

The INTERNATIONAL JOURNAL OF COMPARATIVE LABOUR LAW *and* INDUSTRIAL RELATIONS

Volume 25

September 2009

Issue 3

Editorial		207
European Flexicurity and Globalization: A Critical Perspective	<i>Marc De Vos</i>	209
The Political Economy of Two-tier Reforms of Employment Protection in Europe	<i>Wolfgang Ochel</i>	237
The European Directive on Collective Dismissals and its Implementation Deficits	<i>Jan Heinsius</i>	261
Lifelong Learning and Social Partnership: A Comparative Overview of Twelve European Countries	<i>Evelyne Léonard and Emmanuelle Perin</i>	283
Protecting the Housekeeper: Legal Agreements Applicable to International Migrant Domestic Workers	<i>Naj Ghosheh</i>	301
Job Security and Entitlements within Hong Kong's Maternity Protection Legislation	<i>Rick Glofcheski and Ho Yan Leung</i>	327

European Flexicurity and Globalization: A Critical Perspective*

Marc De Vos**

This paper places the European agenda of 'flexicurity' in a broader context. It explains how flexicurity connects to fundamental and historical characteristics of European Union labour market organization. It shows how flexicurity and the European Employment Strategy (EES) manifest a fundamental shift from EU law to EU policy. It explores the connection between flexicurity and the European Union's agenda vis-à-vis globalization, particularly in light of the Lisbon Strategy. A broad and critical overview is given of the European Globalization Adjustment Fund (EGAF), the EU's own and pioneering flexicurity tool in facing the labour market challenges of globalization.

1. INTRODUCTION AND PURPOSE

Against the backdrop of growing economic globalization and the Lisbon Strategy for turning the European Union into one of its winners, labour market performance has increasingly become the focus of attention. It is widely understood and accepted that both economic growth and employment creation can benefit from a labour market that is able to follow and sustain the dynamics of the market economy. When these dynamics intensify because of the many volatile engines of globalization, and when the crucible of change is the European Union where many domestic labour markets are often based on regulatory frameworks from an industrial past, the need to address labour market organization becomes overwhelming.¹

It is of course always hard to distinguish correlation from causation when analysing the nexus between economic performance, employment creation, and labour market organization. However, it can be said that in approaching this nexus, countries across the European Union have basically adopted two major reform strategies. On the one hand, several continental European countries with rigid employment rules have focused on piecemeal reform that leaves the traditional employment protection largely unaffected while providing for more flexible employment formulas at its margin. On the other

* This article treats the state of the law as of 1 Apr. 2009. It deals with issues that are developed more comprehensively in my forthcoming book: M. De Vos, *European Globalization Adjustment Fund. The policy and law of trade adjustment assistance in the European Union*.

¹ I thank Ruben Van Bogaert, at the social law department of the Ghent University Law School, for his editorial assistance.

** Professor of Labour and Employment Law, Ghent University Law School, Belgium.

¹ See, more extensively, M. De Vos, *Arbeidsrecht in transitie*, forthcoming; R. Rovelli & R. Bruno, *Labor Market Policies, Institutions and Employment Rates in the EU-27*, IZA Discussion Paper, 3502, 2008.

hand, Scandinavian countries and the Netherlands are seen to have moderately modernized employment rules across the board, but with the complement of 'active labour market policies' (ALMP) that are both generous and rigorous. This second approach to labour market regulation has become known as 'flexicurity', since it purportedly seeks to combine labour market flexibility with individual security.²

The European Union itself has not stayed neutral in the policy debate surrounding labour market reform. In furtherance of the European Community's treaty title on 'Employment', the European Employment Strategy (hereinafter: EES) has sought to guide the employment policies at Member State level. In the process, the emphasis has been squarely placed on the 'flexicurity' option.

This paper does not offer a comprehensive analysis of the flexicurity mantra. Such analyses can easily be found in the booming literature on the subject. Rather, my aim is to put the overall drive for flexicurity into the broader context of the European Union's labour law and its relationship with globalization. I first seek to establish how 'flexicurity' has emerged as a new and common model for social policy under the aegis of the EES (section II). This common model is contextualized as a specific European response to the labour market dimension of globalization (section III), with the theory of 'ALMP' as its most visible exponent in labour regulation (section IV). I then offer critical perspectives on the European Globalization Adjustment Fund (EGAF), the European Union's pioneering model for addressing globalization through flexicurity (sections V-VI).

2. THE EMERGENCE OF FLEXICURITY AS A EUROPEAN SOCIAL POLICY MODEL

2.1. THE MARKET DIMENSION OF EUROPEAN LABOUR LAW³

National labour law of course reflects national reality. National realities vary widely, also within the European Union (hereinafter: EU). Notwithstanding this intrinsic variety, the historical origins of labour law at Member State level are often closely related to the nineteenth century's industrial revolution and the 'Social Question' generated by a rapidly expanding capitalist society and a marginalized proletariat. Against this backdrop, national labour law was initially conceived as a countervailing force, imposing upon a supposedly omnipotent employer/capitalist minimum labour standards for the benefit of supposedly powerless workers. Whether this interference was done through legislation or through institutionalized collective bargaining with unions, the result was typically a restriction of a free and unfettered market operation in employment. Traditional labour rules on health, safety, redundancy, working time, wages, and the like, all share a common purpose and nature of restricting free competition and free individual negotiation in the labour market.

² L. Nunziata, *European Employment and the Flexicurity Option*, CESifo DICE Report, 4/2008, 21.

³ Throughout this article 'labour law' refers to the law governing the employment contract, whether individual or collective.

For the purpose of this paper it is important to realize that the birth of EU labour law was not related to market restriction, but rather to market creation. As is well known, the 1957 Treaty of Rome contained very few labour law provisions. Where it did, these provisions were essentially included to facilitate the creation of what would in time become the internal market. Free movement of workers was an economic freedom aimed at ensuring the free flow of human capital in the European market. The provision for equal pay for men and women was adopted not as the fundamental social right it eventually became, but as an economic protection against the dumping of cheap German female labour on the French labour market.⁴ In essence, EU labour law was introduced to develop a flourishing European market which – it was believed – would take care of improved labour conditions by itself, without additional interference.

EU labour law has of course moved on substantially since 1957. A body of EU directives now imposes some form of common standards that, whether for the national or for the transnational or European dimension of the labour market, restrict and regulate the market economy. But in addition to all this 'market correcting' the component of 'market making' remains. It implies that the EU labour law tradition is not genetically antagonistic towards a free market economy, but contains strands that are both supportive and corrective in nature. This is a useful reminder and casts light on the intellectual mindset that has brought the EU to embrace flexicurity through the process of the EES.

2.2. THE BLEAK PRESENT AND FUTURE OF EU LABOUR LAW

The development of common EU labour law has been a challenge throughout the history of the European integration process. EU regulations on labour issues requiring specific and fixed provisions on harmonized standards are scarce and even forbidden in the core area of social policy.⁵ EU labour law directives often require lengthy negotiations with stakeholders, mostly resulting in flexible framework texts with some degree of internal flexibility, not unlike International Labour Organization (ILO) conventions. The difficulties in finding sufficient common ground for labour law directives with meaningful common standards in furtherance of EU 'social policy' are essentially threefold.

First, there are profound differences in labour market policy between different Member States. These differences are further exacerbated by differences in national social security systems, which are often tied to labour market institutions. In spite of the political rhetoric about a so-called 'European social model', there are so many differences among national welfare state and labour market systems that the very notions of a 'European model' or a 'Social Europe' are dubious. Economists typically distinguish

⁴ See E. Ellis, *EU anti-discrimination law* (Oxford: Oxford University Press, 2005).

⁵ Article 137 TEC only allows Member States to 'adopt (...) by means of directives, minimum requirements for gradual implementation'.

between four different groups or social policy models within the EU, all with different features and institutions:⁶

- *Nordic countries* (Denmark, Finland and Sweden, plus the Netherlands) feature the highest levels of social protection expenditures and universal welfare provision. There is extensive fiscal intervention in labour markets based on a variety of 'active' policy instruments. Strong labour unions ensure highly compressed wage structures.
- *Anglo-Saxon countries* (Ireland and the United Kingdom) feature relatively large social assistance of the last resort. Cash transfers are primarily oriented to people of working age. Activation measures are important as well as schemes conditioning access to benefits to regular employment. On the labour market side, this model is characterized by a mixture of weak unions, comparatively wide and increasing wage dispersion, and relatively high incidence of low-paid employment.
- *Continental countries* (Austria, Belgium, France, Germany and Luxembourg) rely extensively on insurance-based, non-employment benefits and old-age pensions. Unions remain strong since regulations extend collective bargaining provisions to non-union situations.
- *Mediterranean countries* (Greece, Italy, Portugal and Spain) concentrate their social spending on old-age pensions and allow for a high segmentation of entitlements and status. Their social welfare systems typically draw on employment protection and early retirement provisions to exempt segments of the working age population from participation in the labour market. The wage structure is covered by collective bargaining and is strongly compressed.

The division into four social policy models does not reflect the full range of national differences or the varying degrees of reform and change in different countries over time. Models are static, countries never are. More tellingly, the above classification does not include the ten new Member States that joined the EU as of May 2004, nor the additions since then. EU enlargement has not only complicated the picture of social policy models: it has also confronted the EU with diversity in economic performance and development between Member States, to a degree and of a size hitherto unknown. This is the second factor that compromises the development of common EU labour law. The combination of political and economic differences is a powerful antidote to common labour law standards, especially in view of the majority rules that govern the institutional decision-making process within the EU.

Finally, the EU project lacks the *democratic will and cohesion* to supersede the diversity of models and interests by means of a common political project. As argued

⁶ See A. Sapir, *Globalization and the Reform of European Social Models* (Brussels: Bruegel, 2005), 19.

elsewhere, the EU lacks a political identity and a European *demos* that could serve as the stepping stone for a common social policy.⁷ In the same vein, the absence of a truly European labour movement explains why the European social partners, who are institutionally able to develop EU labour law independently by means of European social dialogue, have so far only achieved minor results beyond the sectorial level.⁸

2.3. THE DEVELOPMENT OF THE EES: EUROPEAN EMPLOYMENT POLICY AS AN ALTERNATIVE FOR EUROPEAN LABOUR LAW

The political and institutional incapacity to generate common EU labour law developed at a time when a growing consensus in academic and policy circles identified the labour market woes of many EU Member States as related to common institutional and regulatory labour market features. A body of academic research was picked up, first by the Organization for Economic Cooperation and Development (OECD) and later by the EU Commission, to 'conceptualize' European unemployment as being the result of underlying causes in labour market organization that were, in varying degrees, common to most of the troubled Member States.⁹ In other words: the EU's potential to develop EU labour law defaulted at a time when it was increasingly considered as useful or even needed. This paradox fuelled a European drive in the first part of the 1990s, helped by the necessary Green Paper and White Paper, towards a more conscious European *employment* policy, irrespective of the febrile state of EU social policy.

An Employment Title was ultimately inserted into the Treaty establishing the European Community (hereinafter: TEC) as part of the Amsterdam Treaty. The essence of the Employment Title, set out in Articles 125 to 130 TEC, is the development of a 'coordinated strategy for employment and particularly for promoting a skilled, trained and adaptable workforce and labour markets responsive to economic change' (Article 125): the EES. The coordination rests upon a broad framework of employment policy guidelines promulgated by the EU and designed for national implementation. The operations of the EES have been analyzed thoroughly elsewhere and can be summarized as follows:¹⁰

- The European Council adopts conclusions on the employment situation in the EU, on the basis of a joint annual report prepared by the Council and the Commission.

⁷ See M. Büchs, *New Governance in European Social Policy. The Open Method of Coordination* (Basingstoke: Palgrave Macmillan, 2007), 9–10.

⁸ M. De Vos, 'De Europese CAO', *Sociaalrechtelijke Kronieken*, Dossier 2002, 11–32.

⁹ See D. Ashiagbor, *The European Employment Strategy: Labour Market Regulation and New Governance* (Oxford: Oxford University Press, 2005), 72 et seq.

¹⁰ See D. Ashiagbor, *The European Employment Strategy: Labour Market Regulation and New Governance* (Oxford: Oxford University Press, 2005), 127 et seq.

- These conclusions allow the Commission to propose employment policy guidelines that are eventually adopted by the Council and are now part of a three-yearly comprehensive set of guidelines.¹¹
- The Member States are required to take the employment guidelines into account in their employment policies (Article 128.2 TEC) and are obliged to report, in National Reform Programmes (known as National Action Plans for Employment until 2005), on the principal measures taken to implement the employment policy.
- The Council carries out an examination of the implementation of the employment policies and can make recommendations to Member States.
- The Council and the Commission make a joint annual report to the European Council on the employment situation in the Community and on the implementation of the guidelines for employment.

The launch and development of the EES signal some major shifts in the EU's strategy for labour market regulation. The EES represents a down-to-earth result-oriented focus on employment, both in quantitative and qualitative terms. This contrasts markedly with the more lofty social policy that essentially aims for social progress in working conditions. In essence the EES brings the EU's labour market approach closer to general economic development and policy, exemplifying again the historical interconnectedness of labour market policy and economic policy at EU level. One can even assume a degree of subordination of the former to the latter, to the extent that the employment policies adopted by the Member States are legally required to be consistent with the EU's Broad Economic Policy Guidelines (Article 126.1 TEC). In the context of the Lisbon Strategy which is addressed hereunder, the employment guidelines are part of 'Integrated Guidelines for Growth and Jobs', together with macroeconomic and microeconomic guidelines. Labour market policy, in the shape of the EES, is again seen as an instrument for overall economic progress in the internal market, not unlike the Community's initial labour law provisions of 1957.

Only this time, we are talking *policy* and not *law*, and that is a paradigm shift. Given the aforementioned difficulties in developing common labour market standards, the EES prefers an open method of coordination through guidelines on partial harmonization through legislation. EU employment policy guidance is the substitute for EU employment law standards. In the process, the partially democratic adoption procedure of directives is lost for a bureaucratic procedure which often sees interference by stakeholders and Member States but assigns only an advisory role to the European Parliament. Moreover, experience has shown that national parliaments typically often have minimal input in the national reform programmes. The result is a procedure that lacks transparency and

¹¹ At the time of writing: Council Decision of 12 Jul. 2005 on Guidelines for the employment policies of the Member States, (2005/600/EC).

that, in spite of many statements about participation, has serious legitimacy issues from a democratic perspective.¹² Ironically, the lack of *demos* that is partially responsible for the dearth of EU labour law has thus bred a strategy that further undermines the future and potential of any European *demos*.

2.4. FROM EES TO THE LISBON AGENDA AND TO FLEXICURITY

An early assessment of the EES predicted that it would be little more than a basis for the exchange of information, given the relative weakness of the coordinating role accorded to the institutions of the European Union.¹³ This prediction was always hazardous, given that the open method of coordination has proved effective in other EU areas even without any basis in the TEC.¹⁴ It has been proven wrong with the arrival of the EU strategy, first adopted at the Lisbon European Council in March 2000, to make the EU by 2010 'the most competitive and dynamic knowledge-based economy in the world capable of sustainable economic growth with more and better jobs and greater social cohesion'. The EES has been subsumed within the overall Lisbon Strategy. In other words, the EES has become an instrument for achieving the Lisbon Strategy, once again emphasizing the close link between employment and economic policy at EU level. As a result, the political capital of the EES is comparable to that of the Lisbon Strategy of which it is now an integral part.

Even though later European Councils surveyed the progress of the Lisbon Strategy, the 2004 Kok Report '*Facing the challenge*' highlighted underperformance in many areas, including the labour market. The report recommended a balance between flexibility and security in order to increase the adaptability of workers and enterprises in an ever-changing economy. Following its negative mid-term evaluation, the Lisbon Strategy was revamped to focus on delivering stronger, longer-lasting growth and more and better jobs. The Commission stepped up the debate on labour market reforms through its bold 2006 Green Paper '*Modernising labour law to meet the challenges of the 21st century*', which posed 'a flexible and inclusive labour market' as a key challenge and advocated a 'flexicurity' approach. This was followed in 2007 by the publication by the Commission of '*Towards Common Principles of Flexicurity: More and better jobs through flexibility and security*'. This document capitalizes on the informal endorsement of 'flexicurity' at the political level of the European Council in 2006 and provides both a general conceptual framework and pathways to determine and develop flexicurity agendas at Member State level.

¹² See the extensive and incisive critique in M. Büchls, *New Governance in European Social Policy. The Open Method of Coordination* (Basingstoke: Palgrave Macmillan, 2007), 130 et seq.

¹³ C. Barnard & S. E. Deakin, 'A Year of Living Dangerously? EC Social Rights, Employment Policy, and EMU', *IRJ* 30 (1999): 356.

¹⁴ See extensively M. Büchls, *New Governance in European Social Policy. The Open Method of Coordination* (Basingstoke: Palgrave Macmillan, 2007), 97 et seq.

For the European Commission, reflecting on a wide and recent body of research, flexicurity is defined as 'an integrated strategy to enhance, at the same time, flexibility and security in the labour market'.

Flexicurity is about striking the right balance between flexible job arrangements and secure transitions between jobs so that more and better jobs can be created. **Flexibility** is about developing flexible work organizations where people can combine their work and private responsibilities, where they can keep their training up-to-date and potentially have flexible working hours. It is also about giving both employers and employees a more flexible environment for changing jobs. **Security** means 'employment security' – to provide people with the training they need to keep their skills up-to-date and to develop their talent as well as providing them with adequate unemployment benefits if they were to lose their job for a period of time.¹⁵

It is worth quoting this passage in full because it both defines the essential tenets of flexicurity and marks its elevation to European Union orthodoxy. It now remains to further define and apply the flexicurity concept. To this end, the Commission offers proposals for reforms at Member State level, stressing the need for these measures as part of the overall machinery and purpose of the EES.

In barely a couple of years flexicurity has thus become a cornerstone of the EES which is itself tied to the inescapable Lisbon Strategy. Through the methodology of the EES, not a single Member State can now afford to ignore a labour market philosophy that has become an article of faith in European policy. In the words of one of its most prolific scholars, flexicurity has now become the new paradigm for labour market policy reform in the EU.¹⁶

The advent of flexicurity as the *leitmotif* of the EES is not surprising. Since the term was coined in the mid-1990s by a Dutch sociologist, flexicurity has quickly achieved near cult status as the combination of seemingly conflicting necessities of labour market organization: the flexibility required for companies in economies in transition, and the security desired by workers. Employer flexibility used to be to the detriment of worker security, and vice-versa. A philosophy that is able to reconcile both – indeed to present both as mutually reinforcing rather than mutually destructive – is irresistible to a European Union in desperate need of a unifying model. *Philosophy* is indeed the right label. Flexicurity is not and cannot be a clearly defined regulatory model. It merely translates a broad win-win stance towards labour market regulation, suggesting the possibility of labour market reform beyond the traditional ideological divide. As such it is an easily marketable and defensible policy goal. It is a 'holistic' concept that does not promote a specific labour market model *per se* but rather an analytical perspective within which various models can fit in varying degrees.¹⁷ Flexicurity is itself a rather flexible term and therefore also ambiguous.

¹⁵ European Commission, *Towards Common Principles of Flexicurity: More and better jobs through flexibility and security* (Luxembourg: Office for Official Publications of the European Communities, 2007), 38.

¹⁶ T. Wiltthagen, *Flexicurity: a new paradigm for labour market policy reform?*, WZB discussion paper (1998), 98–202.

¹⁷ M. Keune, 'Between innovation and ambiguity: The role of flexicurity in labour market analysis and policy making', in *Flexicurity and the Lisbon agenda: a cross-disciplinary reflection*, ed. F. Hendrickx (International Studies on Social Security series, Antwerp: Intersentia, 2008), 7–8.

However, when it comes to determining its practical implications, matters become much more complicated. It then soon becomes apparent that the presentation of flexicurity as the osmosis of the formerly antagonists 'flexibility' and 'security' is really a distortion. For the osmosis is only possible by embracing a different type of security than previously attempted by most of the labour law. The 'security' advocated by flexicurity is of the dynamic type, seeking to obtain general employment security in the labour market by preparing, assisting and applying pressure on individuals in the job transitions that follow from our flexible economy. Traditional labour law, on the other hand, sought to achieve security in a more static way by shielding the individual from transitions and thus protecting specific job security with a particular employer. Flexicurity therefore requires a shift from static 'job security' and protection to dynamic 'employment security' protection on the labour market. Whoever intends to make that switch within the confines of old school rigid labour market organization embarks upon a broad reform platform that mobilizes just about every actor of labour market organization.¹⁸

Flexicurity's shift from specific *job security* to general *employment security* should make us realize that its magic reconciliation of flexibility and security is indeed just magic: it only appears to be true. For general 'employment security' on the labour market is precisely the classic justification for a laissez-faire approach to economic and labour market organization. Any free market advocate will argue that deregulation and flexibility are the way to economic growth and job creation for the greatest happiness of the greatest number. Worker opportunity, reward and welfare are supposed to trickle down spontaneously through the improved performance of flexible and open economies and labour markets: easier firing equals easier hiring. Flexicurity goes a long way towards embracing this market logic. Rather than restricting the market in the old style of labour market regulation, it seeks to support and cushion it for the individual worker in a way that offers personal security without heavy intervention in relation to flexible market forces.

The aim of flexicurity, therefore, is the partial dismantling of static labour law protection that acts as a counterweight to flexibility, and its replacement with dynamic protection that embraces flexibility but offers a new kind of security in return. This is particularly difficult towards the vested interests in static labour market protection, namely the labour market 'insiders' with relatively stable employment positions, and their unions. These vested interests know what they stand to lose, but often remain unconvinced of the benefits. The flexibility part of flexicurity is indeed certain, whereas the security part is uncertain.

Moreover, to become effective in its quest for dynamic employment security, flexicurity requires labour law to focus more on the particular individual and its labour market position. Here too lies an obstacle, to the extent that the traditional labour law

¹⁸ For an exercise for Belgium, see M. De Vos & J. Konings, *Van baanzekerheid naar werkzekerheid op de Belgische arbeidsmarkt. Ideeën voor een New Deal voor arbeid in België* (Antwerpen: Intersentia, 2007); *D'une sécurité de l'emploi vers une sécurité du travail sur le marché du travail belge. Idées en faveur d'un New Deal sur le marché du travail belge* (Louvain-la-Neuve: Anthémis, 2007).

of the static kind is often collective and standardized in its approach, with unions as the agents for a supposedly uniform labour force that speaks in unison. Flexicurity thus interferes with the traditional role model for unions, further complicating its reception at the level of Member States on the part of powerful unions.

This does not mean that flexicurity is anti-union. On the contrary, flexicurity relies heavily on union involvement to safeguard and promote the employability of workers throughout their careers, both inside and outside companies. Flexicurity is not a model of labour market organization that is shaped by sheer market forces, but the result of negotiations to transform trade-offs into complementarities.¹⁹ Indeed, the Nordic standard-bearers of flexicurity are notoriously union-friendly countries with a large degree of consensus politics in labour issues. But for many other unionized European countries, the adoption of flexicurity implies the adoption of different roles and strategies for unions, both with regard to their members and the labour market as a whole. Therein lies the difficulty and one of the sources of resistance or reluctance towards flexicurity among unions.

These implementation issues should not further detain us here. What is important to note, however, is that the EU's embracing of flexicurity can be understood as yet another variation on the European theme of reconciling labour market regulation with the economic market, rather than opposing it. Flexicurity in many ways does not seek to limit or restrict the flexibility demanded by a market economy. Rather, it accepts this flexibility as economically necessary and beneficial. It merely seeks to offer personal forms of security for those involved in the otherwise flexible labour market. While national labour law is traditionally *market correcting*, and the original EU labour law was *market making*, the labour law translation of flexicurity can be seen as *market embracing*.

3. EU FLEXICURITY AND GLOBALIZATION

As part of a Lisbon Strategy that aims to make the EU a paragon of international competitiveness, the European flexicurity mantra has a clear political link with the engine of global competition: globalization. Understood in economic terms, globalization marks the increased economic integration of markets and countries, driven forward by trade liberalization, by the free flow of investment capital, by technological advances causing the 'death of distance', and – to a lesser extent – by the liberalization of labour migration. The current wave of economic globalization – for the phenomenon is far from new in human history – started roughly with the fall of the Berlin Wall in 1989. It may or may not have ended with the credit crisis of 2007–2008 and with the subsequent recession in the world economy; it is too soon to tell at this stage.

Even before the current global crisis, globalization polarized both intellectuals and public opinion, especially in the western world, where it not only meant new

¹⁹ P. Auer & B. Gazier, *Flexicurity as a Policy Agenda*, CESifo DICE Report, 4/2008, 7.

opportunities but also new competition. This is not the place to engage in this complex and often highly emotional debate. It is, however, important to realize that the European Union is a clear participant and therefore supporter of economic globalization. Internationally the EU and its Member States are actively taking part in trade liberalization through the World Trade Organization. Internally, the EU is really a regional crucible of globalization, since its essential mission is to realize an internal market among the ever growing number of Member States, built upon the 'four freedoms' that are really the pillars of international economic integration: the free movement of goods, services, capital, and labour. Its entire make-up and identity make the European Union one of the main agents of international economic integration.

The European Union therefore cannot be but supportive of international economic integration. Indeed, the political challenge of 'selling' globalization to the national constituency is similar to that of 'selling' European integration in the context of a European Union that has enlarged to integrate twelve emerging countries from the Baltic and from Central and Eastern Europe.

The European Union has to have a story to convince public opinion of the benefits of free trade and international economic integration. The main tenet of that story is of course the acceptance, in line with the economic orthodoxies that have developed ever since David Ricardo discovered the law of comparative advantages, that free international trade is a win-win situation for all the countries involved. Within the EU, the internal globalization of enlargement is equally presented as having boosted economic and employment growth in both old and new Member States alike.²⁰

However, underneath the positive macro result of increasingly free trade lie micro trends with winners and losers. There are regions, sectors, companies, and individuals that benefit, and there are equally regions, sectors, companies, and individuals that fail or benefit much less. In economic jargon these represent the *adjustment or transition costs* of an otherwise beneficial cycle of change, innovation, and growth. Transition costs are inherent in any economic progress and are minor compared to the overall gains of progress. It has been estimated – before the credit crisis kicked in – that the economic gains of globalization outweigh its transition costs by a factor of between eight and ten to one. Even after internalizing social and environmental implications, globalization offers high benefit/costs ratios. Moreover, free trade contributes to reducing global inequality and poverty.²¹

However limited they may or may not be, transition costs in lost jobs or market share are clearly visible and concentrated. The gains in new jobs, new markets, new opportunities and lower prices on the other hand, are widespread, less easily attributed to trade reform, and mostly taken up by people other than those losing from the

²⁰ See, *inter alia*, European Commission, *Enlargement, two years after: an economic evaluation* (Luxembourg: Office for Official Publications of the European Communities, 2006), 127. and –, *Five years of an enlarged EU. Economic achievement and challenges*, 2009.

²¹ See the extensive research summarized in K. Anderson & L. Alan Winters, *The Challenge of Reducing International Trade and Migration Barriers* (Copenhagen: Consensus, 2008).

change. The media are easily mobilized by the easily identifiable losses of globalization, whereas the large aggregate gains pass unnoticed. Against this backdrop, a small number of vested interests have leverage to lobby for their own protection, while the public is fed a distorted picture of the realities of globalization. The fascination with the downside of globalization, together with its increased speed, scale and international dimensions, help to feed a climate of fear and distrust that transpired from opinion polls well before the current global crisis. Indeed, opinion polls in recent years have shown a growing disenchantment, with large majorities in western countries convinced that globalization is bad for their country, and Stalinist majorities in favour of more government support for the victims of globalization.²²

Since free trade is essentially a political decision and since politicians want to get elected, the broad disenchantment with globalization on the part of the public has generated a variety of policy responses. One obvious response is to maximize the number of winners and to make winners out of initial losers in a deliberate strategy of reform and innovation aimed at reaping the fruits of the new global opportunities. This, in essence, is the drift of the European Union's Lisbon Agenda. Tapping into globalization's offerings, however, implies a willingness to change and make progress in a world of shifting balances where competitive threats and opportunities coexist. With a weary public opinion, such a positive and proactive response to globalization becomes acceptable only if the transitional policies support those whose initial positions are threatened in the transition. It is here that flexicurity kicks in and becomes part of the European Union's response, both in political rhetoric and in policy, to globalization.

Flexicurity, then, should be understood as a strategy, not just to promote the modernization of labour regulation and improve labour market performance, but also to sustain support for globalization in the European Union. It is worth noting in this respect that workers in the Nordic countries, the homeland of flexicurity, are much less likely to perceive globalization as a threat than their counterparts in other European countries, even though their countries' economies are small and open.²³ The idea of security through change, rather than by limiting change, is not a dream after all.

Flexicurity is therefore part of the European Union's policy response to globalization.²⁴ The whole philosophy of achieving security through change allows policy-makers to embrace the otherwise beneficial changes that globalization imposes. While offering security to those affected by economic change, the engine of economic change itself can escape unscathed. The 'market embracing' stance that lies behind flexicurity thus extends beyond the EU to the wide thrust of globalization. As part of the Lisbon Strategy, the

²² See J. Morley & T. Ward, *Perceptions of globalization: attitudes and responses in the EU*, (Dublin: Eurofound, 2008) and, *inter alia*, the surveys collected at <www.worldpublicopinion.org> and through the Eurobarometer at <http://ec.europa.eu/public_opinion/>.

²³ *Ibid.*

²⁴ See European Commission, *Towards Common Principles of Flexicurity: More and better jobs through flexibility and security* (Luxembourg: Office for Official Publications of the European Communities, 2007), 8.

aim of flexicurity is indeed to increase the European Union's performance in the global economy, while taking this global economy essentially for granted.

Nowhere is the link between globalization and flexicurity clearer than in the creation of the EGAFs as we shall see below, the EGAF was created by the European Union with the specific and symbolic purpose of using flexicurity as demonstrable globalization relief by means of ALMP.

4. FLEXICURITY AND ACTIVE LABOUR MARKET POLICIES

Flexicurity is seen to contain four essential components:²⁵

- *Flexible and reliable contractual arrangements* (from the perspective of the employer and the employee, of 'insiders' and 'outsiders') through modern labour laws, collective agreements and work organization.
- *Comprehensive lifelong learning (LLL)* strategies to ensure the continual adaptability and employability of workers, particularly the most vulnerable.
- *Effective active labour market policies (ALMP)* that help people cope with rapid change, reduce unemployment spells and ease transitions to new jobs.
- *Modern social security systems* that provide adequate income support, encourage employment and facilitate labour market mobility. This includes broad coverage of social protection provisions (unemployment benefits, pensions and healthcare) that help people combine work with private and family responsibilities such as childcare.

For the purpose of this paper and its analysis of the EGAF, our focus lies on ALMP. To facilitate an assessment of the EGAF we must briefly browse some of the general principles on the logic and effects of ALMP, drawing from the wide literature on the topic.²⁶

The main role of ALMP is to promote employment by improving the match between supply and demand on the labour market. Matching supply and demand often requires a more individualised approach than general or group-based employment programmes. As such the focus of ALMP is on 'activating' – a rather harsh term for what is essentially a social objective – the targeted unemployed into matching employment. Its 'active' approach distinguishes it from 'passive' income measures that provide income stability that is not aimed at access or new access to the labour market.

Underlying the drive towards ALMP is the understanding that such policies provide both better *efficiency* (i.e., better labour market performance) and more *equity*

²⁵ European Commission, *Towards Common Principles of Flexicurity: More and better jobs through flexibility and security* (Luxembourg: Office for Official Publications of the European Communities, 2007), 38.

²⁶ See, *inter alia*, S. Carcillo & D. Grubb, *From Inactivity To Work: The Role Of Active Labour Market Policies*, OECD Social, Employment and Migration Working Papers No. 36, (2006), 73; European Commission and RWI Essen, *Study on the effectiveness of ALMPs*, (2005), 253; OECD *Employment Outlook 2005*, Ch. 4; G. Pierre, *A framework for active labour market policy evaluation*, ILO, (1999), 42.

For a more comprehensive analysis of the link between ALMP, Flexicurity, and globalization, see M. De Vos, *European Globalization Adjustment Fund. The policy and law of trade adjustment assistance in the European Union*, forthcoming.