

## **Eliminating national borders as labour market barriers in the EU: a socio-legal analysis**

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Flexicurity is a policy strategy that attempt, synchronically and in a deliberate way, to enhance the flexibility of labour markets, employment structures and labour relations on the one hand, and, on the other hand, to enhance employment security – employment security and social security – notably for weaker groups inside and outside the labour market (cf. Wilthagen, Tros & van Lieshout, 2004). Flexicurity has become a key concept for new EU socio-economic policy (cf. Council of the European Union, 2007). This paper addresses one important mechanism through which the EU tries to improve the operation of its labour markets: the opening up of national borders for free worker movement within the EU.

The EU policy to achieve free worker movement across EU labour markets is a good example of a flexicurity policy because an attempt at increased flexibility (by abolishing national regulations that prevent free worker movement) is combined by policies to prevent that this increased mobility will result in social dumping and a race to the bottom in terms of wages and other labour conditions. EU regulations are in place to prevent labour migration from resulting in social dumping; the key doctrine is that migrant workers are entitled to the exact same core of labour and related rights as domestic workers.

In 2004, the EU has decided that all its member states have to open up their labour markets for workers from the new Middle and Eastern European EU Member states by 2012. Only a few member states (such as the UK; cf. Currie, 2007) have immediately done so. Most have kept some form of regulation in place for migrants from former Middle and Eastern European EU member states; some (i.e. Germany) have already decided to keep such barriers in place until 2012. The Netherlands has kept regulations in place up to May 1<sup>st</sup>, 2007; from that date onwards, it has abandoned the requirement for temporary work permits and effectively opened up its labour market for new Middle and Eastern EU member states

This makes the Dutch case, at this point in time, an interesting case to analyse the effects and consequences of increased labour migration for a national labour market, its actors and its institutions. Since it has only just completely opened up its market for workers from new Middle and Eastern European member states, we can compare the situation shortly before and after allowing free movement to the aforementioned group of workers, And we can benefit from a number of applied and policy-oriented

research on this theme. We will draw upon our own applied research program in this field (van Lieshout, 2006) as well as empirical work commissioned by Dutch parliament to monitor these developments in the Dutch labour market (i.e. van den Berg et al, 2007; 2008; de Boom et al., 2008).

This paper will discuss the evolution of (temporary) work migration from Middle and Eastern European countries into the Netherlands. It will first review the main socio-legal regimes that can apply to work performed in the Netherlands by Middle and Eastern European citizens: wage employment; employment through temporary employment agencies; and self-employment. It will subsequently address the development of the volume and quality of work performed by citizens from the new Middle and Eastern European EU Member states in the Netherlands, both before and after May 1st, 2007. Third, it will address the challenges (or lack thereof) that this increased labour migration caused and causes for Dutch actors and institutions. Among other things, we will cover the debate on certification and liability arrangements to discourage firms from hiring illegal workers; and corresponding problems in the housing market that may result from (temporary) labour migration.

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