

SOLIDAR Position on Labour Law Reforms and Flexicurity

- The flexicurity debate is based on the assumption that when flexibility and security are combined, this can profit both employers and workers by promoting growth and jobs. In this debate, the Danish Model is always presented as a flexicurity success story, but a close analysis of the **specific circumstances in the Nordic countries is not often given; namely broad welfare provisions and strong social security, active labour and educational policies and a long tradition of social dialogue.**
- Without the necessary pillars of Nordic flexicurity in place, the flexicurity model will only create more precarious work. Flexicurity needs to be an inclusive force and **not create further disaggregated labour markets. Reforms in employment should aim at improving rights for those in precarious employment, without reducing existing rights.**
- Labour markets are changing and more and more people in Europe are working under precarious working conditions: part-time or short-term contracts or in the informal economy. These types of employment are accompanied by limited workers' rights, less social protection and security. The primary challenge for labour law in the 21st century is how to create circumstances in which employment fosters more inclusive societies. **Strengthening growth and competitiveness can never be an end in itself, but only a means to contributing to the well-being of individuals and the society as a whole.**
- For SOLIDAR, labour law is about efficiently protecting individual and collective rights and promoting fundamental values. **Labour law needs to be inclusive** and not create further disaggregated labour markets. Active labour market policies that are not discriminatory and interventionist need to be promoted. What is needed is a set of measures that actively address inequalities in the labour market, eliminating discrimination in recruitment procedures, ensuring access to promotion and training. **In coordination with social protection systems, labour law should support active policies bringing people in precarious situations and far from the labour market back into employment.**
- All people active in the labour market, irrespective of their employment status must be reached. Policies and measures devised within Member States should, however, be respectful of a set of orientations and requirements in order not to benefit only or principally those in stable employment or with jobs needing high professional skills. **Labour law should support active labour market policies particularly bringing the people in precarious situations and far from the labour market back into employment.** SOLIDAR supports the EU's role as a promoter of exchange of experiences on successful policies and related institutional framework conditions, building on common principles or guidelines insofar as they take due account of the requirements set out above.
- Attention should be paid to the use of concepts such as internal and external flexicurity, i.e. enterprise flexicurity and labour market flexicurity, because internal flexicurity can also be associated to and oriented towards the erosion of rights and rules within enterprises.
- Flexibility in the labour market has been increasing over the last few years, and now it is time to put in place the necessary measures to guarantee workers' rights in all forms of employment, as well as the necessary accompanying measures, such as investment in education and training and services of general interest.
- Discussing flexicurity solely from the point of view of "modernising" labour law without taking the essential elements of investment in social services and services of general interest and education and training into account, as well as not analysing the context of strong social dialogue like in

Denmark, means that the concept will fail from the start. **Equal access to training and lifelong learning for all needs to be ensured through labour law.** One element of ensuring that flexible working time arrangements do not hamper the conditions of the employee is to guarantee that parental leave, career breaks and part-time employment should be included when calculating pension and insurance entitlements.

- The fundamental pillars of **decent work** are in place in Europe: anti-discrimination directives and the principle of gender equality, the right of every citizen to healthcare and social services, labour laws. This also holds true for social dialogue involving employers and trade unions. **The concept of decent work needs to be a clear point of reference** in the debate on the reform of labour law and the use of terminology such as 'good work' and 'quality work' only lead to confusion.
- **Labour law must be better enforced** and it must fight effectively against disguised employment and undeclared work. Labour law must strengthen the role of labour inspection in its primary duty of protecting workers and not enforcing immigration law. European initiatives on labour law will remain ineffective if the national level does not reinforce supervision and enforce the securing of individual and collective workers' rights. **Fundamental rights of all workers, regardless of their status or nationality must be guaranteed. This protection must include undocumented migrants.**
- SOLIDAR puts forward **important elements of labour law reform and flexicurity concepts oriented towards those in employment or in need of labour market inclusion:**
 - **Vocational training and lifelong learning** are crucial, and are a precondition to promoting the reintegration of workers into the labour market as well as within the context of social cohesion policies. Equal access to training and lifelong learning for all needs to be ensured through labour law. SOLIDAR would welcome not only recognition of the added-value of skills acquired outside the labour market but also from outside the formal education and training system.
 - SOLIDAR recalls the need of a set of **measures to directly address inequalities and discrimination**, e.g. eliminating discrimination in recruitment procedures, ensuring access to promotion and training being paramount. Even with adequate levels of training, young, older workers, women, disabled people, lesbian, gay, transgender and bisexual people or ethnic minorities face greater prejudices, stereotyping and discrimination as they are not treated equally in the recruitment process, job advancement, access to training or earnings.
 - Since various forms of discrimination affect in particular disadvantaged groups, such as people with disabilities or migrants, SOLIDAR calls for a **rapid and comprehensive implementation of the Article 13 directives on combating discrimination in employment** across Europe, to give new impetus and legal backing for measures actively addressing inequalities and causes of open and hidden discriminations.
- In the context of the debates around the Green Paper, it is important to note that there were **labour law initiatives blocked** in the decision-making process of the European Union during 2007 and 2008 (temporary work agency directive) or still currently pending (portability of supplementary pension rights directive; working time directive). Rather than discussing new initiatives on how to make room for more flexibility in the labour market, the fact that these initiatives - that aim at improving the situation of workers in Europe - are blocked **needs to be actively addressed to reinforce the credibility of the EU** concerning the reform of labour law.