Symposium proposal for track 4 on employment regulation:

Good-by Flexicurity, welcome Transitional labour markets?

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Flexicurity, the European labour market reform agenda, has found large approval, but at least as large disapproval, mainly from labour unions and research. The EU Commission has recently reasserted that the concept of flexicurity was a means to weather the Global Financial Crisis and is presently launching a second phase of flexicurity as part of the so called 20/20 agenda, the follow up of the Lisbon agenda.

However, the crisis seems as yet not to have confirmed the superior adjustment capacities of flexicurity countries, at least those using the "classical" form relying on external adjustment through lay-offs, generous unemployment benefits and active labour market policies for quick labour market reintegration of those losing jobs. It can be shown instead that at the present juncture internal adjustment through working time reductions in otherwise stable employment relations seem to work remarkably well to weather the crisis. While internal flexibility figures among the common principles of flexicurity, strict employment protection does not. But it may well be that tight employment protection is an important condition for disposing of ample internal adjustment measures.

While this "stability-flexibility" combination is one of the challenges facing the concept and policies inspired by flexicurity, there are others. Although nobody would challenge the very general need for flexibility and for security in labour markets of open economies, Calmfor's provocative question "whether flexicurity was an answer or a question" remains pertinent. Many important trade-offs, such as the principal between flexibility and security, are in fact not addressed by the assumed win-win solution of flexicurity, and resistance to the concept illustrates this fact. The rise of rather unprotected forms of atypical employment is but one example of the reality of such a trade-off.

And while flexicurity is in many regards different from the "pure" flexibility of the labour market mantra of the neo-liberal kind, it is similar in one respect: its goal is to have more flexible labour markets and less employment protection[1]. The difference lies in the fact that in the neo-liberal thinking, flexibility per se is sufficient to bring about desired levels of welfare, while generous social protection would distort the functioning of the markets via disincentives for workers and employers. In flexicurity, it needs policies to bring about security.

[1] Employment protection is understood here as having an employment contract with an employer but not necessarily the guarantee to hold a particular job, the latter referring to job protection. (This is different from the European Union's definition of employment protection, which in reality means employability – the potential to hold jobs- , while job protection in the EU definition refers to employment protection as used above).

Transitional labour market analysis, while loosely linked to the flexicurity approach, could offer an attractive alternative lens for viewing the challenges that face labour markets. While it targets good transitions (which can be seen as a specific kind of mobility and flexibility) the important difference is that the overall goal is not a flexible labour market, but the amount of people in good jobs. Indeed, good transitions mean in their essence that people on the move end up in a desirable position on the labour market or in other words make a career. And one cannot avoid thinking that desirable positions are rather good and rather stable jobs, triggering employment security. This is confirmed by most surveys on job satisfaction as one of the key variables for measuring job satisfaction is employment security. In legal terms, for having jobs that trigger good employment security, you need a contract with an employer, thus the form of employment contract is an important issue for all research on labour market reform.

The discriminating variable between flexicurity and TLM is then the role of good quality jobs with employment security and good careers as the target and as the central element in the labour market. Around the core and to access and quit the core (and also within the core, as witnessed by internal adjustment) are good transitions.

The questions that the transitional labour market approach has to address are the following: how large can the core be, what are the conditions under which the core remains important and what are the important access points and bridges to and fro the core? This touches education and training (e.g. school-to work and training to work transitions), labour mobility (e.g. job-to job transitions) labour market policies (e.g. unemployment to work transitions), social rights (e.g. maternity, paternity or parental leave to work transitions), retirement policies (e.g. work to retirement transitions) etc. as exemplified in the well known transition matrix developed by Schmid. But it touches also the question of the "optimal" employment contract, of the direction of labour market reforms and of alternative reform scenarios.

Other questions to be posed are: Is there still a particular country model that ideal-typically represents good transitions to decent work? The Danish model, the prototype of flexicurity on the country level faces employment problems that may be temporary and be part and parcel of the external adjustment process that follows from flexicurity, but may indicate also its limitations. And "continental" countries like Germany, Austria, but also France, the Netherlands, Belgium with strict dismissal regulations but ample measures of internal adjustment, seem to show –for now at least- more resilient labour markets in the crisis but are they offering good careers to many people?

The symposium will address a mix of conceptual (what alternative labour market reform agendas exist and has there been a change because of the crisis) and empirical questions (is internal adjustment effective? Is the Danish model still top? What kinds of bargaining/types of regulation bring careers while maintaining fairness and equality?). Its aim is to contribute to the debate on labour market reforms, taking the crisis into due account. It will also critically discuss the concept of flexicurity in showing its strength and weaknesses, highlight the contribution of the "transitional labour market" approach and generally add to the quest for a sustainable, yet adaptable form of employment regulation for the 21st century as part of effective welfare states.

Against the Wind – Danish Flexicurity and the Crisis

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STILL A DRAFT VERSION – PLEASE DO NOT QUOTE WITHOUT PERMISSION!

Against the wind
We were running against the wind
I found myself seekin'
Shelter against the wind

(Bob Seger, 1980)

Abstract

The Danish model won fame for its performance during the 1990s and the beginning of the 2000-years and took a position as a model for the European Employment Strategy and a much cited example of a real life example of a flexicurity model (Madsen, 2006; Bredgaard et al, 2006, 2007).

Like most other European countries Denmark has now fallen into a deep economic crisis. This has created debates about the ability of the Danish model to sustain external chocks. Some have even argued that Danish employment will be more vulnerable to economic downturns due to the low level of employment protection legislation (EPL). An additional issue is the degree to which the main institutional characteristics of the Danish employment system will themselves be sustainable, when facing an economic downturn.

These issues are in the focus of the present paper, which describes the reactions of the Danish employment system to the economic crisis and the relationship between the crisis and its main institutional characteristics.

Applying a comparative approach, the article firstly investigates, whether the concrete manner in which the crisis has spelled itself out on the Danish labour market is related to the specific balance between flexibility and security that characterises the Danish model.

Following the analysis of the Danish labour market performance during the crisis in a comparative perspective, the article furthermore gives an overview of the actual Danish policy responses to the crisis and discuss the degree to which they do – or do not – reflect a distinct approach linked to the Danish flexicurity-regime. To which degree do the policy responses support or divert from the main characteristics of the model? This analysis will be based on a mapping of Danish employment policy since 2008.

INTRODUCTION

Denmark has drawn considerable international attention in recent years. The flashing of the highest employment rate in the EU, the low level of unemployment and an overall positive macroeconomic performance has made Denmark stand out as a best practice for Europe (Madsen, 2006; Bredgaard et al, 2006, 2007).

Furthermore Denmark does show some interesting traits, when it comes to the country's combination of the well-known basic building blocks of a Nordic welfare state with some characteristics of more liberal market economies. The Danish development of the welfare state and labour market has thus be seen as a successful hybrid between the flexible labour markets in the liberal welfare states characterised by high numerical flexibility (liberal hiring-and-firing rules) and the Scandinavian welfare regimes of generous social security. The hybrid model seemingly managed to reconcile the dynamic forces of the free market economy with the social security of the Scandinavian welfare states (Madsen, 2006).

Under the heading of "flexicurity", the Danish labour market model has therefore been cast in terms of a well-functioning relationship between low job protection, a flexible labour market, high levels of unemployment insurance and active labour market policies (Bredgaard et al, 2006). In the wider European discourse of flexicurity, Denmark was rapidly endorsed as inspiration for a European Social Model that should guide the Members States in the development of their employment strategies (European Commission, 2006).

Since 2008, Denmark has like most other countries fallen into a deep recession. This has stimulated debates about the ability of the Danish model to sustain external chocks. Some have argued that the Danish employment system will be *more* vulnerable to economic downturns due to the low level of employment protection legislation (EPL). Others have questioned the degree to which the main institutional characteristics of the Danish employment system will themselves be sustainable, when facing an severe economic downturn.

These issues are in the focus of the present article, which first takes a comparative view on the way in which European labour markets have reacted to the economic downturn. Have the fall in employment and the rise in unemployment been more dramatic in Denmark and in other countries with a low protection of ordinary workers? It then goes on to discuss the effects of the crisis on the key elements of the Danish flexicurity model: the flexible labour market, the income security and the active labour market policies. Has the Danish model in effect been able to provide shelter against the wind?

THE CRISIS ON THE DANISH LABOUR MARKET IN A COMPARATIVE PERSPECTIVE

One of the aspects of Danish labour market performance, which has been noted in recent months, is the rapid rise in unemployment. In June 2008, Denmark flagged the lowest rate of unemployment in the European Union. In February 2010 Denmark had dropped to being no. 8 in the rank (Eurostat, 2010). In figure 1 the relative increase in unemployment rates in the EU Members States is shown, while figure 2 depicts the increase in unemployment rates in percentage points. In both figures the change is measured from the lowest unemployment rate in the period from the start of 2007 to the last quarter of 2009. Since the Member States were hit by the crisis at different points in time, this implies that the increases in unemployment rates are measured from different starting points.[2]

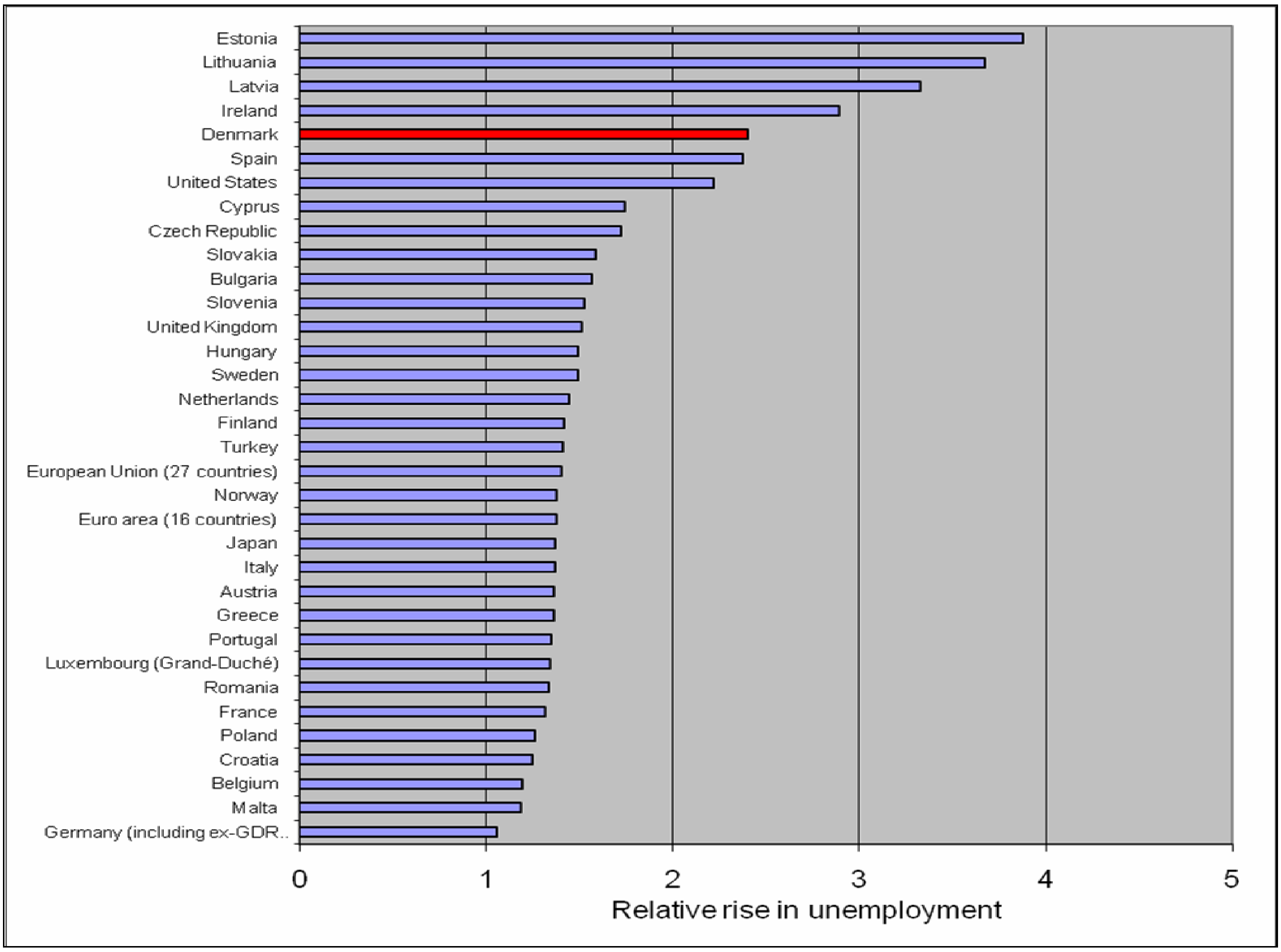

Figure 1: Relative increase in unemployment from national minimum to 2009Q4. Source: Calculated by the author on the basis of LFS, Eurostat

Based on the information in figure 1 and 2 there is little doubt than Denmark is found among the countries, where both the relative and the absolute increase in unemployment has been most dramatic. In relative terms Denmark is only surpassed by the Barltic States and by Ireland. Since Denmark entered the crisis with a very low level of unemployment, the relative increase is somewhat biased. However, also measured by the absolute increase, Denmark is ranked as no. 7 among the Member States.

[2] While this procedure takes into account the different starting points of the national downturn, it implies a bias in the sense that the observations are "right-censored" by the last available observation (2009Q4), which will probably not be the bottom of the national business cycle. However, until information is available for the full period of the present crisis, this is the only practical approach.

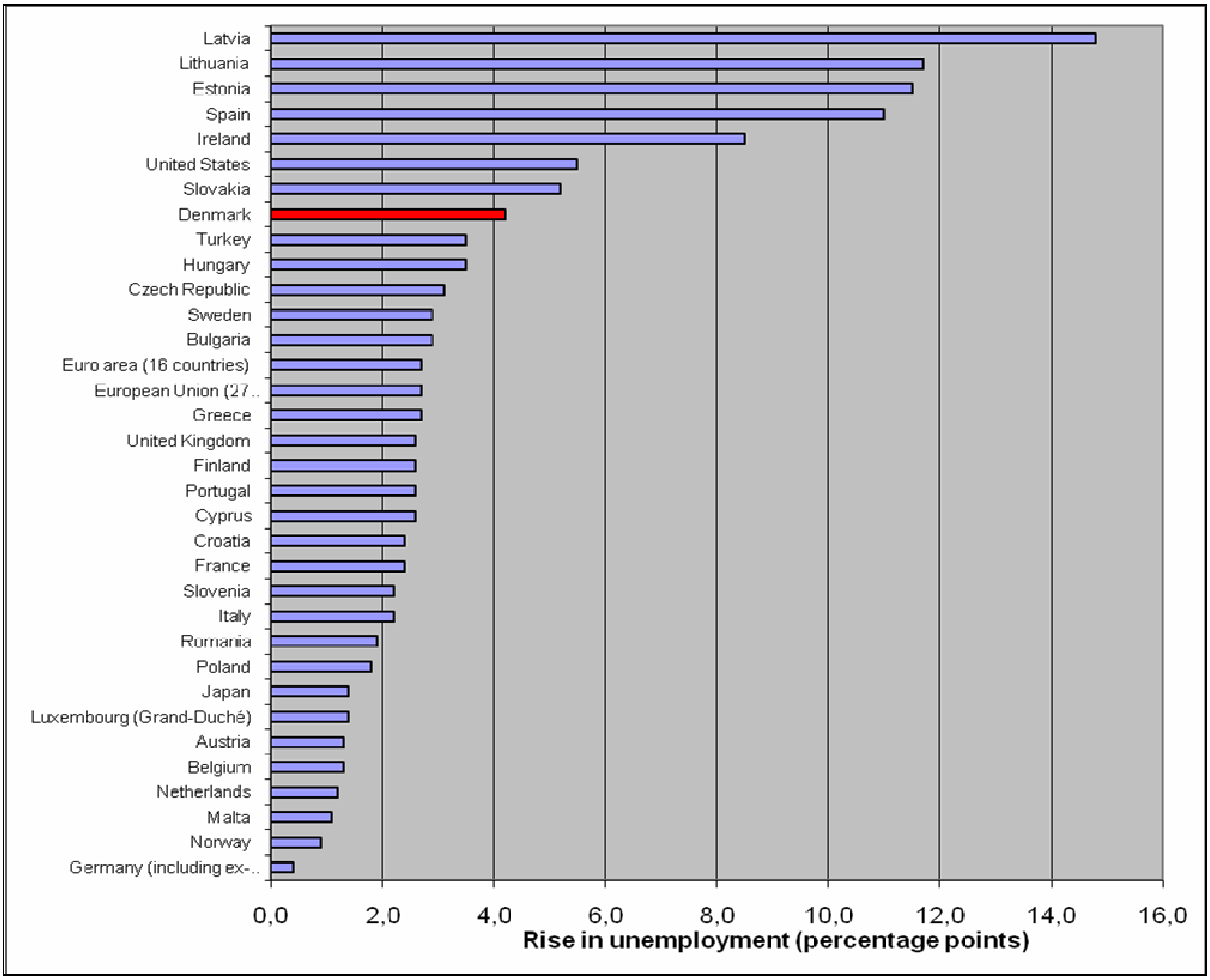

Figure 2: Increase in unemployment in percentage points from national minimum to 2009Q4. Source: Calculated by the author on the basis of LFS, Eurostat

The rapid increase in Danish unemployment could of course reflect an equally dramatic fall in employment and GDP. In figure 3 the fall in employment is compared. Again the fall in employment is measured taking into account the national development of the business cycle. The starting quarter is this the quarter with the highest employment level since the beginning of 2007.

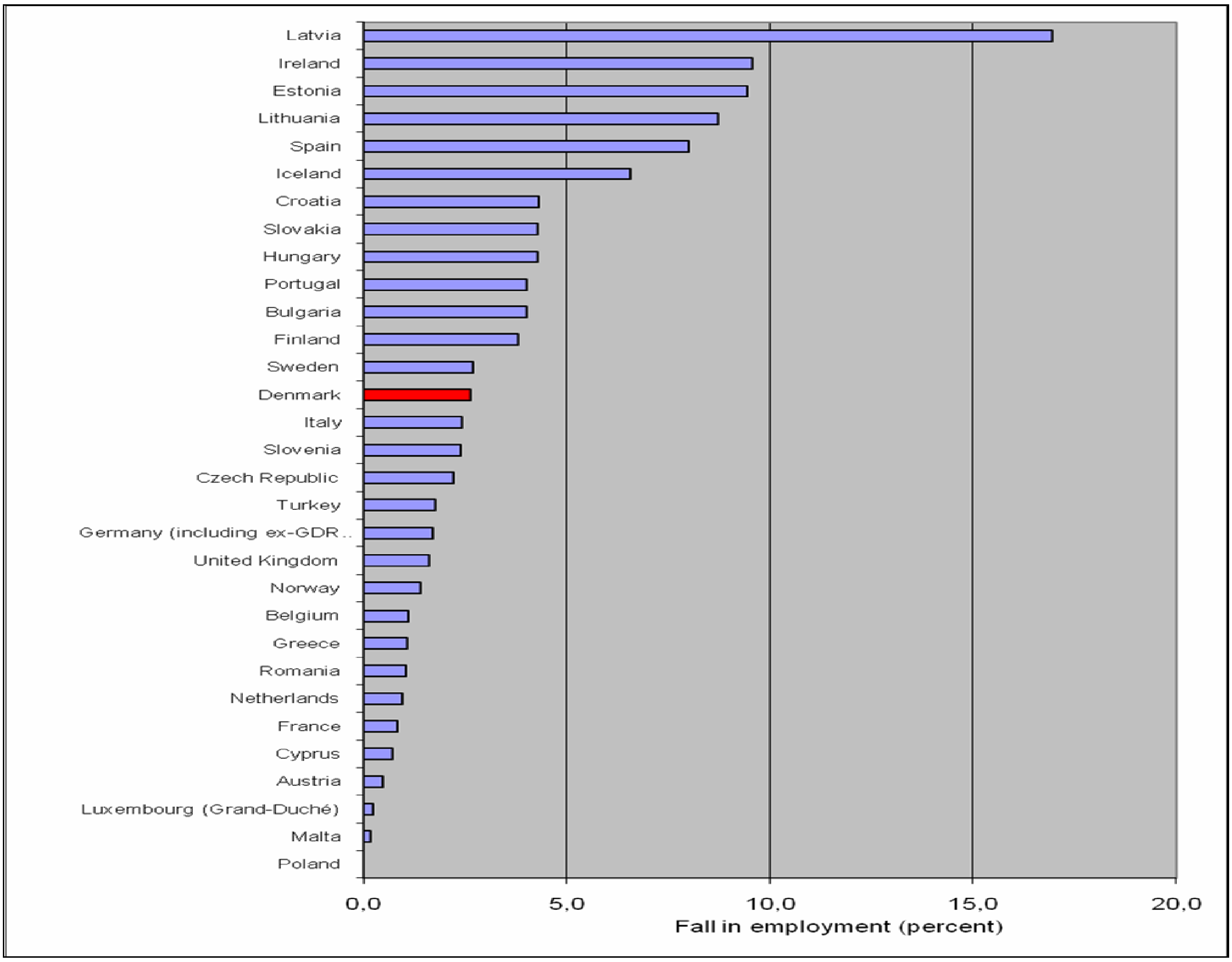

Figure 3: Relative fall in employment from national peak to 2009Q4. Source: Calculated by the author on the basis of LFS, Eurostat.

Based on the evidence in figure 3, the Danish crisis on the labour market appears somewhat less dramatic. Actually the fall in Danish employment (2.6 percent) is only slightly higher than the average for EU-27 (2.3 percent). However, the difference in the drop in employment must of course be seen in the light of the corresponding decline in the demand for labour. As an indicator hereof, figure 4 shows the national changes in GDP, again measured from the national maximum until 2009Q3 (due to lack of data for 2009Q4).

When it comes to the fall in GDP, Denmark actually seems worse off than with respect to the decline in employment. Compared to the average fall in GDP of 4.7 percent for EU-27, the Danish reduction in GDP is 6.7 percent.

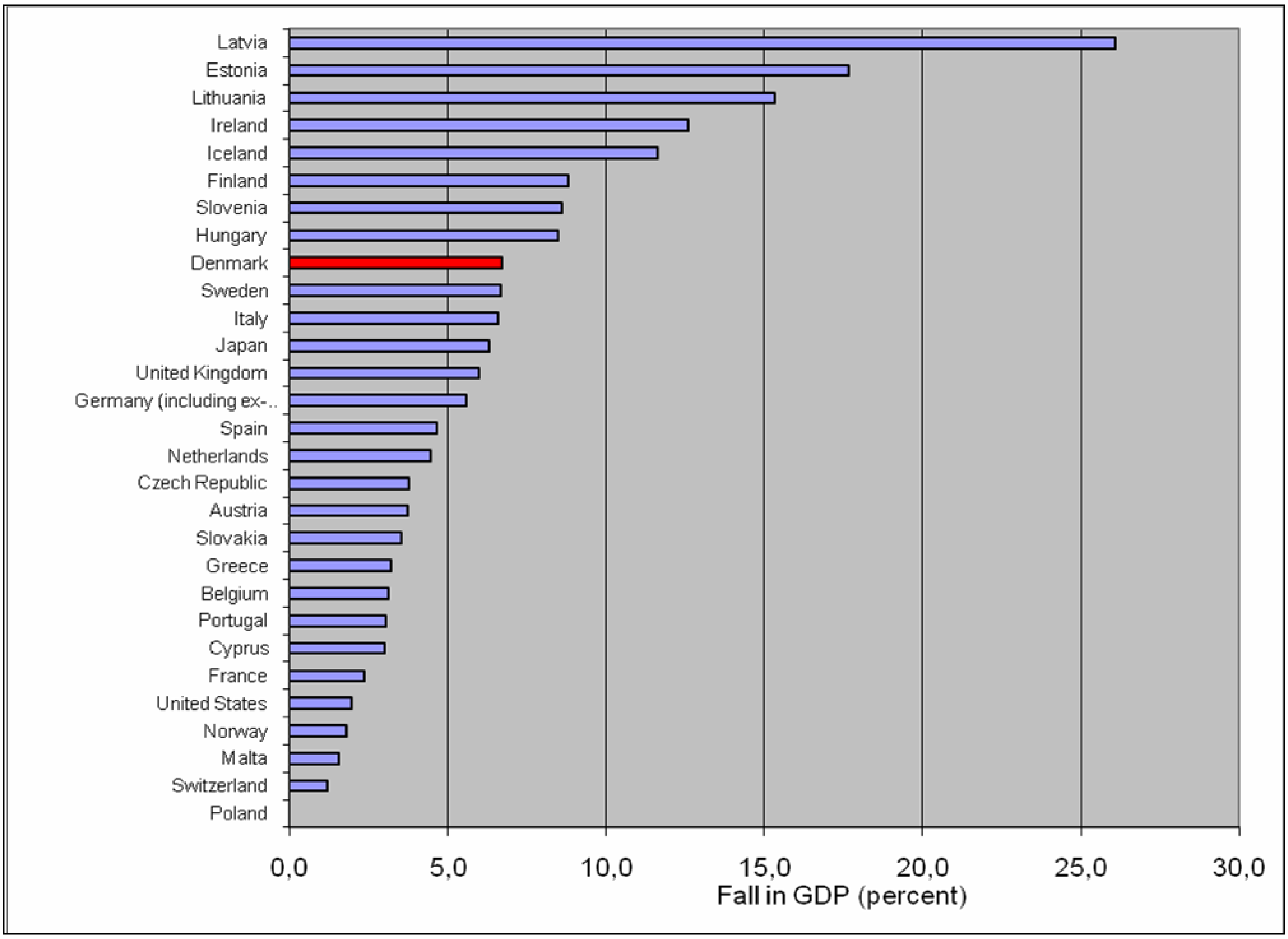

Figure 4: Relative fall in GDP from national peak to 2009Q3. Source: Calculated by the author on the basis of Eurostat.

As an indication of the relationship between the fall in GDP and the corresponding decline in employment, figure 5 plots the two variables against each other. Not surprisingly, there is a tendency for falls in GDP and in employment to be correlated. But there is no simple relationship. Some countries (like Spain) have experiences large reductions in employment, with limited fall in GDP. Others like The Netherlands and Austria show the opposite pattern.

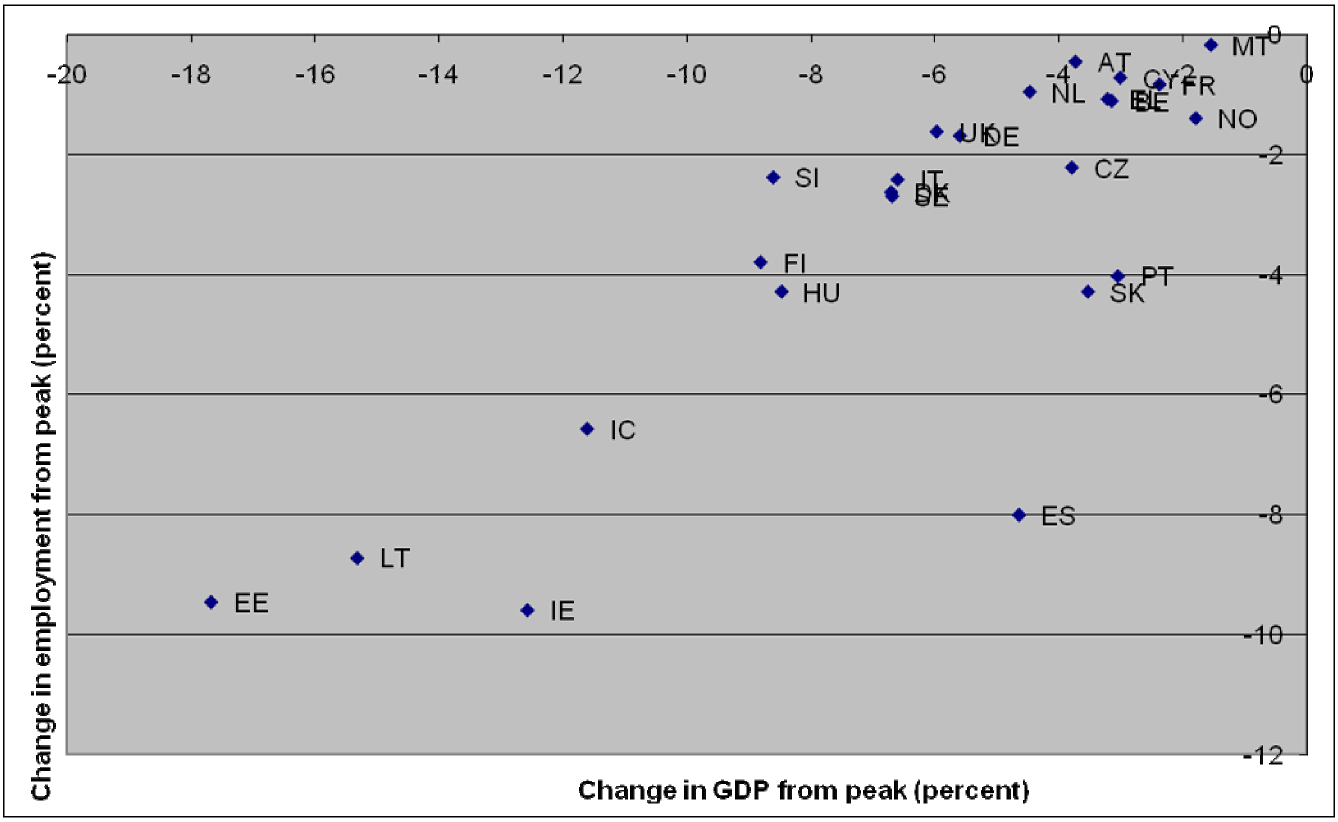

Figure 5: Relative decline in GDP and employment from national peaks to 2009Q3/4. Source: Calculated by the author on the basis of Eurostat. Note: Different peak quarters are applied for GDP and for employment. Poland, Luxembourg and Latvia are omitted as outliers.

Based on the data in figure 5 the elasticity of employment with respect to GDP can be calculated. These elasticities are shown in figure 6.

Two observations can be made from figure 6.

First one may note that the Danish situation is not extreme, when it comes to the relationship between the change in employment and the change in GDP. Therefore the rapid increase in the Danish unemployment rate since the beginning of the crisis must be seen in the light of the fact that Denmark entered the crisis with a very low level of unemployment. When employment started to decline, the consequences for unemployment will therefore be more dramatic than in a situation with a high initial level of unemployment.

Furthermore there could be an increasing propensity of the respondents in the LFS to report as unemployed according to the ILO definition. That such a tendency might exist can be based on the observation that there is an increasing gap between the Danish registered rate of unemployment standing at 4.1 percent in February 2010 and the rate of unemployment according to the LFS standing as 7.6 in the same month (Danmarks Statistik, 2010; Eurostat, 2010). This gap has been steadily increasing since 2007 (Arbejderbevægelsens Erhvervsråd, 2010).

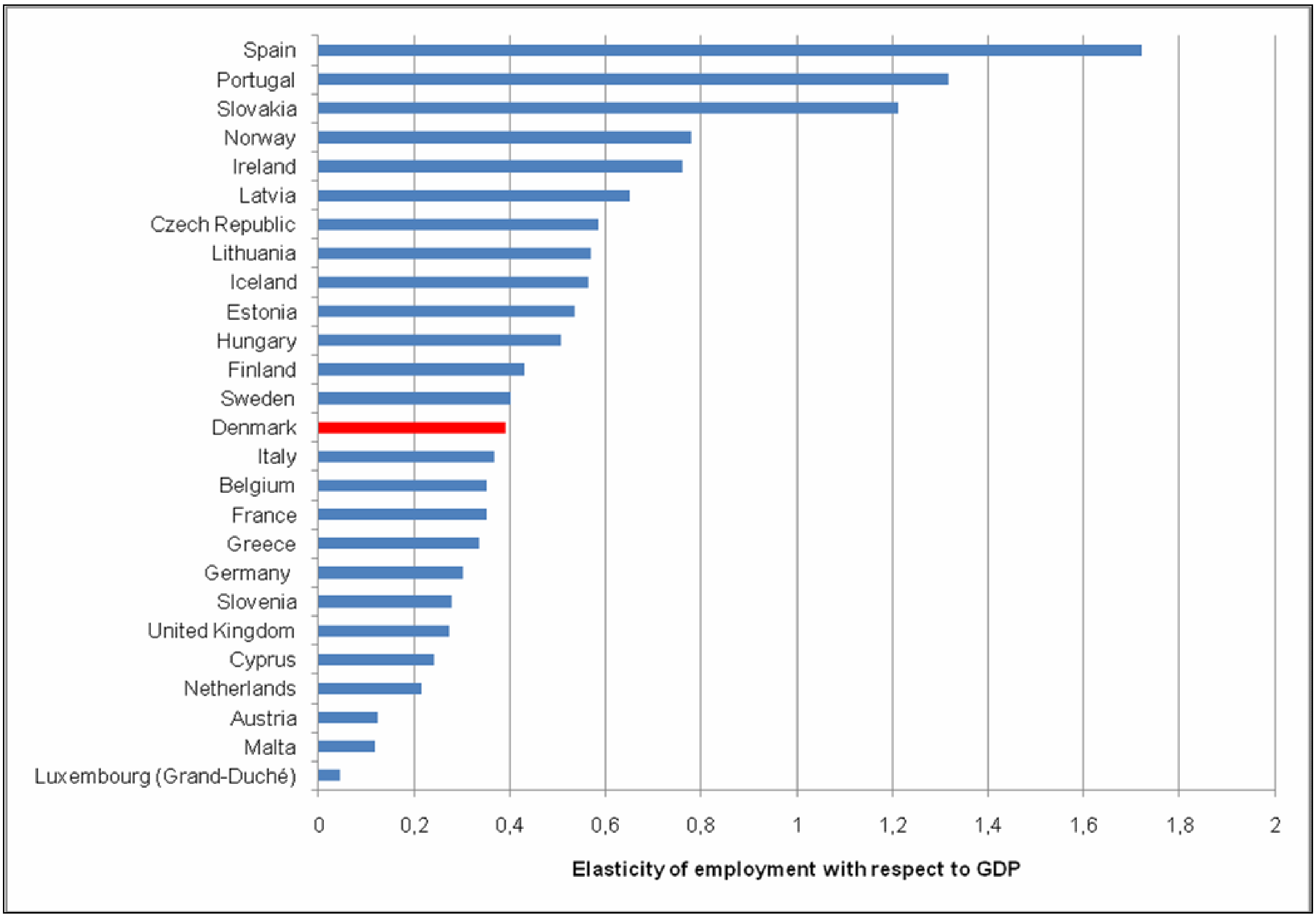

Figure 6: The elasticity of employment with respect to GDP. Source: Calculated by the author on the basis of Eurostat. Note: Different peak quarters are applied for GDP and for employment.

No simple explanation can be given for this. One hypothesis is that the slowly, but steadily, declining replacement rates of the Danish unemployment benefits since 1980 combined with the long-lasting upswing in Danish the economy since the mid-1990s has lead to a declining membership of the unemployment insurance funds and therefore to a rise in "hidden" unemployment (defined as non-insured unemployed).

Secondly, looking at the general pattern in the figure, no clear association can be observed between the macro-elasticity between employment and GDP on the one hand and the traditional classification of countries according to EPL on the other. If such a relationship exists, it does not play itself out in the simple ranking of countries in figure 6.

CHANGES IN EMPLOYMENT AND LABOUR MARKET POLICIES SINCE THE CRISIS

A second issue at stake is the degree to which the Danish policy responses to the crisis reflect a particular "flexicurity profile" and – following that – whether the responses can be conceived at sustainable in the sense that there are no indications of serious barriers to the implementation of such policies. This section therefore presents the major policy initiatives, which have been taken as a response to the crisis since 2008. The policy initiatives are grouped according to the traditional division between macro-economic policy and labour market policy. It then goes on to discuss the issues of conformity with the Danish flexicurity model and issue of sustainability.

Fiscal policy initiatives

The rapid rise in unemployment during the fall of 2008 and the following winter put the issue of "growth packages" high on the political agenda. During the spring of 2009 a number of concrete expansionary measures were undertaken, most of them as part of a political agreement between the Government and the Danish Peoples Party in March 2009 labeled "Forårspakke 2.0" (Spring Package 2.0).[3] The measures included:

- An access for the municipalities to increase their investments beyond the existing limits by 3 billion DKK in 2010 (0.3 percent of wage bill)
- A state subsidy to renovation of private homes in 2009 amounting to 1.5 billion DKK (0.15 percent of wage bill)
- A public "investment package" in infrastructure raising implying investments of 4 billion DKK in 2009-2012 (0.4 percent of wage bill)
- A tax-reform effective from 2010, which is not fully financed during the initial years. The net effect of the public budgets is assessed to be 14 billion DKK in 2010 and around 8 billion DKK in the following two years. (1.4 percent of wage bill in 2010 and 0.8 percent in the following years)
- The freeing of a special fund stemming from a scheme of "forced saving" that was introduced in 1998 and amounted to 1 percent of gross income (the so-called SP-saving scheme). The individual savings can now be withdrawn during the second half of 2009. The maximum amount that can be withdrawn is 30 billion DKK after tax or 3.1 percent of the wage bill.

It was the assessment of the Ministry of Finance that the measures listed above would increase employment by almost 30,000 persons in 2010 compared to a situation without the measures being implemented.[4] This assessment has however been disputed and an alternative estimate of around 10,000 persons has been made (Arbejderbevægelsens Erhvervsråd, 2009). One of the issues at stake is the uncertain effects of lower income taxes on private consumption and therefore on employment.

Furthermore, as part of the general negotiations in the fall of 2009 over the budget for 2010, an agreement between the Government and the Danish People's Party implied an increase in public investments of about 5 billion DKK over the period 2010 to 2013. The investment package included intensified maintenance of state roads and hospitals, renovation of harbors and modernization of state buildings. Furthermore the municipalities will be allowed to borrow 3 billion DKK more for investments in 2010. Also, the political parties behind the so-called "globalization fund ("Globaliseringspuljen") decided to allocate 1.2 billion DKK to a large number of initiatives to further support research, education and entrepreneurship.

To these discretionary fiscal policy measures must be added the fact the Danish economy due to its rather high tax level and the large share of the workforce covered by unemployment benefits, has some of the largest built-in automatic stabilizers in the EU, cf. figure 7 (Dolls et al, 2009; Giruard & André, 2005). Thus the effects of the economic downturn on income and unemployment are significantly dampened. The backside of this is of course that the public budgets have deteriorated rather dramatically during the crisis.

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[3] See www.fm.dk

[4] See "Svar på Finansudvalgets spørgsmål nr. 86 af 13. marts 2009" (www.ft.dk)

Figure 7: Income stabilization in different countries. Source: Dolls, Fuest & Peichl (2009)

Finally, the Danish Government and the National Bank have, like in most other countries, stepped in with “bank-packages” to provide liquidity to the banking system at the height of the acute financial crisis of 2008-2009.

Working-time and wage-flexibility

When it comes to direct intervention in the labour market a number of measures have been taken during 2009.

In March 2009 the existing option for employers to reduce working hours in case of a temporary fall in the demand for its products was made more flexible.[5] The scheme operates under the heading of “work sharing” and implies that the workers alternate between periods of work and periods, where they receive unemployment benefits. Normally the maximum duration of work sharing is 13 weeks, but employers can apply for a prolongation by another 13 weeks. In December 2009 only a total of 6.000 workers took part in work sharing. About 30 percent hereof had been prolonged for more than 13 weeks.

While the reform allows for increased flexibility during the 26 weeks that are the maximum duration of work sharing, it still must be seen as a temporary solution that is not aimed at handling a prolonged economic downturn. Some employers called for the introduction of a longer duration of the support to work-sharing, but both the social partners and the political actors were reluctant to support this idea out of fear that this would simply introduce a permanent wage subsidy to declining branches and companies.

[5] The more flexible regime was initially limited to a period of one year. It has later been prolonged until April 2011.

Concerning flexible working time arrangements, the Danish collective agreements normally allow for such arrangements to be agreed at the firm level. No changes in this situation have been introduced recently.

Finally with respect to wage moderation, some employers and their organizations have aired the possibility of voluntary wage reductions as a crisis measure, but there are only few examples of actual wage moderation yet. However, one can add the observation that the general negotiations in the private sector in the spring of 2010 resulted in wage increases that were very modest in a historical perspective.

Changes to ALMP
In February 2009, a broad political agreement was reached inspired by a proposal from the social partners. It implied a number of changes in the rules for active labour market programs. The changes were all aimed at targeting the programs more towards upgrading the skills of the unemployed in the light of the composition of labour demand. The main elements in the agreement were:

- An existing scheme gave a training subsidy to employers, if they hire unemployed persons. However the eligibility criteria were rather strict and the scheme had been used very little. The reform of the scheme made it more flexible and easier to administrate. The training subsidy will be targeted at unemployed having at least 3 months of unemployment and being unskilled, skilled or having obsolete qualifications. The duration of the training can be up to 6 weeks and the training must be provided by an external service provider. The new version of the scheme has duration of three years, after which it will be evaluated. It is assessed that the costs of the new scheme will be 10 million DKK per year or 0.001 percent of the wage bill.
- An existing scheme gave any insured unemployed the option to choose up to 6 weeks of education during the first 9 months of unemployment (6 months if aged less than 30 years). The reform of the scheme implies that the limit of 6 weeks is suspended 1) if the unemployed has no vocational training or obsolete qualifications, 2) if the unemployed cannot find work within his/hers previous line of work and 3) if the education taken is directed at areas where there are good employment prospects (like for instance health care). The new version of the scheme has duration of three years, after which it will be evaluated. It is assessed that the costs of the new scheme will be 25 million DKK per year or 0.003 percent of the wage bill.

While the two reforms just mentioned were triggered by the rapid rise in unemployment, the extent of the efforts made seems rather modest measured by the expected costs of the two schemes.

Furthermore one of the initiatives made by the Minister of Employment in March 2009, implied that the funds allocated to assist employees that are affected by collective dismissals are increased. At the same time the target group for the scheme is extended from firms with at least 100 employees to firms with at least 20 employees. Employees affected by collective dismissals will have access to training and further education of up to 8 weeks. The new version of the scheme lasts until the end of 2010 after which it will be evaluated. It is assessed that the total costs of the new scheme will be 15 million DKK in 2009 and 2010 (or 0.002 percent of the wage bill). Again initiative can be considered relevant and timely in the light of the rapid rise in unemployment, but the extent of the efforts made seems rather modest measured by the expected costs of the scheme.

The political agreement of February 2009 also implied a stricter regime with respect to the CV that any unemployed must submit. Under the previous rules an unemployed should enter his/hers CV into a central database (“Job-net”) before one month after having registered as unemployed.

According to the agreement, this limit is reduced to 3 weeks from August 1, 2009. The idea is to make the qualifications of the unemployed visible to potential employers at a very early state. However, given the limited market share of Job-net in the actual hiring activities of the employers, one can be skeptical towards the overall effect of this measure.

Also, one should mention that a full merging of the state branch and the municipality branch of the job-centers took place from August 1, 2009. This development was the result of a political agreement between the Government and The Danish Peoples Party in the fall of 2008 on the reorganization of the local job-centers. From 2010 the municipalities will furthermore take full economic responsibility for all unemployed (including their benefits) albeit with a refund from the state. The administration of benefits for the insured unemployed will however still be in the hands of the unemployment insurance funds.

Finally, that the Minister of Employment in January 2010 announced new initiatives to assist employers that are restructuring and employees that are about to be dismissed:

- The existing support to education of unemployed that are dismissed can now be extended beyond the date, where the dismissed persons leave the firm. The total duration of education and training can be up to 8 weeks. The reform will allow more employees with short notice periods to benefit from such programs.
- The job-centers will now be obliged to assist persons under notice to draft an individual action plan that spells out the steps to be taken to return to employment. Until now such action plans could only be prepared for persons already in unemployment.
- Persons that are *not* covered by a collective agreement will get the same rights as persons working under such agreements, when it comes to access to temporary reduced working time with support from supplementary unemployment (the so-called work-sharing scheme).

The above mentioned initiatives were in part inspired by a joint set of proposals from the social partners, who in January 2010 published 23 concrete proposals to improve employment policy and combat long-term unemployment.[6] The Minister of Employment has subsequently announced a number of new initiatives in the coming months focused at long-term unemployment.

These initiatives will, like some of the ones mentioned above, probably imply a slightly higher priority to education and training and also more intensive contact with the unemployed in the form of frequent meetings with counselors at the job-centre.

Initiatives to combat youth unemployment[7]

A part of the agreements over the budget for 2010, a settlement was made between the Government and most of the opposition. The agreement implied a number of different measures targeted at young unemployed including:

- Instant activation of all unemployed aged 18-19 years
- Intensified assistance to all unemployed aged less than 30 years in the form of employment with wage subsidy, traineeships, support to improving reading and writing skills.
- Intensified efforts to get unemployed young academics (aged less than 30 years) back to work by offering them assistance from private service providers after 6 weeks of unemployment (previously 4 to 6 months).

[6] LO og DA: *23 initiativer til at målrette beskæftigelsesindsatsen og modvirke langtidsledighed [23 initiatives for a targeted employment policy and the reduction of long-term unemployment*] January 22, 2010 (www.lo.dk)

[7] For an overview of the Danish initiatives to combat youth unemployment, see European Commission, 2009, pp. 14-15.

- A major barrier to vocational education for young persons has been the lack of traineeships. As part of the agreements over the budget for 2010, it has been decided to support the creation of an additional 5,000 traineeships in 2010 by tripling the economic support paid to private employers and by creating additional traineeships in the public sector. Furthermore a number of measures will be taken to improve the quality of vocational education.

The Danish regime of rule-based labour market policy

In assessing the policy responses to the crisis since 2008, one must highlight that Danish labour market policy to a large degree is “rule-based” in the sense that the law on active employment policy in detail specifies a number of rights and obligations for the unemployed and the jobcentres. Among the most important ones are individual dead-lines for contacts with the job-centre and for taking part in mandatory active programmes. This implies for instance that an unemployed member of an unemployment insurance fund must be activated after 9 months of unemployment or 3 months, if the person is aged less than 30 years. Unemployed aged 60 years and above are activated after 6 months of unemployment

This rather strict regime of monitoring and activation is not related to the business cycle. To a large degree Danish labour market policy therefore has the character of an automatic stabiliser, where there is little need for discretionary actions to be taken under a downturn.

This role is reinforced by the universal character of Danish labour market policy, which encompasses the majority of wage-earners (and self-employed) due to their membership of an unemployment insurance fund or access to means tested social security.[8] The major challenge is of course the necessity to adjust the resources of the jobcentres to accommodate to the larger inflow of unemployed that follows from fall in employment.

As also noted by the ILO, this non-discretionary character of Danish labour market policy is an important reason for the absence of major new initiatives since the mid-2008 (ILO, 2009:23).

Summing up the policy response: A labour market on auto-pilot

Both when it comes to macro-economic policies and labour market policies the most characteristic feature of the Danish policy response is its non-discretionary nature. This goes both for the important role of strong automatic stabilisers in the macro-economy and for the rule-based and universalistic nature of labour market policy. The table below sums up the picture.

[8] According to a recent study from the Economic Council of the Labour Movement 85 percent of the employed would qualify for unemployment benefits or social security, if becoming unemployed (Arbejderbevægelsens Erhvervsråd, 2010b).

Figure 8: An overview of Danish reactions to the crisis

Degree of discretion / Policy area	Automatic	Discretionary
Macro-economic policy	Strong automatic stabilisers due to high tax-rates and income support to unemployed	Growth packages mainly focused on public investments and tax reductions
Labour market policy	Rule-based system of active measures targeted at all unemployed recipients of transfer income and a wide coverage of income support systems	A number of minor adjustments to the various active measures. Initiatives to combat youth unemployment

Probably the most striking feature of the Danish response to the crisis is thus the absence of discretionary interventions in the form of large scale policy reforms. There can be – at least – two explanations for this situation.

The first one could be that the Danish policy arrangements have in fact proved adequate to handle the challenges of the economic crisis. So if it works, don’t fix it. One observation in support of this argument is that the speed in the rise of registered unemployment has leveled out during the spring of 2009 and that the forecasts for economic growth are improving somewhat from the disastrous decline in GDP of between 4 and 5 percent in 2009. The forecasts for 2010 and 2011 thus point to growth rates of between 1 and 2 percent (Finansministeriet, 2010). This will not be sufficient to rapidly restore employment and unemployment to their pre-crisis levels, but will at least prevent them from a continued dramatic deterioration.

The other explanation could be political barriers and tactics. A general election must be held no later than November 2011. Traditionally there is a stalemate in Danish politics during the last 1-2 years before an election, where the tension between the Government and the opposition tends to increase and block the reform agenda. Furthermore this agenda until the fall of 2008 was occupied by considerations for labour supply – both in the short term due to low unemployment and in the long term due to demographic considerations. The rise in unemployment since then has made it more difficult to argue the case to swiping reforms to increase labour supply. This has largely emptied the reform agenda for the time being.

CAN THE DANISH MODEL CONTINUE TO PROVIDE SHELTER FROM THE STORM?

Until now, the crisis has implied a dramatic rise in unemployment and fall in employment. The latter is now down to the level of 2005, before the latest upturn. Also the labour force has been reduced due to the lack of demand. Long-term unemployment has already doubled and will according to present forecast increase 2-3 times from 2008 to 2010 (Arbejderbevægelsens Erhvervsråd, 2010c; Beskæftigelsesministeriet, 2010).

Especially young workers, unskilled workers and immigrants and non-insured unemployed are already severely affected by unemployment. A rapidly rising number of the number of unemployed persons per vacancy is another sign of severe imbalances on the labour market. Thus the number of vacancies fell from almost 50,000 in January 2008 to 19,000 by the end of 2009 (Arbejderbevægelsens Erhvervsråd, 2010e).

Furthermore, the rising unemployment has put a severe pressure on the Danish job-centers, which has to handle the rapidly rising number of unemployed and obey to the unchanged dead-lines in the labour market regulations. Recent studies point to rising problems with keeping those deadlines. Thus in January 2010, only 58 percent of the unemployed began their first active measure with the stipulated date. For the young unemployed aged less than 30 years, the share was down to 42 percent (Arbejderbevægelsens Erhvervsråd, 2010d). There are also indications that the share of the unemployed, who receive education and training as part of activation is falling.

A further issue is the adequacy of income support. As mentioned above, about 85 percent of the employed will receive some form of income support, if becoming unemployed. The backside hereof is of course, that 15 percent will be without any safety net and also not eligible for receiving the offers of active labour market policy. The rising number of persons reporting as unemployed in the LFS, but not being registered as unemployed at the job-centers could be another indication of the limits of Danish income security. As mentioned above, the declining membership of the unemployment insurance funds may to some degree be caused by the erosion of the replacement rates of unemployment benefits, which has taken place since the 1980s.

But on the other hand, there are also indicators that the Danish version of flexicurity is still providing the Danish labour market with some shelter against the crisis.

Firstly, while long-term unemployment is on the rise, the level is still the lowest in the EU. In the third quarter of 2009, the share of the unemployed that had been unemployed for more than 12 months was 4.2 percent according to the European LFS, which was by far the lowest number found in the EU (Eurostat, 2010b). For EU-27 the share of long-term unemployed was 33.6 percent.

Second, the basic security arrangements in the form of income security and active labour market policy are still functioning in spite of the increased pressure from the crisis on the labour market. The indicators of stress are there in the form of slower implementation of active measures and of rapidly rising costs of benefits. One observation to put the situation into perspective is of course that the present number of unemployed has not yet reached the level seen in the last downturn, which is only six years back in 2003-2004.

Finally, when it comes to the political support for the Danish model, the crisis has until now created a barrier against more massive cutbacks in for instance the unemployment benefit system. Driven by concerns for long-term labour supply, such cutbacks were in the policy-pipeline in 2007 and 2008. A prominent example was the so-called “Labour Market Commission” from 2007 assigned with the task to put forward proposals to increase labour supply and which had a strong focus on the shortening of the duration of unemployment benefits. However, when the Commission’s final report was published in August 2009, it was immediately denounced by all political parties. From a dominant discourse focused on labour supply, the debate is now mainly about ways to boost labour demand through various form of expansive fiscal policy and to combat long-term unemployment. Thus, the long-term agenda and the short-term agenda, which underpinned each other during the boom from 2005 and onwards, have fallen apart. It has become increasingly politically difficult to legitimate policies based on the argument that they will increase labour supply.

Support to the present state of affairs with respect to Danish flexicurity thus seems to be strong even in times of crisis. Or to quote the former Minister of Employment, now Minister of Finance:

> *Still, I have faith in flexicurity. It will serve us well in both the best and the worst of times. Flexicurity allows us to adjust to the changes in the market, and it secures the livelihood of the unemployed (Frederiksen, 2009, p. 2)*

One should mention that he also in the same speech stresses the need for reforms, but only to preserve the model, not to dismantle it. Of course there can sometimes be a thin line between conducting a more sweeping renovation and total deconstruction. However, for now, Danish flexicurity seems to be able to not only provide some shelter against the storm, but also to be reasonably sheltered against political interventions of a more drastic nature.

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The European Employment Strategy in the tempest:

Restoring a long-term perspective

Bernard Gazier, April 2010

This text is a slightly revised version of: B. Gazier (2009), "The European Employment Strategy in the Tempest: Restoring a Long-term Perspective in J. Palme, B. Palier and N. Morel (eds) 2009 *What future for social investment?,* Institute for Future Studies, pp 153 - 164

Introduction

In the domain of employment and social policies, important changes have appeared since the turn of the century: Europe is exploring a new paradigm, "Social Investment" (SI), putting emphasis of the ability of everybody to accumulate skills and to find one's way on the labour market. Jane Jenson (Jenson 2009) insists on the still controversial and quite diverse aspects of SI, and she worries about possible detrimental consequences of the present crisis on social spending, even on the fraction of it considered as an investment. Similarly, Giuliano Bonoli (Bonoli 2009) distinguishes various versions of social investment in the domain of Labour Market Policies (LMP): centered on protection (then the investment protects the work capacity), on investment strictly speaking (through training and placement policies), or on re-commodification (strengthening of work incentives). He too wonders about the possible business cycle dimension of such spending.

In this contribution, we shall focus on a domain intermediary between Jenson's wide "citizenship" approach and Bonoli's more specific analysis of LMP: the domain of labour market reforms. It obviously includes LMP, but also wages differentiation, employment norms… This includes the European Employment Strategy; in the forefront the "Flexicurity" policies proposed by the EU since 2006, together with the evolution of labour market institutions. We shall try to restore some long term perspective, using the S.I. point of view.

We shall proceed in three steps. First, relying on a previous work (Auer and Gazier 2008), we shall propose a framework situating the "Flexicurity" prescriptions within a wider set of policy agendas currently explored or implemented regarding the dynamic adaptation of labour markets to the globalized world. The second step will consist in using this framework for understanding the present and possible position of "Flexicurity" in our world coping with the crisis. In our third step, we shall try to sketch what could be a renewed agenda for the EES and a new component of the wider Lisbon Strategy. We shall propose a collective and structured version of the "social investment" paradigm, connected to the "Transitional Labour Market" approach, which aims at developing a "re-embedded" version of the European labour markets.

I. Labour market reforms: four agendas compared

Our starting point is quite close to G. Bonoli's analysis. As argued in Auer and Gazier 2008, it is interesting to situate the EES and the Lisbon Strategy as a specific *agenda* in the field of labour market reforms and social policies, between two extreme options: "Flexibility" (close to Bonoli's "De-commodification") and "Capabilities" (close to Bonoli's "Protection"). However a fourth agenda may be considered: "Transitional Labour Markets".

"Flexibility"

"Flexibility" remained the dominating reform agenda until the crisis. Since the eighties, the claim is that in a period where all other markets (goods, services and financial) are increasingly liberalized, the labour markets cannot remain regulated, as changes in the other three spill over to them. For this reform stream, and notably for the OECD and the World Bank, markets (workers) have to adapt and the preferred adaptation channel, in the absence of total wage flexibility, is (external numerical) mobility of workers and smooth worker's reallocation preferably unhindered by government intervention.

In 2009, the OECD kept this view, although in a more moderate tone. For example in its 2009 review of France getting to grips with the present crisis (OECD 2009), it admits that re-launching measures and budget deficit may constitute an appropriate answer but maintains that in the middle term, "structural reforms" should be pursued in favour of less regulation.

The "Flexibility" reform agenda is treating the goods exchanged on the labour market just as any other good. Therefore, this agenda is not concerned about worker's employment security or any (wage) distribution policies as they would distort the market. The proponents of the "flexibility" agenda might not be particularly anti-workers (but anti-union, certainly) as in their equations more flexibility equals increased welfare for workers: benefits will simply trickle down from improved economic and labour market performance due to enhanced adjustment capacities of labour markets. A short formula is "Easier firing brings about easier hiring". The market will bring the best of all worlds, whereas interventions to correct market failures will not work and thus there is little space for polity, policy and ethics. Surely this picture is a caricature of the complexities of thoughts and methods that this stream has developed, but at the core, such thinking prevails.

"Capabilities"

The "Flexibility" agenda ignores the particular "good or service" that is exchanged on labour markets, which cannot be isolated from the individuals that offer their services for money on which their livelihood and more general their psychological, social and economic well being is depending. This leads us to the second reform agenda: "Capabilities", which appears as very different and quite the opposite. It has a developing country focus, although the concept claims universal application as can be seen in Human Development Indicators that are also relevant for developed countries. It appears less anchored in labour market studies, and much more in ethics.

It sets a list of priorities established independently from the labour market functioning: health (life expectancy), wealth (per capita income in PPPs), education (enrolment and literacy rates) but also others like housing, literacy, access to water and schooling, active participation in political and social life, also in regard to gender… All these dimensions may be seen as preconditions for a sustainable social and economic life. In every country, these priorities are of course separately developed by specialised agencies and government departments, and appear as the objectives of actors such as social workers. One can speak of an agenda, when these elements are combined in an integrated way. While being much more centred on the world-of-work, the “decent work” agenda of the ILO (ILO 1999) often refers to this approach.

The theoretical reference is the “basic need” concept originated from the ILO, which has given way to a “Capabilities” theory. It put a specific kind of equality in the centre which includes both resources and capacities to use them according to physical and cultural conditions. Capacities to use substantive freedom for achieving welfare states (status) are at the core of this doctrine (Sen 1985). The Human development indicators that have been developed following the ideas of Armatya Sen are based on the three main areas evoked above: health, wealth and wisdom: wealth, health and education.

“Flexicurity”

“Flexicurity” was originally developed in the E.U. countries as an alternative concept to the “flexibility only” mantra of many stakeholders, in parallel with other concepts such as Transitional Labour Markets. Dating back to Dutch debates about temporary work (1997), it starts from a concern that flexibility could undermine security if institutions are not made compatible with changes in the labour market. Changes towards more flexibility, which are either deliberately sought or already existing, should be compensated or accompanied by better (new or reformed) security devices inside and outside firms. The concrete forms of the institutions outside firm’s internal labour markets are subject to debate, but there is a certain agreement that unemployment benefit schemes, education and training, work and training schemes, job counselling and worker’s accompaniment and placement, workers reallocation in restructuring situations, etc. are the core providers of this external form of security. The concept gives also a large place to negotiations between the social partners as the main avenue to manage change.

There are more or less encompassing concepts of “Flexicurity” (Gazier 2008). Sometimes the concept is of “reduced form” comprising a “golden triangle” of external adjustment between (lose) employment protection, generous unemployment benefits and active labour market policies, whose congruence is negotiated by the social partners (e.g. the Danish model). Sometimes it includes a whole array of institutions and social rights (EU Commission 2007). The common principles comprise new contractual arrangements, active labour market policies, lifelong learning and a modern social protection system (which in itself is composed of an array of policies) and the preferred way to arrive at positive and congruent policy combinations and outcomes is the social dialogue between the social partners. It includes internal and external flexibility; it concerns workers inside firms as well as the unemployed, and should be gender sensitive and cost effective.

Economically and ethically, allowing for adjustment, while giving security to workers, is interpreted as a win-win game. Another important ethical dimension consists of rights and duties and therefore individual responsibility. Economics needs politics for equitable outcomes and there is a belief in correcting or at least accompanying the market.

"Transitional Labour Markets"

First formulated in 1995, "Transitional Labour Markets" (TLM) propose to develop a systematic and negotiated management of "transitions" in and around the labour market. "Transitions" are understood as sequences of changes in a personal and professional career (Schmid and Gazier 2002). The perception of "transitions" in and around the labour market as a system, typical of TLM, implies to insist on the interdependency between broad activity spheres such as education, job search, domestic and benevolent tasks and retirement. The perspective has recently been grounded on a more micro approach: social risk management (Schmid 2006), focussing on the different "framing" of risks' perception by actors. The macro counterpart is the quest for a balanced power in the economy and especially in the labour market, as it can be derived from the first management principle of TLM: "empowerment" of people, i.e. enabling them to take long-term decisions. Such an emphasis may constitute the key difference between "Flexicurity" and TLM. Both agendas share the idea of negotiating changes and shifting from job protection to employment and employability security, but TLM crucially insist on the need for deliberately restoring a right balance between stakeholders and shareholders while "Flexicurity" prescriptions seem to take the market conditions as given.

It leads to put a specific emphasis on two aspects: the TLM approach takes into account the *domestic sphere* as a major component of the system of interdependent transitions. Hence the stronger emphasis put on *equality*, and on gender equality, as a central goal and on the long-term consequences of transitions. The relevant indicators include many of the preceding indicators assessing workers' security as well as the labour market adaptability, but also transition indicators such as transition matrixes, showing whether individuals are trapped into dominated and precarious positions, or benefit from opportunities to reach better jobs and to perform chosen activities.

Two main policy consequences stem from this approach. First, the TLM suggest substituting the motto "Making *Transitions* Pay" to the motto "Making Work Pay", which has been developed first by the OECD and second by the E.E.S. in a quite disturbing apparent convergence (Gazier 2007). "Making Work Pay" allows quite different ways of pushing people into jobs, one being the lowering of social benefits; while "Making Transitions Pay" excludes this outcome and suggests a long-term commitment in favour of the development of autonomy and employability. The second consequence lies in another policy motto: combining "equipping people for the market" with "equipping markets for the people". The first principle, which focuses on the supply-side policy and the individual adaptation, is of course of paramount importance; but it should be completed by other interventions avoiding to put excessive weight on the shoulders of individuals, and considering the organisation and proper functioning of markets as an equal priority. In sum, one may conclude that

TLM are somehow intermediate between “Flexicurity” and “Capabilities”, trying to develop what could be termed “labour market capabilities”.

II. “Flexicurity” and the swing of the pendulum

Of course, these agendas have been elaborated before the crisis opened in the autumn 2008, and the common perception has clearly changed since (Palme 2009). “Flexicurity” is now superseded by macro-economic policies (re-launching budgets and debt management) and financial reforms (restoring trust and creating new rules for the financial markets). But regarding labour market reforms themselves, the main change is more profound than a simple pause due to shifts in concerns and lack of means, or than a cyclical setback; it entails a rapid and radical swing of pendulum in the hierarchy of agendas.

The “Flexibility” agenda was the dominating one, this position coming either from genuine conviction of dominant actors based on principles or from adaptation behaviour of less convinced but realistic policymakers. Taking the development of the interaction of markets as a matter of fact, this agenda was also shared by an influent social group: the more skilled workers, confident in the positive outcomes of globalization. Symmetrically, at the other end of the span, “Capabilities” was mainly perceived as a protest agenda. Some political groups (mainly from the left, but also from the traditional right), wary from globalization and also often opposed to the European construction (as driven by market integration), could find in it a source for systematizing policy claims. An influent social group potentially interested by the agenda is the social workers, and all persons dealing on a daily basis with the social problems stemming from unemployment and poverty.

The intermediate position of “Flexicurity”, as a compromise in favor of a negotiated and compensated management of globalization and of labour markets integration, probably played a major role in its success in Europe before the crisis. The equilibrium between market development and social protection was explicitly presented as an objective, and this fostered political compromises in the line of the European “social” tradition. Another strength of this agenda stems from its explicit bargaining and operational stance: there is something to exchange, with the hope of a positive-sum outcome. However, it should also be observed that this a priori seducing agenda is not grounded in social forces as deeply as the two preceding ones. If we look at social groups supporting this approach, we only find a small group of policy makers and of social partners’ leaders. Unions and employers representatives could find here food for thought and action; the rank-and-file remained most often hostile to this perspective.

Last, TLM as an agenda has been often confused with “Flexicurity” and remained more discrete, at the rear of the scene, although directly inspiring a new language for policymakers and social actors. It is now common to speak of “transitions”, for measuring them and for organizing them. From a sociological point of view, the main social group interested by this specific agenda is again a rather small one, mainly composed of union leaders and Human Resources managers. For good as well as for bad reason, these managers are often happy to speak of “organizing transitions” rather than of "firing" workers. Sometimes it could be lip service or even a cynical reference, but such an attitude is precisely made possible because other managers do really organize transitions! Regarding politicians, the very term seems too abstract and with little appeal, except those involved in "local" responsibilities, e.g. a municipality or a Region.

But things are changing. Since the beginning of the present crisis, "Flexicurity" is now perceived as undue concessions made to the flexibility agenda, which dramatically demonstrated its failure. The dominant agenda is now preserving "Capabilities", perceived as commonsense in a troubled period. However, this state of affairs may not be durable. This agenda says nothing, or very little, about the way one should immediately manage existing markets, except that their detrimental consequences should be avoided. And one may wonder what will happen when the economy will start anew. Then we should expect a swing back of the pendulum, towards more importance given to the functioning of interrelated markets.

Will it get back to the "Flexicurity" compromise? It seems likely that things will go in this direction, but a deepening is obviously in order, for two main reasons. The first is that we obviously need at least to "revitalize" the Lisbon strategy and the EES, which have not proved successful enough. The second is because some versions of "Flexicurity" have revealed important and probably durable difficulties in the crisis. This is in particular the case of the often praised "anglo-saxon" versions of "Flexicurity". This is the conclusion stemming from a clear assessment from inside which has been recently made by R. Liddle (Liddle 2009). Remarking first that "the economic crisis has exposed significant structural weaknesses in the UK's "Anglo-social" model", the author discusses "what in the New Labour/Lisbon paradigm remains relevant and what needs to be re-thought". According to him, the main successes of what he calls a "low tax variant of the Nordic model" have been the high activity rates and a bettering in schooling and health expenditures and performances. But the "work first" strategy as developed has many drawbacks. He mentions first the inadequate childcare support for dual earners, and a school system leaving many young without skills or employment prospects. Another key limit is the existence of low quality and low-paid jobs, unable to lift poor families out of poverty, and unattractive in the care domain. Finally, despite the apparent priority given to training, skills gap persist and hinders the competitiveness of the country. All in all, R. Liddle suggests that the E.U. should ensure better regulation of markets, develop tax co-ordination and even harmonization, and advocates "new forms of Flexicurity". But which ones?

III. Collective Social Investment, Job Quality and Transitional Labour Markets

The Lisbon Strategy has been submitted to intensive scrutiny and many proposals have been made for "revitalizing" it (for example Rodrigues 2009, or Lundvall 2009). Our perspective will take stock of these contributions, and, with their help, we will try to go "beyond Flexicurity" (Gazier 2007). We observe that the SI commitment is at the roots of the "European social model", stating that social expenditures should be not only compatible with growth but contributing to it. We shall advocate a convergence between a renewed, collective version of this SI perspective and TLM.

The ambiguity of SI has already been analyzed, and J. Jenson (Jenson 2009, op. cit.) provides a very useful synthesis on this point. Some versions, as developed by Giddens (Giddens 1998) are restrictive and centered on individual responsibility, while other versions such as Esping-Andersen (Esping - Andersen et al. 2002) insist more on collective commitments regarding child-centered social expenditures, gender equality and social inclusion. Both versions were present in the E.U. preparations for the renewal of the Lisbon strategy between 2006 and 2008, and J. Jenson (ibid.) wonders which combination of both will emerge.

From our point of view, several arguments lead to favouring the second version. First, one needs to take seriously the implications of the "Capability" agenda and precisely to extend its consequences to labour market organization. One way of doing so is to explore what could be the policy meaning of developing "labour market capabilities". This is precisely one point made by TLM authors, which have made, since their first works, multiple references to A. Sen on the topic of employability. Many versions of employability have been developed (Gazier (ed) 1999), some of them individualistic and other involving collective responsibilities. Regarding policy outcomes, a useful opposition can be drawn between "access – employability", stemming from policies lowering barriers to work and pushing people into jobs whatever their quality, and "performance – employability", sometimes differing the access to work and looking for long-term development of skills and personal autonomy. This converges with Bonoli's distinction between human capital centered SI versus re-commodification.

The connection is straightforward with an important and still under-exploited field of policy objectives, statistics and indicators, developed by the E.U. for ten years, sometimes put forward, and sometimes left aside: work and employment quality (Davoine, Erhel and Guergoat 2008; *Employment in Europe* 2008). This constitutes a second reason justifying the priority given to the second version of social investment. The "Laeken indicators" include flexibility and security, but together with many other aspects contributing to what is to become "sustainable" work and employment[9]. They remain incomplete (for example there is up to now nothing on wage level and wage inequality) and sometimes deserve improvement and complementary indicators (especially in training and working conditions). But they do illustrate the multi-dimensional aspect of job quality, and their analysis shows that there is no necessary dilemma between job quantity and job quality, rather the contrary – even for U.K., whose place is rather favorable in the international rankings. As Davoine, Erhel and Guergoat 2008 show, developing job quality appears as a good policy goal. First, theoretical literature suggests that there is a positive relationship between job quality and economic growth/ employment growth, and their results tend to validate this positive view of the

[9] They include the following fields: 1. Intrinsic quality of job ; 2.Education, training, career development; 3. Gender equality; 4. Health and security at work; 5. Flexibility and security; 6. Inclusion and access to labour markets; 7. Work organization and work/family conciliation; 8. Social dialogue and works participation; 9. Diversity and non-discrimination; 10. Work global performance.

link between job quality and quantity[10]. There is no apparent trade-off between work quality and a dynamic labour market; Second, job quality matters for workers' satisfaction and citizens' well being; Third, a good job quality may be achieved through different pathways, and is consistent with the existence of heterogeneous institutions and policies models in Europe and in the OECD; Fourth, existing differences between EU 27 (and OECD) countries are important, and so there is wide room for policy initiatives.

It means that Europe, when emphasizing the importance of job quality, has already developed an important and future-oriented perspective, much in the line with the extended version of S.I. Of course, one needs an integrating perspective in order to use them as policy guides. And here TLM, together with a collective social investment perspective, may help. We can start from a long term attempt at illustrating what could become a full employment norm for the 21th century, as opposed to the traditional norm. A norm can be understood as a set of interrelated principles indicating what should be considered as "normal", that is desirable and possible for all in a given domain. As regards full employment, it is useful to combine the point of view of the worker and the point of view of the society, and to deal with the central content before looking at its possible evolution as times passes and the society develops. Last we may connect this norm to other related social fields, here the unpaid work, either domestic, or benevolent / militant.

The contrast is great between table 1 and table 2. The first norm, as a retrospective construction, appears to be gender – biased and at best indifferent to environmental stakes. However its collective dimension should be stressed: first, qualification appears to increase mainly through collective work experience, and second there is a conspicuous responsibility of the (Keynesian) state as regards employment matters.

[10] They find a correlation rate between their job quality index and employment rates = 0.74 (LFS database, 138 observations)

Table 1. The traditional full employment norm

Point of view Content of the norm	Worker as family member	Society and natural environment
Central norm	Stabilized full time job, with a guaranteed minimum wage, for the (male) breadwinner	Integration of the working class through the access to market production and to the progress of national growth
Dynamic content	Collective skills acquisition through a stable working group	National growth ensured through State – Keynesian policies
Connection with other useful activities and other social systems	Division of work inside the family, limiting women's role to domestic work	No environmental concerns No consideration of militant / benevolent activities

Table 2. A provisional norm of sustainable full employment,

according to "Transitional Labour Markets"

Point of view Content of the norm	Worker as individual	Society and natural environment
Central norm	Individual financial autonomy, mid-term period, gained either through paid employment, or through participation to social useful activities. Weekly hours modulated according to age. Retraining and leaves	National / regional autonomy, gained in the International Division of Labour
Dynamic content	Maintenance and accumulation of competences through networks	Collective employability inside the International Division of Labour
Connection with other useful activities and other social systems	Lifecycle compatibility of family life, personal and professional life; Gender equality; Crossable and negotiated borderline between different forms of activities	Sustainable development, from a social and environmental point of view

The possible emerging norm is quite different: no more family-centered (which does not mean that the family constraints are not taken into account, rather the contrary), but organized around the individual and based upon collective employability.

Three traits seem characteristic of this norm. First, it could be termed a Schumpeterian one, putting the emphasis on competences accumulation through networks, innovation and risk taking. Second, the gender and care concerns are now put to the forefront, because there is no more unequal and gender - biased division of domestic labour. Third, as a consequence, the norm becomes sequential, and does not contain the same rights and duties set for all ages. An important application is the number of hours to be normally worked during one week. As G. Schmid (Schmid 2006) remarks, a young woman (or a young man) has at least five key choices to make within a short time span at the beginning of her career : an occupation, a job, a home, a mate and last to have children. Accordingly, he proposes that during such a critical period of the life the social institutions governing employment norms leave some room for making these choices. It may seem odd, because the idea that young people start working intensively full – time for gaining their autonomy is dominant. However, in a perspective of long-term equilibrium between professional and personal life, shorter workweeks at the beginning of a career may constitute a useful social investment. The same reasoning holds for "senior" workers, often confronted to the problem of very old and dependent parents, and looking for a better compatibility between their work and their family duties. This leads to propose that the typical 35 hours long workweek applies mainly for workers between 30 and 50.

The priority given to learning, of course well in-line with the "knowledge based society" as emphasized by the Lisbon Strategy, illustrates quite well how the Social Investment and the TLM perspective may be complement and enrich each other in the present context. As it has been observed, training and life-long learning seem a consensual objective. As a matter of fact, they are often a conflict or indifference – reluctance area. This is so first because it is often unclear who (the firm, the worker, the state) has to pay, and sometimes clear that nobody wants to pay. Second, the gains from training are often ill identified; and third, the people more in need for training, the less skilled workers, are discouraged, to say the least. They face high opportunity costs and do not see which kind of gain they could reap from their participating in a training program. The TLM perspective, together with other analyses aiming at identifying a more realistic process (cf Lundvall 2009, op.cit.), help overcoming these major obstacles. They do so by connecting training programs to wider "transition" sets, and by showing how training should be combined to other securing measures in order to overcome the so-called "Matthew effect"[11].

A concrete illustration of this type of concern in our present crisis phase is the generalization in the E.U. of measures combining short-term working and intensive re-training, either by law or by collective agreement. The underlying idea is first that people should be kept into jobs each time it is possible, and second that we should prepare workers for the new challenges ahead. The ageing process opens here a window of opportunity in many countries: retiring workers will leave jobs to

[11] Adapted from the Gospel dictum « The one who has nothing will lose even what he has, while the other who has already all will be given even more. »

younger ones, but the new jobs will be more qualified. Of course, this emergency answer, even future – oriented, will not suffice, especially if the E.U. stays too long into depression. But it shows how some ideas mixing collective guarantees and collective efforts are now spreading and becoming evidences. Collective Social Investment, with Job Quality and TLM simply systematize and further this commitment.

Conclusion

There is no space in this short contribution for exposing in a detailed way the differences and commonalities of the "Flexicurity" and the TLM agendas, nor for connecting a labour market and social policy agenda to wider policy agendas (cf. Rodrigues (ed) 2009 and Botsch and Watts (eds) 2010). We simply tried to show that "Flexicurity" will probably remain a focal point in the (incomplete) European construction, whatever will be the much needed speeding up of European integration; but this focal point will probably become a less and less satisfying one. And we hope to have suggested some of the ways that may help revitalizing the Lisbon Strategy and going "beyond Flexicurity". Of course, the question of the political acceptance of these new orientations is not yet solved. In our tempest, one priority is to show to everybody, especially the less favoured, that nobody will be left without protection and a future-oriented perspective, and this could foster a wide support to a structured and collective version of social investment and career management.

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Does flexicurity work in economic crises?

Introduction

The global financial crisis may be seen as a stress test for the different ways to organise labour market adjustment in times of crisis. Different theoretical views are associated with these different ways that predict certain outcomes. For example, for those supporting the "flexibility of the (labour) market paradigm" the market forces will, with a time lag, repair the initial disequilibrium on the labour market, which was caused by the shock of the financial crisis. Government intervention is either detrimental or at best marginally and temporarily helpful. For those supporting flexicurity the adjustment pattern is different: while the market forces call indeed for labour force adjustment, the preferred way (at least in the traditional proposition along the lines of the Danish golden triangle with loose employment protection, generous unemployment benefits and active labour market policies) is to resort to lay-offs, but apply a consequent package of social protection to those having lost their jobs. As a large part of the adjustment package is "activated", reintegration into the labour market will follow. A third approach, which is usually negatively described as the "rigidity on the labour market" model in the "orthodox" labour economic literature.[12] The theoretical assumptions are that these systems react slowly to a shock, initially maintaining employment levels, followed by sustained labour market problems and raising unemployment in the medium and long term as well as by segmented labour markets.

Other theoretical approaches (such as the transitional labour market and to some extent also the capabilities approach) correspond to a wider set of propositions with a view that if the right policies are applied, risks on the labour market can be avoided or at least mitigated. As these approaches very much rely on the individual and their (collectively ensured) rights there is as yet no clear-cut proposition on how to treat a shock such as the great recession's impact on the labour market apart from proposing the usual instruments (generous unemployment benefits, active labour market policies and forms of internal adjustment that could even be applied counter-cyclically such as training). This again with a view that such measures should be applied in an intelligent manner for

[12] With some exceptions, for example Agell (1999), who talks about the benefits of rigidity. There are however attempts to classify these countries in the comparative international political economy that focus on whole country socio-economic systems. For Hall and Soskice (2001) such a "variety of capitalism" with strong institutions come under the label of "coordinated market economies" or for Esping Andersen (1996) under the label of either social-democratic (or conservative for some of them) and/or continental countries. The positive view of Hall and Soskice and also Michel Albert (1993, who introduces the Rhenan variant) on these systems is not shared by Esping-Andersen who talks about the "frozen continental European welfare states" (Esping-Andersen,1996:introduction).

preparing the future and rendering the system less vulnerable to future shocks. (For more on these different approaches see Auer and Gazier (2008) and Gazier (2010) and Schmid (2010), the latter two being papers presented for this symposium).

This paper will narrow the focus to labour market adjustment in times of crisis in the Europe15 and thus primarily discuss the assumed adjustment capacities inherent in the different labour market adjustment systems of Europe15. Here we find a variety of systems. These may loosely be called flexicurity (including the Scandinavian and Continental European variant), flexibility (Anglo-Saxon), the coordinated/rigid Continental and Southern European types of adjustment. Thus, this paper will leave aside the interesting question whether the US employment system, the model for all apologists of flexible labour markets, will do better than Europe[13]. It also leaves aside the question of what happens in the new member countries with unemployment rates varying from a low of 6.2% in Slovenia to more than 22% in Latvia (Eurostat data for March 2010) as there is almost no experience to cluster countries in terms of socio-economic models, as it is quite common in Europe15[14].

However, while this variety will be discussed briefly, the ultimate focus of this paper is to compare labour market adjustment in just two countries –Denmark and Germany- whose institutional setup on the labour market may either be viewed as two opposing forms of flexicurity or as a form of (coordinated/rigid) adjustment versus flexicurity. If we accept the latter one could possibly show that “flexicurity” has come to its end as a major labour market reform paradigm. At least, it will strategically depend on the ingeniousness of the defenders of “flexicurity”, not least the European Commission, to integrate all these forms into one concept, without making it into a “catch-all” motley collection that allows the most contradictory reforms under its wide umbrella. This would lack the clear focus and blueprint nature required for guiding member countries and for introducing at least some form of convergence in labour market reforms throughout the Union.

Which institutional set up works in the crisis?

The essential question then is, whether flexicurity countries, with labour market institutions and policies that support a behaviour relying on lay-offs, generous social protection of the unemployed and on active labour market policies for their reintegration (which is the classical version of flexicurity as suggested by the Danish model) will survive the big shock of the crisis better than counties that have relied more on stringent employment protection, combined with internal adjustment measures, such as Germany? Of course there is a big caveat to this question as without a clear end of the crisis on the table, the wisdom of hindsight cannot yet be applied.

[13] In March 2010, the US unemployment rate stands at 9.7% after having reached a recent peak of 10% and is therefore near to the EU 27 level of 9.6% (unchanged from the previous month but up by 1,1 percentage points compared to a year earlier).

[14] An urgent task for research, an attempt based on principal component analysis is presented in Auer and Chatani, 2010 in this conference.

Before focussing on the two countries standing for the above it can be instructive to show the unemployment performance of country clusters[15] between March 2008 and March 2010.

Table 1: Unemployment developments: March 2008 to March 2010[16]

Country clusters	Unemployment rate March 2008	Unemployment rate March 2010	Change 1:pct 2:pts	M/F Diff. March 2008/ 2010 Pts.	Youth unemployment March 2008	Youth unemployment March 2010	Change 1:pct 2:pts
Flexicurity	4.3	6.9	58 2.5	+0.8 -1.0	11	16.3	48 5.3
Continental	6.6	7.8	18 1.2	+1.0 +0.8	15	18.6	24 3.6
Southern	7.9	12.2	54 4.3	+4.1 +2.7	16	24	50 8.0
Anglo-saxon	5.2	10.5	102 5.3	-2.3 -5.0	12.5	24	90 11.5
US	5.1	9.7	90 4.6	-0.2 -2.1	11.4	18.8	64 7.4
Germany	7.4	7.3	-1 -0.1	+0.2 -1.3	9.9	10.0	1 0.1
Denmark	3.0	7.6	153 4.6	+0.8 -2.1	7.0	14.2	103 7.2

Flexicurity: DK,NL,(AT),FI,SE; Continental: BE,FR,LU,DE; Southern: IT,ES,PT,EL; Anglo-saxon: IE,UK Source: Eurostat press releases 61/2009 and 59/2010 calculation by author

Table 1 shows that flexicurity countries still have the lowest unemployment rates, but they experienced much stronger increases than the continental cluster. Only the “Anglo-Saxon” flexibility cluster (just as the US) had higher increases, which are particularly due to developments in Ireland.The gap between the unemployment rates of the continental and the flexicurity cluster has narrowed in the crisis from 2.3 percentage points to 0.9 points. The Nordic EU flexicurity countries (Sweden,Finland and especially Denmark) have endorsed strong increases.

[15] Clustering as presented here stems from work in progress. It follows the clustering in Auer (2010) that is based on 8 variables that are proxies for flexibility and security. More sophisticated clustering may reveal some changes. For example in the principal component analysis (Auer/Chatani, 2010) Austria (classified here as a flexicurity country) was grouped with the continental cluster, but also there it is very close to the flexicurity cluster. Establishing cluster borders in quantitative clustering entails often some arbitrariness, especially for cases near a cluster border and varies marginally with variables considered.

[16] Eurostat (ILO) definition based survey unemployment rates are used. For Denmark, Madsen (2010) notes a growing discrepancy between national administrative and international comparative survey data of unemployment. The growing gap is interpreted as a rise in the number of unemployed not covered by the insurance system. This needs to be followed up, as good coverage is part of flexicurity.

One of the aims of flexicurity is also to avoid segmentation, particularly among insiders and outsiders of the labour market. As a very rough and incomplete proxy for the insider-outsider problematic one may use the development of youth unemployment. Table 1 shows that youth unemployment has increased more dramatically in the flexicurity cluster, than in the continental cluster, especially in the Nordic EU countries. While demographics may play a role here (e.g. alleviating supply pressures in Germany) the increase shows that there seems to be no advantage for outsiders in the flexicurity countries in times of crisis[17]

Table 1 gives also an indication on how women's unemployment is affected by the crisis. The 5th column in the table shows the differences in male and female unemployment rates between March 2008 and March 2010: all clusters show that women have been less affected by the crisis than men in terms of unemployment (positive values signify higher rates for women, a decline in positive rates or negative rates lower rates for women). For example, before the crisis, in average across the countries of the flexicurity cluster, women had a 1 percentage point higher unemployment rate than men, while in March 2010 they have a 1 percentage point lower rate. Such a pattern can be seen in all clusters. In Denmark women now have, despite also registering a rise, a rate that is lower by 2.1 pts. than the rate of men (6.5 compared to 8.6 for men while in March 2008 the unemployment rate was 2.7 for men, but 3.5 for women).In Germany women now have an unemployment rate that is 1.3 percentage lower than the rate for men.

However, unemployment is only part of the picture. Taking a closer look at two countries standing for opposite adjustment patterns, and also considering GDP, employment and working hours decline, the following picture emerges. Between quarter 2 of 2008 and quarter 2 of 2009, the period which can be considered as the through of the crisis in most EU countries, GDP fell dramatically in both countries, but employment performance diverged quite considerably.

Table 2: Country developments between Quarter 2/2008 and quarter 2/2009 in percent

Countries	GDP growth	Employment growth	Unemployment Rates (May 2009)	Unemployment growth (03/2008-03/2010)	Hours of work
Denmark	-7.0	-2.6	5.7	83 (2.6pts)	-3,1
Germany	-5.9	-0.1	7.7	04 (0.3pts)	-3,1

Source: Hijman, 2009, Eurostat, 2009 for the unemployment rates

[17] Southern European countries have however the highest increases and the highest levels of youth unemployment except for Ireland in the Anglo-Saxon cluster.

Between Mai 2008 and Mai 2009 unemployment has only slightly increased in Germany (about 0.3 percentage point (+4%) to an unemployment rate of 7.7 % in Mai 2009). As table 1 above shows, good labour market performance has continued throughout March 2010 and is estimated to continue as the upswing gains strength. In Denmark, in contrast unemployment has increased by about 80% (2.6 percentage points) and bleak performance has continued with Germany showing in March 2010 lower rates (7.3%) than Denmark (7.6%) for the first time since 1994.

No clear-cut picture on Germany adjusting only internally through working hour reductions and Denmark only adjusting externally through lay-offs emerges from the table. According to Eurostat figures, between Q2 2008 and Q2 2009 both countries have reduced their working hours by 3.1% thus showing that in addition to lay-offs Denmark also uses internal adjustment.

However, there seems to be a problem of measurement here and some of the hours reduction in Germany could have been underestimated by Eurostat data. Indeed Herzog-Stein and Seifert (2010) show that there are several policies for the variation of working time over the business cycle available in Germany, most notably short-time work compensation and working time accounts, which are estimated to be used by about 30% of German firms (other sources indicate even shares of 50%: see Bosch, 2010). The depletion of the positive balance of working time accumulated before the crisis on this accounts and the short-time work compensation schemes are estimated to have saved about 1.2 million jobs between 2008 and 2009.(Herzog-Stein and Seifert, op.cit.). During the global financial crisis “continental countries” like Germany, France but also others considered “flexicurity countries” like Austria or the Netherlands have sometimes strongly relied on employment maintenance measures that have so far prevented lay offs in great numbers or at least mitigated the effects of the GDP decline on employment and unemployment. In Germany in May 2009 about 1.5 million people worked shorter hours under the short-time work scheme (Kurzarbeit). Hours not worked are compensated by the unemployment insurance at a rate of 60 to 67%, sometimes topped up by firms. Average reduction in working time among these short-time workers was about 30% and the measure was strongly concentrated on the metal manufacturing sector, were working time declined by about 4%.[18]

In addition, the government revived a scheme used briefly during German reunification known as training instead of dismissals (Qualifizieren statt entlassen). This scheme subsidizes training during hours not worked for people covered by *Kurzarbeit.* In such cases, the employment service pays full social security contributions and training costs. The European Social Fund substantially contributes to funding the scheme. The scheme is valid through 2010.

Between January and November 2009 about 130 000 short-time workers started training under the scheme. A recent case study of 12 companies showed that the effectiveness of the new training schemes was closely linked to the degree of cooperation between management, the works council and unions, the public employment services and the training organizations. The 12 cases point to a variety of types of training – from formal training leading to certificates for those without vocational training degrees to specific, brief modules adapted to high skilled workers. The case

[18] Federal Employment Service, 2010

studies found that the publicly funded training is helping to address skills shortages that were present before the advent of the crisis (IG Metall, 2009).

A German employment miracle?

What is most striking in table 2 is the difference in the employment reduction/ unemployment increase rates over the period (table 2): -0.1% in Germany versus -2.6% in Denmark with GDP slumping by around 6% during this period in Germany[19] and by 7% in Denmark over the same period. The German "employment miracle" is explained primarily by work-sharing policies accepted by workers and firms alike (Herzog-Stein and Seifert, 2010, Möller, 2010). An argument is also that firms preferred hours reduction to dismissals, because the crisis particularly hit export industries with a need for qualified manpower. There it made much sense in strictly economic terms to maintaining human capital because of high transaction costs of lay-offs and later rehires. Also labour market reforms are cited as possible explanatory factors. (Möller, 2010).

Given the importance of employment protection legislation in much of the labour economics literature and for the whole "flexibility/rigidity debate" one might also ask what role this element of the labour market institutional setup played in the difference of adjustment in both countries. The very moderate decrease in employment and the equally moderate increase in unemployment in Germany have indeed given some credit to labour market adjustment versions that combine stronger employment protection with subsidised internal adjustment possibilities, while the Danish version of looser employment protection with unemployment/activation protection once employees are laid-off –despite coexisting internal adjustment- has produced up to now more unemployment.

It seems that workers in the former case get a better deal than in the latter, as unemployment is avoided, which probably will also weigh on their job satisfaction, motivation and commitment. For firms immediate costs[20] seem to be slightly higher in the former than in the latter case, but gains probably outweigh costs, although no systematic research on this has yet been made. Bosch reports a cost sharing for the German short-time work compensation scheme (for a total of around 14 bn Euros spent in 2009) of 36% for employers, 43% for the Federal Employment Service and 21% for Workers. (Bosch, 2010) Innovative forms of internal flexibility, such as working time accounts are obviously a cheaper alternative. In the loose employment protection/social protection external adjustment variant, the public (or quasi public unemployment system) costs are probably higher depending on wage replacement rates and duration of unemployment, while it seems cheaper for firms.[21]

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[19] Or around -5% over the year 2009.

[20] E.g. German firms still bear non wage labour costs for their workers on short-time work schemes, although they are in this recession substantively subsidised. Non wage labour costs are reimbursed in full after 6 month on the scheme or when workers start training. However some costs remain such as for holiday and vacation as well as for fringe benefits (Bosch, 2010)

[21] One should note however, that in Denmark workers may shoulder a considerable amount as unemployment benefits/active labour market policies are also financed by an 8% labour market tax that all employees pay.

Some commentators see no connection between employment protection, internal adjustment and the German “Beschäftigungswunder”, simply because in international comparison there is no significant correlation between the OECD Employment Protection Legislation Index (EPL), GDP growth and unemployment (Möller, 2010). However, this would not explain why Germany traditionally prefers employment maintenance to lay-offs, a fact noted in the economics literature already some time ago (Abraham and Houseman, 1993)[22]. And, most notably, employment protection alone is not very significant, given the fact that it measures the paper value of laws that are inconsistently enforced across countries (Boerie, Bertola and Cazes, 2000). Important is also that EPL should usually not be evaluated alone as it is usually complemented by other labour market policies and regulations, in the case of Germany by internal flexibility policies such as working time accounts and short-time working schemes which would make any rigidities inoperative.[23] But there is even more to this: it seems indeed, that there is a connection between employment protection and the forms of adjustment, with countries having loose employment protection recurring easier to lay-offs. Instead in countries with stricter employment laws, firms tend to claim for (and get) policies that allow them to adjust nevertheless, but sometimes in a less costly way for workers. This may not be consistent across all countries but is surely the fact in Germany, France, Austria and others. In former times early retirement played the role of an adjustment buffer, but also short-time work compensation or other institutional arrangements, such as the Italian form of short-time work “Cassa Integrazione Guadagni” (see Auer,1993). One may assume that because of the restrictions of using early retirement, workforce adjustment in the great recession relies more than ever before on internal adjustment.[24]

Too early to assess all advantages and disadvantages of the alternatives?

However, it may still be too early to give a final judgement on the advantages and disadvantages of these alternatives, as the full cycle of crisis and recovery has not yet unfolded and short-time workers may face increased unemployment risk in the future. Also youth unemployment may grow, as employment access could be reduced by job maintenance policies. Theoretically, the insider-outsider model of the labour market (Lindbeck, Snower, 1988)[25] predicts that firms in countries with stricter employment protection, which are using internal adjustment measures for maintaining workers in jobs, would aggravate the employment problems of outsiders. Especially first-time entrants would be concerned by hiring stops or hiring restrictions. While it may be too early to judge how labour market segmentation will increase in the longer term, in the short term countries

[22] Abraham and Houseman note that in a comparison of workforce adjustment between Germany (that prefers hours reduction) and the US (that prefers lay-offs): “Overall, we conclude that German policies have been fairly successful at giving workers more stable employment without inhibiting labor adjustment and without imposing burdensome costs on employers” (p.4)

[23] A fact noted also by Abraham and Houseman who state “In analysing labour market adjustment in Germany, we emphasize that one should not study employment protection laws in isolation, but rather as part of a larger set of labour market policies.” (op.cit. p.3) Auer (1993) has also shown, by using the case of Italy that rigid labour laws usually come with alternative adjustment policies that allow adaptation of workforce levels.

[24] Resurrection of the early retirement recession buffer is one of the probable developments in crisis adjustment mentioned (and rejected) by Bruegel (Sapir, 2009:77)

[25] Snower is one of the critiques of the German short-time work programmes use over the longer term (Snower, 2009)

like Germany, Austria and the Netherlands do apparently not face this dilemma in this recession, at least not to the extent of the Southern countries and the Nordic flexicurity countries like Denmark, Sweden and Finland and also the flexible US labour market. (see table 1 above). Relatively good adult/youth unemployment ratios may stem from the dual apprenticeship system existing in these countries, which usually acts as a good bridge to employment in the countries mentioned. In the particular case of Germany the relatively low unemployment rate of youth may also have to do with demographic factors, i.e. a declining (youth) population.

For concluding that flexicurity in its “loose employment protection/generous social welfare” [26] version is not working in time of crisis, it also needs the full business cycle to unfold. While an increase in lay-offs is expected as part of the “easy external adjustment-generous unemployment and active labour market integration”[27] combination of flexicurity, it requires the rapid reintegration into the labour market in the upswing for a complete picture. If such reintegration does not occur, high unemployment rates prevail over a longer time and if long term unemployment strongly increases, the “classical” flexicurity model will probably lose much of its lustre, despite its hitherto good socio economic and labour market performance. As shown above, at the present juncture, not many positive signs for a quick re-absorption of unemployment exist, at least in some of these countries.

Bad performance in times of crisis may not mean the end of flexicurity altogether, but will certainly be the end of the dominance of a particular flexicurity model that relies strongly on external adjustment, albeit protected by good social protection and active labour market policies. Indeed, the massive use of work-sharing instead of lay-offs in the bigger European countries like Germany, France (accounting together for about 40% of EU 15 GDP) gives credit to those who prefer rather strict employment protection for ensuring employment security, combined with subsidised internal adjustment for ensuring flexibility.

This may mean that the Danish model will be buried in the graveyard of socio-economic models, where it will lay in vicinity to other former celebrities like the Swedish model, the Japanese model, the Irish Celtic Tiger model, former versions of the German model and so on while the usually badly noted German model could be resurrected as European alternative to the low employment, low social protection model of the United States.

Mounting critique of flexicurity

Such a development would comfort those who have criticized flexicurity long before the crisis. Indeed, as is more thoroughly shown in the longer paper presented in the conference (Auer and Chatani, 2010), a substantial negative political economy has developed on the term, with critique coming mainly from unions, but also from academia, sometimes critically supporting and

[26] More workers are eligible and covered by unemployment benefits in Denmark than in any other European country. They are also provided with decent wage replacement rates, which however have been cut in recent years. (Ekert-Jaffée and Terraze, 2007, Eiro 2010 b, Madsen, 2010).

[27] Although “generosity” measured in replacement rates and also coverage seems to have declined (see Madsen, 2010)

sometimes outright rejecting the term and its policitcs. Some criticised flexicurity as having a hidden agenda of deregulation and a neo liberal agenda for labour market flexibility and workfare that only paid lip service to security. John Monks, who critically supported the concept, was cited as saying that in parts of the union movement, flexicurity is a swearword. (Taylor, 2008).

Research from all sides criticised among many other issues the imprecise nature of the concept (most), the distance between rhetoric and substantive issues and the fuzziness of the concept (Barbier, 2009), the fact to sell employability as employment security within the concept of flexicurity (Auer, 2007), having a hidden agenda of deregulation and being a trap (Rameaux, 2007, Coutrot, 2008), being socially unbalanced (Keunen and Jepsen, 2007), the non contextualisation of the concept (Algan and Cahuc (2006) and many others) or not considering existing trade-offs between different propositions it includes (Calmfors, 2007).

Also the social partners and the governments, often from the New Member Countries, criticised the concept, especially when it came to some specific version being considered as a model (for example the Danish, considered as being too costly). The Commission’s response to the critics was often to open up the definition, with social partners and/or government consent. This ended up in the concept having a catch all shopping list nature full of definitional imprecision. Indeed, under the wide umbrella of the eight “common principles of flexicurity” endorsed by the European Council in 2007 and the no-size-fits-all principle, everything and its opposite seem to have become possible with each country being able to create its own home cooked version of flexicurity. However, this critique may be addressed to European level policy making in general when it is open to discussion with a wide variety of actors like in the social policy and employment field, an exceptions seems to be the “hard” economic field. At the same time it makes results of such a discussion process immune against criticism, as it appears inclusive, taking into account critical comments at the expense of further blurring the concept. This appears as a recurrent dilemma, which is part of the Open Method of Coordination and “soft law” approaches. Lars Calmfors 2007 critique that many trade-offs were swept under the carpet for arriving at what looked like a win-win situation for all is indeed still pertinent.

5. How to organize security in flexible labour markets?

It is probable that the present success of the “strict employment protection/generous internal adjustment model” will shift the preference and give more regard to internal flexibility, but one can fear that it will not be leading to a substantial debate on the role of employment security for worker’s welfare, motivation and firm’s productivity and competitiveness which was always at the core of the flexibility and rigidity debate.

However, there is a need to fix the conceptual framework of flexicurity: especially urgent is to address a flaw in the European Commission’s interpretation of the historical development of security on labour markets, which comforts the “hidden agenda” critique mentioned above. The EU Commission, following on Wilthagen and Tros (2004) contends that “the main thrust of the EU recommendation on flexicurity is to encourage a shift from job security towards employment security" (as cited for example in Employment in Europe, 2006, chapter 2:8). Job security is defined as a job with a single employer and employment security as the potentiality to hold jobs with multiple employers, i.e. employability security rather than employment security. [28] And the problem with selling employability as employment security is that it sells a potentiality (possible access to jobs) for a fact (holding a job).

However, in line with the usage of job and employment security in industrial relations and labour economics, *job security* is related to the probability of workers retaining employment in their **current job**, and *employment security* to retaining a job with their **current employer** (Büchtemann, 1993). Marsden commented on this by stating that the: "permanency of employment in a particular job is clearly much more restrictive than in one's current firm since the latter allows the possibility of redeployment to other work." He added that: "in practice, most collective agreements which protect workers in the event of lay-offs relate to employment rather than job security" (Marsden, 1995:13).

While for the Commission the shift between job-and employment security is new and remarkable, one can demonstrate that the shift from job- to employment security has already happened in the 1980s. It was at that time, that job security was gradually replaced by employment security. The blueprint for such a move was the then applauded Japanese labour market system, which associated strong employment protection with low job protection, or in other words, combined a high degree of external rigidity with high internal flexibility[29]. And as Agell (1999) and Storm and Naastepad (2007) found, such external rigidities may be a security plank in volatile labour markets and also weigh positively on companies' productivity, as Auer, Berg and Coulibaly (2005) have demonstrated.

Real employment security should indeed be the anchor of all employment systems and increasing the number of good and stable jobs should be the aim and a temporary or permanent end-point of all successful transitions on the labour market. The crisis should have made clear that such good jobs are conform to good productivity as well.[30] For example transiting from employment to training and back should indeed result in better careers in stable jobs. Being the anchor does not mean that all access stable jobs and stay on them permanently, there is much voluntary mobility in a labour market anyway[31], and much involuntary mobility also. There are some good arguments for temporary and part-time jobs as well and next to nobody wants total stability of the employment

[28] Indeed, a report aiming at measuring employment security following on the definition of Wilthagen and Tros (2004) uses –in the absence of any other measure of this kind of potentiality- employability (an indicator based on education and training and skills acquired through job and task rotation) as a proxy for employment security (Pacelli et. al 2008).
[29] Marsden describes the standard indefinite employment contract as the one giving the most flexibility to employers, because it means flexible deployment of the worker in exchange for employment security (Marsden, 1999).
[30] The stricter employment protection/internal adjustment pattern is prevalent in the highly productive German export sector. And we have shown formerly that stable employment patterns still prevail in most of Europe and tend to increase in parallel to marginal increases in flexible jobs, a sign that they can accommodate –and are sometimes a condition for-good economic performance .(Auer and Cazes, 2003)
[31] A feature of most labour markets in developed countries –apart from recessionary time- is that voluntary quits are more numerous than involuntary quits. And very often, except in times of crisis, employers are faced by retention rather than redundancy problems. This could be one of the underlying factors in present job maintenance policies.

contract, which in open economies is anyway impossible and is not desirable for workers and firms alike. However, the open ended contract should remain the norm of the employment system as from it stem many of the social rights that make work decent. Günther Schmid's theoretical thought experiment around the contract of the civil servant as being the one giving flexicurity and security does not make it in to the ultimate blueprint for the future labour contract (see Schmid, 2010 submitted for this symposium) but adaptation of the principle with possibilities of dismissal on serious grounds (as in all labour contracts) and a maximum of people on reliable contracts would certainly be a way to decent work. Not only employees would benefit: Marsden describes the standard indefinite employment contract as the one giving the most flexibility to employers, because it means flexible deployment of the worker in exchange for employment security. (Marsden, 1999). This means inter-alia that such contracts support internal flexibility.

But to be clear also, whatever emerges as the next necessarily temporary "ideal-typical" labour market adjustment model (if we need another at all), it cannot be based on internal, company based security alone. It needs to be complemented by security coming from other sources and is thus based on broader and more resilient shoulders in order to allow full participation in decent jobs for as many as possible and also for allowing fulfilling careers.

But the decisive and critical shift that we observe today is not from job- to employment security, but from employment security towards what can be called labour market security[32]. Labour market security implies that security for workers in today's labour markets cannot stem from job-and employment security alone, while these securities form the base of efficient economies. But they have to be complemented by additional layers of security. Seen from the perspective of the life-long professional trajectory of an individual, labour market security will consist of a combination of employment contracts with one (and over the life course several) employers plus periods of non-work such as unemployment, family duties or training, or partial work such as part-time and short-time work, during which income and employability are at least partially maintained. Preferences of people for (real and not potential) employment security should be taken into account, with good transitions on the labour market being those allowing access to decent long term jobs at the end of the day. The transitional labour market school (Auer and Schmid, 1998, Schmid and Gazier, 2002, Schmid, 2009, Rogowski, 2008) has laid some groundwork for analysing good transitions. Employment security with internal adjustment flexibility and protected external transitions for those needing it, are the two sides of labour market security in flexible labour markets. This may read as flexicurity, but indeed has another focus. Flexicurity aims at (protected) flexible labour markets, while labour market security (and policies following the transitional labour market approach) aims at a maximum of good and decent jobs.

[32] Note that the term labour market security here is not the same as the one used in "Economic security for a better world" (ILO, 2004). There it is a labour market state "where supply approximates demand" (2004:113). Our definition is based on labour market institutions, (employment and social protection), which support such good labour market performance, including social protection that allows for adjustment flexibility such as short-time work or vocational training.

Because of its usually good labour market performance up to the crisis, there is a comeback chance for the Danish welfare model. It still features high labour market inclusion, low poverty and working poverty and a high share of good jobs, supporting Madsen's (2010, Paper prepared for this symposium) conclusion that it will survive or be resurrected. But before this, one has to go back to the drawing table, analyse the teachings of the crisis and design forms of effective internal adjustment, and the German experience allows some insights into this.[33]

In guise of a conclusion: What will (can) the Commission do?

As the Commission is one of the main drivers of the concept of flexicurity, in conclusion one should debate the European Commission's options for labour market reforms in the aftermath of the crisis and its new 2020 agenda.

In June 2009 the European Council issued a conclusion on "Flexicurity in times of crises" where it maintained the concept and asserted that "as an integrated strategy to enhance both the flexibility and the security of the labour market and to support those who are temporarily outside it, flexicurity is even more important and appropriate in the current difficult economic context characterised by rising unemployment, poverty, segmentation and the urgent challenge of stimulating growth, creating new and better jobs and strengthening social cohesion" (European Council, 2009:2).

In its August 2009 Memorandum to the New Commission, the influential European think-tank Bruegel writes "EU unemployment is likely to peak in 2010. The situation on European labour markets may destroy the most important conceptual pillar of European employment policy: flexicurity" The returns on labour market flexibility will be unusually low in 2010 and the room for extending social protection will also be narrow, as the crisis responses have led to restricted fiscal space. (Sapir, 2009:76)[34]

The supporting statement of the Council for flexicurity, deals in fact already with the danger signalled later by Bruegel. The support note came in a time of mounting criticism of the concept,

[33] A model is anyway never as clear-cut as one would like to have it. Work sharing, sometimes coupled with training or training instead of dismissal are also part of the Danish employment model . And the recent collective bargaining agreement in manufacturing that is usually first in the Danish system of pattern bargaining, has introduced some welfare measures in compensation for low wage hikes, such as two weeks additional parental leave (one for mothers and one for fathers). There was also timid path to more employment security as witnessed by the extension of severance pay to hourly paid workers and the inclusion of employees in the labour market pension system after two month of employment (instead of 9 month earlier).(EIRO 2010 a) For more on the conceptions and misconceptions of the Danish flexicurity system see also: Andersen and Svarer (2007), Bredgaard et.al. (2005).

[34] Despite this Bruegel sees a chance for an ambitious flexicurity agenda based on the conviction of (real economic) return of flexible labour markets for job creation once growth returns. The security side should be tackled by the introduction of a minimum working wage (instead of a minimum wage) e.g an in work benefit for low wage workers. An alternative is to focus on substantive issues instead such as ageing (and thus retirement) and migration (Sapir 2009).

especially from the trade unions and uncertainty of how flexicurity will fare in times of crisis. As often in politics, no empirical analysis supported the statement. However, the Council conclusion reminds of the progress in institutionalisation of the concept: cited are among others the endorsement by the European Council of the “Common principles for flexicurity” in December 2007, the endorsement of the social partners of the concept in the report on “Key challenges facing European labour markets” in October 2007, the endorsement (with a long list of amendments) of the European Parliament of the Common principles in November 2007 and the results of the high level Mission (led by the French labour minister of the time Gerard Larcher) on flexicurity from December 2008. In fact, the Commission has invested so heavily in this concept and has anchored it successfully in the European political institutions that it seems rather impossible to change it, even if there would be enough evidence against it.

As we have seen above there is some empirical evidence against especially one form of flexicurity, which was up to now the dominant one: a flexible labour market with generous social protection to shield people against the volatility of employment and income that comes together with flexibility. Unions have seen this form of flexicurity as an attack on employment security (not employability, see above) in the absence of a tightly knit safety net with real income and social protection guarantees (which exist in Denmark) in many of the member countries (ETUC, 2007). And as the Bruegel memorandum states, the fiscal space for creating such protection after the crisis is reduced, so that the development of a consequent welfare state in the countries is not yet on the bargaining table, making flexicurity deals in the spirit of the initial version difficult.

This restriction given, the Commission probably has to endorse the stricter employment protection/internal adjustment alternative if it wants to maintain some support from the trade unions and maintain flexicurity. This is visible from the above cited Council conclusion on “flexibility” in times of crisis[35] . Whether former institutionalisation, beginning implementation and research budgets allocated to flexicurity, and inclusion of the stricter employment protection/internal adjustment form of flexibility are sufficient to convince important critics of renewed support, remains to be seen. A much clearer position on the vision of the labour market that should be part of a Social Europe (in my view a maximum of good jobs –and thus also a strong core of stable jobs) and the role of job, employment and labour market security in globalized economies are required.

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[35] “Maintaining employment, where at all possible, for example through helping companies operate alternatives to redundancy such as flexible working patterns and the temporary adjustment of working time, where applicable, and other forms of internal flexibility measures within the companies. This helps mitigate the social impacts of the crisis and preventing the loss of firm-specific human capital. (European Council, 2009)

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Non-Standard Employment and the New Standard Employment Contract: Reflections from a Transitional Labour Market Point of View[36]

Günther Schmid[37]

Abstract

Starting points are two contrasting and provocative perspectives: Temp-agency work or civil service work as possible ideal types of 'flexicurity'. This thought experiment clearly demonstrates, however, that neither the state nor the temp-agency sector can serve as role-models for the future standard employment contract. The paper, therefore, intends to contribute to the empirical and theoretical backdrop for an alternative. It starts by comparing the extent and dynamic of part-time, temporary, and own-account work in Europe, showing that these forms of non-standard employment relationships are spreading, however at varying degrees and depending on the national employment systems. Although empirical evidence confirms to some extent the thesis of erosion, the same evidence can also be taken as an indication for a still stable fundament of the standard employment contract, all the more as the increasing variety of employment relationships concentrates on new jobs and new labour market participants (women, the young, other vulnerable people). As both the empirical and theoretical backdrop provide plausible arguments for the raison d'être of the open-ended employment contract as well as the need for its adjustment, the logical next step is to ask which new elements should be included into the legal or institutional design of employment relationships to ensure the right 'balance' of flexibility and security, the ultimate aim of all 'flexicurity' rhetoric. The paper responds to this problem by suggesting a set of new institutional arrangements based on the theory of transitional labour markets, in particular the institutionalisation of 'active securities' understood as legally guaranteed social rights to participate in decisions about work and employment and to share equally their fruits as well as their risks. The final section exemplifies the potential role of these new securities on the basis of two regulatory ideas: rights and obligations to capacity building and coordinated flexibility as functional equivalent to external (numerical) flexibility. A summary and a brief outlook related to the new European Employment Strategy conclude.

1. Introduction

A provocative starting point in examining the complex relationship between flexibility, related insecurities and the standard employment contract might be an obvious counter-model reflected in the following cartoon:

[36] Paper presented to the IIRA European Congress 2010 in Copenhagen, June 28-30,Track 4 on Employment Relations (*'Good-by Flexicurity – Welcome (again) Transitional Labour Markets?'*), convener Peter Auer (ILO).

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Some employers tend to see the new standard employment model in this way: They would like to dismiss people at will by telling: „Who knows, perhaps we see us again as temp-agency worker!"

The infamous example for such an employer is the retail-trader *Schlecker* in Germany, who closed many small shops and rehired the workers through the dubious temp-agency firm *Meniar* paying its workers wages 30 percent lower than before and providing much lower fringe benefits like holidays and Christmas payments on the basis of an even more dubious collective agreement with the so called *Christian Trade Unions*.

What teaches this case? At least so much: In the meantime, *Schlecker* had to eliminate this practice due to heavy public protest, including top officials of the government. He evidently broke existing labour law. Furthermore, the Christian Trade Unions are charged with not fulfilling the conditions as a representative union for collective agreements.[38]

The grey zone between lawful and unlawful practice, however, is still much too broad in Germany, and neither labour law nor industrial relations law have properly reacted to the increasing risks of

[38] As the government deregulated temp-agency work in the course of the 'Hartz-Reforms' in 2002/03, it was not expected that the competition between trade union representatives in the temp-agency sector would develop into a harsh power battle between unions under the umbrella of DGB (*Deutscher Gewerkschaftsbund*) and unions under the umbrella of CGZP (*Christliche Gewerkschaften Zeitarbeit und PersonalServiceAgenturen*). The charge against CGZP comes from VER.DI (a DGB trade union) and is to date (April 2010) still pending. The conflict of interest is also reflected in fragmented representation on the employers' side; more about this in Vitols (2008).

workers related to temp-agency work. It seems that regulations intending to avoid the worst insecurities related to Temp-agency work would have to meet the following conditions:

- minimum wages, guaranteed by law and/or collective agreements;
- legal acknowledgement of collective agreements through their extension on workers or employers not covered by these (usual sectoral) agreements;
- provision of accumulating rights to transitions into open-ended employment contracts within a limited period of time;
- reflection of higher risks through higher security provisions, for instance through higher contributions to social security or mandatory funds for training or employability provisions.

The German legal framework does not yet satisfy these conditions. This is a pity. I would not go so far as Jelle Visser whom I remember making the following provocative statement on a panel discussion: *"Temporary work agencies are the trade unions of tomorrow!"* Yet, little doubt can be raised that temp-agency firms possibly can play an important role in providing *employment* security as an alternative to *job* security by effectively pooling the risks related to economic ups and downs, or by effectively pooling the risks related to workers' care obligations and continuous training needs. The hybrid employment contract between temp-agency firms, user firms and temp-agency workers, however, will just be one element and not the paradigm of the new standard employment contract because the firm obviously will remain the core institution of work organisation in the near future.

So, why not going back to the good old times in which the *civil servant* was the prototype for 'flexicurity'? This model clearly provided employment security *and* social security in case of family formation, illness, disability and old age *in exchange* for accepting a wide-range of *external* flexibility by demanding from the 'servants' to move with the jobs, and *internal* flexibility by demanding to move with the tasks. In addition, female civil servants were assumed to live in celibacy, which forced them to quit the civil service when they got married. The implicit social contract of this model was not only the man as the earner of the family, but also the man free from any other obligation to work.

Sure, this model would be hard to sell today. However, since the abolishment of female celibacy and the enforcement of gender equality, the state as employer could be considered as a model for a new standard employment contract at least in some respect. State employees in Germany, for instance, got the right to part-time work or to adjust working-time to life-course conditions long before it was introduced in 2001 to all employees. The state was also the model for including the right to part-time work combined with parental leave in 2008, and state employers were also pioneers for concession bargaining combining wage flexibility with employment security.

On the other hand, anecdotic evidence tells that actual flexibility among state employees is far from the wide range requirements related to the original civil servant model. In addition, mobility between private and public sector is often discouraged, due for instance to the non-transferability of security provisions related to the civil servant status. Furthermore, civil servant-types of contracts induce insider-outsider cleavages, reflected for instance in the fact that the number of fixed-term contracts in the German public sector is twice as high as the national average.

So, neither the state nor temp-agency firms can serve as models for the new standards. However, before pondering further on possible alternatives to the traditional standard employment contract, a look on the actual contractual development might be useful.

2. Why do we need new standards at all?

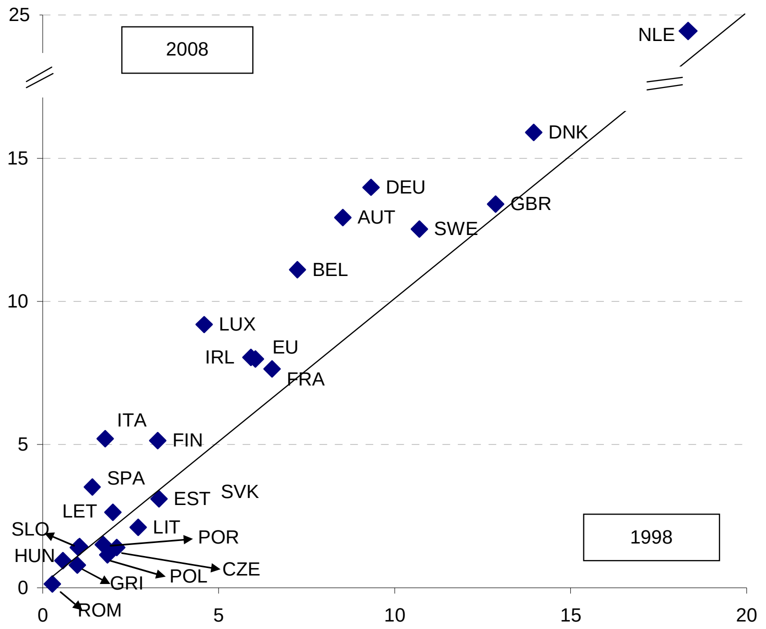
There is plenty of evidence that the standard employment contract (understood as open-ended and dependent full-time work) is eroding: Non-standard employment relationships are spreading, however at varying degree depending on the national employment system. The following paragraphs shall illustrate this trend by some stylised facts.[39]

First, *open-ended part-time contracts* as percent of the working age population vary in Europe between almost zero percent in Romania and 25 percent in the Netherlands (Figure 1).[40] Apart from the new member states, open-ended part-time contracts are on the increase. There is also no point in discussing that part-time concentrates on women and low-wage jobs, and that these jobs are risky in terms of social security in old age. However, open-ended part-time contracts might be considered as element of the new 'standard employment contract' to the extent that they substantially contribute to household income through skilled work in the range of 20 to 34 hours and including options to move to full-time work. Transitions from open-ended part-time to full-time, however, are still rare, and robust evidence in a comparative perspective is hard to come by.

[39] For more figures and data see Schmid/ Protsch (2009); Schmid (2010).

[40] Notice that this way of measuring corresponds to the part-time employment rate in contrast to the usually presented share of part-time related to total employment.

Figure 1: Part-time Employees (only with open-ended contracts, and without self-employed) as Percent of Working Age Population (age 15-64), 1998 and 2008

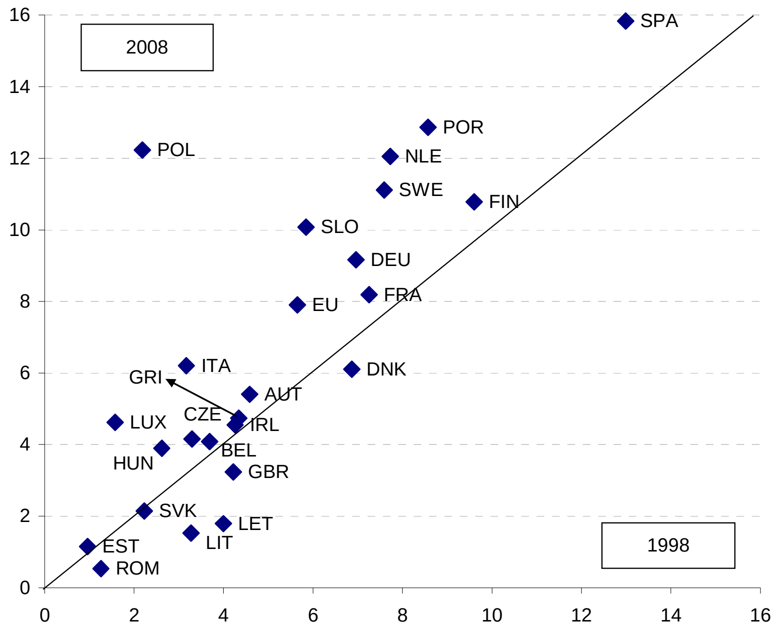


Source: Eurostat, own calculations

Second, fixed-term contracts, including temporary part-timers, as percent of working-age population vary between almost zero percent in Romania and 16 percent in Spain. The dynamic in the last ten years is mixed, but most EU-member states experienced a further increase (Figure 2). Telling examples are the UK and Denmark with a slight decrease. The reason for their deviation from the majority of the 'old European member states' is the fact of moderate or low employment protection. The two countries are therefore counter-examples for the otherwise strong positive correlation between employment protection and fixed-term contracts, especially among men. Furthermore, fixed-term contracts, especially in form of temp-agency work, is concentrated among young adults and often combined with low skills and low wages. Many make the transition to open-ended contracts, but also many get stuck and become members of the new precariat. Again: good and actual comparative data on transition rates are missing.[41]

[41] Some figures based on the European Community Household Panel (ECHP) for the period 1994-2001 can be found in Klammer et al. (2008); Leschke (2008) provides an excellent four-country study on non-standard employment (Denmark, Germany, UK and Spain) based on the same data source; The International Monetary Fund (2010, Chapter 3, p 10) delivers some estimates on yearly probability of transitioning from a temporary to a permanent contract, ranging from 12.1% (Portugal) to 47.4% (Austria), missing however estimates for Denmark, Germany, The Netherlands and Sweden). Gensicke et al. (2010) report that 27% of formerly fixed-term workers got a regular contract after termination of their job and an intermediate phase of unemployment (against 34% of formerly temp-agency workers, 17% formerly part-time workers, and 65% formerly 'permanent' workers). Statistical monitoring of transitions on a regular (e.g. yearly) basis is still an urgent desideratum, both at national and international level.

Figure 2: Temporary Employees (including part-timers) as Percent of Working Age population (15-64 years), 1998 and 2008



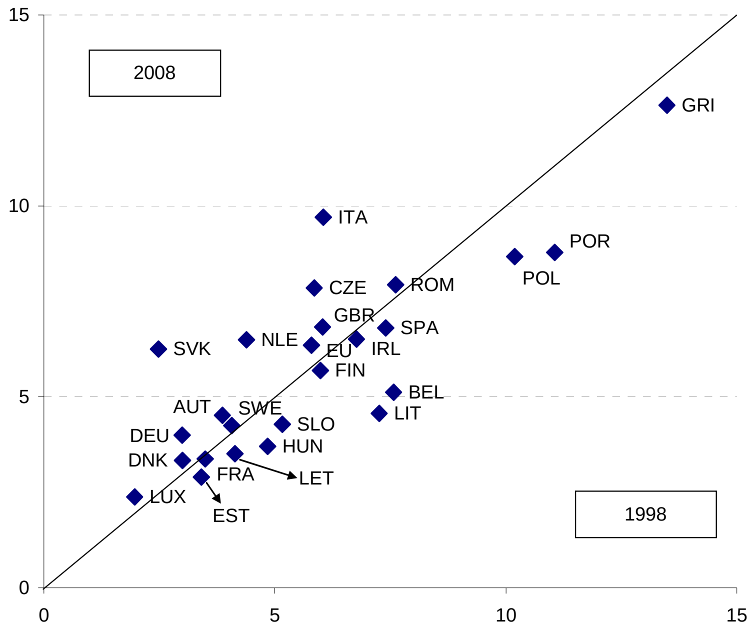
Source: Eurostat, own calculations

However, two overall conclusions seem to be uncontested: The higher the share of temporary contracts, the higher the unemployment elasticity (and therefore the unemployment risk) to cyclical variations of demand, a fact well documented by various studies in the meantime.[42] Finally, the increasing concentration of fixed-term contracts on young adults raises serious concerns about how these young people might be able to plan their life (including family formation and long-term careers) in the future.

Third, the number of self-employed – measured here as own account workers without additional employees and working without an employment contract – as percent of working-age population, lies between two percent in Luxemburg and 13 percent in Greece (Figure 3).

[42] For instance reflected in the dynamic betas (Okun-coefficients), the elasticity measure of unemployment related to output fluctuations, which correlate with temporary work (International Monetary Fund 2010, Chapter 3, p. 14). The authors of a case study comparing the unemployment performance of Spain (drastic increase) and France (moderate increase) during the current crisis (Bentolila et al 2010) argue that labour market institutions in the two economies are rather similar, except for the larger gap between dismissal costs of workers with permanent and temporary contracts in Spain, which lead to huge flows of temporary workers out of and into unemployment. The authors estimate in a counterfactual scenario that more than one half of the increase in the unemployment rate (about 6 percentage points!) would have been avoided had Spain adopted French employment protection institutions before the recession started. The case of the German 'unemployment miracle' – to which we come later – is different. Here it was less employment protection than the availability of 'active securities' which prevented a drastic increase in unemployment.

Figure 3: Self-employed (full-time or part time own-account workers) as Percent of Working Age Population (15-64 years), 1998 and 2008



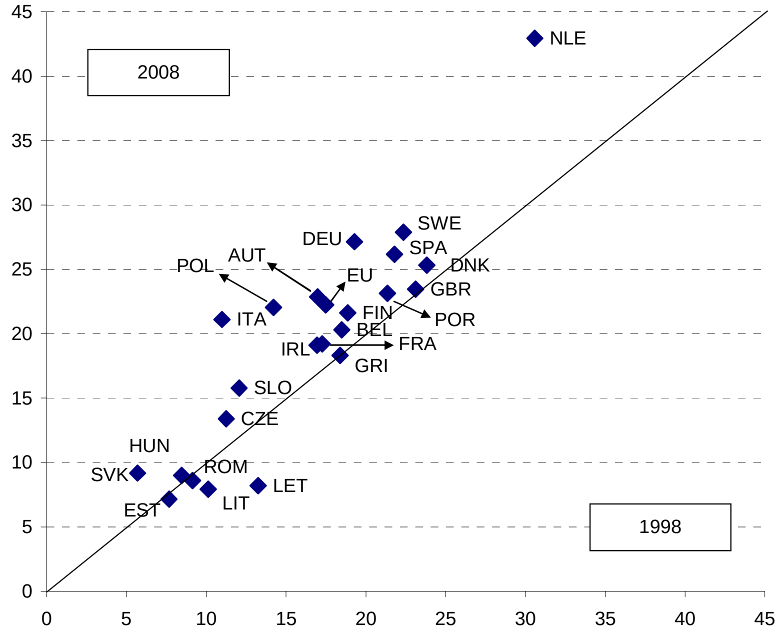
Source: Eurostat, own calculations

There is no clear pattern of the dynamic. In many countries, self-employment is falling mainly due to the decline of traditional small farming, in some countries self-employment is still increasing in the so called creative sector or due to disguised self-employment and to some extend due to enforced self-employment of unemployed people. Many of these own account workers face high risk of volatile income and lack of health or social insurance in old age. We know little about transition rates from self-employment to wage work and vice versa, however an excellent study from Sweden demonstrates that this dynamic may be substantial (Delmar et al. 2008). Especially the combination of open-ended part-time employment with self-employment seems to be a promising strategy for enhancing employment and income security beyond the standard employment contract.

If we combine these three forms of non-standard employment and control for overlapping (for instance, some part-timers have fixed-terms contracts; some self-employed are part-timers), we get the aggregate non-standard employment rate. This rate varies between 7 percent in Estonia and – of course the champion – 43 percent in the Netherlands (Figure 4).

A deeper systematic comparison of employment relationships in the EU member states, their dynamics and their relationship with other performance measures of employment systems over the last decade reveals further insights (Schmid 2010).

Figure 4: Aggregate non-standard employment rates in Europe, 1998 and 2008



Source: Eurostat, Labour Force Survey; own calculations. The "aggregate" non-standard employment rate includes part-time, fixed-term and own account work controlling for overlaps; the EU-average excludes Bulgaria, Malta and Cyprus.

First, through differentiation by gender, the picture becomes more telling. Both the level (EU-average of about 15 percent for men, 21 percent for women in 2008) as well as the dynamics (EU-average of about 2 percentage points change from 1998 to 2008 for men, about 4.5 percentage points change for women) hint to the fact that non-standard employment mainly affects women. It may, thereby, come to a surprise that this combined indicator for 'flexible employment'[43] is highest both in the so-called social democratic systems (Sweden, Denmark, and the champion Netherlands, as a hybrid system, included) and in the 'liberal' systems (UK, Ireland). The family centred continental 'conservative' systems (e.g. Austria, Belgium, France, and Germany) as well as the Mediterranean systems (e.g. Italy and Spain) are in the middle; and all of the new member states (e.g. Czech Republic, Hungary, the three little Baltic states) – with the exception of Poland[44] – are at the bottom.

[43] Non-standard employment is not necessarily flexible in all respects: Part-timers, for example, are less flexible than full-timers in terms of numerical working-time (overtime, short-time); fixed-term workers are often less flexible than open-ended full-timers in terms of multiple tasks. We will come back later to this point.

[44] Albeit Poland's employment rate is low like in most of the transition countries, its share of temporary work is very high. Fixed-term employment rocketed from 514,000 (1998) to 3,207,000 (2008), whereas total employment stagnated. The reason probably is the lax regulation of temporary work which allowed fixed-term chain contracts without any limit until 2003. Only in 2004, Poland introduced stricter regulation, except in the seasonal and temp-agency sector. In fact, the height of fixed-term contracts was in 2007, and the number of temporary workers declined slightly in 2008.

Second, non-standard employment increased in almost all EU-member states, especially in the Netherlands, Germany and Italy. On the other hand, it is remarkable that most of the new EU-member states (the ‘transition countries’) not only cluster together, but that some of these countries, especially Latvia, Lithuania, and Romania experienced even a decline in the aggregate non-standard employment rate. The most likely explanation of this feature is the fact that work in the informal economy serves as a functional equivalent for formal non-standard employment. In addition, in countries with low economic prosperity, part-time work (the most important component of ‘non-standard employment’) does not provide enough earning for women engaged in formal labour market work.

Third, the fact that ‘social democratic’ as well as ‘liberal’ systems rank high in terms of non-standard employment can be taken as circumstantial evidence that non-standard jobs are related with very different regulatory frameworks. Whereas the Dutch or Danish non-standard employees seem to be well covered by employment and income security arrangements, this cannot be said, for instance, for their counterparts in Britain, Germany and Italy. Furthermore, not all of these jobs are precarious or exclusionary. They can serve as stepping stones or as intermediary jobs within a meaningful work life career. One can also argue that the concentration of non-standard employment on young adults reflects the renaissance of occupational labour markets (Marsden 1999) requiring a series of job-to-job transitions in order to gain professional experiences and competitiveness on the labour market. Nevertheless, even in countries with high security standards, non-standard jobs often involve higher risk of exclusion than standard jobs.

Fourth, related to the Lisbon Strategy’s goal of social inclusion, the good news is the fact that aggregate non-standard employment correlates both positively with employment and labour force participation as well as with prosperity in terms of gross domestic product per capita. Although correlations cannot be taken as a causal proof, this observation (especially the positive relationship in the dynamic perspective) nevertheless indicates that increased variety of employment relationships supports higher inclusion of people into the labour market as well as a higher level of market transactions. The bad news is that non-standard employment and the related higher risks are heavily concentrated on women, young people, and low-skilled, i.e. on the more vulnerable part of the labour force. In some countries, especially in Germany, the extension of non-standard jobs is closely related with the extension of low-wage jobs.

Fifth, and related to the Lisbon ambitious claim of word-class competitiveness, empirical evidence seems to indicate that rising non-standard employment does not lead to increased productivity. On the contrary, the relationship of employment growth and labour productivity (GDP per employed worker) from 2000 to 2007 is slightly negative. There is no EU Member State obtaining simultaneously high employment and productivity growth (European Commission 2008, pp 37-9).[45]

[45] The exception, perhaps, is Sweden. According to another (six country) study, Sweden was – apart from the USA – the only country with both an increase in employment and productivity during the last decade. The authors of this study (van Bart et al. 2009) explain this exception basically by productivity gains in services (where Germany, in particular, has productivity deficits), and by high investments in “immaterial capital” (investments in economic competences, among others in firm specific human capital; investments in innovation potential, e.g. in research &

As a consequence, the capacity for redistribution (and with it the possibility to compensate the losers in a highly dynamic economy) is weakened instead of strengthened. In other words, trading-in higher income security through redistribution (an essential element of the Danish 'flexicurity' model) for taking over higher risks related to flexible jobs (either in form of non-standard employment or in form of high job turnover) becomes a void option if no better balance of flexibility and security can be found.

The proof that it is non-standard employment which retards productivity growth has yet to be brought about. Peter Auer (2007), attacking this issue from one angle, reports a positive, yet curvilinear relationship of job tenure and productivity on an aggregate level. A recent study at the micro level of firms echoes this result related to innovation (Zhou et al. 2010). Based on a firm panel from the Netherlands and sophisticated econometric models, the authors report that firms with high shares of workers on fixed-term contracts have significantly higher sales of *imitative new products* but perform significantly worse on sales of *innovative new products* (first on the market). High functional flexibility in insider-outsider labour markets enhances a firm's new product sales, as do training efforts and highly educated personnel. The study found weak evidence that larger and older firms have higher new product sales than do younger and smaller firms. These findings, the authors conclude, should be food for thought to economists making unqualified pleas for the deregulation of labour markets.

To sum up: Evidence tells that the standard employment contract is eroding but not disappearing. Insecurities related to non-standard employment are great, and the related risk of a dual labour market is not yet solved satisfactorily in most if not all countries.

However, non-standard employment is not per se precarious and insecure. Open-ended part-time work in the range of 20 to 34 hours is not necessarily related with insecurities, both in objective as well as in subjective terms. And concerning temporary workers, at least 50 percent (in NL even 70 percent) end-up in open-ended contracts after five years, using fixed-term contracts as stepping stones or spring-boards. So, in some countries, especially in the Netherlands and Scandinavia, non-standard employment seems to be well integrated into the overall social security system; in some countries, especially in Germany, more needs to be done. And comparative survey research shows that subjective job insecurity is not necessarily related to the type of employment contract (e.g., Böckerman 2004).

Furthermore, it would be a mistake to identify non-standard employment with flexible work. Research shows that part-time employees are less likely than permanent employees to switch between different types of work on the job, and there is no difference in the type of 'task flexibility' between temporary workers and permanent workers. Performance oriented payment-systems are less likely in part-time and temporary work. Part-timers and temporary workers are less likely to put in extra hours of work. Finally, there is an alternative or at least a functional equivalent to non-

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development; investments in information systems); the huge Swedish investment programme in human resources (The *Knowledge Lift Programme* between 1997 and 2002) may be part of this explanation (Albrecht et al. 2005).

standard employment, which means incorporating negotiated flexibility and security into the standard employment contract.

All this reminds to be careful in demanding radical changes or to bet on interesting but utopian unitary employment contracts such as the French *sécurité sociale professionelle"* (from the left political corner) or the *"contrat de travail unique"* (from the right political corner), not to speak of the unconditional basic income (*"bedingungsloses Grundeinkommen"*) as a panacea for all labour market insecurities which is so prominent in the current German debate. This conclusion seems also to be confirmed by looking briefly on the theory of the employment relationship developed by Herbert Simon (1951) and his followers like Oliver Williamson (1985) or David Marsden (1999).

3. On the theory of employment relationships

What does this theory tell? I will only briefly touch upon this part in order to sketch the rough picture and to identify requirements of further research.[46] The starting point is the interest of the stylised labour market actors (employees and employers) into the standard employment contract. It goes without saying that a further exploration of this issue would also have to differentiate the interests within these stylised actors.

Employees' are interested in income security, especially in a steady stream and possibly rising stream of income over the life course. Job security is the most important means for income security, but also interesting for employees in terms of stability in social networks. Furthermore, option security, e.g. in terms of available choices of working time and career opportunities play probably an increasingly important role, especially for employees with family obligations and high educational potentials. Employees are ready to accept limitations in *voice* for these securities, to be *loyal* to the employer and not to *exit* opportunistically (to take up the terminology by Albert Hirschman, 1970).

Employers' primary interest in a standard employment contract is authority in order to ensure flexible use of human resources for which they are ready to exchange some job and income security. They are also interested in reliability for the sake of security of high quality services for which they exchange some voice to workers. Last but not least, they are interested in freedom to hire and fire, which means in external flexibility, for which they are ready to provide some implicit contract, for instance in form of layoffs and seniority rules as an employment insurance device. The latter option, however, will heavily be influenced by the costs of hiring and firing, determined first of all by the market, and second by institutional rules such as dismissal protection or prohibition of discrimination.

Now, one can ask: What about the disinterest of each party in open-ended employment contracts, which would potentially (not necessarily) be reflected by an interest in sales contracts? First, employees might lose some interest in open-ended employment contracts by having other income resources than wages. Little systematic knowledge is available, but anecdotic evidence says that

[46] More can be found in my book on *Full Employment in Europe* (Schmid 2008a, 178-85).

substantial capital income or assets are available only for a minority, and some kind of assets, such as real estate and houses might even enhance the interest in long-term employment relationships. In return, a well functioning housing market might be a functional requisite for high external flexibility.

Second, interest in experience accumulation on occupational labour markets may reduce interest in open-ended employment contracts. As already noted, there is some sign for the revitalisation of occupational labour markets, and experience accumulation may be of special interest for young adults. One can plausibly assume that temp-agency firms can play an important role in this respect.

Third, the decline of tenure related ('fringe') benefits may be reason for losing interest in long-term contracts. In return, a policy of transferability of such benefits may increase job mobility; the same effect has the shift of financing social security from wage contributions to general taxation as it is largely the case in Denmark.

Employers' interest in open-ended contracts may decrease, first, by reduced opportunity costs to buy specialised knowledge induced through information technology; second by the erosion of internal labour markets, complemented by increasing labour mobility through migration or an improvement of traffic infrastructure; and third by the fact that information technology decreases the half-life of firm-specific knowledge and depreciates tacit knowledge. In addition, overall demand volatility through the structural shift from (manufactured) mass production to services (especially human around the clock services) will decrease the interest in long-term relationships or at least increase the interest in a larger flexibility buffer of human resources. It remains, however, an empirical question how relevant these possibly changing circumstances are compared to countervailing factors such as the permanence of diversified quality production (Streeck 1991), the increase of recruitment costs for highly specialised workers or increased firing costs due to regulation.

Nevertheless, as far as disinterest in open-ended contract on either side of the contracting parties increases, three alternatives are available: First, turning to sales contracts, in other words to buy work or services from outside of the firm instead of relying on the making by their own staff; second, to enrich the employment contract with elements of sales contracts including negotiated elements of flexibility and security; and third, to enrich sales contracts with elements of employment contracts.

Let us turn to the first alternative, accepting the factors driving sales contracts, which means to buy instead to make. These factors could be the availability of cheaper professional services (e.g., through temp-agencies, world-wide sub-contractors); the availability of professional freelancers or the reduction of transaction costs for contracting through specialised legal services.

Possibilities to enhance standard employment contracts through elements of sales contracts are performance incentives of various kinds, cafeteria payments-systems, for example exchanging money for working time accounts or vice versa, and life-course contracts.

Possibilities to enhance sales contracts with elements of employment contracts are to support the transition of employees to self-employment with privileged access to sub-contracts, which can serve as a quality insurance device for the firm. Other examples are providing training capacities for personal service agencies in exchange of privileged access to high quality temporary workers, building up trust relationships by using joint IT infrastructure, or to institutionalise employers' networks for instance for joint vocational training and education or mutual and intermediate exchange of employees' services. These and other possibilities are not yet well researched.

To sum up: The brief sketch of theory on the employment relationship certainly needs more careful exploration, among others by including the concept of the psychological contract (Marsden 2004) as well as new insights of behavioural economics (Kahneman/ Tversky 2000, Schmid 2006). Plausible reasoning, so far however, tells that on the employees' side interest in income-, job- and option security is still high, but demands of voice- or exit options (at least in form of temporary leaves) are rising; on the employers' side, interest in authority, reliability and freedom for hire and fire is still high, but opportunity costs of implicit contract commitments are rising.

So, the general conclusion from this brief theoretical exercise can be metaphorically formulated by paraphrasing Eugene Ionesco (*The king is dead – long live the king!)*: *'The standard employment contract is dead – Long live the 'new' standard employment contract!'*

The question now arises: Considering both, the empirical result of a partial erosion of the standard employment contract and the theoretical result of a still existing interest into long-term employment relationships of employees as well as employers, what could or should be 'new' related to the employment contract? The answers coming from labour law seem to be limited as articulated by researchers of labour law themselves (e.g., Mitchell 2010), and by observing the debate on labour law from a sociological point of view (e.g. Knegt 2008, Rogowski 2008). On the contrary, labour law experts unanimously hint to the need to extend the view beyond the labour contract by considering (also) the legal and regulatory policy which shapes labour's position in society: employment policy, training and education, unemployment and accident insurance, superannuation and pensions and so on.

The theory of transitional labour markets (TLM) intends to contribute to this broader perspective.[47] Its tentative answer is – again metaphorically formulated – to provide "social bridges" that compensate for the higher risks of increasing contractual variety and to ensure that non-standard jobs either are intermediate stages in the work-life or become "stepping stones" to sustainable job-careers. New active labour market policy, thereby, has to take care that these institutional bridges contribute also to (or, at least, do not negatively affect) productivity growth. One strategy to realise this objective might be to exploit more systematically the flexibility potential of open-ended contracts (internal numerical as well as functional flexibility, especially in terms of education and training).

[47] For literature in the spirit of TLM see, among others, Anxo et al. (2007), Auer/ Gazier (2006), Gazier (2003), de Gier/ van den Berg (2005), Howe (2007), de Koning (2007), Lassnigg et a. (2007), Muffels (2008), O'Reilly et al. (2000), Rogowski (2008), Schmid/ Gazier (2002), Schmid (2008), Schömann/ O'Connell (2002).

In other words: TLM theory claims that the implementation of the EU's eight common principles of 'flexicurity'[48] requires to follow consistent normative and analytical principles as well as to take into account the way people perceive their life-course risks and the way they act in situations of uncertainty. In order to establish such institutional arrangements, the theory of TLM uses the concept of social risk management, elaborated elsewhere (Schmid 2008a, 213-241). The following exemplifies this approach by deliberating on the implications of important restrictions of rational economic behaviour.

4. On the Governance of Balancing Flexibility and Security

The general question from the perspective of social risk management is: How should labour market policy take account of real behavioural traits such as bounded rationality, asymmetric risk perception and risk aversion instead of 'ideal' traits assumed by pure theory? Two questions are of special importance in the TLM-framework: First, how can risk aversion be overcome in order to induce people to take over more risks and the increased responsibility that goes with them? Second, how can the uncertainty entailed in negotiated agreements or contracts be overcome in order to maintain the mutual trust required for continuous cooperation under conflicting interests? Prospect theory, or the theory of intuitive judgements and choices (Kahneman/ Tversky 2000), provides interesting insights to the first question. The theory of learning by monitoring, going back to Albert Hirschman's development theory (Hirschman 1967) and further developed by Charles Sable (1994) supplies useful hints to the second question.

The way how people perceive risks determines much their real daily choices. Most people tend to myopic risk perceptions. They overestimate small-scale risks in foreseeable future, and they underestimate large-scale risks that seem far ahead in the future. Most people buy therefore more easily travel insurance than a occupational disability insurance. Most people underestimate also the risk of unemployment or the risk of large income losses over the life course due to the erosion or lack of skills.

Another important psychological insight is that losses loom larger than gains in risk perception. One the one hand, most people prefer small certain gains over large uncertain gains, in other words, they prefer the bird in the hand instead two birds in the bush. On the other hand, most people are extremely loss averse. They don't like to give things away even if prospect of gains are bright. Psychologists have found out that the loss to gain ratio is about two to one. It makes thus a difference in perception whether one frames a risk in terms of losses or gains.

[48] The eight common principles decided – after a Green Paper induced consultation of Member States – by the European Council in December 2007 are: (1) good work through new forms of flexibility and security; (2) a deliberate combination of the four 'flexicurity' components: flexible and reliable contractual arrangements, comprehensive lifelong learning strategies, effective active labour market polices, and sustainable social protection systems; (3) a tailored approach according to the member states' specific circumstances; (4) overcoming segmentation through stepping stones and through managing transitions both in work and between jobs; (5) internal as well as external 'flexicurity'; (6) gender equality in the broader sense of reconciling work, family and private life; (7) the crucial importance of the social dialogue in implementing 'flexicurity', which means – in TLM terms – negotiated flexibility and security; and, finally, (8) fair distribution of costs and benefits (European Commission 2007, Kok et al. 2004).

From these insights, important conclusions for the policy design of risk sharing can be drawn. Daniel Bernoulli, one of the founders of probability theory and thus of risk management, gives the clue. He made the observation: ‘A beggar will not give up begging for a workfare job since he would lose his ability to beg. He has to be offered something more’ (Bernstein 1996, p. 119-20). This “more” – what could that be? TLM-theory suggests a specific solution to this psychological problem: the extension of the expectation horizon through a set of opportunity structures available in the most critical events during the life course.

The first pillar of extending the expectation horizon would be the establishment of new social rights that go beyond employment. A solution could be the transformation of the employment contract to a citizen-based ‘labour force membership’ status (‘*statut professionnel’*)[49] that includes *all* forms of work. The ‘statut professionnel’, therefore, would also embrace income and employment risks related to transitions between various forms of employment and work. This concept has been formulated most forcefully in the Supiot-Report already ten years ago. The authors of this report start with the observation that the terms of the trade-off on which the classical employee status was based – that is subordination in return for security – are now turned on their head without any new ones taking their place. This creates the problem of adapting labour force membership to the new employer-employee relationship. Where the Fordist model hinged on the stable organisation of groups of workers, the new model is based on the opposite idea of the coordination of mobile individuals. It has to react to the necessity (and difficulty) of defining a membership of the labour force that integrates individualisation and the mobility of professional careers. To the extent that this individual mobility becomes the dominant characteristic in tomorrow's world, labour law has to ensure employment stability and thereby guarantee workers recognition as labour force members. The paradigm of employment would thus be replaced by a paradigm of labour force membership for individuals, not defined by pursuit of a specific occupation or a specific job, but covering the various forms of work which anyone might perform during his or her life (Supiot 2001, pp. 25-6, 55).

The new social rights are new in that they cover subjects unfamiliar to industrial wage-earners: rights to education and training, to appropriate working hours, to a family life, to occupational redeployment, retraining or vocational rehabilitation, and to fully participate in the civil and social dialogue. Their scope is also new since they would cover not only ‘regular’ wage-earners but also the self-employed, temp-agency, contract and marginal workers. They are new in nature, since they often take the form of social drawing rights, which allow workers to rely on solidarity, within defined and (possibly) collectively bargained limits in order to exercise the new freedoms.

These new securities can no longer be seen as being given in exchange for subordination (as in the old employment contract), but as the foundations of a new freedom to act. They can be considered as *active social securities*, which go hand-in-hand with worker’s initiatives to shoulder the risks of flexible employment relationships instead of restricting them. Whether the institutional guarantee of security takes the form of open-ended contract with inbuilt flexibilities or fixed-term contracts with

[49] This official English translation is not satisfactory; the original French term “statut professionnel” would be translated in German as “Arbeitsmarktbürger”.

fair risk-sharing devices depends on the situational configuration and on institutional path dependency. We will come back to this point in the last section.

The *second pillar* for extending the expectation horizon would be stepping stones and bridges to overcome critical events during the life course. The tendency of overestimating small-scale risks immediately in sight and underestimating large-scale risks in the long distance leads for instance people to perceive the risk of being stuck in the low-wage sector to be greater than the risk of long-term unemployment resulting possibly from being too choosy about the jobs they will accept. Active labour market policies, therefore, should not be confined solely to offering jobs and placing individuals in work. Follow-up measures are required for *transforming sheer workfare measures into stepping-stones* to sustainable job-careers.

The *third pillar* for extending the expectation horizon would be psychological bridges to overcome asymmetric risk perception. Acceptance of risky jobs means often abandoning familiar certainties, even though they may have a lower value than the new employment prospects. These 'familiar certainties' may be of various kinds. The reliability of social assistance benefits possibly supplemented by a small amount of clandestine employment may be one example, the confidence in one's own *productive capacities* another. Taking on a risky new job, however, brings with it the fear of losing these capacities.

To give an example: Risk aversion of people coming from a relatively poor background has a financial as well as a psychological dimension. Paradoxically, the psychological dimension can be even more important than the financial, as Bernoulli's example of the beggar had already signalled. From motivation studies we know, that poor people are especially dependent on the sociability of their peer groups. Training and education, however, implies often a change of the peer group, especially when job mobility is required at the end. The consequence of this insight might be to arrange group measures instead of individualised measures in order to stabilise trust within an established social network.

The financial implication is to take care in the programme design that fall back positions remain always in sight. It is therefore important for these target groups to have the opportunity to try out several jobs without benefits withdrawn immediately if one option does not lead to success at once. Trust in such opportunity sets rules out rigid workfare strategies that do not allow trial and error as a productive job search strategy. For the same reason, the implementation of training measures for these target groups should also avoid raising too high expectations, for example through the requirement of passing formal examinations.

The *fourth pillar* for extending the expectation horizon would be the establishment and reinforcement of *learning communities*. Learning communities are a paradigm of negotiated flexibility and security but they differ from traditional collective bargaining in at least two ways. First, they include not only trade unions and employers associations but also other parties that play a key role in the regional economy. Second, learning communities usually involve a representative of public authorities at local, regional or national level.

Learning communities are a relatively recent phenomenon and known under different names, for instance in Germany under 'Alliances for Jobs' (*Bündnisse für Arbeit*), and in the Netherlands as 'covenants'. In a seminal paper, Ton Korver and Peter Oeij (2008) define – and the following relies heavily on their intriguing rhetoric – a covenant as an undersigned written agreement, or a system of agreements, between two or more parties, at least one that is or represents a public authority, meant to effectuate governmental policy. There is not one format of covenants, but they share common features: enough overlapping interests of participants, mechanisms bringing about both definition and the machinery of achievements, the parties cooperate, and formal sanctions are absent, yet parties have the opportunity to go to court in case of another party's default.

Covenants are needed where issues are at stake in which it is not, or not yet, clear what exactly is required of which participants to achieve commonly set and shared values and targets. And since this is unknown, it is quite premature to invoke the regular process of bargaining and thus of deciding on the distribution of the eventual net advantages of the joint effort. In fact, what the net advantages are, how they can be achieved by whom, and how they are then to be distributed, can only be clarified along the way - i.e. through learning by monitoring.

Learning means acquiring the knowledge to make and do things that (labour) markets value (and therewith *un*learning the things not so valued). Monitoring means the assessment of the partner-in-learning in order to determine whether the gains from learning are distributed acceptably. This leads to a dilemma. Learning may undermine stable relationships due to changing identities. The result is conservatism because winners and losers are not known in advance: The advancing knowledge economy, for instance, very likely will increase the inequality of incomes further strengthening the trend of the past two decades. That may lead to a decision trap: When outcomes are uncertain and where the odds are that some will lose and others will win, with the distribution of odds unknown, conservatism is more likely than innovation. In respect to employment and work, conservatism means that parties revert to their already established identities (*'I am a manager', 'I am a craft worker'*, and so on) and to the interests associated with those identities, including social hierarchies and rank and ideas of equity. When monitoring is steered by already established identities and vested interests, learning is sure to be hampered, if not immobilized, for learning entails a redefinition of identity and interest. New partnership arrangements, therefore, are needed to overcome such decision traps.

To summarise and to set these observations into the TLM framework, covenants defined and designed as learning by monitoring are a strategy of policy sequencing. Instead of planning we get exploring (Hirschman 1967), and risks are transformed from danger to trust. TLM do not emphasize risks we want to avoid; in other words those risks we would not normally choose to take. In the context of TLM one needs to discuss risks that we take; for instance when moving from one job to the next, from one employer to the next, from one combination of activities in work, care and education to the next, and so forth. Here the counterpart of risk is not danger but trust. We do not want to insure only for accidents, ill-health, unavoidable old age or other undesired mishaps; we want to insure for moves we want to make during our career and, indeed, in our chosen life-course trajectories. And as we make such moves in the expectation that they conform to the general goals of more flexibility, more transitions and more training, we want to be able to cash in on our insurance when these expectations are disappointed. The opportunities for covenants within the TLM-framework are in the transformation of risks: from danger to trust, from external attribution (events that we undergo) to internal attribution (events we bring about). For it is this transformation that needs to be made in order to tackle the opportunities of flexibility, transitions and training, and the problems (bottlenecks, linkages) these give rise to. It is the same transformation that underlies the problem of employability, with its emphasis on personal responsibility, as distinct from the collective or public responsibility derived from the traditional case of involuntary unemployment.

The paradigm of learning communities, however, cannot be applied to all situations of collective choice. We have to come back therefore to the original concept of transforming the classical employment contract into a citizen based labour market status which broadens the flexibility-security nexus by further elements of 'active securities' in the new standard employment contract. In the following, I will elaborate on two regulatory ideas: First, on rights and obligations to capacity building and second on coordinated flexibility as functional equivalents to (numerical) external flexibility.

5. Active securities as functional equivalents to (numerical) flexibility

The first example related to 'active securities' can be put under the headline: *Capacity building through ex ante redistribution***.** The general strategy would be to remind policy makers of the forgotten part of insurance, which means to stimulate 'innovative hazard' instead of only concentrating on the control of 'moral hazard'. This is what is meant by the slogan 'making transitions pay', in other words rewarding and ensuring risk taking.

Under the perspective of new social risks related to critical transitions over the life course, it would make sense to extend unemployment insurance to a system of employment insurance. Mobility insurance, either in form of wage insurance like in Switzerland or in form of the severance payment scheme (*Abfertigungsrecht*) in Austria (Schmid 2008a, 293) are already good practice to make transitions pay. In Germany, I have proposed to link parts of former UI-contributions to a training fund matched by resources from general taxation for ex-ante redistribution in favour for high-risk low skill workers. Each worker would be entitled to the same drawing rights from this fund over his or her life course independent of his or her saving capacities (Schmid 2008b). As the reasoning about transforming danger to trust made clear, such virtual capacities and monetary incentives would have to be complemented through public infrastructures ensuring reliable and efficient implementation.

The second example can be put under the headline: *Capacity building through accommodation*. The general strategy would be to extend work opportunities through 'making the market fit for workers' with the aim of greater social inclusion. This would mean to enrich the standard employment contract by imposing duties of reasonable adjustment on employers in favour of workers, especially those with reduced work capacity.[50] In other words – and recently also formulated by Simon Deakin in his recent book with Alain Supiot – rather than requiring the individual to be 'adaptable' to changing market conditions, the employment contract requires that employment practices be adapted to the circumstances of the individual (Deakin 2009, 28).

Simon Deakin interestingly provides good practices mainly related to disability policy in Europe, an emphasis correctly reflecting the salience of this problem, noted also by Amartya Sen (2009).[51] A good example in this direction, too, is the recent modification of the German law for severely disabled people, which stipulates the right of disabled against their employer to

- an employment which enables them to utilise and to develop further their abilities and knowledge,
- the right to privileged access to firm-specific training,
- the rights to facilitation the participation in external training,
- the right to disability-conform work environment, and
- the right to equipping the work place with required technical facilities.[52]

It is evident, that these kinds of adjustments duties require support through collective agreements or social pacts between firms and other key actors at the local or regional labour market.

The first example for 'coordinated flexibility' can be put under the headline: *Enhancing internal flexibility through mutual obligations*. The general strategy is to enhance internal adjustment capacities through continuous and – possibly – anticyclical investment. This would mean imposing duties or responsibilities for reasonable adjustment not only on employers but also on employees, especially in terms of investing continuously into their employability over the life course. The conceptual terminology of 'hiring' may help to reveal the rationale for such a demand. Whereas the Fordist relations may have required little effort from employers for keeping the working capacity of hired workers in due shape (so as to be able to return it at the end of the term of contract), the modern labour market requires more efforts to fulfil this obligation (Knegt 2010); sharing responsibility from the 'hired' employees' side would be the other side of the coin.

I know, this is a sensitive and difficult question. Duties or responsibilities may easily overburden either side of the employment contract or restrict freedom of choice. However, negative

[50] Such duties can be derived (in contrast to all utility related approaches of justice) from the principle of *justice as agency,* called "responsibility of effective power" by Sen (2009, 270 ff), or from the concept of "individual solidarity" in my own terminology (Schmid 2008a, 226 ff).

[51] Sen (2009, 258-60) draws the attention to the fact that for people with disabilities, the *impairment of income-earning ability* is often severely aggravated by a *conversion handicap*. He cites a study for the UK showing that poverty drastically jumps by 20 percentage points for families with a disabled member if taking account for conversion handicaps, whereby a quarter can be attributed to income handicap and three quarters to conversion handicap (the central issue that distinguishes the capability perspective from the perspective of incomes and resources).

[52] SGB (*Sozialgesetzbuch*) IX, § 81 (4).

externalities for not investing into the future may be one justification, for instance the danger of work accidents, health risks or functional illiteracy through inability to use new technologies. Positive externalities through individual investment, on the other hand, may not be fairly distributed in case of bad luck on the market if no (*ex ante*) provision is taken care for periodic redistribution (Dworkin 2000), for example through progressive taxation, and/ or for renegotiation of the contract, e.g. through collective agreements. Especially related to mutual investments like training and education, contracts dealing with the distribution of future surpluses *ex ante* can be more efficient than ex post in order to prevent exploitation of *hold-up situations* since investments are often not verifiable for one of the parties due to information asymmetries. Also the delegation of contract renegotiating to a higher level than the firm may help since renegotiating themselves would undermine the trust relationship between employer and employee at the micro level (Teulings/ Hartog 1998, 65-76).

The second example for coordinated flexibility can be put under the headline: *Enhancing internal flexibility through risk-sharing or pooling of human resources*. The general strategy here is to enhance internal flexibility and security through risk-sharing within the internal labour market or through extending the internal labour market beyond the firm through resource pooling.

An example for risk-sharing within the internal labour market is the German *Kurzarbeit* ('short-time work'). This instrument has a long tradition in Germany, but can nevertheless still be counted as a 'best practice' case for the TLM inspired concept of employment insurance. Dismissals or layoffs are avoided through sharing the income risk of falling demand between employees, employers and the state (via the public unemployment insurance system). When the world-wide financial crisis started, the number of short-time workers rocketed within a few months to its top of about 1.5 million in May 2009, averaging 1.2 million for the whole year, of which 700,000 were related to the (export-oriented) metal-electric sector. The crisis hit especially skilled men in economically strong firms and Germany's hot spot regions (Baden-Wuerttemberg, Bavaria). It is estimated that workers, so far, carried about 3 billion Euros of the costs,[53] employers about 5 billion,[54] and the federal employment agency about 4.6 billion.[55] The new regulatory idea connected with this instrument is to protect not individual jobs per se but to ensure the preservation of accumulated 'human capital' and to enhance this capital through further employability measures, especially training and education.

[53] The replacement rate of earnings for the reduced working-time corresponds to the unemployment benefit scheme: 60% (without children), 67% (with children) related to the "normal" net earnings.

[54] For the employer, *Kurzarbeit* does not reduce labour costs proportionally with working hours. Some of the fixed costs of labour remain, estimated between 24% and 46% per reduced working hour, depending on the size of state subsidies. These remaining costs, practically, increase through many collective agreements topping up short-time-allowance as an additional kind of wage insurance through negotiated flexibility (Bach/ Spitznagel 2009).

[55] Financed by unemployment insurance contributions and partly through tax financed subsidies by the federal government. Apart from extending the possible duration of short-time up to two years, the government stimulated take-up of short-time especially by taking over 50 percent of social security contributions the employers, otherwise, would have to pay) during the first half year, and 100 percent thereafter. If training is combined with short-time, the 100 percent rule applies already for the first half year, pus coverage of training costs as far as they occur.

Kurzarbeit, so far, has prevented – in combination (!) with other work-sharing measures[56] plus a demand stimulus for the automobile industry[57] – mass unemployment in an astonishing way. Despite of at least 5 percent decline in economic output, unemployment rose only by 150,000 (0.35 percentage points) in 2009, whereas employment remained stable or even slightly increased. This remarkable pattern induced the global media industry[58] to celebrate the *'German job miracle'*, which certainly is correct compared to the crisis response of many other countries (e.g. Spain or the United States), but an exaggeration considered the (potential) side effects. The intended combination with training measures, for instance, was not really successful. In October 2009, the employment agency counted only 113,272 workers combining short-time work and training (cumulated entries). The instrument is also quite dangerous for it may preserve industrial structures which in the long run are not competitive. There is also concern about the fact that, for the first time in German history, productivity fell during a recession due to additional labour hoarding (Herzog-Stein 2010), but possibly also due to the steady decline of private or public investments in Germany during the last decade.[59] In any case, the flip side of this kind of employment security will be an extended period of jobless growth during the recovery (Möller 2010, 336).

A more innovative example of pooling human resources outside risky temporary or fixed-term employment contracts is the recent collective agreement in NRW's metal and electric industry. This agreement allows firms to lease redundant workers (by keeping the standard employment contract) to firms with labour or skill deficits. The social partners adopted with this agreement a good practice already familiar in the soccer industry.[60] The story has yet another interesting side issue. If one agrees that this practice should also be possible between industrial sectors (for instance between main contractors and subcontractors falling under different collective agreements), the German law on Temp-agency work (*Arbeitnehmerüberlassungsgesetz*) would have to be changed since it allows such a personnel change only within the same sector.

A final example of coordinated flexibility relates to the TLM emphasis on life course orientation of new active labour market policy, which is 'new' involving to a larger extent as in conventional labour market policy the element of negotiated flexibility and security. A good practice case is the collective agreement of the German social partners in the chemical industry in April 2008. This

[56] Melting down accumulated time accounts (saving the equivalent of 244,000 jobs), overtime work (285,000 jobs equivalent), and other forms of working time reductions (equivalent of about 500,000 jobs) through flexible working-time corridors allowed by collective agreements (Herzog-Stein/ Seifert 2010, Möller 2010).

[57] A wreck-bonus (*Abwrackprämie*) of 2,500 Euro for buying a new car (supposed to be less polluting) in exchange for a car at least nine years old; the German government spent altogether about € 5 billion, however, the bonus also benefitted imported non-German cars.

[58] For instance the magazine *Economist* devoting a special issue (March 13th, 2010) to the German job miracle, as well as Nobel Prize winner Paul Krugman in his columns in *The New York Times* and *International Herald Tribune*.

[59] This alarming trend reflects the probably too heavy reliance of the German employment system on the export industry.

[60] Pundits of German *Fußball* were curiously following up a prominent example: *FC Bayern München* lent *Toni Kroos* to *Bayer Leverkusen*. This example is especially telling because it hints to a sensitive issue and to potential limits of this model. *Bayern München* and *Bayer Leverkusen* are both at the top of the German league (*Bundesliga*). The decisive game between these two clubs took place on the 10th of April (2010); *Toni Kroos* turned out to be decisive in preparing the one goal for Leverkusen to reach a draw, which means he could have scored against his employer to whom he has to return after the 2009/10 season.

agreement establishes so-called demography funds (*Demografiefonds*) at the company level, yet with an overall framework agreement at the sectoral level of the chemical industry (including mining and energy companies). With the beginning of 2008, all employers in this sector are obligated to yearly contribute €300 for each employee into a fund, which can be utilized after corresponding negotiations and deliberations at the firm level for various aims, among others for early retirement under the condition of building a bridge for young workers entering employment or for buying occupational disability insurance. Also from now on, building up a corresponding and transparent information system reflecting the age and qualification structure of the companies' workforce is required for all firms. This can be expected to lead to the extension of the planning horizon thereby inducing an explicit employability policy of the firm.

6. Summary and Outlook

The starting point – to sum up – was that 'flexicurity', the flagship of the European Employment Strategy, still lacks empirical and theoretical rigour. It often invites to lose talk, to the mistake that flexibility is only in the interest of employers and security only in the interest of employees, and it tends to be captured by various political interests. The aim of this paper was to contribute to conceptual clarity by using the theory of transitional labour markets (TLM) in the framework of the debate on the new standard employment contract.

We started therefore with two contrasting and provocative perspectives: Some pundits of 'flexicurity' see the model of the new standard employment contract in the hybrid employment relationship between temp-agencies, employers and employees. Even if well-known 'bad practices', exemplified by an infamous example from Germany, may easily kill this argument, it has been argued that the potential of this 'hybrid' employment contract (a mix of employment and sales contract) should be considered an important element of the new employment contract under the condition that the related (new) risks are properly taken care by corresponding (new) security provisions.

The counter-provocative perspective is: Why not going back to the good old times in which the civil servant was the prototype of 'flexicurity'? In former times, this model clearly provided reliable employment (not job) security and social security in exchange for accepting a wide-range of external flexibility by demanding from the 'servants' to move with the jobs, and internal flexibility by demanding to move with the tasks. This model would be hard to sell today, yet it can be argued that the perspective of trading in employment (not job) security for flexibility of various kinds has still some charm. We came to the conclusion, however, that neither the state as civil service employer nor temp-agency firms as 'hybrid' private employers can serve as the paradigm for the new standard employment contract.

In the next step, we tried to provide food for the empirical backdrop of this conclusion through a systematic comparative overview on the extent and dynamic of non-standard employment in 24 EU-member states in 1998 and 2008. The main aim was to explain the sources of (new) insecurities and the sources of (new) demands for flexibility on both sides – employers as well as employees. Among the 'non-standard' forms of employment, *part-time work* is the most important driver for the – at least partly successful – inclusion of mature aged workers and (especially more) women into the labour market. Whereas its flexibility potential is uncontested related to employees, part-time work – especially in its open-ended and substantive form (more than 20 hours) – does not necessarily increase employers' flexibility, partly on the contrary. The most important insecurity aspect related to part-time (especially in its marginal forms) is reduced accumulation of pension entitlement.

Temporary work is basically driven by the wish of employers to manage (new) uncertainties related to volatile demands and – especially – to cut down wage costs by avoiding, for instance, insurance related wage increases of open-ended contracts (e.g. seniority wages). High dismissal costs through employment protection regulation are important drivers, too, explaining to some extent systematic national differences in utilising temporary work. The most important insecurity aspects related to temporary work is its higher risk of unemployment, of low wages and the danger of getting stuck in a downward spiral of precarious fixed-term contracts.

Self-employment, as the third most important element of 'non-standard' employment, is on the decline related to its traditional components (farming, petty bourgeois business), but thriving – at least in the more prosperous EU member states – in terms of 'modern' forms related especially to the so-called creative sector, and often also in combination (or sequence) with dependent wage-work. Whereas the latter form of self-employment opens some interesting opportunities for employers to (cheaply) outsource tasks and services, it seems to be an interesting playing field for young adults to try individual autonomy and agency, or for parents to combine family work with gainful employment. In any case, however, the related risk of social insecurity (low and volatile income, and under-insurance in case of illness and old age) is high.

Among many more interesting facets of this exercise, two important conclusions came out: First, there is still a tremendous lack of information on transitions and transition sequences between 'non-standard' and 'standard' forms of employment, especially in terms of life-course careers, which inhibits firm conclusions on the flexibility and security implications of non-standard employment. What is clear however, is that these implications are quite different related to the various forms of non-standard contract. Second, (still anecdotic) evidence seems to hint on the failure to improve overall productivity and competitiveness based on 'flexible' employment relationships via 'non-standard' forms, especially related to fixed-term contracts.

Another weakness in the 'flexicurity' discourse is the often implicit assumption that employers are for flexibility and employees for security. The flexibility-security-nexus, however, is much more complex, as elsewhere discussed at length.[61] Another approach to get analytically a more rigorous hold of this nexus is the theory of employment relationship going back to Herbert Simon's seminal article in 1951, refined in many ways, especially by the literature of institutional economics and employment systems. Taking up this route in a brief sketch, it turned out that both (stylised) actors of the labour market still have strong interests in open-ended employment contracts. However, from both sides, interests in new flexibilities and new securities arise for various reasons requiring to be

[61] See Leschke et al. (2007), and Schmid (2008a, 314-422).

taken into account in a renewed ‘standard employment contract’. Yet – following the recent debate on labour law – we warned also not to set too much hopes into a unitary or all-encompassing new contract and argued for a more evolutionary perspective in developing these standards.

In exploring such new standards, TLM theory emphasises the importance of individual behavioural traits in perceiving (new) labour market risks and in making decisions that respond to these risks. Any policy intending to support labour market actors in preventing, mitigating or coping with (new) employment risks must consider these traits in designing the right policies or institutions. Thus, this matter of ‘flexicurity-governance’ was taken up in the fourth step by briefly summarizing insights of new behavioural economics and the theory of learning by monitoring. As most people tend to be myopic related to high risks with low probability and highly responsive to low risks with high probability, and since most people are – depending on the situation and the framing of the problem – either risk averse or unreasonably speculative risk takers, the strategy of extending the expectation (and corresponding planning) horizon seems to be a useful guideline for policy intervention. Four (mutually not exclusive but complementing) possibilities were presented and discussed: First, the establishment of (new) social rights beyond employment; second, stepping stones for navigating through various risks over the life course; third, group instead of individual employability measures; fourth – and especially promising – the establishment of learning communities through social pacts or covenants.

Agreeing covenants (the most interesting element of ‘active securities’) is rather different than issuing rules and laws. Instead of enforcing institutional forms of 'insurance', covenants build on trust and social cohesion, thus, on forms of 'ensurance'. They are examples of what is nowadays called 'soft law' or 'soft regulation', and fit in with the larger European trends on coordination. Although it may be too early to advocate covenants for the European level, if only because none of the more essential partners (Council, Commission, European trade unions and employers) possesses the muscle to bring them about, many EU Member States dispose about these conditions, and the new European Employment Strategy might at least play a midwife role in supporting such social pacts; European border regions even might start pilot projects in this direction.

Another weakness in the current ‘flexicurity’ concept is its neglect of the interrelationship between flexibility and security. I many cases, security provisions are the precondition for ordinary human beings (with ‘animal spirits’) taking over risks. However, securities can be of different kind and may have different incentives. As theory tells us, any (social) insurance-contract leads people to think of their contributions as kind of investment that must have some pecuniary return (even in case they are lucky not being affected by the risk, e.g. unemployment, over their life course). It is, however wrong, to consider only the negative incentives related to (in fact any kind of) insurance and to concentrate all policies to get this ‘moral hazard’ under control. Much neglected are the positive incentives, which we may call the ‘innovative hazard’ of insurance and which encourages people to take over risks (with positive externalities for the society) they otherwise would not take. Such innovative hazard requires a corresponding safety net either in terms of monetary benefits or in terms of social infrastructures on which workers can rely with trust if they are caught by the negative side of the risks they have taken over.

The real art of *‘balancing flexibility and security’*, therefore, is to balance ‘moral hazard’ as well as ‘innovative hazards’ in such a way, that society indeed reaches a higher level (‘equilibrium’) of flexibility and security. As the empirical part of this paper has shown, the concentration of flexibility measures on external flexibility such as fixed-term contracts and out-contracting (among others to own account workers) has shifted risks to individuals or small enterprises without, yet, persuasive compensations of security and without producing persuasive evidence of increased sustainable productivity and competitiveness. This gave reason to look to alternatives for which I presented two regulatory ideas on the basis of ‘active securities’, which means institutional support enhancing the ‘innovative hazard’ instead of controlling ‘moral hazard’ related to securities: Rights and obligations to capacity building and coordinated flexibility as functional equivalents to (numerical) external flexibility. The final section exemplified the potential role of such ‘active securities’ with special emphasis on good practices from the recent ‘German job miracle’, which, however, had to be partly qualified considering their real or potential dangerous side effects.

A final caveat, therefore, seems to be in order: As successful countries demonstrate, balancing flexibility and security has to be embedded in sound macro-economic and macro social policy. Without a sustainable job creation dynamics, all employability and stepping-stone strategies are in danger of ending up in a cul-de-sac or of displacing other categories of workers. Without new active securities, envisaged and represented perhaps in a ‘social progression clause’ of a revised Lisbon Treaty, all ‘flexicurity’ strategies might end up in new forms of labour market segmentation.

As the process of Europeanization, in particular through the Eurozone, increases interdependencies, co-ordinated efforts to stimulate sustainable economic growth are required, especially through investments in a better European economic and social infrastructure. Related to our emphasis on ‘active securities’ (and in a bit of speculative mood), the extension of the European Social Fund to a European Employment Insurance Fund, or at least a complementation of the European Social Fund through a focused European Knowledge Lift Fund,[62] would make the European Social Model not only more visible and tangible, but might also develop into a new level-playing field for balancing flexibility and security through an enhanced civil and social dialogue.

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[62] According to the Swedish example (see Albrecht et al. 2005).

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