unlikely to be more than formal.

Loss of self-identification and destruction of civil society. Frequent professional reorientations inherent in flexible work lead to the loss of professional identity and of the feeling of social significance. People with no social self-identification can hardly bare social responsibility and are unlikely to constitute a civil society.

Family life. Income insecurity, mobility of the workplace, and individualistic psychology obviously complicate family life. If both partners are flexibly employed then the difficulties are multiplied. The frequent necessity of changing schools is not the best option for children either. Marriages which require settling down are little compatible with professional activities, and the marriage age grows correspondingly.

Demography and immigration. Lowering birth quotas caused

by aging marriages can create demographic problems. The percentage of aging population will grow, and that of employable population will decrease. The decreasing contributions to social security will sharpen the deficit of retirement funds. On the other hand, the demand for labour force will grow. In turn, it can stimulate additional immigration with a number of side effects.

Increasing inequality and middle class. Destroying career prospects of employees means an increasing fraction of population under in-work poverty who are unable to reach the middle-class standards. For instance, the actual German debate on poverty highlights 6.5 Mio-large underclass (Gammelmin 2006, König 2006, Schmidt 2006). The middle class will vanish, and the society will fall into top and low clans with little transitions between them and sustained inequality.

Thus, flexibilization is closely linked to the 'brasilianization' scenario of the Club of Rome. If flexibilization will not be constrained and flexicurity will not be implemented with appropriate social advantages, the European social model will not survive.

Inconsistent European policies

The contradictory social interests discussed in the previous section manifest themselves in European policies. Namely, several European policies are hardly consistent with each other:

European welfare policy which suggests certain living standards independent of employment. It assumes a stable labour market performance and is backed up by a strong social security system (Esping-Andersen 1990, Auer and Gazier 2002, Ramaux 2006).

Flexibilization of employment relations (3rd guideline for European Employment Strategy; see European Commission 2005) is aimed at improving the competitiveness of European economy and sustainable development. In particular, it means a relaxation of employment protection legislation. This relaxation contradicts to the employment security assumed in the conception of welfare state.

Innovation policy requires a highly qualified manpower which requires long working experience, as opposed to short-time tenures under flexibilization. A loss of high quality of European products can be hardly compensated by their better quality-to-price ratio thanks to better firms' performance. Indeed, at the world market, the niche of highest quality-to-price ratio is already occupied by Asian firms, including Japan. The niche of cheap but still quality goods is occupied by the United States. Europe has tra-

ditionally manufactured highest quality products at high prices. If Europe quits its established niche, it will even more strongly compete with Asiatic and American firms with quite questionable outcomes, contrary to the Lisbon Agenda 2010.

Flexicurity (European Commission 2006b) The above mentioned contradiction is hoped to be resolved by compensating the relaxation of labour protection by advances in social and employment security, imagined as a *flexicurity* trade-off.

Make work pay (8th guideline for European Employment strategy, European Commission 2005) is aimed at stimulating the unemployed to active labour market participation. Similarly to flexicurity, the 'make work pay' policy is also a trade-off, but between the social protection and maximizing the gain from moving to work (OECD 2004a: 92). The policy 'make work pay' contradicts flexicurity, because it includes reductions of security benefits which, according to flexicurity, should be improved.

Improving living and working conditions (European Foundation 2007) is one of prime goals of the European Union. Flexibilization, however, increases the in-work poverty, and 'make work pay' deteriorates the situation of unemployed. Working conditions and career prospects of flexibly employed are generally worse than that of normally employed. As has been mentioned, flexibilization results in individualism with a negative impact on the working climate.

Family policy (European Foundation 2007) is also in the EU focus. As has been emphasized in the previous section, it is hardly consistent with flexible employment with high workplace mobility.

Demography and immigration The flexibilization of employment relations with its negative impact on family life results in lower birth quotas and aging population. The need in an additional workforce to retain the living standards comes into contradiction with existing quotas of immigration policy.

European policy of respecting civil society initiatives assumes a significant influence of non-governmental organizations on policy-making. In particular, the opinion of trade unions always played an important role in labour market regulation. In recent neo-liberal discussions the role of trade unions and collective agreements is often put in question as an obstacle for flexibilization.

Policy inconsistencies are serious obstacles for their pursuing. Moreover, in such cases some legislation contradictions with

unpredictable consequences can occur. It should be emphasized that a social explosion which can outbreak due to policy inconsistencies can be socially very costly, much surpassing gains from particular policies. The nuclear energy also seemed quite cheap before the Chernobyl explosion.

Need for legislation–taxation–insurance interactions

The Western rationalism is shaped by logic which goes back to Ancient Greek mathematicians and Aristotle. Logic, operating on definitions, axioms and deduction rules, made thinking transparent and consistent. Traces of this approach can be found even in politics. When the American *Declaration of Independence* claims "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights.." it follows the axiomatic way of thinking. J.-J. Roussau's doctrine of natural human rights is another example of political axioms. Juridical laws are also a kind of axioms for qualifying cases with logical rules.

On the other hand, logic is a human invention (with a place of origin — (V)Elia in Italy, date of origin — 374 BC, and inventors — Parmenides and Zeno) and has its limitations. For instance, it is little adaptable to integrating different elements and finding compromises. According to Bertrand Russell's *History of Western Philosophy* (1946), the admiration by logic resulted in a belief that knowledge is a derivate from basic presumptions. The necessity in starting points for deduction gave birth to mystical theological dogmas, moreover, delayed the development of natural sciences based on empirical knowledge by two millennia till the 17th century. Jurisdiction also had to overcome shortcomings of rigorous logical thinking. Since axioms are never universal, crimes are more or less flexibly penalized within certain ranges of fines and lengths of imprisonment. Occurring incompatibilities of logic with intuition in complex situations are surmounted by jurors (e.g., in the USA) entitled to informal judgments.

As one can see, a rigid legislation is not best suited for all cases. In everyday life, however, certain actions are allowed but not favored. For instance, smoking is generally authorized but prohibited in some places. Immigration is not forbidden but constrained by quotas. Besides, there always emerge ambiguous cases which can be hardly linked to existing definitions. The *Green Paper* refers to the unavoidable ambiguity in definitions of workers, employees, and self-employed which complicates social policy legislation

(European Commission 2006a: 11–12, 14).

A general approach to regulating intermediate cases between authorization and prohibition is introducing regulatory charges. For instance, alcohol consumption is moderated by high prices, industries are stimulated to reduce pollution by environmental taxes, etc. In certain situations it can be useful to extend dichotomous Yes/No logic to a continuous scale of variable acceptability with non-prohibitive but constraining measures. In a sense, the axiomatic approach is complemented with a computational evaluation which reflects the degree of compromise. An example of transition from authorization/prohibition to flexible regulation is the replacement of the American anti-alcohol prohibition law by imposing adjustable alcohol taxes.

The difficulty in designing new labour laws is just a low adaptability of dichotomous Yes/No logical schemata to favoring/constraining flexible employment with all imaginable intermediate forms. The legislative regulation would be much easier if the degree of employment flexibility could be evaluated for each particular case by certain rules and, eventually, implemented in an indicator of flexibility. Such an evaluation could be used as an eligibility criterion to social security benefits, like the personal/family situation is used as a tax liability criterion. Moreover, bridging legislation with taxation, one can introduce progressive flexibilization taxes instead of usual prohibition/authorization rules.

Progressive charges to constrain dismissals are already used in the American unemployment insurance based on the so called *experience rating* (Graser 1999). The experience rating is the frequency of dismissals in the enterprise which determines the employer's contributions to unemployment insurance: the more frequent dismissals, the higher the contributions. Graser (2002: 391) draws analogy to motor insurance which price is influenced by the frequency of accidents. Being regarded from our viewpoint, the American practice has two important properties: (1) it operates on the financially fair risk-compensation basis, and (2) constrains the general dismissal freedom of the employer.

Another example of bridging legislation with taxation/insurance is provided by the Austrian Severance Act 2002 (*Abfertigungsrecht*) recognized to be a good practice both by the European Commission (2006a: 10) and the OECD (2006: 99). Now the severance payment is accumulated throughout the whole career of employees at special severance accounts which are accessible upon dismissals or retirement. Employers make obligatory contri-

butions to these accounts of 1.53% of salaries paid and are no longer charged with severance payments in case of dismissals. Since dismissals were relatively easy in Austria, severance pay was the major constraint, especially for small enterprises with tight budget. After the reform, dismissals became a quite formal procedure, and employers got freedom to make quick labour force adjustments for the flat 1.53%-'flexibilization tax'.

Regarded from the employees' viewpoint, the new Austrian *Abfertigungsrecht* is rather a kind of firing insurance. As argued by the European Commission (2006a: 10), its advantage is that a benevolent change of a job does not mean losing the severance entitlement for a long tenure: "The new rules allow workers to leave when they find alternative employment rather than stay in a particular job for fear of losing the accompanying severance payment". Certainly, it is questionable whether this factual flexibilization of employment relations with all the negative consequences already discussed — bad career prospects and complications of family life — is really compensated by no fear of losing a long-tenure severance award.

In the German debate the instrument of severance pay is linked to the employment protection legislation. The bottle-neck is not the reform of severance pay itself but its suggested role as to replace the remaining employment protection legislation. The severance pay, being a part of employment protection cannot replace the whole of it, even if the severance pay has been made more generous and eligibility conditions have been extended. The Austrian reform is in fact a one-sided enhancement of flexibilization with cosmetic social advantages; see Bothfeld and Zeibig (2006).

Thus, there are precedents of bridging labour law with insurance/taxation forms. Developing this many-sided approach promises wider opportunities than just modernising labour law alone.

Towards efficient steering instruments

The shortcoming of the American experience rating is that the risk of becoming unemployed is linked to dismissals only, regardless of the length and other particularities of the working contract. In fact, the risk of unemployment is higher for temporarily rather than for permanently employed.

The Austrian reform has the weakness that it is case-independent and thereby does not constrain firings. The interests of employers are little affected by dismissals, because they are seldom charged with severance payments extra to the obligatory social contribu-

tions. Besides, all the increasing social expenditures for unfairly dismissed are carried by the statutory social security.

A possible instrument to implement flexicurity with fewer disadvantages mentioned could be *flexinsurance* together with elements of the *basic minimum income model*.

The flexinsurance assumes that the employer's contribution to social security should be proportional to the flexibility of the contract/risk of becoming unemployed (Tangian 2005). The idea is the same as in health insurance. If unemployment is regarded as a social disease then both sick leave and treatment should be insured. The compensation for sick leave corresponds to passive measures — unemployment benefits, and the medical treatment corresponds to active labour market policy measures — professional training, job creation, and others. Similarly to (private) health insurance — the higher the risks (age, chronic diseases), the higher monthly charges, — the flexinsurance assumes that the lower the employment status (short period, weak perspectives), the higher contributions to social security.

The flexinsurance has the following advantages:

A higher risk of atypical employees to become unemployed is compensated, and contributions to social security are made adequate. The responsibility for the income of unemployed is not transferred to the state but recovered by corresponding insurance contributions.

The amount of social security contributions is conditioned by the type of contract and thereby affects employers. For instance, an employer, being interested in reducing labour costs, is motivated to issue a permanent contract rather than to prolong a temporary one. Thereby, progressive contributions stimulate employers to hire employees more favourably, but without rigidly restricting the labour market flexibility.

Flexinsurance can be a flexible instrument for 'regulating the labour market deregulation'. Its updating needs no legislation changes but just administrative decisions. It is similar to periodic adjustments of statutory health insurance contributions which are changed almost every year. On the contrary, launching new laws can take several years of preparations in governmental commissions and hearings in the parliament.

The basic minimum income model assumes a flat income paid by the state to all residents regardless of their earnings and property status (Keller and Seifert 2005: 320); for pros and cons see Schaefer (2006). Traces of this model appear in some social secu-

rity branches like child care allowances or old-age provisions. For instance, *Kindergeld* in Germany is paid to all parents. Some basic minimum options are practiced in Switzerland for retirement (Brombacher-Steiner 2000). In a sense, the conception of basic minimum income is incorporated in the minimum wage (Schulten et al 2006). The additional budget expenditures for the basic minimum income can be covered by

higher taxes of high-earners (to subtract the flat income), flexinsurance, and

funds released from reducing the number of civil servants currently working in social security (since the system becomes much more simple).

As we show next, flexinsurance and elements of basic minimum income model resolve contradictions between some of the European policies enumerated previously.

European welfare policy. The basic minimum income model meets the concept of welfare state since it guarantees some unconditional living standards and discharges social tension.

Flexicurity. The basic minimum income model means a significant progress in social security and therefore meets the idea of the flexicurity trade-off: 'more security for more flexibility'. At the same time, flexinsurance can contribute to 'softly' regulating flexibilization to keep the situation at the flexicurity trade-off.

Make work pay. Since the basic minimum model guarantees statutory payments regardless of income, moving to work means a pure profit. There can be no situations when moving to work is little attractive due to losing out-of-work benefits. On the other hand, the lack of social benefits excludes their penalty cuts. The penalty measures of the policy 'make work pay' are replaced by a more efficient benevolent motivation (cf .with A. Carnegie's 'There is no way to force somebody to do something other than to make to wish it'). Thereby the 'make work pay' policy gains from the measures proposed and becomes compatible with flexicurity.

Respecting civil society initiatives. Introducing flexinsurance means respecting the trade-unionist position on constraining the total deregulation of labour markets. Besides, the basic minimum income guarantees that unemployed are not so poor that they are ready to accept any job offer, and thereby will not become 'strike breakers' in the long-running trade union struggle for good working conditions and fair pay.

The last but not least factor in preserving the European welfare state is **constraining the openness of European financial**

markets. In fact, easy foreign investments actually mean easily moving jobs from Europe to other countries. As already mentioned, employers have a legal instrument to make pressure on European governments: 'If you do not relax employment protection according to our requirements we shall move jobs abroad'. Thereby, having liberalized finances, European governments paved the way to losing control over labour markets. Since the exit is usually where the entrance was, to get the control back, the financial markets have to be somewhat constrained. Certainly, if social priorities are respected sincerely and consistently.

Methodological advances and monitoring instruments

Although flexicurity is getting to be adopted as a European policy, there exists neither its established definition, nor even an unambiguous idea of it, to say nothing of steering and monitoring instruments. The chapter on flexicurity in *Employment in Europe* by the European Commission (2006c) lacks any 'official' definition but refers to the one by Wilthagen and Tros (2004) and benchmark countries with the OECD *partial* indicators of social security. Neither is flexicurity defined in the *Green Paper* but used first with quotation marks twice in p. 4 and afterwards without. The major questions to be discussed at the *Expert meeting on flexicurity strategies and the implications of their adoption at the European level on the occasion of German-Portugal-Slovenian presidency in the EU* organized by the Portugal government in Lisbon on September 25, 2006, were just on definitions and monitoring instruments. That is, the policy to be adopted at the European level is still ill-defined and supported by no empirical feedback (Tangian 2006).

An operational definition of flexicurity and related *composite* indicators were developed at the Hans-Böckler Foundation (Tangian 2005–2006). They were applied to investigate the 10-year *dynamics* of 16 European countries, basing on data available from European Commission, Eurostat, and OECD. The results are not encouraging. Contrary to 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 (Eurostat 2005, Schmid and Gazier 2002, Seifert and Tangian 2006). The average employment status in the society decreases, on the average disqualifying employees from social security benefits, even in the background of some institutional improvements.

To give an idea of the interaction of institutional and flexibilization factors consider an example. Suppose that there are two groups of unemployed, with a high former employment status (recently normally employed, unfairly dismissed) who get 700 EUR a month (90%), and with a low former employment status (flexibly employed, long-term unemployed, etc.) who get 300 EUR a month (10%), giving the national average aid $700 \cdot 0.9 + 300 \cdot 0.1 = 660$ EUR/month. Let there be a 10%-increase of aid for all, but due to flexibilization the first group is reduced to 50% and the second increases up to 50%. Then the national average is $770 \cdot 0.5 + 330 \cdot 0.5 = 550$ EUR/month. Thus, regardless of general institutional improvement by 10% the national average decreases due to flexibilization from 660 to 550 EUR/month (= by 16.6%).

After the flexicurity advantages/disadvantages have been accounted proportionally to the size of the groups affected, the trends of average national figures turn out to be rather disappointing. The same conclusions are obtained with three models:

in the neo-liberal perspective, that is, under the assumption that labour rights *are* tradable for social security benefits,

from the viewpoint of trade-unions, that is, under the assumption that labour rights *are not* tradable for social security benefits, so that flexicurity is understood as a better social protection of flexibly employed, and

by tracing the development of the European welfare state, that is, by evaluating the national average of the coverage of unemployed by social security.

Thus, the declared balance between advantages and disadvantages is illusory, because gains are smaller than losses and winners are fewer than losers. To repair the actual situation, the flexibilization should be constrained on the one hand, and, on the other hand, social security rules should be urgently updated.

Conclusions

It should not be hoped that the great challenge of labour market structural change can be answered by minor reforms. The level of reform should correspond to the level of change. Otherwise, the situation will be similar to the one mocked by Saltykov-Shchzedrin (1826–1889): 'How to make an unprofitable enterprise profitable, not changing anything in it?'

Side-by-side with Danish/Dutch flexicurity and Austrian *Abfertigungsrecht*, the package of measures proposed (flexinsurance, basic minimum income, and constraining the openness of financial markets) are aimed at solving the current social and pol-

icy contradictions in the European Union.

To keep the policy under operational control, advanced monitoring tools and easily adjustable steering instruments are needed.

Thoughts to the 14 questions posed by the *Green Paper*

What would you consider to be the priorities for a meaningful labour law reform agenda?

As long as the real need for flexibilization remains an open question, it may be reasonable just to introduce flexible easily adjustable and reversible regulatory measures like *flexinsurance*. The flexinsurance assumes that the employer's contribution to social security should be proportional to the flexibility of the contract/risk of becoming unemployed. The idea is the same as in health insurance; see pp. 20–21 for more details.

Can the adaptation of labour law and collective agreements contribute to improved flexibility and employment security and a reduction in labour market segmentation? If yes, then how?

It looks rather impossible to attain the both goals, flexibility and employment security, simultaneously. In actuality these targets represent contradictory interests of different social partners, see pp. 13–15. It may be possible to speak of a compromise only. The flexinsurance proposed can be regarded as an instrument for its adjustment. Under flexinsurance, employers are motivated to improve in the employment status of the employees due to lower social contributions. Employees are encouraged to accept flexible work which offers more generous social security benefits in such cases (by analogy with better hospital conditions for those who pay higher contributions).

Do existing regulations, whether in the form of law and/or collective agreements, hinder or stimulate enterprises and employees seeking to avail of opportunities to increase productivity and adjust to the introduction of new technologies and changes linked to international competition? How can improvements be made in the quality of regulations affecting SMEs (= small and medium enterprises), while preserving their objectives?

The question assumes that adopting innovations may need firing employees with outdated skills, and that it can be too costly for small enterprises charged with severance pay-

ments. However, it is not self-evident that innovations imply firing. In fact, innovations themselves result in higher competitiveness and, consequently, higher profits which should be sufficient to compensate expenses for professional training and/or creating a few jobs for new tasks. In fact, firms are seeking for double profits both from innovations and reducing labour costs. These double profits will unlikely be fairly distributed within the firms, but rather will increase the inequality between low- and high-paid personnel, contrary to the concept of welfare state; see also pp. 13–15.

How might recruitment under permanent and temporary contracts be facilitated, whether by law or collective agreement, so as to allow for more flexibility within the framework of these contracts while ensuring adequate standards of employment security and social protection at the same time?

The formulation of the question is misleading because it assumes by default that flexibilization is necessary (see critics in p. 7). If flexibilization is regarded as a disadvantage for employees, the only way to facilitate the recruitment of flexibly employed is to provide them with some additional advantages. For instance, the flexinsurance can guarantee better social security benefits for flexibly employed. The idea is the same as of additional health insurance options for those who are exposed to additional risks.

Would it be useful to consider a combination of more flexible employment protection legislation and well-designed assistance to the unemployed, both in the form of income compensation (i.e. passive labour market policies) and active labour market policies?

In fact the question is about the usefulness of passive and/or active security measures under a flexible employment protection legislation. Two measures are better than one, so a combination of several social security measures is more flexible itself and, consequently, provide more possibilities.

What role might law and/or collective agreements negotiated between the social partners play in promoting access to training and transitions between different contractual forms for upward mobility over the course of a fully active working life?

The flexinsurance suggests, among other things, stimulating the upward mobility of employees, that is, transitions from

part-time to full-time work, or from fixed term to permanent contracts. Professional training and transitions between different contractual forms can be negotiated by social partners to be accounted in the flexinsurance as bonus points.

Is greater clarity needed in Member States' legal definitions of employment and self-employment to facilitate bona fide transitions from employment to self-employment and vice versa?

Definition clarity alone can hardly facilitate mobility between employment and self-employment. Most important are the economical consequences linked to the definitions of employment and self-employment. Transitions from employment to self-employment can be facilitated if self-employed have the same social security benefits as regular employees.

Is there a need for a "floor of rights" dealing with the working conditions of all workers regardless of the form of their work contract? What, in your view, would be the impact of such minimum requirements on job creation as well as on the protection of workers?

The very idea of the 'floor of rights for working conditions' goes in line with the idea of minimal wage and, finally, with human rights in general.

Do you think the responsibilities of the various parties within multiple employment relationships should be clarified to determine who is accountable for compliance with employment rights? Would subsidiary liability be an effective and feasible way to establish that responsibility in the case of sub-contractors? If not, do you see other ways to ensure adequate protection of workers in "three-way relationships"?

Particular working conditions at the workplace are beyond the scope of the paper. As for the social security contributions, flexinsurance makes possible a shared responsibility for multiple-way relationships. Each employer should be charged with a certain percentage of social contributions according to the contractual agreement between employers involved.

Is there a need to clarify the employment status of temporary agency workers?

Every status should be clarified, to avoid both misunderstanding and misuse. Again, the definition alone with no economic consequences makes not much sense. The social guar-

antees linked to this definition should be specified. It seems fair to compensate the inconveniences of agency work (frequent changes of workplace, adaptation efforts to new tasks and teams) by higher social guarantees.

How could minimum requirements concerning the organization of working time be modified in order to provide greater flexibility for both employers and employees, while ensuring a high standard of protection of workers' health and safety? What aspects of the organization of working time should be tackled as a matter of priority by the Community?

The question is beyond the scope of the paper. As for flexin-surance, inconvenient flexibility of working time can be, among other things, compensated by better social guarantees (accounted, for instance, as insurance bonus factors).

How can the employment rights of workers operating in a transnational context, including in particular frontier workers, be assured throughout the Community? Do you see a need for more convergent definitions of 'worker' in EU Directives in the interests of ensuring that these workers can exercise their employment rights, regardless of the Member State where they work? Or do you believe that Member States should retain their discretion in this matter?

If the United States of Europe are on the agenda then a common definition of (transnational) worker with economical/social security consequences should be on the agenda as well.

Do you think it is necessary to reinforce administrative co-operation between the relevant authorities to boost their effectiveness in enforcing Community labour law? Do you see a role for social partners in such cooperation?

An administrative cooperation should run, but there is no urgency in an abrupt enforcing Community labour law as long as Member States have considerable national differences and specific traditions of industrial relations.

Do you consider that further initiatives are needed at an EU level to support action by the Member States to combat undeclared work?

Prohibitive legislation should be accompanied by economic

measures. In the background of high unemployment workers consider undeclared work to be 'better than nothing'. Another fundamental problem is the wage differences between countries, so that an undeclared work in Germany can be better paid than a declared work in Poland. Therefore, measures against high unemployment and wage differences can be even more efficient than legislation prohibitions.

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European flexicurity: concepts, policies, reforms

Andranik Tangian
Hans Böckler Foundation, DE-40476 Düsseldorf
andranik-tangian@boeckler.de

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Agenda

- 1 History of flexicurity
- 2 Idea of flexicurity
- 3 Methodology
- 4 Empiricism
 - neo-liberal view
 - trade-unionist view
 - European-welfare-state view
- 5 Political issues
- 6 Reform proposal
- 7 Answers to selected questions of the *Green Paper* of the European Commission 2006
- 8 Conclusions

1.1 History of flexicurity

Debate on deregulation of labour markets (1980s)

Good labour market performance of Anglo-Saxon countries with low regulation

European successes in the 1990s

Danish outperformance due to (?) its traditional “golden triangle”: low regulation, generous social security, intensive active labour market policies

“Dutch miracle” due to (?) flexibilization

Word-slogan *flexicurity* (autumn 1995)

Dutch Professor Hans Adriaansens and Minister of Social Affairs Ad Melkert: *Flexicurity* = Flexibilization with a shift from job security to employment security

1.2 History of flexicurity

Green Paper: Modernising Labour Law to Meet the Challenges of the 21st Century of the European Commission (2006) with 3 references

1999 Dutch Flexibility and Security Act

2002 Austrian Severance Act (*Abfertigungsrecht*)

2006 Spanish Decree on easing the conversion of temporary labour contracts into open-ended labour contracts with reduced dismissal costs

Commission Communication on flexicurity to be presented in June 2007 and guide-lines for Member States by the end of 2007

2.1 Idea of flexicurity: Metaphorical definition

By analogy with the motto of Prague Spring 1968 "socialism with a human face"

Definition 1 (metaphorical) *Flexicurity is a flexibilization (= deregulation) of labour markets with "a human face", that is, compensated by some social advantages, in particular, for the groups affected*

2.2 Idea of flexicurity: Distinction from flexibilization

Flexicurity ***differs*** from unconditional deregulation in introducing compensatory measures in
social security
employment activation

Consensus in balancing these factors is not an academic question but an ***issue for bargaining*** between social partners, similarly to collective agreements

2.3 Idea of flexicurity: Statics and dynamics

Static flexicurity: weak labour market regulation + generous social security + employment activation measures ("golden triangle"), as in Denmark

Dynamic flexicurity: flexibilization *process* compensated by social advantages and activation programs, as in the Netherlands

Netherlands is not such a flexicure country as Denmark but pursues a more intensive flexicurity policy

2.4 Idea of flexicurity: Static classification

Social security	Labour market regulation	
	Relaxed	Strict
Generous	<i>Flexicurity</i> Denmark Finland Switzerland	<i>Inflex-security</i> Netherlands Sweden Norway
Poor	<i>Flex-insecurity</i> United Kingdom	<i>Inflex-insecurity</i> Spain Portugal Czech Republic

3.1 Methodology: Flexibility-security trade-off

Definition 2 (most cited) [*Flexicurity is*] 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 (Wilthagen 1998–2004)

3.2 Methodology: Flexibility types

External numerical flexibility, easiness of ‘hiring and firing’

Internal numerical flexibility, easiness to change working hours

Functional flexibility, easiness to charge employees with different work

Wage flexibility, easiness to adjust the wage to individual performance

Externalization flexibility, easiness to hire workers without employment contracts

3.3 Methodology: Security types

Job security, protection against dismissals and major changes of working conditions

Employment security, equivalent vacant jobs, training, work-work transitions

Income (social) security, unemployment & health insurance, pensions, maternity leave

Combination security, compatibility of work with other activities, work-life balance

3.4 Methodology: Wilthagen matrix (Wilthagen & Tros 2004)

	Job security	Employment security	Income security	Combination security
External numerical flexibility		Firm-firm job pools Facilities work-work transitions Older enterployees	Retirement arrangements	
Internal numerical flexibility	Part-time work Flexible retirement Part-time enterployees		Flexible retirement	Part-time retirement Flexible age (pre-pension) Flexible working hours Leave facilities
Functional flexibility	Education/training Adaptation in working hours/tasks	Education/training Seniority/bridge works Job rotation Age-aware cereer and job structures		

3.5 Methodology: Wilthagen matrix versus Dutch law 1999

The Dutch Law on Flexibility and Security 1.1.99 (Wilthagen & Tros 2004)

Flexibility	Security
Adjustment of the regulation of fixed-term employment contracts: after 3 consecutive contracts or when the total length of consecutive contracts totals 3 years or more, a permanent contract exists (previously this applied to fixed-term contracts that had been extended once)	Introduction of so-called presumptions of law which strengthen the position of atypical workers (regarding the existence of an employment contract and the number of working hours agreed in that contract); the existence of an employment contract is more easily presumed

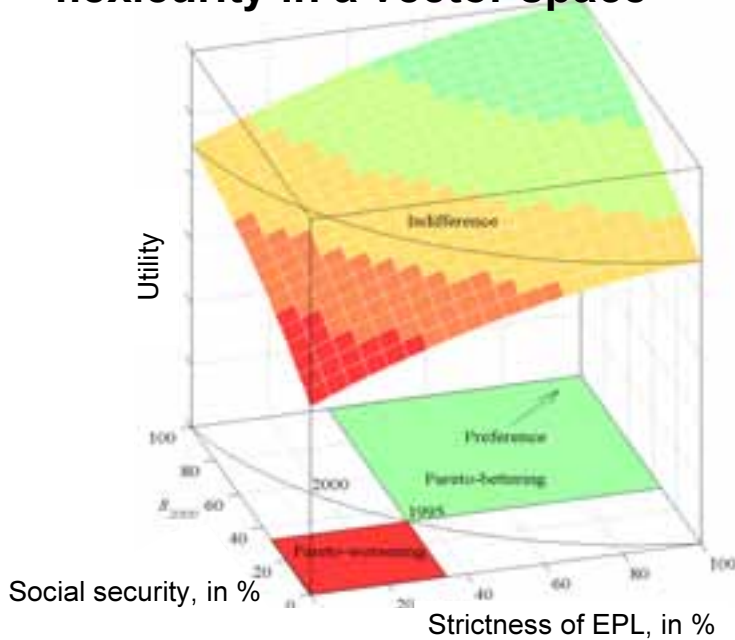
Policy measures are aimed at either flexibility or security but the matrix elements require both simultaneously

3.6 Methodology: ILO-OECD matrix

Social security: UIB (unemployment insurance benefits)	Flexibility: Strictness of EPL (employment protection legislation)	
	Low	High
High	Denmark Empl. protection 8 Social protection 27 Unempl. rate 4.4%	France Empl. protection 21 Social protection 20 Unempl. rate 9.3%
Low	USA Empl. protection 1 Social protection 3 Unempl. rate 4.0%	Japan Empl. protection 14 Social protection 4 Unempl. rate 4.7%

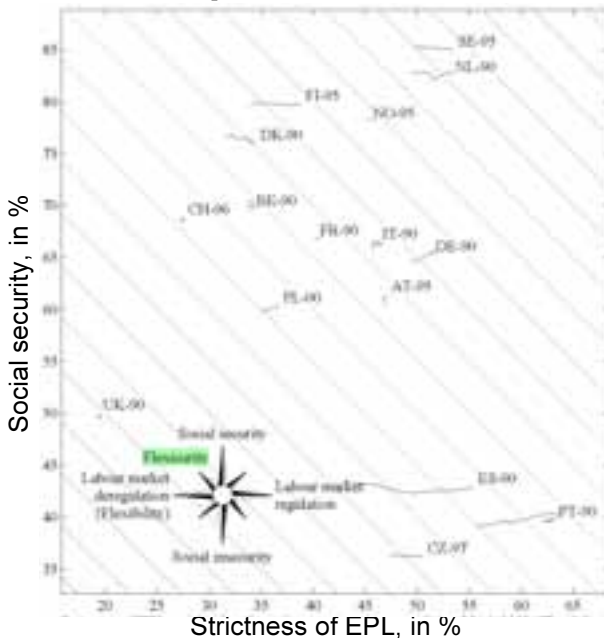
One security and one flexibility dimensions allowed; indirect evaluation (Unempl. rate) prompts no regulation-no security

3.7 Methodology: Monitoring flexicurity in a vector space



Knowledge of social utility function is not always necessary: Pareto-bettering/worsening domain is common to all utility functions

4.1 Empiricism: neo-liberal view



Violation of flexicurity concept (*-2003): Deregulation-only instead of flexicurity (except NL and DK in the mid 1990s) Explanation: Flexibilization disqualifies workers from social benefits

4.2 Empiricism: Interaction of institutional and mobility factors

Example of unemployment aid:

Previously:

90% get 700 /Month (short-term unempl.)

10% get 300 /Month (long-term unempl.)

National average = $700 * 0.9 + 300 * 0.1 = 660$

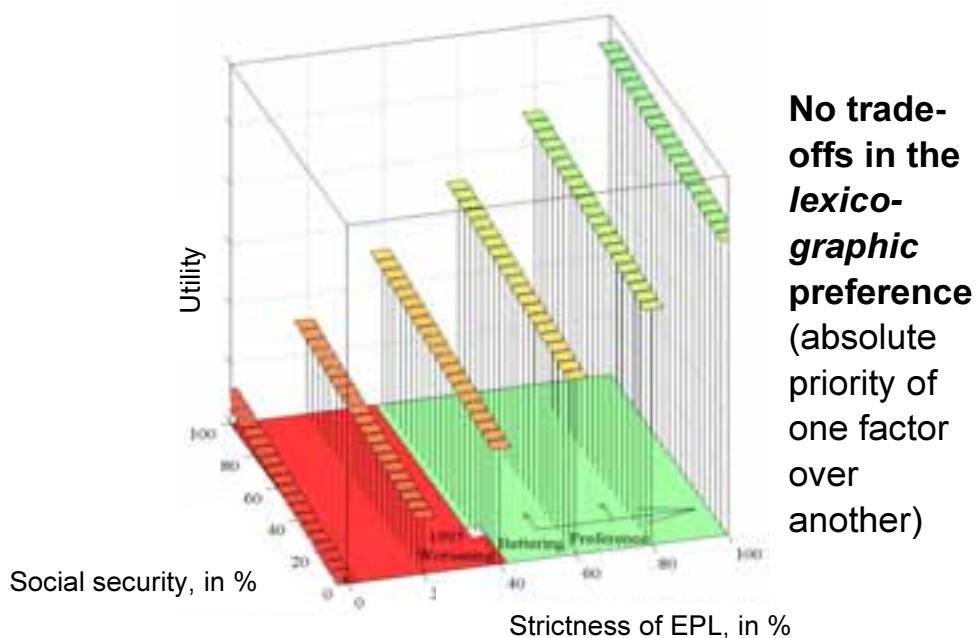
Now:

Institutional improvement: All get 10% more aid

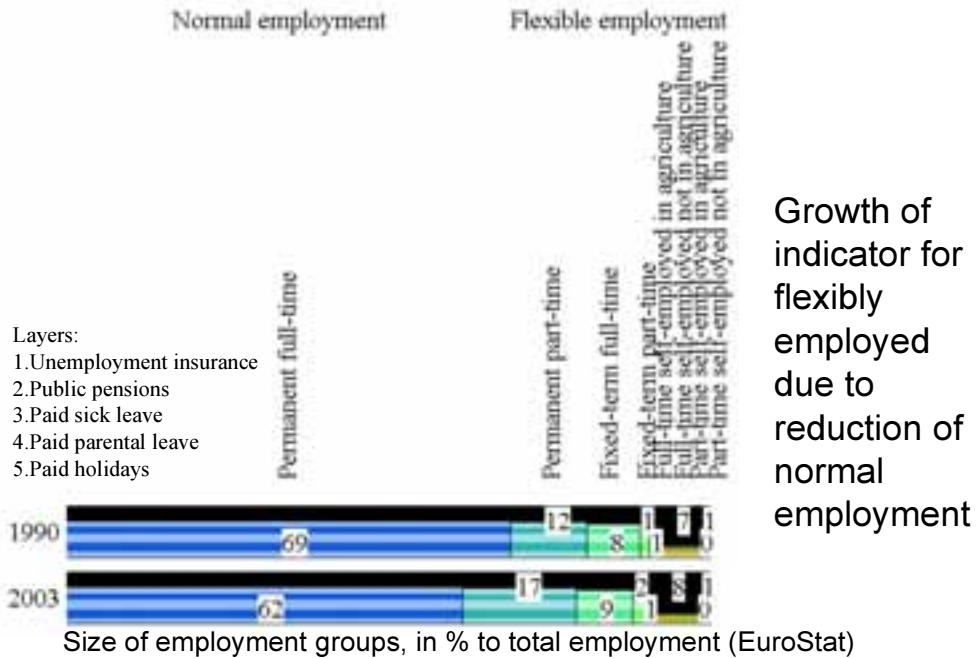
Mobility effect: the groups are 50% and 50%

National average = $770 * 0.5 + 330 * 0.5 = 550$

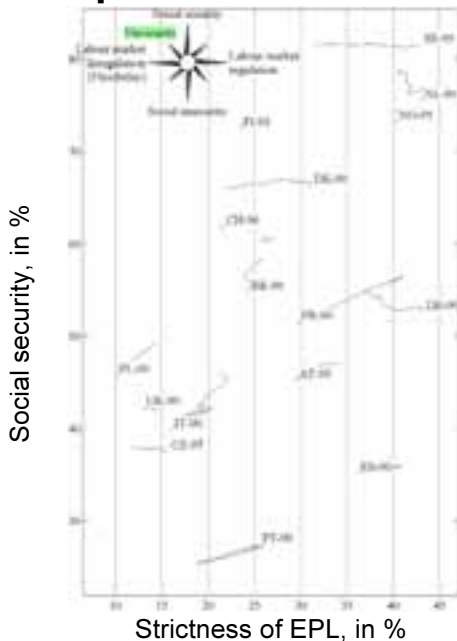
4.3 Empiricism: Trade-unionist view



4.4 Empiricism: Security index (DE)



4.5 Empiricism: Trade-unionist plot



Gains are smaller than losses and winners are fewer than losers (*-2003):

Growth of indicators of social security for flexibly employed are due to reduction of the share of regular employment

4.6 Empiricism: European-welfare-state view

Estimate the national average of Net-Income Replacement Rate (NRR) for unemployed to show how social benefits compensate the loss of previous earnings

Micro-census simulation

Individual answers of unemployed are computed with the OECD *Tax-Benefit Models*

The empirical data on personal situations are available from EuroStat's *Labour Force Survey*

4.7 Empiricism: European welfare state, 103950 groups „interviewed“

22 European countries

7 years: 1995, 1997, 1999, 2001 - 2004

5 age levels: 20±5, ... , 60±5 years

3 Family types: single, one-earner couple, and two-earner couple

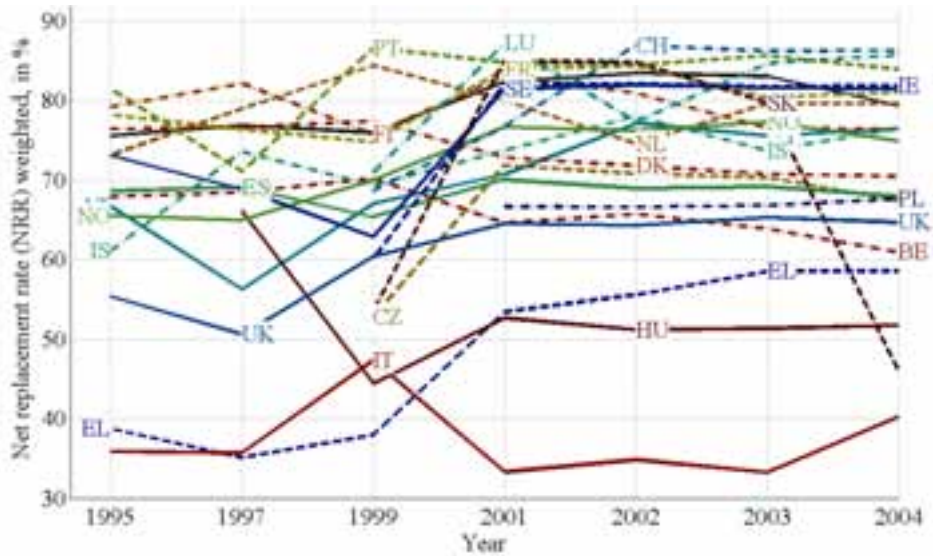
Number of children: 0-4

6 wage levels: 40, 50, 67 , ... , 200% APW

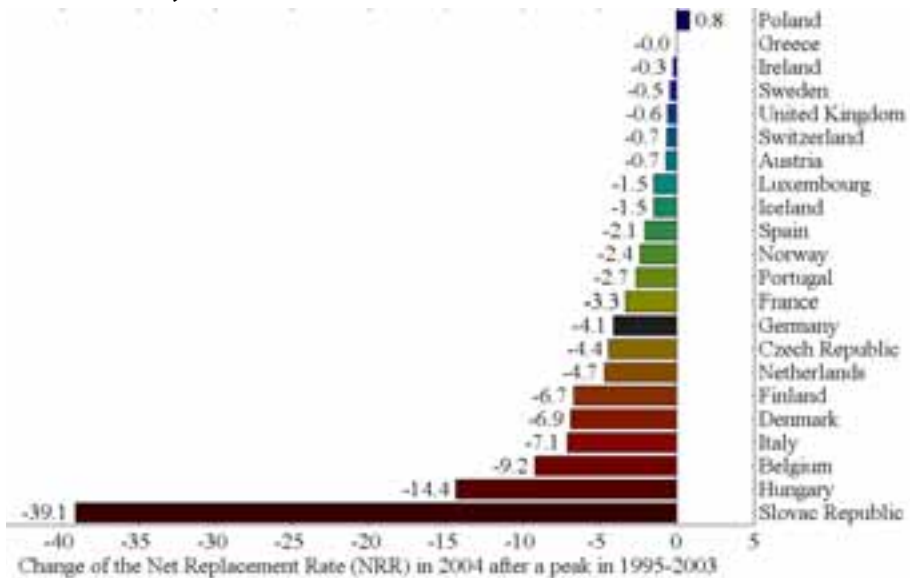
9 levels of duration of unemployment:

0, <1, 1-2, 3-5, 6-11, ... , 48 and more months

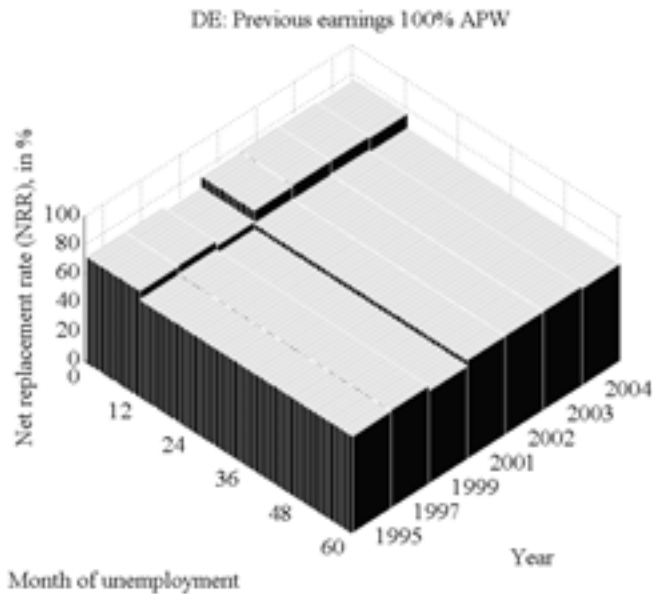
4.8 Empiricism: European welfare state, NRR dynamics 1995-2004



4.9 Empiricism: European welfare state, total decline in 2004



4.10 Empiricism: European welfare state, cause - the structural change



5.1 Political issues: Three world scenarios of the Club of Rome

A big war for resources (15% likelihood)

The rich benevolently sacrifice their excessive well-being to help the poor (35% likelihood)

The world splits into a few rich (people, countries) and many poor (50% likelihood)

During the last 30 years living standards, even in the United States, visibly improved exclusively for top earners: the middle class improved its welfare by 35%, whereas the top 0.1% multiplied it by factor 5

Deregulation of labour markets for superior economic performance is aimed at **sustaining and multiplying the superiority of the rich over the poor**

5.2 Policy issues: Two faces of globalization

Promises in 1970-1980s

Living standards: cheap goods for Western consumers

Poverty: New technologies and jobs in the third world

Business: High returns for investors

Measures

Open financial markets

Integration of new Member States in the EU contrary to their readiness, further facilitating investments there

Consequences

Now governments warn: "If flexibilization required by employers is not be pursued, they will *legally* move jobs to other countries with better business conditions"

5.3 Policy issues: Role of flexicurity as it is now

Labour flexibility is profitable for employers

All accompanying expenses, e.g. for social security, are recovered by the state

Governmental budget originates from tax-payers

Conclusion: Flexicurity is an indirect governmental donation to firms from the tax-payers' money

5.4 Policy issues: How is it explained to public?

Deregulation enhances the competitiveness of European economy finally aimed at higher living standards

Employees are reconciled with individual inconveniences due to a “fair” exchange

one commodity (labour rights) is exchanged for another commodity (social security), and the exchange rate being negotiated

Bottle-neck: At the neo-liberals' playing field everything can be bought and sold by default (?) Social health (= the right to remain at work) is exchanged for a treatment (= social security): *give your hand, and get a prosthesis instead*

5.5 Policy issues: New type of industrial relations

Capitalism by Marx

linear relations: employer-worker

individual exploitation: surplus value due to purchase of the capacity to work rather than end products

Capitalism now

circular relations: employer–worker–state–employer with a sophisticated money loop through legislation, social security and tax systems

individual/collective exploitation: extended to relations of all employers and all employees, being redistributed through all these systems

5.6 Policy issues: Perspectives of unconditional deregulation

Bad career prospects and income insecurity

Mobility of the workplace with complications of family life

Demographic problems and additional immigration

Increasing inequality, vanishing middle class

Conclusion: We come to the “brasilianization” scenario of the Club of Rome

6.1 Reform proposal: Inconsistent EU policies

European Welfare-State policy

Flexibilization for sustainable development

Flexicurity is a trade off between flexibilization and social security

Make Work Pay is a trade-off between income protection and gain from work

Civil Society policy coordinated with NGO's and trade unions

6.2 Reform proposal: Policy measures

flexinsurance

to steer flexicurity policy

basic income model

to resolve policy contradictions

constraining financial markets

to keep the political situation under control

6.3 Reform proposal: Flexinsurance (Fi)

Employer's contribution to social security is proportional to the flexibility of the contract/risk of becoming unemployed

Fair “taxation” of employers by social security

Motivation to hire employees more favorably with no rigidly restricting labour market flexibility

Flexible instrument to regulate deregulation: “tax” adjustments need no new legislation

Existing “dismissal taxes”

Progressive: American *experience rating*

Flat: Austrian *Abfertigungsrecht*

6.4 Reform proposal:

Basic income model (Bi)

A flat income paid by the state to all citizens regardless of their earnings and property status

Additional budget from

flexinsurance

higher taxes of high-earners (to subtract the flat income) and

funds released from an army of civil servants currently working in social security

Existing elements of the basic income model

Kindergeld in Germany paid to all parents

some old-age provisions in Switzerland

the idea of minimal wage

6.5 Reform proposal: Bi & Fi make EU policies consistent

European Welfare Policy: *Bi* improves social security

Flexibilization: no rigid restriction by *Fi*

Flexicurity: advances in social security (*Bi*), situation kept at the trade-off due to flexinsurance (*Fi*)

Make Work Pay: moving to work always profitable (*Bi*); no benefits, no cuts, no contradiction with flexicurity

Civil society policy: trade union opinion on constraining deregulation (*Fi*) is respected

7.1 Answers to questions of the *Green Paper*

What would you consider to be the priorities for a meaningful labour law reform agenda?

As long as the real need for flexibilization remains an open question, it may be reasonable just to introduce flexible easily adjustable and reversible regulatory measures like *flexinsurance*.

7.2 Answers to questions of the *Green Paper*

Can the adaptation of labour law and collective agreements contribute to improved flexibility and employment security and a reduction in labour market segmentation? If yes, then how?

It looks rather impossible to attain the both goals, flexibility and employment security, simultaneously. In actuality these targets represent contradictory interests of different social partners, so that it is possible to speak of a compromise only. The flexinsurance proposed can be regarded as an instrument for its adjustment.

7.3 Answers to questions of the Green Paper

Do existing regulations, whether in the form of law and/or collective agreements, hinder or stimulate enterprises and employees seeking to avail of opportunities to increase productivity and adjust to the introduction of new technologies and changes linked to international competition? How can improvements be made in the quality of regulations affecting SMEs (= small and medium enterprises), while preserving their objectives?

The question assumes that innovations need firing employees with outdated skills and severance payments can be too costly for small enterprises. In fact, firms are seeking for double profits from innovations and reducing labour costs. Profits from innovations should go to professional training and/or creating jobs for new tasks.

7.4 Answers to questions of the Green Paper

How might recruitment under permanent and temporary contracts be facilitated, whether by law or collective agreement, so as to allow for more flexibility within the framework of these contracts while ensuring adequate standards of employment security and social protection at the same time?

The question assumes by default that flexibilization is necessary. If flexibilization is disadvantageous for employees, the recruitment of flexibly employed can be facilitated by additional social advantages, e.g., the flexinsurance can guarantee better benefits for flexibly employed.

7.5 Answers to questions of the *Green Paper*

Would it be useful to consider a combination of more flexible employment protection legislation and well-designed assistance to the unemployed, both in the form of income compensation (i.e. passive labour market policies) and active labour market policies?

In fact the question is about the usefulness of passive and/or active security measures under a flexible employment protection legislation. Two measures are better than one, so a combination of several social security measures is more flexible itself and, consequently, provide more possibilities.

7.6 Answers to questions of the *Green Paper*

What role might law and/or collective agreements negotiated between the social partners play in promoting access to training and transitions between different contractual forms for upward mobility over the course of a fully active working life?

The flexinsurance suggests stimulating the upward mobility of employees, that is, transitions from part-time to full-time work, or from fixed term to permanent contracts. Professional training and transitions between different contractual forms can be negotiated by social partners to be accounted in the flexinsurance as bonus points.

7.7 Answers to questions of the Green Paper

Is greater clarity needed in Member States' legal definitions of employment and self-employment to facilitate bona fide transitions from employment to self-employment and vice versa?

Definition clarity alone can hardly facilitate mobility between employment and self-employment. Most important are the economical consequences linked to the definitions of employment and self-employment. Transitions from employment to self-employment can be facilitated if self-employed have the same social security benefits as regular employees.

7.8 Answers to questions of the Green Paper

Is there a need for a “floor of rights” dealing with the working conditions of all workers regardless of the form of their work contract? What, in your view, would be the impact of such minimum requirements on job creation as well as on the protection of workers?

The very idea of the 'floor of rights for working conditions' goes in line with the idea of minimal wage and, finally, with human rights in general.

7.9 Answers to questions of the *Green Paper*

Do you think the responsibilities of the various parties within multiple employment relationships should be clarified to determine who is accountable for compliance with employment rights? Would subsidiary liability be an effective and feasible way to establish that responsibility in the case of sub-contractors? If not, do you see other ways to ensure adequate protection of workers in "three-way relationships"?

Particular working conditions at the workplace are beyond the scope of the paper. As for the social security contributions, flexinsurance makes possible a shared responsibility for multiple-way relationships. Each employer should be charged with a certain percentage of social contributions.

7.10 Answers to questions of the *Green Paper*

Is there a need to clarify the employment status of temporary agency workers?

Every status should be clarified, to avoid both misunderstanding and misuse. Again, the definition alone with no economic consequences makes not much sense. The social guarantees linked to this definition should be specified. It seems fair to compensate the inconveniences of agency work (frequent changes of workplace, adaptation efforts to new tasks and teams) by higher social guarantees.

7.11 Answers to questions of the Green Paper

How could minimum requirements concerning the organization of working time be modified in order to provide greater flexibility for both employers and employees, while ensuring a high standard of protection of workers' health and safety? What aspects of the organization of working time should be tackled as a matter of priority by the Community?

The question is beyond the scope of the paper. As for flexinsurance, inconvenient flexibility of working time can be compensated by better social guarantees (accounted, for instance, as insurance bonus factors).

7.12 Answers to questions of the Green Paper

How can the employment rights of workers operating in a transnational context, including in particular frontier workers, be assured throughout the Community? Do you see a need for more convergent definitions of 'worker' in EU Directives in the interests of ensuring that these workers can exercise their employment rights, regardless of the Member State where they work? Or do you believe that Member States should retain their discretion in this matter?

If the United States of Europe are on the agenda then a common definition of (transnational) worker with economical/social security consequences should be on the agenda as well.

7.13 Answers to questions of the *Green Paper*

Do you think it is necessary to reinforce administrative co-operation between the relevant authorities to boost their effectiveness in enforcing Community labour law? Do you see a role for social partners in such cooperation?

An administrative cooperation should run, but there is no urgency in an abrupt enforcing Community labour law as long as Member States have considerable national differences and specific traditions of industrial relations.

7.14 Answers to questions of the *Green Paper*

Do you consider that further initiatives are needed at an EU level to support action by the Member States to combat undeclared work?

Prohibitive legislation should be accompanied by economic measures. In the background of high unemployment workers consider undeclared work to be 'better than nothing'. Another fundamental problem is the wage differences between countries, so that an undeclared work in Germany can be better paid than a declared work in Poland. Therefore, measures against high unemployment and wage differences can be even more efficient than legislation prohibitions.

8 Conclusions

Prototypes of Flexicurity indices allow us to monitor flexicurity policies from three different viewpoints

Flexicurity *does not* hold up to its political promises and theoretical declarations

A possible solution:

- radical reform of the European social security systems (Basic income + Flexinsurance)

- constraining financial markets

Most of *Green Paper's* questions can be answered in a constructive way

FLEXIBILITY AND TRADE UNIONISM

Bruno Amoroso,

Professor Emeritus, Roskilde University, Denmark

1. Work in the "great transformation"

Historically, the objective of flexibility has first been envisaged and proposed by trade unions and workers in general. In order to understand the rationale behind this statement, which may sound paradoxical, it is necessary to briefly refer to the radical change, defined by Karl Polanyi as "the great transformation", which has occurred in our societies in the past 250 years. In the name of Modernity and Progress, and with the promise of "equality", "fraternity" and "freedom", this transformation "freed" people and communities from all "social constraints", from the "backwardness" of old professional knowledge and of rural societies, and from the "provincialism" of villages and towns. The ensuing massive migration flows, the destruction of the rural world, of traditional knowledge and of social life in villages and towns were perceived also by Marx as terrible social costs, which were however sacrifices necessary for the development of production forces.

Work, which once was an integral part of the life of communities and families, was also transformed and it became a synonym of "paid work" and later a "commodity" for the "labour market". In less than a century, there was a shift from the markets of communities to the "market societies", and the institutions of the capitalist market replaced and gained supremacy over the ones of the communities. The "liberation" from the constraints of the feudal world soon turned out to be the imprisonment in the "golden cage" of modernity (Weber). Workers have gradually tried to leave this cage since the end of the 19th century, first by fighting for their own survival and of their families and communities (the "remittances" of emigrants have always been the tangible proof of this social link), then by patiently trying to heal the wounds produced in daily and social life by a production-centred, profit-focused "labour market".

The promises of Progress of the 19th century were followed by two terrible European civil wars (the first and second world wars) and by a series of colonial wars which helped strengthen that "profit" which workers naively considered, in line with Marx's schematic interpretation, merely as the result of their exploitation. The post-war reconstruction again raised hopes of Progress and Welfare (this period marked indeed the emergence of the Welfare Society), but it was actually the Trojan horse which led to the primacy of the Fordist factory and to the approval by workers and trade unions of a capitalist production and consumption model. This consensus was actually based on the confusion of workers, who mistook "the shadow of participation for actual power" (Federico Caffè). All this led to the emergence of the consumer society and to a time of enormous waste, eventually bringing about the environmental and social crises of the Sixties. The response to such crises ("the limits to growth" of the Club of Rome) was yet another big Promise: Technology as an instrument to emancipate workers, to free them from physical work, to reduce working hours, to abolish poverty, etc. Based on this Promise, workers and trade unions gave their approval to the massive investments needed for such technologies. Today, we can easily take stock of the situation and compare promises with the present living conditions. But there is something more to it. Technology has laid the foundations for the emergence of a new power which, in close collaboration with the financial world, initiated capitalist Globalization.

2. Flexibility and the workers' movement

The rigidities imposed on workers by the Fordist production system and by the Taylorist organizational system led them to react in order to regain autonomy and flexibility. The main reason has been – and still is today – the need to reconcile work and personal, family and community life. The objectives of flexibility pursued by trade unions may be summarized as follows:

- participation
- labour as a service
- life-long learning
- commitment of political institutions and trade unions
- work and social life

Such requests later led to the idea of a social organization system which would change the priorities of the capitalist market, also known as the Welfare State.

3. Capitalist market and welfare system

The workers' fight for renewed flexibility originated the welfare paradigm which re-defines the system of compatibility between economic and social variables (Table 1).

Table 1 – CAPITALIST MARKET AND WELFARE SYSTEMS

<p>CAPITALIST ECONOMY</p> <p>- Independent variables</p> <p><i>Production systems</i></p> <ul style="list-style-type: none"> - Capital - Technologies 	<p>WELFARE SYSTEMS</p> <p>- Independent variables</p> <p><i>Needs</i></p> <ul style="list-style-type: none"> - Employment <ul style="list-style-type: none"> - Social security - Migrations - Natural resources
<p>- Dependent variables</p> <p><i>Needs</i></p> <ul style="list-style-type: none"> -Employment - Social security - Migration - Natural resources 	<p>- Dependent variables</p> <p><i>Production systems</i></p> <ul style="list-style-type: none"> -Capital -Technologies

Amoroso. *Della Globalizzazione*, la Meridiana, 1996.

3.1 The European welfare systems

The inevitable combination of economic systems and national or local cultures has led to the emergence of different forms of capitalism and of different social and institutional models of welfare systems across Europe. This clearly demonstrates the impossibility to universalize and standardize concepts and systems even in a fairly homogenous scenario such as the European one.

Table 2 highlights the existence of at least 4 European welfare systems. This classification is based on indicators which show that the welfare systems cannot be reduced to social policies, which only represent one side of the issue. The table also illustrates that the capitalist production and consumption model has taken several different shapes, based on the historical and social backgrounds of the various countries.

Table 2 – EUROPEAN WELFARE SYSTEMS

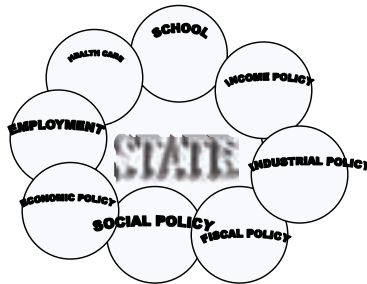
SCANDINAVIAN	GERMAN	FRENCH	SOUTHERN EUROPEAN
DUAL: POLITICS AND ECONOMY	INTEGRATED IN ENTERPRISE	INTEGRATED IN THE STATE	DUAL: STATE + CIVIL SOCIETY
UNIVERSALIST – STATE	MIXED: UNIVERSALIST STATE + MARKET	MIXED: UNIVERSALIST STATE + MARKET	MIXED: STATE AND MARKET
INSTITUTIONALIZED	MIXED: INSTITUTIONS AND FAMILY	MIXED: INSTITUTIONS AND FAMILY	INSTITUTIONAL (LOW LEVEL) + CIVIL SOCIETY
INTERNAL MARKET + EXPORTS	INTERNAL MARKET + EXPORTS	INTERNAL MARKET + EXPORTS	INTERNAL MARKET + EXPORTS DUALISTIC SYSTEM
CONTINUITY BETWEEN TRADITIONAL AND MODERN SECTORS	INDUSTRIAL MODERNIZATION	MODERN AND TRADITIONAL SECTORS	SMEs AND FORDISM. HIGH INFORMAL ECONOMY. DUALISM
SMEs, HIGH LABOUR INTENSITY	FORDISM, HIGH CAPITAL INTENSITY	BIG AND MEDIUM ENTERPRISES, HIGH CAPITAL INTENSITY	
HIGH UNIONIZATION	MEDIUM UNIONIZATION	MEDIUM-LOW UNIONIZATION	LOW UNIONIZATION
STRONG SOCIAL DEMOCRATIC TRADITION	BOURGEOIS HEGEMONY	BOURGEOIS HEGEMONY	BOURGEOIS HEGEMONY

3.2 The Scandinavian welfare system

As illustrated in Figure 1, the Scandinavian welfare system is characterized by the integration of social and economic functions, thus resulting in a highly synergic and internally cohesive structure. The State, which has a regulatory and mediating role, is at the centre of the system, around which the various functions corresponding to the government structure revolve: employment, health care, school, economic policy, income policy, industrial policy, fiscal policy, social policy.

It is an integrated system based on the principles of “functional socialism”, i.e. a system in which considerable changes can be introduced through mediation, but always respecting the whole: if one function is strengthened, that does not mean that another one can be cancelled. This also means that any attempt to compare the welfare systems cannot be based only on one or two indicators, but it must take into account all of them.

Figure 1 – THE FUNCTIONAL STRUCTURE OF THE SCANDINAVIAN WELFARE SYSTEM



4. Globalization and the welfare systems

The re-organization of the capitalist system introduced with Globalization has also had an impact on welfare systems. As regards production, there has been a shift from Fordism to Post-Fordism, i.e. from production in big factories to flexible specialization and decentralization of production. Mass production and consumption have been transformed into selective production and consumption, focusing on goods and services with a high added value for the richest sections of the world population, i.e. for a market of 800 million people. The markets are the ones of the Triad, i.e. of the richest areas, while the "global village" helps define the variable borders of the regions where the Triad extracts the raw materials which are needed for its own consumption and production.

The Western production model is based on a cocktail of technology and finance through which the Western world makes large profits by dispossessing the other 6 billion people in the world of their savings and by expropriating copyrights on global production. This system has been defined as a *Global Apartheid*, in that it is founded on the exploitation of billions of workers in our countries and in the rest of the world. The promised emancipation from heavy work for men and from housework for women has been partly fulfilled: but only for the lucky, wealthy inhabitants of the Triad, both men and women. They have been replaced by the millions of carers and of young immigrants who die every day in our construction sites and factories.

In the Seventies, the Western production systems were transformed into the Post-Fordist model, in which trade unions lost their power. "Collective agreements" gradually disappeared, as they were replaced by "corporate" and "individual contracts" and by "flexible specialization". The response to the crisis of the Welfare State is the Service Society.

In the Eighties, the welfare and labour policies were in their turn targeted by monetarism and neo-liberalism, thus thwarting Keynesian economic policies. Flexicurity was introduced to give a central role to companies, thus replacing the community and society in general. The Welfare Society was transformed into the Workfare Society – which is of course the capitalist concept of work.

The Nineties marked the establishment of *Global Apartheid*, which replaced the capitalist organization of global production which had until then been labelled more neutrally as the “international division of work”. Capitalism thus became the *Triadic Capitalism* which bears the title of *Knowledge Society*.

After the year 2000, the conflicts mounting within the Triad’s countries and in the other marginalized regions of the world brought about serious social revolts, as well as the desire for revenge of some areas (the Arab world and the Muslim countries in general) and the acceleration in the economic emancipation of the Asian (China, Vietnam, etc.) and Latin American (Venezuela, Brazil, Cuba, etc.) countries. The response of the Triad’s countries is the transformation of the Workfare State into the Warfare State. (Table 3).

Table 3 – CAPITALIST GLOBALIZATION 1970 - 2006

ECONOMY	INSTITUTIONS
1970s	1970s
From: Fordism and Corporativism, Collective agreements and Industrial society	Crisis of the Welfare State Service Society
To: Post-Fordism and Flexible Specialization. Individual and corporate contracts	
1980s	1980s
Monetarism and Neo-liberalism <i>Flexicurity</i>	From the Welfare Society to the Workfare Society Information Society
1990s	1990s
Global Apartheid	Triadic Capitalism Knowledge Society
2000s	2000s
Geopolitics and US Geoeconomics The awakening of Asia and of Latin America (China and South-East Asia, Brazil, Venezuela, Cuba, etc.)	From the Workfare State to the Warfare State The Arab and Islamic revolt Clash of civilizations

Amoroso and Gomez y Paloma, *Persone e comunità. Gli attori del cambiamento*, Dedalo 2007.

5. The Danish flexicurity

The general confusion about the concept of flexicurity is due to the fact that the terms "Danish model" and "flexicurity" have often been used as synonyms. The expression "Danish model" refers to the social contract which has been implemented in Denmark since the Thirties and, most importantly, from the Fifties to the Seventies. Since the Eighties, due to the "monetarist counter-revolution" and to the "liberalist scourge" introduced by globalization, the Danish model has also suffered strong tensions and attempts of reform in the name of flexicurity. This idea, which originated in the United States, was first implemented in Europe by the Dutch government. Flexicurity is the instrument for the reform of the labour market which is used to transform the remaining Welfare systems into Workfare systems, according to the principles of Anglo-Saxon liberalism, with the aim to adapt the national capitalist market economies to the new structures and needs of globalization. Therefore, confusing the "Danish model" of welfare with the flexicurity of workfare is historically wrong and it implies confusing the whole with a part – a part which does not even belong to this whole, given that it actually belongs to the workfare model.

The Danish model is the solution which was adopted in Denmark to achieve the old objective of the Welfare State in Western countries and to combine the efficiency required by the capitalist market, and by economy in general, with criteria of social fairness. The model was underlain by the Social Contract, which tried to counterbalance the primacy of the market over the economy and, in particular, to balance the two following factors: 1) the control of businessmen (capitalists), who

have the right to dismiss employees and to invest resources according to their efficiency needs, even if only after an open negotiation with the trade unions; 2) the right of social democratic parties to autonomously manage the State and policies aimed at ensuring social fairness by re-distributing income and by guaranteeing social rights to everybody through the provision of efficient public services. This Social Contract was first put to the test in the late Seventies, with the emergence of globalization, and it has since then gradually been cancelled through a process of segmentation and reform. Flexicurity is the passage by which the social and workfare systems are made compatible with the economic system of capitalist globalization. Flexicurity is a system to regulate the "flows" of work (in the dominant paradigm workers are perceived as flows, just like raw materials, etc.), which is organized in three stages (Figure 2):

1) in the stage of FLEXIBILITY, each year 35% of workers lose their jobs. This is possible because, with no opposition by the trade unions and no legal constraints, employers are entirely free to dismiss workers (both in the private and public sectors). The fact that 7 workers out of 10 (i.e. 28% as against 35%) are able to find a new job within one year shows that businessmen are successful in promoting investments and employment. Of course, all workers, both the ones who find a new job and the ones who remain unemployed, have to endure negative effects such as the increased stress (anxiety is very common in Denmark) and the destabilization of their family life.

2) In the second phase, the stage of WELFARE, the unemployed are guaranteed a good level of income up to a maximum period of 4 years. The 3 workers out of 10 who have not been able to find a new job during the first year now have fewer possibilities to refuse jobs which do not entirely correspond to their professional skills and experience. Initially, the unemployed were guaranteed a good income level for an indefinite period of time, but regulations have gradually been changed and now the time limit to get unemployment benefits is 4 years. The workers' right to refuse jobs which do not correspond to their professional skills has also been considerably eroded in recent years. Today, after the first 6 months, individuals can continue to receive unemployment benefits (in the form of insurances and contributions, thus paid directly and indirectly by workers) only if they commit themselves to accepting any job offer. The average income guaranteed to the unemployed is equal to 70% of a medium-low level of income, with a maximum of 1,600 euros per month (obviously taxable). Uninsured workers are guaranteed an income level which corresponds to 80% of ordinary benefits.

3) The workers who have not been able to find a new job within one year (7%, i.e. the remaining 3 out of 10) benefit from ACTIVE LABOUR POLICIES. The main aim of such policies is to provide training to the unemployed, in order to help them acquire new professional skills and get back into the production system. However, these policies turn out to be effective only for young workers or for restricted groups, whereas for most of the people they mark the beginning of a period of insecurity which eventually results in their exclusion from the labour market.

3) At the end of the 4-year period, the unemployed exit the WELFARE system, i.e. they no longer get unemployment benefits, but only social benefits. Today the dominant trend is to replace the right to social income, independently from the workers' commitment to participating in the labour market, with a right which is only guaranteed if the unemployed accept to take part in training programmes and other similar initiatives. The social benefits which are granted at the end of the 4-year period are lower than the unemployment benefits and they are based on the old principle of the guaranteed minimum social income. Such benefits are granted for an indefinite period of time, but of course the employment offices and the local authorities try to put the unemployed back into the labour market. However, people

sometimes react by interrupting all relationships with the public institutions, thus leading to an increase in poverty and social exclusion.

The system described above is similar to the Danish model in that it is aimed at protecting workers who have lost their source of income (fairness) and at rapidly putting them back in the production system (efficiency). The new aspect of flexicurity is that the right to income, which was once guaranteed independently from work – which was seen as a choice and not as an obligation – is today more and more often subordinate to it. Moreover, the possibility to work is no longer conceived as a citizen's choice based on his/her professional and personal vocation, but as an obligation which is imposed as a duty. The social impact of all this on the life of Danish workers is such that today, out of an active population of 2.9 millions, 900,000 people (in the Sixties only 200,000) who are not considered to be unemployed live on social benefits.

5.1 Financing of the welfare system and welfare support provisions

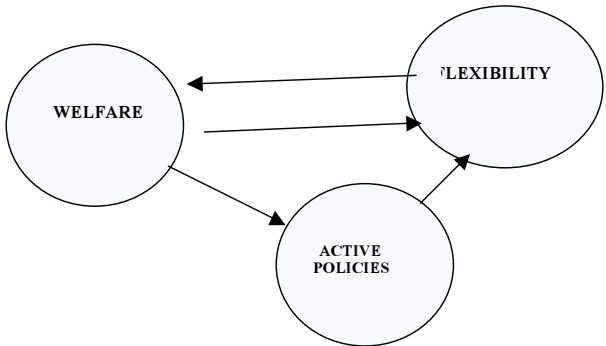
The Danish model works effectively thanks to the fiscal system, which is extensive and obeyed (even feared) by citizens. The average income taxation is around 40-50%, whereas the average marginal taxation exceeds 60% – the highest in Europe. On the other hand, corporate taxes are around 22%, among the lowest in Europe. Moreover, the Danish system still maintains the principle of the guaranteed minimum social income, which does not exist in Italy. As regards labour, there are two main differences between Denmark and Italy. Firstly, in Denmark there is a strong entrepreneurial culture which, despite the presence of some financial and speculative pressures, recognizes the importance of innovation. The Danish industry, which is based on family capitalism and advanced SMEs, tends to use the opportunities provided by social and fiscal benefits to invest on innovation rather than for speculative financial purposes. Clearly, the whole system would not work if the production chain were not proceeding rapidly and if it did not give the unemployed the opportunity to find a new job quickly.

Secondly, the Danish labour system is highly organized, both from the point of view of entrepreneurs and from the point of view of workers. Denmark clearly demonstrates that it is false to state that in SMEs there is little room for trade unions. This has happened in Italy, but only because the Italian trade unions have accepted the Fordist model proposed by the major corporations, thus considering SMEs (such as in the agricultural field) as a backward sector of capitalism to be abandoned to itself. In short, in Italy, after the second world war, both the Right and the Left embraced the American model of modernization, which eventually led to the tragic social and productive consequences which we all know. Finally, it is important to underline that the trade unions often promote mediation and cooperation with the employers, instead of causing conflicts. In fact, the trade unions support entrepreneurs in innovation processes and discourage resistance by workers when they recognize that such decisions can increase productivity and competitiveness. Therefore, the Danish model cannot be exported to Italy, which has completely different traditions and institutions. (Figure 3)

The Danish welfare system is financed by 4.5% of the GDP (whereas Italy only allocates 1% of its GDP). The Danish model also requires a transparent fiscal system, an efficient public administration providing services for the common good, as well as a cultural and social cohesion which is only possible in countries with a strong ethnical and national homogeneity such as Denmark. This is a "system", not a series of "instruments". Even if some Italian regions are richer than Denmark itself, they cannot originate a similar welfare system because of the structural choices which have been made in the past. In Italy, the alibi of "growth" and "productivity" is only used to

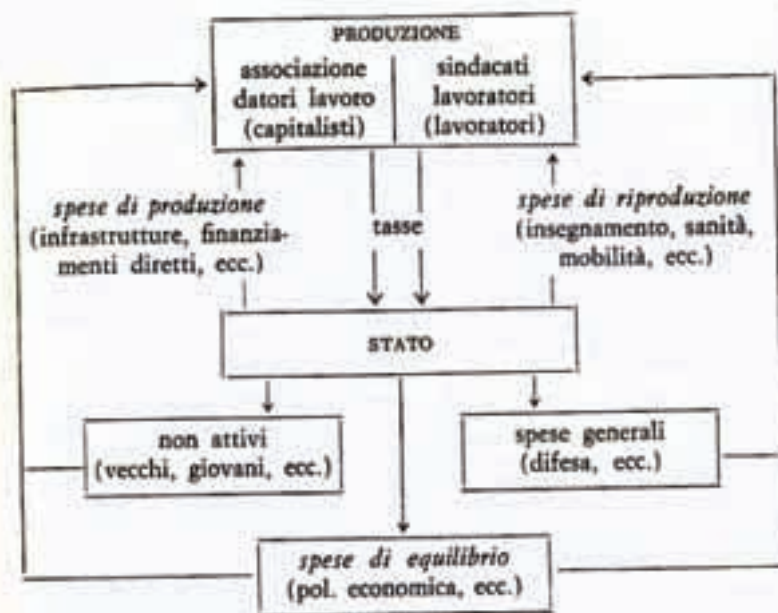
postpone decisions and discussions on the heart of the problems, i.e. a society characterized by intolerable social, economic and cultural differences across regions; a society which pursues "profit" through speculation, to the detriment of the most vulnerable social groups, and which is marked by the lack of any idea of Common Good and of any project for social solidarity. If such characteristics persist, it is clearly impossible to change the situation.

Figure 2 – THE GOLDEN TRIANGLE OF FLEXICURITY



Source: **Ministry of Labour, Copenhagen (1999)**

IL MODELLO SCANDINAVO



Amoroso, *Rapporto dalla Scandinavia*, Laterza Roma-Bari 1980

Flexicurity: the EU debate

History of EU flexicurity debate

- 1997: European Employment Strategy – flexicurity included in adaptability pillar
- Spring 2006: Revitalised Lisbon strategy – prospect of missed targets
- October 2006: Lahti Tripartite Summit dedicated to flexicurity
- Social partners asked to discuss flexicurity in sectoral/cross-sectoral social dialogue –
 - Included in ETUC-BusinessEurope-CEEP work programme
 - TAW joint statement
- November 2006: Green Paper on labour law – flexibility without security?

Green Paper focus

Flexibility	Security
External numerical: i.e. lay-offs, greater use of fixed-term and agency work	Job: i.e. employment protection legislation, dismissal protection
Internal numerical: i.e. adjustment within a firm – through working time arrangements	Employment: i.e. ensuring employment opportunities – through training/education
Functional: i.e. training, multi-tasking, job rotation	Income: i.e. adequate and stable levels of income
Financial: i.e. (firm or worker) performance related pay	Combination: i.e. ability of worker to combine job and other commitments

Employers: reform needed for more flexibility

- Support EU actions to promote labour market flexibility, but only non-legislative action
- Increased flexibility in traditional standard contracts must be improved
- Must focus on facilitating the creation of new jobs as opposed to trying to preserve existing ones
- Workers protection should become less dependant of labour law instruments and rely more on education and training

Unions: workers are already flexible enough

- Re-regulation needed not deregulation in internal market
- Standard employment contracts and robust job protection must remain the rule
- The extension of labour law and the strengthening of worker protection for all workers, particularly atypical, temporary agency, economically dependent and freelance workers
- The recognition of core labour rights for all workers regardless of contract, including the right to organise, negotiate collective agreements and the right to strike
- The creation of individual rights to training and life-long learning for all workers regardless of their type of contract

Flexicurity policy outlined in Communication

- June 2007: Communication on common principles of flexicurity - Pathways approach
 - Pathway 1: Reduce asymmetries between non-standard and standard employment by integrating non-standard contracts fully into labour law, collective agreements, social security and life long learning, and consider making employment in standard contracts more attractive to firms.
 - Pathway 2: Enhance companies' and workers' adaptability by developing and strengthening transition security
 - Pathway 3: Address opportunity and skills gaps among the workforce by broadening and deepening investments in skills
 - Pathway 4: Enhance employment opportunities for benefit recipients, prevent long term welfare dependence, regularise informal work and build up more institutional capacity for change

Next steps

- Portuguese Presidency approach:
 - Prioritising negotiated internal flexibility – EESC opinion
 - Conference/Ministerial lunch – 13/14 September
 - Legislation necessary too – TAWD negotiations/parental leave directive
- December 2007: Employment ministers due to consider adopting common guidelines
- Joint Employment Report 2007/8 is due to focus on national flexicurity strategies

Flexicurity through professional training and life-long learning

Rome, 26-27-28 March 2007

Flexicurity in France

Jacques Freyssinet¹

Like in the other EU Member States, in France too there has recently been a debate on the introduction of mechanisms to ensure flexicurity in the working environment and, in particular, on the role of life-long learning policies in this sense.

The main points of the debate cannot be fully understood without taking into account the systematic process of flexibilization which was initiated by entrepreneurs approximately 25 years ago, sometimes with the support of the State (point 1).

In France, a particularly important initiative was the elaboration of new, unstable, open-ended employment contracts. This process began in 2005, with the introduction of the *Contrat nouvelle embauche* (CNE – new employment contract); it continued in 2006 with the failed attempt to launch the *Contrat première embauche* (CPE – first employment contract) and now with the current project for the *Contrat de travail unique* (single employment contract) (point 2).

It is in the light of such changes that union demands need to be analyzed and it is in this context that life-long learning projects need to be assessed (point 3).

1. The campaign for the flexibilization of work

In France, like in all the other market economies, campaigns for the flexibilization of work started already in the Eighties. The extent of this movement is such that it has often been interpreted as an intrinsic trend of the capitalist system, thus as a process which capitalism wants to push as far as possible and whose only limit is represented by the opposition of workers. However, this theory does not appear to be well-grounded. In fact, the need to

¹ Professor Emeritus, University of Paris I, chairman of the Scientific Board of the Research centre on employment (France).

increase capital generates two opposing demands with respect to the use of workforce:

- on the one hand, the employers try to minimize the cost of labour, which leads them to favour unstable working conditions for their employees;
- on the other hand, they try to maximize workers' productivity, which, as regards the quality and reliability of production processes, often requires a certain degree of stabilization of workers, most importantly to promote cooperation and to exploit their specific skills.

Then, there is also another contradiction between the individual and the collective interests of employers:

- any employer benefits from the weakening of the negotiating power of workers, by putting them in a condition of insecurity, competition and social fragmentation;
- however, at a certain point, the stability of social relations is jeopardized and the employers' associations may thus feel the need to limit the risks of social instability.

The compromises between these contradictory demands can evolve based on the development of the situation, on the strategies adopted by the various social forces and on the relations existing among them. The campaign for the flexibilization of work thus needs to be analyzed as a historical phase linked to globalization and to the growing importance of financial activities in the market economy. This process has reached such a point that the problems it generates are now manifest, so that some international organizations have promoted new compromises with respect to the objective of flexicurity (OECD, 2006; European Commission, 2006). In order to better understand the nature of the options which have recently been proposed, first it is necessary to analyze the situation.

It is useful to make a distinction between the reforms which concerned the forms of employment, the organization of working hours and how to assess salary income². The emphasis will be on

² These issues have been analyzed in several studies, whose main results will be summarized in this article. For brief reports on France,

the first aspect, which is directly linked to the challenges of life-long learning, whereas the two other points will only be mentioned briefly, in relation to the first one.

1.1. The forms of employment

The main trends which have emerged in the past 25 years can be summarized as follows:

- there has been a proliferation of "particular forms of employment", i.e. of employment contracts which deviate from the norm. The norm is represented by full-time employment for an indefinite period of time, with a single employer who benefits directly from the work of his/her employees ("normal" open-ended contract);
- however, if on the one hand these new forms of employment are becoming more common and are playing a central role in mobility flows, on the other hand they still represent a minor proportion of total employment.

The differentiation of forms of employment began to emerge in the early Eighties, with three main trends.

- The conditions for the use of *part-time work* become more flexible and, in some periods, employers have financial benefits (table 1).
- *Fixed-term contracts* and *temporary jobs* increase, while more and more working hours are managed in this way (table 2).
- Employment policies create several kinds of *contracts with incentive bonuses* for employers, with the aim to promote the integration of all workers in the labour market (table 2). The idea is to grant financial benefits to employers who hire certain categories of disadvantaged workers with part-time and/or fixed-term contracts.

see: IRES (Institute for economic and social research), 2005 and CERC (Council for employment, income and social cohesion) , 2005.

As regards the specific aspects of the financial sector, the main reference will be the contribution of the French trade unions to this seminar: "*Flexicurity in France. Reply to the questionnaire*".

The total amount of the various kinds of “particular employment contracts” has indisputably increased in the last 25 years, even if they still represent a minor part of total employment. On the other hand, the various forms of unstable work play a key role in mobility flows (as they account for two thirds of the total number of workers who leave or join a company, excluding “definite contracts of employment”).

<u>Table 1 – Part-time work and underemployment</u>		
(% of employment)		
	2002	2005
Active part-time workers (%)		
Total	16.5	17.2
<i>Men</i>	5.4	5.7
<i>Women</i>	30.1	30.8
Underemployment ^o among part-time workers (%)		
Total	27.8	28.7
<i>Men</i>	33.0	34.1
<i>Women</i>	26.5	27.5
Source: INSEE (French National Institute for Statistics and Economic Studies), Survey on employment		
° Underemployment: people who state that they would like to work for more hours.		

Table 2 – Particular forms of employment (% of total employees)		
	2002	2005
Temporary workers	2.2	2.7
Apprentices	1.4	1.5
Fixed-term contracts ^o (excluding contracts with incentive bonuses ^o)	7.5	7.7
<i>Public sector</i>	2.2	2.4
<i>Private sector</i>	5.4	5.4
Interns and contracts with incentive bonuses ^{oo}	2.6	2.0
<i>Public sector</i>	1.1	0.6
<i>Private sector</i>	1.5	1.3
Total	13.7	13.9
Source: INSEE (French National Institute for Statistics and Economic Studies), Survey on employment		
^o The contracts with incentive bonuses are such that the employers receive benefits from the State: their aim is to favour the hiring of disadvantaged workers. The INSEE Survey on employment does not accurately quantify them (survey in family nuclei including people who often do not know that they have been hired thanks to this kind of contract). For instance, in 2005, according to the Survey on employment, the total amount of interns and people hired with contracts with incentive bonuses was 434,000, whereas, according to the complete statistics of the Ministry of Labour, there were 975,000 contracts with incentive bonuses.		

Some additional information can be found in a recent report (CERC, Council for employment, income and social cohesion, 2005), which highlights how instability of employment³ has increased since the early Eighties (+ 64 % from 1983 to 2002). Instability is mainly concentrated in small enterprises, in the

³ The *instability* of employment is the risk of losing a job within a given period of time. It is different from the *insecurity* of employment, which is the risk of remaining unemployed for a long time after losing a job.

commercial sector and among unskilled workers or people who have precarious jobs. The inequalities in terms of instability rates increase with time.

Therefore, the correct diagnosis is not that flexible forms of employment are being generalized, as was often suggested in the Eighties. A different interpretation seems to better explain the situation.

- The structure of relations between employers and employees did not make it possible to considerably erode the guarantees and rights gained by workers in big undertakings and in the public sector; such guarantees have been only marginally reduced⁴. Flexibility of employment has been pursued through the development of specific forms of employment which are characterized by strong insecurity, but whose overall volume, albeit increasing, remains fairly limited.
- Given the heterogeneity of these particular forms of employment – thus also of the rights of workers hired with such contracts – it is virtually impossible to make a dualistic distinction between “protected” *insiders* and “excluded” *outsiders*, or, according to a different conceptualization, between a “primary labour market” and a “secondary labour market”. In this process of increasing *segmentation* of the labour markets, the main aim of the employers’ strategy is not to create two separate categories of workers, but to have a wide range of solutions which would allow them to optimize the organization of work based on possible future demands.

1.2. Organization and planning of working hours

⁴ However, it must be underlined that, on the other hand, the increasing reorganizations in particularly competitive sectors – both in the public and private fields – may lead to collective redundancies or relocations. In these cases, the only benefits remaining to workers who lose their jobs are measures such as early retirement, end-of-service allowance, or retraining support.

The flexibilization of working hours has taken several different forms, according to the various needs of employers⁵. However, two main common objectives can be identified.

- The longer working hours in factories and in offices are aimed at improving capital profitability or the effectiveness of public services. This leads to the increased recourse to exceptional measures (such as night work and work in the weekends) and to the diversification of working hours.
- The uneven and often unpredictable level of activities pushes employers to pursue maximum variability of working hours and to apply minimum periods of notice. An extreme situation is the one in which the worker waits at home to be called by phone (on-call work). Other more sophisticated systems are based on the establishing of working hours on an yearly or long-term basis (bank of hours).

The implementation of such policies may reveal considerable political differences, depending on whether a reduction of the duration of work has been negotiated or not together with the increased flexibility of working hours. In the case of France, the two so-called "Aubry" laws⁶ (passed in 1998 and in 2000) reduced the legal duration of full-time work from 39 to 35 hours per week⁷. Considerable public aids had been introduced with the twofold aim to reduce the increase in the hourly cost of labour and to promote negotiation. The public aids were indeed granted subject to the signature of a collective agreement (for a category of workers or within a company), which specified the impact of the reduction of working hours on the creation of new jobs, the procedures for the flexibilization of working hours (accepted as a compensatory measure), and future commitments to control salaries. The agreement thus contained clear provisions on how to

⁵ For France, see: Dayan, 2002.

⁶ Named after Martine Aubry, the Ministry of Labour who presented them.

⁷ It must be underlined that, contrary to common belief, the so-called "legal" duration of work is neither a mandatory nor a maximum duration, but it is only the amount of working hours beyond which overtime provisions are applied (limited maximum number, higher wage, compensatory rest day).

combine duration and organization of working hours, employment level and cost of labour. The current political majority put an end to the experiment, which now seems to be out of the political agenda for good.

Unfortunately, statistical surveys on workload and pace of work are carried out only at long intervals. The latest available statistics (Biscourp, 2004), which date back to 2001 (see table 3), make it possible to assess the first results of the "Aubry" laws. The findings show that the existence of a collective agreement often creates the conditions for the introduction of regular shifts, whereas irregular paces of work remain fairly limited. Moreover, the data show that from 1995 to 2001 the main change was the increase in irregular shifts for women, which is probably linked to the improvement in services to the individual.

Table 3 – Pace of work

(% of workers involved)

	Regular weekly		Cyclic		Irregular	
	1995	2001	1995	2001	1995	2001
Total	69	68	11	11	19	21
Men	66	66	12	12	22	22
Women	73	70	10	10	17	20
With ARTT° agreement		62		16		21
Without ARTT° agreement		75		6		19

Source: INSEE (French National Institute for Statistics and Economic Studies), *Durée du travail* 2001

° ARTT : aménagement et réduction du temps de travail (organization and reduction of working hours)

1.3. How salary income is determined

Pressures to reduce the cost of labour in the name of profitability and competitiveness have been effective thanks to the elimination or weakening of the national provisions which protected the

purchasing power of workers and which were a source of “rigidities”.

- The provisions concerning the sliding scale mechanism, which ensured the automatic adjustment of money wages to price increases, have been eliminated.
- With respect to collective bargaining, the decisions concerning the determination of salaries have been decentralized. The aim is indeed to fix salaries at the corporate level, or even at the production unit level, in order to be as flexible as possible and to determine salaries based on the productivity of the unit, the constraints imposed by competitiveness and the characteristics of the local labour market.
- The measures to “individualize” salaries have become more and more common (individual bonus payments or pay rises, remuneration based on the achievement of individual objectives, etc.). However, the companies have understood what might be the possible costs of a systematic use of individual pay rises and they now tend to prefer mixed systems (see table 4).

Table 4 – Division of workers who got a pay rise, according to the type of rise (%)

	1999	2004
Purely generalized pay rise	24.8	33.8
Purely individual pay rise	31.6	17.0
Mixed	43.6	49.2

Source: Dares, ACEMO survey, Undertakings with at least 10 employees

- Several forms of payment which do not fit the legal definition of salary have been developed (profit-sharing, stock options, distribution of shares, etc.). All these forms of payment strongly depend on corporate profitability. Today, salary savings⁸ involve roughly half of the workers

⁸ The only element for which complete and regular statistics are available.

in the private sector and they represent on average 10% of their total salaries and contributions (see table 5).

Pressures to reduce the unit cost of labour go hand in hand with a series of measures aimed at preventing the higher social security costs from increasing the total salaries and contributions. The main trend is to split the various elements which make up the Welfare state.

- On the one hand, some basic services have been reduced to a minimum set of rights, which are guaranteed only when certain economic requirements are met (for instance, the *Revenu minimum d'insertion* – *RMI* = Social integration minimum income). Moreover, in order to maintain these rights, people more and more often have to demonstrate that they are committed to finding a new job. Finally, in a country like France, where the Welfare state was mainly funded by deductions from pay (following Bismarck's model), there has been a progressive shift towards a system based on fiscal financing. The global objective is not only to reduce the cost of the Welfare state, but also to separate it from the cost of labour, of which it was a very rigid component.
- On the other hand, the State has encouraged the recourse to complementary pension and health insurance schemes – either corporate plans or individual insurances. In the first case (corporate plans), social security becomes a selective instrument to manage human resources and to grant benefits to certain categories of workers.

Table 5 – Salary savings: instruments		
(% of total salaries and contributions)		
	2000	2004
Participation [°]	4.7	4.8
Profit-sharing ^{°°}	4.3	4.6
Contribution to the corporate savings plan ^{°°°}	1.7	1.6
Share of workers covered by one of the three instruments (% of workers)		
	47.6	54.1
Source: DARES, ACEMO-PIPA survey		
° Participation in corporate results. Mandatory for undertakings with at least 50 employees. The sums are locked up for 5 years.		
°° Profit-sharing. Companies adopt this instrument on a voluntary basis. The sums are immediately available, but workers have fiscal benefits if they use them to contribute to the corporate savings plan.		
°°° The company can allocate its employees' contributions to its corporate savings plan.		

These trends, concerning both salaries and social security contributions, lead to growing inequalities among workers. The most tangible proof of this development has been the increase in the number of the “working poor”⁹. The existence of the working poor category represents a major challenge for the European Employment Strategy (EES). Indeed, the aim of the EES is to increase the employment rate in the active population, based on the assumption that access to employment is the best way to fight against poverty and social exclusion. This theory is accompanied by the slogan “making work pay”. However, the emergence of the category of the working poor clearly proves that the assumption is wrong.

* * *

⁹ Workers who, despite having a job, belong to families whose annual income is below the poverty line. In France they are more than one million.

Even if, for the sake of clarity, the three components of flexibility (employment, duration of work, salary) have been presented separately, it is obvious that they are closely connected to each other. It is indeed the whole employer-employee relationship which is qualitatively transformed. But, as has already been stated, for a long time job insecurity concerned only a minor group of workers involved in "particular forms of employment". In 2005, however, the guarantees included in open-ended contracts were seriously challenged by an important innovation.

2. CNE, CPE and single employment contract: a challenge to the guarantees of open-ended contracts

After introducing the *CNE* (*Contrat nouvelle embauche*) in August 2005, with no social conflict, the French government thought it could go beyond with the *CPE* (*Contrat première embauche*). Its resounding failure led to reconsider the project of the *Contrat de travail unique*, which will be one of the key points of the next presidential elections.

2.1. "Success" of the CNE, failure of the CPE

Appointed as Prime Minister after the French voters rejected the draft European Constitution in a referendum, Dominique de Villepin centred his inaugural political speech (9 June 2005) around the "fight for employment". The approach chosen for the first 100 days in office was not to put forward a general reform of the labour market and of employment policies. Instead, the Prime Minister decided to multiply partial reforms through a series of laws and decrees which were adopted during the year. Two of these new provisions are worth mentioning, as they will help understand the reasons for the ensuing introduction of the *CPE*.

- The main decree among the ones adopted in August concerned the "*contrat nouvelle embauche*" (*CNE*). The main novelty of this type of open-ended contract, which is restricted to small enterprises (up to 20 employees), is that the employer can terminate it during the first two years of validity, without having to explain the worker the reasons

for his/her dismissal¹⁰ (after the first two years, the contract becomes an ordinary open-ended contract). The employer must communicate his/her decision with a given period of notice and pay a specific indemnity (8% of the total pre-tax salary). In order to sweeten the pill, the trade unions have obtained a series of benefits for workers who are dismissed: rights to training, "*accompagnement renforcé*" (which can be defined as an indemnity awarded in case of dismissal) by the *Service public de l'emploi* (Public employment service), and a one-off State allowance of 500 € when the worker has no unemployment insurance.

- In order to reduce the "cost of employment", which is supposed to curb hirings, another decree helped reduce the "*threshold effects*" linked to the company staff. The most significant reform in this field is that workers younger than 26 can be excluded from the calculation of the staff, a possibility which was previously limited to people doing sandwich courses. The reform thus involved all the employment contracts, as well as all the social and financial obligations connected to certain staffing requisites (excluding accidents at work). This measure is selective, as it promotes the *hiring of young people* in such a way to rule out the possibility to form a representative body of workers (*Delegates* in companies with at least 11 employees, *Works council* in undertakings with at least 50 employees).

While, on the occasion of the adoption of the *CNE*, the government had undertaken not to go any further without first assessing the results of the reform, in January 2006 it decided to shoot ahead by introducing the *CPE*. On the pretext of favouring the hiring of young people, the *CPE* extends the rules of the *CNE* to the undertakings with more than 20 employees. The

¹⁰ The French trade unions have appealed to the *International Labour Organization* on this point. Proceedings are underway.

guarantees which had been granted for the *CNE* in case of termination of contract are in this case slightly better:

- except in the cases of gross negligence, the young employee has the right to be informed of his/her dismissal with a 2 week notice when he/she has worked for the company for a period of one to six months; if he/she has worked there for more than six months, the period of notice must be of one month;
- except in the cases of gross negligence, the young person has the right to receive a severance indemnity which is equal to 8% of the total amount of salaries received since his/her hiring;
- if the young individual has not worked long enough to be eligible for unemployment benefits, he/she gets a 16.40 € allowance per day for two months;
- the young worker is entitled to the "*accompagnement renforcé*" granted by the *Service public de l'emploi* and funded by an employer's contribution which is equal to 2% of his/her salary.

The key element, common to the *CNE* and the *CPE*, is that, during the first two years, the employer has the possibility to fire an employee without having to explain the reasons for his/her dismissal.

Faced with the unanimous opposition of trade unions and students' associations, as well as of all the left-wing parties, the government opted for a quick procedure for the discussion of the bill. The law was thus passed on 9 March, just before the beginning of the university break. In the case of the *CNE*, the trade unions, which had harshly criticized it, had not been able to effectively oppose it, not only because the decree had been approved in August, during the summer holidays, but, most importantly, because in the undertakings with less than 20 employees (the ones affected by the *CNE*) the trade unions are absent. At first, given the way and the period in which the law on the *CPE* was adopted, it looked like the situation would be similar. In fact, it was only at the end of the break that the university and high school students, supported by the trade unions, began to demonstrate against the law. The increasing demonstrations gradually got the support of the public opinion and, after some

government attempts to stall, the French parliament decided to repeal the *CPE* in early April.

Instead, the *CNE* has remained unchanged so far. As stated previously, the *CNE* is very similar to the *CPE*¹¹. What had been deemed intolerable with respect to the hiring of young people by undertakings with more than 20 employees is now valid for all workers, including the young ones hired by the companies with less than 20 employees. Therefore, it is now necessary to rethink the *CNE* and assess its impact.

2.2. Preliminary observations on the effects of the *CNE*

At the moment it is difficult to assess the effects of the *CNE*. Only two years after its coming into force, i.e. starting from August 2007, it will be possible to see if these contracts will be transformed into ordinary open-ended contracts (and in which percentage) or if, on the contrary, they will be terminated in order to avoid the application of the guarantees normally provided for in case of dismissal. For the moment, three main observations can be made.

- While with the *CNE* the employers are no longer bound to explain workers the reasons for their dismissal, this does not mean that they can rule out the possibility that the worker may file a complaint (in labour courts, which are formed by an equal number of workers' and employers' representatives). What changes is the burden of proof. In the case of an ordinary open-ended contract, the employer must prove that the worker has been dismissed for a just cause. In the case of the *CNE*, it is up to the employee to prove the wrongfulness of his/her dismissal. For instance, in some particularly outrageous cases, the labour courts have convicted the employers. The judgments will certainly be appealed and it will take several years before the *Cour de Cassation* takes a final decision. Before that, there will

¹¹ The rights guaranteed in case of dismissal are even slightly worse.

be the decision of the ILO, where the French trade unions have filed their complaints¹².

- According to statistics, the government was able to initially present the *CNE* as a success. However, the ensuing developments mitigated such optimism¹³. From August 2005 to January 2007, the undertakings with less than 20 employees hired 756,000 people with a *CNE*, equal to 8% of the total amount of hirings. Since October 2006, the number of hirings per month, considering seasonal variations, has levelled off at 27,000, with a 41% drop since the year before. The surveys carried out by the Ministry of Labour (Junod et al., 2007 – survey of May 2006) show that only in 8% of cases the employers would not have hired any worker without the *CNE*¹⁴. After one year, 49% of the people hired with a *CNE* are still working for the same undertaking¹⁵. The authors specify that based on the survey it is not possible to evaluate the net effect of the *CNE* on employment.
- The net effects on employment can only be measured by using macro-econometric simulation models. The results are highly influenced by the hypotheses and methods which are adopted. So far, only two attempts of quantification have been made. According to the first one (Cahuc, Carcillo, 2006), despite the very “generous” hypotheses on the use of the *CNE* and *CPE*¹⁶, only 70,000

¹² The complaints mainly relate to the employer’s possibility to fire a worker during the first two years without having to explain the reasons of the dismissal.

¹³ ACOSS (Agence centrale des organismes de Sécurité sociale), “Estimate by ACOSS and the URSSAF network (French social security agencies) of hirings in January 2007”, Press release, 15 February 2007.

¹⁴ In 19% of cases, the employers state that the existence of the *CNE* allowed them to advance the hiring; in 73% of cases, they would have used another kind of contract. It is important to underline that these findings are based solely on the employers’ statements.

¹⁵ According to the employers, a quarter of the workers resigned and another quarter of them left the company by mutual consent.

¹⁶ The *CPE* had not yet been repealed when the calculations were made. The authors hypothesized that all new employees would be hired with a

new jobs would be created in the situation of reference¹⁷ in the medium term. According to the second model (Junod, Rémy, 2007), which only focuses on *CNEs*, if the undertakings followed the same trends as in the 2005-2006 period, unemployment would be reduced by 0.05-0.1%.

Therefore, there is a considerable difference between the potential effects expected by the government and the real effects which have been estimated or observed so far.

2.3. Towards a single employment contract?

Some reports elaborated by notable experts appointed by the public administration (Blanchard, Tirole, 2003; Cahuc, Kramarz, 2005) highlighted two main points:

- the costs to be advanced and the long periods of time to take into account in case it might be necessary to dismiss a worker in the future discourage the creation of new jobs (the undertakings decide not to hire new workers not to run this risk);
- the coexistence of two legal systems, concerning open-ended contracts and fixed-term contracts, leads to a negative fragmentation of the labour market (the employers are encouraged to evade the law by exploiting fixed-term contracts and temporary work, which are more flexible).

The two reports recommend the adoption of a single employment contract which would leave employers free to dismiss workers¹⁸, provided that they bear all the ensuing costs for the worker and for the community. For instance, Pierre Cahuc and Francis Kramarz suggest that employers could pay a severance indemnity to the worker and make a contribution to the *Service public de*

CNE or *CPE* in the commercial, non-agricultural sector. According to their hypothesis, fixed-term contracts would gradually disappear, while open-ended contracts would be awarded only when employers decided to extend a *CNE-CPE* at the end of the 2-year period.

¹⁷ In 2005, in France 24.9 million people were employed and 2.7 millions were unemployed.

¹⁸ The State would obviously sanction illegal conducts by employers, such as discriminatory behaviour.

l'emploi, in order to fund initiatives aimed at putting dismissed workers back into the labour market. These two components would be calculated in proportion to the total amount of salaries received by the worker since his/her hiring, with the addition of a severance indemnity during the first 18 months.

The candidate of the current majority at the upcoming presidential elections, Nicolas Sarkozy, expressed his support for the single employment contract¹⁹. On the contrary, Ségolène Royal, the candidate of the Socialist party, promised to repeal the *CNE*.

It must be underlined that the main French employers' association, the *Medef*, has not sided with the supporters of the single employment contract. The *Medef* rather calls for the "modernization of **employment contracts**", with two main proposals:

- the introduction of a new form of termination of the employment contract (distinct from dismissal and resignation): the "discharge by agreement". In this case, the courts would not be able to control the reasons for the termination of contract. The severance indemnity would be agreed by the two parties;
- the creation of a new form of employment contract: the "definite contract of employment with predetermined discharge". This type of contract would be automatically be terminated once a predetermined event takes place, i.e. once a project for which it was signed is concluded.

The debate will certainly continue, both at the political level and among the social partners. In this regard, the trade unions have yet to clarify their objectives and demands.

¹⁹ During a meeting with the representatives of an employers' association, Mr. Sarkozy also spoke of a possible generalization of the *CNE*. However, his spokespersons later denied that he would pursue this objective and specified that the *CNE* should be "improved".

3. Trade unions and “flexicurity”

It must be specified that, while the ETUC agrees to use the term “flexicurity” at a European level, the French trade unions are instead quite reluctant, if not even hostile, to this concept, which, in their opinion, could conceal a new offensive towards mere flexibility. The various trade unions tend to use different terminologies, which all emphasize the aspect of “security”. Apart from the different terms they use, the trade unions have for the most part common positions, but often with different priorities. Therefore, it will be mandatory to negotiate a united approach. An example worth mentioning is life-long learning.

3.1. Agreements and differences among trade unions

In short²⁰, it can be stated that the trade unions would accept flexibility if it corresponded not to unstable conditions for workers, but to the ability of the production system to adapt to the evolution of products, technologies and organizational models. At the same time, the security they demand does certainly not consist in being guaranteed a job for life, always in the same sector and with the same employer, but in being guaranteed a set of permanent rights throughout their careers. The various trade unions also agree on the main instruments which should be adopted to stabilize the situation of workers: sound, far-sighted employment policies, observatories on the various professions, access to life-long learning for all workers, guarantees on dismissal procedures and retraining initiatives, individual support to workers looking for a job, shared funding of social security by public bodies and private companies, etc. Based on these common principles, each trade union elaborates its own specific proposals²¹.

²⁰ For more thorough presentations, see: Grimault, 2006; COE and CAS, 2007 (COE = Employment Policy Council; CAS = Strategic Analysis Centre)

²¹ For the sake of simplicity, this article will only present the positions of the three main organizations. A presentation of the proposals of the other trade unions can be found in the two texts mentioned in the previous note.

The CGT calls for a “new employee status”, which would provide for the protection of a series of transferable rights not depending on the worker’s relationship with an employer. For instance, the so-called “professional social security” ensures the validity of the employment contract and the payment of the salary to workers who have lost their job. The payments would be financed through a fund involving the whole professional category and they would be awarded until the worker is able to find a new job at least equivalent to the previous one.

The CDFT calls for “stabilization guarantees” for workers. The social responsibility of employers requires the development of far-sighted employment policies and of social dialogue within the company. The *Service public de l’emploi* needs to be improved in order to provide effective support to the unemployed and to be able to cancel unemployment insurances. The fight against inequalities among workers, depending on the employment contracts and on the employers’ characteristics, entails the rethinking of employment contracts.

The CGT-FO emphasizes the principle of “continuity of professional careers”. As for the method, this trade union prefers contract negotiations to the adoption of legislative measures. As for the contents, its priority is to “unite and coordinate the existing, yet scattered elements”. There are three fundamental concepts: professional advancement, joint funding of social security, signing of collaboration contracts between private and public stakeholders, especially at the local level.

3.2. How to guarantee security in mobility

In the history of labour markets, three kinds of solutions have been adopted to reconcile the adaptability demands of the production system and the need to guarantee the rights of workers (Freyssinet, 2007).

- Within the internal labour markets, workers’ security is based on the stability of the contract signed with a certain employer. It is within the company that workers acquire new professional skills, starting from their specific qualifications, in order to adapt to technical and organizational developments. Today, this compromise poses two main problems to the trade unions. Firstly, it is becoming more and more difficult to clearly define who is

the employer – which is a key issue to guarantee the security of workers – due to the increasing legal and organizational innovations²². The employer in a legal sense is more and more often different from the subject that actually makes use of the workforce. Secondly, making reference to the employer determines a series of considerable inequalities among workers, based on the economic characteristics and the existing relations within the company. This explains why the trade unions attach so much importance to the rights of the worker as an individual, without making reference to his/her relationship with an employer.

- Within the professional markets, the workers' security depends on the fact that they have legally recognized and transferable qualifications. Thus, mobility becomes an opportunity, not a threat, especially if it is organized by trade unions or by joint committees of employers and workers. However, these kinds of markets have two main problems which are now gradually worsening. Firstly, by definition, only the workers who have a legally recognized qualification are truly protected. Hence, most of the categories of precarious workers, whose number is growing, are excluded. Secondly, the professions are organized in such a way to determine a fragmentation of the labour markets based on professional specializations. This fragmentation limits the possibilities to adapt to technical and organizational changes and to new management models based on "competence". It is now necessary to create mechanisms to allow workers to acquire or develop new qualifications, in order to give them more opportunities in the labour market and to prevent them from limiting themselves to rigid, unchanging specializations.
- Within the local labour markets, security of employment can be guaranteed by combining different forms of mobility, i.e. change of employer, sector of activity²³,

²² Outsourcing and subcontracts, making workforce available to others, networking of companies, etc.

²³ For instance, by combining complementary seasonal activities

status²⁴, etc. The best example of this is represented by the Italian "industrial districts". Today, the trade unions begin to attach more importance to this local approach, first of all because of the workers' attachment to their social milieu, but also because of the choice of many European countries to decentralize responsibilities on employment and training policies. The main problem is that, in order to implement this kind of local projects, it is necessary to involve several heterogeneous subjects (public and private sector, profit-making and non-profit-making organizations), whose interests are not always convergent (Jobert, 2005; Verdier, 2006). The trade unions must then be able to build a collaborative environment and adopt a different approach from the one traditionally used in collective bargaining in order to reach a compromise.

All the trade unions underline the importance of these three aspects: the control of corporate social responsibility, the development of legally recognized and transferable qualifications, the need to create a "dynamic balance" in local production systems. It is certainly very useful to continue research and experiments in the three directions, which are to some extent complementary to each other. However, there will probably be tensions or even contradictions and it will thus be necessary to reconcile the various aspects and to establish clear priorities.

3.3. A useful example: "life-long learning"

In the case of France, life-long learning represents the best example of a field in which, since 1970, compromises have been reached by the trade unions, the employers and the State, through a series of collective agreements and well-structured laws. The most recent example of this approach is represented by the national interprofessional agreement of 20 September 2003²⁵ and by the law of 4 May 2004²⁶, which drew on the main provisions of the agreement (Luttringer, 2004; Luttringer, Selier,

²⁴ For instance, by shifting from the status of employee to self-employed worker, to entrepreneur, etc.

²⁵ "Agreement concerning the access of workers to life-long learning"

²⁶ "Law on life-long learning and social dialogue"

2005). The interprofessional agreement provides for the signature of specific agreements for the various categories of workers, in order to specify or complete regulations. The main points of the agreement signed in the bank sector are illustrated in the article presented by the French trade unions for this seminar. Therefore, the focus here will be solely on the general provisions contained in the interprofessional agreement and in the law.

Since 1970, life-long learning has been based on the obligation for companies to allocate a small percentage of the total contributions and salaries to training. Taking into account the additional clauses adopted during later negotiations, this sum of money must be divided in three parts:

- the undertakings must contribute to funds which finance the use of "*congés individuels de formation*" (CIF – individual training permits) by workers;
- based on the same principle, the employers allocate part of the sum to finance contracts for young people doing sandwich courses;
- finally, the remaining part (which is by far the biggest one) is used to fund the corporate "training plan". The undertaking has full control of the plan, but it is bound to ask the advice of the works council²⁷.

The agreement of 2003 and the law of 2004 introduce several innovations which are aimed at stabilizing the status of workers and at guaranteeing their rights.

a) In the training plan, the employers must distinguish three kinds of training:

- job adaptation initiatives,
- training initiatives linked to the evolution of jobs or aimed at keeping employees active,
- measures aimed at developing the workers' professional skills.

In this way it is possible to control whether the employers respect their obligation to guarantee the employability of their personnel

²⁷ Within the training plan, the company is free to allocate all or part of the money to a fund which will be used later for the training of workers.

- an obligation which had originally be introduced by court decisions.

b) Besides the training plan and the CIF, the agreement also establishes the "*droit individuel à la formation*" (DIF – individual right to training). Every year, a worker can ask to participate, on his/her own initiative, in a training course. In fact, there are considerable restrictions to the exercise of this right:

- the worker has the right to dedicate only 20 hours to training per year, which can be accumulated over a 6-year period (120 hrs);

- the training course chosen by the worker must be approved by his/her employer;

- training, albeit paid, must take place out of hours (unless the collective agreement contains different provisions);

- in practice, the right is not transferable; in particular, in case of dismissal, workers have to ask to benefit from their rights during the period of notice.

The trade unions are well aware of such limitations. However, they decided to accept these provisions, in the framework of a global compromise, for two main reasons. On the one hand, they believe it is fundamental to have this right recognized and, on the other hand, they consider it only as the first step towards improvements in the short term, through collective agreements, as well as in the medium term, during the renegotiation of the interprofessional agreement.

c) A worker can ask the company, at least every two years, to schedule a meeting during which he/she will receive training proposals. After 20 years of activity, or when he/she turns 45, the employee can ask to receive an "assessment of his/her skills" and he/she has priority access to the "*validation des acquis de l'expérience*" (VAE – validation of past experiences)²⁸. Thanks to the VAE certification, the qualifications are transferable.

²⁸ The VAE is a procedure which allows workers to get a degree which certifies the qualifications they have acquired through practice.

d) "Observatories on professions and qualifications" will be created for each sector (or for groups of sectors) at the national and at the local levels. The observatories, which will be headed by joint committees of employers and workers, will have to forecast labour market developments in order to define training priorities.

e) Sandwich courses, which were until then restricted to the young, are extended, with different procedures, to the unemployed and to unskilled workers.

* * *

The agreement certainly represents a step forward towards the objective to guarantee all workers the right to life-long learning. Moreover, it also contains positive provisions on the certification and transferability of qualifications. This is why all the trade unions decided to approve it²⁹. The agreement also represents a compromise which was reached only after a long and difficult negotiation. However, it also has three main limits which must underlined.

- Firstly, access to training still depends on the employer's initiative or, in case it is the worker to take the initiative, on the employer's consensus. Only collective agreements and negotiations within companies will probably make it possible to improve the situation.
- Secondly, findings show that since 1970, this system, in which life-long learning is funded by the undertakings, has increased inequalities among workers. In fact, training initiatives are more advanced in rich sectors and in big companies and they mostly benefit qualified workers. In the agreement, the signatories state that they are committed to reducing inequalities in access to training, but there is still a lot to be done in this field.
- Thirdly, some of the resources are allocated to common funds which are managed by joint committees of employers and workers³⁰. These committees are organized either by

²⁹ This is an exceptional case in the French context.

³⁰ Individual training permit, sandwich courses, voluntary contribution of a company as part of its training plan.

category at a national level, or at an interprofessional regional level³¹. However, there has always been a conflict between the two approaches. The agreement of 2003 clearly reinforces the primacy of the logic of the national sectors over the interprofessional regional logic. Such a development, which reflects the situation existing within the employers' associations, has a negative impact in a context in which, on the one hand, a growing number of professions span different sectors and, on the other hand, the vast majority of workers prefer to change sector and remain in the same geographical area rather than moving elsewhere to keep on working in the same sector.

* * *

The positive aspect of the interprofessional agreement is that it clearly highlights the existence of a conflict between the various logics involved in the reconciliation of mobility and professional security: the corporate logic, the professional logic and the geographical logic. The evaluation of the results of this agreement should represent for the trade unions the starting point for a broader and thorough debate on the mechanisms and measures needed to create collective guarantees for the exercise of individual rights.

³¹ A notable exception is represented by the national interprofessional body created by SMEs.

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**QUESTIONNAIRES
&
REPORTS
FROM THE
FINANCE UNIONS**

***Flexicurity
through Lifelong Professional Training
to promote job security and reduce stress in the work-
place
in the financial sector throughout Europe
with a specific focus on cross-border mergers & acquisi-
tions***

QUESTIONNAIRE

1) Within the context of globalization, the financial sector is beset by challenges and radical changes—involving both ownership structures and management strategies and company organizational models—that have exalted the concept of “flexibility”, i.e. ductility and the ability to react to unforeseen and unforeseeable turbulence in the market.

Generally speaking, how has this affected the labour market?

The demographic framework in Lithuania reflects decreasing populations combined with negative net migration flows. These circumstances are already having an effect on the labour market and will continue to do so with more impact in the future.

more and better jobs have not really been forthcoming due to this flexibilisation. In fact, young people, low skilled people have increased their likelihood of finding a job but also of losing it again. Another feature of the markets is a growing demand for new types of skills which has proven difficult to satisfy on the local labour market. Retaining workers in some occupations has become another concern of some employers. However, the non-employed and the unemployed are very unlikely to have the needed skills even if they were open to acquiring them.

It seems that flexibilization has reduced the informal economy, especially due to reduction of the non-wage costs which has decreased the gap between formal sector and informal sector wages.

The promise of more and better jobs has remained elusive although there are signs of increasing employment over the last couple of years but it is difficult to attribute that to flexibilization.

2) Is there a legislative system in your country that regulates flexibility/job security policies in the labour market designed to ensure the rights and safeguards available to workers?

Briefly analyse the legislative-regulatory framework regarding the labour market and the social forces with reference to:

hiring policies;
social security policies;
the role the family can play;
the system of ongoing professional training
the system of lifelong learning.

Lithuanian labour market could neither be characterised as flexible, nor as secure one because of:

- relatively low turnover;
- usage of flexible forms of employment;
- weak social dialogue;
- relatively strict labour legislation;
- significant share of informal employment;
- often inefficient ALMP measures;
- extremely low levels and share of beneficiaries of unemployment benefits.

Insufficient usage of flexible forms of employment as well as flexible working time limits wider labour market participation of women (low wages + insufficient administrative and organisational capacities).

3) Along with a form of job insecurity linked to non-work, new risks of marginality and social exclusion are arising for the unemployed and atypical workers. Does the State intervene?

Briefly discuss the quality of the welfare policies adopted regarding:

- the level of protection applied to flexible labour with respect to access to the social security and solidarity systems (employment, professional retraining, healthcare, pension treatment);
- the levels of income/compensation benefits (healthcare, unemployment compensation, pensions, income from work, taxation);
- the funding/financial stability of social security (healthcare system, unemployment compensation, social pension, assistance to individuals and families)

Medical services are provided directly by government health facilities. Benefits include the cost of medication for inpatient treatment. Part of the cost of medication for outpatient treatment for insured persons is covered by the state social insurance budget. Another part is paid by employers and employees (taxes).

Unemployment benefit - the amount of benefit depends on the insured's coverage record and the reason for job loss. The benefit

is payable from the eighth day after registration but for no more than 6 months in any 12-month period.

Old-age pension: Age 62.5 (men) and age 60 (women). The supplementary pension is based on years of coverage and the ratio of individual earnings to national average earnings.

Sickness and maternity benefits: At least 3 months coverage during the past 12 months; 6 months during the past 24 months. If an incomplete sickness or maternity social insurance record is as a consequence of parental leave to care for a child aged 1 to 3, a social insurance record is calculated from 12 months prior to the leave commencing. 85% of the insured's average compensatory wage is paid after a 2-day waiting period. (The employer pays at least 80% of the insured's average wage for the first 2 days.) The monthly benefit must not be less than 25% of the average wage in Lithuania.

Either parent may take official leave from employment for up to 1 year to care for the newborn infant and receive benefit equal to 60% of wages. The benefit must not be less than 33% of average monthly insurable income.

4) Have there been, or are there in progress, any domestic and/or cross-border mergers and acquisitions between banking groups? What effects have they had on the status of employment/unemployment in the sector?

The majority of the finance sector in Lithuania is owned by Nordic companies (around 80 percent). Mergers and acquisitions did not have a notable impact on the employment situation but it had to trade unions – because of mergers/take-overs union organisation disappeared.

5) Does the national labour contract for the banking sector in your country provide for the involvement of the trade unions in company reorganization processes?

How, and with what instruments, including social support, are personnel redundancies handled?

There is no national contract in the banking sector.

6) Are persons normally employed with indefinite contracts or do other forms of atypical and/or insecure entry contracts exist (term, project-based, part-time, apprenticeship, internship contracts, etc.)? How does collective bargaining operate? and/or company bargaining, if it exists?

The Labour Code of the Republic of Lithuania (came into force on the 1st of January 2003) establishes the legal grounds for social

dialogue and industrial relations. The system itself constitutes the Tripartite Council of the Republic of Lithuania and other tripartite commissions and committees that are set up in accordance with procedures established by laws or collective agreements.

The Labour Code also establishes different levels of social partnership – national, sectoral/regional and company, a right to collective bargaining and its procedures, as well as other forms of social dialogue (right to information, consultation and its application procedures, employees' participation in the enterprise management), collective labour disputes resolution procedures. The Code stipulates the legal status of social partners. However, this status is further developed in separate laws: on Trade Unions (1991), Associations, Work Councils, and European Work Councils (2004). Though Lithuanian laws provide for the possibilities of a social dialogue at sectoral/regional level and give quite strong legal powers in addition, not a single sectoral/regional collective agreement has been registered in Lithuania so far.

According to trade unions' representatives, basic reasons of underdeveloped sectoral/ regional co-operation of the social partners in Lithuania include weak sectoral/ regional employers' organisations (or in some cases, non-existence of such organisations at all), absence of relevant powers and indisposition of employers' organisations towards assumption of more obligations.

Trade unions had recently attempted to initiate collective bargaining for several times applying to sectoral structures of employers' organisations for this purpose, but the bargaining was not commenced. Though the obligation to start bargaining upon application of one party is formally defined by the Labour Code of the Republic of Lithuania, it seems this provision is ineffective in reality.

In the finance sector people are normally employed on indefinite labour contracts. There may exist insecure contracts like temporary, part-time, internship but they are very much connected with specific situation.

Social dialogue is best of all developed at company level. Actually at all companies where trade unions are active collective bargaining and collective agreements are present. According to individual estimates, there could be about 1000-1500 company level collective agreements currently valid in Lithuania. Coverage of such agreements is not wide: according to individual evaluations, the mentioned agreements could cover 10-15% of the total number of employees in Lithuania.

7) Flexibility-insecure employment has a negative effect on the psycho-physical conditions of workers but also on their professional satisfaction.

Have there been any studies and/or statistics in your country that have demonstrated a connection between the decline in satisfaction procured by job security and the deterioration of health?

Have there been any studies in this regard for the banking sector? In case of company restructurings, are analyses performed on the "risk perceived" by workers linked to the uncertainty of job-related events? And on how that risk may affect the deterioration of their health, including any effects produced within the family environment?

There have been a few studies on job satisfaction. They pointed out job satisfaction decreases turnover, increases productivity, motivation, physical health, etc. These were the general studies. They also pointed out that employees' job satisfaction in Lithuania is the lowest in EU 25.

The survey found that psychological harassment at work had a significant impact on working conditions, safety and the health of employees. According to the survey data, psychological harassment increased tension and anxiety, and could lead to depression. More than 60% of the employers participating in the survey reported that psychological harassment reduced working capacity, while 40% of them recognised that psychological harassment reduced motivation significantly (by 50%).

Banks and other companies in the sector have their internal studies but they are not publicised.

8) In the common European sense, flexicurity is a concept that combines flexibility in the labour market with the social security of employees, aimed at safeguarding their private and professional lives and ensuring adequate measures of accompaniment to social and employment policies.

The experience acquired in various European countries tells us that in practice there are various types and models of flexicurity, with different reflections on how employment policies are managed and adequate social guarantees and protections are formulated.

Has this issue ever been confronted in your country?

If so, what implementing proposals and what effects of conciliation have resulted between the changes that have characterized the labour market and the safeguards of social solidarity that the community must guarantee?

9) Are there any forms of intervention in your country system

directed at active policies for employment, with particular reference to the role of training? Have there been any instances of permanent or lifelong training?

The main provider of training is the state unemployment office. For individuals who find it difficult to integrate into labour market, it offers to take part in active labour market policy programs:

vocational training,

public works,

works financed from the Employment Fund,

starting of own business,

job clubs, etc.

Tripartite commissions functioning on a voluntary basis are set up at the unemployment offices for the consideration of issues concerning the population employment. The commissions consist of representatives of trade unions, employers and public authorities.

10) Does the national labour contract for the banking sector in your country (or at the country system level) include agreements or directives between the social forces aimed at incentivizing training programs?

Do bilateral funds exist for professional training (at the national, regional or company levels) and, if so, what role is assigned to the trade unions?

What effect do the training programs have in professional and social terms?

Are there forms of recognition or validation of acquired skills? (e.g. skill inventories, determinations of skills and potential, training credits, individual training records, other)

If they exist, which parties are responsible for this recognition and validation? (e.g. the companies themselves, outside private entities, outside public/institutional entities)

Is a role assigned to the trade unions?

According to Lithuanian labour legislation, employees have a right to trainings organised by trade unions. It is also intensified in the local agreements identifying the number of days, payment, etc.

Professional training is organised by companies. If there is a trade union in that company, it is consulted on training programmes and efficient realisation.

Most often employees (especially salesmen in the insurance sector) have to attend certain trainings in order to improve their skills and qualifications what is directly connected to their wages – the higher the performance, the better the salary. In this case, trainings are designed and validated by companies itself.

**ANSWERS TO THE 10 QUESTIONS
FROM THE QUESTIONNAIRE
BY ZZZ BANK PEKAO POLISH UNION**

1) There are more employment contracts for definite time, mostly in small companies. There are more and more people who remain occupationally passive. It is difficult to find a job for people with low qualifications.

2) There exist laws concerning group redundancies. These laws are supposed to ensure that procedures regulating which employees are to be included in group redundancies, are applied. The policy of the Polish state concerning benefits (e.g. benefits for the unemployed) changes from benefit-oriented policy to an "occupational incentive" policy (professional training, re-qualification)

no legal regulations

There are such regulations in the laws counteracting unemployment. Generally, we can say that such activities are legally possible and encouraged.

as above

We cannot speak here about a legal system, rather about specific regulations within the legal system, which are supposed to ensure the above. These are for example: regulations concerning group redundancies, regulations counteracting unemployment and encouraging occupational initiative.

3) low level of such compensation, due to a large number of the unemployed with low qualifications (higher compensations could increase reluctance to work)

-Very low level, not sufficient to ensure minimum existence.

4) Employment rate in the sector remains at the same level. New banks have emerged on the Polish market. Redundancies concern mostly those people who are approaching retirement. They get pre-retirement compensation.

5) There is no collective agreement in the banking sector in Poland. Collective agreements are made mostly at the company level.

6) Mostly – for indefinite time. There are other forms: mostly for definite time and trial period.

7) No such studies/analyses exist.

None

No data available

8) There have been attempts to introduce flexicurity model but the

state is not consistent in introducing relevant reforms, so the process has been made difficult.

9). It is not very popular. Mostly such projects are implemented in the state sector.

10) No such agreement/contract.

It is not common. Maybe in some private companies such methods are applied.

In conclusion, in Poland there are legal mechanisms which are supposed to ensure job security with respect to the employee, or to ensure possibilities of finding a job. These issues are regulated in many legal acts (in the Labour Code, in regulations concerning group redundancies, regulations concerning unemployment and counteracting unemployment). Court decisions regarding labour issues are, in principle, favourable for the employees and the court procedure for the employees is facilitated. Employees do not bear costs of such a procedure, and there many procedural issues are easier for the employee than for the employer.

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through Lifelong Professional Training
to promote job security and reduce stress in the work-
place
in the financial sector throughout Europe
with a specific focus on cross-border mergers & acquisi-
tions***

QUESTIONNAIRE

1) Within the context of globalization, the financial sector is beset by challenges and radical changes—involving both ownership structures and management strategies and company organizational models—that have exalted the concept of “flexibility”, i.e. ductility and the ability to react to unforeseen and unforeseeable turbulence in the market.

Generally speaking, how has this affected the labour market?

A meaningful reform agenda concerning the Labour Law must be under any circumstances maintained in a manner preventing the denial of the basic role of the Labour Law, i.e. to balance the economic and social inequality which is an integral part of employment relationships. The Czech-Moravian Confederation of Trade Unions (âMKOS) principally rejects reform efforts aimed at the destruction of the Labour Law. Possible reform steps must never result in obtaining “advantages” for one party to the detriment of “advantages” of the other one.

2) Is there a legislative system in your country that regulates flexibility/job security policies in the labour market designed to ensure the rights and safeguards available to workers?

Briefly analyse the legislative-regulatory framework regarding the labour market and the social forces with reference to:

hiring policies;

social security policies;

the role the family can play;

the system of ongoing professional training

the system of lifelong learning.

Neither the Czech law, particularly the adoption of the new Labour Code, nor collective agreements impede the development of flexibility. A scope of flexibility is given by the liberalized legal regulation and usually by an arrangement between an employer and an employee. The fear of losing a job or the fear of not being hired is so strong that our employees are willing to accept almost any-

thing. They begin to defend themselves only at the moment when they are concerned about their subsistence.

Upon the maintaining a principle of equality and equal wages for work of the same value it is not possible, in my opinion, to determine more liberal conditions for small and medium-size employers. This would undoubtedly lead to the categorization of employees criticized in the material.

The Czech law is highly liberalized as far as employment for fixed term and for an indefinite period of time is concerned. Neither employers nor employees are restricted anyhow; there is no general ban on agreeing employment for fixed term. Employment for fixed term can be terminated prior to the passing of the agreed time in the same manners and for the same reasons as employment for an indefinite period of time. There is no ban on termination of such employment prior to the passing of the agreed term by the employer, so that an employee has no certainty of duration of the agreed time of employment.

The Czech law only limits, to a certain extent, the chaining of employment for fixed term (the recurrent agreeing or prolongation of the originally agreed term of duration of employment). There are also exceptions to the general ban on chaining employment for fixed term particularly given by the character of work (seasonal work) or operating reasons of the employer. The general regulation of the ban on chaining employment for fixed term does not apply to agency jobs at all.

The transfer of employment for fixed term to employment for an indefinite period of time and vice versa is not limited by anything. The general regulation of the limitation of chaining employment for fixed term (total for a period of two years after the entering into the first employment for fixed term where employment for fixed term from the termination of which more than 6 month has passed is not taken into account) does not make, however, an employer change such employment into employment for an indefinite period of time when the period during which such employment can be legally chained (two years) expires. Employees end their work and employers hire new ones.

Such employment relationships are generally perceived by employees as a dumping form of employment. Advantages are brought only to employers (cost savings during dismissal). For the fear of their employment not being prolonged, employees do not require an increase in wages, they do not strive for better working conditions, they are satisfied with the minimum fulfilment of duties

by the employer as far as safety and protection of health at work is concerned, they do not become members of trade union organizations and do not strive for their establishment, they consider the fulfilment of information and consultancy duties by the employer to be quite a marginal matter. All this, however, results in lower costs of an employer.

Such employees are "manageable" because employers may treat them better. By their "unassumingness" they directly threaten the position of employees who have entered into an employment contract for an indefinite period of time. Uncertainty of jobs also influences the further social behaviour of employees proved particularly by their resignation concerning their long-term objectives in their private life. Therefore for âMKOS any other release as far as the entering into employment for fixed term is concerned is quite unacceptable.

3) Along with a form of job insecurity linked to non-work, new risks of marginality and social exclusion are arising for the unemployed and atypical workers. Does the State intervene?

Briefly discuss the quality of the welfare policies adopted regarding:

- the level of protection applied to flexible labour with respect to access to the social security and solidarity systems (employment, professional retraining, healthcare, pension treatment);
- the levels of income/compensation benefits (healthcare, unemployment compensation, pensions, income from work, taxation);
- the funding/financial stability of social security (healthcare system, unemployment compensation, social pension, assistance to individuals and families)

For more details related to this item, please see the web site:

http://ec.europa.eu/employment_social/social_protection/mis-soc_en.htm

4) Have there been, or are there in progress, any domestic and/or cross-border mergers and acquisitions between banking groups? What effects have they had on the status of employment/unemployment in the sector?

There were no such mergers in the Czech banking industry. The banking sector has undergone the privatization of state shares in banks. At present the merger of âivnostenská banka and HVB could be taken into account. With regard to the fact that the deadline of the merger is being permanently postponed, its impact on employees cannot be estimated.

5) Does the national labour contract for the banking sector in your country provide for the involvement of the trade unions in company reorganization processes?

How, and with what instruments, including social support, are personnel redundancies handled?

There is no national labour contract for the banking sector. Working conditions have been regulated by the Labour Code since the 1960s. With effect from 1 January 2007 a new Labour Code has come into effect allowing higher contractual freedom in employment relationships. The Labour Code solves, among others, the right of trade unions to information and discussions, the length of a notice period, an amount of redundancy payments. In case of dismissal, the bank's management negotiates with the trade union organization (if it does not exist, it negotiates with all employees) and discusses the issue of collective dismissal. The employer is obliged to negotiate and observe deadlines and terms under the Labour Code, otherwise he would have to postpone the dismissal until the terms are in compliance with the Labour Code. A notice period is two months and the redundancy amounts to at least triple the average wages. If the employment is terminated for health reasons, an employee shall be entitled to redundancy of at least 12-times average monthly wages. In corporate collective agreements it is possible to negotiate higher redundancy above the framework of the law.

6) Are persons normally employed with indefinite contracts or do other forms of atypical and/or insecure entry contracts exist (term, project-based, part-time, apprenticeship, internship contracts, etc.)? How does collective bargaining operate? and/or company bargaining, if it exists?

In most cases, employment contracts are entered into for an indefinite period of time. Exceptions consist in substitution for maternity and parental leaves.

Collective bargaining is governed by law. In companies where a trade union organization exists, collective bargaining is common and results in entering into collective agreements with effect of 2 – 5 years. Every year, negotiations are held about wages and employee funds. Referring to the new Labour Code, corporate contracts have been amended to be in compliance with the applicable law. Corporate collective agreements and a collective agreement at a higher level (a sector contract) cover about 75 per cent of all employees in the banking sector.

A collective agreement at a higher level has been entered into from

mid-1990s and the existing agreement shall be valid up to 30 June 2007. Its prolongation by about 1 year has been preliminary agreed with the employer.

7) Flexibility-insecure employment has a negative effect on the psycho-physical conditions of workers but also on their professional satisfaction.

Have there been any studies and/or statistics in your country that have demonstrated a connection between the decline in satisfaction procured by job security and the deterioration of health?

Have there been any studies in this regard for the banking sector? In case of company restructurings, are analyses performed on the "risk perceived" by workers linked to the uncertainty of job-related events? And on how that risk may affect the deterioration of their health, including any effects produced within the family environment?

There are no studies concerning this subject in the banking sector. After the sale of state shares and the subsequent restructuring of banks connected with the huge dismissal, the situation has become relatively calm. Current organizational changes in individual banks concern only several dozens or hundreds of employees. Employers strive, in co-operation with trade union organizations, for a minimum adverse impact on the dismissal of employees. In case of dislocating employees to another place of work performance, employers solve conditions of transport to work, length of shifts to minimize adverse impacts on employees' family life.

8) In the common European sense, flexicurity is a concept that combines flexibility in the labour market with the social security of employees, aimed at safeguarding their private and professional lives and ensuring adequate measures of accompaniment to social and employment policies.

The experience acquired in various European countries tells us that in practice there are various types and models of flexicurity, with different reflections on how employment policies are managed and adequate social guarantees and protections are formulated.

Has this issue ever been confronted in your country?

If so, what implementing proposals and what effects of conciliation have resulted between the changes that have characterized the labour market and the safeguards of social solidarity that the community must guarantee?

âMKOS considers quite necessary that everybody who performs work in an employment relationship must have a guarantee of a certain amount of basic social rights and certainties but their

extent and content can be subject to discussions. We think it is not purposeful to create several categories of people being employed and to guarantee each of those categories a different minimum level of rights. In such case, there is a threat of a long-term uncertain position of less protected employees and a certain form of their exclusion or isolation.

Certain differentiation in minimum guaranteed rights and certainties is admissible with regard to some objective criteria, such as e.g. an employee's age or a period of duration of employment. However, regardless of the legal form of their employment all employees must have a guarantee of a certain amount of minimum rights guaranteeing the limitation of possibilities of social exclusion of some employees and the modification of some possible adverse impacts going hand in hand with installing flexible elements to the Labour Law.

If we admitted the contrary, it would lead to the removal of the existing protection of employees and result in their "servitude". It will also be necessary to consider possible objections as far as the inadmissible limitation of business activities (e.g. a maximum extent of the work performance within 24 consecutive hours, a minimum extent of rest, etc.) is concerned.

The new Labour Code governs a maximum length of the weekly working hours, their distribution, providing of breaks and respective limits for rests between shifts and in a week, a limit of overtime work and work at night and the length of balancing periods in compliance with a respective valid directive about working hours. In the Czech Republic there is no general ban on work during a non-social time (evening, night, weekends, state holidays), there is no general ban on overtime work and work at night (except for juvenile employees), a working week is defined as seven consecutive days (the definition is without the general convention of counting a week from Monday to Sundays), continuous rest in a week does not have to be on Sundays.

The beginning and end of working shifts are determined by employers (after the discussion with a respective trade union organization, unless working hours are agreed in the collective agreement). Employers may distribute working hours equally (to five days a week) or unequally during the balancing period of 26 consecutive weeks or no more than 52 weeks if agreed in the collective agreement. Working regimes may be one, two, three-shift or non-stop (work performance for 24 hours a day during 7 consecutive days).

In the Czech Republic the operating hours of companies are not limited by any public way, which concerns particularly shopping hours. As for the distribution of working hours, the so-called flexible working hours can be applied, when an employee decides himself about the beginning or end of his working hours. A flexible distribution of working hours can be applied both during the equal distribution of working hours (average weekly working hours must be fulfilled in every week), and during the unequal distribution of working hours (average weekly working hours must be fulfilled within no longer than a four-week balancing period).

The new Labour Code allows an account of working hours as a special way of the unequal distribution of working hours during the balancing period of 25 consecutive weeks or maximum 52 weeks if agreed in the collective agreement. As far as working hours are concerned, there are certain exceptions for employers of the so-called "public administration" (the maximum length of weekly working hours cannot be shortened by a contract and a working hours account cannot be applied with such employers).

Flexibility of the distribution of working hours in the Czech Republic provides advantages to employers without any doubts. Although the legal regulation allows an individual distribution of working hours as an employee needs, employers are not willing to meet such requests. âMKOS thinks that the legal regulation of working hours and their distribution is flexible to a maximum possible extent in the Czech Republic and considerations about their further possible release are rejected.

9) Are there any forms of intervention in your country system directed at active policies for employment, with particular reference to the role of training? Have there been any instances of permanent or lifelong training?

The active employment policy is a basic tool for the struggle against unemployment. Through it, labour offices can help job seekers in finding a new job. The active employment policy includes retraining, individual approaches to the jobless, projects for groups of job seekers who are worst employable, etc. The Ministry of Labour and Social Affairs received an amount of CZK 2.7b from the state budget in 2006 for the active employment policy and this amount was increased to CZK 450m during the year. âMKOS perceives that the highly competitive environment of the globalized economy requires higher flexibility of the labour law and its certain move from the traditional purpose consisting in the protection of a certain job position of an employee towards easier

transfers between forms of contractual relations or job opportunities. With regard to impacts of such transfers arising from a higher rate of flexibility in employment relationships on basic life and social certainties of employees it is not possible, however, to resign to a traditional protective function of the labour law. We think that the balancing of a higher rate of uncertainty arising from such labour law which underlines the protection of the existing work position of an employee may be an efficient combination of the active and passive employment policy.

Increased flexibility in the sphere of termination of an employment relationship of employees must be simultaneously accompanied both by purposeful assistance in unemployment and active support towards applying an employee on the labour market. We consider such system rational which determines a relatively high level of unemployment compensation with the observance of rather strict conditions for their payment consisting in the participation in an effective and rational system of preparations towards the achieving of an adequate working position.

The new Labour Code clearly simplifies dismissals of employees for employers because employers are not obliged to offer other adequate position to employees before their dismissal. The Czech legal regulation is sufficient flexible compared with the existing regulation. âMKOS also considers the assistance provided to the jobless by the government (unemployment benefits) to be sufficient and balanced to the higher rate of freedom as far as the dismissal of employees is concerned.

We should, however, pay attention to the issue of retraining of employees or lifelong professional training. There is only a small offer, resp. high costs and small efficiency in this sphere in the Czech Republic. The fact that during the retraining the unemployed can be secured by financial support provided by labour offices creates efforts for the shortest possible duration of retraining courses. However, in such courses it is not possible to achieve adequate qualification. Organizers of retraining courses are commercial companies for which a criterion of success consists in profit and not in the number of seekers who have found a job after the completion of the course. In fact, there is no co-operation between educational institutions and employers so that an offer of retraining courses corresponds to the demand of employers as far as certain professions are concerned.

In addition, employers are motivated in no manner to ensure the further education, additional training courser or retraining for their

employees. Employers in the Czech Republic clearly prefer the hiring of qualified employees. They are not willing to invest to the further education of their employees. Investments spent in education come only from the government (free elementary and secondary school education and most universities), families and employees themselves.

A positive role can be surely played by an adequate model of cooperation of respective state bodies and social partners. Presumptions for easing impacts of the higher flexibility of the Labour Law can be created during the existence of a certain employment relationship of an employee with the employer. They can consist e.g. in a rate of support for education and improvement in qualification of employees which can be stipulated by legal regulations or specified in collective agreements.

Other measures must be taken for transfers between employers or for changes in forms of contractual relationships based on which employment is created. In this sphere, too social partners can participate both by material support of state instruments of the active employment policy and by the organization of assistance for employees in seeking a new job or in achieving presumptions for the performance of a certain different job.

10) Does the national labour contract for the banking sector in your country (or at the country system level) include agreements or directives between the social forces aimed at incentivizing training programs?

As far as support for education in the form of professional growth is concerned, âMKOS must, unfortunately, state that in conditions existing in the Czech Republic there would have to be a financial motivation particularly with blue-collar professions. Wage systems are not, however, set for this, the decisive fact is that an employee manages the work concerned and it is not important at all how he has achieved this. It should be also stated that with flexible working hours (the mere classical unequal distribution is enough) it is very difficult to take part in any education, including the language one, because its distribution does not usually correspond to such situation and employers are not interested in modifying working hours to such employees for understandable reasons.

This is connected with the fact that in the production sphere work in non-stop operations or two-shift operation covering the whole seven days a week is used for the purpose of achieving the growth in labour productivity. At present there are no systems, except for retraining courses organized by labour offices, which would allow

improvement in education so that individuals are at least partially supported for a period of such education.

A collective agreement at a higher level made between the Union of Banks and Insurance Companies and the Trade Union Association of Employees in Financial and Insurance Companies contains the following provisions concerning the qualification:

The contracting parties have agreed upon the necessity to improve qualification structures of employees in financial institutions with an aim to increase their efficiency and effectiveness of their work.

In compliance with needs and possibilities of financial institutions, employers will create conditions for the permanent deepening and improving qualification of employees according to the employer's needs.

In case of organizational changes, employers will enable employees retraining to a different working position within the financial institution.

Do bilateral funds exist for professional training (at the national, regional or company levels) and, if so, what role is assigned to the trade unions?

Funds of this type do not exist in the Czech Republic. Trade union organizations and employer associations participate in drawing funds from projects within the operation programme. Trade unions also participate in preparing projects, particularly in creating the content of educational programmes. They are represented in professional groups of a respective ministry for creating such programmes.

What effect do the training programs have in professional and social terms?

xxxx

Are there forms of recognition or validation of acquired skills? (e.g. skill inventories, determinations of skills and potential, training credits, individual training records, other)?

Within the banking sector there are various forms which are not mutually connected. These are occasional activities of individual banks.

If they exist, which parties are responsible for this recognition and validation? (e.g. the companies themselves, outside private entities, outside public/institutional entities)

xxxxxx

Is a role assigned to the trade unions?

No.

Flexicurity

Questionnaire:

Answers (these are based mostly on the practice of a multinational bank):

1.) - The processes are more simple and effective therefore fewer qualified labour force is needed,

- The workflows are simpler and characterised by the selling of mostly ready made goods, and young and cheap labour can do the work. The camp of graduated unemployed persons is growing.

- The significance of language skill achieves or even exceeds the importance of professional skills. The foreign boss selects his colleagues/subordinates on the basis of language knowledge, but this does not cover always well-established professional skill.

2.) - Safeguards: The legal regulations make it possible but the companies do not like that. They are used in very limited circles, e.g. young mothers, if they have special knowledge and if their job allows it.

- Role of the family: In principle it is important, we used to organise common family days, but in reality there is not enough time for that.

- Professional training: the multinationals have their own training system, it is even better than the standard university courses. The topics are specified, it is effective.

- LLL: It is a requirement, we cannot fulfill our jobs without it, the company makes it possible and incentivises it.

3.) - The health sector is under restructuring, the government intends to introduce the multi-insurance system.

Pensions: from euro 80 to 720. A lawyer who worked for 10 years in the EU went to pension with 5000 euros, while the same lawyer gets 720 euros after 38 years of work.

About half of pensioners receive less than 200 euros/month.

It should be achieved that in the healthcare system who paid in more social contribution do get similar level of service.

4.) A mortgage bank is open for privatisation.

The affiliated banks of Intesa-Sanpaolo will be merged possibly by the end of the year.

Inter-Európa Bank (affiliate of SanpaoloIMI) is now intends to buy up all its shares in the market and leave the Stock-Exchange. Banco Santander has a 10% share, but made a firm obligation, two years ago to sell it (it expires at the end of June), another 5%

are in the hand of smaller investors, they will be forcibly bought up.

The CIB, totally owned by Banca Intesa.

The problem is – for the employees – that both banks were taken over recently by the new Intesa-Sanpaolo Bank, that way the management is quite free what to do with its two affiliates.

The employees need a close attention from the side of Italian unions how the management will handle the „redundant“ workforce.

It is a problem that only Inter-Europa Bank has a Union and CAE, but the bank itself is much smaller than CIB. The capitalisation relation is about 85-15%. There is a growing fear that Inter-Europa will be joined simply to CIB by means of a drastic reduction of its employees.

Our minimum aim is to get a one year severance payment for those who should leave the banks (although that is not so generous than in Italy), but better than what the existing law prescribes.

Generally speaking the sector is growing slightly, a fierce competition is started and the big banks try to open as many branches as they can in the short run.

5.) As in Hungary we have no sectoral collective agreement, it is not regulated, it depends mostly on the acquisitioning bank. A minimum severance pay is fixed by the law.

6.) The typical is the indefinite contract, although for higher managers and now even for branch managers the fixed type contracts is spreading.

7.) We do not know if such survey is exist or not.

8.) The flexicurity concept is quite new even HR managers do not know it.

9.) Several forms of training exist. These are quite good. The lifelong learning is a declared policy, but its realisation depends on the persons only. The incentive is the ambition of the person to change for a better employment.

10.) There is no national contract for the banking sector.

This question indicates for us the targets what should be achieved.

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QUESTIONNAIRE

1) Within the context of globalization, the financial sector is beset by challenges and radical changes—involving both ownership structures and management strategies and company organizational models—that have exalted the concept of “flexibility”, i.e. ductility and the ability to react to unforeseen and unforeseeable turbulence in the market.

Generally speaking, how has this affected the labour market?

In Croatia labour law reforms that have been proposed and introduced in 2003, in the framework of a competitiveness agenda, have not led to qualitative employment opportunities but have promoted a two tier labour market on which increasing amounts of workers are working under conditions of permanent precarity.

2) Is there a legislative system in your country that regulates flexibility/job security policies in the labour market designed to ensure the rights and safeguards available to workers?

Briefly analyse the legislative-regulatory framework regarding the labour market and the social forces with reference to:
hiring policies;

In order to increase labour market flexibility, the Labour Law in Croatia was reformed in 2003, particularly the parts that regulated dismissal of permanent workers. Severance pay and notice period have been reduced, and the threshold for the collective dismissal procedure has been increased. The minimum severance pay amounts to one-third of the wage for every year of previous tenure, but maximum is 6 average wages earned in previous 3 months before dismissal, and the minimum notice period now ranges from 2 weeks for a worker with 1 year of tenure to 3 months for workers with 20 years of tenure. For a collective dismissal of 20 workers, the employer has to consult with the workers’ council and the regional office of the employment service. The fixed-term contract allows the employer to terminate employment relationship

without incurring any costs, but its conclusion is justified in only extraordinary circumstances, and it can be renewed during a period no longer than 3 years. In practice the flexibility was not reached, but the consequence is segmented labour market, with the domination of fixed term contracts.

social security policies;

An unemployed person registered with the Employment Service has a right to receive unemployment compensation if she worked in a regular job at least 9 months in the last 24 months, and if she did not leave the job voluntarily (except in cases of migration) or if she was not dismissed by her own fault. The potential duration of unemployment compensation is determined by the duration of previous employment. It ranges from 78 days (not including Sundays) if a person had up to 2 years of employment, to 390 days if she had more than 20 years of employment. Persons with more than 30 (women) or 35 (men) years of previous employment have a right to unemployment compensation until they find a job or fulfil the conditions for retirement. An unemployed woman with a child aged less than a year when employment relationship ended has a right to compensation until the child reaches age one.

The payment of unemployment compensation is suspended in the case of receiving income from work on a service contract. The duration of suspension depends on the amount of income divided by the maximum amount of compensation. The payment is completely discontinued if a person does not contact the Employment Service for two months or if she refuses an offered job or training. The level of unemployment compensation theoretically depends on the level of wage in previous employment, but in practice it is determined by compensation minimum and maximum. The maximum amount of monthly unemployment compensation is currently limited to 1,000 kunas, while the minimum cannot be lower than 20 percent of the average gross wage, and that is currently 937 kunas, not much lower than the maximum. The amount of monthly unemployment compensation is in line with the poverty line and should be increased.

So, while the Government tries to introduce flexibility there is not enough security for the workers during the unemployment.

After unemployment compensation expires, an unemployed person has a right to receive social assistance benefits if she satisfies the eligibility conditions which refer to family income and status. However, social assistance benefits are even lower than unemploy-

ment compensation, thus providing no serious income protection in the case of prolonged involuntary unemployment. Social system in Croatia should be reformed, and by the latest knowledge the aim of the reform, that the Government prepares should be reduction of spending of the State Budget on the social benefits.

In terms of social protection, after a brief hiatus, the main initiative has been the continuation of Social Welfare reform through a World Bank Specific Investment Loan of 40 m. USD (?31 m) from October 2005 to September 2009.

the role the family can play;

One of the forms of flexible employment is part-time employment, and it gives the worker the opportunity to better combine work and household activities, and that makes it attractive particularly to women. While nearly 32 percent of employed women in the EU work part-time and in some countries the share is even larger, in Croatia, only 10.4 percent of employed women in Croatia work part-time. Maybe the expected return from part-time work is still too low for women to justify the fixed costs of working (transportation, childcare, etc.). Therefore, the flexible forms of employment in Croatia, which would give workers the opportunity to combine work and family life, has not been often used, or are misused to cover the overtime work.

the system of ongoing professional training

The professional training of workers should be more used, because if firms face costs when firing workers, they can try to avoid the likelihood of incurring these costs by training and upgrading the skills of their workforce so that, if and when the firm comes into problems, they will be able to respond by innovation and internal and functional flexibility instead of having to retrench workers.

the system of lifelong learning.

Formal education and training of adults takes place in public and private schools, popular learning facilities and private educational firms. Complete data on those activities are missing, but estimated overall participation of adults seems to be relatively low. A new institutional and legal framework for expansion of adult education has been set up. However, further strengthening of recently established institutions is necessary to enable them to function effectively and to develop models of adult education and its financing which will satisfy both needs of an individual and needs of the labour market. The Commission for Adult Education has been established, and it drafted the Strategy for Adult Education in 2004. The main objectives set by the Strategy are to expand and deve-

lop lifelong learning and a system of adult education offering equal opportunities and quality learning, to create legal and professional prerequisites for establishing adult education as an integral part of the education system, and to address individual learning needs as well as those of the labour market and wider society. In addition, yearly action plans have been adopted, and the Council for Adult Education and the Agency for Adult Education were established in 2006. The Agency has the function of oversight, regulation and development of adult education activities. Finally, the Law on Adult Education has been put into the Parliamentary procedure. The results are yet to be seen.

3) Along with a form of job insecurity linked to non-work, new risks of marginality and social exclusion are arising for the unemployed and atypical workers. Does the State intervene?

Briefly discuss the quality of the welfare policies adopted regarding:

- the level of protection applied to flexible labour with respect to access to the social security and solidarity systems (employment, professional retraining, healthcare, pension treatment);

As mentioned in the response on the question 2. the maximum amount of monthly unemployment compensation is currently limited to 1,000 kunas, which is near the poverty line and should be increased. So, while the Government tries to introduce flexibility there is not enough security for the workers during the unemployment.

The previous set of active labour market measures implemented by the CES did not have significant net impact due to lack of appropriate targeting. The new set of measures is better targeted and puts more emphasis on training. However, the number of participants is much lower. Higher spending, less restrictive conditions and less complicated design are needed to increase the number of participants, particularly in training and retraining measures. Higher participation in that kind of measures is necessary to renew and upgrade skills of the unemployed, to alleviate the problem of skill/occupation mismatch, and to reduce the problem of dropouts with no vocational education. In addition, microeconomic and, if possible, experimental evaluation of their effects should be applied. Regarding measures for special groups, the effect of stigmatization should be avoided. It should also be ensured that active labour market measures implemented by other institutions are consistent with and complementary to measures implemented

by the CES. The reasons for the over-representation of unemployed and economically inactive people among the poor lie in the limited opportunities for employment (insufficient number of jobs in the economy and poor labour market dynamics, in the sense that those who are without work have difficulty finding new jobs).

Data on stagnating or increasing poverty levels in Croatia during periods of economic growth likewise indicate that poverty is linked to poor people's position on the labour market. In other words, even in times of economic growth the "circle of poverty" remains tightly closed. The poor often appear as "outsiders" on the labour market, meaning that, due to insufficient human capital (a low level of education and poor skills), they are unable to make use of the opportunities deriving from economic growth. Until now, it has been those who are already employed that have profited from growth, that is, people who have succeeded in keeping their jobs, while growth has had a neutral effect on the unemployed. The social security system cannot compensate for the unequal distribution of wealth created via economic growth. A longer duration of unemployment need not necessarily result in a dramatic worsening of the financial status of the unemployed. The reasons for this lie primarily in the facts that unemployed people in Croatia rely on income from other family members, and that a great many unemployed people registered in the data base of the Croatian Employment Service (estimates indicate more than half) are involved in some form of unofficial, "grey" economic activity. This means that a good many unemployed people are actually working and acquiring means of subsistence. Involvement in the grey economy (along with financial assistance from other family members and unemployment benefits) helps many unemployed people avoid poverty and extreme material want. Nonetheless, some studies suggest that participation in unofficial economic activities, while preventing extreme poverty and acting as a social buffer, actually contributes to increased income inequalities in society. According to certain estimates, income from the grey economy represents 6% of the income structure among the poor, while it makes up around 20% of the income of those who are not poor.

- the levels of income/compensation benefits (healthcare, unemployment compensation, pensions, income from work, taxation); In the Croatian tax system there is no system of tax credits through which people on low incomes would be subsidised to reach a minimum income level.

The only tax concession which people with low incomes receive is

the personal tax allowance, the amount of income on which personal income tax is not paid. This was 1,600 HRK per month in 2005, which can be increased for dependent persons in the family (children, spouse or parent with no income). Although there is no legally defined minimum wage in Croatia, there are a number of legal decisions which resembles this. According to the Law on Compulsory Insurance Contributions the baseline for social contributions is set, so that de facto, this is the minimum wage in Croatia. Thus, according to the regulations in the Law on Pension Insurance Contributions, the baseline is set by the Ministry of Finance on the basis of CBS statistics on average gross monthly wages for July-August of the previous year, multiplied by a coefficient of 0.35. For 2005, the baseline was set at 2,080.74 HRK monthly (280). This is the base line for paying all contributions. The Croatian pension system is now a three pillar system. The first pillar is a mandatory defined benefit reformed pay-as-you-go system, the second pillar is a mandatory defined contribution and the third pillar is voluntary defined contribution. The first pillar is a mandatory pay-as-you-go public pension system based on inter-generational solidarity. The first level of the pension system (reformed first pillar of the pension system) is based on the current financing of pension expenditures and an in-advance defined amount of pensions or retirement benefits. The manner of determining the amount of pensions has been changed, so that:

- the age limit for acquiring rights to an old-age pension was gradually increased, to 60 years of age for women and 65 for men, and for the rights to an early retirement pension, to 55 years of age for women and 60 for men,
- the period included for calculating the amount of pension is extended to include the entire working period,
- the manner of adjusting pensions was changed so that pensions are being adjusted twice a year for half of the index of the growth of salaries and living costs (as of 1 January 2004, the consumer price index),
- the early retirement pension is decreased,
- the disability definition was made stricter, and the ability to work is evaluated according to all jobs that are appropriate to the physical and mental abilities of the insured person,
- a series of rights arising from the pension insurance were revoked, and replaced by new forms of rights, harmonised with the entire system: the right based on the remaining ability to work (disability pension), the right to a protective allowance with the

pension (minimum pension), the right to a compensation allowance due to physical damage caused by illness and a non-employment injury, as well as an accelerated pension plan based on this, and the right to allowance for assistance and attendance (social care system).

Croatian contribution rate for the pension scheme is one of the lowest among European countries.

The basic feature of pensions in Croatia is that they are relatively low and approximately half of the retired persons get pensions lower than the average pension in Croatia.

A particular problem is the difference in the average amount of pension of those pension system beneficiaries who acquired the right to pension before 31 December 1998, that is before the beginning of the pension system reform, in relation to those pension system beneficiaries who acquired the right to pension after 1 January 1999, i.e. in the beginning of the pension system reform. The pensions of the "new" pension beneficiaries are, on average, approximately 25% lower as compared to the "old" pensioners, tending towards an even worse ratio in future. The most important reason for this is the extension of the accounting period of paid salaries when determining the amount of pension to a longer period of work (tending to be extended to the entire period of work). A system of adjusting (indexing) pensions every 6 months (1 January and 1 July of the current year) was chosen in Croatia and was regulated by the Internal regulations of the Croatian Pension Insurance Institute. The system of adjustments of pensions was changed several times. Started of 1 January 2006 pensions are now being adjusted with 50% of the salaries growth index, and 50% of the consumer price index.

- the funding/financial stability of social security (healthcare system, unemployment compensation, social pension, assistance to individuals and families)

As is to be expected given its origins in the Bismarck-influenced Austro-Hungarian empire, the Croatia social protection scheme is largely insurancebased, with rights related to contributions made during employment, supplemented by certain direct central budget financing.

Following a change in the Law, employees do not pay contributions towards unemployment benefits, whereas employers pay 1.7% of payroll up to a limit of 31,860 HRK (a lower limit of 2,080.75 HRK applies with contributions for employees with lower earnings paid as though they earn this amount). Child benefits are now paid

from central funds. Sickness benefits are funded through employer contributions, 15% of payroll, plus 0.5% of payroll for work injury and occupational diseases. Employees do not contribute, except for farmers who contribute between 7.5% and 15% and self-employed persons who also contribute 15% plus 0.5% as for employers. County and local authority benefits are financed through tax revenues. Even when these are included, social benefit expenditures in Croatia seem stable at around 4% of GDP.

The principal source of financing the pension system is revenues from gross salary contributions. Assistance from the state budget covers the difference of the lack of revenues from contributions for payment of pensions, as well as the payment of pensions for special categories of pensioners.

For 2002, the World Health Organization estimates Croatia's per capita total expenditure on health at 630 USD or 560 (World Health Organization 2005). Current estimates suggest Croatia spent 8.7% of GDP spent on health in 2005 (Ministry of Health and Social Welfare 2006), Croatia spends a relatively large proportion of its GDP on health care in comparison to other Central and Southern European countries and the majority of EU member states. However, through GDP growth and cost containment efforts, the proportion of GDP spent of health has been on a slow but steady decline in the last several years, from 10.2% in 2000 to 8.7% in 2005 Croatia operates a Social Health Insurance system (Elementary health insurance) that covers the major part of public expenditure for health care services, with a single publicly owned sickness fund for the entire population of the country – the Croatian Institute for Health Insurance (HZZO). However, the total amount of funds allocated for health care is annually determined by the state budget and collected through the state treasury. The HZZO receives funds for compulsory insurance from the state budget. Those funds originate from two main sources: contributions for compulsory health insurance and funds collected by general taxation. According to the Croatian Ministry of Health, salary contributions form more than 80% of the total of funds the state allocates to health care. (Ministry of Health and Social Care 2006).

4) Have there been, or are there in progress, any domestic and/or cross-border mergers and acquisitions between banking groups? What effects have they had on the status of employment/unemployment in the sector?

The majority of the Croatian banking sector is under direct control of six banking groups (as the result of acquisitions & cross-border

mergers) :

Zagrebačka banka (UniCredito)	24,4%
Privredna banka Zagreb (Banca Intesa)	19,22%
Erste banka	11,8%
Raiffeisen banka	11,00%
Hypo Alpe-Adria banka (Hypo grupa)	10,15%
Splitska banka (Societe Generale)	9,00%

or

UniCredito	63,4 billion HRK
Gruppo Banca Intesa	49,6 billion HRK
Erste	30,6 billion HRK
Raiffeisen	28,7 billion HRK
Hypo	26,5 billion HRK
Splitska	23,6 billion HRK
OTP	8,6 billion HRK

Although there were certain problems with redundant workers (the most of them were retired or were reemployed within the sector or their status were solved through outsourcing companies) during the process of restructuring and privatization in the sector, generally there is a better dialog with social partner then it was before.

5) Does the national labour contract for the banking sector in your country provide for the involvement of the trade unions in company reorganization processes?

How, and with what instruments, including social support, are personnel redundancies handled?

Yes, the Collective agreements, which are in accordance with the Labour Law, provide for the involvement of the trade unions in company reorganization processes, through consultation process and social dialogue. The trade union representatives can be members of working councils, which, besides trade union representatives represent workers before their employer in relation to the protection and promotion of their rights and interests. According to the Labour Law Act the the employer has a duty to inform the workers' council at least every three months about:

- business situation and results,
- development plans and their impact on the economic and social position of workers,

- trends and changes in salaries,
- the extent of and the reasons for the introduction of overtime work,
- the number of workers working for them under fixed-duration contracts and the number of workers working under labour contracts at a separate workplace, as well as the reasons for hiring them,
- protection and safety at work and measures taken in order to improve working conditions,
- other issues bearing particular importance for the economic and social position of workers.

The employer is also obliged to inform the workers' council about the issues in due time, accurately and integrally. Furthermore before rendering a decision which is important for the position of workers, the employer must consult the workers' council about the proposed decision and must communicate to the workers' council the information important for rendering a decision and understanding its impact on the position of workers. Important decisions include in particular decisions on:

- the adoption of employment rules,
- employment plan, transfer to another job and dismissal,
- the expected legal, economic and social consequences for the workers in the cases of merger and acquisition,
- the measures related to the protection of health and safety at work,
- the introduction of new technologies and change of organization and methods of work,
- annual leave plans,
- working hours schedules,
- night work,
- compensation for inventions and technical innovations,
- the adoption of a redundancy social security plans and other decisions which, under the Labour Law Act or a collective agreement, must be rendered in consultation with the workers' council.

6) Are persons normally employed with indefinite contracts or do other forms of atypical and/or insecure entry contracts exist (term, project-based, part-time, apprenticeship, internship contracts, etc.)? How does collective bargaining operate? and/or company bargaining, if it exists?

According to the Labour Law Act the employment commences by a labour contract. If the employer concludes with a worker a con-

tract for the performance of work which, in view of the nature and type of the work to be carried out and the employer's powers in respect of this work, has characteristics of the work for which employment should commence, the employer shall be deemed to have concluded with the worker a labour contract, unless he or she proves the contrary.

Labour contracts are concluded for an indefinite period ("open-ended labour contract"), unless otherwise specified by Act. If a labour contract does not specify the period for which it was concluded, it shall be considered to have been concluded for an indefinite period.

As an exception, a labour contract may be concluded for a definite period ("fixed-duration contract") in case of employment whose termination is previously determined by objective terms, i.e. by a specific time limit, performance of a specific task or occurrence of a specific event. The employer must not conclude one or more fixed-duration consecutive labour contracts on the basis of which employment commences with respect to the same work for a continuous period longer than three years, except in order to substitute a temporarily absent worker or if this is permitted by the law or collective agreement. An interruption of work shorter than two months is not considered to be an interruption of the three-year period.

A fixed-duration labour contract shall terminate upon the expiration of the term stipulated therein. If a fixed-duration labour contract was concluded contrary to the provisions of the Labour Law Act or if the worker continued working for the employer after the expiration of the period for which the contract had originally been made, the worker shall be considered to have concluded an open-ended labour contract. The employer must inform the workers working for him or her under fixed duration labour contracts about the available jobs in respect of which these workers might conclude open-ended labour contracts, and provide them further training and education under the same conditions as those provided to workers working under fixed-duration labour contracts. Other forms of contracts are not yet very developed.

According to the Labour Lay Act parties to a collective agreement may be, on the employer side, one or more employers, an employers' association, or a higher-level employers' association, and, on the trade union side, a trade union or a higher-level trade union association, which are willing and able to use pressure to protect and promote the interests of their members in the course of nego-

tiations on the conclusion of collective agreements.

If more than one trade union or higher-level trade union associations are present in the area in respect of which a collective agreement is to be concluded, the employer or employers, the employers' association or higher-level employers' association is permitted to negotiate a collective agreement only with a bargaining committee composed of representatives of these trade unions. Trade unions decide on the number of members and the composition of the bargaining committee referred, by an agreement. If trade unions do not reach an agreement about the number of members and the composition of the bargaining committee referred a decision about this is rendered by the Economic and Social Council or by the minister responsible for labour, if the Economic and Social Council has not been established. The number of members and the composition of the bargaining committee is established in a way that the bargaining committee does not have less than three and more than nine members, taking into account the number of members of the trade unions represented in the area for which the collective agreement is to be concluded.

A collective agreement regulates the rights and obligations of the parties which have concluded this agreement. It may also contain legal rules which govern the conclusion, contents and termination of labour contracts, issues related to workers' councils, social security issues, and other issues arising from or related to employment. The legal rules contained in the collective agreement are directly applicable and binding on all persons who are subject to the collective agreement, in accordance with the Labour Law Act. A collective agreement may contain rules related to collective bargaining procedures and to the composition and methods of work of the bodies authorized for alternative collective labour dispute resolution.

A collective agreement may be concluded for a definite or an indefinite period. A collective agreement concluded for a definite period may not be concluded for a period longer than five years.

Unless otherwise specified by the collective agreement in question, following the expiration of the period for which this collective agreement was concluded, the legal rules contained therein relating to the conclusion, the contents and termination of labour contracts shall continue to be applicable until a new collective agreement is concluded, as part of the previously concluded labour contracts.

Collective agreements can be concluded on national level, branch

level and on the company level. The majority of collective agreements are on company level, but from the coverage perspective, the 7 branch level collective agreements dominate.

7) Flexibility-insecure employment has a negative effect on the psycho-physical conditions of workers but also on their professional satisfaction.

Have there been any studies and/or statistics in your country that have demonstrated a connection between the decline in satisfaction procured by job security and the deterioration of health?

Have there been any studies in this regard for the banking sector? In case of company restructurings, are analyses performed on the "risk perceived" by workers linked to the uncertainty of job-related events? And on how that risk may affect the deterioration of their health, including any effects produced within the family environment?

As far as we know there was no studies neither on the general level nor for the banking sector.

8) In the common European sense, flexicurity is a concept that combines flexibility in the labour market with the social security of employees, aimed at safeguarding their private and professional lives and ensuring adequate measures of accompaniment to social and employment policies.

The experience acquired in various European countries tells us that in practice there are various types and models of flexicurity, with different reflections on how employment policies are managed and adequate social guarantees and protections are formulated.

Has this issue ever been confronted in your country?

As recently mentioned labour law reform is tending to introduce more flexibility, but the security is not been introduced yet. Due to the need of the transposing the EU Directives into Croatia Labour Law the discussion on the flexicurity in Croatia will be open this year.

If so, what implementing proposals and what effects of conciliation have resulted between the changes that have characterized the labour market and the safeguards of social solidarity that the community must guarantee?

9) Are there any forms of intervention in your country system directed at active policies for employment, with particular reference to the role of training? Have there been any instances of permanent or lifelong training?

In 2006, the Government introduced a new set of active labour market measures within the Annual Employment Promotion Plan,

which is based on the National Employment Action Plan for the period 2005 – 2008. The measures implemented by the CES include employment subsidies for young persons without work experience, the long-term unemployed, older persons, and other special groups, including hard-to-place persons, the disabled, lone parents and parents with 4 and more children, women who return to the labour market after the third childbirth, war veterans and children and spouses of deceased soldiers, women victims of family violence or trafficking, asylum seekers, ex-addicts, and ex-convicts. The amount of a subsidy is lower for larger employers and higher for hiring better-educated persons. The amount of a hiring subsidy ranges from 625 to 3,000 kunas a month, and its duration ranges from 12 to 18 months. Subsidized employment must be a net increase in total firm's employment for 2 or 3 years. The measures also include subsidized training for the newly employed and the long-term unemployed, and retraining for the employed under the threat of unemployment and for those unemployed willing to work in seasonal jobs and occupations in short supply. A training subsidy can last up to 9 months and it can cover from 25 to 80 percent of training costs. Apart from subsidized training of the newly employed with known employers, there is also training of the unemployed for the general labour market. All the long-term unemployed and those unemployed willing to work in seasonal jobs or in construction and shipbuilding can apply for training. Finally, the CES subsidizes local governments' public works for targeted groups. By November 2006, nearly 4,364 persons have participated in the measures, most of them, 62 percent, in subsidized hiring. In comparison, the hiring of 14,500 persons was subsidized in 2005. In addition to measures from the Government Plan, the CES also implements its "own" training measures, financed and organized alone or in cooperation with local governments. However, the number of participants is not large, for example nearly 650 persons in the first half of 2006.

10) Does the national labour contract for the banking sector in your country (or at the country system level) include agreements or directives between the social forces aimed at incentivizing training programs?

Do bilateral funds exist for professional training (at the national, regional or company levels) and, if so, what role is assigned to the trade unions?

To our knowledge there are no funds exist for professional train-

ing.

What effect do the training programs have in professional and social terms?

The training programmes should improve employability of the workers, and therefore improve his/her social status.

Are there forms of recognition or validation of acquired skills? (e.g. skill inventories, determinations of skills and potential, training credits, individual training records, other)

Croatia is in the beginning of this process and some improvements have been made , the Law on Adult Education has been put into the Parliamentary procedure. The results are yet to be seen.

If they exist, which parties are responsible for this recognition and validation? (e.g. the companies themselves, outside private entities, outside public/institutional entities)

Is a role assigned to the trade unions?

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***Flexicurity
through Lifelong Professional Training
to promote job security and reduce stress in the work-
place
in the financial sector throughout Europe
with a specific focus on cross-border mergers & acquisi-
tions***

QUESTIONNAIRE

1) Within the context of globalization, the financial sector is beset by challenges and radical changes—involving both ownership structures and management strategies and company organizational models—that have exalted the concept of “flexibility”, i.e. ductility and the ability to react to unforeseen and unforeseeable turbulence in the market.

Generally speaking, how has this affected the labour market?

After the political changes in 1989 Bulgaria became part of the process of globalization. Many foreign investors have bought Bulgarian companies or have established their own subsidiaries. We can see the same process in the banking system. European banks have acquired shareholding participation in Bulgarian banks or have established their own subsidiaries. The process of merger of the companies-mother reflect on their subsidiaries in Bulgaria. For example three European banks became member of one financial group – Unicredit, HVB and Bank Austria. These three banks have their subsidiaries in Bulgaria, respectively Bulbank, HVB Bank Biochim and Hebrosbank. It is expected that the three Bulgarian banks will become one legal entity till the end of April 2007. This merger will cause some redundancy. For example if in one area exist branches of the former banks the biggest one will survive and the other branches will be closed. The prognosis is that around 10% of the employees of these three banks will be made redundant.

2) Is there a legislative system in your country that regulates flexibility/job security policies in the labour market designed to ensure the rights and safeguards available to workers?

Briefly analyse the legislative-regulatory framework regarding the labour market and the social forces with reference to:

hiring policies;

social security policies;

the role the family can play;

the system of ongoing professional training

the system of lifelong learning.

The legislative system regarding the flexibility and the job security is not yet well developed. We expect future amendment in our legislation related with the job security and the rights of the employees. One of the main problems in Bulgaria is the "grey" economy sector where the workers and the employees work without labour contract or with labour contract for minimum salary (in the same moment those people receive in cash bigger remuneration but they are not insured for the real salary). Fortunately in the banking system there is not such problem.

3) Along with a form of job insecurity linked to non-work, new risks of marginality and social exclusion are arising for the unemployed and atypical workers. Does the State intervene?

Briefly discuss the quality of the welfare policies adopted regarding:

- the level of protection applied to flexible labour with respect to access to the social security and solidarity systems (employment, professional retraining, healthcare, pension treatment);
- the levels of income/compensation benefits (healthcare, unemployment compensation, pensions, income from work, taxation);
- the funding/financial stability of social security (healthcare system, unemployment compensation, social pension, assistance to individuals and families)

4) Have there been, or are there in progress, any domestic and/or cross-border mergers and acquisitions between banking groups? What effects have they had on the status of employment/unemployment in the sector?

As it is mentioned above because of the merger between Unicredit, HVB and Bank Austria, it is expected that three Bulgarian banks will become one bank till the end of April 2007 with the name Unicredit Bulbank. Also the Greek Eurobank, owner of Bulgarian Post Bank, have bought DZI Bank and it is expected a new merger between these two banks.

The mergers will reduce the number of the employees in these banks but it is not expected big unemployment because the banking sector in Bulgaria is in progress and the other Bulgarian banks increase the number of their employees.

5) Does the national labour contract for the banking sector in your country provide for the involvement of the trade unions in company reorganization processes?

How, and with what instruments, including social support, are per-

sonnel redundancies handled?

There is not national labour contract in Bulgarian banking sector because there is not banking employers' organization and our federation can't negotiate at national level.

6) Are persons normally employed with indefinite contracts or do other forms of atypical and/or insecure entry contracts exist (term, project-based, part-time, apprenticeship, internship contracts, etc.)? How does collective bargaining operate? and/or company bargaining, if it exists?

In the banks where there are trade unions the most of the employees are employed with permanent labour contracts. We don't have information about the banks where there is not trade unions.

7) Flexibility-insecure employment has a negative effect on the psycho-physical conditions of workers but also on their professional satisfaction.

Have there been any studies and/or statistics in your country that have demonstrated a connection between the decline in satisfaction procured by job security and the deterioration of health?

Have there been any studies in this regard for the banking sector? In case of company restructurings, are analyses performed on the "risk perceived" by workers linked to the uncertainty of job-related events? And on how that risk may affect the deterioration of their health, including any effects produced within the family environment?

We don't know about the studies and/or statistics for the psycho-physical conditions of workers and for their professional satisfaction in the banking sector. It is important to mention that the banking labour market is not very open for studies and statistics. The lack of trade unions and work councils in the most of the banks in Bulgaria is an obstacle for any kind of researches in the banking labour market.

8) In the common European sense, flexicurity is a concept that combines flexibility in the labour market with the social security of employees, aimed at safeguarding their private and professional lives and ensuring adequate measures of accompaniment to social and employment policies.

The experience acquired in various European countries tells us that in practice there are various types and models of flexicurity, with different reflections on how employment policies are managed and adequate social guarantees and protections are formulated.

Has this issue ever been confronted in your country?

If so, what implementing proposals and what effects of conciliation

have resulted between the changes that have characterized the labour market and the safeguards of social solidarity that the community must guarantee?

The concept of flexicurity is not yet implemented in the Bulgarian labour legislation. There are some basic rights that give some guarantees to the workers and employees. For example the employment relationship with the factory or office worker shall not be terminated in the event of a change of employer as a result of merger of enterprises by the formation of a new enterprise; merger by acquisition of one enterprise by another; distribution of the operations of one enterprise among two or more enterprises; passing of a self-contained part of one enterprise to another; change of the legal form of business organisation; change of the ownership of the ownership or of a self-contained part thereof; cession or transfer of activity from one enterprise to another, including transfer of tangible assets. We expect that after 1st of January 2007 the European legislation and practice in the labour market will be implemented in Bulgaria soon.

9) Are there any forms of intervention in your country system directed at active policies for employment, with particular reference to the role of training? Have there been any instances of permanent or lifelong training?

We steel don't have active role of the government regarding the role of lifelong training.

10) Does the national labour contract for the banking sector in your country (or at the country system level) include agreements or directives between the social forces aimed at incentivizing training programs?

As it is mentioned there is not national labour contract for the banking sector in Bulgaria. There are collective labour contracts at company level in the banks where there are trade unions. In the collective labour contracts it is agreed that the employer will pay for the additional education and for the training of the employees. Do bilateral funds exist for professional training (at the national, regional or company levels) and, if so, what role is assigned to the trade unions? – No, there are not such kind of funds.

What effect do the training programs have in professional and social terms?

The training programs in the banks are helpful for the employees because they give opportunities to the employees to be more competitive in the banking labour market and to keep their job. The trade unions support the training programs in the banks.

Are there forms of recognition or validation of acquired skills? (e.g.

skill inventories, determinations of skills and potential, training credits, individual training records, other) - No

If they exist, which parties are responsible for this recognition and validation? (e.g. the companies ide private entities, outside public/institutional entities)

Is a role assigned to the trade unions? - no themselves, outs

Characteristics and problems of employment in the banking sector of Greece

The general picture.

Basic sizes of employment and network 2000 -200 5

	Employment 31.12.2005	Employment 31.12.2000	Network ¹ 31.12.2005	Network 31.12.2000	ATMS 31.12.2005	ATMS 31.12.2000
- Greek banks ²	53.678	55.174				
-Foreign banks	5.537	4.604				
-Investment banks	923	380				
-Bank of Greece	2.902	3.172				
Total	63.040	63.330	3.587	3.030	6.528	3.026
Change % 2005/2000	- 0,46%		+ 18,4%		+115,7%	

SOURCE: HELLENIC BANKS ASSOCIATION

In total, during the period 2000-2005 employment exhibited stagnation, up to a slight reduction (-0.46%), with important differentiations depending on the types of credit institutions. Thus, in Greek commercial Banks there was a reduction of 2,7%, and in the same period, an increase of 2% in foreign Banks, an important increase in co-operative Banks, 142,9% (which however began from low sizes) and a serious reduction, of -8,5% in the Bank of Greece - as it was expected due to the restriction of its role. On the contrary, the points of sale (branches of the network) continued increasing with a significant rate (+ 18,4%), having as a result that the average number of employees per unit/branch of the network has decreased from 20,9 to 17,6 persons for the whole sector. There is a tendency for slight reduction of the total employment in the sector in 2005, comparing with the year 2000, but also a serious acceleration of the growth rate of the points of sale in the network and even a greater increase of the automated points of sale (ATMS), during the last period.

Basic problems of employment in the sector.

Contrary to what happens in most of the EU countries, in our sector they are still not considerable pressures on employment, at least in its quantitative dimension. This happens because the reform of the banking system has not been completed yet, while

the domestic banking market not only is not saturated yet, but also exhibits high performance results and significant prospects for further growth.

However, negative developments and pressure on employment have already begun to appear in part of the sector, especially after mergers and acquisitions.

At the same time, as it has already been shown by models of the OECD for employment in the banking sector, the rapid and extensive application of new technology in the sector, increases productivity and creates negative pressure on employment. Other studies show that the reengineering of networks and operations can very rapidly lead to redundancies of at least 20% of the employment.

In a growing national market this result can temporarily be moderated or even counterbalanced by the growth of production and sales, the growth of banking or even better said of the financial "pie".

This has happened during the last years and still continues to happen to a certain extent in the sector of our country. An older study on the sector has shown that employment is put under pressure on one hand, but on the other hand it continuously presents growing trends in the wider financial sector.

Nevertheless, beyond the total quantitative developments in employment, there are serious **qualitative dimensions of those developments**.

As shown by previous comparative studies on the sector especially concerning retail banking at an EU level, the tendency of developing alternative distribution networks (more flexible subsidiaries, especially for distributing massive standard banking products-services such as credit cards, loans, telebanking, phone/ mobile phone banking, internet banking, those most familiar to the wide public) leads to:

New types of workplaces, in many of which the limits of the banking and financial sector of services are not clear anymore. Someone would say that modern Banks are being transformed and are continuously changing to a bipolar consulting-administrative "hard banking core" on the one hand and on the other hand a decentralized but complete in information and communication technology network of several and differentiated sales points, which differ slightly from a "mini market" or even a "super market" of financial services. Besides it is not accidental that **at an international level employment is continuously growing in**

the wider financial sector and systematically shrinking in the banking sector.

New types of “flexible” employees with the intention to cut them from the security provided by collective agreements of the banking sector even as far as basic rights are concerned (working hours, wages, allowances).

New types of employers, which are very often far from management standards, diverging even from the well-known liability of a classic bank, and they are widely using rented, temporary personnel under poor industrial relations conditions.

While there are “popular” specialties such as Risk Analysts, Portfolio Management Experts, Economists – analysts etc, we can find a lot more specialties that are in danger of shrinkage-disappearance, such as the auxiliary staff (cleaning and maintenance), employees in standardised administrative tasks, lower administrative staff. Those are jobs that banks tend to outsource to third companies or to assign to staff under poor industrial relations (rented employees), for cost saving reasons, or for outsourcing tasks that banks are decreasing with internal restructuring/reengineering (reduction of jobs or even hierarchy grades).

All the above create **a particularly “grey landscape”** for employees of the financial sector. A landscape that is characterized by:

Work intensification:

Serious changes in the content of basic banking specialties (the transition from tellers – employees for transactions- to the sellers – sales employees, it is only one important change.

Frequent changes of employer (in the group, the bank, subsidiary company, collaborating company providing personnel-executives etc).

Frequent changes, de jure and still more important de facto in terms of wages and work.

Continuous need for adaptation of the employee-executive in a new firm or labour environment, objects, methods, technological applications

Depreciation of previous knowledge and experience, if it is not immediately developed and is not continuously renewed.

Frequent changes in the rules and restriction of opportunities for appropriate and individualised training (based on special planning and correspondence of skills and new needs). The latter, as shown

in the framework of the European Project Program Leonardo-Premeq, is rare, particularly for a large part of employees and executives, especially when the direct recruitment of "ready" staff from the exterior market seems as a "cheaper and easier" solution, in relation with the systematic investment of each company in human resources.

Frequent changes of the nature, place, terms and time limits of the work. "**Limitless availability**" is almost required (in terms of time, location, or professionalism) **and "adaptability of the employee"** in order to essentially rescue her position and has some future in the company.

New inequalities and discriminations among employees, creating particularly negative situations to the detriment of female employees, which certainly affect negatively the overall accepted objective of equal opportunities.

"Multi-level" management, benefits and guarantees in developing –recently set as an objective - employees' skills within the same company.

The above picture is deteriorated, if we take into consideration one of the basic results of a relatively recent primary research of OTOE/INE-OTOE in the sector, with their object "**Terms of wages and work of executives in the Greek banking sector**" : in the Banks operating in Greece, there are neither complete systems of management and development of executives applied, nor systems of corresponding skills and requirements and training planning. Even more rare are the attempts of planning on a systematic forecast – prevention basis on those issues!

Therefore, we can already observe changes on employment and industrial relations in the sector.

Those changes are intensified by the processes of **Mergers and Acquisitions (M&As)**, which since many years take place in our sector in Greece.

Contrary to the international experience, we see, until today, nor important reduction of employment in the sector, neither layoffs. To this it has significantly contributed the intervention of the trade union movement of the sector for the protection of employment, labour and actuarial rights of employees, as well as the positive timing of the continuously extending Greek banking market.

Nevertheless, there has been a **stagnation of employment in the commercial Banks** that went through important processes of mergers & acquisitions in the period 1998-2002, and this can be

attributed partially to the impact of M&As but also to **important redundancies, roughly at the ? of the initial manpower of the merged Bank, mainly with voluntary retirement schemes after M&As in certain Banks.** For instance, Alpha Bank, after the absorption of Ioniki Bank, presented reduction of employment of 12,9% in 2002 comparing to the personnel of the two Banks in 1998. The former Ergasias Bank, (EFG Eurobank) exhibited reduction of 32% of her initial personnel, the former Cretabank (absorbed by EFG Eurobank) of 29% respectively, the former Macedonia-Thrace Bank (absorbed by Piraeus Bank) of 16,5% respectively.

With M&As, even when "guarantees for employment" are generally provided there is always **insecurity** created to employees for the terms and perspectives of maintaining their jobs.

There are **serious problems created concerning guarantying existing social insurance rights and corresponding expectations**, with the **creation of particularly heterogeneous situations** in the unified enterprise, depending on the initial origin of the employees. This fact has indicated the need for a **single and viable solution for the social security system of the sector, which constitutes the main objective of the trade union movement for the next period of time.**

Selective saving or reducing labour cost which usually accompanies an "expensive" merger and which targets at direct results for the investors, usually goes in parallel with **deregulation and lack of transparency in salaries.**

M&As in the sector are usually followed by attempts to unilaterally impose new human resource management patterns and new work regulations with an objective to overturn significant part of the previous employer's commitments or to push aside the existing trade unions in spite of the guarantees provided by the law or the EU directives

Indeed in many cases:

Violent change of the existing hierarchy, culture and practice in the company has been attempted, resulting in strong discontent and escape of managerial staff towards competitor companies.

"multi-gear" staff has been created, which often tends to generate a "company racism" against the employees of the company which has been taken over.

Serious problems in unity and collective expression, in recognition and equal treatment of the existing trade union bodies

by the new employer.

Attempts to **detour or contest collective agreements** at sectoral or at company level, attempting at the same time to recognize the managerial right as the only and exclusive regulatory authority for the company's labour issues.

"Voluntary retirements" have been imposed, with or without pension rights, which in reality corresponded to forced retirements. The consequences of voluntary retirements are not only the "liberation of hierarchy and the drastic saving in bonuses and salaries of older "non wanted " employees and executives. Banks have at present the financial and operational possibility not to replace at all or to selectively and partly replace some of those who leave. This possibility of the employers has serious consequences for the remaining employees since they start feeling insecurity concerning the conditions and the perspectives for maintaining their positions and their career development in general and the possibility to receive a satisfactory pension in the future.

All the above in combination with the presence of young employees with no experience in knowing their rights and recognising the usefulness of collective action but also of executives with "modern and flexible mentality", close to the employer, create **ideal conditions** for:

Violent change of the existing hierarchy, culture and practice in the company, with "multi-gear" staff, which exactly due to this division is easier manipulated towards the "new labour model" presented by the employers during the last years (something between a supermarket employee and insurance sales person) for the large majority of the employees in the sector.

Corrosion, control or supersession of the company's unions.

Bending of resistances, which facilitates the drastic rearrangement of units and points of sale, the inversion –wherever is needed- and certainly the weakening of the existing executive hierarchy, since a lot of experienced executives are "encouraged" to leave.

Distribution of the continuously increasing volume of work and duties to fewer employees.

Still more pressure for extension of working hours, unpaid overtime work, unlimited availability of the employee or the executive for the company.

At the same time, the **new employer attempted to detour the standing sectoral and firm-level collective agreements**, mainly on consultation, vacation and working time, a condition

that creates augmented needs of intervention from the bodies competent to audit (Labour Auditors) and from the trade union movement.

Even if the above-mentioned, are regarded as "isolated incidents", it is true that they have influenced, all of them, the regularity and the quality of industrial relations in the sector.

For this reason, the trade union movement in the sector has elaborated and claimed on time **specific measures and legislative provisions**, as a trade for the important fiscal incentives, provided already by the state to the merged companies, in order:

in cases of acquisition – absorption-merger, to record a business and "social plan" from the side of the taking over firm, in which to be clearly and bindingly declared its intentions for employment, the way of absorption of the possible redundant personnel, the career opportunities in the unified firm, but also the methods by which it will unify the different labor and social insurance regimes into a single and generally accepted one.

to be provided, in any case, a no-deterioration clause of the existing rights of employees, especially on the issue of the essence and ways of denouncement of the individual agreements. A main objective by OTOE is that every kind of proprietary changes to occur smoothly

in terms of safety and prospects for the employees and the executives

in terms of safety and prospect for the banks and their shareholders

with benefits for the development, the competition terms and the social cohesion of the whole country

The above more general experiences and proposals remain current, since the issue of M&As, in the face of a new wave of privatizations, acquisitions and mergers that are expected in the sector, will continue to occupy the employees and trade union movement during the next years, as well.

Experience from the intervention of trade unions of the sector for the protection of employment.

As we have previously mentioned, there is not until today significant reduction of employment in the sector, neither mass layoffs. ΔΟ this it has contributed the timely intervention of the sector's trade union movement for the protection of employment, the labour and social security rights of employees as well as the positive economic situation of the continuously growing Greek financial market.

However, there has been a reduction of employment in the commercial banks, which went through significant processes of mergers and acquisitions (M&A) even to the ? of the initial personnel of the merged bank. This reduction was achieved mainly with **"voluntary exits"**.

The trade union movement of the sector is at present opposite to the abuse of voluntary exits, occurred during the last years by the Banks, with the objective not really to get rid of the redundant staff but to replace their "expensive" staff with "cheaper".

The trade unions of the sector believe that the abusive implementation of voluntary retirements by the banks:

leads the employees who are leaving to economic dead-end, immediately or in the future, especially when they are extorted and forced by the company to leave without fulfilling the criteria for full retirement (i.e. working women), and therefore are obliged to leave with significantly reduced pension.

has also heavy consequences on the general system of social security, and for the special pension funds of bank employees, for main and supplementary pension,

the "exemption" of the company enterprise from "undesirable" or "redundant" executives and from experienced "high cost" employees involves

disorganisation of the personnel,

selective prosecutions/supersessions

intimidation and continuous insecurity of the remaining employees for the maintenance of employment and the perspectives of their career development, for the multiple increased work pressure that they will have to cover, (since new recruitments never cover the number of those "voluntarily retiring"), for salaries and in the wage and, with a long perspective for their pensions.

As positive examples of trade unions interventions for the protection of employment we can mention:

the intervention of OTOE in order to avoid mass redundancies and the re-recruitment of the dismissed employees during the 1990 decade.

our pressure for systems of training and diagnosis of the needs which will ensure timely adaptation of employees to the new requirements in knowledge and specialization.

The reduction of conventional working time from 38 hours and 30 minutes to 37 hours weekly by the sectoral collective agreement 2002-2003.

the creation and operation of a bilateral Employment Observatory which will observe the employment trends in the sector and the undertaking of measures. Unfortunately, under the responsibility of the banks, this Observatory remains inactive since the beginning of the 90's.

OTOE's intervention for respecting the working hours schedule and diminishing the (very often unpaid) overtime work.

The claim for additional guarantees for contracts of indefinite time, during the drafting of new work regulation agreement, so that those agreements can be denounced only when they are justified and upon serious reason.

Executives in the banking sector.

The executives comprise today more than 7% of the employees in the sector based on the empiric definition that is applied in the sector and includes:

Managerial executives of the superior management, of the central services and the network branches. Assistant and deputy directors are also included in these.

Head, leading smaller operating units, of the central services but also of the network, which come under broader operating units (Management)

It emanated from data of a special survey by INE/OTOE concerning the executives' wage and labor term that among others **there is a serious discrepancies in working time and the schedule of the managerial executives and the heads, comparing to the schedule and the working time of the rest of the personnel.** In fact, more than 1/3 of the replies on the schedule of managerial executives confirm that "in these cases, there is no schedule".

The above working hours, heavy or undetermined, concerning the beginning and ending time, are regarded as rather unfriendly for working women, for working parents in general and restrict the accessibility to executive positions.

This "differentiation" of the schedule of executives is not an "integral part of their hierarchical position" or an "inevitable price" for the power they hold and the possible additional benefits enjoyed, as the banks' administrations allege.

The implementation of special schedules for the sector's executives, even with a "loose" or excessive application of the criteria and the exceptions provided for "managerial employees" by the labor legislation, it is a **significant mean for the contestation and the weakening of the existing schedule or even a "model" for future developments of schedule for the entire personnel**, something that puzzles the trade unions of the sector particularly.

The continuous tendency for lengthening the actual working time of executives during the last years holds also for the banking sector. This practice benefits mostly the banks, but much less the executives involved.

The fact that the main reasons invoked for this by both sides is the workload, the pressures from competition and the programming-organization of labor problems, indicates **the intensification of labor and the important margins for jobs creation for executives**.

The clear burden of the working time of executives is a wide spread practice in banks, since the latter believe that this burden is offset from the additional material or psychological benefits (extras bonuses, benefits, prestige etc).

Regarding their satisfaction from the existing schedule and their free time, the executives are split. And similar is their stance in front of the request of the firm for "almost limitless" geographical mobility and time availability, a stance that usually reflects "generation gaps" between among the executives and differences in business and management culture.

The fact that an important part of executives has incorporated in their executive "status", not only the heavy employment time, but also the entire, almost, submission to the requests of the firm, although it believes that it is not paid sufficiently for these, puzzles the trade unions of the sector and of the firms seriously

Firstly, because the executives' submission to the new, "limitlessly flexible" management culture, has extensions to the requests for respectively "flexible" behavior from their subordinates and their clerks.

Secondly, because the claims of the trade unions of the sector for a better auditing and reduction of the working time in 35 hours, without a wage reduction will not yield results, if they do not include

The peculiarities of the working time and the rather contradictory stance of executives, concerning this issue,

The **particular presumptions** (i.e. the existence of deputies with the maintenance of the necessary cohesion of the managerial units) **for a substantial reduction of their working time**, i.e. with the implementation of a four-days week (4*9=36), the widening of their vacation etc.

A rather important issue, concerning mostly the managerial executives is the **limits of the exceptions from the provisions of the Greek Labor Legislation for the working time, vacations, overtimes of all those that are regarded as "managerial employees"**.

Managerial employees are all the employees exercising employers' duties with decisive and substantial initiatives in drawing and planning the business policy and are connected to the employer in a relationship of augmented trust.

The "executive-managerial employee" property is distinguished, according to the Greek Labor Legislation, from this one of the executive-manager, on account of the direct and institutional relationship with the employer's will. Hence, the high wage or the prestige of the job does not suffice to offer this property to an executive.

The juridical definition of a managerial employee arises from the total evaluation of numerous objective elements (responsibility position with initiatives in drawing and implementing business policy, extraordinary qualifications, exercise of employer's duties, relationship of trust with the employers, high level of wages significantly higher of that of her subordinated etc). These elements are evaluated one by one, in comparison with those of the rest of the employees and the duties of the administration of the corporation.

The jurisprudence and the case law impose a contractile (tight) interpretation of the notion of "managerial employee", since those that obtain this property, are excluded from the basic provisions of the labor law for vacation, working time limits etc.

Consequently, **managerial employees are objectively small in number** and the attribution of the aforementioned property cannot take place excessively with broad interpretations or arbitrarily from the employer.

Types of labor contracts in the sector.

Unfortunately there are not many precise and credible data for the distribution of personnel according to the type of labor contract. Nevertheless, it is believed that the full time indefinite-time-contract remains as the prevailing type (85%) or even its augmented

variant, the labor contract that is over at the retirement, otherwise it can only be over for a significant reason. Once, this labor contract used to cover a high percentage (around 20%) of the employees in the sector. Today, however, after the privatization of those banks and the change of the labor regulations, so that the newly hired would not have these guarantees, this labor contract type tends to vanish and should not overrun 10%.

Part-time employment is very rare in the sector (it is implemented mostly to employees of third companies who provide the banks with personnel for outsourced cleaning or security services etc.) but also to temporary employees-trainees who are carrying out their training (stage programs) in firms.

For the trade unions of the sector, however, **the main problem of employment protection is not so much the spread of unstable types of employment in the sector, but mostly the continuous tendencies of corrosion and diminution of the employment guarantees, offered by the "regular" employment type, namely the full-time indefinite-time-contract, according to what we mentioned in section 2.2.**

Main OTOE's targets for employment and industrial relations.

Essential position of OTOE regarding the above mentioned is that the labor-social component and the needs of the workers must be included in the business and sector-based planning from the very beginning. They must not be encountered as something secondary and residual, which must be passively adjusted to supposedly technical and organizational one-ways, wage stagnation, and other managerial and wage dogmatisms.

In this context, the trade union movement of the sector claims substantial employment protection, in its quantitative and qualitative parameters and especially:

Effective information, auditing and intervention the employment developments in every working place in the sector, by utilizing sector-based bilateral committees and institutions (Observatory, equal committees etc).

Effective education planning, forecasting of educational needs, according to the developments in the specialties of the sector.

Restriction of outsourcing practices and utilization of degraded, extra and borrowed "multi-speed" personnel in the working places and the firms of the sector.

Modernization of the firms and industrial relations at a democratic and progressive basis, with the substitution of obsolete, opaque rules from modern and commonly accepted rules for the promotion criteria systems, performance evaluation, incentives, development and utilization of executives etc.

Wherever is needed, new labor regulations, ensuring the nature of the employment type and strengthening employment and labor rights, through the substantial collective bargaining and participation of a every interested trade union and OTOE.

Abolition of every kind of direct or indirect gender discrimination in hiring, wages, employment conditions, training and in-job promotion.

Continuous education-training of employees for their adjustment to the new requirements of the operations and specialties, and also the more general developments in the sector

Recognition –certification and utilization of the knowledge/studies in the in-job promotion of the employee.

Establishment of institutions and infrastructures for initial vocational training and complete studies courses for the development and evolution of the workers in the sector, especially for the young colleagues.

Increase of the resources available for the education-training of employees, especially in employment protection programs and development of skills for alternative professional utilization, in endangered specialties

Substantial employment protection, with restriction to the minimum of the "flexible-unstable" employment types, but also of outsourcing to third firms or borrowing employees for the cover of fixed needs of the firms.

Guarantees for ensuring employment in cases of mergers and acquisitions

Restriction of the excessive "voluntary" exits/ early retirements from the firms

Generalization of the justified resolution of the collective agreement only for an important reason.

Priority to the internal promotion of the employees, with an on-time and clear forecast of the needs, education programming and career opportunities.

Reduction of working time from 37 hours to 35 hours, without a

reduction in wages.

Respect to the conventional working schedule and restriction of overtimes, which occurs in an extensive degree illegally and without getting paid.

Trade union representation, collective bargaining and social dialogue in the sector.

3.1. The Federation of Bank employees Trade Union Organizations of Greece - OTOE

The second level (sector-based) Federation that unites and expresses all the first level /firm level trade unions in the sector, the Federation of Bank employees Trade Unions of Greece (OTOE) was established in 1955.

Today, OTOE members 43 first level unions of employees in banks and other related firms, covering all the banking firms in the sector.

It should be mentioned that the in the banking sector (as it is the rule in Greece), there exists **only one Federation**, while the different political-trade unionist **tendencies** are expressed within the Federation, taking the form of of **trade union parties**, which coexist in the bodies of administration of the Federation and of the unions-members.

Trade union density in the sector (trade union members/overall employed) amounts to 90%, which is one of the highest in Greece and Europe.

In the older, big banks, especially in the banks of state interest, trade union density approaches 100%, while in the smaller private and foreign banks it is significantly lower. What is needed is however to exist a an organised trade union presence in new working spaces in the sector (subsidiaries, selling network of banking commodities), the employment in which is not counted in the official data of employment in the sector. If it was counted, then the trade union density would have been enough (but not significantly)

lower in the entire sector.

In general, the power of the trade union movement in the sector varies according to the space and the kind of the firm. Despite the general high percentage of trade union density, there are still significant needs for support of OTOE's actions in new working spaces in the sector.

Collective bargaining and agreements in the sector.

According to the institutional framework for collective agreements and contracts in Greece, it is not possible to sign a Collective Agreement in case there are neither trade union nor employers' organisations covering a sector (sectoral collective agreements) or a specific profession (professional collective agreements).

The banking sector constituted a typical example of that, due to the denial of the employers to form a typical sectoral employers' union. The Hellenic Banking Association, from the beginning of the 1990s, claims that nor it is, neither it aims to become an employers' union, despite the fact that it represents collectively the vast majority of the banks operating in Greece.

However, The lack of an employers' organisation, a sector-based interlocutor of OTOE for contracting a sector-based Collective Agreement, was regulated by the law 1876/90 with a special provision, **providing that specifically in the Banks, when an employers' organization does not exist, a sector-based Collective Agreement is contracted with OTOE, if there exist authorisations from banks employing above the 70% of workers in the sector.**

The sector-based Collective Agreement of OTOE-Banks is contracted every year or, more usually, every two years. Based on the law about collective bargaining that is in effect today (Law 1876/90), **the sector-based Collective Agreement fixes the minimal, but generally obligatory wage and working terms for the entire sector. No enterprise is allowed to pay lower wage, to apply more unfavourable working schedules or to offer less benefits - rights to workers, from what is fixed by the sector-based Collective Agreement.**

The sector, according to the aforementioned law, is defined as the total of the banks and of similar or related firms. Practically, each firm with a main object the production or/and the supply of financial products and services, can belong to the sector, independently if it called "a bank" or not.

At the present, there are many contestations from the employers' side on whether the firms that are not banks or do not exercise all

the activities of the banks (i.e. credit card firms, networks of consuming loans and mortgages promotion etc) are included in the sector (and consequently in the collective agreement).

The most important issues regulated by the Collective Agreement are:

The **minimum sectoral wages** (uniform scale of wages for three categories of personnel, main, auxiliary and cleaning) and the common across the whole sector benefits (tenure, family, studies, unhealthy work).

The wage scale of the sectoral Collective Agreement does not say anything about one wage per specialty, with an exception of 2 (top) scales of the uniform wage scale, concerning managers and directors.

The **working and transactions schedule** of the firms

Basic vacation (regular annual vacation, parental, birthing workers in unhealthy positions etc).

parental provisions of the firms to the employees (benefit for the nursery school, camp for the children, birthing etc).

the strengthening of the research, sports and cultural activities of OTOE by the banks of the sector.

Regulations for the withdrawal of the unequal treatment of the "detached from their jobs" trade union executives, regarding their in-job evolution comparing to the rest of the employees.

Common social dialogue committees, committees on the developments in the financial system, an Employment Observatory (currently inactive), committees for the interbanking education, health and safety, bank insurance, equal opportunities etc.

Employment protection issues, in case of technological changes, education (participation of OTOE in the interbanking educational system), health and safety (with a main object the carrying out of sectoral studies, which did not materialized since they were not granted from the banks), bank security (terms for the protection monitoring from robberies), gender equality (bilateral committees, information, studies), combination of the working and family life (vacancies and facilitations for parents).

We encounter **firm-level Collective bargaining and Agreements** to almost every bank or other firm of the sector, wherever there exists a corresponding " **firm-level trade** union – member of OTOE.

The firm-level Collective Agreements operate **complementary** to the sectorals, since by the law they are not allowed to have more unfavorable terms and the unions-members of OTOE form their

claims either to improve sectoral vested interests or to regulate issues and provisions concerning their working place.

Regularly, firm-level Collective Agreements regulate:

Additional special benefits not provided by the sectoral Collective Agreements, according to the responsibility position, the specialty, the special conditions or the requirements for the job (i.e. for tellers, dealers, IT specialists etc).

Additional benefits for the employees in the firm on issues of vacation, family support etc.

Issues of additional tenure recognition (in relation to the sectoral Collective Agreement), education, group bonuses, and (rarely) performance evaluation systems, promotions and executives development.

Issues of minimum wages and benefits, regulated by the sectoral collective agreement rarely become an object for firm-level bargaining.

According to the law, the firm-level Collective Agreements do not cover only the members of the union, but all the employees in the firm.

The firm-level Collective Agreements do not negotiate the regular working schedule. Based on the general context, determined by the sectoral Collective Agreement of 2006-2007, they can also bargain some of the totally justified exemptions of the general (regular) working and transaction schedule and this only for isolated branches and auxiliary services, according to the minimum frames and rules posed by the sectoral Collective agreement.

With special firm-level Collective Agreements, Labor regulations are agreed, and moreover to define the necessary security personnel for strikes, to configure special rules for performance evaluation, promotions etc, and also rules for health and safety.

With exception of the labor regulations that we have a lot of cases of firm-level bargaining and signature of Collective Agreements, the firm-level bargaining for the performance evaluation systems, the health and safety rules, and the systems of additional benefits are not rather spread in the sector

For many years now, the sectoral Collective Agreement between OTOE and the banks constitutes the sector's shield with regard to wages and institutions, to the extent that the law does not permit an arrangement, divergence or exception at enterprise level more unfavourable than its provisions.

Firm-level Collective Agreements enable the first level unions to demand for their work place various economic and/or institutional

arrangements, **only if they are more favourable than the sectoral Collective Agreement.** These general arrangements are specialised according to specific conditions, potentials and priorities in each separate bank; they also complemented and extend the sectoral arrangements and thus open the way for these to become generalised in the entire banking sector.

In the banking sector has already existed a long-lasting and successful enough experience of a combination of sector-based Collective Agreements between OTOE and the Banks with the firm-level Collective Agreements.

The sector-based Collective Agreements place the single and necessary, for the smooth operation of competition, frameworks for wages, rules and benefits that owe to be observed in the entire the sector. They constitute the expression of collective will and solidarity, the wage and institutional shield of the entire sector.

The firm-level Collective Agreements shape, depending on the needs of workers in each firm, the special institutional or economic issues and the priorities, the additional frameworks, (either this is special benefits and provisions for specific categories or even for all the workers of a firm, or additional insurance programs, or a special business education system, appointment of executives or motives, or a further improvement of sector-based benefits etc), concerning specifically the workers in this firm.

By rule, the firm-level Collective Agreements follow the sectoral regulations, in order to complete, specialize or even improve the sectoral victories, without posing them in re-bargaining or in contestation.

The successful, so far, combination in the banking sector of the safeguarding-equating function of the sectoral Collective Agreement with the aggressive, differentiating and decentralised mechanism of the firm-level Collective Agreements, extend and safeguard, at the level of banks, the implementation of the sectoral arrangements and the collective intervention itself, ***limiting*** the margins for non-transparent, arbitrary and one-sided employers' practices.

Brief Outline of the industrial relations in the sector

4.1. General picture of the payments system

The payments system in the sector is regulated by the sectoral Collective Agreements.

This system is based on professional evolution according to a **scale of minimum wages** (which increases according to the years of service and/or previous service in line with the Uniform Payments System of the sector), **supplemented with family, education, perennial benefits etc.** These benefits are calculated as a percentage of the minimum wage corresponding to every level of the scale **as well as on certain corporate benefits** which differ according to the position and the specialty of the employees that receive them.

However, during the last years the presence of the so called **"package-wages"**, that is to say payments that are determined according to the position (and the evaluation of its "value" for the firm-HAY system) with no additional benefits and with no extra ensuring of the intertemporal evolution of wages based on-for example-previous service, typical skills or family obligations of the employee is distinct.

Of course these firms are also obliged to conform to the minimum wages set by sectoral Collective Agreements and to uphold them as **minimum compulsory wages**. Nevertheless they offset them with the uniform wage that they themselves determine for every position (when this wage exceeds the total payments set by sectoral Collective Agreements).

In a small number of banks, **an evaluative augmentation of regular payments** (i.e. yearly augmentations offered according to the performance evaluation of every employee) is offered as a supplement to **"package-wages"**.

The problem with these augmentations is that they determine **regular payments**, usually without being based on reliable and commonly accepted systems of performance evaluation.

Concrete data on the percentage of workers abiding to the one or the other system are not provided.

What we estimate is that the "typical" system (minimum wage according to service/ previous service/seniority + benefits) covers a 75%-80% of the sector's employees.

Nevertheless, the importance of the alternative payment system- the package and the evaluative augmentations is constantly

increasing for the past 2-3 years, especially after privatizations and merges which allowed for unfavourable pressure on workers as well as corresponding changes on Labor Regulations and the corporate payments system.

It is also worthwhile to note that an important wage gap (by specialty or position) is observed in the cases of Banks using the "package-wage" system.

For example, a study of INE/OTOE on the terms of payments and labour of executives in the banking sector in Greece, found that, compared to the maximum wage attributed to the General Manager=100 units, the Human Resource Manager receives 55 units, the Chief Dealer receives 35, the store manager receives 31, a programmer-analyst receives 16, a back-office employee receives 10, a driver 9, a Teller 6 and finally a clerk or a general duty employee receive 5 units.

Firms in the sector often use the so called "additional payments" operating as a rule supplementary to regular-"stable" payments determined by Collective Agreements. However, they continuously try to reduce the share of "stable-guaranteed" payments, i.e. basic wages and benefits offered by the sectoral Collective Agreement and the corporate Collective Agreements in order to ensure bigger margins of flexibility and provide:

group bonuses, (based on the profits and the general outcome of the Bank or/and based on targets set by individual departments, Management services, sales etc)

additional personal bonuses (mainly for executives),

as well as to make individual wage contracts with executives or employees of their choice.

This is why they try to give the minimum possible augmentations on regular payments determined every year by the sectoral Collective Agreements and-where applicable-corporate Collective Agreement.

Trade unions on the other hand strive for the exact opposite, through OTOE as well as through its associations-members in every firm.

This does not mean that trade unions are utterly objecting to additional payments, as long as they do not destabilize wages, are offered in terms of transparency and do not aim at the intensification of labour (e.g. with extravagant goals as a precondition for their offering).

However, they are particularly cautious regarding individual variable payments and personal bonuses as well as evaluative aug-

mentations because they are usually unilateral, create serious problems of work intensification and broaden employers' arbitrariness.

In most enterprises which follow the Uniform Payroll of the sector, additional payments do not exceed 5-6% of the employees' yearly wages. For the executives this percentage is at least double.

In practice, additional variable payments operate as a motive for the intensification of the work of executives as well as an exchange for the non-abidance to regular working hours and days-off and a means for avoiding to attribute high social insurance shares or even taxes in some cases.

In firms that apply the uniform wage system (package-wage), the percentage of variable payments can reach 10-15% according to the position, with even bigger percentages for executives.

In these firms there is an apparent intention for the replacement of stable with variable payments which is taking significant dimensions and tends to become an example for imitation by other firms in the sector.

The above percentages are reported with cautiousness. For the time being more analytical and reliable data are not available, as a special study for the pay-systems in the sector is currently under conduct.

In bigger banks where more than 60% of the sector's employees are occupied, the (usually) powerful corporate union intervenes directly for the determination of the amounts and rules for the distribution of group bonuses through a corporate Collective Agreement or through bilateral "special regulations for additional payments". However, the more technical/special bonuses which are based on specific targets for every group-department etc., are usually decided by the Management of the Bank, while the union's opinion is requested afterwards.

Regarding the systems of individual augmentations based on performance or specific targets, the union's interference is usually minimum, either because these augmentations mainly concern executives, or because they are applied in smaller private banks where the trade union has limited power and it is not in a position to intervene on the criteria and the procedures of performance evaluation. In turn, these are the criteria on which payments are calculated.

At the sectoral level (sectoral negotiations) employers do not accept any kind of negotiations on **mutually accepted rules for the attribution of additional-variable payments**, either on a

collective, or on an individual basis, despite OTOE's claims. They believe that these rules should be exclusively set by the Bank as a decision of the employer.

Generally, in smaller private or foreign banks where the presence of the union movement is weak, the flexible part of the wages is usually dependent on the unilateral decision of the employer.

Unfortunately there are no concrete evidence regarding the connection between variable payments and labour problems, other than some general references on behalf of employees to problems regarding increased stress, conflicts, insecurity and discouragement.

The gathering of such evidence though forthcoming studies of INE/OTOE is pending.

In general, the mean net wage of an employee is around 1.200-1.700 €, while that of a junior-middle executive is around 2.600-3.000 €.

The main goals of the Confederation regarding the wages of bank employees are:

a) The application of the uniform Sectoral Payroll in all Banks + special corporate benefits by position/specialty.

OTOE opposes to package-wages and "evaluative" augmentations because they create serious problems with transparency and discriminations wherever they are applied.

b) The restructuring of payments as follows: 65% stemming from the Sectoral Collective Agreement, 20% stemming from the Corporate Collective Agreement. The individual difference of each employee compared to the wage set by the sectoral and the corporate Collective Agreement should change to 8% and the remaining 7% should be determined through bonuses (mainly collective).

c) The negotiation for clear regulations and a framework for additional payments and bonuses given to employees and executives, in the sector and in every enterprise. The rejection of bonuses based on individual and arbitrary targets, especially when they substitute a significant part of wages and influence the evaluation-professional evolution of the employee.

Uniform Payroll System & basic sectoral benefits

The Uniform Payroll System (U.P.) of the sector was established in 1982 and reformed with the sectoral Collective Agreement of 1994-95. It constitutes the basis for the determination and the development of basic payments, according to the bracket in which every employee participates. With the U.P. the firm record is dissociated from the U.P. until the last but one level of hierarchy of

the basic staff until the last level of the auxiliary staff. The connection between the professional scale and the wage is preserved only at the level of the Director and the Sub director.

The U.P. is applied based on **3 wage-determined staff categories:**

a) Basic staff. This category includes the employees of the accounting, fiscal and technical departments including collectors as well as all those who are currently paid based on the correspondence of wages among the afore mentioned departments. Wages in the 33 regular scales of payments vary from 875 to 1063 ? (Collective Agreement of 2007). Directors and Sub directors are paid according to special sales (with minimum wages varying from 1.262-1.452 ?).

b) Auxiliary staff. This category essentially includes clerks. Wages in the 30 regular scales of payments vary from 813 to 958 ? (Collective Agreement of 2007).

c) Cleaning staff. This category includes cleaners with a regular, permanent and non-segmented employment relation. Wages in the 27 regular scales of payments vary from 776 to 818 ? (Collective Agreement of 2007).

Employees are incorporated in **the brackets of the Uniform Payroll System of the corresponding category**. The latter are formulated according to the Collective Agreement or any corresponding collective regulations for each one of the afore mentioned brackets according to the years of their previous service or other promotions (due to recognised service, relevant training etc.). These brackets constitute the basic wages on which percentage allowances are calculated according to the sectoral and/or the corporate Collective Agreements.

Percentage allowances, appropriated for in the sectoral Collective Agreements and constituting-together with the brackets of the Uniform Payroll System-the basic and guaranteed amount of regular payments for the sector's employees are:

Years-of-Service Allowance: This allowance is granted to all employees according to the years of service/previous service with any employer. The percentage received amounts to 5.25% after the completion of 3 years of service and an additional 1.75% for every complete year of service/previous service beyond the three-year period and up to the replenishment of 41 years (the maximum percentage is 71.75%). This allowance is calculated on the basic bracket of the Uniform Payroll System to which the employee belongs.

Family Allowances

b1) **The Marriage Allowance** is 10% share on the basic bracket of the U.P. belonging every employee, with the 24th bracket being the minimum basis for calculation.

b2) **Children's Allowance** is calculated as:

For the first child: 5% on the basic bracket of the U.P. with the 24th bracket being the minimum basis for calculation.

For the second child: 7.5% with the 24th bracket being the minimum basis for calculation.

For the third child: 10% with the 24th bracket being the minimum basis for calculation.

For the fourth child and every additional child beyond: 15% on the basic bracket of the U.P. with the 24th bracket being the minimum basis for calculation.

Education Allowances. They are granted to the holders of acknowledged educational titles and are calculated as a percentage on the bracket of the U.P. to which the employee belongs:

16% for a degree of **higher education** (KATEE, TEI or equivalent foreign educational institutions)

25% for a degree of **University education** (AEI) or an acknowledged equivalent of a foreign educational institution.

40% for a **postgraduate or doctoral degree** or an acknowledged equivalent of a foreign educational institution.

Allowances for Unhealthy Working Conditions: They are granted to those employees working in unhealthy working places (basements, chemicals, extreme noise) or/and under unhealthy conditions. According to the time spent in these places or under these conditions, there is a 12% allowance calculated on the basic bracket of the U.P. where the employee belongs. This benefit is granted under the same terms to PC operators, data entering staff, switchboard staff and meter-readers.

Moreover, sectoral Collective Agreements include:

Balance Allowance: This allowance is granted to all employees every March and amounts to ? of the regular monthly wage that the employee received in December of the previous year.

Delivery Allowance 1.367 ? (Collective Agreement of 2007)

Kindergarten Allowance (203 ? per month for 2007)

Camping Allowance: 724 ? for 2007

Child Care Allowance

Finally, sectoral Collective Agreements regulate the allowance of

housing and personal loans with favorable conditions for bank employees, as well as indirect bonuses such as the financial support for cultural-sporting activities etc.

4.3. Special Corporate allowances associated with sectoral Collective Agreements

Certain **special corporate allowances (in euros)** are associated to the evolution of the Uniform Payroll System and they are calculated as a percentage of the 16th bracket of the U.P. of the basic personnel.

This means that every time that the 16th bracket changes, allowances are automatically increasing so that their value is not devaluated with inflation.

However, besides the increases that the new Collective Agreement provides every year, trade unions can negotiate for more favorable allowances through the sectoral Collective Agreement, according to the needs and the particularities of their sector.

Some indicative special allowances (in euros) given as a percentage of the 16th bracket of the U.P. are the following:

Rank Allowance (the rank signals the professional evolution based on the seniority up to a certain level and-for mid to higher executives-according to the executive positions available, evaluation and the suggestions of the corresponding management staff.

Responsibility Allowances for the executives of Management units (the level of responsibility is determined according to the importance in the hierarchy or/and the worth of the corresponding position for the Bank).

Specialized staff Allowances (supervisors, researchers, specialized staff of informatics, personnel selectors, trainers, dealers, etc.)

Teller, financial, managerial, swift, measurer, chief teller allowances

Allowances for the users of PCs. Terminal on-line, auxiliary automations, call centers etc.

Arm-bearing, security guard, money transferring personnel allowances.

Allowances for the drivers of members of the management and money transfer vehicles.

Allowances for the Secretaries of the Directorship the Management etc.

Other Allowances-benefits at the corporate level.

Each Bank is characterized by different regulations, according to the corporate agreements made with the union or the allowances provided by the Management.

Such regulations cover for example, transportation expenses, uniform expenses, housing and clientele service expenses etc. Moreover they cover expenses and remunerations for out-of towns tasks, programs of additional collective insurance, specific accounts for increase retirement lump sum payments, specific accounts for the children of employees, financial awards for excellence, expenses for learning foreign languages, individual loans, housing loans, discounts on the products of the Bank or the Group (credit cards, insurance programs etc), cultural and sports clubs of employees etc.

Working and Transaction hours.

Working and Transaction hours.

Until 31-8-2002 employees in the sector were working for 38 hours and 20 minutes, 5 days per week as follows: Monday-Tuesday-Wednesday-Thursday 7.45 to 15.30, Friday 7.40 - 15.00.

The **transaction hours** with the public were 8.00- 14.00 Monday-Thursday and 8.00 - 13.30 Friday.

With the sectoral Collective Agreement of 2002-2003, since the 1-9-2002 the working hours were reduced to 37 hours/week without a decrease in payments, and were formed as below:

Monday-Tuesday-Wednesday-Thursday: 7.45 - 15.15

Friday: 7.45 - 14.45

At the same time, the **transaction hours** changed to 32 hours/week and were formed as below:

Monday-Tuesday-Wednesday-Thursday: 8.00 - 14.30

Friday: 8.00 - 14.00

Employed mothers are entitled to **reduced working hours** by two hours per day for the first two years after the expiration of the delivery allowance and one hour per day for the two following years. This leave can also be taken cumulatively in the form of additional days after the expiration of the delivery allowance. Reduced working hours allow employed mothers to start working later in the morning and leave earlier in the afternoon according to their needs. Reduced working hours for child care can alternatively be requested by the child's father as long as it can be proved that the mother does not make use of her corresponding right.

Exceptions from working and transaction hours.

Lately, with paragraph 9 of the sectoral Collective Agreement of 2006-2007 special **working hours** were reckoned **only** for the banks' specific services, as, due to the particularity of their objective they must operate continuously or with shifts during the whole week. These shifts will either start or extend **beyond** the regular working hours of paragraph 5 of the sectoral Collective Agreement of 2002-2003 (i.e. after 15.15 Monday-Thursday and after 14.45 on Friday).

The legal application of such working hours requires: a) a corporate agreement with the corresponding union which is disposed to the Labour Inspection Body and b) the employees' consent.

Until today there have not yet been such agreements.

Moreover, the sectoral Collective Agreement of 2006-2007 (paragraph 10) has set the maximum number of offices that every Bank can operate beyond the regular working hours by engaging their employees with shifts as below:

Up to 10 offices for a network of more than 150 offices

Up to 5 offices for a network of 31-150 offices

Up to 2 offices for a network less than 30 offices.

The maximum time limits for the operation of these offices are:

Monday-Friday: from the regular opening of bank offices, as it is stated in the sectoral Collective Agreements, until, at most by 20.30.

Saturday: opening from 10.00 and closing **at most** by 17.00.

This provision of the sectoral Collective Agreement **explicitly** decrees the voluntary employment of every worker in these offices beyond the regular working hours as a precondition, according to paragraph 5 of the Collective Agreement of 2002-2003, as well as the adherence to the 5-day-lasting week.

It also includes a **35-hours weekly employment for those working on Saturday**, always under the provision that they will still work 5 days per week and with the allowance of one additional working day as time off.

The exact time bounds of work, the additional compensation or any other benefit will be given to those who are occupied in these offices beyond the regular working hours and they **are agreed** with the most representative Union of the firm, by a written agreement, which is binding since its deposition day at the corresponding Labour Inspection Office.

The few agreements that were contracted on this issue until today (the arrangement is recent), are usually kept and in some cases they are improved within the framework set by the sectoral

Collective Agreement (salary augmentation, 35-hours of work to the employees working with special working hours or/and to those who work on Saturday).

Overtimes

In Greece, we consider as overtime labor, any labor beyond the legal working hours, This labour is rewarded according to the augmentation that is previewed **by law or/and the Collective Agreement**. The remuneration that the law previewed and was applied until 2005 in the sector was +50% of the time-salary, for every hour of overtime up to 120 hours per person per year, +75% for overtimes with work permits beyond 120 hours /year, +150% for illegal/no work permit overtimes beyond this limit. Overtimes ought to be submitted for approval at the qualified Labor Inspection Office and inspected by it.

In practice, the majority of overtimes is neither inspected nor paid. Nevertheless, the Banks have the lead in lawbreaking and in the corresponding fines.

Beyond the continuous lawbreaking, in 2005 the law concerning overtimes changed (substitution of law 2874/2000 with law 3385/2005), increasing the maximum number of allowed overtimes and decreasing their remuneration (for instance to +25% instead of +50% for the first 5 hours/week and to +100% instead of +150% for the overtimes without work permit), in order to make them cheaper for employers. In any case, however, in several firms of the sector, there are optimal agreements which continue to operate.

$\sqrt{\Delta}\sqrt{\partial}$ is opposed to the law of 2005 and claims the preservation of older regulations, the suppression of illegal and arbitrary overtimes, and the general confinement of overtimes in order to permit for new hirings.

According to the above, **the most important claims of the Bank trade unions with respect to labour time are the following:**

a) The preservation of the conventional labour time and the convergence between the actual and the conventional working hours, through the repeal of the recent legislation regarding overtimes.

Wherever exceptions are needed, they must be explicitly regulated in a corporate Collective Agreement and include significant returns (salary augmentation, reduction of labour time), upon agreement with the trade union and with individual employees.

b) The reduction of the labour time to 35 hours weekly, without wage reductions

c) The operation of the labour legislation for the majority of the

staff. Employers are currently trying to exclude labour time, over-times, work permits, etc. from the labour legislation.

Leaves

·) Basic Annual Leave.

Basic annual leaves are mandatorily given to employees according to the provisions of the labour legislation and Collective Agreements. The days of leave are calculated for a 5-day lasting working week.

After the completion of one year of work, each employee is entitled to a leave of 20 working days per year. For the following years the basic paid leave is provided after accounting for the years of service to any employer as below:

- with the completion of 2 years of service, 21 working days of leave
- with the completion of 3 years of service, 22 working days of leave
- with the completion of 5 years of service, 23 working days of leave
- with the completion of 10 years of service, 25 working days of leave

When the needs of the Bank lead employees to a partial use of the basic leave during the periods 1/1 - 30/4 and 1/10 - 31/12 of every year, an additional day of leave is attributed for every 5 days of basic leave.

b) Delivery Leave.

Delivery leave lasts for 18 weeks and is provided with full payments. Absence due to maternity is considered as time of real service, it is not offset by the basic annual leave and it cannot have negative wage or other consequences on the professional evolution of the employee.

c) Unhealthy-Work Leave.

An **additional leave of 7 days** with full payments is given to the personnel that works under unhealthy conditions or performs unhealthy tasks and in general to all those that are entitled to receive a corresponding benefit from the law, relevant Collective Agreements of their specialty or based on corporate agreements. This leave is not offset by the basic annual leave and can be taken during the period from 1/10

of every year until the 30/4 of the next one.

d) Trade Union Leaves, which are granted with full payments and are regulated by sectoral Collective Agreements or corporate agreements. More particularly,
- **in every bank/firm of the sector** they are exempted from their regular duties, under the indication of the corresponding Association for the processing of issues related to the interests of OTOE:

.) The President of the Management Committee for Associations up to 250 members

b) For Associations of 251-500 members, the President and the General Secretary.

c) For Associations of more than 500 and up to 5.000 members, one executive for every 500 members. One additional trade unionist is exempted for a remaining of 251 members.

d) For Associations of more than 5.000 members one trade unionist is exempted for every 1.000 members. For a remaining of 501 members or more, an additional trade unionist is exempted. The time off of trade unionists is considered as active service.

at the level of OTOE, the President, the Vice President, the General Secretary and the Treasurer of the Executive Committee of OTOE, appointed by the union are exempted. If the holders of the above titles are already exempted as Presidents or members of the Management Committee of Associations or by another cause, additional executives are exempted under the appointment of OTOE.

Moreover, banks allow for trade union leaves with regular payments to the members of the Management, the General Advisors of trade unions of and OTOE and the participants in the congresses of OTOE in order to attend the workings of their representatives.

The time of leaves or union release is in every case considered as active service.

The following leaves are also provided by the General Collective Agreement and the labour legislation and they are attributed on top of the basic annual leave, usually with full payments:

- *marriage.*
- *child birth.*
- *education.*
- *blood donation.*
- *people with special needs.*
- *sickness*
- *surveillance of the schooling progress of children.*
- *sickness or special problems of the dependent members of the family.*
- *union training.*

Experiences and problems of intervention of the union movement regarding training, performance evaluation and career design issues.

Through its long-term intervention regarding training, performance evaluation and career design issues of the sector's employees, OTOE has come to the following conclusions:

a) The prompt training-education of employees is an important means for the protection of employment, but not a panacea. It should be combined with the application of contemporary methods for the recording of existing tendencies and the foresight of quantitative and qualitative evolutions in the sector, with an efficient and complete design of corporate, labour and social targets and a prompt information and active participation of trade unions and firms.

b) The application of unilateral and arbitrarily-set individual and collective goals used by the Management as a basic criterion for the evaluation of employees is excessive. These goals have very little to do with the level of responsibility, the tasks and the autonomy that the employee actually has. Moreover, in some cases they overcome the boundaries of a dependent labour relation, by attributing responsibilities to the employee related to the change of the market environment, incomplete or wrong decisions, manipulations or omissions of their superiors on which the employee has no responsibility.

OTOE opposes to the adoption of individual goals as performance evaluation criteria, especially when they influence the overall performance evaluation and the professional evolution of the employ-

ee or serve as a reason to denunciate labour contracts. On the contrary, it reckons that the performance evaluation system used should be formulated following a negotiation between the Management and the corporate union.

c) Good practices concerning these issues include:

Cases of corporate negotiations and agreements on the systems and regulations of performance evaluation

Common research initiatives between banks and INE/OTOE for the formulation of a prototype system of pinning down training needs in the sector (PREMEQ- LEONARDO DA VINCI program).

Characteristics, experiences and goals of the union movement for the outsourcing of tasks from Banks to third parties.

The outsourcing of tasks is a practice receiving greater and greater dimensions in our sector since the mid 1990's.

Outsourcing usually concerns auxiliary tasks of cleaning, security, call-centers, credit cards, management and certain specialized projects, e.g. Informatics. The carrying -out of these tasks requires the use of personnel borrowed from other firms or project contracts between the Bank and a subcontracting firm, that is usually of limited duration.

Many of these "other" firms are shadow-firms. A common practice they use is changing the contracts of "borrowed" employees so that they are not sentenced by the law for the permanency of "borrowed" employees to the indirect employer. According to law 2956/2001 that regulates the terms for the operation of the Temporary Employment Agencies, an employee must be hired with a permanent contract after having completed 18 months of continuous work with the indirect employer. This means that the bank should hire "borrowed" workers. However, this is not the case, as in order for the bank to avoid this obligation, it obliges them to constantly change firms and contracts without changing their duties.

The most serious problems that outsourcing creates to the employees of the sector are summarized below:

They confine the number of employees which are covered by sectoral and corporate collective agreements.

They hurt uniform industrial relations in the sector-inequalities-discriminations-employees of different gears.

They constitute "The Trojan Horse" for the violation of the basic labour rights of bank employees.

In their attempt to face these serious problems of outsourcing, the unions of the sector request:

The deterrence of outsourcing when it comes to the coverage of steady and continuous needs of the firm.

The upgrading of labour rights of the employees performing outsourced tasks so that they work under the same terms and conditions and have the same rights as the permanent bank employees. The prompt information of the union for every deal regarding outsourcing and its terms for the concerned employees.

Moreover they try to approach the employees of the "third" firms in order to pin down and reveal common grounds of action.

However, there have not yet been any worthy experiences for the confrontation of such policies and the results from the intervention of OTOE and its member-associations are not significant.

The main reason is because the employees of the third firm can neither be members of the trade union of the corresponding bank, nor do they believe that they have common interests with bank employees. They just want to maintain their posts even under the current terms, while the trade unions of the sector request the "return" of these tasks to the bank and new hirings with transparent criteria (which is usually not the case for "borrowed" employees or subcontracts) in order to fill the corresponding positions.

Another big problem that the Federation and the Associations have not yet faced-although it is forthcoming due to the investments of Greek Banks in the Balkans and in Turkey-is the **international outsourcing**, i.e. the apparent distress of transferring entire departments in these countries for reasons of cost saving, more flexible industrial relation etc.

European Policies and the perspectives of industrial relations

Generally speaking, the union movement of the sector is uneasy, if not disappointed face to the European policies regarding enlargement, flexicurity, the actual convergence, the preservation or not of the European social model.

It reckons that EU policies appear to be consistently oriented to the reduction of employees' rights with an ultimate goal to form a situation similar to that of the US for reason of competitiveness and "adjustment to globalization". Moreover, it considers that the way in which the EU enlargement is proceeding also helps to this direction.

Rather than a real **upwards** convergence of wages, incomes and rights, what we actually observe is the continuous attempt for their

downwards convergence, especially when we refer to labour and social insurance rights.

The continuous application of frugality policies for the workers, the adaptation of an opt-out policy (a deviation from the 48-hours of work), as well as the attempt for the revival of the Bolkenstein Directive in its primary form, are some characteristic examples.

The EU Directives for the incorporation of the decisions of Basilea II are also operating in the same framework, aiming to the restructuring of the Banking sector with takeovers and merges. They also give priority to the promotion of the interests of shareholders rather than the safeguarding of employment and labour rights in the Banking System.

The "Green Book" for the adjustment of the labour legislation and Collective Agreements to the new condition of competitiveness as well as the so called "Flexicurity", constitute serious issues for the union movement of the sector.

The "Green Book" in its current form, is much more intensively oriented to flexibility rather than security for the workers. Moreover it appears to target to a quantitative flexibility-destabilization of employment, a weakening of the labour legislation and Collective Agreements and a general downwards convergence of conditions and guarantees instead of a quantitative and qualitative improvement of employment through the strengthening of the European Social Model.

The entire logic of "flexicurity" (which is not "secuflexity" as it should be) "abolishes" the segmentation of the labour market by generalizing the conditions operating in its subordinate part. Moreover, it claims to seek the reduction of the informal economy and the violation of the labour legislation by loosening and degrading the latter even more.

Some initial observations which were noted in our country by the General Confederation of Greek Workers and other specialized analysts regarding the "Green Book", are summarized below:

It is an intentionally vague text which distorts the causes and transposes the responsibilities for the unemployment in Europe to the so called "insiders" of the labour markets and the corresponding collective labour achievements.

It aims to the slackening of security regulations by emphasizing the rights and the preconditions for lay-offs (remuneration, limitations etc.)

It promotes flexibility in order to...reduce the gap between the "privileged" full-time and permanent employees and the "unprivi-

leged" ones working with informal contracts in insecure positions. It promotes the downgrading of formal contracts of permanent full employment to the benefit of a relative elevation of informal contracts with corresponding changes in the Labour Legislation, Collective Agreements etc.

It deliberately stresses an individualized approach of labour contracts and regulations (including the possibility for opt-out), at the expense of collective negotiations.

It aims to a uni-dimensional notion of competitiveness with a clear reduction of the direct and the indirect labour cost as a means for the recovery of European enterprises. At the same time it degrades (if not destroys) the European Social Model.

Since the Bolkenstein Directive was not able to "inject" "Polish plumbers" into the developed European countries with the wages and the industrial relations existing in Poland, it now tries to impose the latter conditions to the EU. Moreover, this is independent of the degree of development of the social model, allowances and the safeguarding of labour rights in each country-member.

It tries to slacken the preconditions (quantitative limits, justified lay-offs, reduction of remunerations) for lay-offs by transposing the corresponding costs from employees to the State and society through higher unemployment benefits and the subsidization of hirings. The logic of "facilitating lay-offs in order to promote hirings" (even when we are talking about employment of the one-hour-per-week type so that official unemployment appears lower..), was present even in the "White Book for Employment and Competitiveness" of the 1990's. We have seen however that the accomplished results were minimal.

Employment protection and the unity of workers are yet some additional targets of the reform aiming to the weakening of the union movement and Collective Agreements. The Labour Legislation itself is under attack in order to become bare of its main character as a means of protection of workers and turn into the Commercial Legislation of Competitiveness, a supervisor of the Labour Market.

There is an attempt to transfer the Scandinavian model by adopting individual practices used in Scandinavian countries. However, the conditions of social protection, social control mechanisms and the redistribution of tax burdens through the taxation of the richer incomes are totally different. In the case of Greece, such a transfer would be equivalent to a broad legalization of labour rights violations, a celebration of informal types of employment at the

expense of formal ones, a greater unaccountability, segmentation, downgrading and abolition of collective contracts, a slackening of the rules and institutions supporting collective negotiations.

The logic of facilitating and reducing corporate costs at any expense is currently dominant, with the apparent transfer of the financial costs of the new policies to society. The subsidization for the creation of cheaper employment positions, higher unemployment benefits, early retirements and other measures **require significant additional resources** which will be drawn from society through indirect (consumption) and direct taxation. In cases where the main burden of taxation is carried by salaried-pensioners (as is the case in our country) it is understandable that they themselves will be the principal financiers even of their own lay-offs!

The arguments concerning the "rigidity" of the Labour Legislation are mere pretences especially in countries like Greece. On the contrary, major efforts are required in these countries in order to cover the "gray zones", to allow the operation of control mechanisms and to ensure a reliable system for the affiliation of education with the social needs and the labour market.

The necessary extension of the protection provided by the Labour Legislation to informal labour contracts, the generalization of justified lay-offs, the fair distribution of the costs related to employment policies, the enhancement of the control mechanisms for the application of the labour legislation and Collective Agreements do not constitute priorities for the authors of the Green Book. The only positive exception is the issue of subcontracting and the mutual responsibility of the direct and the indirect employer. On the contrary, great emphasis is given to the elevation and the legalization of undeclared labour with all its implications for the conditions which will be formed in the EU from now on.

Unfortunately, so long as the European Union is dominated by a monetary reasoning which puts the well-being of numbers before the well-being of citizens, so long as it diverges from the principle of development in favour of the people, the future of European employees is not particularly optimistic.

***Flexicurity
Through Lifelong Professional Training
to promote job security and reduce stress
in the workplace
in the financial sector throughout Europe
with a specific focus on cross-border
mergers & acquisitions***

QUESTIONNAIRE

1) Within the context of globalization, the financial sector is beset by challenges and radical changes—involving both ownership structures and management strategies and company organizational models—that have exalted the concept of “flexibility”, i.e. ductility and the ability to react to unforeseen and unforeseeable turbulence in the market. Generally speaking, how has this affected the labour market?

The financial services sector in Malta is one of the most dynamic and fastest growing areas of the economy with a direct and indirect contribution to GDP of some 12% and employing around 6000 people. With the support of highly skilled human resources, the latest technology and infrastructure, modern legislation, and a strong regulatory regime, it is fast becoming an internationally recognised financial centre of repute.

In spite of this success, the affects of globalisation have still been felt where new work practices have been introduced to ensure greater flexibility, an emphasis on performance reward schemes, and a clear cost containment focus. The main investment has gone into those areas of financial services which offer higher value added, in particular wealth management services. As a result routine jobs and non-clerical work is increasingly being outsourced and very recently a major financial services organisation is considering off-shoring certain duties necessitating further retraining and redeployment of staff.

Globalisation has affected other sectors of the economy much more severely, particularly low-skilled manufacturing concerns such as textiles. In spite of good quality work, Malta is just not competitive in this area. A good number of manufacturing companies have downsized over the years or closed down completely resulting in numerous redundancies. Government has successfully promoted Malta as a good location for high value added indus-

tries and has been successful in attracting investment and employment in the areas of light engineering, pharmaceuticals, aviation and information and communication technology.

Globalisation has also affected the tourism industry which accounts for a substantial part of Malta's GDP and a lot of restructuring, upgrading and re-branding has gone into this area. The services sector has been the main growth area, besides financial services, Malta is proving to be a hub for back-office processing and has attracted a number of call centres. These are creating new employment opportunities to make up for the losses in the manufacturing and other less competitive sectors.

2) Is there a legislative system in your country that regulates flexibility/job security policies in the labour market designed to ensure the rights and safeguards available to workers?

Briefly analyse the legislative-regulatory framework regarding the labour market and the social forces with reference to:

hiring policies;

social security policies;

the role the family can play;

the system of ongoing professional training

the system of lifelong learning.

Employment conditions in Malta are regulated by the Maltese Constitution, the Conditions of Employment Act of 2002, the Wage Regulation Orders, the Employment and Training Services Act, Conventions of the International Labour Organisation ratified and implemented into Maltese law by Parliament, Collective Agreements and Internal Organisation Regulations.

Maltese Labour Law is essentially based on the contractual relationship between the employer and employee, with certain controls being imposed by legislation. Industrial relations are based on the British rather than on the European model.

Contract of Employment

The main legislative measure dealing with employment and industrial relations is the Employment and Industrial Relations Act (2002).

The Employment and Industrial Relations Act (EIRA) issued in 2002 defines the contract of employment or contract of service as an agreement, whether oral or in writing, in any form, whereby a person is bound to render service to or to do work for an employer in return for wages. It also states that as far as conditions of

employment are concerned the definition of contract of employment includes an agreement of apprenticeship.

Conditions of employment may be set out by national standard order, sectoral regulation order or by collective agreement. The latter is the main type of contract of employment for the banking sector.

The following are the main legal sources which regulate the employment relationship in Malta.

The Constitution: The Constitution of Malta, in its Declaration of Principles states that the State recognises the right of all citizens to work and shall promote such conditions as will make this right effective. The Declaration of Principles also contains provisions relating to the protection of work, hours of work and rest entitlements, the equality of male and female workers, the minimum age for paid work, safeguarding the labour of minors and the right to social assistance and insurance.

Laws & Legislative Acts: Maltese labour legislation covers all employees, both wage and salary earners, regardless of the size of the firm for which they work. The EIRA amended the legislation existing up until 2002, namely the Conditions of Employment Regulations Act (CERA) and the Industrial Relations Act and introduced the necessary legal framework for Malta to come in line with other European jurisdictions. The Act has two main sections: the first deals with individual conditions of employment and the second deals with collective industrial relations.

The CERA which enables the Wages Councils to lay down, through subsidiary legislation known as Wage Regulation Orders, minimum conditions regarding employment in various specific categories of workers;

The Employment and Training Services Act which regulates the registration of persons in employment and of those seeking employment, monitoring of employment opportunities and of training programmes.

International Law: Conventions of the International Labour Organisation (ILO) have force of law when ratified by the Maltese Parliament.

Collective Agreements: Generally speaking, collective agreements provide for minimum wage and salary levels in various trades, as well as general conditions of employment (such as work time, and features of health and safety).

Internal Regulations: These set out company rules on issues such as work organisation, health and safety, discipline and disciplinary

finances. Such internal rules must then be brought to the attention of all employees and be made easily accessible to them. Nowadays, in most workplaces, internal company rules are usually made available via internet. The EIRA does not specify that company rules should be exhibited in the place of work. It merely limits itself to providing that on hiring, the working conditions should be explained to the employee and that a copy given in writing.

Recruitment & Employment

The EIRA states that it is not lawful, when advertising or offering employment or selecting applicants employment, to subject any applicants to discriminatory treatment. The expression 'offering employment' includes recruitment or training of any person with a view to engagement in employment and with regards to an employee already in active employment, it also includes promotion to a higher grade or engagements different class of employment. It is also unlawful for an employer to subject his employees to discriminatory treatment in regard to condition employment during their employment. According to the Act, 'discriminatory treatment' includes:

Hiring a person who is less qualified than a person of the opposite sex, unless the employer prove that the action was based on acceptable grounds related to the nature of the work which employee is engaged to do or no grounds of previous work and experience.

Any actions toward an employee with regards to terms of payments or employment conditions are less favourable than those applied with regard to an employee performing the same work of equal value.

Any actions whereby the employer knowingly manages the work, distributes the task or other arranges the working conditions, in such a way that the employee is assigned a clearly favourable status than others on the basis of discriminatory treatment.

In addition, under the Equal Opportunities (Persons with Disability) Act an employer cannot discriminate on grounds of disability with regard to:

- Procedures relative to applications for employment;

- The hiring, promotion or dismissal of employees;

- Employee compensation;

- Job training; and

- Any other terms, conditions and privileges related to employment.

When all allegation of discrimination has been made by an employ-

ee, the employer must prepare and including the procedures used by the employer in the matter alleged to constitute such discrimination.

Social Security System

The benefits covered under the social security system for employees comprise retirement and survivor benefits, disability benefits, sickness and medical care benefits, worker's compensation benefits, unemployment benefits and family allowance benefits.

The social security system not only applies to employees, but also covers the self-employed and the unemployed. For each of these categories of individuals, different contribution levels apply. In respect of employees, contributions are paid by both employer and employee as well as by the State.

The Social Security Act of 1987 distinguishes between the contributory system and the non-contributory system. In the contributory system the basic requirement for entitlement is that specific contribution requirements are fulfilled, whereas for the non-contributory system the non-contributory benefits are not based on contributions, but on a financial means-test of the person claiming the benefit, this means-test comprising both a capital resource test and an income test. The aim of the non-contributory benefits is mainly to provide social and medical assistance, both in cash and in kind, to heads of household who are unemployed and either looking for employment or are unable to do their work because of illness provided the family income is below a certain level. In addition, those suffering from chronic disease will receive a medical aid grant free of charge, without any means-test being applied. The system evolved over a number of years into a comprehensive system, specifically providing additional assistance to certain specific categories such as disabled and single parents.

The retirement age is flexible between the age of 60 (women) / 61 (men) and the age of 65. Retirement occurs when the individual concerned has retired from gainful activity. The law stipulates that retirement from gainful activity occurs when the individual does not earn more than the national minimum wage. After the age of 65 an individual can still continue to work and earn an unlimited amount of income from a continued gainful activity.

The State provides a comprehensive health service to all Maltese residents, which is entirely free for the beneficiary. An individual who qualifies for social assistance receives a card entitling free pharmaceuticals. Delivery of primary health care is through a number of health centres which offer the full range of preventive,

curative and rehabilitation services.

Sick Leave

There is no minimum sick leave provision in the law.

Most sectors are covered by a Wage Regulation Order which contains the minimum amount of sick leave to which employees falling within that category are entitled. One could safely say that 15 days on full pay and another 15 days on half pay are the norm. In the banking sector it is much more where some banks entitle employees to 6 months sick leave on full pay and an equivalent amount on half pay.

Maternity Leave

Employees are entitled to 14 weeks maternity leave of which the first 13 weeks are on full pay and the 14th week is unpaid.

The female employee must supply the employer with a signed medical certificate which clearly indicates the expected date of delivery. A minimum of 6 weeks are to be taken after the birth. Any arrangements which is different to the standard procedure stipulated by law, but is more beneficial to the employee must be subject to the employer's approval. Maternity leave may not be taken before employee has entered the eighth month of pregnancy.

During the period of maternity leave and absence, a female employee remains entitled to all the rights arising from the employment contract. An employee is bound to resume work after such leave and to continue working for the employer for at least 6 months. Otherwise, all wages received during maternity leave will be refundable.

Special Maternity Leave

A female employee may also be entitled to Special Maternity Leave. Special Maternity Leave is leave granted by the employer to an employee who is pregnant, breastfeeding or has recently given birth, when despite the employer taking steps to accommodate the employee, there exists or would still exist, a risk that could jeopardise the health or safety of the employee. Such leave is to be granted for as long as the risk exists and on terms referred to in the Regulations. During the special maternity leave, a special allowance equivalent to the rate of sickness benefit payable in terms of social security Act is paid. This is paid for a period of up to eight weeks. An employee is not entitled to the special allowance if, without justification, she refuses to perform suitable alternative work provided by her employer.

Other time off

During the pregnancy, an employee is entitled to time off without loss of pay or any other benefit, in order to attend ante-natal examination, if such examinations, if such examinations have to take place during her hours of work. In such cases, the employer may request documentation to show the appointment times or attesting to actual attendance for such examinations.

Paternity Leave

There is no legislation provided for paternity leave in Malta.

Parental & Adoption Leave

Every male and female employee is entitled to 3 months' unpaid parental or adoption leave until the child reaches eight years of age.

The three month period is to be taken as calendar months, is established periods of one month each. In the case of part-time employees, the entitlement shall be pro rata. In both cases, an employee must have been employed by the same employer for a continuous period of at least 12 months. Parental leave may be taken during the six months following maternity leave (during which period the employee is bound to stay with the employer) and if the employee takes parental leave during this time, the six month period is suspended for that period.

In order for an employee to take his/her parental leave entitlement, an employer must have received a formal request in writing and granted approval. It is up to the employer to decide on how the parental leave is to be granted. An employer may postpone the granting of parental leave for justifiable reasons relating to the operation of the workplace. Examples of justifiable reasons provided by law include:

- Where the work is of seasonal nature;
- Where a replacement cannot be found within the notice period given by the employee;
- Where the specific employment of the employee requesting parental leave is of strategic importance to a company/place of business;
- Where the company/place of business is a small one;
- Where the company/place of business is a small one;
- Where a significant proportion of the workforce applies for parental leave simultaneously.

An employee applying for parental leave must give a minimum of three weeks' notice in writing to the employer, specifically the beginning and the end of the parental leave period. In the event

that the parental leave has not been used, or there is still an existing balance of parental leave, an employee remains entitled to the leave even if there is a change in the employer or in the employment of the employee.

Where returning to the same job after the parental leave period is no longer possible, the employee should be entrusted with an equivalent or similar job consistent with the original contract of employment and grade of the employee.

Unless the employer and employee agree otherwise, during the period of parental leave the employer does not have the right to suspend the parental leave or to request the employee to return to work before the agreed date of resumption of duties. The employee has no right to work before the agreed date if he/she decides to return work early.

The employer must keep a record of parental leave granted to their employees and upon an employee's request, which may be made even after termination of employment, deliver to the employee a written statement of the details of the leave granted to the employee.

The Regulations also provide for a fine in the event that the employer contravenes any of its provisions. The fine stipulated in the event of contraventions MTL50 and MTL500.

An EU-funded report issued in December 2005 has revealed that more Maltese fathers would seize the opportunity and avail themselves of their parental leave entitlement to care for their children, if they were given some form of remuneration. The Maltese study, entitled *The Impact Of Parental Leave, Career Break And Enlarged Europe* and confirms that the uptake of parental leave and career breaks is largely dominated by women (98.4% against 1.6% in the case of men).

Equal Opportunities

In Maltese legal tradition, the concept of discrimination was more of a constitutional law matter rather than anything else. However, over the years legislative enactments have come to stretch this concept beyond mere constitutional parameters. These mark important developments of the concept, because they seek to widen protection against discrimination committed not only by the State but also by private individuals, rendering it a significant consideration in certain aspects of one's everyday life. Under the *Employment and Industrial Relations Act (2002)* protection from discrimination is granted to an employee or prospective employee against his employer or prospective employer by virtue of the ordi-

nary law of the land.

Role of the Family

While state and companies encourage family involvement and organise activities to encourage family participation and support, this is mainly done on an *ad hoc* basis and nothing is formalized. This mainly involves the organisation of social activities or charitable type of assistance.

Professional Training

Ongoing professional training is an important aspect of employment, especially in the financial services sector. This has been encouraged through various collective agreements by offering incentives such as grants, reimbursement of training expenses to employees who successfully pass a qualification, qualification allowances, enhanced career prospects and even promotions.

Lifelong Learning

While the concept of lifelong learning is agreed upon and even included in collective agreements, more has to be done in this area. While organisations believe in training and having qualified staff this is often focussed on areas needed by the business and not according to development needs of the individual. Cost is also a constraint. The idea of lifelong learning needs to be further strengthened and promoted by employers. The trade unions also have a role to play in fostering this development.

3) Along with a form of job insecurity linked to non-work, new risks of marginality and social exclusion are arising for the unemployed and atypical workers. Does the State intervene?

Briefly discuss the quality of the welfare policies adopted regarding:

- the level of protection applied to flexible labour with respect to access to the social security and solidarity systems (employment, professional retraining, healthcare, pension treatment);

- the levels of income/compensation benefits (healthcare, unemployment compensation, pensions, income from work, taxation);

- the funding/financial stability of social security (healthcare system, unemployment compensation, social pension, assistance to individuals and families).

The state has various schemes and welfare policies to assist the unemployed. This includes weekly compensation for the registered unemployed and assistance in finding employment.

The Employment and Training Corporation recently introduced a new range of employment schemes to assist workers in finding employment:

Employment & Training Placement Scheme (ETPS). The objective of the ETPS is to assist employers provide the necessary training to new recruited persons at the start of their probationary period. The scheme is also an opportunity for these new employees to upgrade their skills or acquire new skills that are relevant to the current labour market needs. The ETC subsidises 50% of the minimum wage (during the stipulated training period which must not exceed 52 weeks) paid by private employers who recruit eligible registered unemployed persons requiring training;

Work Start Scheme (WSS). The aims of the scheme are to give new labour market entrants an idea of the world of work and to improve their employability to eventually integrate into the labour market. Employers hiring new workers are refunded the cost of 20 hours of work per week up to a maximum of 13 weeks;

Redeployment Scheme (RS). The objectives of the RS are to assist employers in providing the necessary training when they employ previously redundant workers, at the start of their probationary period, thereby helping redundant workers make a successful transition into quality jobs. It also seeks to help employers avoid redundancies by providing for a period of retraining in new occupations in another company within the same group of companies. Employers who rehire employees who have been made redundant and who wish to be retrained will be refunded one half of the national minimum wage for these employees for a maximum period of 13 weeks. _

The rate of Retirement Pension depends on the average of contributions paid and on the income earned from gainful occupation in the last ten years prior to retirement. If a person is unemployed instead of paid contributions he/she may receive credited contributions. All Maltese citizens are entitled to free state health care as part of their social security contributions when in employment.

Benefit and Special Unemployment Benefit

Persons who used to work on a service contract basis (that is, employed) and, therefore, paid contributions, may be entitled to receive Unemployment Benefit provided they are registering for employment under the Part I register kept by the Employment and Training Corporation.

The rate payable to persons under Pension Age for Unemployment Benefit is Lm2.70 (?6.29) per day. If maintaining a spouse who is

unemployed, or a single-parent, the rate payable is Lm4.13 (?9.62) per day. Payment is based on each day of unemployment, excluding Sundays.

The Special Unemployment Benefit is paid to an insured person who qualifies for Unemployment Benefit and is head of household, and who also qualifies for Social Assistance.

The rate payable to persons under Pension Age for Special Unemployment Benefit is Lm4.52 (?10.53) per day. If maintaining a spouse who is unemployed, or a single-parent, the rate payable is Lm6.92 (?16.12) per day. Payment is based on each day of unemployment, excluding Sundays.

A contribution credit is a contribution given to a person without charge. Therefore, someone who is employed does not need to pay any contributions for each whole week (from Monday to Saturday) that the Unemployment Benefit and Special Unemployment Benefit is received. Even when the Unemployment Benefit is not in payment, one is entitled to receive contribution credits for each whole week one registers for work, provided one registers for work regularly and satisfies certain conditions. Contribution credits are not awarded when receiving notice money. In this case, one has to pay one's own contributions since the employer is not bound by law to pay the employee's part. Self-occupied persons are entitled to receive contribution credits when they are not employed, if they satisfy the contribution test, before they register for work.

Unemployment Assistance

Heads of household, who are registering under Part 1 of the Unemployment Register and are thus, actively seeking employment, may be entitled to Unemployment Assistance.

In the case of the income test, all income of the head of household and his/her partner is taken into consideration. When there are other members in the household, working members are excluded. When wages are considered, these are taken net of the social security contributions. Only 19.3% of the income arising from property belonging to other members of the household is considered. Once the total income of the household is established, the first Lm40 (?93.17) are ignored. The remaining balance is then compared with the applicable scale rates.

The Capital Resources must not exceed Lm6,000 (?13976.24) in the case of a single person, and Lm10,000 (23293.73) in the case of a household of two or more persons. When calculating the capital assessment certain property, namely, the house of residence, a private car, a garage for private use, and a summer residence are

excluded. Moreover, any immovable property, which is being put to profitable use, for example property, which is rented to third parties, is not capitalized, but only the income is considered. Once the amount of capital resources of unused property is established, and this still does not exceed Lm6,000(€13976.24) or Lm10,000 (€23293.73) as the case may be, the first Lm250 (€582.34) are ignored. The remaining balance is converted to an annual income at 5.5% per annum. Where the property does not belong to the head of household or to his/her partner, but to other members, for example children, only half of the value of the property is considered.

Social Protection Services

The following is a list of the main Social Protection Services available to all Maltese citizens. Some are means tested.

- Adoption Services
- Carer's Pension
- Children's Allowance
- Contributory Invalidity Pension
- Contributory Retirement Pension
- Disability Pension
- Disablement Pension
- Family Therapy services
- Foster Care Allowance
- Injury Benefit
- Looked After Children Services
- Marriage Grant
- Maternity Benefit
- Pension for the Visually Impaired
- Sickness Assistance
- Sickness Benefit
- Social Assistance
- Supplementary Allowance
- Widow's Pension

Individual companies may also offer benefits over and above what the state offers to assist employees in times of need. These are usually specified in the collective agreement.

4) Have there been, or are there in progress, any domestic and/or cross-border mergers and acquisitions between banking groups?

What effects have they had on the status of employment/unemployment in the sector?

Since the sale of the 70% stake of Mid-Med Bank by the Maltese government in 1999 to HSBC Holdings, there have been no major mergers and acquisitions in the financial services sector.

For a number of years the Maltese government has stated that its preferred option is to sell its 25% holding in Bank of Valletta plc to a strategic partner, however, in spite of an international investment bank being recruited to assist in this process, the sale never materialized. The Maltese government appears to no longer be pursuing this route and may sell its shareholding to the public through the Malta Stock Exchange.

5) Does the national labour contract for the banking sector in your country provide for the involvement of the trade unions in company reorganization processes?

How, and with what instruments, including social support, are personnel redundancies handled?

National legislation stipulates the minimum conditions of employment and regulations. However, Unions with official recognition may negotiate Collective Agreements which stipulate working conditions and benefits which are better than those stipulated at law. In Malta there are no national, regional or sectoral agreements for the financial services sector. The Malta Union of Bank Employees is the recognised trade union for banks and negotiates individual agreements on behalf of the employees with the respective organisation. These Collective Agreements are negotiated for all Managerial and Clerical grades. The Union does not have recognition for the less important non-clerical grades, employees of which are fast dwindling in numbers.

The Union has managed to include the following into bank Collective Agreements.

Redundancies and Early Retirement in the Banking Sector

Both the Bank and the Union agree that redundancies as a policy should be avoided but if any reductions of staff in the Bank will be necessary, these will be made through:

- i. Natural attrition
- ii. Voluntary early retirement schemes
- iii. Voluntary redundancies
- iv. Any such other scheme agreed between the Bank and the Union.

Before implementing any of the above scheme(s) the Bank, in agreement with the Union, shall explore all possible forms of re-

training and re-deployment.

Terminal Benefits

i. As a result of Redundancy

In cases of termination of service by the Bank for reasons of redundancy or abolition of posts or transfer of business, or by way of merger, take over or otherwise, the Bank shall pay the discharged employee a sum equivalent to one (1) month's salary for each completed year of service with the Bank and pro rata for any part thereof, up to a maximum of three (3) years salary. This is in addition to any pension or other benefits an employee might be entitled to.

The same benefit, with a minimum of three (3) years' salary, shall be due to an employee whose termination of employment is declared unjust by the competent tribunal according to law unless reinstated in his previous post.

ii. As a result of Early Retirement:

The terminal benefits applicable to employees for reasons of early retirement shall be as follows:

Employees who have reached the age of forty-five (45) and have a minimum of twenty (20) years service may apply for early retirement. The Bank may accept or refuse any such application at its sole discretion. Employees whose application is accepted/may opt for either:

(i) a monthly gratuity, calculated as one five-hundredth of terminal salary for each completed month of service adjusted annually with effect from 1 April by the minimum guaranteed salary increase.

This monthly gratuity shall not exceed two-thirds of the final salary of the individual, adjusted annually with effect from 1 April, as detailed above. The monthly gratuity will terminate on the date on which the employee qualifies for a Social Security pension, at maximum upon reaching sixty-one years of age, or within a maximum of eleven years, whichever is the earlier. In the case of employees who will be 50 years of age by 31 December 2004, the term will be at maximum eleven years gratuity, but subject to Social Security Pensionable age, whichever comes first. Employees retiring on this basis shall not be precluded from seeking employment elsewhere, but will not be re-employed by the Bank.

(ii). In lieu of the gratuity payment the employee may opt for a 'lump sum one-time payment' equivalent to 80% of the Net Present Value of the amount the employee would otherwise be paid for the whole EVR period, with a maximum amount equiva-

lent to six times (minimum 3 times) the employee's terminal annual salary, and provided such payment does not exceed the aggregate salary payable till retirement at the age of sixty-one.

Lump sum gratuity payments made under this clause and the Retirement on Medical Grounds clause are a one-off payment, they are not a commutation in any sense whatsoever.

6) Are persons normally employed with indefinite contracts or do other forms of atypical and/or insecure entry contracts exist (term, project-based, part-time, apprenticeship, internship contracts, etc.)? How does collective bargaining operate? and/or company bargaining, if it exists?

Employment within the banking sector is regulated by four types of contracts / working conditions, namely:

(a) fixed term

(b) indefinite employment

(c) part-time work

(d) indefinite employment but with reduced hours.

The majority of employees in the financial services sector are on an indefinite contract of employment following a probationary period. The other types of working contracts were introduced for more flexibility from which both employee and employer can benefit.

At a national level the main legislative measure dealing with employment and industrial relations is the Employment and Industrial Relations Act (2002).

The Employment and Industrial Relations Act (EIRA) issued in 2002 defines the contract of employment or contract of service as an agreement, whether oral or in writing, in any form, whereby a person is bound to render service to or to do work for an employer in return for wages. It also states that as far as conditions of employment are concerned the definition of contract of employment includes an agreement of apprenticeship.

Conditions of employment may be set out by national standard order, sectoral regulation order or by collective agreement. The latter is the main type of contract of employment for the banking sector.

Collective agreements cover a wide range of issues dealing with the conditions of employment, such as wages, probationary period, working hours and overtime, annual leave, special leave, sickness, etc.

The duration of collective agreements is as stipulated in the particular collective agreement concerned. Generally the standard duration is for a minimum of three years.

7) Flexibility-insecure employment has a negative effect on the psycho-physical conditions of workers but also on their professional satisfaction.

Have there been any studies and/or statistics in your country that have demonstrated a connection between the decline in satisfaction procured by job security and the deterioration of health?

Have there been any studies in this regard for the banking sector?

In case of company restructurings, are analyses performed on the "risk perceived" by workers linked to the uncertainty of job-related events? And on how that risk may affect the deterioration of their health, including any effects produced within the family environment?

Most workers in Malta are employed on indefinite contracts and the mentality that a job is for life was traditionally held and still is in the public sector. The main redundancies have taken place due to factories closing down as they were no longer competitive. Many anticipated this event.

The financial services sector has been good for employment and although certain restructuring has taken place, employment levels have increased overall.

There are no known studies of the negative effects of insecurity on the psycho-physical conditions of workers and their professional satisfaction. Certainly none in the banking sector.

Restructuring and the transition to a performance pay environment has increased stress levels among workers in the financial services sector and in certain cases led to deterioration in health. However, each case is treated on a case by case basis and no general conclusions can be drawn in the absence of a professional study.

8) In the common European sense, flexicurity is a concept that combines flexibility in the labour market with the social security of employees, aimed at safeguarding their private and professional lives and ensuring adequate measures of accompaniment to social and employment policies. The experience acquired in various European countries tells us that in practice there are various types and models of flexicurity, with different reflections on how employment policies are managed and adequate social guarantees and protections are formulated.

Has this issue ever been confronted in your country?

If so, what implementing proposals and what effects of conciliation have resulted between the changes that have characterized the labour market and the safeguards of social solidarity that the community must guarantee?

Labour laws in Malta are aimed at protecting the employee's employment and job security is safeguarded. Due to globalization and increased competition, industry has called for labour laws to become less stringent and allow more flexible employment arrangements as this will encourage more investment. While there have been changes to labour legislation to allow employment with reduced hours and various forms of part-time work, the main legislation is still intact.

The concept of "flexicurity" is only presently being studied and in the financial services sector the Malta Union of Bank Employees is actively looking into as it can assist in this process.

9) Are there any forms of intervention in your country system directed at active policies for employment, with particular reference to the role of training? Have there been any instances of permanent or lifelong training?

The national policies aimed at training are principally coordinated by the Employment and Training Corporation (ETC), which is Malta's Public Employment Service. The ETC offers a number of training schemes with the assistance of EU funds to help people find first time employment or re-train to find alternative employment in case of redundancies. Its objectives are to:

provide and maintain an employment service;

find suitable employment and assisting employers in their search for suitable employees;

provide training services to clients seeking new jobs and to clients wanting to improve their knowledge and upgrade their skills.

There are also apprenticeship schemes whereby the apprentice follows a course at an educational institution and carries out job training at a work place.

Other training is undertaken by the employee or employer upon their own initiative or as provided for in the collective agreement. However, in the latter case it is not structured in a manner that it can be called permanent training or lifelong learning.

10) Does the national labour contract for the banking sector in your country (or at the country system level) include agreements or directives between the social forces aimed at incentivizing training programs?

Do bilateral funds exist for professional training (at the

national, regional or company levels) and, if so, what role is assigned to the trade unions?

What effect do the training programs have in professional and social terms?

Are there forms of recognition or validation of acquired skills? (e.g. skill inventories, determinations of skills and potential, training credits, individual training records, other)

If they exist, which parties are responsible for this recognition and validation? (e.g. the companies themselves, outside private entities, outside public/institutional entities)

Is a role assigned to the trade unions?

Training is the responsibility of the individual organisations themselves and there is no national labour contract for the banking sector or bilateral funds earmarked specifically for such purposes. Companies may participate in training schemes/grants offered by government usually by the ETC. However, this is not common in the banking sector as the ETC programmes are mainly aimed at assisting first time workers or retraining workers made redundant. The trade unions can encourage training through the collective agreement. However, the administration, type and quality of training is still primarily in the control of the respective organisations.

***Flexicurity
through Lifelong Professional Training
to promote job security and reduce stress in
the workplace
in the financial sector throughout Europe
with a specific focus on cross-border
mergers & acquisitions***

QUESTIONNAIRE

1) Within the context of globalization, the financial sector is beset by challenges and radical changes—involving both ownership structures and management strategies and company organizational models—that have exalted the concept of “flexibility”, i.e. ductility and the ability to react to unforeseen and unforeseeable turbulence in the market.

Generally speaking, how has this affected the labour market?

It has affected the labour market in ways of demanding more and more prepared future employees, also by introducing the idea of medium term (Not as before) jobs and the need of lifelong learning. Experience and skills (know-how) are mandatory.

2) Is there a legislative system in your country that regulates flexibility/job security policies in the labour market designed to ensure the rights and safeguards available to workers?

Briefly analyse the legislative-regulatory framework regarding the labour market and the social forces with reference to:

- hiring policies;
- the system of ongoing professional training
- social security policies,
- the system of lifelong learning
- the role the family can play;

In first place, there is little specific regulations about flexibility/job security policies. Normally these aspects are treated in the Estatuto de los Trabajadores(Convention of labor obligations and rights) and in the different national collective agreements, or other agreements,or royal decrees.

In reference to hiring policies, in many sectors, and of course in the finance sector, the unions are notified by a basic copy of the contract, of the hiring of personel.

About social security policies, questions of age, handicapped persons, or gender (Women) are regarded, as a benefit to help unemployed by stating in contractation, less tax contribution for the employer in social security fees.

The role of the family, as far as i know is not regulated, in some cases is contemplated in agreements in reference to familiar aids in money or services. In Spain most persons count on the family and therefore are not very sensitive about flexicurity if it means geographical mobility.

The system of professional training, goes very well in Spain, due to the fact that many training courses of all kinds are partially paid by government agencies, with european funds. Unions, companies and academies give them. Specilally for unemployed.

The system of lifelong learning is also regulated nationwide, also in the different sector´s agreements. Due to the fact that funds are also given as a percentage contribution in workers payroll, it works well, specially in big companies, and the only problem should be the time spend if you are working in order to do this training, and the leave compensations in extra time.

3) Along with a form of job insecurity linked to non-work, new risks of marginality and social exclusion are arising for the unemployed and atypical workers. Does the State intervene?

Briefly discuss the quality of the welfare policies adopted regarding:

- the level of protection applied to flexible labour with respect to access to the social security and solidarity systems (employment, professional retraining, healthcare, pension treatment);
- the levels of income/compensation benefits (healthcare, unemployment compensation, pensions, income from work, taxation);
- the funding/financial stability of social security (healthcare system, unemployment compensation, social pension, assistance to individuals and families)

Yes, the state intervene by giving tax facilities to the companies in order to hire atypical workers and also helps in aging (Young & older) women, handicapped etc. Lifelong learning offers too.

The level of protection applied to flexible labour in respect to the solidarity system, is the same as for the non flexible, full time jobs which are the regular modality, and very little part time or flexible entry/stay is contemplated. Moreover, you need 17years of contribution for a minimun pension or 35 for a regular one. Healthcare is universal in Spain, despite you work or not. Professional retraining also is posible by free courses given by

government agencies and academies.

The level of income/compensations for flexible work is not very high. It also depends on the quotation given to the Social security. For healthcare is equal, for unemployment is less.

The stability of the social security in Spain is good due to the high number of contributors and a sustained annual growth of 4% PIB. Assistance is universal.

4) Have there been, or are there in progress, any domestic and/or cross-border mergers and acquisitions between banking groups?

What effects have they had on the status of employment/unemployment in the sector?

Yes there have been mergers and acquisitions in Spain. This has been a continuous item since the past 15 years. Just to mention the big ones, Santander merger with former Banco Central Hispano, creating SCH in 1.999. SCH acquire Abbey in 2004 the first cross-border merge, and now is involved in the Consortium bid for Abn-Amro. Banco BBVA is as well a result of a merge between former banco Vizcaya and Bilbao BBV. Then also in 1999 merge with Argentaria, the conglomerate of the privatized public Banking system. BBVA also bid for BNL in Italy but did not succeed.

The effects in the sector are always the same: redundancies. Each and every time a merge takes place is due to shareholders and board interests, despite employment. In Spain, however, the unions managed to sign protocol agreements in order to minimize this effects and facilitating early retirement or voluntary agreed dismissals.

5) Does the national labour contract for the banking sector in your country provide for the involvement of the trade unions in company reorganization processes?

How, and with what instruments, including social support, are personnel redundancies handled?

The national collective agreement does not say it specifically, but it is stated in the existing "Estatuto de los trabajadores" we are representatives by law (The two national confederations UGT,CCOO) we of course would be involved. The redundancies, up to the present time, redundancies are handled with voluntary dismissals (Vegetative) or early retirement. In both cases, social benefits are ensured to a minimum of 2 years.(Healthcare is universal) long unemployment programs and unemployed are offert.

6) Are persons normally employed with indefinite contracts or do other forms of atypical and/or insecure entry contracts exist (term, project-based, part-time, apprenticeship, internship contracts,

etc.)? How does collective bargaining operate? and/or company bargaining, if it exists?

Normally persons are employed with indefinite contracts, within the financial sector, and temporary work is limited by the national banking collective agreement. However it still exist other type of contracts (term, project-base, apprenticeship& others) but there are not significant.

Inside the companies, the filter is more due to academic awards, than to a limited time contract. The fact that there is a high rotation of new entering persons, and the company bargaining within the sector favorize indefinite contracts.

7) Flexibility-insecure employment has a negative effect on the psycho-physical conditions of workers but also on their professional satisfaction.

Have there been any studies and/or statistics in your country that have demonstrated a connection between the decline in satisfaction procured by job security and the deterioration of health?

Have there been any studies in this regard for the banking sector? In case of company restructurings, are analyses performed on the "risk perceived" by workers linked to the uncertainty of job-related events? And on how that risk may affect the deterioration of their health, including any effects produced within the family environment?

Its difficult to say, but we have no records. Its clear thought the conection between job security and wealth. In the banking sector for the moment no studies. Authors in many books consulted, talk about "psychological aging" as negative effect on the workers conditions, caused by flexibility insecure employment.

Studies of our federation: Course " More and Better use", FLEXIBILITY, SECURITY And ECONOMIC GROWTH. November 2006 7 of November of 2006 *** Cabinet of Studies of the FeS UGT (Word presentation)

In restructurings, of course there are studies. (Los efectos psicológicos en reestructuraciones) **ISBN: 84-689-4677-X 05/76910 Consejo Editorial Junta de Andalucía**

8) In the common European sense, flexicurity is a concept that combines flexibility in the labour market with the social security of employees, aimed at safeguarding their private and professional lives and ensuring adequate measures of accompaniment to social and employment policies.

The experience acquired in various European countries tells us that in practice there are various types and models of flexicurity, with

different reflections on how employment policies are managed and adequate social guarantees and protections are formulated.

Has this issue ever been confronted in your country?

If so, what implementing proposals and what effects of conciliation have resulted between the changes that have characterized the labour market and the safeguards of social solidarity that the community must guarantee?

Yes, the issue has been treated in Spain, though the situation is the opposite to the Nordic countries. There are too many temporary contractions, due to the existing high flexibility of our labour market, with 10 different kinds of contracts so what we are trying with the new legislation is of reducing the excessive temporary contraction. (Royal Decree Law- 5/2006 " Para la mejora y crecimiento del empleo) which is the culmination in law of the agreement reached in May 2006 by the tripartite commission of Government, Employers and Unions Confederations, that mainly included two types of measures:

The ones directed to reduce temporability, by means of limiting the existing different types of contracts and reinforcing the transparency, the better practices, and the Inspection body.

Other measures directed to ameliorate individual rights, such as to augment the protection for unemployment, (Fogasa) and collective rights, such as to coordinate all the union reps in holdings, subcontractions, as well to participate in the consulting body of the Labour Inspection body of the ministry of work and welfare.

9) Are there any forms of intervention in your country system directed at active policies for employment, with particular reference to the role of training? Have there been any instances of permanent or lifelong training?

In Spain there are active policies to promote employment, in various aspects. One of them is taxation benefits and social security discounts, to help persons coming from unemployment, specially by gender (Women) and age (Youngsters and over 46 years). In the role of training free courses are given by government agencies, companies, Unions, private academies, in order to facilitate reorientation of work, or new skills. Lifelong training is getting to be a fact, but more inside the companies, once you have been contracted. There are government agencies and local decentralized administrations that care for lifelong trainings, Unions schools and NGO's as well.

10) Does the national labour contract for the banking sector in your country (or at the country system level) include agreements

or directives between the social forces aimed at incentivizing training programs?

Do bilateral funds exist for professional training (at the national, regional or company levels) and, if so, what role is assigned to the trade unions?

What effect do the training programs have in professional and social terms?

Are there forms of recognition or validation of acquired skills? (e.g. skill inventories, determinations of skills and potential, training credits, individual training records, other)

If they exist, which parties are responsible for this recognition and validation? (e.g. the companies themselves, outside private entities, outside public/institutional entities)

Is a role assigned to the trade unions?

Yes in additional fourth clause of the banking sector national collective agreement, says:

its agree between the parts to adapt the present paritary training commission to the functions established in the Royal decree RD 1046/2003 by which the continuous system of formacion is regulated professionally.

The funds are distributed by the companies, but previously part of our monthly income in Spain is dedicated to training.(0,60%)

The role assigned to the trade unions is to give among others training courses, and to be in the companies paritairal commissions.

Training programs professionally always have good effects. In social terms, its and added job security.

Yes they are forms of recognition. Certificates are validated by education ministry. In the past years, and in the financial sector, the employers banking association, AEB, recognise the courses given at their accademy for promotion pourposes. In the companies, individual records and training credits are given, specially in the financial sector. The responsible part for the recognition thought is the company, and or public/institutional entities.

The role given to the unions is to participate in paritary commissions as well as to have representation in the promotions examinations. Its mandatory the signature of the main unions to approve training funds reinbursement from government.

FLEXI-SECURITE EN FRANCE REPONSE AU QUESTIONNAIRE

Le secteur financier français a vécu quelques bouleversements ces dernières années du fait de restructurations ou regroupements qui ont conduit certaines banques à mettre en place des économies d'échelles qui ont touché en priorité la gestion du personnel. Des plans internes ont conduit des établissements à mettre en place des plans sociaux, notamment dans les services administratifs, avec comme conséquence la mise en pré-retraite des travailleurs dès l'âge de 56 ans. En parallèle s'est développée l'embauche d'intérimaires le temps d'absorber un surcroît de travail.

Le secteur bancaire est malgré tout porteur d'embauche de jeunes commerciaux pour faire face à des départs naturels en retraite et ce d'autant plus que la pyramide des âges fait apparaître une forte proportion de salariés de plus de 55 ans. Pour information, 36% des salariés sont âgés de plus de 50 ans. D'après certains chiffres communiqués par l'Institut pour le Développement des Ressources Humaines ce sont près de 60000 départs imminents à la retraite, ce qui va faire du secteur bancaire le premier recruteur privé de France, lequel va devoir gérer plus de 80000 embauches nettes d'ici à 2010.

Selon l'Association Française des Banques, les entrées nettes dans la profession peuvent être estimées à environ à 150000 dans les 10 ans à venir.

Devant la complexité toujours plus grandes dans la vente de nouveaux produits, de la spécialisation dans le domaine juridique, informatique, comptable ou même scientifique, le système bancaire va avoir besoin de plus en plus de techniciens très qualifiés avec un niveau d'études de plus en plus important.

Dans un monde qui bouge sans cesse, les entreprises sont amenées à s'adapter en permanence. Ce phénomène conduit le travail à toujours évoluer, avec la disparition de certains postes et l'apparition de nouveaux métiers. Tous les secteurs d'activités sont concernés par ces modifications, la banque, aujourd'hui est bien différente de celle que nous avons connue, il y a seulement 10 ans. Dans ce nouveau contexte, chaque salarié doit savoir faire évoluer ses qualifications et ses compétences tout au long de sa vie professionnelle. C'est pourquoi la formation devient, encore plus qu'hier, un outil essentiel pour le maintien dans l'emploi et la sécurisation des parcours professionnels.

Conscients de cette nouvelle réalité, les partenaires sociaux ont

entamé des négociations pour adapter et réformer en profondeur les dispositifs de formation professionnelle qui dataient de la loi de 1971. Les négociations, qui ont duré plusieurs années, ont abouti aux Accords Nationaux Interprofessionnels des 20 septembre et 5 décembre 2003 signés par le Patronat et l'ensemble des cinq Organisations Syndicales représentatives au niveau national (CFDT, CFTC, CGC, CGT et FO).

Ceux-ci ont été entérinés par les Pouvoirs Publics au travers de la loi du 4 mai 2004. Les négociateurs ont particulièrement insisté sur 2 principes fondamentaux :

La liaison entre emploi et formation professionnelle.

La formation doit intervenir tout au long de la vie professionnelle.

C'est dans cette optique que la loi :

- dote les salariés de droits individuels, qui leur permettent d'être acteur et de suivre leur parcours professionnel;
- prescrit de négocier, à chaque niveau des objectifs et des publics prioritaires, en lien avec une politique de gestion prévisionnelle de l'emploi ;
- préconise un co-investissement défini d'une manière contractuelle entre le salarié et l'entreprise ;

Cette loi laisse un large champ à la contractualisation et ceci à tous les niveaux : accord interprofessionnel, accord de branche professionnelle, accord d'entreprise, contrat salarié entreprise.

Les syndicats ont signé avec l'AFB le 8 juillet un accord sur la formation professionnelle.

Dans notre branche professionnelle, les banques, après plus de 6 mois de négociation un accord est intervenu et a été signé le 8 juillet 2005.

Le texte, qui s'inscrit tout à fait dans la démarche des négociateurs des accords interprofessionnels, complète et remplace les accords du 5 juillet 2000 négociés pour une durée de 5 ans et du 26 novembre 2004, provisoire et arrivant à expiration au plus tard le 31 octobre 2005.

L'accord de branche AFB, après avoir rappelé qu' «une action de formation est un dispositif qui met en œuvre des moyens pédagogiques permettant d'acquérir des connaissances, des savoir-faire ou des savoir-être », définit les publics prioritaires pour notre profession avec l'objectif de permettre l'accès à un emploi bancaire ou le maintien dans l'emploi pour :

- Les jeunes de moins de 26 ans, en particulier ceux qui disposent d'une faible qualification ou qui ont des difficultés d'insertion professionnelle.

- Les seniors, de plus de quarante\cinq ans, qui doivent bénéficier d'une attention particulière afin d'être en mesure de poursuivre une carrière professionnelle intéressante.
- Les salariés dont la qualification est insuffisante au regard de l'évolution technologique et de l'organisation du travail.
- Les salariés handicapés.
- Les salariés de retour d'une longue absence.

L'accord crée un observatoire des métiers, des qualifications et de l'égalité professionnelle. Cet organisme paritaire est une structure de veille active sur l'évolution quantitative et qualitative des métiers. Il recense des informations statistiques avec mise en place d'une base de données sociales. Il peut en outre effectuer des études spécifiques sur certains métiers ou certaines populations. Actuellement deux études sont en cours :

- Une tranche d'âge au tournant de son parcours professionnel, portrait des 45-50 ans
 - Carrière type homme/femme, suivi de l'évolution sur 10/15ans.
- L'accord définit la fonction tutorale accueillir, aider, informer, et guider le bénéficiaire, veiller au respect de l'emploi du temps, assurer la liaison avec l'organisme ou le service de formation, participer à l'évaluation du suivi de la formation.

Cette fonction, qui est réalisée pendant le temps de travail, peut être confiée, soit à un tuteur, soit à une équipe tutorale comprenant un accompagnateur qui assure le suivi de proximité. Si cela s'avère nécessaire une formation adaptée peut être proposée au tuteur ou à l'accompagnateur.

L'accord consacre un chapitre complet à l'apprentissage. En signant un accord cadre national avec le ministère de l'emploi, du travail et de la cohésion sociale, l'AFB (ainsi que 18 autres branches professionnelles) affirme son intention de développer l'apprentissage.

L'apprentissage favorisera l'insertion de jeunes qui ont, soit une formation initiale inférieure au niveau requis pour occuper un emploi dans la banque, soit un bon niveau de formation générale mais pas de diplôme professionnel. Il peut être aussi un moyen de financer des études supérieures. Ainsi, plusieurs écoles de commerce offrent la possibilité de préparer leurs diplômes dans le cadre de l'apprentissage.

L'accord projette de compléter la panoplie déjà existante de formation professionnelle diplômante par la création de Certificats de Qualification Professionnelle (CQP) ; ce sont des titres (équivalent à un diplôme) qui valent reconnaissance de la capacité du sala-

rié à exercer un savoir-faire professionnel dans un domaine d'activité donné. Son attribution pourra se faire, soit par validation de ses connaissances acquises à l'aide de modules de formation, soit dans le cadre de la Validation des Acquis de l'Expérience (VAE).

Le CFPB (Centre de Formation de la Profession Bancaire) est mandaté pour réaliser ce projet.

Enfin l'accord précise le cadre de l'exercice Droit Individuel à la Formation (DIF).

Le DIF permet au salarié de partir en formation à son initiative et en concertation avec sa direction. Chaque salarié dispose d'un crédit de formation de 20 heures par an. Celui-ci peut être capitalisé jusqu'à une hauteur de 120 heures.

Pour aider le choix des salariés, il est prévu que l'entreprise peut mettre à sa disposition une liste, explicitement non exhaustive, d'actions de formation éligibles à ce titre.

Cette liste doit faire l'objet d'une communication préalable aux instances représentatives du personnel.

Ce texte représente un levier au service de l'emploi et de la modernisation économique et sociale des Banques Françaises dans le contexte Européen.

Maintenant, il nous faut le faire vivre, c'est dans cette optique que les organisations syndicales des Banques, qui ont été des forces de propositions tout au long de cette négociation, mobiliseront toutes les équipes.

Un défi est lancé à nos organisations, la formation n'est pas seulement l'affaire de quelques techniciens, c'est le pivot de la construction d'un syndicalisme moderne au service de tous les salariés, jeunes et moins jeunes.

Nous venons de voir que la formation est un des axes privilégiés dans le secteur bancaires, ceci afin de permettre au salarié de suivre un métier évolutif, lequel salarié doit aussi faire face à des conditions de travail, elles aussi, évolutives.

Dans notre secteur, tant le Code du travail qui régit toujours les relations employeurs/salariés que les conventions collectives, bien que remaniées depuis quelques années et donc moins avantageuses, ont malgré tout permis le maintien d'un cadre réglementaire qui protège tant bien que mal les salariés d'un éventuel arbitraire. Notre système législatif tend cependant à introduire de plus en plus de libéralisme dans le marché du travail. Le patronat n'a cessé de réclamer plus de souplesse dans l'embauche et le licenciement des travailleurs et le Code du Travail est qualifié de car-

can. Il faut bien constater qu'il est largement entendu dans ses souhaits par un gouvernement qui tangué entre un conservatisme sur certaines valeurs morales et un libéralisme économique censé réguler le marché de l'emploi.

Le droit au travail est garanti dans la Constitution au même titre que le droit au logement, à la santé et à l'éducation. La réalité est toute autre. La réduction du déficit budgétaire conduit le gouvernement à rogner sur les dépenses sociales et la compétitivité des entreprises, au travers entre autre des délocalisations, conduit à la précarité.

Malgré les sommes dépensées et la volonté de démontrer que le social existe toujours en France, ce que l'on constate sur le terrain, c'est le coup de boutoir contre le Code du Travail et une volonté du libéralisme d'imposer une flexibilité toujours plus importante à moindre coût social. Cette flexibilité engendre une précarité non seulement pour les exclus du travail, mais aussi pour tous ceux qui n'ont aucune sécurité de l'emploi et qui bien souvent ont une faible rémunération.

Récemment le gouvernement a tenté de faire passer par la force de nouvelles formes d'embauches, avec un succès très mitigé.

C'est tout d'abord le Contrat nouvelle embauche qui a été mis en place suite à une ordonnance du 2 Août 2005. Il vise les entreprises de moins de 20 salariés. Ce contrat est aujourd'hui contesté devant les tribunaux au motif que la période dérogatoire au droit du licenciement d'une durée de 2 ans était contraire à la Convention 158 de l'OIT.

Début 2006, c'est le Contrat Première Embauche qui instituait une période d'essai de 2 ans. Devant l'ampleur du refus des jeunes et d'une large partie de la population d'accepter cette précarité, le gouvernement a été contraint de retirer au mois d'avril 2006 ce CPE.

Plus récemment, c'est le Contrat à Durée Déterminée Senior qui a été mis en place et accepté par 3 syndicats (CFDT, la CFTC et la CGC). Il s'adresse aux salariés de plus de 57 ans. La durée de ce contrat est de 18 mois renouvelable une fois. Ce contrat rentre dans l'objectif européen de porter le taux d'activité des seniors à 50% d'ici 2010. En France, ce taux d'activité était de 37% en 2004.

En projet, le contrat unique (projet SARKOZY) qui voudrait instituer une absence de contrainte de justification du licenciement et supprimerait l'obligation de reclassement. La dernière trouvaille émane du syndicat des patrons, le MEDEF, qui souhaite introduire

dans le Code du Travail la notion de séparation à l'amiable. Dans un livre récemment publié et qui s'intitule « 7 millions de travailleurs pauvres » de Jacques COTTA, il est dit qu'alors que le pays n'a jamais été aussi riche – le PIB est en progression constante depuis les années 1990- la précarité s'est développée sur un mode exponentiel. En dix ans, l'intérim a augmenté de 130%, le nombre de Contrat à Durée Déterminée de 60%, les contrats à durée indéterminée de seulement 2% ; plus d'un million de personnes bénéficient du Revenu Minimum d'Insertion, plus de 500000 de l'allocation solidarité.

Du fait du renouvellement de la population bancaire évoqué auparavant, notre secteur est plutôt atypique puisque le recrutement se fait essentiellement sous forme de contrat à durée indéterminée qui représente 71,50% des embauches. Cette caractéristique s'explique par le niveau plus élevé des recrutements et également par la grande stabilité en particulier dans la banque de détail.

Le paysage bancaire a évolué sur l'année 2006. Désormais, il n'y a plus 7 grandes banques mais 6 à la suite du regroupement des Caisses d'Épargne et des Banques Populaires. Ce nouveau groupe, créé le 17 novembre 2006 s'appelle NATIXIS et compte 23000 salariés.

Nous comptons en France 3 banques à caractère coopératif mais avec une partie de leur capital en bourse ; CA/LCL, Crédit Mutuel/CIC et le tandem CE/BP, 2 banques à caractère capitalistique pur ; BNP/PARIBAS et SG, et une banque à caractère public, la Banque Postale créée en 2006.

C'est sans doute la fin des rapprochements entre banques françaises lesquelles axent leur développement sur l'étranger.

Le CA vient de prendre le contrôle de la 4ème banque en Grèce et d'une banque en Italie. BNP/PARIBAS s'est offert au printemps 2006 le contrôle de la Banca Nazionale Del Lavoro en Italie, ce qui lui a permis d'afficher au 3ème trimestre 2006 une augmentation de son produit net bancaire de 25%. La SG quant à elle poursuit son développement dans les pays de l'Est. Elle a récemment échoué dans un projet de prise de participation en Chine dans Guandong Development Bank, c'est finalement Citigroup qui a pris 20% du capital de cette banque.

Ces diverses acquisitions ou prise de participation à l'étranger ne pèsent pas directement sur l'emploi en France mais, outre le fait qu'elles sont destructrices d'emplois dans ces pays, elles génèrent cependant pour le personnel un fort sentiment d'inquiétude pour l'avenir. Un récent sondage L'EXPRESS/BVA en novembre 2006 a

interrogé des travailleurs sur la satisfaction au travail, l'implication au travail, les heures supplémentaires non payées, le niveau de fatigue, les arrêts de travail et le motif, les priorités professionnelles en général et la confiance dans l'avenir. Il ressort de ce sondage que le secteur des banques et des assurances est un cas à part puisqu'il obtient des résultats beaucoup plus négatifs que la moyenne. Qu'il s'agisse du sentiment de reconnaissance au travail (60% de satisfaits pour 49% dans notre secteur) du niveau de rémunération (53% de satisfaits pour 35% dans notre secteur) ou de la proportion de ceux qui affirment que leur fatigue après une journée de travail s'est accrue.

***Flexicurity
durch berufliche Fortbildung und lebenslanges Lernen
gegen Prekarität und Stress am Arbeitsplatz
in der Finanzbranche in ganz Europa
mit besonderem Augenmerk auf die transnationalen
Konzentrationsprozesse***

FRAGEBOGEN

1) Im Rahmen der Globalisierung steht die Finanzbranche vor Herausforderungen und radikalen Umwälzungen bezüglich der Eigentumsverhältnisse und der Management- und Organisationsmodelle der Unternehmen, die zur Verherrlichung des Begriffs „Flexibilität“ als Umschreibung der Fähigkeit, elastisch auf unvorhergesehene und unvorhersehbare Turbulenzen des Marktes zu reagieren, geführt haben.

Wie hat sich der Arbeitsmarkt allgemein verändert?

2) Gibt es in deinem Land eine Gesetzgebung, die die Politik zur Gewährleistung der Rechte und des Schutzes der Arbeitnehmer vor Flexibilität/Prekarität auf dem Arbeitsmarkt regelt?

Kurze Analyse des gesetzlichen/rechtlichen Rahmens für den Arbeitsmarkt und für die Rolle der Sozialpartner, mit besonderem Bezug auf:

Politik zur Erleichterung des Einstiegs in den Arbeitsmarkt

Sozialpolitik

Rolle der Familie

System der ständigen beruflichen Fortbildung

System des lebenslangen Lernens

3) Neben der auf mangelnde Arbeit zurückzuführenden Prekarität stehen Arbeitslose und atypische Arbeitnehmer auch vor neuen Gefahren wie Ausgrenzung und Marginalisierung. Welche Maßnahmen trifft der Staat?

Die Merkmale der bisher praktizierten Sozialpolitik im Hinblick auf die folgenden Aspekte kurz erläutern:

- Schutz für flexible Arbeit in Bezug auf Ansprüche auf Leistungen der Systeme für soziale Absicherung und sozialen Zusammenhalt (Arbeitslosigkeit, Umschulungen, medizinische Leistungen, Rente)

- Ausgleichseinkommen/-leistungen (medizinische Leistungen, Arbeitslosengeld, Renten Arbeitseinkommen, Besteuerung;

- die Finanzierung/finanzielle Stabilität der sozialen Sicherheit (Gesundheitswesen, Arbeitslosenunterstützung, „Sozialrenten“, Unterstützung für einzelne Personen oder Familien.

4) Gab es oder gibt es Prozesse zur nationalen bzw. internationalen Fusion/Konzentration von Bankengruppen?

Welche Auswirkungen haben sie auf die Entwicklung der Beschäftigungslage bzw. Arbeitslosigkeit in der Branche?

Ja, wenn auch nicht mit hoher Geschwindigkeit. Der deutsche Bankensektor ist dreigeteilt: private Banken, Genossenschaftsbanken und Sparkassen. Innerhalb der Subsektoren Sparkassen und Genossenschaftsbanken finden seit Jahren kontinuierlich Zusammenschlüsse statt, die zu Beschäftigungsabbau und zu einer Reduktion der Filialen in der Fläche führen, allerdings nicht so stark wie im Subsektor der privaten Banken. (Die Zahlen werden in einem Anhang beigefügt.) Im privaten Sektor kam es in jüngster Zeit zu zwei bemerkenswerten Fusionen: Die Unicredit kaufte die HVB (erster großer gerenzüberschreitender Zusammenschluss) und die Commerzbank die Eurohypo; daneben ist die Deutsche Bank auf Einkaufstour im Retailbereich (Norisbank und Berliner Bank). Was die Arbeitslosigkeit im Sektor angeht ist sie zwar gestiegen, aber immer noch unter dem Durchschnitt. So gibt es trotz des massiven Personalabbaus im Bereich qualifizierter Vertriebsmitarbeit in der jetzigen Situation der sich entwickelnden Konjunktur durchaus Rekrutierungsprobleme. Das hängt damit zusammen, dass ein großer Teil des Personalabbaus über Vorruhestandsmodelle realisiert wurde, d.h. das heißt dass diese Arbeitnehmer vom Arbeitsmarkt verschwunden sind.

5) Schreibt der Tarifvertrag für das Bankgewerbe in deinem Land die Beteiligung der Gewerkschaft an den Umstrukturierungsprozessen im Unternehmen vor?

Wie und mit welchen Instrumenten, auch zur sozialen Unterstützung, werden Massenentlassungen gehandhabt?

Frage 1: Nein. Es gibt in diesem Zusammenhang keine tariflichen Regelungen. In der Regel werden der Personalabbau von Interessenausgleichen und Sozialplänen begleitet, die zwischen den Betriebsräten und den Unternehmen abgeschlossen werden. Die Gewerkschaft kann in Kooperation mit den Betriebsräten natürlich Protestaktionen organisieren, um den öffentlichen Druck auf die Unternehmen zu erhöhen.

Frage 2: Der Personalabbau wurde nicht über Entlassungen realisiert. Es gab in der Regel keine betriebsbedingte Kündigungen. Die Interessenausgleiche und Sozialpläne arbeiten hier mit den Instrumenten von Vorruhestandsmodellen etc (ab 52 Jahre), Weiterqualifikationen und Umschulungen, Versetzungen im

Konzern, Tranfergesellschaften und Zeitarbeitsfirmen, Outplacementberatung und vieles mehr. Nur wenn alle diese Mittel nicht greifen kommt es zur Beendigung des Arbeitsverhältnisses mit eine Abfindung.

Der Tarifvertrag erlaubt im Zusammenhang mit Personalabbau die kollektive Arbeitszeitreduzierung von Beschäftigtengruppen – in der Praxis wurde davon bisher jedoch kaum Gebrauch gemacht.

6) Erfolgt die Einstellung normalerweise mit zeitlich unbegrenzten Arbeitsverträgen oder gibt es andere atypische bzw. prekäre Vertragsformen für den Einstieg in den Arbeitsmarkt (Zeitarbeit, Projektarbeit, Teilzeit, Ausbildung, Praktika usw.)? Was ist im Tarifvertrag und, soweit vorhanden, in der Betriebsvereinbarung enthalten?

In der Regel erfolgen Einstellungen im Bankensektor noch unbefristet. Allerdings ist eine gewisse Tendenz festzustellen entweder befristete Verträge abzuschließen oder sich der Zeitarbeit zu bedienen (ein Sektor, der in den letzten Jahren kontinuierlich wächst). Massiv ist diese Entwicklung in Bereichen, die Outgesourct werden. Oft sind davon Back-office-Bereiche betroffen. So hat die Deutsche Bank z.B. vor einem Jahr die Kreditbearbeitung und die Beitreibung in eine Konzerntochter ausgegliedert. Dort liegen die Arbeits- und Beschäftigungsbedingungen deutlich unterhalb des Niveaus des Tarifvertrags und neue Beschäftigung wird nur über Zeitarbeit verwirklicht und falls dann aus der Zeitarbeit heraus eingestellt wird, erhalten die Arbeitnehmer nur einen 1-Jahresvertrag.

7) Die Flexibilität/Prekarität hat negative Auswirkungen auf den psychischen und physischen Zustand der Arbeitnehmer, aber auch auf ihre Zufriedenheit mit der Arbeit.

Gibt es in deinem Land Studien bzw. Berichte, die einen Zusammenhang zwischen der geringeren Zufriedenheit im Hinblick auf die Arbeitsplatzsicherheit und der Verschlechterung des Gesundheitszustandes aufzeigen?

Gibt es einschlägige Studien für das Bankwesen?

Gibt es im Fall von Umstrukturierungsprozessen im Unternehmen Analysen des „wahrgenommenen Risikos“ der Arbeitnehmer bezüglich der beruflichen Unsicherheit? Und welche Auswirkungen hat dieses Risiko auf die Verschlechterung des Gesundheitszustandes, auch im Hinblick auf den familiären Bereich?

Studien, die diesem Zusammenhang speziell untersuchen sind mir nicht bekannt (ich vermute allerdings, dass es sie gibt), auch nicht

für den Bankensektor. Was es jedoch gibt, sind Untersuchungen der Krankenkassen und der Sozialversicherungsträger über die Entwicklung der Arten der Krankheiten und der Ursachen für Erwerbsunfähigkeit. Und hier lässt sich ein eindeutiger Trend feststellen, dass die psychischen Krankheiten auf dem Vormarsch sind. So explodierte die Zahl der Erwerbsunfähigkeit wegen Depressionen in den letzten Jahren. Die Krankenkassen stellen hier einen generellen Trend fest, dass die Zahl der Krankheiten, die aus psychischen Belastungen herrühren kontinuierlich zunehmen. Allerdings wird die Angst vor dem Arbeitsplatzverlust nur als ein Faktor dafür gesehen, vielmehr wird die generelle zunehmende Verdichtung und Leistungsanforderung der Arbeit als Ursache gesehen.

Deshalb hat ver.di in der letzten Tarifrunde einen Tarifvertragsentwurf zum Thema Gesundheitsschutz im Betrieb in die Verhandlungen eingebracht.

Spezielle Studien in Bezug auf Umstrukturierungen sind mir nicht bekannt.

8) Laut dem gemeinsamen europäischen Verständnis ist Flexicurity ein Begriff, der die Flexibilität des Arbeitsmarktes mit der sozialen Sicherheit der Beschäftigten verbindet, ihr Privat- und Berufsleben schützt und angemessene begleitende Maßnahmen der Sozial- und Beschäftigungspolitik sichert.

Die in verschiedenen europäischen Ländern gesammelte Erfahrung zeigt, dass es verschiedene Arten und Modelle der Flexicurity gibt, die sich unterschiedlich auf die Gestaltung der Beschäftigungspolitik und auf die Wahl angemessener sozialer Absicherungs- und Schutzmaßnahmen niederschlagen.

Ist dieses Thema in deinem Land bereits Gegenstand der Auseinandersetzung?

Falls ja, welche Vorschläge wurden zur Umsetzung gemacht und welche Ausgleichseffekte entstehen zwischen den Veränderungen in der Arbeitswelt und den Schutzmaßnahmen für die soziale Kohäsion, die die Kollektivität sicherstellen muss?

Konzepte zur Flexicurity sind nicht Gegenstand einer breiten öffentlichen Debatte, allenfalls einer Spezialöffentlichkeit. Eher schon die Debatte um mehr Flexibilität im allgemeinen und der Arbeitnehmer im besonderen. Insofern ist es eine sehr einseitig betriebene Debatte, in der es nur darum geht wie flexibel Arbeitnehmer sein müssen, damit sie ihre Arbeitsplätze behalten können. Es wird also viel über Anforderungen an die Arbeitnehmerschaft diskutiert, ohne den Aspekt der Sicherheit

auch in ähnlicher Weise zu thematisieren. Ja es geschieht sogar das Gegenteil: Über die Sozialgesetzgebung wird die materielle Ausstattung der Arbeitnehmer, die ihre Arbeit verlieren verschlechtert (Hartz IV) und der Druck auf die arbeitslos gewordenen Arbeitnehmer jede Arbeit anzunehmen erhöht.

9) Sind auf nationaler Ebene Maßnahmen für die aktive Beschäftigungspolitik, insbesondere im Hinblick auf die Rolle der Aus- und Fortbildung, vorgesehen? Gibt es Erfahrungen mit ständiger Fortbildung und lebenslangem Lernen?

Nachdem in den vergangenen Jahren der Umfang der staatlich unterstützten Weiter- und Fortbildungsmaßnahmen eher reduziert wurde, beginnt zur Zeit ein Umorientierung. Die Große Koalition will hier neue Initiativen beginnen.

Das, was als lebenslanges Lernen bezeichnet wird findet primär in den Unternehmen statt, allerdings ist das stark auf das Interesse des Unternehmens abgestellt. Tarifverträge zu diesem Sachverhalt lehnen die Arbeitgeber bis heute ab. In Betriebsvereinbarungen gibt es Regelungen zur Erhaltung der Beschäftigungsfähigkeit.

10) Gibt es im Bankentarifvertrag deines Landes (oder auf nationaler Ebene)

Vereinbarungen oder Richtlinien zwischen den Sozialpartnern zur Förderung von Fortbildungsmaßnahmen?

Gibt es bilaterale Fonds für Berufsbildung (auf nationaler Ebene, Gebiets- oder Unternehmensebene)? Wenn ja, welche Rolle spielt die Gewerkschaft?

Welche Auswirkungen haben die Fortbildungsmaßnahmen im beruflichen und sozialen Bereich?

Gibt es Formen der Anerkennung und offiziellen Bestätigung der erworbenen Kompetenzen (z.B. Kompetenzenbilanz, Prüfung der Kompetenzen und des Potentials, Leistungspunkte für Fortbildung, Bürgerfortbildungsbuch, Sonstige)?

Welche Einrichtungen sind (soweit vorhanden) für die Anerkennung und Bestätigung zuständig (z.B. das Unternehmen, private externe Einrichtungen, öffentliche/institutionelle externe Einrichtungen)?

Spielt die Gewerkschaft dabei eine Rolle?

Es gibt zu den Fragen der beruflichen Weiterbildung keine tarifvertragliche Regelung im Bankensektor. Die Arbeitgeberseite lehnt dies kategorisch ab. Begründung: das ist allein eine Angelegenheit der Unternehmen. Insoweit gibt es natürlich auch keine Fonds. Das gleiche gilt für die offizielle Anerkennung der innerbetrieblich erworbenen Qualifikationen.

Gleichzeitig betreiben die Banken allerdings intern in sehr großem Umfang betriebliche Fortbildung. Tätigkeitsprofile und Kompetenzprofile werden präzise abgeglichen und dann erforderliche Fortbildungsmaßnahmen eingeleitet. Dabei ist der Betriebsrat regelmäßig im Rahmen der Mitbestimmung eingebunden. Der Betriebsrat muss jeder betrieblichen Bildungsmaßnahme zustimmen.

Die Banken unterstützen darüber hinaus Beschäftigte, wenn sie sich an externen Bildungseinrichtungen (Fachhochschule und Hochschule) weiterbilden, mit speziellen Programmen (Freistellung von der Arbeit, Finanzierungshilfen).

Die Gewerkschaften spielen z.Z. nur bei der Gestaltung der beruflichen Erstausbildung (Ausbildungsstruktur, Ausbildungsinhalte) zum Bankkaufmann eine Rolle.

Amicus UK response to Flexicurity Questionnaire

Q1

There has been a polarisation of jobs in the UK. So called 'good' jobs (high skill, high wage jobs) and 'bad' jobs (lower skill, lower wage jobs). This is likely to increase further with globalisation and international competition. There is also evidence that shows that 'good' work is rewarding and fulfilling and increases productivity and attracts and retains talent.

In the past most workers were employed on permanent contracts. Now there are many different working arrangements; fixed term, short term, temporary and casual contracts. Also increasing use of agency workers and self employed staff.

Evidence of increasing flexibility and liberalisation at the expense of employment standards.

Deregulation of markets

No level playing field which has placed UK workers at global disadvantage in terms of employment security (easier to make UK workers redundant than EU colleagues)

Q2

Entitlement to employment rights in the UK is determined by 2 factors

an individual's employment status;

their length of service (qualifying period) with the employer.

Hiring policies – increased casualisation

Role of family – improved rights for dependents, rights to request flexible working for some groups

On going professional training – No legislative framework in place

LLL – No legislative framework in place

Q3

Limited state intervention

Q4

Increasing levels of cross border mergers, i.e. Abbey/Banco Santander, anecdotal evidence shows low morale, stress and increased threat of job insecurity.

Offshoring has had significant impact on UK finance sector jobs. Tens of thousands of jobs lost in past 5 years to India in particular.

Negotiated Global Agreements to limit impact of offshoring i.e. Prudential, Royal and Sun Alliance also NAG (although not for offshoring but for closer cross border working relationship).

Q5

No national labour contract exists in UK

Q6

Increasing use of flexible contracts within sector evident. In part due to changes in opening times and technological changes allowing 24/7 banking.

Q7

Workplace Employment Relations Survey (WERS) 2004 shows workers are increasingly under pressure in their workplace and are dissatisfied with their working hours. They are also unable to find worklife balance. This is in part due to the long hours culture in the UK and the UK opt out of the Working Time Directive.

Further, OECD (Employment Outlook 2001) survey shows that 41% of workers in UK were unsure about the future of their job even if they performed well.

Q8

Little state aid therefore UK workers at disadvantage when compared with EU competitors. No such safeguards exist in UK.

Q9

Limited intervention in UK for job specific training. Government adopt laissez faire attitude, very much employer led initiatives. However legislation exists for training for the role of Health and Safety Representative.

Skills and training do not form part of the collective bargaining agreement in the UK. Despite this, legislation has been introduced which created Union Learner Representatives (ULR's) the ULR system has led to thousands of workers receiving training in the workplace.

Recent review of skills agenda has highlighted link between productivity gap and skills. This has pushed skills up the political agenda in the UK. Amicus has called for the introduction of a training levy, paid time off for workers involved in training and for training to become a collective bargaining issue.

Q10

There is no national labour contract within the finance sector in the UK.

***Flexicurity
through Lifelong Professional Training
to promote job security and reduce stress in
the workplace
in the financial sector throughout Europe
with a specific focus on cross-border
mergers & acquisitions***

QUESTIONNAIRE

1) Within the context of globalization, the financial sector is beset by challenges and radical changes—involving both ownership structures and management strategies and company organizational models—that have exalted the concept of “flexibility”, i.e. ductility and the ability to react to unforeseen and unforeseeable turbulence in the market.

Generally speaking, how has this affected the labour market?

Denmark provides an interesting combination of high labour market dynamism and relatively high social protection—the so-called flexicurity approach. Underlying the success of the Danish model is the combination of flexibility (a high degree of job mobility – 800,000 change jobs every year – 260,000 new jobs are created every year; 260,000 jobs are destroyed every year), social security (a relatively generous publicly financed system of unemployment benefits – 180,000 people are on unemployment – max 4 years – max compensation rate is 90%) and active labour market programmes. The Danish model of flexicurity thus points to a third way between the flexibility often attributed to deregulated Anglo-Saxon countries and strict job protection characterising southern European countries. (OECD Economic Outlook, 2004)

Employment has increased and unemployment has dropped since 2004. Unemployment has fallen by 60,000 persons, hence lowering the unemployment rate by almost 2 percentage points. Currently (autumn 2006), the unemployment rate is just above 4 per cent, which is well below the estimated structural level of unemployment. The continued low level of unemployment is sooner or later expected to result in rising wage increases around 4? per cent in 2007-09. (Vismandsrapporten, efterår 2006)

Over the past decades, a skill-biased labour demand shift has occurred in Denmark as well as in many other advanced economies. Calculations show that offshored jobs amounts to 4,000 jobs yearly in the industrial sector. To this number, a pre-

sumably small number of lost jobs in other sectors should be added. The number of job losses due to outsourcing should be compared to a total, economy-wide destruction of 260,000 jobs each year. Therefore, offshoring explains only a small part of the ongoing labour market dynamics. New technology is probably much more significant in that respect. (Vismandsrapporten, efterår 2004)

2) Is there a legislative system in your country that regulates flexibility/job security policies in the labour market designed to ensure the rights and safeguards available to workers?

The social security system, i.e. unemployment insurance, is co-financed by the state and publicly regulated.

However, the other flexibility and security elements are determined and regulated by collective agreements.

The security elements included in collective agreements are clauses on: Education, pension, maternity leave, maternity fund, sick children, and increased protection in case of sickness.

The flexibility elements included in collective agreements are clauses on: Flexible regulation for hiring and firing, working hours, overtime, individualised agreements, decentralised wage negotiations.

Briefly analyse the legislative-regulatory framework regarding the labour market and the social forces with reference to:

hiring policies; (are regulated by collective agreements)

social security policies; (See also question 3)

Employment security

Since the end of the 1980s, it has been a declared objective for the social partners to ensure the competitiveness of enterprises as well as to maintain employment opportunities for the employees. Since then, the priority for the trade unions in connection with bargaining has been more jobs rather than higher wages (or as the slogan says 'job celebration rather than wage celebration'). However, in the ongoing negotiations in the private sector the trade unions demand a considerable wage increase as a result of the shortage of labour.

Other forms of security have entered the collective agreements as a consequence of the broader content of those agreements. The introduction of labour market pensions is a key example. The labour market pension scheme secures an income after the active working life. The so-called 'social chapters' and other initiatives aimed at integrating people with disabilities into employment are other examples of the widening scope.

Active labour market policy and unemployment insurance

Flexicurity in the Danish labour market is not solely the result of collective agreements. Public co-financing of the unemployment insurance system and an active labour market policy are two essential elements of the Danish flexicurity model.

the role the family can play; (is not regulated by collective agreements nor legislation)

the system of ongoing professional training (See also question 9 and 10)

the system of lifelong learning. (See also question 9 and 10)

Continued and advanced training

Clauses concerning continued and advanced training were first incorporated into collective agreements during the first part of the 1990s. This can be seen as a development that increases functional flexibility, i.e. the possibility that workers are capable of performing several different functions in the same enterprise. If the employees are offered a broad range of measures to upgrade their skills, this will contribute to increasing their overall mobility in the labour market. The fact that the issue of education and training has become central in the collective agreements can be interpreted as an expression of the broader content of the agreements.

3) Along with a form of job insecurity linked to non-work, new risks of marginality and social exclusion are arising for the unemployed and atypical workers. Does the State intervene?

Briefly discuss the quality of the welfare policies adopted regarding:

- the level of protection applied to flexible labour with respect to access to the social security and solidarity systems (employment, professional retraining, healthcare, pension treatment);
- the levels of income/compensation benefits (healthcare, unemployment compensation, pensions, income from work, taxation);
- the funding/financial stability of social security (healthcare system, unemployment compensation, social pension, assistance to individuals and families)

The State is obliged through an active labour market policy to help unemployed, marginalised and passive receivers of social assistance and "start help" to find a job quickly so that they will be able to support themselves and their families. In the security system the conditions (compensation and possibilities for offers (upgrading or a job) are very different from group to group, but everybody is offered compensation, upgrading and job offers. No matter the employment status all citizens are covered by the same health

care offers. An unemployed person without a job at the time of retirement will also receive "folkepension" i.e. the public pension allowances like any other employed person.

The receivers of unemployment insurance are compensated at a higher level than the receivers of social assistance and start help – this as a consequence of the fact that the receivers of unemployment insurance are insured through an unemployment insurance fund while the person was still working or undergoing education. The unemployment insurance is dependent on your status as full time insured or whether you have been self-employed. However, for an ordinary full time unemployed the compensation rate is 90 % of your previous salary though the daily maximum rate is 683 dkr for 5 days per week for 4 years. The size of your wealth has no impact on the size of the unemployment insurance.

For receivers of social assistance the amount is calculated individually, among other factors, it is dependent on the income and wealth of a person and his/her spouse, the age of a person, the number of children, etc. For a person over 25 years the compensation is between DKR 7,700 to 10,245 dependent on whether the person is in charge of children. In order to receive social assistance the person must have stayed in Denmark for 7 years within the last 8 years, if not, the person can apply for start help. The level of start help is considerably lower than that of social assistance. Concerning the financial stability of the social security system a broad agreement between the governing coalition and some of the opposition parties on the future of Danish welfare was concluded after three years of debate and weeks of intense negotiations in June 2006.

The welfare reform includes some of following main points:

Employment insurance

Unemployed over 30 years shall be activated after 9 months of unemployment in stead of after 12 months of unemployment.

Unemployed who have not found a job within 3 months will be offered job activation.

Full time activation after 2? years of unemployment

Unemployed shall be available for an appointment at the insurance funds every three months.

Special focus on part-time workers and others who receive supplementary unemployment insurance.

Early retirement

A number of changes have been introduced with regard to when a person can leave the labour market on early retirement. The con-

tent of the early retirement scheme has not changed, which means that persons on the labour market are still entitled to 5 years of early retirement if they contribute financially to the scheme.

The age of early retirement will increase gradually from 60 years in 2019 to 62 years in 2022. At the same time the age of retirement will increase from 65 years to 67 years.

The time period a person must contribute to the early retirement scheme increases gradually to 30 years.

4) Have there been, or are there in progress, any domestic and/or cross-border mergers and acquisitions between banking groups?

What effects have they had on the status of employment/unemployment in the sector?

During the 1990s, the trend in the Danish financial sector was for increased concentration, in which the formation in 1989/90 of Unibank (subsequently part of Nordea) and Danske Bank created two major banking-dominated conglomerates (financial supermarkets).

The trend for mergers and acquisition continues apace, most recently with Nykredit's acquisition of Totalkredit. This means larger enterprises with large market shares within their own financial segment, but also more enterprises with broader coverage of the sector's areas of expertise.

During the 1990s the Danish banking sector underwent increased concentration, as a result of which there are now fewer banks, branches and employees than there were a decade ago. There are few large nationwide and many small local banks, which at local level ensures intense competition for clientele. Many foreign banks are represented in Denmark, and their market share is estimated to be in the region of 10 per cent.

During the last 10 years the number of employees in the finance sector has slowly declined. However, this trend has been reversed in 2005 where the number of employees in banks and savings banks reached 42,274, which amounts to 39,714 full time equivalents. This number is almost the same as in 2002.

The merger process has not changed the status of employment/unemployment. The unemployment rate in the finance sector has fallen from around 7 % in 1993 to 2,2 % in 2006.

5) Does the national labour contract for the banking sector in your country provide for the involvement of the trade unions in company reorganization processes?

Yes, the collective agreement in the banking sector includes an

agreement on local co-operation agreements

This provides for the establishment of a workplace-level co-operation committee composed of workforce and management representatives, charged with the following tasks, among others: 1) adapting the principles underlying local working conditions and employee well-being and principles for the enterprise's personnel policy; 2) developing principles for the training and re-training of employees who are to use new technologies; 3) exchanging views and receiving suggestions on guidelines for the adaptation of production and work processes and the implementation of major changes in the enterprise; 4) assessing the technical, economic, staff-related, training and health and safety aspects likely to result from the introduction of new technologies or the modification of existing ones; In addition, the co-operation committee receives information from the management on the enterprise's financial affairs and prospects for the future, employment situation and any major changes and forms of reorganization.

How, and with what instruments, including social support, are personnel redundancies handled?

According to Danish legislation dating from 1994 – amended in 1997 in accordance with Council Directive 98/59/EC – the employer must notify employees, employee representatives and authorities in writing of the reasons for the layoffs, the number of dismissals and the date from which they are expected to take effect. Negotiations follow between the management and the employees with a view initially to preventing large-scale dismissals and then to minimising the consequences of the dismissals that are finally decided. This may take the form of severance agreements or offers of new jobs and/or continued training and upgrading of skills and qualifications. Only in very rare cases, however, are the dismissals called off.

6) Are persons normally employed with indefinite contracts or do other forms of atypical and/or insecure entry contracts exist (term, project-based, part-time, apprenticeship, internship contracts, etc.)?

Both the number of temporary agency-workers as well as the number of temporary work agencies have increased significantly in Denmark from 1998 to 2006. In the first quarter of 2006 the number of full time temporary agency-workers was around 16,000, which is 10,000 more than in 1998. The sector's turnover has increased with 400 % from 1996 to 2003 and totalled 3,4 billion DKR in 2003. A survey made by Adecco (2005) shows that 62 %

of the Danish companies use temporary agency-workers to a larger or lesser extent. However, it is still a rather small but significant share of the Danish labour market that is made up of temporary agency-workers. The figure varies between 1,1 % to 0,7 % of the total employment.

Several factors explain this development. Temporary agency work was liberalized in the early 1990s, which opened new possibilities for private agencies. But apparently there is a rising demand for temporary workers too. Employers seem to hire temporary workers for the following reasons: flexibility is strengthened; they avoid administrating employment contracts; temporary workers are needed in connection with organizational changes; it is a way of recruitment; it is a way to handle pressure from competition, and the trade union movement points out, that temporary employment can be a way to circumvent the collective agreement.

The trade union movement has traditionally been unwilling to agree on special regulation for temporary workers – the policy has been that everyone should hold permanent employment. This policy lasts, but since the middle of the 1990s, several collective agreements on temporary employment have been concluded. Hence the temporary employment field is today extensively regulated by collective agreements. However, this is a quite complex range of regulation, due to diverse regulation in different bargaining areas. (FAOS, 2006 "I krydsfeltet mellem fleksibilitet og sikkerhed")

With regard to the banking sector the number of part-time workers has increased from 5,354 employees in 1995 to 7,614 in 2005. The part-time frequency is much larger for women than for men in the banking sector. For men the frequency has increased from 1,8 % in 1995 to 4,3 % in 2005 whereas the figure for women in the sector has increased from 22,8 % to 29,8 % in the same period. The number of temporary workers in the banking sector is unknown, but is assumed to be rather limited.

How does collective bargaining operate? and/or company bargaining, if it exists?

The collective bargaining operates at both sector and company level. In the banking sector for the company negotiations operate within the framework of the sector agreement.

7) Flexibility-insecure employment has a negative effect on the psycho-physical conditions of workers but also on their professional satisfaction.

Have there been any studies and/or statistics in your country that

have demonstrated a connection between the decline in satisfaction procured by job security and the deterioration of health?

We are only aware of a study in the media sector. CASA has published a survey on film and tv-workers' working and living conditions as well as the psychological work environment. This group is characterised as atypical workers. The survey shows that this group scores relatively high on work-related stress – partly due to the conditions in the media sector, but also due to the working conditions. For instance, 38% of the film and tv-workers are stressed whereas in the finance sector the figure is 29 %.

Have there been any studies in this regard for the banking sector? No, not as far as we are informed.

In case of company restructurings, are analyses performed on the "risk perceived" by workers linked to the uncertainty of job-related events? And on how that risk may affect the deterioration of their health, including any effects produced within the family environment?

8) In the common European sense, flexicurity is a concept that combines flexibility in the labour market with the social security of employees, aimed at safeguarding their private and professional lives and ensuring adequate measures of accompaniment to social and employment policies.

The experience acquired in various European countries tells us that in practice there are various types and models of flexicurity, with different reflections on how employment policies are managed and adequate social guarantees and protections are formulated.

Has this issue ever been confronted in your country?

If so, what implementing proposals and what effects of conciliation have resulted between the changes that have characterized the labour market and the safeguards of social solidarity that the community must guarantee?

See questions 1-3

9) Are there any forms of intervention in your country system directed at active policies for employment, with particular reference to the role of training? Have there been any instances of permanent or lifelong training?

Danish legislation and the Danish educational system support the participation in further education and training that can be undertaken in parallel with a job. In collective agreement in the banking sector it has been agreed that employees in the financial sector have the right to paid education on all levels up to a diploma.

10) Does the national labour contract for the banking sector in your country (or at the country system level) include agreements or directives between the social forces aimed at incentivizing training programs?

Do bilateral funds exist for professional training (at the national, regional or company levels) and, if so, what role is assigned to the trade unions?

What effect do the training programs have in professional and social terms?

Are there forms of recognition or validation of acquired skills? (e.g. skill inventories, determinations of skills and potential, training credits, individual training records, other)

If they exist, which parties are responsible for this recognition and validation? (e.g. the companies themselves, outside private entities, outside public/institutional entities)

Is a role assigned to the trade unions?

Yes, there is an extensive cooperation and binding agreements with regard to the employees' rights to complete an education. Partly because the employer is obliged to pay educational fees for participation in courses that are supplied by the formal educational system. And partly because there is an agreement on educational funds that finance educational activities in the sector.

The educational programs are developed and are evaluated in cooperation between the educational institutions and the social partners in the finance sector. This concerns a linked system of educations that are completed at training schools and universities. The trade union (FSU-DK) participates in this cooperation on equal terms with the employers' organisations. Together the social partners have also established a joint educational committee in order to coordinate educational policy initiatives for the common benefit of the financial sector.

THE EWCs

Mario Ongaro

We already held a special session on the European Works Councils during an International Seminar more than 2 years ago. On that occasion, we tried to assess the situation 10 years after the promulgation of the Directive which provided for the establishment of this transnational representative body of workers.

Now, given that we have been able to involve in a big international project 35 trade unions from 22 European countries – obviously including also the Italian ones – we have to re-evaluate the situation in the light of the new processes which have emerged in the past 2 and a half years.

The Seminar we held 2 and half years ago focused, among other things, on the issue of the differences in wages existing in our sector. At the conclusion of the Seminar, we sent a strong political message in favor of the establishment of EWCs, in particular in the Italian bank sector, which, at that time, was the only one in Europe not to have set up any EWC.

In fact, what we had predicted during the Seminar has for the most part actually occurred in the past two and a half years: the internationalization of banks has become more and more “active” in Italy too (in parallel, “passive” processes have also increased, as in the cases of the takeovers of Antonveneta by Abn Amro and of BNL by BNP-Paribas). During these processes, the Italian and European trade unions have quickly and firmly acted to represent and to defend the rights of workers.

One of the main results of our work was the successful negotiation for the establishment of an EWC within Unicredit. The resulting agreement not only guarantees the right to information and to consultation of employees, but it also extends – in a limited yet significant way – the concept itself of information and consultation, through the procedure of the joint statements agreed upon by partners in some specific areas (whose scope may be extended during the period of validity of the agreement).

The EWCs appeared for the first time in the history of our sector in the Platform for the renewal of the National Collective Bargaining Agreement of the Italian bank employees. The Platform correctly does not go into the merits of the EWCs, but it underlines their role in guaranteeing a series of fundamental rights of workers and the provisions of the Protocol of 16 June 2004 for the socially compatible development of the European bank system.

The acceleration in the process of internationalization of the bank

sector did not catch us off-guard, thanks to the hard work of the national trade unions, and, more precisely, thanks to the work of the pioneers – as Guglielmo Epifani called them – who started to deal with the international issues and to focus on the EWCs in the late Nineties. This pioneering work was supported by FIET and then by UNI, but also by the European Commission chaired by Jacques Delors, who, in his social view of Europe, recognized the active role of trade unions in the construction of new forms of representation of workers in transnational undertakings.

However, as I said before, there has been an acceleration in the creation of transnational groups which makes it more difficult to foresee the possible outcomes. Let's take for instance the case of Abn Amro: last week we heard of the possible merger of the Dutch bank with the British group Barclays (which would de facto become the controlling party), which would lead to the creation of a new European super-group with 180,000 employees. But this operation may also lead to the unbundling or break-up of Abn Amro, thus involving Capitalia and, as a consequence, Mediobanca and Generali. However, in a context in which the Dutch hedge funds have recently harshly criticized Groenik's policy towards Italy accusing him of having overpaid AntonVeneta without making enough profits, other giants such as RBS, BBVA, or BNP-Paribas might try to gain control of Abn Amro or of some of its assets. And – why not? – Unicredit too might join the others and compete for Abn Amro, or for the equally coveted Société Générale.

Of course these are just hypotheses, some of which are even fanciful, while others appear more likely to occur in the light of recent important interviews. So, of all these hypotheses, some will actually come true, and probably even very rapidly. Therefore, the trade unions and the EWCs which are involved in spite of themselves in this battle must be prepared not to be caught off-guard. The process of transnational acquisitions is advancing rapidly, with more and more parties involved and with stronger driving forces. However, in order not to be caught off-guard and to be ready to effectively negotiate and re-negotiate the conditions and rights of workers in transnational groups of undertakings in our sector, I believe that the organizational instruments we have at the moment are not enough. They are important and very useful, but they are not enough. Unfortunately, we do not have the time to formulate detailed proposals here, but I would like to make a few observations and suggestions anyway. For instance, the multinationals task force and the network of multinationals' coordinators

of UNI Finance, which have a huge, yet unexpressed, potential, should systematically coordinate initiatives with the national trade unions and with the representatives of the workers involved in mergers. This is already written down in documents, but it has not yet been regularly and directly implemented.

UNI Finance can and must coordinate activities and policies. Of course, it must not do so from the top, but by involving its representatives within companies and national trade unions (i.e. the task force and the network of coordinators) and all the people who have committed to guarantee the representation of workers in transnational groups. It is necessary to create this kind of coordination and involvement in order to do the things which must be done and to do them quickly. For instance, I believe that the initiative to set up a new EWC, or to re-negotiate the existing one after the merger with another EWC, should be taken by the employees' representatives, rather than by the central management. In particular, I am referring here to art. 5 par. 1 and to art. 6 par. 2f of the Council Directive 94/45.

With respect to this issue, I don't want to criticize anybody – not even covertly. We are all well aware that normally the initiative is taken by the company management because they are the ones who have the basic information on their processes of transnational acquisitions and mergers.

I say so not only because in the very delicate initial phase, i.e. the one of the setting up of the special negotiating body, it is necessary that the employees' representatives carefully supervise the process, but also – and more importantly – because the acceleration in the processes of mergers and acquisitions requires us to constantly monitor the situation and to take political actions more rapidly than in the recent past.

So here we are, once again, to the real political issue, i.e. the ROLE OF TRADE UNIONS. I think that many will agree with me that this issue still represents the main obstacle which prevents UNICE from initiating a REVIEW of the Directive 94/45.

And if, for instance, the personnel manager of a transnational Italian group stated last May during a union seminar that the establishment of the EWCs is opposed by the companies (except for his own, of course; but it must be recognized that he has been consistent in this respect), but also by the trade unions, I believe that he must have had some good reasons to make such a provocative statement.

In what sense? In the sense that, since the adoption of the

Directive, there has never been a systematic and political relationship between the national trade unions and the EWCs and, in some cases, even with the employees' representatives in the parent company, i.e. the ones who have a constant, direct and institutional relationship with the central management. I'd like to underline once again that the EWCs must enable the employees in the other countries to talk directly to the central management, given that the ones in the country of origin of the parent company already have a direct relationship with the central management, thus they do not need the EWCs to duplicate it.

This is something that we must take into account when setting up an EWC. All the other countries, even the smallest ones, should have a number of representatives in the EWC higher in proportion than their number of employees, whereas the employees in the country of the controlling undertaking should give up part of their quota in the EWC. In this respect, I think that in Unicredit we have set an example by agreeing to have only 6 Italian representatives out of 44 EWC members, despite the fact that 26% of the Group employees are based in Italy!

But why isn't it completely false to state that the trade unions don't want to establish the EWCs and that they haven't paid much attention to the existing ones?

We need to interpret the situation starting once again from the Directive, which doesn't even mention the trade unions, as it only speaks of employees' representatives. Thus, the national and European trade unions are faced with a dilemma:

- either take a strong, common, political initiative which would make the trade unions play an active role for and within the EWCs;
- or try to limit and weaken the roles and responsibilities of the EWCs, which are seen (sometimes with good grounds) as an instrument of unilateral corporate governance, if not even of mere corporate propaganda about organizational models and products.

I think that, in the history of the EWCs in the past 12 years, both the approaches have been followed: on the one hand, the active commitment of the trade unions to overcome opposition by the central managements, which, by using the Directive as a shield, tried their best to avoid the connection between the EWCs and the trade unions; on the other hand, the bitter recognition that in some situations it was virtually impossible for trade unions to play a role within the EWCs.

I also believe that in recent years, under the pressure of European Federations such as UNI, under the pressure of the "pioneers"

mentioned by Guglielmo Epifani, but also under the decisive pressure of the processes of international mergers and acquisitions, the trade unions have decided to fully engage in the EWCs. Proof of that is the hard work carried out towards the review of the Directive (as well as the firm opposition of the European corporate associations), but also an incontrovertible statistic, i.e. that 75% of the existing EWC agreements have been signed by trade unions. This is an extremely important aspect, also from a legal point of view, given that the trade unions, which are not officially recognized in the Directive, are de facto the main subjects which fully implement it.

The undertakings which see the EWC as an instrument of governance know this statistic very well. The real issue is in fact the type of governance which the EWC should represent. If it is a unilateral governance, then we already know this kind of EWCs and we are not interested in them. As a European trade union, we try to find the political and institutional channels to guarantee the EWCs their role of information and consultation, but also to support and to encourage the men and women who commit themselves to representing workers without having the right instruments to play their role.

If, on the other hand, by governance we mean a function which is not the one of the trade union, but to which the trade union can contribute with criticisms and proposals through the EWCs, then we need to focus on the quality of the information and of the consultation; we need to focus on the effectiveness of the information and consultation procedures which allow the EWC to play an active role – a role which in some cases is fundamental to identify shared solutions to the problems caused by corporate decisions to multinationals' employees. In other words, we cannot ask trade unions to behave "responsibly" or constructively in reorganization processes (including the transnational ones) or to contribute to corporate governance through the EWCs, if we do not enable them to have such a constructive role by giving them adequate, high-level information and consultation powers and the material resources and tools needed to put the EWC agreements into practice. In fact, the trade unions must receive all the resources needed for the full implementation of the EWC agreements not only by the EWC members, but also, and most importantly, by the different national groups of workers who elected or appointed them as their representatives.

In this respect, I believe that a very important and crucial factor

for the positive outcome of negotiations in Unicredit was the signature by the Italian social partners of the joint protocol for the implementation of Directive 2002/14 on the information and consultation of employees.

Even if the Directive 2002/14 concerns national undertakings, its adoption by the Italian management and labor clearly had a strong and positive political impact on our negotiation for the implementation of the EWC Directive, which also deals with the right to information and to consultation of workers. In our common platform for the setting up of an EWC within Unicredit, we had bet on the quality of the information and consultation procedures established in the Directive 2002/14 and the facts proved us right.

But, before concluding, I would like to go back to the issue which affects us more directly in our sector, i.e. the sharp acceleration in the transnational combination processes, with all their consequences: unbundling, sale of business branches and constant changes in ownership structure which require us to urgently address the issue of how to quickly and effectively re-negotiate the existing agreements. It is essential to re-organize our transnational representations quickly if we want to successfully deal with a phase which could have not been foreseen by the fathers of the Directive 94/45.

But how can we control this phase if the companies do not give us simple disaggregated data (and maybe they don't even have such data either) on the number of employees in the various countries? How can we initiate procedures to form an EWC without such data? However, the European trade unions can really provide a political added value in this regard, not so much in terms of provision of data, as in terms of activation of contacts and relationships between workers' representatives in and outside Europe. I am thinking in particular of "far Eastern Europe", i.e. that geographical area comprised between Russia and the Balkan countries which are not EU candidates. These countries have a huge potential and high growth rates, but they are dramatically lagging behind in terms of individual and collective rights, including bargaining rights and the right of workers to be represented. These countries are yet to be colonized in our sector and it is there that, through UNI, we have to strengthen international contacts and relationships between trade unions and to work very hard to build them where they do not exist...

Of course our political determination, enthusiasm and 12-year experience are not enough for EWCs not only to be set up, but also

to work properly. For instance, a research carried out by Prof. Jeremy Waddington of the University of Manchester on behalf of ETUC highlighted that only 20% of the members of the sampled EWCs believed that they had managed to influence corporate decisions in some way. So, if on the one hand it is true that the role of the EWCs is to guarantee information and consultation, and not bargaining, on the other hand we cannot accept a situation in which the employees' representatives see the EWCs as a procedure which in the vast majority of cases has no impact on corporate decisions.

The CGIL (Italian General Confederation of Labour) is certainly right to say "the more EWCs, the more rights" and in 12 years of implementation of the Directive, more than 1,100 EWCs have been set up. However, the undertakings which have the requisites to establish an EWC are more than 1,800, so there are still 700 missing. The fact that some employees' representatives see their role in the EWC as inadequate and below expectations does not justify a slowing down in the setting up of new EWCs where there is a right to do so. If a right like this is not exercised, then it means that other fundamental rights are not being exercised – which should worry us all.

Besides, this fact is in some ways in contradiction with a rapidly growing phenomenon of the past 2-3 years. I am specifically referring to the fact that the EWCs signed approximately 100 agreements in 2005. These are transnational agreements – not just joint statements – concerning key issues such as reorganizations, relocations, working hours and professional skills. Having been signed by EWCs, these agreements cannot be legally binding, but they can at the most be considered as codes of conduct.

I believe that as a trade union we should not be afraid of this kind of phenomenon, nor of the fact that in the past 2 years the European Commission has discussed how to give legal value to these agreements.

Of course, as held by ETUC and by UNI Europe, we must lay down at least 3 basic conditions for the implementation of this validated negotiating practice:

who takes the decision to initiate transnational negotiations? Of course we are not satisfied with the EWC giving itself the mandate to do so, because the EWC is an information and consultation body which cannot negotiate at a European level. Indeed, it can only do so if it has received an explicit and verifiable mandate by the trade unions, i.e. by the representatives who have been mandated by

workers to negotiate and to conclude agreements on their behalf; the second condition is the need to involve in the negotiations the subjects referred to in point 1 who give the EWC the task to negotiate;

the third issue is: who signs the agreement? Who takes the responsibility of implementing it? Clearly, only the joint signature by the EWC and by the ones who gave it the mandate to negotiate is acceptable to us.

Anyway, I think we have nothing to fear in this regard, because it is obvious that the ones who are firmly opposed to the validation of the agreements "improperly" concluded by EWCs are also the ones who oppose any review of the EWC Directive – if not to make it worse.

It is no accident that the European Commission will limit itself to addressing a Report to the European Parliament next year, i.e. it will adopt a formal procedure whose aim is not to introduce new provisions in this delicate field.

We remain determined to build an increasingly effective, organized and structural communication between the trade unions and the EWCs. Communication must be our starting point, as we need to communicate rapidly in order to ensure the coordination between corporate bargaining units, National Federations and EWCs. Vertical information is certainly essential, but it must be combined and strengthened with horizontal information, i.e. the one existing in the individual countries represented within the EWC and not only in the country hosting the parent company.

The EWC members representing the most decentralized establishments must be able to spread the information they receive from the top to the workers they represent. In the final analysis, the EWC is an instrument of transnational information and consultation OF workers. Therefore, in order to effectively inform and consult the workers they represent, the EWC members must have a systematic and structural relationship with their own corporate bargaining units and with the local and national structures of the trade union.

In order for this to occur, the trade unions must be involved in the process from the very beginning, i.e. from the opening of procedures for the appointment of the special negotiating body. Then, they must also be involved in the process of implementation of the agreement, in order to avoid that all the rights to information and consultation laid down in it remain on paper and to make sure that they are effectively exercised.

Finally, it is also necessary to build a system of sanctions in case of violation of the agreements, such as in the case of companies which increase the amount of confidential information to excess. In conclusion, I would like to say a few words about the upcoming ETUC Congress. We hope that the ETUC Congress, which will be preceded by the UNI Europe Congress, will openly discuss the emerging issue of the need to delegate sovereignty to the European trade unions. Indeed, a stronger, more influential, European trade union does not mean that the national trade unions will be weakened. On the contrary, it means that the national trade unions will participate more actively in the European choices, that they will become more influential within the European trade unions and within the European EWCs and that they will effectively and truly contribute to the construction of the social Europe in the 27 EU Member States, which are almost entirely represented here through their trade unions.

**THE ROUND TABLE
WITH THE SOCIAL PARTNERS**

1st ROUND OF DISCUSSION

Giancarlo Durante – EUROPEAN BANKING FEDERATION

Thank you. Thank you for inviting me to this Round Table.

I think I could reply simply with one word: "Yes". This would basically conclude all my argumentation, but I will try to articulate my reply a bit more and explain myself better.

The issue of flexicurity is closely related to the one of the Green Paper, with the modernization of labour law in general. And we all know that the Commission considers this issue as one of the priorities, if not the main priority, for the year 2007.

I would like to go back to one point raised by our moderator in his introduction, i.e. that "we should not see this, or it is not useful nor correct to see this as a threat". I fully agree with this approach, because also we, as employers, consider this as an opportunity rather than as a threat.

What is the point? The point is that the various European labour markets must face the challenge to combine an increased flexibility with the fundamental need to guarantee the security of all workers.

The Commission itself helps us interpret the concept of flexicurity when it states on its website that, in order to plan their lives and careers, workers need new kinds of security that help them remain in employment and make it through changes. I fully agree with this approach, provided of course that it is truly put into practice. Here is the point: regardless of whether we like the Green Paper or not – and I believe that we agree with some of its principles and that we disagree with many others – I think that an intervention from the top by the Commission (as sometimes is the case) would not help us deal with the issue. This is why I fully agree with the proposal to build a European social dialogue on this topic.

I believe that the best approach to flexicurity should start from social dialogue and then combine other elements in some way. Of course, it will be up to social partners to find the most appropriate and balanced way to deal with issues such as life-long learning, active labour policies and the need to adopt more flexible rules in the social security field, because this would help meet the demands of people who change their job or who temporarily leave the labour market. It is a combination of elements which, in my opinion, can be best balanced through dialogue between the social

partners.

In other words, I do not think that, as has happened in other cases, regulations imposed from the top would help us solve this kind of problem.

In the European Social Affairs Committee of the Banking Federation, we are currently debating the possibility to include the topic of flexicurity in the 2007 Agenda.

Actually, we already have many other topics on the Agenda. We are trying to finalize a project on demography which we carried out last year. In this regard we will probably get to a common position and to the elaboration of a joint statement. Then there is also an issue related to flexicurity – which we will probably discuss later during this round table – i.e. the involvement of new Member States in social dialogue, although they have not been particularly active in it so far. This is an aspect which the employers and the trade unions thoroughly discussed during the last meeting with the Commission. It is an aspect which we must carefully analyze, because, when talking about rules on flexibility and job security, we cannot ignore that the situation varies dramatically across the 27 EU Member States. Therefore, we must find some common factors and elements before defining minimum standards which would be valid for all the Member States.

I think that drafting together a common document should be the last step of a long process in which we first need to fully involve and integrate the new Member States. From this point of view, I have to say that both the trade unions and the employers are committed to work in this direction. However, it seems to me that the Commission is focusing more on other things than on this key point.

Thank you.

**Allan Bang UNI EUROPA FINANCE PRESIDENT
FIRST ROUND**

Thank You very much. Thank You for FISAC inviting me into this project. It is very near my own contradictory issue even on the Flex Security so called "Danish model". The Danish model is not me. She is a bit nicer looking.

Let me just draw some lines, a kind of framework, from before going into the Flex Security business. The social dialogue in the banking sector has produced quite a lot of results, despite the fact

that we have disagreed on many issues, which is maybe only natural. What we always managed to find is a compromise, a way to bring our work forward. There will still be many differences that divide us, but I believe that we have many more things in common than between us with the employers. At least we can not afford to stop at the differences. We must look forward and focus on what we have in common and how we, through dialogue, can create a finance sector that is sustainable both in economic and employment terms.

One thing is, for sure, our sector is in the center of globalization. We see finance companies merging across borders; we see companies using global providers to optimize the service and we see our sector being regulating from Brussels in order to create a true pan-European finance market.

All this has shown social and employment consequences that would be relevant for us to discuss and evaluate.

Let me just look on our plan for 2007.

I think we have three important issues already. As Giancarlo Durante mentioned, at the center of our activity in 2007 we aim at concluding a joint declaration on demography based on the research we did in 2006.

I can say to you that the plan is that the Uni Finance Steering Group will debate this in June, we will try to take our own position before we take the debate with the employers to see where we are.

Secondly, and this is very strongly for me after listening to these last two days of debate, we simply have to reinforce the social dialogue in the center and eastern Europe, both in terms of participation at European level, hopefully some of You now here will be joining us with the meeting with the Commission, so You can give the picture there as well. And hopefully, and I was glad to hear Giancarlo mentioning the national industrial relations, because this is indeed a problem even for the further development of those countries if there is no national relation.

Finally we want the European social dialogue to become relevant at a national level.

In other words we want to burst the "Brussels bubble". This means that what we have decided in Brussels is then followed up on a national level.

In practice we want to review implementation at a national level of the joint declaration on the life-long learning and on CSR and I can even tell You that in the CSR Document we have got a common

agreement that states that it is ok to be member of a Trade Union and even build a Trade Union. We heard from colleagues from Bulgaria that some of the colleagues in the Banks coming into those countries simply trying to avoid this agreement.

We have to shame and blame those banks in their own home country too. So we want to have a good example and make social dialogue relevant and even a liable instrument.

I can say to You than even in the old Member States we have problems to reach national level agreements. So we have to focus on that. If I was the Commission I would, maybe, pay more attention to that.

Confirming the demography, we believe that the cross cooperation between social partners to meet these challenges is important. So, therefore, we will try to conclude a Joint Declaration which will be able to face the demographic challenges that we have found out in our joint survey and during our joint conference.

Uni Europa Finance believes this includes finding ways to maintain all the employees in the sector as well as attracting younger employees. However maintaining staff is not only a matter of updating skills. It also requires that the working environment allows people to stay in employment until they reach a normal retirement age. A work organization that leads to stress and burn out must be awarded.

On the issue of reinforcing the social dialogue in eastern and center Europe let me first say that this seminar by FISAC has a huge success even in terms of the broad participation from so many countries, especially from the eastern and center Europe. I hope this could be the model for social dialogue meetings in Brussels.

The finance sector in the twelve new EU countries is very much characterized by a very high concentration of foreign Banks mainly coming from the old fifteen Member States. In some countries is even up to hundred percent.

In the name of CSR, the social partners play an important role, in securing our companies support and facilitating the right to social dialogue at all levels in all the countries that they operate.

Since this seminar mainly is about Flex Security, let me conclude with a few words on this. First, the bank social partners have agreed that this could be a topic for future discussions. The topic is high on the Agenda of the European Commission and European social partners across industrial level. I think Mr. Cerfeda for the ETUC will probably say something more of this, but European social partners are currently carrying out a joint analysis of the key

challenges facing Europe labour market, including strategies for getting people into work and life-long learning.

This discussions are very closely linked to Flex Security approach. The social partners aim to finalize a joint document by April, providing substantial and timely input into the Commission's communications on Flex Security, I think during 2007.

The bank social dialogue is built on the outcome of the cross industrial dialogue, like we did with the successful declaration on life-long learning.

The concept of Flex Security is very broad and often gives rise to many misunderstandings.

One misunderstanding is that the Danish Flex Security model, in particular, is a model based on cheap hiring and firing. This is highly misleading. In Denmark, to define this model, we refer, as you have heard, to the golden triangle of Flex Security.

The three elements in the triangle are:

flexible labor market; high mobility between jobs (in Denmark 800.000 people change job every year, and we are 5.000.000 people)

generous welfare schemes and social safety-net for the unemployed co-financed by the State (the compensation rate is 90% of previous salary however with a reduction of around 180 euros per month, but you can have that for four years).

And the third element: active labor market policy, including further education and competence building.

If you focus only on one of these elements in the golden triangle you disrupt the balance.

Also the collective bargaining system needs to be included: the Danish model is a result of over a hundred years of economic and social development based on strong collective bargaining. The development and decentralization of collective bargaining systems has through the last decades increased the Flexibility as well as the Security. The security elements in the collective agreements include education, pension, maternity leave, leave to take care of sick children and increased protection in case of sickness. The flexibility elements include flexibility overtime and agreements on individual basis and decentralized salary determination.

As we heard in the last two days (and I agree on that) is that is not possible to transfer the Danish model to the rest of Europe: each country has its own traditions, cultures, however in Denmark we have shown that social security and a well functioning labour market are not each other opposites, but on the contrary they are

going hand in hand. I believe this should be the guiding principle for our work in the social dialogue both at a cross industrial level as well as in the banking sector.

As I started by saying that Flex Security is a broad concept, I'm sure that in the bank social dialogue we will find the areas to explore that and what is relevant for our sector.

Walter Cerfeda ETUC SECRETARY

Thank you Manuel. I feel almost embarrassed after your kind words of presentation which maybe give me excessive responsibility.

First of all I would like to thank you personally and on behalf of ETUC for inviting me to participate in such an important initiative. I believe that the discussions you had here in Ariccia in the past two days on the topic of flexicurity were extremely useful, because flexicurity and the labour market reform are matters of topical interest. Therefore, given that we will deal with such topics a lot in the upcoming months, it is very important to have the opportunity to debate them with the representatives of 23 countries.

Flexicurity is not only the topic of discussion of this morning round table, but it is an issue in which the trade unions and the social partners will be involved in the upcoming months – maybe even years.

As you know, three initiatives have already been taken in this field. The first one was the decision of the European Council of Ministers of 2006, which asked the Commission to address the issue of flexicurity.

A group of experts of the European Commission is currently working on this chapter. Moreover, the Commissioner Vladimir Spidla has organized a meeting, which will be held in Brussels on 20 April, of all the social partners and stakeholders to discuss the various models of flexicurity with the Commission.

The purpose of this conference will be to contribute to the drafting of the Commission Communication on flexicurity, which must be presented within 30 June. Hence, we will soon get to know the official position of the Commission on this topic.

At the same time, as mentioned by Giancarlo Durante and Allan, there is another parallel initiative of the social partners. UNI Finance is debating whether to include flexicurity in the 2007 Agenda for social dialogue in our sector, whereas it has already

been included in the Agenda at the more general level.

ETUC and Business Europe, which is the new name of the European Employers' Association, have already decided to include a joint analysis of the changes occurring in the European labour markets in the 2006-2008 work programme. This open discussion with the European employers has led to the choice of flexicurity as the main priority on which confederations will try to define a common approach.

The third parallel initiative is the work of the Commission towards a reform of labour law. You have discussed and examined the Commission Green Paper in depth during the past 2 days. Manuel has just mentioned that many criticisms have been raised and we too, as ETUC, have criticized many points of the Green Paper. Anyway, this initiative does not concern flexicurity, but the reform of labour law, which is a more general issue.

Personally, I believe that the three initiatives cannot remain separate, but that we should try to channel them towards a common framework. We have to develop the initiatives needed to protect and reform the labour market in such a way to meet the employers' demands for increased productivity and flexibility and to guarantee workers' security.

Therefore, in my opinion, flexicurity cannot be the sole prerogative of social dialogue. It is an issue in which the social partners must play a prominent role, but in which the institutions must also intervene. Why do I say this? For a very simple reason: because the European labour market has already changed. Manuel and Allan correctly pointed out that the enlargement to 27 Member States has radically modified the European labour market. To give you some data, just consider that, according to a survey of the Dublin Foundation, in 2000, when the EU had 15 Member States, there were 37 million workers in non-standard, sometimes precarious contractual arrangements (fixed-term contracts, temporary-agency contracts and "economically-dependent" self-employment). In 2005, with 25 member States (thus without Rumania and Bulgaria, which have just joined the EU), this figure increased to 102 millions. This gives you a clear idea of the changes which have occurred in the European labour markets. This radical evolution is due to two trends which are well-established in the new Member States: the spreading of informal work, or, to put it bluntly, illegal work; and the hiring of employees through individual contracts and not through collective contracts negotiated by the social partners. In order to face the dramatic increase in such fig-

ures, social dialogue alone is not enough, but it is necessary to reform the European labour law, which only protects those in permanent, full-time jobs. Therefore, the Commission Green Paper should not focus solely on flexicurity, but it should also guarantee the rights of the increasing number of workers with precarious contractual arrangements. Moreover, the Green Paper should also meet two demands which ETUC has repeatedly addressed to the Commission: first, to clearly define the differences between self-employed workers and employees, without leaving States free to choose whether to do so or not. Without such a clear distinction, the abuse of "fake" self-employment to get round labour agreements and contracts will soon become a nightmare for the European trade unions. Second, the labour law reform should take into account that there are 27 labour markets with 27 different regulations. If the objective of the EU is harmonization, then the Commission should define a minimum set of fundamental rights which would be valid for all workers across Europe, from Sweden to Rumania, from Portugal to Finland. In fact, if we do not define a common set of rights, the companies will be more and more tempted to relocate establishments and to practice social dumping. So there is a problem concerning labour law which is due to the changes in the labour market and to the increased precariousness of workers. Now let's come to the issue of flexicurity. There is not one single model of flexicurity: there is the Danish model, which has just been described by Allan, but in Europe there are also other models of flexicurity.

The key point which we probably have to discuss this morning is not so much to define the best model and impose it to all the others, but rather to understand which are the main ingredients which make it possible to balance flexibility and security in the various models. I want to be very clear, because this point will probably be a controversial one: as regards flexicurity, there is not only the issue of people who enter or quit the labour market, i.e. the issue of procedures for hiring or firing workers. This is what I call "external flexicurity", but there is also an "internal flexicurity" in the company. What do I mean by "internal flexicurity"? One of the European models concerning flexicurity is the German one. It is no accident that the German presidency of the EU has included flexicurity among the priorities of the European Agenda, labelling it "Quality of work". I believe this is the right approach – an approach which is based on the German experience, in which flexibility and security have been balanced through the investment of companies

in their human capital. And I am obviously talking about a human capital which is made up of permanent, full-time workers, not of people who can be taken and thrown out according to the situation. In Germany, based on the market flexibility, big companies such as Volkswagen can change the number of working hours per week from 28 to 40 in few years. However, they never throw out their human capital, because their workers represent a resource of professional and technical skills which must be preserved in order to guarantee the quality of their products. The characteristics of the internal flexibility are negotiated by the social partners depending on the cycle of flexibility. On the one hand, when the demand is lower, the company has to invest in the development of the workers' professional skills and in professional mobility within the company, in order not to dismiss employees who represent a resource and an added value for the group. On the other hand, only in exceptional circumstances, during production peaks, the company shall resort to apprenticeship and other precarious contractual arrangements. I think we need to discuss both internal flexibility, i.e. the combination of productivity and professional competence, and external flexibility. Unfortunately, many European businessmen – unlike Giancarlo Durante, who is too wise to behave in such a way – do not want to talk about rights and collective bargaining, but only about external flexibility, i.e. dismissals. This is not right! This is not right! I think that on this point we are running the risk of having a serious conflict.

Then, as regards external flexibility, the ETUC certainly does not pretend to ignore it. The ETUC also recognizes that the radical changes in the labour market require more flexible policies, in order to fight against the increasing precariousness of workers. Here too there are three ingredients to be taken into account in order to really strike a balance between flexibility and security. The three ingredients are the following.

First, the labour market must be managed through active labour policies revolving around life-long learning and training. In fact, the workers who lose their job must receive training in order to acquire new skills and find a new job.

The implementation of active labour policies is a key point if we want to avoid the opposite, i.e. a situation of permanent precariousness for unskilled workers.

The second fundamental ingredient is the implementation of passive labour policies, i.e. the provision of economic support to workers who have lost their job. Allan, correct me if I am wrong, but I

believe that in Denmark a worker who is fired receives an unemployment benefit which is equal to 90% of his/her latest salary until he/she can find a new job. In order to strike a balance between workers' security and labour market flexibility for companies which have to reduce activities, it is fundamental to provide generous unemployment benefits in the transition phase, as well as welfare and health care benefits and support to mothers (which make up the so called "social security cushion").

And there is the rub. Indeed, in order to provide welfare benefits, the single States must have the necessary resources – which is not always the case.

I think that the burden of flexibility should not be entirely borne by the companies, but also – at least in part – by the community and by the State. However, the States need resources in order to fund active and passive support policies. This is why the system works in Denmark, where the pressure of taxation is equal to 57%. In Sweden it even reaches 63%. However, if the trend in all the European countries is to go towards a Flat Tax, i.e. to ease taxes – and the Commission cannot intervene because this field falls outside its competence – and not to maintain at least the same resources in order to manage flexibility, then of course the Danish or Swedish model cannot work in Greece, Portugal, Italy or in the new Member States.

But if flexicurity cannot work because the State has no resources, then what do we have left? We have flexibility without security. And if this is the message which is sent to the European workers, then I have to say that, on behalf of the workers that I represent, we do not agree.

Franca Dellacasa FISAC/CGIL SECRETARY

I would like to begin with a few considerations on the past 2 days of seminar, during which we have debated many of the points raised by Walter.

I agree with Manuel that the past 2 days have been particularly important, useful and interesting, as we have had the opportunity to learn new things and to share our experiences with the representatives of other countries. I think we all appreciated the speeches of the experts, all very competent and authoritative, which gave us some food for thought also from the theoretical point of view, both on the issue of training and on the various eco-

conomic models, especially the Danish one. This has allowed us to have a common approach and to share a common background of theoretical "lessons" before beginning the discussion.

I think the most important thing is that in the past 2 days we have combined the theoretical study and analysis with the practical observations on how to face this moment of change (both in the present and in the future), which are based on the experience that we, as trade unions, have developed in the individual countries.

All the points which have just been raised by Walter had emerged during the meetings of the working groups, in particular the fact that job insecurity is constantly increasing and that working conditions are worsening in all the European countries. So, in our sector too, if we asked ourselves what should be done now, maybe the reply would be exactly Walter's final statement: "a little bit less flexibility and a little bit more security".

Of course we have also debated what would be the most appropriate ways to achieve this objective, in particular life-long learning and training. We know we need training to help companies become more competitive and prepared for market changes, but we also need high-quality training for workers, in order to give them new skills and opportunities. In this regard I would like to hear Giancarlo Durante's opinion, because I believe that here in Italy, as well as in the rest of Europe, life-long learning should become a powerful instrument to face the processes of change, as it helps increase the skills of people who now more than ever represent the main asset of a company.

Yesterday's discussion and meetings of the working groups also highlighted that the issue is not that the trade unions are not willing to face these processes of change. The problem is that we would like to face these processes by focusing primarily on the people, not on the market. This is why social dialogue is so important to us, also in relation to corporate social responsibility and to the implementation of the Lisbon strategy.

However, the draft Green Paper seems to mark a strong deviation from the policies outlined in Lisbon.

I believe that also the document – mentioned earlier by Allan – of the Italian Banking Association and of UNI, which focuses on the need to continue social dialogue in our sector on the important issues of training, conciliation of work and personal life and equal opportunities, contradicts the contents of the new Green Paper.

2nd ROUND OF DISCUSSION

Giancarlo Durante

Thank you.

I would like to go back to a couple of issues, in particular the changes in labour law and the Green Paper.

I agree with Walter Cerfeda that labour law must in some way evolve from an instrument for the protection of jobs, as it is now, to an instrument for the creation of new jobs. Otherwise, we would make yet another mistake as to the implementation of the Lisbon Strategy. It is important to be consistent also from this point of view.

However, this is an objective which must be pursued first of all by the individual Member States, because it is necessary to eliminate some restrictions existing in their respective job markets.

So, to complete what I was stating earlier, what is the role of the Commission? The Commission has to facilitate such policies by promoting the exchange of experiences among States and by monitoring the reforms implemented at a national level.

I believe that the reform of the labour market in the various Member States should be based on the analysis of the single markets and on the adoption of flexible, diversified solutions in the different national contexts. This is where flexicurity comes into play, because, as Walter said, it should improve flexibility and favour the creation of new jobs, as well as guarantee the protection of the fundamental rights of workers and expose the illegal forms of work existing in several Member States. And this is indeed another aspect which we should acknowledge once and for all.

To come to Franca Dellacasa's point, we have already said in the past that the concept of employability should be further developed and strengthened and that life-long learning and training are the key aspect in this field. Indeed, life-long learning allows workers to acquire new skills and to adapt to the labour market, thus contributing to their security. However, it is also essential to focus on the need to create a more inclusive job market than the present one.

It is in this direction that labour law and collective bargaining should go. I once again agree with Walter that social dialogue alone is not enough. We need all the elements to come together to pursue the same objective.

However, I think that some of the problems that we, as employers, see in the Green Paper should be eliminated, in particular some statements made by the Commission. The distinction between Insiders (employees with a permanent contract) and Outsiders (employees with flexible contracts) does not convince us. But then, in another section, the Commission itself considers all employees, regardless of their kind of contract, as insiders. So I want to clarify that we, as employers, are convinced that flexicurity should concern all workers, not only the ones who have a permanent contract, and that it would be a mistake to limit its scope.

Then – and I am going to repeat myself – there is some inconsistency between the Commission’s intention to introduce changes in the labour systems of the individual countries and the new provisions which it constantly passes. A good example of this rather disorganized approach is the directive on labour. If this problem is not solved through an appropriate intervention by the social partners, I fear that we could meet with yet another disappointment.

What can be reasonably done? In my opinion, the solution lies in the reply which I gave at the beginning of my speech: it is necessary to build dialogue both at a European and at a national level in order to better define the scope of flexicurity.

Indeed, flexicurity is a broad concept, including a little bit of everything. Therefore, I think we should start by identifying some key elements to be discussed freely and openly.

I was mentioning earlier the role of the new Member States as a testing ground for flexicurity. As we know from the results of the round tables and of the multilateral and bilateral meetings we organized with UNI Finance in the past few years, in those countries the rights of workers and of trade unions are almost at risk and the markets are still very rigid.

I am truly convinced that social dialogue is of vital importance in this regard. I would like to remind you that in the Employers’ Social Affairs Committee we had identified flexicurity as a crucial issue to be discussed with UNI Finance in late 2006 already. And, even if we have not yet received an official reply, I am very pleased to hear during this seminar that the trade unions are truly interested in this topic.

As stated by Allan Bang, we should build on the important results we have achieved so far. The joint statements on life-long learning and training, on corporate social responsibility and the one we will probably sign soon on demographic trends bear testimony to our willingness to discuss and to reach common positions. So I believe

we just have to get round the table and discuss, starting from the identification and definition of flexicurity and bearing in mind the enormous differences existing across the EU, especially after the recent enlargements.

I would like to make one final consideration. I said earlier that, in my opinion, labour law should become more inclusive, with the aim to create new jobs, not to destroy them, by guaranteeing the fundamental rights of workers and by eliminating the restrictions which hinder the development of productive forces and the increase in the level of employment. This, I believe, does not mean that we should adopt common labour provisions which would be valid in all the Member States. I think it would be simply impossible. However, I agree with Walter that some basic, common elements should and can be harmonized in the enlarged European Union.

Thank you.

Allan Bang:

SECOND ROUND

I want to go back to our European Social Dialogue: we have made a Joint Statement on life long learning and then we have made one on CSR. But just to say that still in some of the old Member Countries, France, Great Britain, Germany, nothing really came alive from these Documents in their national levels where the partners took it up. It's a bit logy, for Giancarlo and me, to sit here because in Italy and in Denmark we went back home and we did something on life-long learning, we went back home and we did something on CSR. We put something into the collective banking agreement but we are well aware that there is a problem when people don't get an agreement after we had discussed it on a European level. Of course we are not making a collective agreement on a European level but we are giving guidelines and, at least, you should go back home and talk on it and see if you can agree on something on that issue.

And, on the demography, I think we will find some kind of guidelines as well, and we could even find it on the flex security. But the problem is, as I said before, we have new member states where there is no national dialogue. They still have to make a number of steps on life-long learning and CSR that we have already made well before them.

So they must have a dialogue on this and we have to help them get the national dialogue up running before they can get on board. And I fully agree with this Flex Security. You can't do any cherry picking. We won't see any flex security without security. This gives no sense. If there is an introduction of the flex security without security, I can say that even in Denmark if there is a chance, then all the Trade Union will go to the employers and would try to negotiate security with them, instead. So the employers, they are running over government when they're trying to make their own balance. Because the system will simply collapse if you try those things.

I think there is a point to say: that Uni is wholly involved in around thirteen social dialogues and the debate we are having now is not only a finance debate. So, in some way this is a main problem for all Europe and not only the finance sector. So, I know that my friends in Commerce and Telecom are sitting with the same problem, that is one of those I am speaking most with, and they are doing the European tour like we do and do nearly the same things so, in some way, we have to even maybe co-operate with others. The last comment is that, we are coming from the EU system and we are now even seeing more and more EWCs all across Europe, we have seen companies who want to be an European company. I would like to mention that the EU system and also some of the employer associations have a problem with that. But I think that the EU system in the near future, in some way or another, should facilitate us with some kind of labour court. They are not skilled to handle many of the questions connected with free movement of capital, free movement of labour, free movement of everything, we have still no free movement of strike. But in some way we need a system where we even can tackle conflicts maybe through the European company for those who have come already there. So, despite all the Green Paper and everything that has been made, there is some kind of basis that needs to be there. So, we have a big task of checking that the social dialogue can really work at a national level. And if I was the Commission I would monitor a bit more where the money is going to all the projects and what is the outcome of it, which could be much much better.

Franca Dellacasa:

I will be very brief. To come to Giancarlo Durante's considerations, I believe that if we try to imagine and describe the meaning of "security", our ideas are quite clear, because we think of the security to have a job, to be able to provide for a family and have children, to have an economic future, to receive treatment in case we fall ill, to have a pension when we retire. I think we all agree that in people's minds security is related to these things.

At the same time, we all recognize that in people's minds the term "flexibility" is inevitably associated with the term "precariousness" and with the idea that we would lose something because of different rules which would be useful to the "market" but far from the people. Therefore, given that we will have to discuss how to combine flexibility and security in the upcoming months, first we will have to set aside this interpretation of flexibility which prevails not only in Italy, but in all the European countries.

The data mentioned by Walter Cerfeda speaks for itself. So we must try to overcome this interpretation of flexibility to build a new idea of flexibility as something which supports people's growth. So far, the companies and the governments have actually used the term "flexibility" to question protection systems which we have gradually built in many European countries. Therefore, we, as European trade unions, will have to be able to transform the concept of "flexibility" from a negative value into a positive one, which would highly benefit everybody.

The problem is how to face this challenge in order to combine and balance flexibility and security in such a way to improve the conditions of all the European workers. Of course this objective must be pursued by guaranteeing also the right conditions for a responsible and sustainable growth of companies, which now have to compete in a constantly evolving and increasingly globalized market. This is certainly not an easy task, but I believe that the trade unions are ready to pull their weight.

For instance, when talking about adaptability or employability, I think we have to convince people that these concepts can answer the needs not only of companies, but also of workers. The concept of job mobility itself is something that we will have to accept, both from a professional and a geographical point of view. However, if we do not build the instruments which make mobility appealing and useful to people, the sense of precariousness will inevitably grow and flexibility will be perceived even more negatively, espe-

cially if the new Green Paper is not reviewed.

In conclusion, I would like to repeat that we, as trade unions, are open and willing to understand and face the processes of change.

However, we certainly cannot and do not want to set aside the needs and expectations of the people we represent.

Walter Cerfeda:

Thank you Manuel.

I will be very brief. I fully agree with Allan and Franca, as well as with some of the considerations made by Giancarlo.

Given that the topic is so important, I think that the decisive thing is to understand what flexicurity can and cannot achieve and what are the resources that we have to face such a complex issue.

The first thing we need to acknowledge is that the issue of flexibility was not forcedly introduced by the corporations, but that instability and flexibility are a consequence of the current global extent of trade. The productive structures have dramatically changed in comparison to just a few years ago. Europe was a big internal market in which the GDP almost entirely derived from trade between the EU Member States. Today the market has become global and we have to face several instabilities – the instability of the cost of raw materials, of the financial markets, of currencies, of demand – almost on a daily basis. And, given that such instabilities are now part of society, we cannot deny them, but we have to address them. We are living at the time of mobility and instability. Our task is to regulate this situation, not to refuse it. But how can we regulate such instability? I was very pleased to hear what Giancarlo Durante said in this regard, because I am convinced too that bargaining alone is not enough to assess how to best combine flexibility and security. We also need rules. We also need individual States to take effective legal measures and the EU to elaborate common rules concerning all the workers in the 27 Member States. So this is a matter of topical interest which we need to address. However, we must also be careful not to ask flexicurity to achieve what it cannot achieve. I have explained earlier what flexicurity can do and the right conditions to do it, as regards laws and contracts. All too many States believe that deregulation of the job market supports economic growth. This is simply false and impossible. The job market alone cannot ensure economic growth. The real determinants of economic growth and employability are the

economic policies, not labour market policies. Given that I believe that we, as trade unionists, should never have an ideological approach, but a pragmatic approach to problems, I will make an example to be more concrete and explain myself better. If we consider Europe and the United States as the main global competitors – leaving aside China and India, which have not yet reached their level – apart from the different job market regulations, there is no difference in terms of flexibility of the labour market. In the enlarged EU, the total number of workers who enter or quit the market every year is around 36 millions, as against 35 millions in the US. It is not labour market flexibility which enabled these two economic giants to grow. However, the US is way ahead of us in terms of GDP and world competitiveness. What makes the difference is not the labour market, but the investments in innovation and technology: in the EU, the Northern and central European countries invest much more than the other Member States, whereas in the US the overall level of investments in innovation and technology is far higher than the European average.

So the point is that a more flexible market, with fewer guarantees for insiders, does not bring about economic growth. It is a lie to maintain that. It is macroeconomic policies which bring about growth, not labour market policies. If this is the case, then the third point which we need to discuss is the kind of Europe we want to build in the framework of global competition. This is the key issue to address, not to limit ourselves to an inconsequential discussion on flexicurity. What kind of Europe do we want?

We are convinced, I am convinced, that Europe can remain a global competitor also in the future if it maintains some of its fundamental, typical characteristics in history. We are not Anglo-Saxons. The “genetic model” of Europe is based on European history and on a model of European society in which the balance between competitiveness and social security has always been at the centre of the European economic growth and performance. I would also like to stress that, in such a complex, constantly evolving scenario, the world leaders in global trade are not the countries which deregulated the labour market. On the contrary, the leaders in global trade are the countries with a strong labour market, where the social partners have a considerable bargaining power and the labour market rules are tighter. The leaders are the Scandinavian countries and Germany, not Portugal, Italy or Greece, or, with all due respect, the United Kingdom or Ireland – even if the latter remains competitive because of its fiscal dumping, at least until it

is allowed to do so.

So, what kind of Europe do we want? Is it the Europe which harmonizes the 27 Member States towards that model of society which is in the European DNA, or the Europe which uses the new Member States to deregulate the labour market and decrease the guarantees in the other countries? This is a political, not technical, issue. For instance, Spain, like other "smart" countries, has recently reformed the labour market in order to create more stable jobs, to strengthen the agreement signed by the government in office, the trade unions and the Confederation of Spanish Industry with the aim to reduce the insecurity of temporary workers. In brief, Spain has adopted the Nordic model, which is the best one to guarantee the right combination and balance of social security and competitiveness.

From this point of view, as regards the Green Paper, I agree that in the future the European institutions should intervene less than in the past with the introduction of new provisions. When I think of a European labour market, I think of it in terms of harmonization, certainly not in the terms of the Bolkestein Directive, which practically recognizes social dumping and a kind of mobility in which a worker is free to move anywhere and to destabilize the labour market and the bargaining rules. Given that the objective should be harmonization, I believe that the Green Paper should focus on two aspects: first, guarantee a minimum set of rights to all the European workers, with the aim to prevent social dumping; second, give a clear definition of self-employed workers and employees and of their differences. This would help prevent the spreading of an unusual practice which has emerged in all the new Member States, i.e. the hiring of individual workers through independent "negotiations", without promoting social dialogue and collective bargaining. I believe that the Green Paper should address at least the two aspects I have just mentioned, but this is not the case at the moment. For now, with the current version of the Green Paper, labour law is reduced to flexicurity and flexicurity is reduced to flexibility. Unfortunately, as I have said before, if there are no financial resources, the only thing which can be done is to regulate individual and collective dismissals, rather than pursuing flexicurity. I would like to underline once again that the Green Paper should at least identify a minimum set of workers' rights and give a definition of self-employed workers and employees, but this has not been done yet.

In conclusion, we say yes to flexibility and to security and we are

willing to discuss how to combine and balance them. Second, we say no to the idea that the labour market is the key solution for growth, because economic growth is determined by macroeconomic policies and by investments in technology and innovation. Third, we want Europe to be based on the harmonization of rights, not on the savage competition between workers. Fourth, what is the typical employment relationship in Europe? What is the definition of typical employment relationship according to the European undertakings and trade unions? We fully agree with the reply which is given not by the trade unions, but by the current EU president, Chancellor Angela Merkel, i.e. that the typical employment relationship is understood to mean full-time employment for an indefinite period of time. Therefore, atypical employment should be adopted only in exceptional circumstances, to cope with peaks in demand, and there should be a typical employment relationship, which in the European tradition corresponds to having a stable job for an indefinite period of time. It is this form of employment which, through investments in labour quality and worker's skills, can help the European economy stay competitive in terms of quality and not merely of costs.

I apologize if I have spoken for too long, but I would like to add one final consideration. I am truly worried about the fact that the European institutions have recently adopted Anglo-Saxons models of deregulation. The employers are ready to exploit this wave of liberalism in their favour and they are now less willing to build social dialogue on an equal basis. We have to be careful not to ruin the term "flexibility" and turn it into a negative value in the minds of workers and of young Europeans. And I am saying this in Italy, where we have always been able to negotiate working hours and the conditions for professional mobility and for flexibility. We must prevent flexibility from becoming anything like the Bolkestein Directive in the eyes of European citizens and workers, i.e. a symbol of precariousness in their lives. We must avoid giving another negative impression of the European Union, because I think that if we ruin the term "flexibility", this will hurt us all, both workers and companies. As I said before, flexibility is determined by the changes occurring at present and it requires a serious approach balancing the need for legislative measures and for collective bargaining. Now, we might not always agree – the ETUC might reject our proposals and we might organize demonstrations around Europe – but the most important thing is not to ruin the term "flexibility" in the minds of European workers.

The two things which mark the difference between Europe and the rest of the world are the European social model and the trade unions. Only in the Old Europe we have such a social model and strong, rooted trade unions. They do not exist in the rest of the world!

I think that making Europe more Anglo-Saxon as to its labour market and social model will not make it more competitive. In fact, the most competitive countries are the ones which have maintained the typical European DNA, i.e. the compromise between competitiveness and the model of social rules concerning the labour market and collective bargaining. I believe that the European approach, which has allowed us to grow in the global market, should be preserved, not deregulated. This is why we urge the European Commission to take the initiative and not to merely follow the processes. We are not too late, as this is the right time to initiate the discussion. However, we need to have clear ideas about what will be our proposals.

Deutsche Telekom delegate

Good morning. My name is Stefano Garbina. I work for T-System, which is part of Deutsche Telekom. I listened very carefully to all the previous speakers, in particular to Walter Cerfedda's observations about the Anglo-Saxon model, which is the one we should try to block.

I work for a German multinational, in which the Anglo-Saxon, in particular American, presence is increasing: the German State is gradually reducing its share of the company's capital and Black Stone is acquiring an increasingly bigger role and trying to impose its American, Anglo-Saxon mentality.

We, the States and the political institutions are trying to impose or to defend the European model of labour law. However, either the multinationals are no longer European and they are becoming American, or they are shifting towards a completely different view of the labour market from ours. This leads to a series of problems for us, the employees of these groups. For instance, Deutsche Telekom is planning to lay off 70,000 workers by 2010. Most importantly, its choices will become a point of reference in Germany and in Europe in general and they might influence other companies. This is the situation we have to face now, but it could also change in the future. In fact, apart from the new American

management, Deutsche Telekom is also arousing the interest of Russian capitals: I assume, but I might be wrong, that their arrival in the company could even make things worse. So, are the European trade unions monitoring such situations and their evolution? And is it up to the corporations or to the trade unions (in this case, the German ones) to defend the European model? I would like to know your opinion on this issue.
Thank you.

**THE FINAL DRAFT
&
CONCLUSIONS**

FLEXICURITY: A CHALLENGE FOR EUROPE?

The International Seminar organized by National Fisac Cgil on Flexicurity, the final step in a challenging process envisaged in the program of the European Project on this subject, was held in Ariccia (Rome) on the 26, 27 and 28 of March, 2007 with participants from almost all the States of the New and the Old European Union.

Twenty-two countries and thirty-five Trade Unions participated in the event, which was not only intended as a forum for research and exchange, but also as an opportunity to foster mutual knowledge and promote the awareness that the European dimension must be the driving force towards increased emancipation for all the workers of the continent.

OUR BACKGROUND PROJECTS SINCE 2003 TO PROMOTE THE EUROPEAN SOCIAL DIALOGUE IN OUR SECTOR

The political, social and union-based commitment of Fisac-CGIL and its management must be seen against this background, a commitment that over the last four years has been aimed at the promotion of a European Social Dialogue.

European projects have been developed to gain a better understanding of the changes taking place in the banking system all over the continent, of trans-national concentration processes and salary policies, and the impact of these changes on the psychological and physical conditions of men and women workers. This analysis should be carried out in the spirit of the Lisbon Agenda, in terms of work quality, employability and lifelong learning.

Our contribution of May 2003 was rewarded by a first and remarkable result – the **Common Declaration on Education signed by the social partners of the European financial sector**. In Italy, this agreement was later incorporated into the national collective agreement of the banking sector.

LABOUR MARKET FLEXIBILITY AND WORKERS INDIVIDUAL/COLLECTIVE RIGHTS: PROMOTING A MORE BALANCED APPROACH

In general terms, the Seminar was aimed at providing an insight into the impact of the major changes that have taken place in the European banking system, with particular reference to the new member States and accession countries with their extremely dif-

ferent trade union background and experiences in the legal, social and labour systems, differences between the new accession countries and in comparison to Old EU Member States.

In dealing with these matters, **Trade Unions do not intend to be conservative and short-sighted actors, anchored to an uncompromising defence of obsolete models and systems, all the more so when the Trade Unions take action to oppose the impending job instability generated by models that subordinate quality of growth and occupational development to cost reduction.**

For European Trade Unions today, occupational stability means exploring, analysing and governing enterprise reorganisation processes, in order for our children to be able to plan their future, for older workers to look at their working life with less anxiety and a renewed enthusiasm and for women workers to experience maternity with no fear to lose their jobs.

The Project has provided an opportunity to analyse differences and especially to identify a common denominator among the experiences of different European countries, to promote a more balanced approach in the continent between labour market flexibility in the globalisation era and workers' rights, in the framework of a Social Europe.

The preparation phase of the meeting was marked by a significant exchange of information to be used to produce comparative schemes. The idea was not to identify good and bad countries, but rather to provide a homogeneous and qualified overview of the economic and social policies to be implemented in a Europe with 27 Member States. This work has been possible also thanks to the contribution of the working groups identified in the different geographical macro-areas.

Labour market rules, new and stable job creation policies, active protection of older workers – these are the crucial issues to be negotiated and settled by the Unions in collaboration with the social partners, with the national governments and finally at a European level.

Labour policies are particularly important for the EU and therefore any action in the area of labour policies must be set against the background of an EU dimension, by encouraging Member States to consider how to reconcile globalisation requirements and social cohesion, and prevent a negative impact on security and social stability.

The protection of working conditions is a major challenge for the

European Trade Unions, in order to guarantee rights and economic and social equality, while preventing unfair competition in Europe (lower labour costs, income inequality, and reduced social protection).

However, the European economic and labour market model, whatever the definition and the language used to define it – German, Scandinavian, French, Czech or Polish – is conditioned by the widespread application of a free trade policy, presented as dominant thinking and best practice, and as such unavoidable.

Faced with Governments that pursue deregulation, with the inevitable social implications that go with it, Trade Unions must not confine themselves to advocating adequate implementation of EU directives, but rather promote a more consistent and effective action to make sure that they are actually put into practice.

Comparison of different experiences has showed that the radical changes in national and trans-national financial systems, both in terms of ownership and in terms of management strategies and operational business models, reflect the concept of “flexibility”, intended as organisational flexibility, flexibility in the use of human capital, wage flexibility and flexibility in work and life time.

However, flexibility meant as willingness to accept change and react to unpredicted and unpredictable market turbulence, has to be clearly defined and regulated by means of legal and contractual provisions to guarantee that rights and protections are actually available.

As a matter of fact, in the different European countries, the labour market tends to be considered equal to the other inputs, and balance depends on the free coming together of demand and supply. Consequently, the underlying perverse philosophy is that economic exchange can only occur between individuals and not at a collective level, and is therefore exclusively governed by civil and commercial law.

However, the debate held at the seminar led to the conclusion that the exclusive value of goods, including labour, must be offset by the central role played by workers, based on the inalienable right of personal dignity and on the principle of reciprocity, mutual respect, combined with the willingness to systematically challenge one’s professional, personal and relational skills.

As clearly stated in the Lisbon Agenda, this is the way to reinforce the European social model founded on the guarantee of individual and collective workers’ rights and on a social inclusion strategy, in order to safeguard trade union and collective representation

rights.

Hence the need for legal provisions to establish the essential rules governing labour relations: long-term employment, with a few exceptions; the obligation to guarantee safety and health on the workplace; sickness and work accident provisions; protection of women workers; information rights and protection against unjustified dismissal and, last but not least Life-Long Learning.

It is important, however, for flexibility to be combined with adequate social protection. It is no longer the classical European welfare system linked to employment stability, but a new system yet to be established to encourage flexibility and guarantee the continuity of social citizenship throughout a person's working life.

Nowadays, workers have increasing opportunities to find jobs where their cognitive potential is enhanced, where their personality is enriched and their contribution in terms of professional know-how, skills, ideas, and emotions is promoted with a positive impact on the company's performance.

Consequently, a good flexibility is not only about sustainable and regulated flexibility, but also and especially about the willingness to promote social cohesion and individual security, since joblessness is accompanied by increased risk of marginalization and social exclusion.

Scientific research conducted in many Old European countries (Spain, France, Italy, Germany) showed that work organization can undoubtedly be considered as a primary risk factor and it is, therefore, necessary to pay attention to all relational aspects, person/working environment/processing procedures, as well as to all issues related to alienation, dissatisfaction, and distress generated by inadequate working conditions and stress.

Research has shown that there is a number of extremely new work-related diseases caused by the risks generated by changing working relations, as confirmed by the increasingly widespread debate on the so-called "lost diseases" (atypical jobs), or new risks such as the "sick building syndrome", which proves that the old idea that office jobs are not harmful is not true. The mental impact of increasingly intensive, high-concentration work has not yet been extensively explored.

These phenomena can affect the professional and economic relations of European workers and dramatically jeopardize well-established social certainties, while generating a sense of instability that may have negative impacts also on individual psycho-physical wellbeing and devastating effects on personal life and future

prospects.

In fact, uncertainty about events, in terms of the likelihood of events to occur, can have paralysing effects on personal adjustment processes and lead to increased sense of helplessness and isolation. Some researchers mention “psychological aging” (Spain) as a negative health effect caused by precariousness and job flexibility.

In **Germany**, over the last few years, a considerable increase in mental disorders has been recorded, with a boom in the number of cases of unfitness for work due to depression. In the last national bargaining session, the Trade Union Ver.di. submitted a number of specific claims on health protection at the workplace.

In the **UK**, the Workplace Employment Relation Survey (WERS) highlighted that workers are exposed to increasing pressure at work and are unhappy about the lack of balance between working life and family life. An OECD study in 2002 showed that 41% of workers feel a sense of uncertainty about their own future.

Workplace stress is not only intended as a condition experienced by the individual, and in fact this phenomenon does not only affect individual workers, but is also and especially a collective problem, a condition where men and women in flesh and blood play a decisive and central role, their professional and private lives being closely intertwined with their social and family implications.

GENERAL TAXATION SYSTEM FOR A NEW WELFARE

Hence the challenging question: what welfare in Europe and what organization of solidarity against all forms of social exclusion? How can general taxation support the welfare system in the old and the new Europe? Comparison of different experiences has showed that reduced guarantees of occupational and wage stability are often accompanied by reduced welfare provisions.

Welfare support must be available not based on type of contract (typical or atypical) but throughout a person’s working life.

Alongside income support and social security provisions during unemployment, these new forms of flexibility give rise to additional needs: developing, retaining and updating skills throughout one’s working life, while having access to personal and family services.

IS THERE ANY INTERNATIONALLY ACCEPTED DEFINITION OF FLEXICURITY?

Flexicurity as an innovative issue in Europe was specifically exam-

ined at the meeting. All participating countries and trade unions gave their contribution, by providing realistic and original information about their own experience on such a complex matter and producing preliminary information sheets.

Discussion and exchange were enriched by the valuable contributions of qualified **French, Spanish, German and Italian experts**, who provided an insight into the nature and the critical elements of the ongoing process.

In Europe, talking about flexicurity means combining labour market flexibility with worker's security and social cohesion, i.e. all the provisions linked to active and passive social and employment policies, as an alternative to policies exclusively based on labour supply deregulation.

Flexicurity is neither good nor bad in itself: everything depends on how it is used and the limits that are set to it. Flexibility does not necessarily mean precariousness, even though it is sometimes difficult to tell the difference between the two.

It is worth mentioning that the term flexicurity, which is about the pursuit of social self-protection, contains in the practice a little semantic deception aimed at concealing ever increasing job insecurity in Europe. There is still no internationally accepted definition of flexicurity.

In Old European Member States, debate and exchange on flexicurity have been going on for a few years, albeit in different ways and to different extents, while in many new European member states (Poland, Bulgaria, Lithuania, Hungary, etc) the concept of flexicurity is rather new and not much investigated, even if employers have already put it into practice.

THE NATIONAL EXPERIENCES SCENARIO IN THE BANKING SECTOR

As regards the banking sector, in many Eastern European countries, the system used to be state-owned up until 15 years ago. However, now these countries are experiencing extreme privatisation, often with no effective market rules, and employers tend to increasingly resort to casual employment solutions that are often perceived by workers as detrimental for their living conditions and generating new and harmful forms of social dumping.

Another important aspect to be mentioned is that **in many of the above countries (Lithuania, Poland, Czech Republic, Hungary, and Bulgaria) as well as in the UK, there is no**

national collective agreement for the banking sector, but only company-based collective agreements. In fact, in these countries employment is almost always governed by the Code of Labour which contains the legal provisions on national collective bargaining and, in some countries (Lithuania, Bulgaria, and Poland) also lays the legal foundations for social dialogue and trade union relations.

However, while in the European financial sector, open-ended contracts are still the prevailing form of employment relationship, the revision of the Labour Codes has introduced no barriers to employment flexibility by allowing the increased and unlimited use of fixed-term contracts, which are considered with some concern by workers and trade unions.

The observations by researcher Jacques Cotta are consequently quite significant, when in a recent publication he highlights that in France "over a period of ten years, casual employment has dramatically increased. Temporary jobs have grown by 130%, fixed-term contracts by 60% and open-ended contracts by 2% only. Over one million people earn minimum wages and over 500,000 receive a solidarity allowance". These observations can apply to many different EU countries.

In fact, a comparison between different EU countries has showed that one of the main problems is **the "grey economy" (Bulgaria)** that is becoming increasingly wide-spread and "many people work without any employment contract providing for a minimum wage".

In Spain, especially over the past 10 years, fixed-term contracts have proliferated as a result of labour market flexibility, which has however been regulated by a law of 2006 (**Para la mejora y el crecimiento del empleo**) which provided for a more limited use of these types of contracts and additional protection of individual rights.

Conversely, **CMKOS, the Czech Labour Confederation,** has undertaken to protect the rights and minimum wages of workers in order to fight back the risk of a situation of "slavery". In fact, independently of the legal nature of the employment contract, all employees, men and women alike, must be entitled to minimum rights limiting the likelihood of social exclusion.

The Czech trade unions are therefore convinced that increased labour market flexibility must be accompanied by the protection of labour rights and unemployment subsidies and active support of the workers. support for the unemployed.

In Italy the situation is similar to France and Spain, but the illegal labour market plays a more important role. The Government over the last one and a half year has implemented new legal provisions to control the illegal labour market and guarantee adequate levels of "good employment".

The increase in casual employment in Europe shows that in the practice employers are the only ones that capitalize on this "new reality", while workers are becoming "more submissive" and conditioned from an occupational and social standpoint and have to give up long-term projects in their private lives.

EU experience has demonstrated that personnel cuts resulting from company downsizing has often been controlled by employers and trade unions (**Germany, Spain, Italy, France**) **not by means of dismissals but resorting to early retirement provisions and workers' re-training programmes.**

In this connection, in **Spain the "Estatuto de los trabajadores"** provides for legal recognition of the representation role of trade unions and redundancies resulting from downsizing are managed by voluntary resignation and early retirement.

In **Denmark**, in the collective national agreement of the banking sector, works councils that include employees' and union representative have been established.

In **France**, the banks have introduced Social Plans for employees over 50 years that now account for 36% of the total, and nearly 60,000 bank employees are expected to retire soon, as indicated by the data provided by the Association Francaise des Banque, with 150,000 new employees will be hired over the next 10 years. However, the renewal of the banking population is taking place predominantly using fixed-term contracts that account now for 71.50% of new employment contracts.

Both the Labour Codes that govern and innovate employment relationships between employers and employees, and the national collective agreements contain adequate provisions for French bank employees, while the employers' attitude may range from a conservative approach on a number of ethical values to a free trade approach aimed at increasing flexibility, low wages and minimum welfare costs.

In **Poland**, collective dismissals are regulated but, over the last few years, the trend has reversed: from a compensation-based policy to an employment promotion policy (vocational training, re-training, etc).

In **Italy**, an original experience has been going on for a few years after the establishment of a National Fund for the banking sector (see introductory papers) fed by the contributions of employers and employees, The Fund is used as a social shock absorber in case of redundancies and provides for training of workers involved in the downsizing process.

In the **German experience**, the most important reforms of the labour market have been implemented via 4 acts of the Hartz Commission that, at the last approval in 2005, laid the foundations for the re-organization of compulsory unemployment benefits, welfare and social provisions. Workers' reinstatement to permanent employment is encouraged and promoted, by introducing streamlined training schemes.

Moreover, the debate held during the conference showed that in some countries, like **Slovenia and Cyprus**, in spite of increasing labour market flexibility, a debate on flexicurity has been started where also trade unions are involved, often only on a consultation basis. This is confirmed by the national banking contract provisions that include short-term as well as lifelong training.

The experience in **Denmark** raised a considerable interest thanks to the effective combination of an extremely dynamic labour market (i.e. flexibility) and significant social protection. Use of dismissals is unlimited and every year 30% of workers are made redundant, while 7 people out of 10 are very likely to find another job in a very short time.

The State is obliged to help the unemployed people who are not entitled to the so-called "start help" to rapidly find a job and support themselves and their families.

However, over the years, the **Danish welfare** system has reversed to a free trade approach by progressively promoting the **workfare** culture (conditioned subsidy) as a further development of flexicurity. In the Danish approach, the central role of the welfare system (a solidarity-based social and economic system) has been replaced by a labour market-centred approach and a system of individualized and competitive social relations.

FOUR INGREDIENTS FOR A BETTER BALANCE

Given the peculiarities of its economic of social conditions, the Danish experience cannot be easily transferred to other countries.

This conclusion, however, does not prevent other EU countries from pursuing a similar direction.

In fact, for the European Union (19 May, 2006) there are four necessary ingredients to reach a balance between flexibility and employment security, while reducing the risk of labour market segmentation and taking into account the role played by social partners.

First of all, the availability of contractual agreements that provide for adequate flexibility for employers and employees. An important element, in this respect, is the regular revision and update of employment legislation, in order to prevent long-term marginalization of large groups of people, especially young and older workers.

Secondly, equitable and sustainable results can be obtained by guaranteeing adequate workers' rights in all types of contracts. This promotes occupational mobility and labour market opening, not only in terms of changing jobs and employers, but also going from full-time to part-time jobs, from casual to permanent work, from being an employee to becoming self-employed, thus creating career opportunities and better conditions for work and private life. In Spain, for example, the State offers special tax breaks to employers that choose to hire atypical workers.

Thirdly, social protection, lifelong learning and labour market policies must go hand in hand, for people to make it through the changes in their working lives and experience labour market transformation as an acceptable opportunity and not a threat, and thus switching from job security to employment security.

Finally, since social protection systems should provide for adequate living support for the employed, the search for a paid job must be encouraged. Income support must therefore be accompanied by rights and obligations in terms of job and training opportunities and must be linked to the labour market.

Following this itinerary, the debate held at the seminar made it possible to analyze and highlight the central role and effectiveness of the different welfare models adopted in Scandinavian, continental, Mediterranean and free trade countries.

Speakers at the seminar presented extremely different welfare policies, in terms of size and quality, implemented in Old and New EU countries, all of them based on the same inspiring principle: regulations on employment relationships through collective agreements must be accompanied by a State-funded social network to provide support in case of unemployment, sickness and old age.

With respect to employers, attention is placed on internal flexibility in the company (worktime and wage reorganization) as well as

on external flexibility (dismissals and outsourcing).

However, a comprehensive analysis of flexibility must take into account also the "life" factor, intended as flexibility being able to shape people's private lives. Flexicurity therefore does not only affect employment policy, but also family and welfare policies.

The Ariccia Seminar provided the opportunity to examine the guidelines contained in the Green Paper on the labour market presented by the European Commission in November 2006, that promotes a political philosophy aimed at reducing entitlements and protections for people with permanent jobs, especially in Old Europe, while increasing labour market deregulation in new EU countries and consequently creating the conditions for social dumping practices.

Consequently, **in order to fight labour market segmentation**, the solution cannot be reducing social protection entitlements available to permanent workers and downgrade them to the same provisions as casual workers, i.e. promoting a general downgrading process to combine modernization and return to the past. The underlying perverse philosophy is that this economic exchange can only happen between individuals and not on a collective basis.

EDUCATION

The analysis of European trade union initiatives held at the Seminar highlighted that active employment policies, and particularly vocational training, re-training and lifelong learning schemes are essential tools to combat unemployment and precarity.

Tackling the issue of flexicurity in its entirety entails an in-depth analysis of Training provisions in the EU.

Starting from Delors' White Paper on "Competitive Growth and Employment" and the commitment undertaken by the European Council in Lisbon in 2000 to "Turn the European Union into an knowledge-based economy, the most competitive and dynamic economy in the world by the year 2010", training has taken up an increasingly strategic role in the framework of European employment and growth policies.

Hence, while continuing education is considered "an essential element in the equilibrium between flexibility and security", lifelong learning strategies have been developed which play a substantial role in the pursuit of full employment policies: **the idea being to provide lifelong learning for everyone, from childhood to old age.**

Agreement on training schemes with employers means for the

trade unions to be able to control and propose, not only based on technical knowledge, but also through political decisions in line with organization and bargaining policies in the area of new technologies and work organization, and trying to involve women and men workers who are often not entitled to training provisions.

Discussion and exchange on this matter among the delegates from different countries at the meeting highlighted that social partners in the banking sector are now convinced that lifelong learning is an essential element both in terms of enterprise competitiveness and for employees employability.

This is why the “CES/UNICE/CEEP Framework agreement for lifelong skills and qualifications development” has been favourably accepted as a positive contribution for the banking sector.

In this connection, the **Spanish experience** is certainly worth mentioning, with a well-functioning vocational training system that is regulated by national and company-based contracts. In particular, lifelong learning is used to promote worker re-training and is becoming very widespread. In the Spanish banking sector, the collective national contract contains special provisions on training.

In **Denmark**, the collective contracts and the educational system encourage participation in training and specialization programmes that can be attended while on paid employment.

In **Lithuania**, the legislation in force enables workers to take in part in training courses organized by the trade unions, while in other countries, such as Germany, lifelong learning is predominantly company-based and is aimed at meeting employers' requirements.

In the **UK**, there is no legal provision on vocational training, since the Government has adopted a “laissez faire” approach and training is not regulated by collective agreements. Nevertheless, a legal provision has been approved to introduce the “Union Learning Representative” (ULR) who is responsible for workplace training.

Interestingly, the **Czech** Trade Union CMKOS has concluded that increased employment flexibility must go hand in hand with an active support policy for worker employability by means of training and re-training schemes. A positive role can be played by a cooperation model between the government entities involved and the social partners, since employers are not interested in providing this kind of protection.

In **Cyprus**, the national collective agreements provide for employ-

ers' obligation to guarantee vocational training. This can be enforced also by using the funds made available by the Authority for the development of human resources, with a positive impact on employment protection.

A comforting signal comes from **France**, where in September and December 2003 the social partners signed an important agreement on training that was then implemented by the banking sector in July 2005.

In the text of the agreement it is stated that "a training scheme is a educational tool aimed at providing knowledge, know-how and behavioural skills", training recipients are identified in order to enable access to and retention of bank employment and a the role of a professional tutor is defined.

Moreover, a Joint Observatory is established to control the qualitative and quantitative trend of professions. Finally, the Individual Right to Training is established that enables employees to start a training process by their own initiative in agreement with their company management.

In the European Union, however, there are countries, such as **Italy**, where enrolment rates in training schemes are the lowest in Europe: 20% vs. 39% European average and with 60% highs. The average rate of European companies providing training schemes is 60%, while in Italy it is 25%.

A survey carried out by the Italian Labour Ministry with Unioncamere showed that there are less graduates than in other European countries, job quality is still low, and there are few employers providing continuing education programmes, which are predominantly aimed at younger workers and executives.

One of the reasons for this situation has been the huge delay of Italy in setting up Cross-professional Funds for Continuing Education, unlike many other European countries that, ever since the late 80's, have had continuing education systems in place shared by the social partners. In Italy, it was a late start only in 2002.

However, as regards the Italian financial sector, almost all employers accepted the Forte (Cross-professional) Fund and over the three years since its establishment many companies have introduced Training Plans agreed upon with the trade unions.

Developing joint training plans with employers means being able to control and to make proposals, as a result of technical provi-

sions as well as of political decisions to involve older workers that are often excluded for training schemes.

Moreover, training evaluation and certification tools must be developed, in compliance with European guidelines.

In this connection, significant experiences have been made in **Spain, Cyprus and France with the Professional Quality Certificates (PQC) to be provided by the CFBP (Bank Training Centre).**

As regards training, the information provided at the seminar showed that Europe is becoming increasingly aware of the importance of knowledge in workers' life, but there are still major differences in employment models and social provisions in the New Europe of 27 countries.

The very concept of "knowledge economy" in Europe highlights a break-up with the past and the link of reciprocity that exists between innovation, learning processes and human resource quality, competitiveness of the economic system and grade of civilization of a country. Innovation needs technology, but experience showed that it is not enough: there is a need for widespread knowledge, for a cultural model for technology to develop into, the willingness to contaminate and exchange, open up to different options and be creative, be able to connect industry and services, university and enterprise.

In this approach to development, men and women are the fundamental actors, in a person-centred rather than a machine-centred attitude. In the Lisbon strategy, the role attributed to individual knowledge, initial training and continuing education is certainly more important than in the past.

We are aware that the real challenge of the Third Millennium is about people, not technology: day after day, minute after minute, there is an increasingly deep-rooted certainty that the human capital is the competitive advantage in today's economy. People are the distinctive element in all organizations, the element that determines quality. Human resources are essential for the long life of a company and differentiation from competitors.

Enterprises now seem to understand the challenge and are getting equipped to cope with it. We have to follow their example, in order to offer men and women workers the opportunity to constantly increase and upgrade their skills, not only in terms of "professional know-how" but also in terms of the knowledge needed to independently operate at work, in social life, in the protection of rights, inclusion of diversity and respect of principles of solidarity

and personal dignity.

E.W.C.

At the Seminar, special emphasis was placed on the role to be played by the European Workers' Councils, especially in the European financial system where ownership and organizational changes are taking up an increasingly trans-national dimension. In this connection, **the important and innovative agreement recently signed by Unicredit bank was examined.**

THE ROUND TABLE WITH THE EMPLOYERS

The Seminar was concluded by an interesting Round Table featuring Allan Bang, the President of Uni Finanza, Giancarlo Durante, the President of the Social Affairs Department of the European Bank Federation, Walter Cerfedda, Ces Secretary, and Franca Della Casa, from the national secretariat of Fisac.

This panel discussion highlighted that "a correct approach to flexicurity must be based on a social dialogue and that social partners must be free to identify the most-balanced and correct way to implement it through continuing education and active employment policies, and by establishing more flexible social security rules, in order to meet the needs of people changing job or temporarily leaving the labour market".