

# **Precarious Employment and Flexicurity - the perspective of a (trade union orientated) user of statistics**

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Geneva, Oct 2008**

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## **I. Precarious Employment**

The increase of precarious employment relationships has recently become an important issue in the public debate in Western Europe and certainly one of the most important ones among trade unions in (Western) Europe. Also at the international level there is a growing interest by the Global Unions to discuss the phenomenon of precarious employment.<sup>1</sup>

Although the notion of "precarious employment" has become widespread, it is not a defined category and the term itself is controversial. The more common and more neutral terms used are "atypical", "non-standard" or "flexible" employment arrangements.

"Atypical" employment is – obviously - defined in relation to "typical" employment, which is the standard employment relationship (SER).

### **Criteria for defining SER:**

- Full time work (living wage implied)
- Integration into social protection schemes
- Unlimited contract
- Work under the employer' control

If one or more criteria are not met, the employment relationship is considered to be atypical. Atypical employment therefore diverges from the criteria mentioned above, with regard to:

- Working time
- No or lower level of integration into the social protection schemes
- Stability of employment relationship
- Other rights connected to an employment relationship (labour laws)

### **Other connected dimensions:**

- Degree of inclusion in collective agreements
- Degree of inclusion in collective representation
- Degree of inclusion in further training/education
- Degree of inclusion in promotion prospects

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<sup>1</sup> On 3<sup>rd</sup> October 2008 there was a Global Unions/ACTRAV forum in the ILO Geneva on "Towards Social Justice: applying labour standard to precarious workers"

## **Forms of precarious employment (examples):**

- Short term contracts
- Trainee contracts (with little or no pay)
- Contract work
- Some part-time work
- "False" self employed (disguised employment relationship)
- Own account workers/self employed

## **Subjective Criteria:**

Sometimes own account workers/self employed and part time workers are not regarded as being atypical or precarious, if this form of employment is "voluntarily chosen", which is a subjective criteria.

Another definition of precarious employment, which also includes the subjective dimension, is as follows:

"An employment relationship may be termed as precarious, if the employees (...) significantly fall below the level of income, protection and social integration, which is defined in a given society as standard and accepted as such. Gainful employment is also considered to be precarious, if it is subjectively connected to the loss of meaning, deficits of acceptance and the non-existence of planning reliability to a degree which corrects standards of a society to the disadvantage of the workforce." <sup>2</sup>(Prof. Dörre, University of Jena, Germany)

All subjective criteria are a real challenge for statistics. They depend on culture, the actual political situation (i.e. existence of child care) and may even change for the same persons over time. However, in order to obtain data that can be used to address policies it may not be wise to neglect them.

## **Connection between classification of atypical work and precariousness?**

Apart from subjective criteria: from the common grouping of precarious workers one cannot necessarily conclude a certain level of precariousness.

For example: "In the EU-27 as a whole, some 32 million workers (14,5%) are on fixed-term contracts. Ten years ago, in 1997, fixed-term work was limited to 22 million or 11,5%. About 40 million or 18% of all workers are now working part-time, up from 32 million in 1997."<sup>3</sup>

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<sup>2</sup> DGB Bundesvorstand: Prekaere Beschaeftigung, Herausforderung fuer die Gewerkschaften, page 3.  
Translation into English by author

<sup>3</sup> ETUC study Quality of Jobs at Risk:

[http://www.etuc.org/IMG/pdf\\_PRECARIOUS\\_WORK\\_IN\\_EUROPEupdate-kh1.pdf](http://www.etuc.org/IMG/pdf_PRECARIOUS_WORK_IN_EUROPEupdate-kh1.pdf), accessed 08 Oct 2008)

From this, one can conclude a rise of atypical employment relationships but no conclusions are possible to the very nature of these contracts. Let us look at three examples:

### **a) Young workers with temporary contracts**

In Europe almost half of young people have temporary contracts<sup>4</sup>. As long as additional information is not added, this figure permits various (also contradictory) interpretation. What is the average duration of short-term contracts for young people? If, for example, 90% of them would get a permanent job after one year, the level of precariousness were different from a situation in which, for example, the duration of short-term contracts would be 10 to 15 years. This figure would also need to be seen in relation to the unemployment rate of young workers and the change of unemployment rate and temporary contracts over time.

### **b) "False" self-employed and regular self employed**

The need for additional information applies similarly to other groups. The "false" self-employed are often outsourced workers to whom the entrepreneurial risk has been shifted, which normally also includes the non-payment of the "client" (former employer) to social protection schemes and payments for sick leave.<sup>5</sup> The level of precariousness can only be assessed if one knows the level of income, the likelihood of getting contracts that lead to full employment or the possibilities of engaging with other clients. This is also true for the regular self-employed.

### ***A brief aside: The role of the law***

An additional dimension needs to be addressed: in the accepted perspective of the division between labour and capital, labour laws play the role of (trying to) balancing the predominance of capital with regard to power. The origin of labour laws is the acknowledgement of the lack of power by workers towards their employers. If workers are outsourced and transformed into "small entrepreneurs", the rights of workers are outsourced at the same time. Own account workers and self employed fall under civil law not under labour law. They also, almost automatically, lose their bargaining power (collective bargaining) and organising is more difficult. Price fixing, like the mutual understanding of hourly rates for certain services, contradict with laws against the restriction of competition and cartelisation.

### **c) Part-time workers:**

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<sup>4</sup> ETUC fact sheet on decent work; <http://www.etuc.org/a/4311>

<sup>5</sup> For example in the transport sector (lorry drivers)

Another non-transparent, but for developed countries important category is the one of part time workers, of which the majority are women. Part time work can be any paid work below 30 hours a week<sup>6</sup>. For those who consider part time work in general as being precarious, the underlying assumption is that only full time employment is the basis for making a living. This might be true for a cleaner but may not be true for a lawyer.

To which degree would subjective criteria be considered (see above: voluntary or non-voluntarily)? Would the circumstances under which a person lives (financial support by a spouse or others, dependent children etc.) be considered when looking at the work arrangement? How would statistics deal with this – if at all?

### **The (regular) working poor...**

There is a group, which is not covered by the groups mentioned above: workers in low paid jobs with all the benefits of a standard employment relationship. For example, workers in agriculture, hotels and restaurants who have a full time contract, who are covered by a collective agreement, may be included in collective representation but nevertheless earn so little that they are below a living wage with implications for social protection and future pensions. The working poor is a category of precarious workers but can only be distinguished from other workers with a full time employment relationship by their level of (low) income.

### **...and the (irregular) working rich**

On the other hand, there are high-income precarious workers, such as software engineers who might meet every criteria of atypical work but earn enough money to be able to protect themselves. However, because of the lack of stability and security, this category is often included in the public debate when speaking of precarious employment.

### **Interim conclusion:**

The concern of those using the term precarious employment is the down scaling of rights and protection for workers in relation to a standard employment relationship.

However, at this point it needs mentioning that so far, contrary to predictions and assumptions, the overall scope of standard employment relationships in the European Union is still – more or less – stable.<sup>7</sup> Even the average employment tenure in the EU (15) has slightly increased between 1992 and 2005<sup>8</sup>.

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<sup>6</sup> ILO (2002): Women and men in the informal economy, p.27

<sup>7</sup> ILO (2007/12), Peter Auer, Security and labour markets: combining flexibility with security for decent work, p. 7f

<sup>8</sup> *ibid*

At the same time new jobs have been created and non-standard employment arrangements have increased.<sup>9</sup> This leads to the conclusion that the strategy of the EU commission to promote flexibility at the labour market has been successful for the newly created jobs. The fear, especially of trade unions, is that further flexibility policies will now target the standard employment relationship.

At first sight, the approach to introduce a concept or policy to combine two apparently controversial goals: flexibility and security, seems not only challenging but a logical attempt to limit the "market forces" which became rampant in previous years. Why then the trade unions and others are so critical towards this approach?

## **II. Flexicurity:**

The EU Commission defines Flexicurity as follows: "Flexicurity is a policy strategy to enhance, at the same time and deliberately, the flexibility of labour markets, work organizations and labour relations on the one hand, and security – employment security and social security – on the other. The key principles that underpin a flexicurity strategy are that flexibility and security should not be seen as opposites, but can be made mutually supportive."<sup>10</sup> This definition is vague and leaves space for national interpretation and implementation. However, there is a more detailed definition available by the European Commission, stating four components of Flexicurity:

- Flexible and secure contractual arrangements and work organisations
- Active Labour market Policies
- Reliable and responsive lifelong learning
- Modern social security systems (facilitating labour market mobility)

making it work through supportive and productive social dialogue<sup>11</sup>

Without discussing in depth the Flexicurity concept, its implementation strategies and the application so far, one can state from the above mentioned that one of the basic ideas is to connect social protection not only to a certain job but rather to employment in general.

## **Flexicurity in Practice: Denmark**

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<sup>9</sup> More and better jobs? – Labour market developments in the euro area since 1999, Companion report to the ELNEP economic forecast and policy recommendation, Brussels, May 2008;

[http://www.gpn.org/data/europe/ELNEP\\_2008\\_side\\_report\\_labour\\_market.pdf](http://www.gpn.org/data/europe/ELNEP_2008_side_report_labour_market.pdf)

<sup>10</sup> Wilthagen, T. (rapporteur) (2007): Flexicurity pathways. Expert group on flexicurity. Interim report, Brussels, p. 2:

<http://www.ose.be/files/RECWOWE/DIAC/InterimRepFlexisecurityApril2007.pdf>

<sup>11</sup> *ibid*, p.4

The Danish model is often referred to as a good example to make this approach work: having minimal job protection but employment protection instead, which results in one of the highest employment rate in the EU (77.4%).<sup>12</sup> "Its (*the Danish, K.P.*) expenditure on social protection per head of population is second only to Luxembourg, yet employers' contributions are the lowest in the EU-25. Public spending on active labour market policies is also the highest in Europe, amounting to almost 4.5% of GDP."<sup>13</sup> What is often neglected in the public debate is the fact that in Denmark (like other Nordic countries) there has been a high employment rate long before Flexicurity. Despite statutory low job protection nowadays, about 60 to 70% of all Danish employees are covered by collective agreements which consist of dismissal protection regulations<sup>14</sup> In addition, the Nordic countries have a long tradition of a tax funded welfare State, providing general, comprehensive social services to its inhabitants. They also have a long tradition of trade union organisation and collective bargaining.

Looking at the four components mentioned above and the Danish Model, one can argue that a Flexicurity policy which deserves the name must go far beyond the possibilities of regulations by trade unions and employers. It implies the use of macroeconomic policies, like active labour market policies and social policies.

### **The fears and demands of trade unions**

At the latest since the resolution of the Lisbon-strategy in 2000, which indicates to make the EU the most dynamic economic area of the world, the trade unions in Europe have witnessed a deterioration of standards for workers. One of the most significant is the rise of precarious employment relationships (however defined) for almost all new jobs, which also put pressure on the ones that have a standard employment relationship. The "Insider-Outsider" theory<sup>15</sup> states that tight regulations protect the insiders and that therefore the outsiders cannot enter the labour market and have to rely on social protection or atypical jobs. This theory implies that less strict regulations, especially easier dismissal procedures, would enable "the outsiders" to more easily switch from unemployment or atypical jobs to standard employment relationships. However, trade unions fear a downward spiral for all workers.

In light of this, there is a feeling that Flexicurity is not only old wine in new wineskins, but expanding the old wine (flexibility) to the core labour work force, which would mean foremost less tighter laws for dismissals. In addition the responsibility for social security would be entirely shifted to the governments – and so the expectations – be neglected, as noticed in the past.

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<sup>12</sup> ETUC, Flexicurity: [www.etuc.org/a/4288](http://www.etuc.org/a/4288), p.2

<sup>13</sup> *ibid*

<sup>14</sup> Boeckler Impuls 10/2007,page2, Flexicurity: Die Mischungs macht's

<sup>15</sup> Lindbeck.A/Snowder, D.J. (1988), *The Insider-Outsider Theory of Employment and Unemployment*, Cambridge, MA

As recent developments have shown, governments were prepared to introduce new laws that promote flexibility but not security: for example lowering the level of regulation for Temporary Work Agencies, and also for employing and expanding contracts for temporary workers. Social expenditures of States declined, favourable tax regulations for companies were introduced. This list is by no means exhaustive.

A Flexicurity policy that would deserve the name and would also take into account the needs of workers for flexible work arrangements (i.e. to better balance work and family life) and to ensure a level of security to provide for the possibility to make choices, would indeed be welcomed by trade unions. However, because of the experiences of the past years, this approach which appears at first sight as being pro worker, has been treated so far with little enthusiasm.

From discussions with trade unionist, the impression was given, that the main strategy by trade unions is to re-convert atypical employment relationships into standard employment relationships. At the moment there is a strong campaign by several trade unions in Western Europe to ensure equal treatment for contract workers relative to standard employees, possibly by inclusion into collective agreements valid in the company they are assigned to. The increase of minimum wages<sup>16</sup> is also an instrument trade unions are fighting for in order to lift the income of the working poor.

## **Conclusion**

There is not a common understanding of what is precarious employment. For statisticians it may be logical to characterize non-standard employment arrangements in developed countries, like part-time employment, temporary employment or self-employment as informal<sup>17</sup>. For ordinary users of statistics this is hard to understand, as long as the work is registered and linked to certain benefits and regulations, even though they might be far below of a standard employment relationship.

It would be helpful to get clarification of the different approaches with regard to informality and precariousness and the inter-linkages. Where on the path from informal to formal the precarious employment can be found?

When measuring "precarious work", from the perspective of a user of statistics, it is not sufficient to measure atypical employment relationships but to add to it additional criteria – foremost the level of income and the level of inclusion, access and possibility to pay for social protection, plus eventually a hierarchy of criteria. Maybe a common understanding/definition of precariousness would result in eliminating some criteria, like the lack of planning security if a certain level of income is reached.

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<sup>16</sup> In Germany a national minimum wage doesn't exist (yet). The major campaign by trade unions is to demand a minimum wage with an hourly rate of Euro 7,50.

<sup>17</sup> ILO (2002) Women and men in the informal economy, p.26ff

The dimension of subjective criteria needs to be addressed, especially for part-time work, as this is one of the categories of non-standard work, which has increased over the last years, at least in Western Europe<sup>18</sup>.

A debate on Flexicurity has not reached as much public attention as precarious work. Within the last years there have been a lot of state initiatives to ensure flexibility for companies, hand in hand with the deteriorating of labour standards, including social protection. As for now the approach of trade unions is, to ensure a national minimum wage and to try to re-convert atypical employment relationships into standard employment relationships. A discussion of strategies for the self-employed has just started. Among them is the extension of the compulsory social protection schemes to this category of workers, as the extension of other rights and benefits, connected to a standard employment relationship to these workers.<sup>19</sup>

The actual collapse of the international financial banking system has shaken the confidence even of the firmest proponents of free market policies and opponents of State interventions and regulations in the economy. However, a positive result might be that it will pave the way for a debate on providing minimum standards and regulations not only for the financial markets but also for the labour markets at international, regional and national level. Then we might have a complete different public debate on Flexicurity and related topics.

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<sup>18</sup> European Foundation for the Improvement of Living and Working Conditions (2008): Annual review of working conditions in the EU 2007-2008, p.41; see also the findings of Andries de Grip, Jeroen Hoevenberg, Ed Williams: Atypical Employment in the European Union in International Labour Review, v. 136, Spring 1997  
(<http://www.uic.edu/cuppa/uicued/tempwork/RESEARCH/LitReviews/de%20Grip-Atypical.pdf>)

<sup>19</sup> Schulze Buschoff, K. (2007) „Neue Selbständige“ und soziale Sicherheit – Ein europäischer Vergleich, in: WSI Mitteilungen 7/2007, p.387ff.