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**Working Paper**

## Flexicurity: A new paradigm for labour market policy reform?

WZB Discussion Paper, No. FS I 98-202

**Provided in Cooperation with:**

WZB Berlin Social Science Center

*Suggested Citation:* Wilthagen, Ton (1998) : Flexicurity: A new paradigm for labour market policy reform?, WZB Discussion Paper, No. FS I 98-202, Wissenschaftszentrum Berlin für Sozialforschung (WZB), Berlin

This Version is available at:

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## discussion paper

FS I 98-202

### **Flexicurity: A New Paradigm for Labour Market Policy Reform?**

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März 1998  
ISSN Nr. 1011-9523

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The paper has been written in the context of the TSER-project "Social Integration by Transitional Labour Markets", coordinated by the Social Science Research Centre Berlin (Wissenschaftszentrum Berlin für Sozialforschung, WZB), Research Unit Labour Market Policy and Employment

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Wilthagen, Tom: Flexicurity: A New Paradigm for Labour Market Policy Reform.

Discussion Paper FS-I 98-202. Berlin : Wissenschaftszentrum, Berlin, 1998.

URL: <http://bibliothek.wz-berlin.de/pdf/1998/i98-202.pdf>

## **Abstract**

This paper discusses the recently coined concept of flexicurity. It is outlined how this concept gained importance in legislative and labour market policy reform in the Netherlands, linking a number of previously separated areas of policy-making such as flexibilization and deregulation of the labour market on the one hand and social security and the concern for the negative consequences of flexible employment on the other hand.

Second, the paper explores the relevance and significance of the concept to a theory of transitional labour markets. It is suggested that 'flexicurity', as a trade off or new balance between labour market flexibility and increased security for workers (especially those in precarious situations) might define more precisely and accurately the legal, social and perhaps even psychological conditions under which labour markets can become truly transitional, i.e. triggering, fostering and safeguarding transitions between employment and other distinct social systems such as private households, education, retirement and unemployment. In this way, flexicurity could be considered as an implementation strategy for transitional labour markets.

## **Zusammenfassung**

In diesem Papier wird das vor kurzem in den Niederlanden entwickelte „Flexicurity“- Konzept vorgestellt. Es wird kurz beschrieben, wie dieses Konzept bei Gesetzgebungs- und arbeitsmarktpolitischen Reformen in den Niederlanden an Bedeutung gewann, indem es bisher getrennt behandelte Themen politischen Handelns wie einerseits Flexibilisierung und Deregulierung des Arbeitsmarkts und andererseits soziale Sicherheit und die Probleme der negativen Auswirkungen flexibler Beschäftigung miteinander verknüpft.

Außerdem wird überprüft, inwieweit dieses Konzept einen Beitrag für eine Theorie der Übergangsarbeitsmärkte leisten kann. Das „Flexicurity“-Konzept, verstanden als Wechselwirkung oder neue Balance zwischen Arbeitsmarktflexibilität und verbesserter sozialer Sicherung der Arbeitnehmer (vor allem derjenigen in gefährdeten Arbeitsverhältnissen), kann die gesetzlichen, sozialen und vielleicht auch psychologischen Voraussetzungen für wirklich durchlässige Arbeitsmärkte hinreichend genau definieren. Dies bezieht sich auf die Initiierung, Förderung und Absicherung der Übergänge zwischen Beschäftigung und anderen sozialen Bereichen wie private Haushalte, Erziehung, Rente und Arbeitslosigkeit. In diesem Sinne kann Flexicurity als eine Implementationsstrategie für Übergangsarbeitsmärkte verstanden werden.



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# 1 INTRODUCTION<sup>1</sup>

At present labour market theories and policies are being put to a new type of litmus test. These theories and policies are being scrutinized in a quest for promising and original view points in coping with the problem of social exclusion. The key assumption in the theory of *transitional labour markets*, as developed by Schmid, is 'that the borders between the labour market and other social systems have to become more open for transitory states between gainful employment and productive non-market activities in order to alleviate present high structural unemployment, to prevent further exclusion from the labour market, and to reduce segmentation or occupational segregation of the labour market'(Schmid, 1998).

Transitional labour markets may be viewed as a vehicle, instrument or method to fight high structural unemployment (or, more optimistically, to obtain full employment). Already, in a tentative way a number of preconditions have been suggested for 'good' transitional labour markets: empowerment of workers, organizational cooperation (in networks and private-public partnership), dynamic efficiency, leading to effective employment promotion, and sustainable employment (rather than 'dead end jobs') (Schmid, o.e.).

In addition one may argue that labour markets require certain preconditions to guarantee that they trigger, foster and safeguard transitions between employment and other distinct social systems such as private households, education, retirement and unemployment. In order to define the whole or at least a large measure of these conditions I propose to explore the concept of 'flexicurity', a concept that combines or even reconciles and (re)balances (the need for) increased labour market flexibilization on the one hand and (social and employment) security on the other hand.

The concept of flexicurity is one of the key concepts in current Dutch labour market policy reform as from the autumn of 1995. The concept refers to certain inextricably related changes in the legal and social (security) rights of so-called core-workers on the one hand and contingent, atypical or flexible workforces on the other hand. At the same time the concept also refers to a basic feature of negotiating and policy-making processes in which the social partners (at several levels) and the government are involved. That is: the pursuit of so-

<sup>1</sup> The author thanks the members of the Transitional Labour Markets Network for the opportunities to present and discuss previous drafts of this paper. In particular I thank the staff of the Research Unit Labour Market Policy and Employment of the Social Science Research Centre Berlin (Wissenschaftszentrum Berlin für Sozialforschung, WZB) and my colleagues at the Hugo Sinzheimer Institute in Amsterdam.



called 'win-win' outcomes. Third, again at least in the Netherlands, the concept pertains to a shift from 'security within a job' towards 'security of a job', a shift that in its turn is strongly related to changes in the economy and households and to the emergence of a corresponding flexible system of social security.

In this paper I will first sketch some typical features of the Dutch legal and social security system and of Dutch socio-economic policy-making (II). This description may lead to a better understanding of the very context in which the concept of flexicurity emerged. This context is discussed in part III, which also describes the development of the concept, its various aspects and definitions and the way it is applied in labour market practice. In part IV an attempt is made to show how the concept of flexicurity could be of relevance and significance to a theory of transitional labour markets.

## **2 SOME TYPICAL FEATURES OF THE DUTCH LEGAL AND SOCIAL SECURITY SYSTEM AND DUTCH SOCIO-ECONOMIC POLICY-MAKING**

### **2.1 The Dutch corporatist system**

These days there is much talk about the performance<sup>2</sup> of the so-called 'Dutch model', a model which is characterized as the *overlegeconomie* ('Consultation or Concertation Economy', *Überlegungswirtschaft*) in the Netherlands itself<sup>3</sup> This model is based on ongoing processes of consultation and negotiation between the social partners at different levels and between the government and the social partners at central level. There exist two important central institutions in this respect: the Socio-Economic Council (*Sociaal-Economische Raad*, SER)

<sup>2</sup> In terms of combining moderate wage movements, the creation of jobs and a sound form of flexibilization of the labour market and the social security system, resulting in fast declining rates of unemployment (especially unemployment among youngsters) and a relatively high economic growth. See also: Schmid & Helmer (1997), OECD (1993). In the year 1997 the official employment rates have shown the fastest decline since 1985. The number of unemployed persons is now 336.000. Among the male part of the labour population the unemployment rate is 4.8%, while 6.5% of the female labour population is unemployed. The number of long-term unemployed people (> 1 year unemployed) declined by 15.8% (source: Central Bureau of Statistics). It is expected that high job growth will continue in the Netherlands. For 1999 a job growth of more than 140,000 new jobs (96,000 in labour years) is anticipated (source: Economic Institute for Small and Medium-sized Businesses, *EIM*. 2 February 1998).

<sup>3</sup> Another characterization is the 'Poldermodel'. The question remains whether the Dutch system is really a distinct 'model'. Other countries, a.o. Denmark, share many of the Dutch characteristics. See Visser & Hemerijck (1997).

and the Foundation of Labour (*Stichting van de Arbeid*, STAR). Both bodies have an advisory position in the area of socio-economic policy-making and legislation. These bodies play leapfrog when it comes to their status and importance: at present the Foundation of Labour is much more in the political spotlight than the Socio-Economic Council.

The Foundation of Labour is a private organization (whereas the Socio-Economic Council has its bases in public law), that was established at the end of the Second World War (1945). Its members are the largest confederations of employers' and workers' organizations. Unlike the Socio-Economic Council (founded in 1950) the Foundation of Labour has no members or representatives of the government (cf. Windmuller, 1969). All Dutch corporatist institutions and practices have strong roots in Christian, particularly Catholic organic social thought.

Soon after the War the Foundation of Labour started to play a leading role in the so-called Wage Control Policy of the Dutch government, that fixed the wages in both the private and the public sector until the end of the seventies. No doubt, the workers' organizations paid a certain price for their influence on macro-level policy-making; in fact they renounced an active role of unions in the management of enterprises. This has been described as the 'Big Deal'.

In the seventies the Dutch Government, despite new legislation<sup>4</sup> granting employers' and employees' organizations freedom of bargaining on wages, continued to infer in the process of wage base determination.

As a reaction to these pressures the Foundation of Labour sought a way to recover its responsibilities in the central determination of the wage base. In 1982, prompted by fast growing unemployment rates, the organizations in the Foundation concluded on an agreement called 'Central Recommendations Regarding Aspects of an Employment Policy' (*Centrals aanbevelingen inzake aspecten van een werkgelegenheidsbeleid*; later on this agreement is referred to as the 'Wassenaar Agreement'). In this agreement the Foundation acknowledges the primacy of collective bargaining at the sectoral level. It is recommended that trade unions and sectoral employers' organizations develop a long-term policy aimed at increasing employment, increased business performance and a redistribution and sharing of employment by means of shorter working hours (*arbeidstijdverkorting*). Employment is given priority over income. Generally this agreement is considered the blueprint of the current Dutch socio-economic model.

The Foundation continued to issue a fair number of recommendations and advises concerning social and economic policy to collective bargaining actors

<sup>4</sup> The 1968 Law on Wage Base Determination (*Wet op de Loonvorming*).

and companies on the one hand and the government (in particular the minister of Social Affairs and Employment) on the other hand. Besides, the Foundation frequently reached bi-partite agreements between the participating confederations of employers' and employees' organizations and/or tripartite agreements ('Small Deals') involving the government, the latter especially as outcomes of the so-called Spring and Autumn Consultations between the Foundation and the Government. It is safe to argue that both the bipartite and tripartite agreements are used to either elaborate or complement legislation or to avoid statutory regulation (from the point of view of both government and social partners) in the field of industrial relations and labour law.<sup>5</sup> The relationship between the social partners and the government (notably the minister of Social Affairs and Employment) is most adequately characterized as 'bargaining in the shadow of hierarchy'.

However, the Foundation and the Socio-Economic Council, actually the 'Consultation Economy' as a whole, was heavily criticized in the 1980's and in the beginning of the 1990's. The system was typified as 'viscose', lacking decisiveness and as an obstacle to the badly required innovation of the larger socio-economic system. Severe doubts were casted on the rationale of central-level consultation and advisory bodies in an age of ongoing decentralization of labour relations. By the end of 1994 the government's legal obligation to seek the advice of the social partners in economic and social policy matters was abolished.

In the beginning of the nineties a requiem was drafted for the Foundation, not only by macro-economists, but also by some of the member organizations (cf. Van Bottenburg, 1995). Research showed that the Foundations' recommendations, notably those with respect to social policy, have very limited

<sup>5</sup> A very recent example is the new agreement on part-time work that was concluded at the end of June 1997. The trade-unions might consider to refrain from demanding a legal right to part-time work, depending on the results of a new educational campaign to stimulate part-time work. The Green Party (*Groen Links*) has proposed a legal right to part-time work some time ago. This act would have given employees the right to reduce their working-time; unless the employer had strong organisational arguments for opposing the employee's wishes, he would be required to consent to the employee's request to reduce her or his number of working hours. The Second Chamber (Lower House) of Dutch Parliament postponed the discussions on these proposals, awaiting the initiatives of the social partners. In the end (just before Christmas 1997), and quite surprisingly, the proposal was rejected by the First Chamber of Parliament, because all Christian Democratic representatives, as well as the Liberal Party (which is one of the coalition parties) voted against a legal right to work part-time.

Nevertheless, part-time work rates in the Netherlands are already unparalleled in Europe. In 1995 37% of all employees worked part-time, a fact that has significantly contributed to the increase of employment. Besides, regarding the reason for working part-time, Dutch employees state most frequently that they "did not want a full-time job" (80% of men working part-time, 93% of the women). See Ministry of Social Affairs and Employment, 1997.

impact, at least in a strict sense, at the meso and micro level (Van Heertum & Wilthagen, 1996).

Nevertheless, as I will discuss below, a revitalization of the Consultation Economy and the Foundation in particular can be observed as from 1995. The first signs of this revival could be noted in the Foundation's 1993 agreement on 'A New Course: An Agenda for the 1994 Collective Bargaining Round in the Mid-Term Perspective' (*Een Nieuwe Koers*). In this bipartite agreement (yet strongly induced by the government) the Foundation stresses the importance of what are called 'sensible' wage movements in combination with a 'tailor-made' organization of the labour process and again tailor-made consultations on the terms of employment. Implicitly, collective bargaining agreements are portrayed as framework agreements, creating room and latitude for interpretations, adjustments and elaboration at the company level. Moreover, it was agreed to use a part of the wage costs for employment policies such as lower introductory wage scales for new employees and education for existing employees. Other issues that were addressed and accentuated are part-time work and workers' co-determination at the company-level.

In theoretical terms, following Crouch (1994) the Dutch corporatist system may be labelled 'bargained corporatism', characterized by 'positive-sum strategies'. In the Dutch case these strategies have resulted in a large measure of consensus and a well-considered trade off between economic and social policy objectives.<sup>6</sup> These kinds of strategies, Crouch contends, are more likely to develop within a system that includes relatively weak trade unions, at least in a nominal sense<sup>7</sup>.

Hemerijck (1995), elaborating on Crouch, distinguishes between four stages or types of corporatism. Using this typology it can be argued that after the Second World War the Netherlands experienced a period of 'innovative' and 'responsive' corporatism. In the eighties and early nineties, however, this system was conceived as 'immobile' corporatism that 'imprisoned' the state in its reformatory and regulatory endeavours. At that time state-led 'corporatist disengagement' was nearby. Nevertheless, in the eyes of many commentators, the corporatist system has now regained a type of responsivity, especially in the way the social partners have taken up the issues of flexibility and security.

<sup>6</sup> Frequent contacts between the social partners (and between the social partners and the government) are, according to Crouch (1994: 44-45), important 'in reducing the imbalance of timing between sacrifice and gains. There is no need to put all weight on one big exchange, and at any one moment each side is receiving gains from past commitments as well as making and receiving further present and future commitments'.

<sup>7</sup> Of course, underlying political and cultural factors should not be ignored. See for an account of the origins of Dutch politics and culture Huizinga (1968)

Admittedly, the question can be raised whether this just means a temporary phase in a long-term transition to corporatist disengagement.<sup>8</sup>

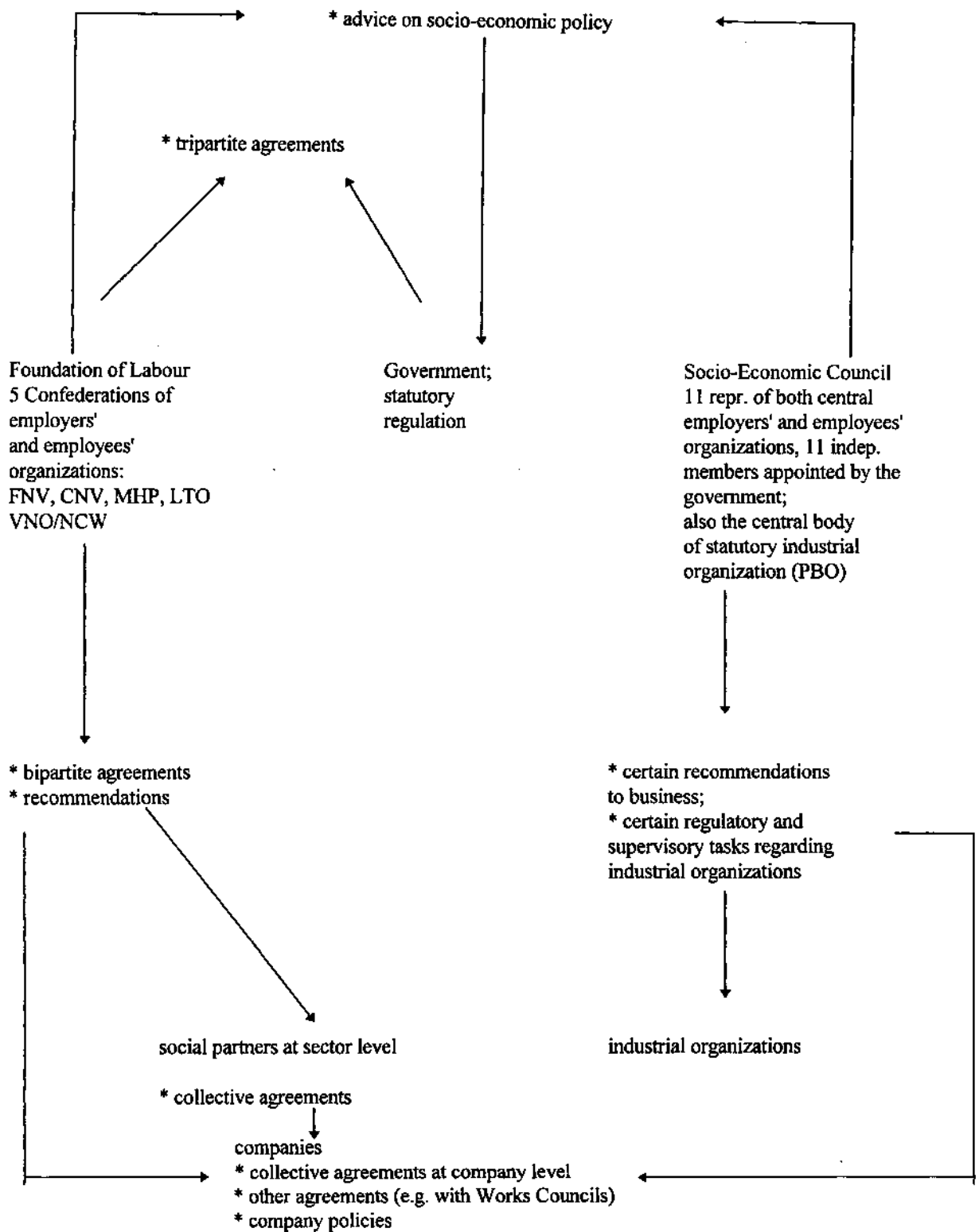
From a system theoretical point of view the Foundation of Labour can be viewed as a border-crossing institution that represents a form of structural coupling between the political system, the economic system and the industrial relations system - all of which are to a high degree self-referential systems in their own way.<sup>9</sup>

In figure 1 the basic actors and functions of the Dutch 'Consultation Economy' are presented.

<sup>8</sup> A position that is taken by Leijnse (1996).

<sup>9</sup> The concept of border-crossing organizations has been introduced by Teubner (1989:103). At the presentation of the Visser & Hemerijck (1997) book, organized by the Duitsland Instituut (Germany Institute) of the University of Amsterdam, in Amsterdam, 1 September 1997, Streeck related the crises of the German economy partly to the lack of coordination capacity at the national level.

**Figure 1: Dutch Consultation Economy**



## 2.2 Active versus passive labour market policies

Traditionally, another basic feature of the Dutch system and of Dutch policy-making has been the orientation towards passive labour market policies rather than towards active labour market policies. This has been explained by the governing principle of 'sovereignty in private circles' which was utterly fundamental to Christian philosophy and thinking. As the social security systems historically originated strongly in Christian forms of charity and mutual and professional arrangements, the system remained for a very long time immune to any instrumentalist policies. On the contrary, the scope of the social security system was expanded and broadened significantly until the end of the 1970's (cf. Roebroek, 1993). An example is the principle of *risque social* instead of *risque professional* in disability and absenteeism benefits legislation.<sup>10</sup>

In the 1980's a growing concern emerged regarding the high rates of inactivity among the Dutch labour force. These low participation rates, notably among people of the age of 55 and up, were to a large extent due to the high number of people that were labelled disabled to work and to comprehensive pre-retirement schemes. As in other countries, long-term unemployment, resulting from de-industrialization, was another significant factor. However, it is generally agreed that in the Netherlands the disability and pre-retirement schemes represented a way to avoid redundancies during the economic crises in the seventies and eighties. In this manner especially elderly workers were offered a relatively generous retirement scheme without the individual company having to pay much for it.

No sooner than the mid eighties the Dutch government embarked on a reform of the social security system, intending to link the system to active labour market policies. However, the reforms first and foremost included sheer cut backs on social security expenditures, both to contribute to the governments overall wish to cut back on expenditures and to serve as a straightforward but ill-founded and isolated incentive to increase labour participation rates. Moreover, the intended reorganization of the system failed because of the autonomy and resistance of the implementation agencies, which were to a large extent run and controlled by the social partners.

Evidently, the new Dutch government, led by Wim Kok, that came into power in 1994, characterized as the Purple Coalition (including social-democrats, liberals and progressive liberals; PvdA, WD en D66) has shown a much stronger inclination to connect the issue of social security with active labour market policy. Its major slogan: 'Jobs, Jobs and Jobs!', clearly indicates

<sup>10</sup> That is: the cause of disability or sickness absenteeism is considered irrelevant to workers' rights to a social security benefit.

the (top)priority of (paid) jobs over compensation for the lack or loss of income.<sup>11</sup> Though a comprehensive design for a revision and modernization of the social security system is still lacking, interesting steps have been taken by addressing the issue of flexibility also from a (social) security point of view.

### 2.3 Deregulation and flexibilization of the labour market

At the beginning of the 1980's the Netherlands did not contrast sharply with other Western European countries in its quest for deregulation in general and deregulation of the labour market in particular. However, probably the Netherlands are special in at least one respect, i.e. the recurrent discussions about the system of dismissal law and regulation. In the Netherlands there exists a so-called 'dual system' of dismissal law which is, moreover, of a preventive nature. That is, employers have to address either the Director of the Regional Employment Service (*Regionaal Directeur voor de Arbeidsvoorziening*] RDA) to ask for a permit *before* any notice to terminate the employment contract can be given, or they have to file a request at the lower courts, requiring rescission of the employment contract on the grounds of 'serious cause'. The latter option was originally meant for, indeed, exceptional cases but has caught on strongly in recent years.<sup>12</sup>

The dismissal procedure at the Regional Labour Office is included in the Extraordinary Decree on Labour Relations which was originally issued during the Second World War by the occupier and subsequently maintained to regulate the chaotic post-war labour market. This permit system, which does not have a counterpart in any other country<sup>13</sup>, has been frequently under attack ever since. Some lawyers have contended that the system is an unjustified and even illegitimate form of state intervention in the private relationship between an employer and an employee. Since the 1980's the permit system has been denounced as one of the major 'burdens to business' and the cause of labour market inflexibility and immobility. Yet, empirical research has never supported this criticism.<sup>14</sup> Rather, it appears that these kind of regulations do not really

<sup>11</sup> This policy has recently been endorsed by a report from the Dutch Socio-Economic Council, titled *Economic Dynamics and Social Exclusion* (Economische dynamiek en sociale uitsluiting), published 10 September 1997, that proposes to combat social exclusion by enhancing labour participation.

<sup>12</sup> In 1996 60,436 requests for a dismissal permit were submitted to the Regional Employment Services, whereas 44,426 requests for rescission were filed at the lower courts, a ratio of 1.4:1. In the years 1986-1990 the ratio's were 15:1, 13:1, 11:1, 7:1 and 6:1. France had a somewhat similar system for dismissals on economic grounds; the Spanish system also bore some resemblance. Admittedly, dismissal systems in other countries do include some kind of preventive check in certain cases, e.g. by the works councils in Germany.

<sup>14</sup> See a.o. Mayes & Soteri (1994); Bertola (1990).



make a difference, because they are so strongly interwoven with the wider institutional arrangements in a particular country (OECD, 1994).

The present Dutch government has decided not to abolish the system because it is considered an instrument that can be used to protect the less powerful workers in the labour market (e.g. the partly disabled workers). Nevertheless, the Dutch system of dismissal law is still called a 'lawyers paradise' and the discussions certainly have not come to a halt. Another much debated legal aspect is the current impossibility of appeal to the lower courts' decisions in rescission cases.

Obviously, the extensive policy 'file' on dismissal law is not closed for the moment. The adaptation of the dismissal system forms one of the key elements of the government's and social partners' initiatives in the area of flexibility and security.

### **3 THE ROAD TO "FLEXICURITY"**

#### **3.1 An unanticipated process**

The emergence of the concept of flexicurity in the Netherlands, as a junction of flexibility and security can be conceived as a socio-legal and political process in which a number of previously separated areas and lines of policy-making are becoming increasingly interwoven. To a large extent this linkage is well-concerned and deliberate, based on new and advanced knowledge and insights. Nevertheless, to a significant extent the process was unanticipated, that is, dependant and contingent on developments in the wider political and economic context and furthermore dependant on the outcomes of negotiations between the social partners on the one hand and between the social partners and the government on the other hand.

In their recently published study, Visser and Hemerijck aptly describe the development of the Dutch system (which they refuse to view as a 'uniform institutional format or a common "polder model" across policy domains') as a process of policy-learning and problem-solving, a 'trajectory of adjustment and reform (...) paved with many contingencies'. A grand design or master plan was and is absent.<sup>15</sup>

<sup>15</sup> Visser and Hemerijck, op. cit., pp. 184-185.

### 3.2 Limits to flexible employment

The first line of policy-making is the pursuit of deregulation and flexibilization by the Dutch government. As noted hereabove, this endeavour had its roots in the 1980's. As in many countries the deregulation operations were not very successful. On balance the juridification of society and the economy was not halted, but became rather intensified, partly due to supranational regulation, partly due to the 'social fact' that deregulation generates new, albeit different kinds of rules. In the 1990s a new operation was launched, called 'Markets, Deregulation and Quality of Legislation' (*Marktwerking, Deregulerend en Wetgevingskwaliteit*, MOW), which covered e.g. the areas of public transport and occupational safety and health.<sup>16</sup> Besides, the new Dutch government in its coalition agreement committed itself to further deregulation and to the introduction of market-driven incentives and privatization in several areas, including social security.<sup>17</sup> No commitment towards 'flexicurity' was made - this hybrid concept had not been coined yet anyway.

Social security, indeed, represents another relevant strand of policy-making. The concern here was and still is about keeping the system affordable and accessible in the future. Moreover, as explained in paragraph II, social security became increasingly connected to labour market strategies aimed at promoting labour participation and employment. A good example is a government's memorandum from 1996 with the meaningful title 'Working on Security' (*Werken aan zekerheid*).

Third, of paramount importance is the growing concern among policy-makers for the legal and social position of atypical workers (or 'flex workers', as they are called in the Netherlands). Between 1983 and 1986 initial studies on flexible employment were conducted and published on behalf of the government. In these publications a number of questions for future policies were raised. It was acknowledged that flexible employment fits into a general pursuit of a more flexible labour market and greater flexibility within companies.

<sup>16</sup> This operation seeks to establish 'a new balance between the need for protection and the necessity of dynamics', that fits in with 'greater self-reliance of people in changing cultural and social relationships' (MDW Memorandum, Second Chamber of Parliament 1994-1995, 24036, no. 1).

<sup>17</sup> One of the results of these intentions is the abolishment of the Law on Sickness Absenteeism Benefits (*Ziekwet*) and its replacement by the Law on the Extension of the Obligation to Continued Payment in Case of Sickness Absenteeism (*Wet Uitbreiding Doorbetalingsplicht bij Ziekte*; WULBZ) in 1996. It is now mandatory for employers to continue payment to sick employees (out of their own pocket, but they can insure the financial risks if they chose so) during the first year of sickness absenteeism. This measure was and still is severely criticized, because it has evoked an increase use of flexible employment and much more selective hiring procedures and strategies (attempting to assess the health risks of applicants and new employees), thus amplifying segmentation processes in the labour market. Another example is the introduction of the principle of experience rating in disability insurance law as from 1 January 1998.

Flexibilization, the argument goes, has as its objectives to enable companies to deal with changing market situations and to control costs, both in the light of enhancing the international competitiveness of business.<sup>18</sup> Furthermore a correlation is assumed between the use of flexible employment and (particularly pre-empting) dismissal law.<sup>19</sup>

The questions were about the social acceptance of flexible employment, the effects on the emancipation of women and on the objective of full employment, potential tensions in employment relations and the weakening of the role of social partners and the labour movement. The central dilemma of flexible employment work is conceived as follows: on the one hand employment is (being) created that would not be created otherwise - thus offering opportunities for specific groups in the labour markets, such as women and ethnic minorities - , whereas on the other hand flexible employment is accompanied by negative social effects (very weak and dependant position of the workers involved). It is concluded that both the social partners and the government bear particular responsibilities in this area. The latter should guarantee that certain minimum-standards are met. One of the minimum-standards that flexible employment is assumed to exclude - by definition - is the 'security of (having) a job'.<sup>20</sup>

A report published in 1990 deals with the relationship between flexible employment and social security to assess 'how the (future) system of social security could apply to flexible employment' (Vriend & Korpel, 1990). This study contains a warning not to try and cover in detail any particular situation by the social security system; the production of more and more specific rules might have counterproductive effects.

### 3.3 Flexibility and Security

In general the debates on flexible employment and atypical labour relations were governed by the considered need to impose certain limits to the flexibilization of the labour market. This changes at the end of 1995 when the Dutch minister of Social Affairs and Employment, Ad Melkert (Labour Party), deliberately attempts to strike a balance between the issues of flexibility and

<sup>18</sup> *Flexibele Arbeidsrelaties. Rapportage van de eerste fase van de Werkgroep Flexibele Arbeidsrelaties.* (Flexible Labour Relations: Report of the first phase of the working group). Den Haag: Ministerie van Sociale Zaken en Werkgelegenheid, Juli 1986.

<sup>19</sup> At least that was the opinion expressed by the companies that were studied in a research project. See *Arbeid op Maat* Den Haag: Ministerie van Sociale Zaken en Werkgelegenheid, december 1986. In 1996 the estimated number of persons engaged in flexible employment was 9% of the labour population (Central Bureau for Statistics). An alternative estimation is 15% (Ministry of Social Affairs and Employment/Bolweg).

<sup>20</sup> *Flexibele arbeidsrelaties*, pp. 25-36.

(social) security in a memorandum called 'Flexibility and Security' (*Flexibiliteit en Zekerheid*, December 1995). This memorandum contains a interrelated set of starting-points and proposals to adjust the dismissal protection of 'standard-employees' (in terms of a shortened trial period, shorter notice periods, more possibilities to extend temporary employment contracts without the obligation to give notice and apply for a permit), to abolish the permit system for temp agencies regarding their intermediary activities in the labour market and to enhance the legal position of temporary agency workers (with respect to the terms of employment; their relation to the agency is to be defined as much as possible as a standard employment contract - so-called presumptions of law). The minister suggests that existing proposals to reform the dismissal law system be withdrawn.

The quintessence of these proposals resembles the strategies implied by Simitis (1994), who stresses the negative consequences of 'protective' labour laws for particular groups in the labour market (e.g. women). Simitis criticizes the concept of normality in labour law and suggests strategies of 'flexible intervention'.

An official at the ministry of Social Affairs and Employment characterizes the distinct mix of flexibility and security proposals as a form of 're-allocation of rights between the have's and the have-not's'. Besides, this official attributes the very fact that flexibility and security issues happened to be linked together to the Dutch dismissal system, which employers are thought to try and circumvent by using flexible employment. He states that: "We were fortunate to have some rigidities!"<sup>21</sup> This statement reminds one of Dore's (1986) concept of 'flexible rigidities': rigidities in one policy field may inspire or even be a precondition for flexibilization or appropriate adjustments in other policy domains.

It is important to notice that the flexibility and security proposals of the Dutch government pertain first and foremost to the legal position of employees. Besides, the English combined concept of *flexicurity* as such was and is not used by the ministry. At the same time however, the autumn of 1995, the very concept of flexicurity did take root in policy-circles. The sociologist and member of the Dutch Scientific Council for Government Policy (*Wetenschappelijke Raad voor het Regeringsbeleid*, WRR) Hans Adriaansens launched the concept in speeches and interviews. Adriaansens defines the concept as a shift from 'security within a job' toward 'security of a job', holding a plea for a different attitude towards flexibility (among workers) and a for flexible and activating social security system.<sup>22</sup>

<sup>21</sup> Personal communication.

<sup>22</sup> Adriaansens in an interview with Hikspoors (Hikspoors (1995)). Flexicurity has to do with employment security, rather than with job security. The concept differs as well from the

### 3.4 The role of the social partners

In the Dutch coalition no agreement on the flexibility and security (usually shortened to 'flex & security', *flex & zekerheid*) proposals could be reached. Subsequently, the Foundation of Labour was asked for advice on this matter

As outlined earlier on, the Foundation is an institution that is remarkable for its strategies of positive sum bargaining. The pursuit of so-called 'win-win' situations and results, seen from the distinct point of views of both workers and employers, is at the core of the Foundation.<sup>23</sup> The 1993 recommendation called 'Promotion of Part-Time Work and Differentiation of Working-Time Patterns' (*Bevordering van deeltijdarbeid en differentiatie in arbeidsduurpatronen*), though it deals in particular with part-time work and business efficiency and performance, is now seen as one of the pioneering agreements that has led to an agreement on a bill on flexibility and security.

In the Foundation, which was at that time recovering from a period of dejection, employees' and employers' confederations managed to reach an utterly detailed and ready-made agreement on flexibility and security in its memorandum of the same name, published on April 3 1996.<sup>24</sup> Moreover, on April 2 1993 the employers' organizations, and the trade-unions and the non-profit employment agency START had concluded a covenant on how they were going to regulate the legal position of temp agency workers after the new laws will have come into force. They had decided on an collective agreement that will run for five years. This covenant contains as a main point that after having worked 26 weeks for the agency the worker will get a fixed term employment contract. After 18 or 24 months this contract will be converted into a permanent contract.

The initiatives of the social partners were very much welcomed by the government. Nearly all the recommendations were taken up in a set of proposals for new bills (but not the suggestion to introduce the possibility of higher appeal in rescission cases). The Foundation cherished this renewed recognition and appreciation of its position, as politicians had been demanding back the 'primacy of politics' a not so very long time ago.

On March 7 1997 the Flexibility and Security Bill was submitted to the Dutch Lower House, together with the bill concerning the Allocation of Workers via Intermediaries (*Wet Allocatie Arbeidskrachten door Intermediaire, WADI*),

concept of 'employability security', which has become a key concept of the renewed European Employment Strategy. See Auer (1998).

<sup>23</sup> On win-win thinking at the workplace level see Levine (1995).

<sup>24</sup> Publication no. 2/96.

that proposed the abrogation of temporary employment agency permits. The rationale of the new proposals was put as follows:

'...there is a quite high level of protection for workers employed under a traditional contract of employment, while people in flexible employment are faced with a high level of insecurity. The government has therefore sought to fundamentally review and update Dutch labour law. In doing so it worked on the basis of the opinion that employment relationships which are well-balanced, steady and flexible, should be the core of an economically competitive and socially sound labour system.'<sup>25</sup>

The main aspects of the new legislation are:

- two so-called presumptions of law will strengthen the position of atypical workers (regarding the existence of an employment contract and regarding the number of working hours that was agreed upon in the contract);
- in certain cases on-call workers may claim a minimum of three hours' pay each time they are called in to work;
- the period over which employers may claim that they need not pay out wages for hours not worked will be reduced to six months;
- the trial period will basically remain two months;
- fixed term contracts will terminate on the agreed date, even in case of extended contracts (which at present requires a permit to be terminated), except when there is a series of three extended contracts (or more);
- temporary employment agreements with a temp agency are considered employment contracts; an exception will be made in the first 26 weeks;
- the obligation for temporary agencies to be in possession of a permit is withdrawn. The maximum term for this type of employment (currently 6 months) is abolished as well;
- unless collective labour agreements determine otherwise, the organization providing the temporary workers will continue to be under the obligation to pay those workers a salary equal to that of the employees in the hiring organization who perform the same or similar jobs;
- the current period for giving notice to employees with a regular employment contract will be shortened;
- employees are not longer required to file a pro forma notice of objection to the Regional Director of the Employment Service in case of dismissal on the grounds of economic or financial causes;
- in rescission cases the district court judge must check whether or not it is prohibited to terminate the employment contract with an employee, e.g. in

<sup>25</sup> Ministry of Social Affairs and Employment, information leaflet i 003 E, April 1997: Bill on Flexibility and Security.

the case of employees on sick leave. In the latter case the employer has to produce a reintegration plan for the employee to enable the judge to assess the feasibility of reinstatement.

It was expected that the new laws will come into force early in 1998. According to the ministry of Social Affairs and Employment these proposals should also be considered in relationship to other recent legislation and initiatives, such as the new Law on Working-Time (*Arbeidstijdenwet*) in force as from 1 January 1996)<sup>26</sup>, that stresses flexibility and workers' co-determination, the reform of vacation provisions (saving entitlements to vacation, more flexible vacation arrangements), the initiatives on 'Work and Caregiving' (*Arbeid en Zorg*), that deal with several forms of paid and unpaid leave<sup>27</sup> and the adjustments of social insurance regulations to enable employees to go on unpaid leave without negative consequences for their rights to social security.<sup>28</sup> One might add the reform of the pension system, which is still a notorious barrier to flexibility and security. A radical proposal is to take part-time work as the norm for social security rights and benefits, i.e. full-time workers would no longer get any advantage over part-time workers. Thus part-time work would be promoted forcefully. In the same line of thinking it has been proposed to assume and stimulate that every household has no more than 1.5 job.

Finally, it is worth mentioning the recommendations published in November 1996 by the Foundation of Labour on the importance of training and education to workers, companies and sectors ('Working on your job', *Werken aan werk*). These recommendations and subsequent initiatives will be discussed in the next section.

On 18 November 1997 the new flexibility and security proposals have been accepted by the Second Chamber (Lower House) of Dutch Parliament.<sup>29</sup> As the trade-union and employers' confederations, and the government as well, are very much committed to the proposals, as they are the outcomes of successful

<sup>26</sup> In the preamble of this law it is stated that legal regulation is deemed necessary 'also to foster the possibility to combine work and care-giving tasks and other responsibilities beyond those of work'.

<sup>27</sup> On this theme see a.o. (not specifically on the Dutch case) Neal et al. (1993).; Lewis & Lewis (1996); Appelbaum & Berg (1997). A striking example of the Dutch policy approach, which has met some cynicism, is the establishment of a Committee on Daily Schemes (*Commissie Dagindeling*) on 4 November 1996, which aim it is 'to develop proposals for a daily scheme for society that leaves more room for men's and women's choices to combine and balance paid jobs and care activities'. The committee has published its working plan, titled 'Time for Work and Care' (*Tijd voor arbeid en zorg*) in March 1997. The Committee has introduced the new concept of 'task combiners', referring to people that have to combine work and care tasks.

<sup>28</sup> Memorandum on 'Unpaid Leave and Social insurance' (*Onbetaald verlof en sociale verzekeringen*).

<sup>29</sup> A first Memorandum of Adjustments with respect to the initial proposals, responding to the comments of the Lower House of Dutch Parliament was published on June 20 1997.

negotiations, no fundamental changes have been made.<sup>30</sup> (A typical example of corporatist entanglement.)

Nevertheless, apart from wide-spread enthusiasm and euphoria, there certainly was some criticism regarding the very balance that is struck between flexibility and security. Some commentators went as far as to conclude that more weight is put on the flexibility than on the security part. Especially the proposal to extend fixed-term employment contracts three times without having the obligation to apply for a permit to give notice, was seen as a significant draw back in dismissal protection (cf. Pennings, 1996). Besides, it had become clear that the trade unions' and employers' organizations' interpretations of the covenant on a new collective agreement in the temporary agency business are very much at odds with each other. The negotiations on the intended collective agreement might not proceed as smoothly as was assumed last year.<sup>31</sup>

### 3.5 From theory to practice

In the foregoing I have attempted to show which road in what context has led to the emergence of the concept of flexicurity (or flexibility and security) in labour market policy reform in the Netherlands, some sort of history of the idea (*Ideengeschichte*). Now I will make a transition from theory to practice, and indicate a few examples of how Dutch trade unions and companies are trying to make the concept work (also in a literal sense).

The largest confederation of trade unions in the Netherlands, FNV (*Federatie Nederlandse Vakbeweging*), has repeatedly stated that it does not denounce flexibility. In 1995 FNV published a memorandum titled 'A Better Job: A Balance Between Dynamics and Protection' (*Met betere werk: evenwicht tussen dynamiek en bescherming*). In general FNV pursues 'flexibility within certain limits', preferring internal to external flexibility. Moreover, it is argued that as employers have less security to offer, the social security system will have to offer more. The FNV stresses that flexibilization should be regarded a 'strategy of quality, not a shift of burden from the employer to the employee. Both the employer and the employee have an interest in the continuity of the enterprise. Choosing the 'right' forms of flexibilization presupposes a say in these matters by the employees, in order to do justice to their 'active' flexibility (i.e. workers' power to make others respond and adjust to their very needs; rather than be merely 'passively' flexible). A fair redistribution of flexibility is required, according to FNV, to fight the growing segmentation in the labour market. FNV

<sup>30</sup> Although no consensus has been reached yet on the issue of appeal in rescission cases

<sup>31</sup> A detailed review of the adjustments of the initial proposals is beyond the scope of this paper. The proposals have now been submitted to the First Chamber of Dutch Parliament, which can merely accept or reject the proposals. Discussions are expected to start as from 17 February 1998. Depending on the outcomes of these discussions, the new laws could come into force in the spring of 1998.



contests the assumption that flexibilization of the labour market leads automatically to more jobs.<sup>32</sup>

A survey among FNV-members (Van Rijt, 1995) reveals that trade union members do not oppose to flexibilization, rather they oppose to certain types of flexibilization (pro: flexible retirement, individualization of working hours, not against: working at night or in the weekend, against: the abolishment of bonuses and premiums for working at odd hours).

In practice trade unions and workers are involved in promising experiments under the slogan 'From Job Security towards Employment Security'. The experiments concern combinations of internal and external flexibility, in so-called 'job pools' or 'flex pools' and other hybrid forms of organizing employment that aim at increasing the employability of current workers also to prevent redundancies.<sup>33</sup> An example is the POEMA-project at PTT Telecom, a regional, flexible job pool. POEMA is a regional office for temporary employment. It is part of PTT Telecom, and has its own flex pool of POEMA-employees. However, it also works together with regular temp work agencies. POEMA allocates employees within one of the 32 regions of PTT Telecom.

<sup>32</sup> See on this topic Büchtemann & Neumann (1990) and Campbell (1998). The views of FNV are expressed in Passchier (1997) and E. Vogelaar, 'Mythes rond flexibilisering', forthcoming.

<sup>33</sup> In the Netherlands a distinction has to be made between two phenomena which are less similar than one might expect. First there is the *banenpool*, to be translated in English as 'labour pool', which is a type of additional employment. The labour pool is a measure (*Rijksbijdrageregeling Banenpool* (1990)) that aims at creating additional jobs for the hard to place unemployed. The measure focuses on people who are unemployed for three years or more. Implementation is carried out by a municipal or province based organization. Funding of the measure is provided for by the national government and by the Public Employment Service (PES). See Van Velzen (1998). Second, there is the *arbeidspool*, to be translated in English as 'job pool', 'employment pool' or 'flex pool'. This is an organization that allocates workers within a company or to a network or cooperation of several companies within a certain region or sector, depending on the actual demand for labour. Some job pools also offer opportunities to the long-term unemployed and therefore could be viewed as a combination of job pools and labour pools. The number of job pools is increasing, especially in the industry and services. Job pools should not simply be considered second best, i.e. a form of secondary employment. At Stork Industries e.g., the trade unions have just agreed on extra pay for the workers at Stork Mobile, an internal flex pool. These workers will get NLG 125 extra per month, compared to their 'regular' colleagues, as a type of 'mobility allowance'.

However, the job pools in the Amsterdam and Rotterdam harbours are facing major difficulties and are at risk. It is argued that dock workers' incomes are too high, due to generous working conditions, whereas productivity (i.e. the number of days actually worked) is relatively low. Moreover, a further decline of employment in the harbour is expected, due to automation processes. Amsterdam dock workers have recently organized several protest actions and strikes, fearing to be made redundant.

In France similar initiatives concerning company networks have been launched. See General Commissariat of the Plan *Work in Twenty Years' Time*. Report by the Boissonnat Committee. Paris, Ed. O Jacob (1995).

Those employees are not offered opportunities *within one job* but within a certain *job domain*, i.e. they can do a variety of jobs at PIT Telecom, within the particular region, and change jobs on a regular basis. POEMA offers a number of training and education programmes to its staff and thus tries to give a concrete meaning to the concept of employability. The deployment and allocation of external and internal staff all depends on the life cycle of PTT Telecom products (e.g. ISDN). In the development phase, when the market share is still modest, the use of the permanent staff usually suffices. In times of growth and expansion well-trained temporary staff is used as a type of buffer, that can be replaced at a given moment by permanent POEMA-employees. In the consolidation phase (in terms of market growth and market share) the permanent staff will again be the most prominent, though temporary staff can be deployed to cope with peaks and flows. Finally in the run-down phase of the product the permanent staff will have to move in time to new developments and jobs. Temporary staff can be used to fill the vacant positions.<sup>34</sup>

Another example is presented by the so-called Industriebond or Value Added Logistics (VAL) projects in the South of Holland. This business is at the edge on the one hand industrial activities and on the other hand distribution activities, covering activities that were or still are outsourced by the regular industry and distribution (i.e. transportation) enterprises. One of the objectives of Industriebond/VAL is to foster employment, notably in the low-skilled segment of the labour market. Regional job pools are being considered, in close co-operation with temporary employment agencies.

Finally, FNV has declared education as one of the key issues in their conditions of employment policy and strategy for 1997. The targets are :

1. To have provisions on education leave in every collective labour agreement. These provisions are to be gradually extended. It is to be ensured that all employees - flex workers and part-time workers included - are entitled to education;
2. to improve current agreements, a.o. to promote a shift from job-related to career-related education;
3. to conclude agreements on possible systems of saving time and money for extended educational leave.

A first evaluation of the results of this policy campaign is now available.<sup>35</sup>

<sup>34</sup> Another, very recent example is the proposal by Industriebond FNV to create 'regional mobility pools' at Philips. This proposal is to counteract the plans outlined by Philips to transfer all employees regularly to another job within the company; if a new job is not available dismissal is not out of the question. FNV has also suggested flex pools at Schiphol Airport to deal more adequately with the peaks and flows in the labour process.

<sup>35</sup> Internal memorandum of 18 June 1997.

An interesting and innovative example of the trade unions' strategy in the field of training is the idea of 'investment contracts' regarding job security and training, as promoted by the Industriebond FNV (Trade Union for Workers in the Industry). The idea of investment contracts developed against the background of the recommendations by the Foundation of Labour on the importance of training and education, published in November 1996.<sup>36</sup> The Foundation states that an increasingly knowledge-based economy, coupled with the process of globalization, forces companies to capitalise quickly on changing markets and technology. These changes create continually changing occupations and functions, and require a well-trained and flexible workforce. Both employers and workers have an individual and collective responsibility to invest in education and training, the Foundation contends. Workers may reinforce their position within the company and in the labour market, employers are called on to develop company schemes for the (future) training of various groups of workers, The Foundation expects the social partners to invest in the quality of the workforce and to improve its 'employability'. It is recommended that agreements be reached at the sectoral and company level with respect to training policy and facilities. Particular attention should be paid to the individual rights of workers and the proportional participation of disadvantaged groups in the labour market.

These recommendations have influenced the Confederation of Trade Unions' policy campaign on training and education as described here above. The Industriebond FNV (Trade Union for Industry Workers), having organized several meetings on job and employment security, adopted on 21 May 1997 the key theme of 'employment security' (rather than 'employability') based on 'investment contracts'. These contracts cover the education and training of workers and the development of the company where they work, taking the form of a comprehensive collective labour agreement or a training clause in a collective agreement (be it at the sectoral or the company level). These contracts may be of long-term or short-term importance, notably when it comes to restructuring plans that are likely to affect the interests of the workers. An example of the latter is the Heineken brewing group case.

The Dutch branch of Heineken aims at speeding up investments in the application of new technology, at the same time reshaping its organization through the introduction of team work. The new form of organization will demand higher skills and competences from its production workers, notably from low-skilled workers. For that reason Heineken initiated in 1996 negotiations with the trade unions on the restructuring process and its consequences (trade union membership rates are relatively high at Heineken, between 70 and 80%). These negotiations resulted in an agreement on the deployment of employees, signed on 12 June 1997, including a five-year

<sup>36</sup> This example was presented to me by my colleague Josee Lamers, who published it as a feature in the *EIRO Observer*, update 4'97, p. 7.

guarantee of employment and education for all 2000 workers (average age of 41) at the breweries in Den Bosch and Zoeterwoude. All current employees will continue to work within the new organization and will be trained, individually or functionally, for their new functions. The potential of each employee will be tested by an external agency. If it is thought that an individual worker may not be able to achieve the necessary qualifications, management will ensure that suitable work is found.

The agreement carefully outlines the path to be followed, as well as the respective responsibilities and consultative procedures for the actors involved. A 'proactive' committee, consisting of two works council representatives and two management representatives will discuss the results and offer arbitration in any disputes. Every three months, a group level consultative meeting will be held between the union officials involved and management, and every two months a similar meeting will take place at the plant level.

#### **4 CONCLUSION: FLEXICURITY AND TRANSITIONAL LABOUR MARKETS**

Now I return to the theory of transitional labour markets. Could the concept of flexicurity be applied to or linked to this theory? Can flexicurity produce an 'added value' in a theoretical sense? In trying to answer this question, I will not necessarily limit the concept to the specific meaning it has acquired in the Dutch context.

In a radical view it might be argued that flexicurity is beyond a transitional labour market, because in a flexible and secure world of work and organization the borders between the distinct social systems have become totally blurred. That, however, seems a far too Utopian picture. Nevertheless, one might formulate as the objective of transitional labour markets a new re-distribution and re-allocation of flexibility and security, rather than the pursuit of full employment. The concept of full employment does not qualify the nature of employment, the concept of flexicurity does so. Full employment is not a synonym for 'social inclusion', as workers may find themselves in insecure and precarious situations, perhaps even excluded from other important spheres of society and social life.<sup>37</sup>

<sup>37</sup> This does not only hold for the so-called disadvantaged groups in and outside the labour market. It can be argued that the privacy and civic autonomy of those employed in the primary sector of the new 'dual economy' need to be secured as well, as companies have turned into 'greedy institutions' that tend to exploit workers in new ways (work stress, absorption of workers' time and energy). See Van Waarden et al (1997:101-103). Here also, the concept of de-commodification might fit in, described by Esping-Anderson as the situation in which 'a service is rendered as a matter of right, and when a person can maintain a livelihood without reliance on the market'(cited in O'Reilly (1996:19).

I wish to suggest two possible definitions of the concept of flexicurity and corresponding ways to make use of the concept in the light of transitional labour markets:

First, flexicurity could be defined as a political and strategic concept that can be used to induce legal and policy innovations (also in the area of collective bargaining), because it is presented as a positive sum or win-win concept. Admittedly, transitional labour markets already entail the promise of full employment, but this might be less attractive to policy-makers, legislators and employers than the promise of flexicurity. If the concept catches on in these circles new policies could be developed that remove certain legal barriers to transitional labour markets and create new opportunities, while at the same time enhancing business performance. This is, I concede, a type of Trojan horse'-strategy. Clearly, flexicurity is not a radical concept in the traditional sense (such as industrial democracy or workers' self-governance).<sup>38</sup> It is typically a concept that has been developing - and appears useful - within a 'negotiated order'.

Second, flexicurity might more accurately define the preconditions for transitional labour markets. So far the theory of transitional labour markets has somewhat downplayed the question how the 'dynamics of continuous transitions', as one may call it, can be induced. Certain catalyst are required to set off transitions. To be sure, the transitions that are hoped for and aimed at can not be merely be achieved in a top down manner (legislation, general policies), although new legal and institutional designs are badly needed.<sup>39</sup> At the micro-level it is conceivable and plausible that workers will be reluctant and/or even afraid to engage in transitions if they are not provided with a sufficient level (and feeling!) of security. Paradoxically, transitions should also lead to security and stability. Why engage in training and education activities, or in several forms of leave, without the certainty of keeping one's job or getting new opportunities? Why making a transition from unemployment to a job or to self-employment if one endangers one's future rights to social security? People-in-transition should not be trapped or end up in a Catch-22 situation. Flexicurity is very much about incentives, investments and risks.

Employers as well will definitely wish to gain something from getting involved in and contributing (in a financial, organizational and social respect) to increasing the security for workers to preserve their jobs. And employers as well

<sup>38</sup> See e.g. on industrial democracy Mitchell (1997:14) who includes that '(...) the enduring philosophical grounds for industrial democracy are clear. Any practical reason for denying industrial democracy must therefore be viewed in light of their ideological significance - in particular, acceptance of a contradiction between the democratic nature of the state and the authoritarian structure of work.'

<sup>39</sup> Referring to Nonet & Selznick's *Law and Society in Transition* (1978), it may be argued that we now are in need of a Law on Transitions, i.e. a legal and institutional framework that is well-adjusted and geared to transitional labour markets.

will have to be innovative and creative and they too will have to make some strategic (and psychological) 'transitions', deviating from beaten tracks.<sup>40</sup> One of these transitions for employers might be that they have to adhere to new (collective) forms of inter-companies or intra-business responsibility and co-ordination, i.e. hybrid forms of employment (or network labour markets) from which a number of enterprises contribute and of which a number of companies and (groups of) employees benefit (a mixture of internal and external flexibility). In return, the companies' flexibility and competitiveness could and should be enhanced. However, short-term orientations, e.g. regarding the immediate benefits of education and training schemes, will be at odd with a transitional labour market.<sup>41</sup>

Moreover, transitional labour markets, and companies operating in such a market, will be characterized by a new kind of pluralism as workers will be following non-standard and strongly individualized paths in different stages of their working life. Policy-makers, legislators but employers and workers *a fortiori* will have to do away with 'normality', as Simitis puts it.<sup>42</sup> One may also conclude that we need a new concept of normality.

However, managing transitions within a company or in the labour market as a whole may not be easy, as a greater variety of employment contracts and fiscal and social security arrangements will be unavoidable. Admittedly, this will result in certain 'transition costs' (a specific type of transaction costs).

To put it briefly: all actors in a transitional labour market, not the least at the company level, will wish - sometimes in a literal sense - (a) something to gain (b) something to go to and (c) something to come back to. And one may add, they all will have to get used to new forms of organization and management, both of the work place and of their individual lives. Moreover, it seems hard to envisage transitional labour markets that are not characterized by continuous negotiations at all levels.

To sum up: flexicurity might be considered both an end in itself and a means to an end. Regarding the latter possibility, flexicurity could be viewed as an implementation strategy for transitional labour markets. That leaves us with the difficult but inevitable question whether a labour market policy such as the pursuit of flexicurity could be transplanted to other countries. Are we again facing the problem of 'comparing the incomparable'<sup>43</sup>, or do we agree that

<sup>40</sup> See for a 'transition management view' Bridges (1995).

<sup>41</sup> In this respect, one may coin the concept of 'employer-ability', as being complementary to employability.

<sup>42</sup> See section 3.3. Simitis, op.cit. (1994a:198) writes: 'One of the most important consequences is the lifting of the tabu on part-time employment.' See also Mückenberger (1985).

<sup>43</sup> See Blankenburg (1979).

countries sometimes can and ought to learn from each other?<sup>44</sup> An answer to this question requires a thorough study of different employment regimes.

<sup>44</sup> Simitis (1994b) strongly objects to the view that labour law can be reviewed and restructured only within the context of the national tradition. Indeed, he uses American law to criticize German law in the case of age discrimination. Van Waarden (1995 and 1997) advocates a strategy of 'mutual learning' for countries. He distinguishes between forced (leading to a race-to-the-bottom) and voluntary imitation (copying best practice). He sketches three channels for 'regulating up': through private hierarchies (transnational companies that set certain standards), through public hierarchies (supranational and international regulation) and through 'fashion'. O'Reilly, op.cit, p. 26-27, argues that an approach is required 'which shows how gender relations shape observable differences in national regimes of economic production and social reproduction and how these vary between countries', Visser and Hemerijck (op.cit, p. 184) are sceptical, they conclude that 'Although the Dutch experience of the past fifteen years harbours a positive sum solution to the problem of modernization of the welfare state, it does not add up to a model that can serve as a policy example for others to follow, like the Swedish model notoriously did for academics, journalists and policy makers in the 1970s.' The French sociologist Alain Touraine, in a recent interview with *de Volkskrant* (21 January 1998, p. 6), dealing with European democracy, states: "Nowadays it is fashionable to look at your poldermodel. But that is not exportable either - where else does one find the combination of low labour participation rates for women on the one hand and consensus between the government and the trade unions on the other hand?"

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