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Flexible work and flexicurity policies in the Netherlands. Trends and experiences

Wim van Oorschot*

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Summary

Increasing the flexibility of work and working life has been high on the agenda of Dutch public debate for at least 15 years. Resulting policies have been guided by the aspiration of combining flexibility and security, or of achieving adequate 'flexicurity', as the combination of these goals has come to be known. This article describes and analyses Dutch flexicurity policies of recent years, as they have been adopted in the fields of part-time work, social security, labour law and the work-care combination. It shows that the government has made it easier for employers and employees to choose part-time work as a strategy for increasing flexibility. In the field of social security there are numerous problems, especially for 'flex'-workers (not for part-time workers as such), but little substantial improvements have been implemented. In labour law important flexibility and security measures have been adopted, but here government has been rather slow in taking the lead. As regards the work-care combination, new policies have improved conditions, but the Netherlands still lags behind other European countries.

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Sommaire

L'augmentation de la flexibilité du travail et de la vie active figure parmi les priorités à l'ordre du jour des débats publics aux Pays-Bas depuis au moins 15 ans. Les politiques développées se sont efforcées de combiner flexibilité et sécurité, ou de mettre en œuvre une «flexicurité» adéquate, terme choisi pour désigner cette combinaison. Cet article décrit et analyse les politiques de flexicurité aux Pays-Bas ces dernières années, qui ont été adoptées dans le domaine du travail à temps partiel, de la sécurité sociale, de la législation du travail et de la conciliation de la vie professionnelle et familiale. Il montre que le gouvernement a permis aux employeurs et aux travailleurs de choisir le travail à temps partiel comme stratégie pour accroître la flexibilité. Dans le domaine de la sécurité sociale, il y a de nombreux problèmes, particulièrement pour les «flex»-travailleurs (mais pas pour les travailleurs à temps partiel en tant que tels), mais de petites améliorations substantielles ont été mises en œuvre. Dans la législation du travail, d'importantes mesures de flexibilité et de sécurité ont été adoptées, même si ici le gouvernement a été plutôt lent à lancer l'initiative. En ce qui concerne la conciliation de la vie professionnelle et familiale, les nouvelles politiques ont amélioré les conditions, mais les Pays-Bas sont toujours à la traîne des autres pays européens.

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Zusammenfassung

Seit mindestens 15 Jahren steht die Erhöhung der Flexibilität der Arbeit und des Arbeitslebens in den Niederlanden im Mittelpunkt der öffentlichen Debatte. Die daraus resultierenden Maßnahmen wurden von dem Streben geleitet, Flexibilität und Sicherheit miteinander zu verknüpfen, oder zu einer angemessenen "Flexicurity", wie diese Verknüpfung der beiden Ziele bezeichnet wird, zu gelangen. Dieser Beitrag beschreibt und analysiert die niederländischen Maßnahmen, die in den letzten Jahren in den Bereichen Teilzeitarbeit, soziale Sicherheit, Arbeitsrecht und Vereinbarkeit von Arbeit und Betreuungspflichten ergriffen wurden, um das Ziel der Flexicurity zu erreichen. Der Beitrag zeigt, dass die Regierung es aus strategischen Gründen Arbeitgebern und Arbeitnehmern leichter macht, sich für Teilzeitarbeit zu entscheiden, um die Flexibilität zu erhöhen. Im Bereich der sozialen Sicherheit gibt es zahlreiche Probleme, besonders für "Flex"-Arbeitnehmer (nicht für Teilzeitbeschäftigte an sich), aber hier wurden nur geringe substanzielle Verbesserungen erzielt. Im Arbeitsrecht wurden zwar bedeutende Maßnahmen zur Förderung der Flexibilität und der Sicherheit ergriffen, aber die Regierung hat in diesem Bereich nur mit Verzögerung die Initiative ergriffen. Was die Vereinbarkeit von Arbeit und Betreuungspflichten angeht, haben sich die Bedingungen zwar aufgrund neuer Maßnahmen verbessert, aber die Niederlande bleiben dennoch nach wie vor hinter anderen europäischen Ländern zurück.

Introduction

Increasing the flexibility of work and of working life have been issues high on the agenda of Dutch public debate for at least 15 years. In the main, flexibilisation of work and working life have been regarded positively, specifically from the viewpoint of their potential for increasing employment in the Netherlands and for promoting the emancipation and economic self-sufficiency of women. Dutch governments have recognised, however that, in order for all concerned to profit fully from such policies, flexibilisation has to be regulated, which means, not least, that flexible workers have to have adequate social protection. In line with this thinking, policies have been guided by the aspiration of combining flexibility *and* security, or of achieving adequate *flexicurity*, as the combination of goals has come to be known.

This article presents and provides a critique of Dutch flexicurity policies of recent years. Such policies have mainly been adopted in the fields of part-time work, social security, labour law and the work-care combination.

This article begins by presenting data on the extent and distribution of flexible work and of part-time work. Where possible, the Dutch situation is compared with that of other European countries. The figures show that in the Netherlands the degree of flexible work is rather modest, while that of part-time work is very high. The article then discusses the development of the Dutch government's flexicurity policies, and describes the aims and content of recent measures. It concludes with an evaluation of the most important measures. For a discussion of the important issue of collective labour agreements and developments in this field see the article by Wilthagen and Tros in this issue of *TRANSFER*.

This article follows the main lines of the flexibilisation debate as it took place in the Netherlands. This means that a number of topics, which in other countries have received considerable attention, are not dealt with here. This is the case, for example, for the effect of flexibilisation on pension rights, the position of self-employed people, the problem of small part-time jobs, and the issue of the 'labour entrepreneur'. The next section explains why such issues are less to the fore of the Dutch debate and points to the influence of some universalistic aspects of the Dutch social security system.

In the Netherlands flexible work patterns have a much smaller effect on pension rights than in most other European countries, because the national old-age pension AOW is a pay-as-you-go funded, universal, non-means-tested flat-rate benefit paid to all citizens of 65 years or over, irrespective of work record. This means that all Dutch pensioners have an income at least at the level of the minimum wage, even if they have had flexible working careers, or did no paid work at all (like traditional housewives). Occupational pensions (the second tier of the Dutch system, covering about 90% of all workers) do depend on work records. 'Flex'-workers and workers with interrupted careers (mostly women, (formerly) unemployed people) do not have adequate occupational pensions, if at all (Nelissen *et al.* 2000). The government is aware of this, and has asked the social partners to look into the issue, but the existence of the basic pension means that it is not seen as a major problem. This also counts for the position of the self-employed, among whom there are some who have opted for this status to escape unemployment or to 'flexibilise' their working life. Not only will they be entitled to the basic pension once they are 65, but during their working life they are also covered by the national disability insurance for self-employed people, by the national survivor's pension, by the social assistance scheme, and they receive non-means-tested child benefits, rent subsidies, educational allowances for their children, etc. Moreover, it seems that self-employment as a means of increasing the flexibility of work exists to a lesser extent in the Netherlands than in other European countries, because other means of flexible labour supply, including part-time work, are more widely available or have less negative consequences. As for small part-time jobs, Dutch government policies of the last two decades have been aimed at stimulating part-time work, and all differences in social protection coverage and entitlements between part-time and full-time workers have been abolished (see below). Furthermore, three-quarters of part-time workers have freely chosen their status, and would not want otherwise (EFILWC 2003: 15). Finally, the idea of the 'labour entrepreneur' has been mentioned in the Dutch debate, mostly with reference to young and highly educated workers in the ICT branch, but has not received much attention since this type of worker cannot (at least, as yet) be traced in any statistics. In other words, the idea of a 'labour entrepreneur' is more of an idea than a reality.

Trends in Dutch flexible work and part-time work

Labour flexibility can take on various forms at different levels of organisation (see Wilthagen and Tros; Keller and Seifert, in this issue), but Dutch national statistics available on the subject are limited to a distinction between full-time permanent jobs, part-

time permanent jobs, and non-permanent or 'flex'-jobs. The latter basically comprise all forms of work with no permanent labour contract, no contractual definition of working time and/or number of working hours, or with varying working time and hours (Fouarge *et al.* 1998). Examples of flex-jobs are: temporary work, temporary agency work, stand-by contracts, home work (often at piecework wages), and freelance work (no labour contract). In the Netherlands, part-time work is not usually regarded as flex-work, since for many people their part-time job is as permanent and secure as another's full-time job. Table 1 shows the proportions of full-time, part-time, and flex-jobs from 1990 to 2002¹.

Table 1: Employed workers by type of job (% of total employment)

	1990	1994	1998	2000	2002
Full-time, permanent	75	70	66	65	63
Part-time*, permanent	17	22	28	28	31
'Flex'-work	7	8	6	7	7

* Part-time = 32 hours per week or less

Source: Calculations on OSA *Employees Panel* (OSA=Organisation for Strategic Labour Market Research, Tilburg University)

In this period, the Netherlands witnessed an explosion in the total number of jobs ('the Dutch miracle'). Thus, between 1994 and 1999, some 850 000 new jobs were created, an increase of 16%. The 'miracle' shows a flexibilisation trend, since two-thirds of the increase came from part-time work (50%) and flex-jobs (17%) (SCP 2000a). The high proportion of part-time jobs is directly related to the fact that the 1990s also witnessed a steep increase in the labour market participation of Dutch women. In this period, the participation rate of men fell from around 90% to 83%, while participation of women grew from about one-third to more than two-thirds (Visser 1999).

Table 1 shows a fall in the proportion of full-time, permanent jobs as a proportion of total employment, and a clear increase in the proportion of part-time work, but the proportion of flex-work remains at a relatively low level of about 7%. It is suggested in the literature that this stabilisation of flex-jobs is the result of shortages on the labour market, which increased rapidly at the end of the 1990s as a result of the 'Dutch jobs miracle'², giving workers a stronger position in their preference for more secure jobs. Flex-work tends to be a specific characteristic of those workers who traditionally have an unfavourable labour market position (women, the less educated, ethnic minorities, young people), which links it closely to marginal labour (Fouarge *et al.* 1998; Veenman and Dagevos 1999).

- 1 The difference between 'part-time', 'permanent' and 'flex-work' cannot be interpreted as a strict distinction between non-precarious and precarious jobs. Smaller part-time jobs in particular will be highly inadequate in guaranteeing income security, while some flex-workers have strong labour market positions and high income (e.g. some freelancers).
- 2 Over the last two years the Dutch labour market has deteriorated rapidly: the unemployment rate was very low at 2.5% in 2001, but at the time of writing it is close to 6%, and it is expected to rise further.

As for part-time work, this is a typical feature of the Dutch labour market. From the early 1980s, it increased over the years, but it now seems to be stabilising. As Table 2 shows, there is a sharp division between male and female workers. In total, over a third of Dutch workers have a part-time job. This is the highest rate in Europe. Of men working part-time, the majority have a very small part-time job of between 1 and 12 hours, or a 'large' part-time job of between 20 and 34 hours. The former group mainly consist of students, and the latter of male workers with a high educational level. The pattern for males has not changed over the last decade. Among women just over half of those who work part-time have a larger part-time job of between 20 and 34 hours a week. Among the others, the medium-sized and small part-time jobs are almost evenly distributed (SZW 2000).

Table 2: Part-time work* in the Netherlands (% of employment in category)

	1986*	1990*	1995*	1998	1999*	2000**	2002**
Men	13	15	17	18	17		
Women	55	59	68	68	67		
Total					37	33	35

Sources: * SZW (2000): less than 35 hours a week, permanent or temporary
 ** CBS (2003): less than 32 hours per week, permanent or temporary

Clearly, part-time work has a different meaning and function for men and for women. For men, it is usually an occasional, temporary phenomenon, occurring at the beginning or the end of their careers (see also Goul Andersen and Bendix Jensen 2002). For Dutch women, part-time work is a structural and key means of taking part in the labour market and acquiring income and status independent of their partners, and of combining this with caring tasks at home.

In addition to gender, part-time work is related to educational level. Among female workers, weekly working hours increase in line with educational level. In 1999, about a fifth of the women with the lowest educational level worked full-time; a third of those with a medium level of education worked full-time, and about half among the most highly educated. Among male workers, the differences are much less pronounced.

The prevalence of Dutch part-time work is believed to be the result of a combination of factors. Since the 1960s, part-time work has favoured the interests of government, social partners and working people (Plantenga 1997; Courbier 2000). For government, it has contributed to several policy goals at once: improving the labour market participation of women, thus contributing to their emancipation and economic self-sufficiency; keeping older employees at work; contributing to a more equal division of paid and unpaid work; and reducing unemployment. As will be discussed below, governments have actively stimulated the growth of part-time work since the end of the 1970s. For those employers who pursue flexible production of goods and services and aim at recruiting the

female labour force for their vacancies, part-time work became an important instrument for coping with the growing service economy and the employment boom in the 1990s. An important cultural aspect is that, as from the 1970s, working women have become a morally accepted phenomenon. Part-time work seems to be the solution for Dutch women who want to earn an income and gain status and who at the same time attach great importance to caring for their children personally (Knijn 1994; see also *TRANSFER* 1/2004).

Changes on the Dutch labour market, notably the increase in female participation, have had significant consequences for combining work and care in Dutch households. This is well illustrated by Table 3, which shows that over a period of nearly ten years the proportions of single income and double income households reversed. At present, about 60% of Dutch households consist of partners who both have a job. The table also shows that a 'one-and-a-half-income' household is by far the most common type among the double income households. In such households the man has the full-time job, while the woman works part-time.

Table 3: Household earnings types (% of all households)

	1986	1998
<i>One income from work</i>		
- man working	50	30
- woman working	3	4
	53	34
<i>Two incomes from work</i>		
- one-and-a-half income	17	37
man working full-time	16	36
women working full-time	1	1
- half-and-half income	1	4
- double income	11	14
	30	56
<i>No income from work (on benefit)</i>	17	10
Total	100	100

Source: SCP 2000b, p.10

International comparison

By comparison with various aspects of work in other European countries, the Dutch situation is more or less in line with, or lagging behind, other countries, with regard to various aspects of flex-work. As regards part-time work, however, the Netherlands clearly takes the lead in Europe.

As for flex-work, the results of the 1999 *Third European Survey on Working Conditions* of the European Foundation for the Improvement of Living and Working Conditions, presented in Table 4, show that Dutch workers on average work less overtime than their European colleagues, they have fewer second jobs, do less shift-work, and work less during nights and weekends. These kinds of flexibility aspects can be attached to any job, full-time or part-time, with a permanent or temporary contract. But if one looks at jobs with flexible contracts – temporary work, agency work and home work – there is again nothing special in the Dutch situation. The degree of temporary work is a little higher than average, and the degree of agency work and home work is a little lower than average. The total percentage of these types of flex-work is 21% in the Netherlands, which is the European average.

Table 4: Aspects of work flexibility in European countries (country averages: 1996) (reported by interviewees)

	Overtime (hours per week)	Second job (%)	Shift work* (%)	Night work* % at least once per month	Sunday work* (%)	Tempo- rary work A (%)	Agency work B (%)	Home work C (%)	Flex- work (A+ B+C)
BE	1.7	23	20	21	30	11	3	6	20
W-Ger	1.0	8	20	18	23	8	1	6	15
E-Ger	1.7	6				14	2	6	22
EL	4.3	7	17	22	43	11	7	4	22
IT	1.7	10	21	15	22	6	3	4	13
ES	3.1	5	22	19	22	29	10	4	43
FR	1.8	15	19	18	27	19	4	7	30
IE	2.1	19	17	20	31	10	5	4	19
LU	1.9	10	16	16	26	7	3	9	19
NL	1.4	9	12	18	27	14	3	4	21
PT	3.1	11	8	15	19	11	6	7	24
UK	3.1	12	23	23	33	7	3	5	15
DK	1.2	14	9	16	34	9	5	6	20
FI	1.3	11	20	25	40	15	2	6	23
SE	1.2	14	17	18	38	3	10	6	19
AT	2.2	11	14	19	30	8	1	12	21
EU av.	2.0	12	19	19	27	11	4	6	21

* Data from the 2000 *Third European Survey on Working Conditions* (www.eurofound.eu.int)
Source: Smulders and Klein Hesselink (1997) (data from the 1996 *Second European Survey on Working Conditions* of the European Foundation for the Improvement of Living and Working Conditions)

This general picture of the average position of the Netherlands as regards flexibility, based on a survey among workers, is supported by the findings of Walker *et al.* (2000), who analyse developments in the flexibilisation of work in Europe based on OECD and European Commission employment and labour force statistics.

As regards part-time work, the Netherlands occupies a unique position. This is shown in Table 5, which presents various aspects of the differences between European countries. The proportion of part-time work is highest in the Netherlands, among men (about 12% vs. the 6% European average in 1999) and among women (about 55% vs. the 30% European average). This difference between the Netherlands and the other countries already existed in 1990.

The differences between countries in the degree of flex-work and part-time work are related to institutional differences in labour law, welfare systems, and the character and composition of labour markets. Greiner (2000), for instance, suggests that the low

Table 5: Part-time work in European countries

	% Part-time of labour force				% Part-time in temporary jobs		% Involuntarily part-time	
	Men		Women		Men 1997	Women 1997	Men 1997	Women 1997
	1990	1999	1990	1999				
PT	3.1	5.0	11.8	14.6			16.1	24.1
EL	4.0	5.3	11.5	15.4			50.2	36.0
ES	1.4	2.9	11.5	16.8				
IT	3.9	5.3	18.2	23.2	56	27		
FR	4.4	5.8	21.7	24.7	48	22	52.9	38.8
BE	4.6	7.3	29.8	36.6	25	1		
NL	13.4	11.9	52.5	55.4	28	17	8.2	4.6
DE	2.3	4.8	29.8	33.1	24	7	17.8	12.6
AT		2.8		24.4	11	5		
DK	10.2	8.9	29.6	22.7	16	8	13.1	13.9
SE	5.3	7.3	24.5	22.3	43	21	34.7	31.3
FI	4.7	6.6	10.6	13.5	45	35	32.8	40.2
IE	4.2	7.9	20.5	31.9	61	33		
UK	5.3	8.5	39.5	40.6	25	11	23.8	9.5
SE	6.8	7.7	42.6	46.5			8.4	5.8
EU 15	4.2	6.0	27.0	30.3				

Source: Goul Andersen and Bendix Jensen (2002) (data from OECD *Employment Outlook* 1999, 2000)

proportion of part-time work in the southern European countries is related to the high number of non-wage workers in these countries and the comparatively low rate of female participation in the labour market. The relatively high degree of temporary and agency work in Spain (see Table 4) is explained by Greiner as the result of a combination of the far-reaching liberalisation of temporary work in Spain in the mid-1980s and 1990s and the numerous rigid laws concerning permanent jobs (especially regarding the cost of dismissal).

Dutch flexibility and security policies

In recent years the Dutch government has taken measures to regulate and stimulate the trends towards the flexibilisation of work. These measures have been taken mainly in the policy fields of part-time work, social security, labour law and the work-care combination.

Part-time work

From the end of the 1970s, the basic Dutch policy has been to introduce equal treatment of part-time and full-time workers in social security, labour law and collective labour agreements. In the early 1980s, the government paid subsidies to employers and employees for innovatory cases of part-time work. The Dutch social partners have also shown a favourable attitude towards part-time work. In the 1982 Agreement of Wassenaar between the government and the social partners, not only was a policy of wage moderation agreed, but the social partners also promised to stimulate the redistribution of work, among other things by means of part-time work (plus a reduction in working time). In the mid-1980s, the government subsidised employers' initiatives for introducing both part-time work and working-time reduction in their firms on a larger scale. In the same period, working hours and wage level thresholds were removed from social insurances. In 1993, all part-time workers gained a right to the (proportional) legal minimum wage and holiday pay, and from 1994 occupational pension funds can no longer exclude part-time workers. Funds that apply wage limits have to convert part-time wages to full-time levels. A part-time worker acquires pension rights in proportion to the number of hours worked.

In 1996, the equal treatment of part-time and full-time workers was codified in the civil code and in labour law, implying that from then on part-timers have equal rights in collective labour agreements concerning, for example, agreements on wage levels, wage supplements, reimbursement of expenses, bonuses, occupational social security schemes and training facilities. (This exceeds the ILO Convention Concerning Part-time Work (No 175) and the EU Council Directive on Part-time Work: see Wilthagen and Rogowski 2001). Most recently, in 2000, the Law on the Adjustment of Working Hours (Wet Aanpassing Arbeidstijd, WAA) came into force. It offers workers in organisations that employ at least ten workers the right to adjust their contractual working hours upwards or downwards. Employers can only deny an adjustment if 'major organisational interests are negatively affected'.

Flex-work and social security

In contrast to the case of part-time workers, the social protection of flex-workers is more of a problem in the Netherlands, especially with regard to the risks of unemployment and sickness. This is because work record requirements and the existence of a labour contract – notable sources of legal and administrative complexity – are central elements in assessing benefit entitlement, level and duration.

The Dutch civil code contains detailed rules as to which types of labour relation can be regarded as legal contracts. In practice, these rules prove difficult to apply with regard to home workers, freelancers and on-call workers (Vriend and Korpel 1990). Specific problems in these cases are that it may be difficult to assess whether there exists or existed a 'relation of authority' between employer and employee, and whether employees earn(ed) at least 40% of the minimum wage on a monthly basis, which are two necessary features of legal labour contracts. In addition, in the case of unemployment insurance, there are major problems with gathering the necessary data on flex-workers' work records, and thus with assessing entitlements. Data problems also exist with respect to assessing for how many hours a week someone became unemployed (minimum of 5) and with assessing the average wage lost in order to calculate the proper benefit level (especially if people had piecework wages). These types of difficulties multiply in cases where people combine benefits and work over a certain period, if they change regularly from one type of labour contract to another, if they combine two or more jobs at the same time, and the like.

When Vriend and Korpel (1990) submitted a number of fictitious cases of flex-workers' claims to a sample of administrators of unemployment and sickness benefit for independent decision, the decisions differed widely. Only in 13% of the unemployment benefit cases and in 12% of the sickness benefit cases were decisions unanimous. Moreover, Baenen and Bosch (1997) found strong indications of the non-take-up of rights by flex-workers of about 10% on average among (partly) unemployed and sick flex-workers, due to a lack of knowledge among employers and employees, the complexity and ambiguity of the rules, administrative complexity and errors. Substantial non-take-up of unemployment benefit and sick pay was also found by Klein Hesselink *et al.* (1998) in their study of more than 1000 flex-workers. In addition, Baenen and Bosch (1997) found that employers tend to shift their labour and protection risks to flex-workers. A clear example of this is that flex-work is used as a means of reducing the sick pay risk for employers, who increased their use of hired agency and other temporary workers after the privatisation of sickness benefit (these flex-workers receive benefits from the national sickness benefit fund instead of sick pay from their employer). Flex-work can also be used as a means of avoiding rigid legal lay-off rules and of extending the duration of the probationary period of new employees. So, serious flaws in the sickness and unemployment protection of flex-workers do exist: for about a third of these workers, there is either no coverage or non-take-up of rights.

Although the government, in its 1997 paper *Working on Security*, acknowledged that the flexibilisation of work engenders new forms of labour contracts and working styles, and

that sickness and unemployment schemes have to be modernised to meet the needs of flex-workers, no concrete social security measures have actually been taken to improve the situation. Flexicurity is not a concept that has been heard of in the field of social security protection in recent times. It is not exactly clear why this is so. At present, when unemployment has risen again and the government is proposing a series of social security cutbacks in order to reduce its budget deficit in line with the EU 3% norm, improvement of the social protection of flex-workers is out of the question.

Flex-work and labour law

While the government has been slow to take measures to improve social security legislation for flex-workers, it has been energetic in changing labour law in order to improve (work) security for flex-workers and increasing flexibility for both employers and employees. In 1998 the Law on the Allocation of Workers by Intermediaries (WAADI) abolished rigid rules for temporary work agencies. This was followed in 1999 by the Flexibility and Security Act (Flex-Wet), regulating flex contracts, dismissal procedures, probationary periods, and the like.

Before WAADI, the Manpower Services Act (*Arbeidsvoorzieningswet*) stipulated that a licence was needed for labour mediation or employment searches, as well as for providing third parties with labour, as temporary agencies do. The licence was subject to a number of limiting conditions: temporary agencies were not allowed to provide labour to companies involved in a labour dispute (e.g., where a strike was going on); it was not permitted to provide companies with labour from another agency; and, labour provision was only possible in the case of temporary work. Furthermore, the temporary agency had to keep detailed records of its operations and services, it had to guarantee to temporary workers labour remuneration equal to that of the permanent workers at the workplace, and temporary workers could not work for one and the same employer for more than six months. Finally, it was not permitted to employ a temporary worker with the same employer more than once in a period of 30 days. With WAADI, the labour provision licence has been abolished, as well as the mediation licence, and with this most of the limitations mentioned. Only two conditions remained: the ban on providing labour to companies with a labour dispute, and the equal remuneration demand. By means of a collective agreement, social partners in the temporary agency business can deviate from the latter condition. That the abolition of rigidities by WAADI could have some negative consequences for the position of flex-workers is acknowledged by the government, but it trusts that these will be overcome by the new rights created by the Flex Wet.

In the Explanatory Memorandum to the Flex Wet, the government states that factors both on the supply-side and demand-side of labour have led to a growing diversity in labour hours, locations, contracts and the like. There is increasing international competition, shorter production cycles, fast technological developments, but also changes in the character and behaviour of the labour force and related preferences for part-time and flex-work. New regulations are needed in order to find a new balance between flexibility and security. Therefore, Flex Wet combines measures that increase labour flexibility, as well as measures that improve the security of flex-workers.

Flexibility measures relate to: 1) Fixed-term contracts: after three consecutive contracts or when the total length of consecutive contracts totals three years or more, the employee is entitled to a permanent labour contract (this used to apply to fixed-term contracts that has been extended only once); 2) Notice period: the notice period is reduced from six months to in principle one month and four months at the maximum; 3) Terminating labour contracts: the Public Employment Service (PES) dismissal notification procedure is shortened and employees are no longer required to file a pro forma notice of objection to the Regional Director of the PES in the event of dismissal on economic or financial grounds in order to substantiate a claim for employment benefit.

The security measures relate to: 1) Presumption of labour contract: if working for three months for at least 20 hours a week, a labour contract is presumed by law; 2) Minimum salary: a minimum entitlement to three hours' pay for on-call workers each time they are called in to work; 3) Temporary agency work: a worker's contract with a temporary work agency (TWA) is considered a regular, permanent employment contract; only in the first 26 weeks the agency and the agency worker are allowed a certain degree of freedom with respect to starting and ending the employment relationship. However, it is possible to deviate from this rule by collective agreement between employers' and employees' unions. This is what actually happened. In the Labour Foundation, social partners agreed on a covenant for the 1999-2003 period to apply the principle that the strength of the relation between temporary agency and temporary worker should depend on the duration of the period someone works for the same agency. The covenant contains quite complicated rules, but for the standard case they imply that a temporary worker receives a permanent labour contract with the temporary agency if (s)he has been working consecutively with that agency for at least a year and a half.

It is explicitly noted that Flex Wet is not concerned with social security legislation as such. As for social security protection of flex-workers the idea is that Flex-Wet defines important rules about the legal status of various flexible work contracts, which in itself helps to clarify what types of flex-work are covered by social insurance.

Work and care

It was only in 1992 that the redistribution of unpaid work (care) between men and women was taken as the main point of departure for the government's emancipation policy. In 1994 the government adopted a 'combination' scenario as its point of departure for future policies in the field of the reconciliation of work and care. This scenario, focusing on the division of tasks among the partners of a household with children, describes a situation in which each of the partners works for 30 to 35 hours a week (and thereby gain economic self-sufficiency and independence) and carry out caring tasks for 20 to 25 hours a week. The government aims to achieve this situation by 2010 (TK 1995/1996, 24 406). In 1997 the government gave a new twist to the debate by stating that the choice for work and/or care is strictly personal, which means that men and women should be left free to choose and that the task of government can only be to set the conditions to facilitate the various choices people make (SZW 1997). In the course of the 1990s concrete measures to facilitate the reconciliation of work and care were taken.

The government has supported the development of childcare facilities, and it recently introduced a broader framework Act on Work and Care, which combines several existing and new measures.

Childcare

The Netherlands have been relatively late in introducing and promoting public childcare facilities and at present there is still a lack of such facilities. It is still a matter of dispute whether the preference of Dutch women to take care of their own children is a cause or a consequence of inadequate childcare facilities (Knijn 1998). However, the government encouraged the development of public childcare facilities in the early 1990s by providing subsidies to municipalities, who are responsible for creating public childcare places. This stimulation measure has increased the number of daycare places from about 20 000 in 1989 to about 100 000, but there still is a demand for many more (Keuzenkamp *et al.* 2000). Availability of after-school care for older children is even more limited: fewer than 1% of children use this kind of care (den Dulk *et al.* 1999). In 1995 the government also introduced a tax deduction for parents and employers who make use of or create childcare places, and recently the government started to allocate another stimulus subsidy to Dutch municipalities in order to increase the number of available daycare places to 160 000. In 1999 the government expanded a scheme subsidising childcare for single parents who are looking for a job, have started working or are following training to improve their labour market position. Parents receive a subsidy of 90% to 100% of childcare costs, provided that their income does not exceed 130% of the minimum wage.

Work and Care Act

The Work and Care Act (Algemene Wet Arbeid en Zorg) (TK 1999/2000, 27 207) incorporates a number of existing and new measures. In the preamble to the proposal, the government clearly states that the reconciliation of work and care is a shared responsibility of government, social partners and individuals. With this statement it emphasises that many of the existing and proposed measures do not aim to enforce, but to facilitate, matters. As a consequence, much room is left for employers and employees.

The existing measures that are incorporated into the new law were mostly introduced in the 1990s and include an unpaid, part-time leave arrangement for parents of young children, a limited career break scheme, and provisions on adapting working hours by employees.

The parental leave was first established only in 1991, and it now offers both parents the right to a period of six months unpaid, part-time leave, which can be taken until the children reach the age of eight. Take-up of parental leave is rather low and differs strongly by economic sector and gender. In the government and education sectors, where wages are paid during leave, somewhat more than half of the women entitled to it take the leave. Among men this figure is somewhat less than half. The scheme's ineffectiveness is even more pronounced among workers in other sectors, where the wage is not paid during leave. Here, only 30% of the women and 7% of the men take the leave. All in all, some 75% of all those who are entitled to make use of the scheme

do not use it. A survey showed that the main reason for non-take-up is that people are not able or do not want to bear the financial consequences of having no pay during the leave. A second reason is the lack of sufficient and good quality child (day) care, and there is a strong belief that taking up the leave would have a harmful effect on one's career (Grootscholte *et al.* 2000).

The career break measure offers a leave-taker allowance of about €400 gross a month. At the same time, it aims at stimulating the labour market participation of excluded groups, since the allowance is paid only if the vacant place is reoccupied either by an unemployed or disabled person, or by a female worker who re-enters the labour market after having cared for children for many years. An evaluation after the first year of the act (Van der Aa *et al.* 2000) showed disappointing results. A very small number of only 217 workers had made use of the allowance, while government had expected some 56 000 users within the first five years. As reasons for the very low take-up the evaluators mention the unwillingness or inability of workers to accept the financial loss (the allowance is usually much smaller than the wage forgone), the negative attitude of the average employer towards longer-term leave of workers, and the difficulties in finding replacement workers.

In 1993 the social partners united in the Labour Foundation recommended that their members meet employees' requests to adapt working hours, unless this could not be reasonably expected of the employer on grounds of conflicting business interests. This recommendation was increasingly adopted in collective labour agreements, and finally resulted in the 2000 Law on the Adjustment of Working Hours. This introduces the right for every individual employee, who is employed for more than one year with the same employer, to change every two years the agreed number of weekly working hours, either downwards or upwards. A request can only be refused if it conflicts with important organisational interests, which have to be proven objectively by the employer. Few workers, however, take their employer to court if they feel their request is rejected on unjustified grounds.

The Work and Care Act also added new measures, such as the legal formalisation of maternity and emergency leave (both of which were granted in practice by collective labour agreements), a short-term care leave and a leave savings plan.

The short-term care leave offers workers a legal right to leave work for a maximum of ten days per 12 months, on 70% of their wage. Claims have to be awarded, however, on the condition that the leave would not conflict with important interests of the employer. Initially, the government proposed a longer leave period, but the social partners in the Labour Foundation were strongly divided on the subject.

To stimulate educational and 'refresher' leave, or sabbatical leave, fiscal measures are being prepared which would allow workers to save a maximum of 10% of their current wage to cover the financial consequences of a future leave of a maximum of 12 months. No taxes are levied on the savings, until they are used to compensate the income during

the leave. The leave has to be agreed upon with the employer, and cannot be used for early retirement (the government aims to stimulate the labour participation of older employees).

In the preamble to the Work and Care Act the government promised to look further into the possibilities of long-term care leave and paid parental leave. At present, these issues are part of a debate on modernising work and care measures once again, by means of a life-cycle approach (*levensloopregeling*). This debate is on combining several current work-life balance schemes into an overarching framework of fiscal and welfare regulations relating to the coverage and financing of life-cycle-related needs. A central idea of the approach is to create a fiscally supported type of personal savings account for every worker from which he or she can draw benefit rights when taking leave (for care or education), or early retirement.

Evaluation and discussion

Part-time work is common in the Netherlands. Its development has been actively supported by the government and social partners during the last two decades. Part-time work is popular among the working population, especially among Dutch women, and among employers who aim for a flexible production of goods and services. On the whole, the position of Dutch part-time workers, who make up about a third of all workers, is not marginal. On the basis of the principle of equal treatment, Dutch governments have systematically abolished differential treatment of part-time and full-time workers as regards wages, labour contracts, working conditions, taxes and social protection entitlements. Typically (possibly as a result), compared to those in other European countries, Dutch part-time workers, male and female, show a high degree of contentment with the contracts they have.

Of course, in the Netherlands part-time work also has its critics who point to the lesser quality of part-time jobs (lower career opportunities, more irregular working hours, duller and dirtier work), low pay and low status (see Plantenga 1997; Koopmans and Stavenuiter 1999). It has been suggested that part-time work functions as a new divide between labour market insiders (full-time working males, with high-quality jobs) and outsiders (part-time working women, with low-quality jobs). For certain types of part-time work, this may be true, especially as regards (flex-)jobs done by the less skilled and less educated, but on average Dutch part-time work cannot be regarded as 'atypical' or marginalised work. Dutch part-time work policies seem to have been successful, in the sense that they opened up the labour market for many Dutch women. However, the Law on the Adjustment of Working Hours (*Wet Aanpassing Arbeidstijd, WAA*), offering workers the legal right to adjust their contractual working hours upwards or downwards, does not seem to have been successful yet since its introduction in 2000 (Fouarge and Baaijens 2003).

The situation with regard to flex-workers is clearly different. At present, they make up about 10% of all workers, and, significantly, most of them would like to have normal

jobs. As a group, flex-workers are paid less than people with normal labour contracts, their unemployment risk is higher, and the group consists of people with traditionally unfavourable labour market positions, such as women, ethnic minorities and less educated people. In the Netherlands, marginal workers are found mostly among those with flex-jobs. There is a tendency among employers to (mis)use flex-work as a means of avoiding costs and rigidities related to social insurance schemes and labour law. The Dutch government has regularly expressed its concern about the position of flex-workers, and it regards stimulating both flexibility of labour and the social protection of flex-workers as important policy goals. So far, the first aspect of these 'flexicurity' goals has been implemented in practice more strongly than the second. Remarkably, the Dutch government has so far been very reticent in taking practical measures to improve the social security protection of flex-workers who become ill or unemployed, while several studies have shown that there are major problems of non-coverage, (partial) non-take-up and false rejection of claims.

Instead of improving the social rights of flex-workers, the government has tried to realise part of its flexicurity goals by amending labour law, mainly by means of the 1999 Flex Wet. Flexibility measures under this act shortened probationary periods and facilitated dismissal procedures. The act opened up opportunities for flex-workers to gain normal (permanent) labour contracts. Studies show that the situation of stand-by workers and of workers with a fixed-term contract has improved (Grijpstra *et al.* 1999; De Klaver *et al.* 2000). In 1999, after the introduction of the Flex Wet, nearly 27 000 stand-by contracts were replaced by temporary work contracts, nearly 18 000 were converted into fixed-term contracts, and 48 000 were extended or made more permanent (positive effects), whereas only about 25 000 stand-by contracts were terminated (negative effect). As for fixed-term contracts, in 145 000 cases contracts were continued, 72 000 were converted into permanent contracts (positive), while 46 000 were terminated and 30 000 were temporarily terminated (negative). However, the studies express serious doubts as to whether the positive effects are attributable solely to the introduction of the Flex Wet. They suggest that the strong economic upturn in the Dutch economy and the related shortages on the labour market have strongly improved the bargaining position of employees. This situation may also be the reason why the new regulations have not yet led to serious disputes.

Furthermore, it was expected that the Flex Wet would improve the position of stand-by workers because of its rules on the presumption of a labour contract and the minimum payment per call. In practice, it still remains to be seen whether any real improvement has occurred. The studies show that employers regard the rules as barriers to hiring flex personnel rather than as stimuli, and that they dislike the financial consequences. Furthermore, it is clear that employees are not inclined to pursue their rights in all cases in order to avoid conflicts with their employers. If the economic situation changes for the worse, the studies expect more controversy regarding stand-by contracts. More dispute is also expected in the case of fixed-term work than there was during the first year of the Flex Wet. At present, employers are willing to apply all the 'security' rules of the Flex Wet since they need all hands they can hire, but this will change if the economy takes a turn for the worse.

Finally, despite the measures taken, there is a general perception that in the Netherlands the combination of work and care by men and women is still seriously hindered by a lack of facilities. An international comparative study of work-family arrangements (Den Dulk *et al.* 1999; see also *TRANSFER* 1/2004) showed that the Dutch situation is typified by a combination of minimal public childcare and a few statutory (mostly unpaid and short) leaves. Critiques are that there are too few childcare places, which are too costly for families on a lower income; that opening hours of crèches, shops and public services do not match working hours; that too many (important parts of) leave arrangements are left to bargaining between social partners or between individual employers and employees; that too many leave schemes only provide unpaid leave leading to low take up; that there are too many, too complicated, legal and occupational schemes, etc. It is suggested that the high degree of part-time work in the Netherlands is the way in which Dutch workers cope with the lack of public care arrangements (Koopmans and Stavenhagen 1999; Den Dulk *et al.* 1999; SZW 1997). This puts into perspective the high degree of contentment among Dutch part-time workers as far as their working hours are concerned. It is not unlikely that many workers, especially Dutch women, will increase their working hours in future, if public care and leave arrangements are improved.

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