Beyond EU flexicurity

(A hybrid model to financing social security: towards 'totalsecurity')

by

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Eu vivo a libertade
do solto oprimido
do livre esmagado
num grito engolido
(Joachim, anonymous)*

Abstract

Flexicurity is the fusion of two words – flexibility and security – into a new one. Our opinion it cannot overcome the oxymoron that's in the word. According to principles of labour law and social security the fusion should maintains flexibility and security at balance. None said, however how that balance ought to be maintained, either how much financial resources needs or where found it.

In section related literature the paper purpose some connections among insights essays in different fields and declare what is our line. In section flexicurity inside it studies flexicurity, as such has been laid down by EU policy debate, in its three dimensions of flexibility, security, balance. It conclusion is that trade-off between flexibilisation e security not balance. So, in section flexicurity's tail side exam the other side of flexicurity. It read it with the same lens of its theoretician to disclose the negligible effects, and to purpose a new reading in accordance with Nice’s Chart.

The paper -without any epistemology disclaimers, because it makes an economics reading by normative statements - uses externality and tax distortion effect theories. The metaphor that it uses is the jeopardizing security means damage social environment, as well as pollution in natural environment does. Indeed, the paper considers externality, for instance, the effects of two actions. Transition between declared work (first community) and undeclared work (second community) and transition between job security and employment security. In abstract line the first it is in the highest degree, the second in less degree depending on both its wideness and its point of balance with security. Hence, a social security system that working at decent level is 'social good' that can be considered as public good – indeed it is. Better, we consider public good the security – also that

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± Lyric to Joachim – Brazilian gridadore, a very flexible worker – by anonymous Brazilian student, takes from VIANA 2008
inside and around flexicurity. Paper says who produces social pollution such as flexibility and undeclared work ought to pay security's costs, this is social security tax. After all, articles 31 – 34.1 Nice's Chert, between them connected, draw as system of EU a widespread social environment clean and pure. In others words must be sterilized - really, reduced as much as more possible - the trade-off between first community and second community - at the same between non-standard and standard contracts. In this paper one disagrees with some flexicurity's theologians that say: 'trust is a prerequisite of flexicurity' Because if so, the security from reason of trust in the future it would became a reason of the trust in flexibility -a true aims' heterogenesis. The paper choses the social security tax.

And so, in section hybridisms of system pathways it poses the empiric bases to introduces kind of 'social security tax' to fight undeclared work, to reduce externality, to substitute trust in the market with true and strong financial social protection. Therefore this paper tries to give a little contribution to break link between work and security's financing. It aims to demonstrate (also but not only, according to economics perspective) as flexicurity-balance can work in accordance with art. 31 and art. 34 of the Charter of Fundamental Rights of the European Union, social justice, worker security, whether the externalities inside flexicurity's trade-off will be charged to flexibility.

One considers universal like widespread, as well as flexicurity studies consider it. One considers not to change anything about subjective and objective assumptions in benefits, as well as in contribution over workers' wages. - on the contrary one considers must not change (except possibles little adjustments).

Hence, conjecture's hybridisms' substance consist to leave all as it is, on side of workers, benefits' assumptions., exchanging criteria to charge on side of enterprises – towards the direction to charge work's results' value rather then wages. In the example, employees that will have undergone a transition from employment to e.g. self-employment, – indeed former employees – keep in same wages, but not in insurance tax.

Such as a mechanism of gradual transition from the various systems to a single system of financing, based on the value added of the work (table8). Mechanism that will be rewarding to those organizations that have high employment per unit of product, and - indirectly - proportionately more onerous for who directly or indirectly determines social dumping as a result of their politics of containment of labour costs. On one side is expected to act on the same tax base of VAT: increase in rate, or decrease in deduction of valley VAT. (Taxation system that is in Europe already harmonised and between its main source of funding.)

The effect of the hybrids is the one way. It should introduce a virtuous cycle to reduce the gap in competitiveness between local production and extra E.U. Of course, substance of the to do section, is very long and hence conclusions can be only open.

Keywords

Flexicurity, flexibility, labour market rules' relaxation, security, balance, unemployment, employment, undeclared work, standard contracts, nonstandard contracts, atypical contracts, work exploitation, decent work, social costs, social justice, social externalities, social income tax, social insurance tax, social contributions, equity, equality, efficiency, tax distortion.
Beyond EU flexicurity ... towards ‘tолосecurity’

Table of Contents

Abstract ....................................................... 1
Keywords .......................................................... 2
Introduction .................................................... 4
  Introductory statements .................................. 4
  Issues prelude .............................................. 5
Related Literature .......................................... 8
  Related literature ......................................... 8
  ... in our warp ............................................ 8
  Searching guideline ...................................... 9
Inside flexicurity ............................................ 10
  Flexicurity in a magic word? ......................... 10
  Flexibility .................................................. 10
    Table 1 .................................................. 11
    Table 2 .................................................. 12
    Table 3 .................................................. 12
  Security ................................................... 12
    Table 4 .................................................. 13
    Figure 1 ................................................ 13
    Figure 2 ................................................ 14
Balance .......................................................... 16
  Flexicurity’s tail side .................................. 18
    Framework in an economics approach .............. 18
    An epistemology’s disclaimer? ...................... 18
    An economics reading by normative statements ... 20
      Table 5 ................................................ 22
  Hybridisms of system, pathways ....................... 24
    Starting points ......................................... 24
      Table 6 ................................................ 24
    Italian model .......................................... 26
    Our conjecture ........................................ 26
    The hypothesis ........................................ 28
      Table 7 ................................................ 28
      Table 8 ................................................ 29
    To do .................................................... 32
    Conclusions ............................................ 33
    ongoing References .................................... 34
      ******* ............................................. 37
      ***** .............................................. 37
      **** ............................................... 38
      ** ................................................ 38
Beyond EU flexicurity ... towards 'totalsecurity'

Introduction

Flexicurity is a huge matter with an enormous amount of issues, of relations, of implications. One of these is how work point of balance, between flexibility and security, according to principles of labour law and social security.

Introductory statements

We begin from the title: it come with three questions. First, why “beyond” flexicurity, if flexicurity is still in progress, whether not at starting point? Second, why “totalsecurity”? If the flexicurity does not completely define yet, what need we another neologism? What means it? What say we whit it? Third, what means social security's financings' hybrid model? What got it with ELINIS? So, we'll answer one by one.

First. Flexicurity is the most recurring word in the EU debate about issue of the modernization of labour law, nowadays. Yet, flexicurity (as well as all neologism), despite every effort to define it and to conceptualize it, remains a word with a enormous quantity of unresolved implications. Indeed, the fusion of two words – flexibility and security – into a new one, does not means to fuse of the two respective concepts into a new one and so to vanish the contradictions between them.

Hence, in our opinion, it cannot overcome the oxymoron that's in the word. So, we suppose that flexicurity's security risks to remain ever ongoing, rather than to be underlay of 'high quality labour market participation and social inclusion' (Wilthagen – Tros 2004). Accordingly, it could be cause of distort competition among work contracts and countries and could be detriment of social justice. Therefore we said beyond flexicurity towards “totalsecurity”. Yet, why beyond? It's the second question.

Second. Total-security. What does it means? Simply, it means security. Such as, security is ever not in hypothetic balance with flexibility. In fact, balancing needs to find, time by time, resources to follow 'adequate adjustment to changing conditions in order to maintain and enhance competitiveness and productivity' (Wilthagen – Tros 2004); as well as, flexibility of employment by non-standard contacts, influences and depresses security's financings' sources. So, the point of balance between flexibility and security, rather then to close atypical contracts security to standard work security, could enlarge divide between them1. Moreover, whatever flexicurity's balancing is not able to fight undeclared work - the wild flexibility.

'Total-security' is the hypothesis of model that is indifferent, in order to financing social security system, to nature of work-contracts, and in which undeclared work is charged of social insurance taxes2. So that security underlain every kind of work. Yet, what's can happen? By social security's financings' hybrid model. What got it with E.L.I.-N.I.S.? It's the third question.

Third. ELINIS and hybrid model. There are many reasons to talk about that. We'll focussing two –

2 A such kind experience was recently made in Italy by fairness' index. One less recent was “tabelle ettaro-coltura” as agriculture index. (...) Yet, the question that today we want to address is a matter of assumptions. Who flexibility’s benefits, rather than who employs workers, must pay social security contributions. The two studies are both by European Foundation for the Improvement of Living and Working Conditions
one on the ELI, another on the NIS.

On one hand (ELI). Flexicurity, as regulation of labour market, involves many different systems and want be itself tool of European Legal Integration.

An issue of flexicurity is “there is no ‘one side fits all’ solution for all which can be transferred readily from one country to another” (Vemeylen – Hurley 2007). Well, it has been observed by Davies (2006) ‘it’s not about levels of welfare. States can still regulate and use taxation to ensure universal coverage. It’s about institutions and borders. Provision is being fragmented and de-nationalised. It remains to see how far this will go, but the trend is for Member States to encourage the process by themselves stimulating more diversity and freedom of provision, and so creating a proto-market which EU law then takes further.”

Inded, European social law is living a new youngness (GIUBBONI 2007) even whether far to set up at EU level a some model in accordance with articles 31.1, 34.1 Nice's Chart. In these avenues our contribution.

On the other hand (NIS). How one justifies a study across economics and law in a paper by labour lawyer? Truly, economics is a little bit. Just it's necessary. Indeed, we'll use the same layers of flexibility - starting from the same context - to have a proof in this case the invisible hand fails. Therefore, economics issue will be not main subject, but only launch lane to pathway of this paper: changing 'idea' of system of security with reference to our empiric hypothesis in booth terms economics' and law's, as antidote for poisoning by free trade policy and related 'law and economics', soul's, aim's, ratio's of labour law - safety, security, equity, equality, social justice.

**Issues prelude**

How we shall see lager below flexicurity is an ambiguous term - it is more ambiguous concept than ambiguous word.

Starting from Wiltgagen an Tros (2004) definition, flexicurity has been described as: “a degree of job, employment, income and combination security that facilitates the labour market careers and biographies of workers with a relatively weak position and allows for enduring and high quality labour market participation and social inclusion (such as security), while at the same time providing a high degree of numerical (both internal and external), functional and wage flexibility that allows for labour markets’ (and individual company’s) timely and adequate adjustment to changing conditions in order to maintain and enhance competitiveness and productivity’ (such as flexibility).

This definition, that's very often used by EU documents, shows clearly by itself that flexicurity definition leaves intact its twice soul, and does not add anything new to the sum of the two – perhaps subtracts by trade-off.

Reading surveys and papers and pathways produced by committees that have faced this issue, and

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3 It is singular how this quip in *Flexibility and Security over life course* (2008) has become 'one side fits all' ... policy in not likely approach'. Sentence in the text sounds like an invitation toward regulatory policy at EU level. Sentence here above sounds like an invitation toward abstention of law.
4 Although we disagree with some of his conclusions in order to welfare's services, we agree in order the need to harmonize welfare.
5 Even whether it has not said expressly, it is logically alleged to aim of following competition and globalization needs.
6 Our coursive.
7 Our coursive.
8 For a complete reconnaissance of word's use, at least see Caruso Massimiani 2008
9 Long list can find on ...
Beyond EU flexicurity ... towards 'totalsecurity'

reading also some acts by European Commission\textsuperscript{10}, seem they bypass the problem, rather than deals it - they sounds as if deaf for the labour lawyers screams worries (CARUSO - MASSIMIANI 2008, PERULLI 2008, ZOPPOLI 2007, ROCCCELLA 2006, 2007, BELLAVISTA 2008, 2007a 2007b 2007c, and many others). The light side of flexibility, (e.g. women's employment growths) has deeply been investigated; instead, its' dark side (e.g. low wage, lower wage than standard work) analysis seems like ever ongoing\textsuperscript{11}. While is clear what is the flexibility which labour market needs - i.e. which employers\textsuperscript{12} needs; it is not completely clear what, and how much, should – indeed must – security's needs.

Indeed, Italian\textsuperscript{13} labour lawyers\textsuperscript{14} thought already wrong – or anyway without any evidence\textsuperscript{15} - the matter of the relaxation of existing employment protection rules, that's contained in the Green Paper on Modernising labour law to meet the challenges of the 21st century (COM(2006) 708 final), as automatic solution to improve employment as effect of improvement of competitivity, without it consider those matters are concerning in accordance with ILO, ONU, EU Charts as 'fundamental rights: working hours, annual period of paid leave, unjustified dismissal, equality, etcetera\textsuperscript{16}'

Although flexicurity is known in the European policy debate as maintaining flexibility-security balance, it does not known what is starting point of balance, so that it can be maintained adding or subtracting flexibility or security - none said how that balance ought to be maintained, either how much financial resources needs or where found it\textsuperscript{17}. Moreover, flexicurity does not say how much weight a dose neither flexibility nor security. So that balancing is impossible.

So, every countries can adopt its own point of balance - even could be the large flexibility and ghost security. In fact, flexibility is free therefore expansive, but security is expensive therefore narrow. Well, this is always happening, nowadays. For instance, one can consider two cases.

Firstly, in EU27 the countries of East Europe, do not have – substantially – any social protections. They have lost those of communist system and do not acquired none\textsuperscript{18}. The labour law is very small, yet\textsuperscript{19}.

Secondly, Italian case. With d. lgs. 276/2003, as known as, Biagi Act, 'Italy has initiated an ambitious process for the radical reform of labour market' (TIRABOSCHI 2005), but betraying promise underlain by 'Libro Bianco', does not either implemented security or arisen funds of it (BELLAVISTA

\textsuperscript{10} As Employment in Europe report, chap. 2, SOC/303 below in the at footnotes.
\textsuperscript{11} See, for instance, Flexicurity and Security over life course 2008, passim
\textsuperscript{12} Generally called company in lexicon in sociologists' and economics' surveys.
\textsuperscript{13} At the same, 'Posizione italiana sul Libro Verde della Commissione Europea sulla modernizzazione del diritto del lavoro', Ministero del Lavoro e della Previdenza Sociale, aprile 2007
\textsuperscript{14} See, I giuslavoristi e il Libro verde "Modernizzare il diritto del lavoro per rispondere alle sfide del XX secolo" at ZOP- DELF 2008.
\textsuperscript{15} See, Roccella 2006
\textsuperscript{16} See above footnote 14
\textsuperscript{17} At same, for instance, also Opinion of the European Economic and Social Committee on the Proposal for a Council Decision on guidelines for the employment policies of the Member States (under Article 128 of the EC Treaty) COM(2007) 803 final/2 (Part V) – 2007/0300 (CNS) where you read, amongst many, 'The Committee reiterates the need for: - increasing employment security and preventing "insecure employment traps", inter alia, by ensuring that the unemployed are not obliged to take on jobs offering no security, by combating undeclared work and by preventing the exploitation of workers employed on short-term contracts; -measures to modernise and improve, where necessary, the social safeguards attached to non-standard forms of employment; - a balance between working time flexibility and worker protection should be pursued. On flexicurity add Flexicurity add 'The Committee has made the following proposals: ...requires a solid context of rights, well-functioning social institutions and employment-friendly social security systems to back it up.'
\textsuperscript{18} Deeply/widely Anastasi 2008
\textsuperscript{19} For instance, see Bulgaria case, PANOVA 2008
Therefore in this paper, we shall try to give a little contribution to break link between work and security's financing. We aim to demonstrate (also but not only, according to economics perspective) as flexicurity-balance can work in accordance with art. 31 and art. 34 of the Charter of Fundamental Rights of the European Union, social justice, worker security, whether the externalities inside flexicurity's trade-off will be charged to flexibility.

In section related literature it will purpose some connections among insights essays in different fields and declare what is our line. In section flexicurity inside it will studied flexicurity, as such has been laid down by EU policy debate, in its three dimensions of flexibility, security, balance. Our conclusion shall be that trade-off between flexibilisation e security not balance. In section flexicurity's tail side exam the other side of flexicurity. It will be read with the same lens of its theoretician to disclose the negligible effects. And to purpose a new reading in accordance with Nice's Chart. In section hybridisms of system pathways it will be posed the empiric bases to introduces kind of 'social security tax' to fight undeclared work, to reduce externality, to substitute trust in the market with true and strong financial social protection.
Beyond EU flexicurity ... towards ‘totalsecurity’

Related literature ...

Several studies on occupational, earnings, employment conditions, security, flexibility, undeclared work exist in different fields - in law, in economics, in sociology, in policy. Each investigate its filed, but all are related one another. In this paper we consider some suggestion among many. They are: - from works by Zoppoli (2007, 2008), Bellavista (2006, 2008), Perulli (2008), Giubboni (2007) as law; - from works by Oropallo e Proto (2006, 2006a) as as economics, about impact social charges' reduction's on enterprises and households; - from MUFF-Oths 2007, Vemeylen – Hurley (2007) as sociological, about flexicurity in EU.

... in our warp

All these studies, many different one another, reveal implicit connections in our warp. Economics and law can dialog (PERULLI 2008) very well without subjection each another, beginning from the common idea of ’social cooperation in which the supreme values and rights of its members confront themselves one another, in a sign of weighting and balance’.

This new way translated in rules, at EU level, means to set up ‘a some shape of direct social redistribution’ to reduce ‘the distortion’s risk by competition arising from huge differences social protection’s standards’ in the Europe now ‘at Twenty-seven’ (GIUBBONI 2007)’. In few words, equity in front of all - all around the Union.

High rates of undeclared workforce are like a ’second community’ where are in force different rules compared to these known and applied in the EU’s rest.’ (ZOPPOLI 2007). This kind of “second community” depending on economics factors, produces trade-off both among countries and between itself and “first (legal) community” and among security and wild market. If so, and it is, we doubt about the effective of remedies suggested by Zoppoli (2007), according to that undeclared workforce’s reduction should come gradual, sectoral and local. On the contrary, as has been insight written, this kinds of remedies has in the past already experienced and it failed. In fact, ‘one should exclude any form of benevolent tolerance, justified by the fallacious idea that the black economy would still be a way of survival’ (BELLAVISTA 2008)

However, one could accept an idea of gradual surfacing, in which only ‘activities that have the possibility of ... consolidation in the legal market’ will be safes, without that means ’acceptance of the value more or less positive than any form of submerged (BELLAVISTA 2008)’, provided that become into a defined time frame. After which ‘those pathological and regressive for which the statement is the

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‡ With available time this draft has never been born without the work of complete accurate and timely update of Flexicurity dossier by Massimiani http://www.unict.it/labourweb/ References are so many that is impossible consider all. A set of those, between gray and scientist literature are there.

20 Ghezzi ... in ... quoted by Perulli 2008
22 On theme, see also Anastasi,
23 In English in the text
illegal prerequisite for remains its competitiveness’ (BELLA VISTA 2008) should be severely repressed. Yet, as well as conditions of hardship that occurring by ‘derogation of legal precepts’ must not be ‘considered worthy of a solidarity (BELLA VISTA 2008)’, at same time it is necessary to eliminate it’s causes at root. In fact, that’s for sure, whether a reason exists – among many others – it is that “undeclared” has considered much more advantageous than “declared”. If so, and it would be, the sole severe control is ineffective remedies at long term. Of course, both because it is so widely that is about impossible to discover24 and does not remove the causes it could earlier come back. The bet is to break the link between “undeclared” and advantage. Break it means sterilize - really, reduce as much as more possible - the trade-off between first community and second community - at the same between non-standard and standard contracts.

Searching guideline

If so, it is impossible to deny the advantages of undeclared work are negative externalities as well as an illegal cheaper agreement between employer and employee25. That's for sure, we agree with thesis of the heaviest repression and if the strongest fighting against employers who are used to use it, but we think that in not an effective remedies both depending on phenomenon's very wideness and depending on to need remove causes. Such as, what is needed to all kinds of labour markets (from the most flexible to the least) to be completely operating.

Consequentially, reduction of externalities of undeclared work market means reduction of un-security - advantageous too. So that, wideness’ reduction of undeclared workforce – advantageous too - means more and more controls aimed it.

We think the illegal agreement's advantage is much more effect then cause of the choice to turn into the second community - at least, in the most kinds of undeclared work. This latter is an extreme kind of flexibilisation, as such study it can help us to understand also the trade-off in the flexicurity.

Because competitiveness and competition are separate the TEC ‘you can argue competitiveness of the Community grab social protection and promotion of employment’ (BELLA VISTA 2006), placing they there as limits to EU rules is competition. So that, in this field, can be pursued new balance of economic policy based on equity, without it 'forcing' community’s legal frame26 - disclosing relationship between undeclared work and flexibility. Then go inside flexicurity.

24 For deeply and widely analysis, see insight analysis by Garilli 19?? (SUD)
25 At the same Bellavista 2006 and Bellavista 2002, yet
26 In such meaning Bellavista 2006 and Roccella 2006, also as quoted in the first.
Beyond EU flexicurity ... towards 'total security'

Inside flexicurity

Flexicurity in a magic word?

First approach to flexicurity give us a feeling of dizziness. It is seeing, it is hearing, sometimes it is also becoming tangible, but you will never known where it will be tomorrow, because you cannot find its foundation. Flexicurity is not just than an hypothesis, with its natural contradictions. But these lasts, rather than fixed it seems forgotten; so the subject of demonstrations - such as how flexibility plus security balance in the flexicurity - has shown like true and it becomes prolegomena of itself.

Due to subject and time constraints, it appears inappropriate refers about all. However, topic matters seem more relevant to describe the confusion of the plans in flexicurity. We look into them by the three themes it involves: flexibility, security, balance.

Flexibility

Flexibility comes with two different meanings often opposites - according comes as employees or as employers. For employers flexibility in consequence of 'de-standardisation of employment contracts and diversification of working time arrangements is driven by companies' requirements for greater flexibility and adaptability to market constraints'. While, for employees, for example. flexibility could help the 'ageing of the European population, increasing labour market participation of women, prolonged education and changes in the way households now allocate their time and income - all these trends trigger the need for more flexibility for employees, too'. These two meanings can not overlap. Otherwise, one it makes of a part as all. That confuse the system's patches to adjust the law framework for new needs of a part of people with system and it makes of the patch the system.

They are so different about those it expected by them. Employee expects 'to have an adequate level of security as to their employment, income and career advancement'. Yet, that is not the same for employers. Does not true, employee and employer, wont the same thing, nowadays.

In the first place, the relationship by quality, between employment and labour market rules; has become quantitative relationship. Wherever employment is inversely proportional to labour market rules, moreover, wherever labour market rules come considered inclusive of job rules e job security rules.

27 Despite massive literature exists on theme it is so ongoing, far from any definitive result.
28 That survey studies the effects of men's and women's transitions among several status over life corse by European Foundation for the Improvement of Living and Woking Conditions edited by Muffels, Chung, Fourage, Klammer Luijkx, Manzoni, Thiel, Withagen. This foundation is an autonomous body of the European Union, created to assist in the formulation of future policy on social and work-related matters. www.eurofound.europa.eu. However, on this positions as well as similar others, by a statistical sociologists essays only, and more and more without keep in account any legal framework, are based assertion of inverse relationship between labour market regulation and rates of employment. The aim of this study is to demonstrate how transition from job security's to employment security's, where there was it had been thing 'just and good'. As we shall see better below, survey in its enthusiastic streaming of effect of flexibilisation, as good as hypothetic, does not keep in account all consequences by one of its quips 'one size fits all'.
29 This idea, instead of new is old; it has been always experienced in the 1920th, in Italy by Mussolini's Chart of Labour and its item - it failed. Why tries it again?
30 As known, there in no evidence this relationship is true. E.g. in Italian literature see Roccella 2006 and OECD breaks down
Well, these approaches that are very similar to those that underlie 'Green Paper', but nowhere one says something about several critical observations that have been moved on it, for instance, by Italian Labour Lawyers and Spanish MEDEL.

Secondly, relationships between flexibility and security may be both positive and negative, as well as are described with insight both.

For instance, consider the matrix below:

<table>
<thead>
<tr>
<th>Flexibility</th>
<th>Security</th>
<th>Job security</th>
<th>Employment security</th>
<th>Income security</th>
<th>Combination security</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Types of employment contracts</td>
<td></td>
<td>Employment services/ALMP</td>
<td>Unemployment compensation</td>
<td>Protection against dismissal during leave schemes</td>
</tr>
<tr>
<td></td>
<td>Employment protection legislation</td>
<td></td>
<td>Training-life-long learning</td>
<td>Other social benefits</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Early retirement</td>
<td></td>
<td>Minimum wages</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Internal numerical</td>
<td>Shortened work weeks/part-time</td>
<td></td>
<td>Employment services/ALMP</td>
<td>Post-time supplementary benefit</td>
<td>Different kind of leave schemes</td>
</tr>
<tr>
<td>flexibility</td>
<td>arrangements</td>
<td></td>
<td>Training-life-long learning</td>
<td>Study grants</td>
<td>Part-time pension</td>
</tr>
<tr>
<td>Functional flexibility</td>
<td>Job enrichment</td>
<td></td>
<td>Training-life-long learning</td>
<td>Performace related pay systems</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Training</td>
<td></td>
<td>Job rotation</td>
<td>Voluntary working time arrangements</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Labour leasing</td>
<td></td>
<td>Teamwork</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>Subcontracting</td>
<td></td>
<td>Multi-skilling</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>Outsourcing</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Labour cost/wage</td>
<td>Local adjustments in labour costs</td>
<td></td>
<td>Changes in social security payments</td>
<td>Voluntary working time arrangements</td>
<td></td>
</tr>
<tr>
<td>flexibility</td>
<td>Sealing/solutions in social security payments</td>
<td></td>
<td>Employment subsidies</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>In-work benefits</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Even whether the matrix consider many relationship between flexibility and security, it does not consider differences both inside flexibility category and inside security category. These simplifications have repercussion on differences among relationship between flexibility and security. So any mix among flexibility and security become replaceable with another. At any place of the matrix are not considered the net effects (e.g. about self-defences' effectiveness' degree). Accordingly, this Wilthagen matrix does not consider trade-off.

So, negative has been early forgotten - so the relationship between flexibility and security, now as flexicurity, has become positive issue as antonomasia.

32 See in footnote above I Giustavisi ...
33 Magistats Européens Puur la Démocratie et les libertés – MEDEL, Barcelona 2 marzo 2007
34 See e.g. Muffels and O. 2008, p.3 where is said 'However, in practice it might be that the relationship can be negative and that more flexibility jeopardises the attainment of employment security, which implies a 'trade-off' between the two elements'. But below to the and there was not came any consequence.
35 For example, more and more in Muffels and O. 2008 (edited by), p.3 where is said 'Allowing flexible working time arrangements for workers to combine working and caring or education activities is likely to have a positive effect on motivation, effort and productivity. If workers are granted more working time options, this will enhance their employability and flexibility, and will improve their chances of staying employed and better protect their income and employment over the life course. On the one hand, the increasing proportion of flexible employment contracts implies that workers have more opportunities to realise their working time preferences. On the other hand, the spread of flexible contracts may just mirror the unfavourable employment prospects for people for whom flexible contracts are second-best solutions or substitutes for a permanent employment contract.; and p. 13 Furthermore, it can be assumed that, in many cases, working time needs are not stable over
Hence, one considers now the scheme (table 2) below:

**Table 2**

<table>
<thead>
<tr>
<th>Decommmodification</th>
<th>Short-term</th>
<th>Long-term</th>
</tr>
</thead>
<tbody>
<tr>
<td>Temporary income to protect people from precarious situations (e.g. unemployment benefits)</td>
<td>Combinations of income in the case of structural or long-term events (e.g. disability benefits, pensions not linked to previous labour market activity)</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Employability</th>
<th>Short-term</th>
<th>Long-term</th>
</tr>
</thead>
<tbody>
<tr>
<td>Re-employment, 'secondary status' contracts such as fixed-term contracts, categorical schemes in succession</td>
<td>Development of personal projects that are not necessarily immediately profitable in the short run on the labour market, skills development</td>
<td></td>
</tr>
</tbody>
</table>

Source: Thiele and Tabbers, 2004, p. 65

The frame Employability plus Short-term, shows as 'second status' fixed-term contracts. Switching Long-term, next step is not non-standard contact, as you could expect, but 'personal project ... not necessarily immediately profitable' – *id est*: trade-off.

Also the frame decommodification appears un-truthful. Switching from Short-term to Long-term the frame shows benefits as pension not linked to work (e.g. flexibilisation) or linked to disability, but not linked with long-term unemployment.

Thirdly, flexibility means many different things – sometimes opposites – both depending on who speaks and depending on when/where speaks. Yet, flexicurity's followers are used to treating its meaning as if it was only one and always the same.

For instance, see the table 3 below – about all sociological - explain very well what are typologies of various forms of employment contract and working flexibilisation e.g. in the table 1 below:

**Table 3**

<table>
<thead>
<tr>
<th>Quantitative or numerical</th>
<th>Internal labour market</th>
<th>External labour market</th>
</tr>
</thead>
<tbody>
<tr>
<td>Flexibilisation of working hours</td>
<td>Flexibilisation of contracts</td>
<td></td>
</tr>
<tr>
<td>Part-time work plus variations</td>
<td>Temporary agency work</td>
<td></td>
</tr>
<tr>
<td>Overtime</td>
<td>Casual job</td>
<td></td>
</tr>
<tr>
<td>Second and third job</td>
<td>Temporary job</td>
<td></td>
</tr>
<tr>
<td></td>
<td>On-call labour</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Hourly contract</td>
<td></td>
</tr>
<tr>
<td></td>
<td>In-sourcing and outsourcing</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Work as subcontractor</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Homework</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Labour pooling</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Flexibilisation of working time</td>
<td>Flexibilisation of labour force</td>
<td></td>
</tr>
<tr>
<td>Shift work (day)</td>
<td>Knowledge worker</td>
<td></td>
</tr>
<tr>
<td>Variable working times (day)</td>
<td>Detachment of workers</td>
<td></td>
</tr>
<tr>
<td>Weekend work (week)</td>
<td>Freelance work</td>
<td></td>
</tr>
<tr>
<td>Flexible working time (year)</td>
<td>Advising/consultancy work</td>
<td></td>
</tr>
<tr>
<td>Working time accounts (short, long-term)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Career breaks, parental leave, other (life course)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Flexible pensions (life course)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: Muffels and Oth. 2008 (partly derived from Ester, Muffels and Schippers, 2001)

This table in spite of one important assumptions of flexicurity, according to 'workers have more opportunities to realise their working time preferences', shows flexibly work by sole side of employers. As you see table show many ways and combinations of flexibility, but nothing of security.

**Security**

Second terms of balancing, according to flexicurity's model, is not less problematic than first. On the contrary security is as much more problematic as much more important, compared to flexibility.

the working life but might change due to people's changing personal and household conditions, their increasing age or changes in financial situation and individual preferences.’ And so paper-course! At the same, about many many others sociological and economics studies. See, footnote ... for references.
It is more problematic because security's ideals, security's models, security's concepts are very much different among countries; but especially because security in not free and of course security's budgets too.

It is more important because underlain labour market's rules' relaxation; so that without it flexibilisation mightn't be possible. Likewise, security puts on an act as parachute, so that bystanders are not alarmed themselves at felt job security's Olympus off into employment security's magma.

In true, connections between flexibility and security are showed Table 4 (table 2)

<table>
<thead>
<tr>
<th>Flexibility-security</th>
<th>Job security</th>
<th>Employment security</th>
<th>Income security</th>
<th>Combination security</th>
</tr>
</thead>
<tbody>
<tr>
<td>Numerical-external</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Numerical-internal</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Functional</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wage or pay flexibility</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

*Job security is partially covered since only information on occupational status and changes therein is available. However, workers might change jobs without changing occupation.

However, matrix does not show how security works in flexicurity, but it show just where security needed.

You consider the graph – figure 1 – below, in which the sets are security's systems, the axes are flexibility's system. The co-ordinates are flexicurity.

This graph is an example how of correct data can be made oblique use. The sets are correct and are depending an old classification of the security social system according respectively the role of households, social insurances, private insurances, citizenship, widespread of benefits, instructions, health-
Beyond EU flexicurity ... towards 'totalsecurity'

care, unclassifiable (e.g. Eastern regimes), mix by them etcetera. The four quadrants (I, II, III, IV) are
default values. The coordinates are instead absolutely arbitrary. We consider some example.

In the Nordic set, have been gathered four countries: Sweden, Finland, Denmark and Netherlands. Yet, if is true they have vary similar social security system is equally true they have so different labour law regulation. For instance Sweden and Denmark are opposite regulation of dismissal\(^{36}\) - the first has not low regulation. Moreover similar conception of welfare does mean not similar conception of flexicurity.

One considers once again Sweden. In Sweden all employees are covered and all worker are employee. For paradox the most flexibilisation consiste, at system's level, by enlargement of the concept of employee without any deregulation.

Sweden labour law has 'a uniform personal scope: - with few exceptions only employees are covered; - with few exception all employees are covered; - no third category/tertium genus' (ENGBLOM 2008). Indeed, they use typological method to enhance workers' protections, and fro them all personal worker in an employee. So, 'width and flexibility has saved Sweden from controversial case law limiting the scope of labour law to the extent of leaving categories in need of protection outside. Professional employees with a high degree of autonomy are considered employees despite a low degree of subordination. Persons with short term contracts are considered employees, despite a low degree of economic dependence. The need to extent labour law to excluded groups of autonomous or semi-autonomous workers has been. No single factor is a necessary or sufficient criterion – not even subordination. Economic dependence can compensate for a low level of subordination. Subordination can compensate for a low level of economic dependence.' (ENGBLOM 2008)

See graph below\(^{37}\)

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\(^{36}\) In Italian literature see Roccella 2006

\(^{37}\) Source Engblom 2008
them.

In the Mediterranean set, have been gathered others four countries: Italy, Spain, Portugal, Greece. Now if is true they have very similar concept of family's role in the social security system is equally true they have so different labour law regulation - for instance Italy and Spain (e.g. dismissals, fix-term contracts).

One considers also Italy, Sweden, Germany have similar regulation of dismissal – yet all both different sets and frames of flexicurity.

Eventually, one considers the mobility axis. All least one meanings among many is geographical mobility. One considers now, different square, shape and population, for instance, among Ireland, Italy, Sweden, Denmark (without Greenland, of course) - fortunately Luxembourg does not considered! Index become absurd by itself. Last but not least, the survey use that graph does not considered Italy and Sweden. Yet, Italy and Sweden – also so different between them – are two countries with two important system. Sweden has one of the most widespread, effective and efficient welfare's regime; Italy has has one of the most ancient and the largest labour law. Each one is country with great impact about the issue of flexicurity.

So despite the 'flexicurity thesis argues that, due to a more dynamic labour market ..., flexibility and security are inextricably linked. They form a kind of 'double bind', a mutual relationship or a synergy: a high level of mobility or flexibility enables a country to compete successfully and also to afford a high level of income and employment security. At the same time, the latter should be an underlying prerequisite for sustaining high levels of flexibility' (Wilthagen and Tros, 2004), surveys and reports omit considering the three fundamental issues to achieve believability – the point of balance. Such as transition from job security to employment security has trade-off. 1) How much is job security off? 2) Who will pay for employment security's add? 3) Job security off and employment security add are equal? If not, how less is flexicurity's security?

You consider last time graph on figure 1 above, about trade-off, yet one remembers it is a Cartesian graph. Where: the x axes is mobility (along flexibility), the y axes is security (along income/employability). As known, at all Cartesian graphs relationship between the meanings of x, y in the four quadrants are: in the first (I) positive/positive; in the second (II) negative/positive; in the third (III) negative/negative; in the fourth (IV) positive/negative.

You consider now the orientation of the axes. It is: N/S positive/null/negative flexibility, E/O negative/null/positive security. For example you invert orientation of x axis. In this case a low level of flexibility become a positive, and a high level of flexibility, Obviously, become negative.

So, the positive relationship of flexibility plus security will be true depending on the value with you consider flexibility. In other words, the graph (at figure 1) does not show the virtue of flexicurity (id est: flexicurity plus security equal balance), but it shows how is flexicurity in the pencil of designer. Accordingly, trade-off in quadrants II and IV, as well.

Whether you consider table 1 (Wilthagen matrix) and Figure 1 depending each one another, you can observe two natural conclusions. 1) In Wilthagen matrix the trade-off caused by movement of the point of balance is implicit it must be made up for loses. 2) In figure 1 trade-off (II) is better than trade-off (IV) – the first is a positive/negative relationship, second negative/negative. Only one difference exist

38 See, ....
39 See, ...
40 See above p.
41 Criticize this Roccella 2006
Beyond EU flexicurity ... towards 'totalsecurity'

between trade-off (II) and trade-off (IV), low and tightly regulation respectively.

Which was to be demonstrated flexicurity can not resolve by itself trade-off's problem.

Balance

Least in this section we consider some risks of flexicurity philosophy. The choice among systems is neither neutral nor technical. In other words, to change protection workers’ from job security to employment security it is not an operation equal zero\(^{42}\). Even if it could be considered equal zero by a particular workers' category, however it would have some others effects on system or to others workers' categories.

So, the change of perspective in security's contents is not an effect induced by labour, but is an effect induced by role that you assign to labour market's rules.\(^{43}\) These two different perspectives are described below.

Job security protect worker from market by labour law and social security. In this case, as known, rules are as purposes that to put in the highest place protection against anything. Law framework is a default data and market's efficiency cannot play any role to change it\(^{44}\). Because the way to make policies is law and law don’t is omnipotent.

Employment security protect market from labour law by workers. Conversely in this case the market is like an engine and legal framework and its rules - labour law and security social included – must serve to enhance market’s efficiency\(^{45}\). Yet, assumption can not work in first community, where law’s in force. Here, indeed, when equity’s goal involves to consider person rights, in accordance with supreme sources, efficiency succumbs.

Despite 1.1 ILO of Declaration of Philadelphia in 1944, in accordance with quip Labour is not a commodity, workers become simply supply, like every others in the market\(^{46}\). Because in the labour market the invisible hand has never worked - neither will never works - flexicurity (as in figure 1) involves security as medicine against market's casualties.\(^{47}\)

Consequentially, workers’ alternate in standard and in non-standard employment, in unemployment, in inactivity over the life course as is physiological by employment security as is pathological by job security\(^{48}\). This influences widely/deeply the concept of security benefits.

Eventually, this kind of security changes its essence without changes by itself the clothes; so, flexicurity regresses merely to meaning of social peace from meaning of social justice, of decent work and life, of freedom, as if was dependent by efficiency, rather then opposite.

Of course that's all policy. We cannot anyway change it by ourself. But we can criticize it; we can break down it; we can check whether it is in accordance with Constitutions and Treaties; we can search coherence in it, we can suggest some changing.

In particular, even whether we disagree with flexicurity philosophy, even whether we prefer Wilthagen matrix (Table 1) to MUFF-Oths 2007 graph (Figure 1), we shall investigate relationship both between flexicurity's equity's degrees respect fighting to undeclared work, and about competition

\(^{42}\) As sein above this is depending by axes orientation. Their orientation is simply a choice.

\(^{43}\) See above Table 1 Welfare regimes ad flexicurity

\(^{44}\) For instance, as would have been by inversion of y axis' orientation in figure 1.

\(^{45}\) Figure 1 as it is.

\(^{46}\) On theme, also as perspective by economist see Stiglitz, 2002

\(^{47}\) Also economist disagree on this, footnote above

\(^{48}\) One can say that if they weren't fully balanced, they would be pathological in Wilthagen matrix, as well.
among atypical contracts and standard contact. We discard free trade-off hypothesis and we consider Wiltgelen matrix (Table 1). Accordingly, security must be so wide and efficient to remove trade-off quickly and fully. Otherwise, flexicurity become like 'second community'.

As we have see above, new framework of flexicurity does not supply an answer to question ‘who ought to pay for employment security’s add?’ We shall try to give it one answer, among many possibles, by the same framework of figure 1\(^{49}\) to search whether or not others tuning are possible.

\(^{49}\) See above ...
Beyond EU flexicurity ... towards ‘totalsecurity’

**Flexicurity’s tail side**

So far, the shifting from job security to employment security has been seen as mathematical equation in which qualitative switching was from job to employment and quantitative in security. Yet, this equation is true in part only, and not is equal zero.

Whether you change a degree of flexibility into “job plus security”, the changing about security are for the most part quantitative. At the same whether you change a degree of flexibility into the “employment plus security”. Because in both cases changing becomes inside the first term of the given hendiadys.

Whether, instead, you switch from 'job security' to 'employment security', the changing is about security it is for the most part qualitative, because, for instance, the transition become from employ to self-employ or unemployment. That means to change the system of security.

So, you can consider not more two communities – legal and illegal – but many communities50 each one with its rules and its degree of flexibility and security. However, in Wilhagen matrix, the mobility, e.g. flexibility of flexicurity, it become mobility among communities. So, security, to win the trade-off product by transition among communities become a goal of the community (flexicurity) and not of one category or one class of one community (employees', self-employees', etcetera)

Eventually, the rules of security’s financing are different among communities. With the result, paradoxically, that the trade-off increases rather than decrease. This is the flexicurity's tail side.

Understanding the economic effect of this perspective, will help us find the legal basis of a widespread system of financing, as which, in our opinion, has been assumed, even whether implicitly, by Wilhagen matrix.

*Framework in an economics approach.*

Abuse in some Members States of flexibilisation trend, without a strength policy on security at level of EU, should be studied by both economics and law perspectives.

In fact the real fundamentals of flexibility (one of the two terms of flexicurity) are efficiency and competition - twice economics' terms. The compensation for lost of equity is the illusion of a wellness trade-off between flexibility and security, such as between efficiency and equity - one would be balance more flexibility with more or more large o what else of indeterminable measures of security51. Underlay ignores equity as endogenous substance of flexicurity as such Wilhagen matrix suggest? We think not.

*An epistemology’s disclaimer?*

Is the economics perspective a disclaimer of the law method? Is it an epistemology's infringement? Whether yes or not it is depending on both its roles' and uses'. In our honest opinion, the lawyer who wants understand the real and empiric effects legal system's by economics' tools, does not infringe his role. Neither whether he begin a law survey by them. Our position is outlined below.

50 Reg. ... is irrelevant. Because does not concern the level of security, but sum of insurance period only.

51 Maybe is the trust as has been suggested?!
Indeed, economics approach can seems rather unilateral. Yet, it is if approach has leaded by neoclassic tenets and efficiency objective, only. As if efficiency was the sole goal in the economics, as if equity was not as a fundamental goal of economics as well. As if economists were all enemies of equity policy makers. The latter is about position of the 'law and economics'. That's not our.

Many economists admit that 'economics alone cannot determine the best way to balance the goals of efficiency and equity. This issue involves political philosophy as well as economics'. As such, economics' role is 'shed light on the trade-offs that society faces, just to help us avoid policies that sacrifice efficiency without any benefits in terms of equity', rather than suggest policy. In fact, 'equity, like beauty, is in the eye of the beholder'. Yet, in State of Right the eye of the beholder is law.

Change equity is change law. And this is the policy maker's role. Study meanings of changing laws is the lawyers' role and see if it in accordance with others laws, too.

Of course, change law is change equity, too. Therefore this is the policy maker's role again. But change law to change equity or to adjust efficiency is different of its opposite, because in that case changing must be made in accordance with default legal system.

Law, like economics, lives in a net - one cannot modify anything without consider the net effect. So, the mirror of economist reflects the image of lawyer. For instance, the changing of a matter of internal security, as working time arrangement, could cause a lost of security – one thinks to the children care – even whether it does not affect wage.

As well as economists' studies how 'help us avoid policies that sacrifice efficiency without any benefits in terms of equity', lawyers help us avoid policies that dump equity as unconsidered – or worst erased - net effect. Even whether policies can appear virtually neutral or with the fewest equity's lose. So, if one weren't also assessed net effects, balance between efficiency and equity couldn't work as it would and it be unfelt.

Certainly, these net effects by law's changes can be in turn assessed by economics principles. As well as maintenance of a lot of net equity can produce other some economics net effects. Accordingly, none relationship master/salve between them is useful. Neither it law is master or it is economics.

For these reasons, economics and law cannot work independently each one another nowadays (PERULLI 2008). Therefore for these same reasons the dialogue, between economics and law, cannot be reduced in the paradigma of law and economics - yet, it must become a virtuos ring cooperation53.

For these reasons again, lawyers must not scare of economics (ICHINO 2005). They neither must run away in front of reasons of efficiency, nor build wall against it, nor envelope themselves into values' ivory's tower. Dumbs (or worst) ever conceived against beforehand every economics' suggestion, and so deaf and blind for that is happening outside tower (DEL PUNTA 2001).

Lawyers could enter into a 'new alliance54 with economist; and so they would together move towards the common goals of human beings' safeguard - all around the human person. If so, these are the start points of new cooperation between economics and law - even whether it must sacrifice efficiency.55 Indeed, this would not be just an illusion - because human beings' safeguard is already itself an equity's benefit.

If so, lawyer wont use some tool of economist to improve his knowledge of real laws' effects, espe-

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52 All quotes in economics this section are by Mankiw 1998...
53 See above p. 9
54 The quip that we does our was by Perulli 2008 p. 136
55 On the opposite, both in law and in economics. See Stiglitz ..., Supiot, ..., Pessi, ...
56 See, e.g. Mankiw 1998 p. 26 about normative statements and how positive and normative statements may be related.
Beyond EU flexicurity ... towards 'total security'

In practice about issue whether or not they are that expected.

So, for instance, he could use, just someones of those we'll consider in this paper: like externality theory, tax distortion effect. At the end, lawyers can use these useful tools without betrays their mission, on the contrary of economist whom make normative statements. Indeed, if is true that whether you hear an economist making normative statements, you know they have crossed the line from scientist to policy maker, the same is not true for lawyer. Because lawyer normative statements are – indeed must – related with Constitutions and Treaties and are made in accordance with them.

An economics reading by normative statements

The our normative statements that now we shall consider are: articles 31 - 34 Nice's Chart. According to article 31.1 'every worker has the right to working conditions which respect his or her health, safety and dignity'. Consequently, a degree of security must be provided regardless of kind of contract. According to article 31.2 'every worker has the right to limitation of maximum working hours, to daily and weekly rest periods and to an annual period of paid leave'. Consequently, a degree of security must be provided by legal rules. According to article 34.1 'the Union recognises and respects the entitlement to social security benefits and social services providing protection in cases such as maternity, illness, industrial accidents, dependency or old age, and in the case of loss of employment, in accordance with the rules laid down by Community law and national laws and practices.' We can consider also article 34.3 according to must be recognized and respected the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources. Consequently, there is a relationship between the economic system in which the product flexible labour is exchanged and the work it has produced. So the first, in its entirety, must be charged for security needed for its flexible operates, rather than job security system.

So, this rights as economics perspective are public goods; their reasonable level is an equity objective. Consequentially, the impact of employers' actions on the welfare (or well-being of bystanders) is an externality either negative or positive. If the effect on bystanders is reduction either security or financial system it is a negative externality.

Accordingly, we can consider externality, for instance, the effects of two actions. Transition between first community and second community\(^\text{57}\) and transition between job security and employment security.

In the first example if transition is from first to second community, externality will be negative – it will be positive in the opposite direction. These externalities work on the micro-level on side of others worker and company (as said as meso level) and at the macro-level work on side of financial and social security system by revenue's reduction.

At the same, transition work in the second example. The sole difference between them is in terms of amount of externality, but not on working of it.

In fact, in both examples externalities affect financings' system of the social security, because relationship is between wages (declared) and financings. In terms of a functional analysis does not much relevant the first action is illegal and the second not. Both damage social security's financings.

Hence, a social security system that working at decent level is 'social good' that can be considered as public good – indeed it is. Better, we consider public good the security – also that inside and around flexicurity.

Indeed, this assumption introduces a partial change of perspective. On the one hand, it enlarge the concept of 'social good' to perfectly overlap public good – because 'social good' should be considered not the poorest or the neediest helping only, in kind separate from social insurance working, but all in

\(^{57}\) See above p. 9 Or else transitions, between one to another community.
one⁵⁸. On the other hand, in the flexicurity market, security become operating underlain it. So, security advantages all people, but not class one or some classes only. Eventually, we say that 'all security' is public good, but not because it is a class' good that therefore can become also a public good, rather because security is public good by itself.

It follows that, jeopardizing security means damage social environment, as well as pollution in natural environment does. Fighting pollution is a good policy - as equity. Ought to reduce pollution is underlain at all. Yet, what is pollution in social environment? Pollution is undeclared work as well as flexibility. The first it is in the highest degree, the second in less degree depending on both its wideness and its point of balance with security. As well as who produces pollution ought to pay the cost of it's reduction, who produces social pollution such as flexibility and undeclared work ought to pay security's costs, this is social security tax. After all, articles 31 – 34.1 Nice's Chert, between them connected, draw as system of EU a widespread social environment clean and pure. As well as we have considered the social rights a widespread system, as it's financial system must be widespread. At same time, we think negative externalities of undeclared work are much more a cause than an effect of it.

There are two matters to solve. On the one hand if undeclared work is undeclared how one will can pay taxes? On the other hand if flexibility is legal how one will can pay taxes?

The two questions have one answer. Each one take advantages by externality, although with in a different amount, each one could pay proportionally to both advantages and damages. One way to do it could be discloses their's effects⁵⁹.

From undeclared work to standard work you can observe a growing of labour cost⁶⁰. One cause of it, amongst others, is taxation on work. In this way social insurance tax distort market towards undeclared work. Indeed, in flexicurity how much more large is flexibility, so much more large is need of security. Accordingly, how much more large is security, so much more large is financial needs. Therefore, while a time, to achieve a given production, it was impossible to escape the relation: work-product, today, however, is always cheaper to flee from model "employment" towards incomplete labour structures or unprotected labour exploitation and of the workers. These models contract, between them at all different: those protected and precarious, a time, referring to the organizing interest was unthinkable replace between them, but that today, with reference to the same business interests, are instead absolutely replaceable. But absolutely irreplaceable remain between them referring to the workers protections.

Consequentially, one loads the only "decent work" - which continues to correspond to employment - weighing finance a system of social protection widespread. It becomes less and less competitive than precarious and exploited. As such primes a bad circle, by trade-off between first and second community or – in less amount – between flexible contracts and standard contract.

If so, the financing of the social security system plays a decisive role on labour costs and on the subsequent choice as to the location of production, well beyond the equally significant differences in economic and regulatory treatment still widely present in the European context. You can find significant deviations values taxation between countries of the E.U., just as long note that the determination of the different "labour costs", it can not be comprehensive or social burden. You can find more differences "labour costs", where are different social security systems: each with its system of funding and protections. (See table 5 in the next page).

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⁵⁸ At the same social insurance should not considered a class' protection.
⁵⁹ See above p. 5
⁶⁰ So also of the and internal security. As well as you can observe a decreasing of needs of external security.
Beyond EU flexicurity ... towards 'totalsecurity'

<table>
<thead>
<tr>
<th>Country</th>
<th>tax system</th>
<th>total</th>
<th>employers</th>
<th>employees</th>
<th>other</th>
</tr>
</thead>
<tbody>
<tr>
<td>EU-15</td>
<td>353</td>
<td>613</td>
<td>359</td>
<td>334</td>
<td>40</td>
</tr>
<tr>
<td>Sweden</td>
<td>40.9</td>
<td>45.9</td>
<td>35.5</td>
<td>31.6</td>
<td>3.2</td>
</tr>
<tr>
<td>Finland</td>
<td>43.4</td>
<td>50.0</td>
<td>37.2</td>
<td>23.8</td>
<td>6.6</td>
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You can infer then the importance that the harmonisation of the financing system of social security of each member country with the harmonisation of protections for workers, their mobility and the movement of businesses. And this all the more for companies with high employment rates.

It is a paradoxical phenomenon. You put as priority targets the problems of employment and "decent work" is observed the effort to harmonise social protections and extend increasingly to work sans phrases (flexibility in flexicurity) rather than one subject in the strict sense. It follows a pattern that makes it ever more expensive and therefore less competitive work protected and less protected work competitive, enlarging divide between protected and exploited subjects disagree with the lines set out in art. 31 and art. 34 of the Charter of Fundamental Rights of the European Union.

The hybrid pattern aims to neutralize the model of contract as the financing of social security sys-
tem, unchanged the fiscal pressure and total contributions. In this way *social total-security tax* does not create externality, but well be the way to aim wages that make it.
Beyond EU flexicurity ... towards ‘totalsecurity’

Hybridisms of system, pathways.

The financial and the institutional situation among Member States, as known, is so different – flexicurity’s pathways does not exclude transferability of each other different idea on it. Now we suppose that a study about changing of Italian security’s financial system can become a transferable ‘idea’.

Starting points

We start by ten matters extract from Italian law – evolution vs involution of Italian flexibility and security. Matter a) Link between workforce and production has broken. a’) Divide between them in ever more growing up.

**Table 6**

*Composition of revenue (IRAP) by economics sector (values %)*

![Composition of revenue (IRAP) by economics sector (values %)](image)

Source: Oropallo – Proto 2006

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61 Even whether USA labour market is too much different respect, generally, EU. The ‘secret idea’ underlain flexibilisation is near USA labour policy. So, could be useful report a news from DELL Inc. This company in the 2007 revenue $11.6 billion of profits. Yet, it predicts 9700 dismissals before the end of 2009.
We consider IRAP as good example, as well because, in the recent past, it has affected by actions to reduce labour cost. The income that it consider is income without deduction of labour cost. As you see in table 6 above (upside) manufacturing sector pay highest percent of tax revenue. As the word say by self in this sector workforce is larger than others. Reading the same table 6 downside (break down inside manufacturing) the observations has been confirmed – so many higher is workforce so many higher is tax. Excepting labour cost, VAT and IRAP have the same basic tax so labour cost, so in a way or in another it borne on the price. As such who produce less trade-off pay in the place of who produces it more. As is intuitive, who is used to hiring undeclared workforce produce a huge trade-off that is dumped on enterprise with higher declared workforce.

Matter b) Discrepancy inside flexicurity cannot be fully overcome, because two comparison's terms are not perfectly replaceable. In fact, the most important part of work-protection rules is not employ or stability with their balance of corresponding security. Rather they are security's facets as safety, human dignity, in general decent work that cannot be secured whether not inside job security. So, these cannot exchange neither one another nor employability nor security without to sacrifice their ends. In this case, flexicurity do not work easily. It could betrays its promise: flexibility's growing up wouldn't have growing down security, too. b') Security's transition from job security to employment security, needs fully replaceable protections between them. b'') Hence, worker's both choice and need to change, or mix among them, several jobs, atypical contacts, self-employment, unemployment, inactivity over the life course should not be driven by protection's particular kind.

Matter c) Some EU policies suggest to reduce labour cost, to reduce impact on wage of the contribution and therefore to switch levying from direct to indirect taxes. In this direction is our hypothesis62. In accordance with EU rules on VAT and suggested policies, it transfer social insurance tax over product; as such all will pay social burdens have or not declared workforce. At same time labour wage and its dynamics are freed of burden of indirect costs which limits somewhat collective action and bargaining.

Matter d) According to economics and social indexes, social burdens, included social insurance tax are taxes. d') Public economics teaches tax could have distorting effects on several matters63. So, if one works on security, even flexicurity, consequentially one touches economics and primes net effects64.

Matter e) Flexicurity policy has – among others – two needs. e') First is to rise quantity, quality and people's number reached by security's measures. Whether it reduces – or hypothetically to cancel - labour market's un-security's degrees or it balances job security exchanged with flexibility. e'') Second is revenue funds to carry out e'). They can be achieved by many avenues. For instance, in Italy it has achieved by levying – both directly and indirectly – work's income. Obviously it increases labour cost, too. (Yet, see above matter c)65.

Matter f) It is being relationship between a) and e), so at needs' invariance and at growing GDP social taxes on work income seem to rise. If social charges become insufficient balance general taxation. Of course, this same effect recurs in b) as well. For instance, you consider the issue of pension in Italy66.

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63 See table 5
64 See table 7
65 For example, in Italy social insurance tax has grown between 1970 to 1998 of 4,3% (GIULIONI 2007)
66 Due to time contraints, we can not discuss about “gestione dei parassubordinati” (A kind of quasi-employees, with their insurances system).
Beyond EU flexicurity ... towards ‘totalsecurity’

Matter g) Frame shows as matter f) contradicts how seen at c) and causes d) effect.

Matter h) For instance in Italy, we observe that handicraft is going to death (with identity, tradition and culture lost\textsuperscript{67}), undeclared work, borderline work, non standard employment, exploited outsourcing either grow or do not reduce\textsuperscript{68}. Because these kind of work do not pay social costs or pay fewer, probably is final result of d), f), g) effects.

Matter i) Even if h) was sole partially true, then the trade-off would be too much. One would be necessary find a point of balance – and of course financing it – to reduce that trade-off.

Matter l) Obviously the perfect model does not exist. Maybe, it is none model better than another. All depends by aims (declared and undeclared), by choices about who must suffers and how much they must suffer, and many others yet.

Italian model

We will not argue about flexibility\textsuperscript{69} rules in the Italian labour law. This matter is outside at this moment. On security, instead, are necessary some statements about the model which we agree.

As known, the most authoritative doctrine (PERSIANI 1973, 1987)\textsuperscript{70} purposed the most modern reading of art. 38 of Constitution if Italy, among many others, with relationship among art. 2 and art 3 of the same Chart\textsuperscript{71}. As well as Persiani demonstrated is more correct call the system social security without divide it into social insurance e public assistance\textsuperscript{72}. Consequentially, the terms of relationship between risks and related benefits were deeply changed. In this doctrine exist one risk\textsuperscript{73} and one social security.\textsuperscript{74} That's for sure, differences among risks, accidents, benefits and in general protection’s regimes are not neither ignored nor overcome nor neglected by him, but perspective and conception are greatly changed. At the same way we shall not consider any nature’s differences among benefits or among assumptions. Eventually, we shall not ask ourself whether a benefit and related source obey either universal or not model.

Our conjecture

In first bar, therefore, we consider, as well as consider flexicurity studies (eg. Vermeyle – Hurley 2007), universal like widespread\textsuperscript{75}. In second bar we shall not consider to change anything about subjective and objective assumptions in benefits, as well as in contribution over workers’ wages. - on the contrary we consider must not change (except possibles little adjustments). What changes is source by employer – we suppose from employers to enterprises. Apparently, it seems as if maxim \textit{cuius commoda eius incommoda}. Really it is the exact opposite.

As it saw above, we assume \textit{commoda} in flexicurity is in enterprises which use flexibility – therefore of the security too – both directly and indirectly. In fact, who more uses flexibility\textsuperscript{76} more needs secur-

\textsuperscript{67} See ...
\textsuperscript{68} Against, this readinf Roccella 2007
\textsuperscript{69} For all, at last Zoppoli 2008
\textsuperscript{70} Adde BALANDI
\textsuperscript{71} We do not want demonstrate anything about this issue, neither add. This theory is the most near to EU flexicurity concept and become our starting points, also because and we agree with its.
\textsuperscript{72} Although this doctrine has many oppositors, and it was not followed by Courts, it is the more nearly to the concept of security underlain Withagen matrix and Withagen – Tros 2004 definition. Therefore, we shall keep it.
\textsuperscript{73} Persiani ... social risk agreeing with
\textsuperscript{74} Persiani ... social security agreeing with
\textsuperscript{75} And not necessarily according to Beveridge's theory.
\textsuperscript{76} To the ends right into 2\textsuperscript{nd} community.
ity, to leave intact the balancing into flexicurity. Because flexibility work in also self-employed the highest degree of flexibility will be when an employer both outsourcing and relocating and subcontracting – for instance by self employers – all production, in way to become simply enterprise without be employer. In this case, the relationship 'so many wages pay so many insurance tax pay' will be broke. Yet, with it will be broken flexicurity's balancing?7, as well.

Hence, conjecture's hybridisms' substance consist to leave all as it is, on side of workers, benefits' assumptions, exchanging criteria to charge on side of enterprises – towards the direction to charge work's results' value rather then wages.

In our example, employees that will have undergone a transition from employment to e.g. self-employment, – indeed former employees – keep in same wages, but not in insurance tax.

This is typical case which flexicurity work, employee - indeed former employee - yet needs security – indeed more security – (e.g. wages, social insurance taxes, etc), but none pay it.

Directly or indirectly, source of financing former employee's security will pay by others employer that do not will have broken relationship 'so many wages pay so many insurance tax pay'. One question might be: is it competitivenes or competition? But here we shall not try to give an answer.

Well, what happen if all an employers broke that relationship? Maybe, the system will anymore have not insurance tax revenue. One will omit natural second conclusion. That one is so much obvious in such way that flexicurity's theologians say: 'trust is a prerequisite of flexicurity'78 (Wilthagen 2004).

If so, and so we read, the security from the reason of trust in the future became a reason of the trust in flexibility. A true aims' heterogenesis. Yet on the trust, paraphrasing Gospel according Mathew79 you might say: 'render therefore unto Man the things which are Man's and unto Worker things that are Worker's'. Accordingly, with trust we can not financing security.

However is, one thing is certain: only people pay taxes. So labour costs, direct and indirect, is charging into products' price. When you make the same product using less workforce or using flexibilisation it increases the need for security and decreases the revenue of the contribution needed by social security.

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77 On concept of abuse of power to define employees, see Ales 2008

78 Vermeylen – Hurley 2007 use Denmark case as example. In fact, they write: -'One example of this is the fact that comparatively weak employment protection legislation in Denmark coexists with a high level of employment turnover: 25% of Danish workers change job each year. This is an accepted trade-off as there is a strong confidence in finding another, equivalent job in a reasonable amount of time, due to both the general economic performance of the country and as a result of Danish active labour market policies.'

Even if this is not quite place to discuss deeply/widely the suggestiveness example (as one should) we observe Denmark in too much different from all, by all, in all of the rest of the EU to doing it's – even only - an example.

Truly, that one is an example of the fact Danish people trust in their system. Yet, it is absolutely not en evidence of relationship between 'weak employment protection legislation' and high rates on employment. Moreover, 'a high level of employment turnover' sounds like an operation equal zero as it, but it does not seem as if en evidence of the fact a high level of employment turnover means more employment.

And so, they specify: 'in order to make flexicurity work, it is important to reflect upon the consequences for all parties involved: for the individual (worker), for the society, for companies. The key element to make this link is trust (This idea is a deepening/widening of the 'square of trust' idea as proposed by Ton Wilthagen, presentation at the Foundation Seminar Series, European Foundation, Dublin, May 2006.). Yet, add 'in order to create this society of trust, European systems have to be adapted to this new reality: social protection systems, labour market systems and social infrastructure'. Even if, at the end, they consider already - exactly - 'there is no 'one size fits all' solution for all which can be transferred readily from one country to another.'

Eventually, in our honest opinion, trust is – indeed cannot be – commodity, as this exportable, even less than work.

79 Mt. 22.21
Beyond EU flexicurity ... towards 'totalsecurity'

The hypothesis

As outlined above the true prerequisite of flexicurity is financial. Yet, different ways of financial charge enterprises' is a huge matter. Hence security or trust, what needs in money. Research establishes the basis for studying the effects of this shift of the source of funding: from taxation on labour towards taxation on products labour.

Summarizing. A) In the flexible labour market all kinds of workers are the same, as consequence of fact that all kind of employment is – as thesis – quality employment. So, protections will be indifferent by contract underlying. If contract provides to worker less wage, security will give him difference. If work contract stop and worker turn in un-employment, security will give him subside and look for new employment. How much cost all this? None know it. Yet, it is sure that all workers will pay for it. Of course, workers’ contributions will be not sufficient to financing security's needs. Indeed, there are many difference among countries, as one sees in table 5, while Table 6 shown where more is workforce, there more is contribution to security. B) System charges the same find of tax on employers and employees of the same employment in the same time (table 5). Even if this is not decisive\(^{80}\), it seems does not work very well, because employers and employees both could cooperate in fraud and – easily – worker might be exploited (SCARPELLI 2008). C) Concept of contribution charge on employee is similar (table 5) all over UE. Differences are strengthen politics and negligible (table 7). Indeed ‘while the European social model is characterised by a diversity of national social systems, nevertheless, a number of shared values can be identified that define the model: universal access, solidarity and equality/social justice. These common elements have contributed to the development of a modern welfare state whose original objective was to mitigate the negative consequences of industrialisation.’ (Vermeylen – Hurley 2007)

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<th>Table 7</th>
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<tr>
<td>2004</td>
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<td>% of GDP</td>
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\(^{80}\) GUER-ZANA 2006 – See also SANTORO 2006, according to this author, interests' contrast, does not a resolutive tool in fighting against tax escape. Yet, it can become it, in connection with more controls and ethics behaviours.
ferent among countries. As well as there are many differences for subject who pay and measure of pay-
ment. (See table 5) This could cause competition at security’s level, jeopardizes flexibility-security-bal-
ance. As we saw above and as we shall see below, jeopardizing balance can be considered negative ex-
ternality.

E) Objective of our hypothesis is neutralize or decrease D) maintaining strong C).

To enhance security and to maintain balanced flexicurity, now disclose results carried out by Oro-
pallo – Proto’s (2006, 2006a) surveys, we think need larger to redistribute social contribution among
enterprises. On the one hand to balance trade-off between flexibility and security. On the other hand, to
remove social externalities of trade-off.

One considers table 8 below here

Table 8
average Irap per quintile of companies list by A.V. per worker (€)

Look at 5th quintile. Normally, labour cost does not deductible from taxable value in IRAP (red bar).
Survey, as reported in chart, makes the hypothesis to deduct either insurances tax (pink bar -CS81) or
entire labour cost (yellow bar -CL82). As you can see the rate of reduction is much higher in 5th quintile.
This is the quintile that pay more tax, because subtract less cost, as the labour cost. If you compare 5th
quintile with total you can observe paradoxical effect: who more contributes to financing social secur-
ity system, and accordingly is less used to employing flexibly worker at the same for undeclared work-
force, more tax pay. Observing per cent reductions by deduction of labour cost, you deduct more is em-
ployment - such as less security’s need - more pay. Noteworthy, that manufacturing industries (and bet-
ter you can see in the set gone off below it), pay much more than all others (table 6).

Indirectly, Italy has experienced this. By Act ___ (as known as 2008s financial act), government re-
duced ’cuneo fiscale83 by act on social insurance tax. Technically, the way to obtain it, by many adds
and subtracts from the IPRAP84 tax base was very very complicated85. Yet, our interest is about the
principle and about the effects on households and on companies of transition between systems of levy-

81 CS = Contributi Sociali, Social Insurance Tax
82 CL = Costo del lavoro totale, Labour Cost (Includes wages, social insurance tax, accident tax etcetera)
83 In the same word: fiscal wedge, such as differential between labour cost e net wage.
84 Regional Tax on income by handicraft, service, trade, industry, etc. but not households. It is aimed – in much part – to finan-
cing healthcare.
85 See about all, Coppola 2007
Beyond EU flexicurity ... towards 'totalsecurity'

ing. These effects have been studied by Oropallo e Proto (2006, 2006a) with reference to more or less large deduction of social insurance tax or entire labour cost from Irap tax base. Now, because Irap, VAT and labour cost are narrowly connected, we consider these surveys a good reason to maintain patency of our hypothesis.

How it saw above, transition among flexibility's kinds or between first and second community has a trade-off. 'Given the multidimensional nature of flexicurity, it is important to strive for an integration of different policy areas. A more coherent policy to tackle the issue, increased interaction between the different elements and between different policies (labour law, labour market policies and social protection systems) is needed to create sustainable employment and social cohesion' (Vermeylen - Hurley 2007)

Such as a mechanism of gradual transition from the various systems to a single system of financing, based on the value added of the work (table8). Mechanism that will be rewarding to those organizations that have high employment per unit of product, and - indirectly - proportionately more onerous for who directly or indirectly determines social dumping as a result of their politics of containment of labour costs.

Indeed, in this it is a pre-requisite as has noted 'an important element in the reflection is the financial and institutional situation of each Member State which has an impact on reform possibilities. It should also be underlined that all reforms require not only a good deal of political courage but might also require time for them to bear fruit, depending on specific economic context. The possible transferability of other 'ideas' on flexicurity depends on economic capacity and institutional policy capacity, including actors, preferences, economic viability and political will to accept these reforms at different levels' (Vermeylen - Hurley 2007).

On one side is expected to act on the same tax base of VAT: increase in rate, or decrease in deduction of valley VAT. (Taxation system that is in Europe already harmonised and between its main source of funding.)

On the other side is expected to intervenes on the tax base for the purposes of income tax: deductibility of higher variable costs increased from taxable income for the purposes of income tax. Wherein the percentage of deductibility determines the share of financing of social security for the work and that of non-deductibility share financing of social security to be borne by the general taxation.

The effects expected from the introduction of the hybrid system are consistent with the recommendations of the European Commission for the relaunch of the Lisbon strategy for growth and employment. Indeed, the system produces these effects: elimination of the tax wedge, with the consequent very close link between labour productivity, labour costs and the net pay; elimination of differences between member countries on how to fullfillment of the social burden: this makes it independent of the contractual shaped for the use of workforce and determines, thus, the increased mobility of workers and enterprises; reduction of black work, because it becomes much less competitive; participation in social spending at the expense also of those who have relocated production but who continue to operate in the common market, in which they selling their products.

'There is no perfect way to do it, whether it is the 'Danish' model with more flexibility for all workers, or a more 'transitional labour market' approach such as the Dutch model in which people move in and out of the labour market.' (Vermeylen - Hurley 2007). The effect of our hybrids is the our way. It should introduce a virtuous cycle to reduce the gap in competitiveness between local production and extra E.U.
Beyond EU flexicurity ... towards 'totalsecurity'

To do

This section risks to become more long than entire paper. The most relevant, in our opinion are so listed.

1) Development each one frame of Wilthagen matrix comparatively with Italian regulation and related security. This one through a triple lens. The first is at level of regulation - evaluation of the net effect of flexibilisation and of its impact in the supreme values of Constitution and TCE. The second is at level of security – specific guarantee with its financing and inside trade-off. The third is at level of trade-off of transition among communities, especially between fist and second community. Consequentially, as well as there is the EU of enterprise, will need to define EU 'secure-worker'.

2) To go into relationship between the need of security and externality – check the hypothesis of a pigovian social security tax.

3) Development of a model to simulate the financial effect of transition towards the hybrid model.

Conclusions

Arriving at end, maybe issues to investigate are much more than those has been solved. The long list of 'to do' above here, than those closed/gone in this paper is better evidence. So conclusions are open ...
## Beyond EU flexicurity ... towards ‘totalsecurity’

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