



**European Commission**  
Justice

## Exchange of good practices on gender equality

### **New forms of work**

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## Comments paper – Croatia

# Flexible working time in Croatia

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## 1. Background

Labour market of former command economy of Croatia has gone through profound transformation since the start of political, economic and social reforms. Until 1990, labour markets were strongly regulated so that workers enjoyed very high employment security and job stability.<sup>1</sup>

With the opening up of national economy the use of flexible forms of work has expanded with the need of employers to adjust their production profile and costs to market conditions, and to do so relatively smoothly. As national employment protection legislation is stricter in the case of workers with contracts without limit of time, requiring certain administrative procedures (advance notice, consultation with the trade union organisation, special protection for socially vulnerable groups) and severance pay, employers prefer to turn to more flexible forms of employment relations.

Unemployment is still high and demographic trends are unfavourable while the share of working age population is decreasing. Croatian labour market is segmented, relatively underdeveloped with low labour mobility. In addition, there is on one hand a relatively inflexible formal sector, regulated by national legislation where the employment relationship is relatively stable (particularly in the public sector), and on the other hand flexible informal sector (which is partly legal and partly unregistered and illegal).

Employment in the formal sector is carried out by permanent or temporary employment contract (in 2010. total employment rate was 54.1% of which 59.5% for men and 48.8% for women). There is very high share of long-term unemployed (woman's long-term unemployment made 58.2% of total woman unemployment in 2006.)<sup>2</sup> Among the long-term unemployed prevail unskilled, semi-skilled, those with basic school and three years secondary school. This is the most serious problem of labour market development and avenue to unemployment and social exclusion. Self-employment's share has grown to 38.3 in 2008. (16.7 of women). Women entrepreneurs make 30% of the total national SME owners.

In Republic of Croatia dominant forms of work contracts are fixed-term work and civil contract (service contract). Despite the fact that flexible forms of work help in harmonisation of working and family life, which is especially suitable for women workers, use of these forms of work is primarily a consequence of reduced workload.

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<sup>1</sup> While under the previous regime flexible forms of employment were rather exceptional and limited only to certain categories of workers (managers, academics, seasonal workers), since 1990 they have become more frequent and available to more categories of workers, both white collar and blue-collar. Under flexible forms we understand labour contracts with limited duration (fixed-term and short-term contract), agency work, part-time employment, home work, on call work, multiple-job holding etc.

<sup>2</sup> It is also worth highlighting a number of difficulties which women face in finding employment: There are not enough jobs in the country; Employers prefer men; Women take care of children/parents; Women do not have knowledge and skills demanded in the labour market; Women do not have organised daily child care; Women do not have skills to search for jobs; Women do not have adequate work experience; Lack of flexible working opportunities (Current position of women in the Croatian labour market, Assessment report, June 2011.)

Although a large number of permanent contracts is an indicator of stability in the labour market, suggesting that the degree of security in employment is still relatively high, increased conclusion of fixed-term contracts has been recorded in 2009 (11.6%) More than 75% of newly concluded contracts are fixed –term contracts. There is a visible new tendency to concluding short, fixed-term contract (1-6 months contracts). Young people and women are particularly exposed to such non-standard employment.

Because full time work is still norm there is comparatively low share of part-time employment, ranging mostly between 8% and 9% of the total employment. Amended national labour legislation, newly established public employment services and labour market policies have facilitated these changes mostly by reducing high employment protection in existing jobs inherited from the previous regime. Employment security is perceived to be achieved through the provision of employment services, income support and active labour market programmes. However, the weakness of the labour market institutions, shortcomings in collective bargaining<sup>3</sup>, combined with poor law enforcement, are factors that have contributed to a high level of labour flexibility and a workers' perception of job insecurity.

At the same time the labour market continues to be characterised by phenomena of horizontal and vertical segregation and to reflect the major areas of inequality between men and women particularly in access to jobs, correspondence of women's level of qualification and the quality of their jobs, career progression, pay and experience of discrimination and harassment. It is mainly women who undertake unpaid work for the family and there is still over-representation of women in some sectors and in part-time work, less skilled jobs, atypical and/or temporary contracts.

The main barriers to woman's equal participation in the Croatian labour market can be divided into two broad categories:

- practical barriers, such as access to affordable and flexible childcare and flexible working arrangements; and
- cultural barriers, including the persistence of informal networks from which women are excluded, unease about women in positions of authority, and continuation of working cultures in which women are not encouraged or expected to succeed.

## 2. Institutional and legal framework

### 2.1. Flexibility in the labour market

Labour market flexibility was influenced by the legislative reform which was implemented in period 2003.-2009.<sup>4</sup> The aim of the reform was a substantive

<sup>3</sup> In terms of social dialogue, trade unions are more active in the public sector and large enterprises, most of which are privatised. On the other side sector of small and medium enterprises do not provide a stable environment, and activities of trade unions in this area are scarce or completely absent, leading to insecurities of workers employed.

<sup>4</sup> Labor Law, Official Gazette, 38/95, 54/95, 65/95, 17/01, 82/01, 18/03, 82/03, 30/04, 77/04, 68/05, Law on Retirement insurance, Official Gazette, 212/98., 127/00., 59/01, 219/01., 87/02., 117/03, 30/04, 177/04, 92/05, 35/08, Law on Health insurance, Official Gazette, 94/01, 88/02, 89/02, 117/03, 30/04, 177/04, Law on Protection at Work, Official Gazette, 59/96, 94/96, 18/03; Criminal Law, Official Gazette, 121/97, 27/98, 50/00, 129/00, 51/01, 111/03, 190/03, 215/04, Civil Procedure Code, Official Gazette, 53/91, 91/92, 112/99, 88/01, 117/03, 88/05, 02/07 (Constitutional Court Decision), 84/08; Act on employment Mediation and unemployment Rights, Official Gazette, 32/02, 80/08; insurance Act

harmonisation of national legislation with the EU regulations in accordance with the Agreement on Stabilisation and Association between the Croatian and the European Community and its Member States.<sup>5</sup> So far flexibility is achieved only partially. The reason is the state of the national economy, which needs to create the preconditions for such a flexible development in which the flexible solutions on the market would go hand in hand with certain degree of security for workers, and not referring necessarily to job security, but to employability. The final outcome of negotiations between social partners and the Government is the hybrid situation in which not all forms of work can be classified as employment, meaning that the protection offered by the Labour Act cannot be provided for those who perform different type of economic activity (people who work under temporary service contracts, performing certain tasks for the employer who is required to pay compulsory contributions). Legal regulations are obviously not fully harmonised.<sup>6</sup>

Significant changes in the Labour Code took place in part which is related to the termination of the fixed-term contract: reduction of the amount of severance payments and shortening of the notice periods. Furthermore, the Act introduces the ability to provide services using temporary employment agencies. The Law also stipulates work in a separate place of work allowing the development of telework. In the new Labour Act categories of workers employed on fixed-term basis and part-time job are now better protected.

## 2.2. Equality in the labour market

### 2.2.1. Legal framework

**Croatian Constitution** has promoted gender equality as one of the highest values of the constitutional order and as such made it a basis for its interpretation<sup>7</sup>. However, daily discriminatory practice at all levels of work and employment, as well as within the family itself prove Constitution as insufficient protective mechanism.

The position of women in the Croatian labour market has been mostly determined by the provisions of the **Labour Act** passed in 1995, which after lengthy *vacatio legis*, started to be implemented at the beginning of 1996. The same law lived through

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workers' claims in case of bankruptcy of the employer, Official Gazette, 18/03, Law on Vocational rehabilitation and employment of People with disabilities, Official Gazette, 04/02, 33/05

<sup>5</sup> The Stabilisation and Association Agreement, Official Gazette, International Treaties, 8 / 01

<sup>6</sup> For example, the Act on Employment Mediation and Unemployment Rights defines unemployed persons as one that is capable or partially capable of work, aged 15-65 years who is not employed, actively seeking work and available for work. However in addition the rights are extended to those who: 1) do not realise monthly income from providing services to special regulations or makes monthly income, or income from other self-employed according to the regulations on income tax, which is higher than the minimum monthly base is calculated on compulsory insurance contributions according to special regulations, 2) do not have registered corporation or other entity, or no more than 25% of shares in a company or other legal entity, 3) do not have registered business, leisure interest or agricultural and forestry activities, 4) are farmers under the regulations of insurance Act, 5) are employed under special regulations, 6) are not pensioners, but the pension beneficiaries who qualify for disability pension on the basis of professional incompetence for the work, 7) are not eligible for early retirement and old age pensions, 8) are not regular students or a students. On the other hand the Labour Law does not consider that people who work under contracts employed as a worker is considered a natural person who is employed in performing certain tasks for the employer, despite the fact that because of such aspects of work are required to pay compulsory contributions.

<sup>7</sup> "Freedom, equal rights, national equality and equality of genders, love of peace, social justice, respect of human rights inviolability of ownership, conservations of nature and the environment, the rule of law an democratic multiparty system are the highest values of the constitutional order of the Republic of Croatia and the ground for the interpretation of the constitution." Article 3 of the Constitution of Republic of Croatia, Official Gazette, No. 41, 2001.

significant changes and appendices in 2001, 2003, 2004 and in 2009 when in its *corpus* became *mutatis mutandis* integrating provisions of the relevant EU directives in the area of gender equality.

Further, on 15 July 2008, the Croatian Parliament adopted the new **Gender Equality Act**<sup>8</sup>, which is aligned with the provisions of valid international standards and with EU legislation dealing with gender equality.

In July 2008, the **Act on Maternity and Parenting Rights** and Allowances prescribed the basic entitlements of employed, self-employed and unemployed mothers/parents to parental leave and allowances given in the Labour Act and the Act on Maternity Leave for Self-Employed and Unemployed mothers.

### 2.2.2. National policies, plans and strategies

- National policy for Gender Equality for the Period 2011-2015<sup>9</sup>;
- Women's Entrepreneurship Development Strategy 2010-2013<sup>10</sup>;
- National Employment Promotion Plan 2009-2010<sup>11</sup>;
- National Employment Promotion Plan 2011-2013;<sup>12</sup>
- Strategic Development Framework for 2006-2013<sup>13</sup>;
- Joint Assessment of the Employment Policy Priorities of the Republic of Croatia<sup>14</sup>

Croatia has also established strong national mechanisms for gender equality at central and local levels such as Ombudsman, Ombudsperson for Gender Equality, The Parliamentary Committee for Gender Equality; Governmental Office for Gender Equality, Coordinators for gender equality at the level of all ministries, Gender Equality Committees on the county levels; Labour inspection; Trade unions (legal representation in the matters of the violation of the principle of gender equality).

## 3. Forms of flexible work

Although employment flexibility is an underlying trend that has developed for many years, its forms, dimension and dissemination are remarkably diverse: "flexibility policies trigger the emergence or reappearance of various forms of atypical jobs characterised by factors as diverse as working hours, the duration and type of contracts, schedules, workplace and form of remuneration."<sup>15</sup>

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<sup>8</sup> Official Gazette, 82/08

<sup>15</sup> Official Gazzete 88/11, second National policy for the promotion og gender equality 2006-2010 - the basic strategic document of the Republic of Croatia for eliminating discrimination against woman and establishing real equality between women and men.  
Official Gazzete 114/06, and the first National policy for the promotion og gender equality 2001-2005- Official Gazzete 112/01

<sup>11</sup> The idea of the Strategy is to increase the number of female entrepreneurs and create the conditions to involve a larger number of women in the labour market and reduce their high unemployment rate.

<sup>12</sup> Plan strongly addressed the status of women in the Croatian labour market and proposed implementation of different measures for improvement of the position of women in the labour market

<sup>13</sup> Plan shows that the focus is on increasing participation rates on prime age women with lower educational attainment and envisaged activities and include a programme for raising motivation this category into training.

Most common forms of flexible working arrangements in the Republic of Croatia are as follows:

### 3.1. Temporary labour contracts – fixed-term contract

The general trend in all transition countries, including Croatia has been an increase in the proportion of temporary contracts in employment contracts from 1990s (11.6% in 2009.) Like in majority of the EU countries the tendency is also towards a higher use of time-limited contracts, facilitated by the deregulation of employment relations. As for the incidence of time-limited contracts by sex, it seems that women prevail in the number of newly signed fixed-terms contracts.

The reason for the relatively low application of temporary contracts until now may be certain legislation rigidities and the opposition of trade unions, but also significant decline in the length and costs of employment termination for employers. Obviously trade unions oppose the weakening of employment protection legislation (EPL), in particular the expansion of flexible forms of employment, advocating primarily for limitation in the number of consecutive fixed-term contracts. Therefore the extent of these forms is also an indicator of the trade unions' power. There may also be different practice for small firms, for whom the permanent contracts may be unacceptable due to their volatile position in the market, and limits on temporary contracts are more suitable to the policies of larger companies. National labour legislation in the field of fixed-term work is harmonised with EU Acquis.

### 3.2. Part-time employment<sup>16</sup>

Only a small proportion of workers work part-time. Workers in Croatia are not very interested in shortening their working hours and earnings because the low level of wages means that any wage reduction has an impact on the household budget. Employers also prefer full-time employment claiming that part-time contracts do not usually bring sufficient cost reduction to counterbalance the negative effect of the unavailability of part-time employees to their colleagues and clients during regular working hours, while job sharing in fact poses additional costs. **The sole reason for part-time employment in Croatia is temporary or permanent lack of work.** Higher part-time employment may therefore indicate higher involuntary underemployment in the country. Share of involuntary part-time work has been higher than 40%. Indeed,

<sup>14</sup> According to Framework active labour market policy needs to be directed towards long-term unemployed persons and particularly vulnerable groups.

<sup>15</sup> In the last chapter "Employment Challenges and Priorities for action" strongly points out the importance of higher and faster economic activation of women in Croatia.

<sup>16</sup> Plantenga J., European constants and national particularities: The position of women in the European Union labour market, in: Dijkstra and Plantenga (eds.), Gender and economics: A European perspective; Routledge, London, 1997.

<sup>17</sup> According to art.43 of Labour Act 2009 an employee shall not enter into part-time employment contracts with more than one employer that result in the total working hours lasting longer than full-time working hours (40 hours per week). When entering into a part-time employment contract, the employee is obliged to inform the employer about the part-time employment contracts already entered into with another employer or employers. If the previous duration of employment with the same employer is important for the acquisition of certain rights, the periods of part-time employment shall be considered to be full-time employment. The employer shall consider an application submitted by an employee who is a party to a full-time employment contract to conclude a part-time employment contract or an application by an employee who is a party to a part-time employment contract to conclude a full-time employment contract, if there are possibilities for such work with the employer.

faced with financial problems many enterprises turn to shorter working hours of all or certain categories of workers to bridge this difficult period. Croatia has experienced a certain increase in the share of part-time employment in total employment. Despite the high unemployment rate (16,8%) in Croatia, only about 8.7% of total employed persons work less than full time, from which it can be concluded that this institute is still rarely used. Of the total employed persons working part-time 11.1 % are woman and 6.8% are men. Part-time work is mostly registered in primary and secondary education, then in agriculture, followed by services, and at least in industrial activities. Instead of concluding part-time contract employers very often use service contract (contract for work), mostly illegal, since it is concluded for the work with characteristics of employment.

Woman workers are overrepresented among part-time workers. A more frequent incidence of part-time work among woman is connected with their primary responsibility for childcare and care for elderly, still rarely done by men, and this arrangement enables them to combine employment with family responsibilities. Moreover, combination of part-time employment and maternity/parental leave without losing entitlement to allowances is utilised quite often. **However, it is important to emphasise that part-time work in Croatia is generally not a wilful choice of the person, but is still primarily a consequence of insufficient workload.**

Institute of labour cost per hour is not in use in Croatia. The reason probably lies in the difficulty for employer to calculate all the taxes, surtaxes and benefits to be given to the state. No wonder that many are prone to such arrangements.

### 3.3. Temporary Agency Work

Agency work was not legally regulated until 2003, so by now the use of temporary agency work is rather limited (it is estimated that around 3000 people per year have found jobs using the services of temporary employment agencies). National legislation in the field of temporary agency work is harmonised with the EU legislation.

### 3.4. Multiple-job holding<sup>17</sup>

No reliable statistical data could be found for multiple-job holders in Croatia. Comparing the average monthly incomes and relatively high cost of living in Croatia, it is easy to conclude that workers have more jobs to satisfy their existential needs. The structure of employment shows that ½ of such workers has additional regular employment, the third occasionally, and about 1/5 seasonal. Duration of additional working hours of work has increased, so that most workers worked 11-20 hours, while the share of those who worked 10-12 hours is reduced. The structure of categories of employees who perform multiple jobs are largely those with above-average stable employment and regular income (42.7% in the public sector and 43.6% in the private sector). The cause probably lies in their fixed schedule that allows them to work in their spare time, while

<sup>18</sup> Multiple-job holding is another form of flexible work arrangement, where workers hold a second, usually part-time, activity besides their main job. This form of work negatively correlates with the economic level of the country, that is to say that the more economically developed countries tend to have lower shares of workers engaged in two or more jobs, and vice versa. This phenomenon seems to apply more to a „survival strategy“ for poorer households trying to gain an additional source of income, which is obviously more important in less economically advanced countries. For firms this kind of employment also seems to be advantageous, as second job holders are usually weakly protected by legislation against employment termination. Multiple-job holding is closely interrelated with informal employment.

those who do not have a fixed schedule and have poor working conditions can not easily make additional sources of income.

### 3.5. Telework/Homework

In the Republic of Croatia telework has been introduced in national labour legal system by the Labour Code in 2003 and the same legal solutions have been kept in new 2009 Labour Code.<sup>18</sup> In relation to employment rights teleworker is in the same position as workers who work at the employer premises. Taking in consideration that the regulation of telework is of newer span, there is no judicial practice in Croatia yet, which could be parameter of quality of mentioned legal solutions. It is still ahead of us to see if future usage of telework and potential judicial practice in this domain will point to the need to change or amend present legal solutions. To conclude, work from home can obviously function only with good IT support. If we take into account the statistical data on the computerisation of the Republic of Croatia (58% of total population, age 15 and over) we come to the conclusion that telework still does not have the necessary prerequisites.

### 3.6. Civil and other non-employment contracts

„Civil contracts“ concluded between two parties for a certain task or activity within an agreed period of time and regulated by civil rather than labour law, existed before 1990 but their incidence was limited to casual or seasonal activities unconnected to the main employment or other economic status of the worker.

Since 1990 these contracts have increasingly been used as a substitute for regular employment contracts, as employers find them administratively and financially convenient. Unlike regular employment contracts, employers are not obliged to provide these workers with safety equipment, in principle they are not responsible for any eventual occupational disease or accident in the workplace, and employers do not need to cover social contributions. Termination of such agreements is very simple, without any obligation for either of the two parties. Because of limited duration of such contracts, workers are not entitled to any seniority pay based on the length of service so that the total remuneration for these workers is low, as are the total labour costs for employers. Workers working under civil contracts (contracts for services) are usually statistically counted as the self –employed. Increase in abuse of service contract is evident.

### 3.7. Organisation of working time

Staggered hours, flexitime, compressed work-week, annual hours etc. present a large range of possibilities of organisation of working time arrangements for employers to

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<sup>19</sup> According to art. 19 employment contract for teleworker has to include, besides clauses that every other contract of employment has to contain, following data: daily, weekly or monthly working time, obligatory presence of worker at the workplace, term, time and mode of supervision and control of quality employee's work, machines, tools and equipment that the employer has to provide, install and maintain for worker, conditions of usage of worker's equipment, tools and machines and usage compensation, rights and costs of vocational training. Such contract could not be concluded for work on short time because performance of that kind of work has damaging effect on worker's health and security. Regulations from Labour Code concerning schedule of working time, short working time, overtime work, redistribution of working time, night work and daily break do not apply on teleworkers.



make a maximum of their employee's working time. Most of these forms of work time schemes are underrepresented in Croatia. On the other side there is great **exploitation of overtime work**.

### 3.8. Overtime

In Croatia there are frequent cases of abuse of overtime, especially in the private sector. The legal maximum overtime is 10% of the working time (18 hours a month on average). The cause of the abuse of overtime is large supply of labour force in the labour market, high unemployment rate, low efficiency of labour inspectors, and inadequate penalties for employers. Economic impact of overtime abuse is prevention of new employment opportunities. Overuse and misuse of overtime have a long term consequences for Croatian economic development, as well as for the social status of citizens, as long abuse of this institute leads to occupational diseases, psycho-physical disturbances, etc., and consequently leads to a mass phenomenon of shortening workers working life.

The other problem is unpaid overtime. It seems likely that the increase in unpaid overtime is related to the shift towards a service economy. In addition, it is becoming obvious that the unpaid overtime work is strongly related to socioeconomic position of the workers. On the other hand, overtime seems increasingly not compensated by money but by time off.

In tackling overtime work in March 2011. Parliament has adopted Regulation on the content and method of keeping records of employees.<sup>19</sup> According to this Regulation employers have to keep everyday records of employees and their working time. It is still too soon to see the implications of this Regulation.

## 4. Policy debate

During the process of creation and implementation of the flexicurity model in each country, including the incorporation of the flexicurity components<sup>20</sup>, it is important to take into account the situation, conditions and specifics of its labour market. One of the prerequisites for the development of flexicurity and its effective implementation is supportive and productive **social dialogue** between social partners and public authorities, their mutual trust, and a highly developed system of industrial relations. (Collective agreements and rules of work may provide conditions for a modern work organisation, improving the numerical and functional flexibility, while maintaining the safety of workers).

It is evident that the public administration has an important role in the implementation of flexicurity as it has to explain to its citizens why some changes in society are necessary, and to secure measures and policies for implementation of these changes. Therefore, the role of the public authority is to define the legal framework and adopt a policy that promotes a partnership in which all participants are willing to take part of responsibility for changes. Thus, **the flexicurity is a shared responsibility**.

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<sup>20</sup> Official Gazzete, 37/2011

<sup>21</sup> Flexicure contractual relations and work organisation; effective active labor market policy, a system of lifelong education and well-designed social security system, with adequate development of productive social dialogue

For the implementation of flexible labour market policies in Croatia it is necessary to simultaneously improve **social protection systems**, which manifests itself in a **proactive approach, integrated approach across different sectors, particularly between unemployment and social welfare**. Furthermore, it is necessary to link better **protection system for employment with social protection systems**. Specifically, the reduction of job security is necessary to compensate with adequate levels of protection in the field of social security. Before the new legislative package in the field of labour and employment came into force, a high degree of social protection existed, but of the passive type. However, in the active labour market policies, the individual is expected to have more active approach in seeking employment.

Furthermore, in order to ease creation of jobs, the Government should restructure some budget expenses, and reduce allocations earmarked for severance payment and welfare during the notice period. Those assets should be redirected to users in the form of a larger share in the coverage of cash benefits for unemployment, and the extension of rights to compensation. Otherwise, the mechanism will not be effective and will not produce effects that are expected with adoption of the aforementioned new legislative package.

In order to achieve a labour market measures, social partners in Croatia need to **compromise between labour market flexibility and employment security**. The easiest way to harmonise requests of social partners is through a **decentralised collective bargaining, where both parties have a greater role and freedom in realising their goals**. Apart from partnership development, the **social partners should share responsibility for developing expertise and skills of employees and assist them in maintaining high levels of employability**.

With the aim of achieving a flexible workforce Croatian employers should put emphasis on human resource development and use of modern techniques of human resource management to create a workforce that is able to perform a variety of complex tasks and solve various problems, workforce that can easily adapt to market demands.

On the other hand, Croatian trade unions need to help their members to abandon their beliefs according to which the worker has to keep the same job lifelong and perform the same type of work. Rather, they need to represent the skill flexibility, employment security, which includes a job change, through a system of lifelong education, system of preparation for employment, employment mediation and with active policy measures through subsidised employment, retraining, and activation.

Challenges that the global education market brings in terms of lifelong education, set Croatia before an imperative of fundamental changes that will enable global competitiveness of the Croatian education. Unlike the situation in the second half of last century, the Croatian education, except in rare exceptions, has lost its quality as export product and at this moment there are no indications that this will change soon. (Lifelong learning participation was 2.3% of population aged 25-64 in 2009.)

In the debates on employment policy, the issue of flexibility is rarely associated with that of gender equality. The concept of equality between men and women in the world of work is spontaneously viewed in term of occupational equality and it is now necessary to focus on the inequalities of employment conditions.

Gender segregation on the labour market takes the form of a concentration of female employment in specific jobs and failure to recognise women's qualities, skills and qualifications. It is perpetuated through maintaining the areas and forms of employment exclusively entrusted to men. It is well known that women are over-represented in

atypical jobs that are particularly disadvantageous in terms of status, pay, work schedules and prospects for advancement.<sup>21</sup> For this reason, policies aimed at increasing employability, including good solutions in the area of employment flexibility must be given a central place in any discussion of gender equality on the labour market.

Equality and the improvement of the status of women at the labour market are regarded today as a main challenge by the Croatian government. The needs are quite obviously arising from facts such as a low female employment rate (58% compared to more than 70% of men in 2009 according to Eurostat figures) and a number of other indicators (e.g. on work life-balance, childcare facilities).

## 5. Transferability issues

As reported in a recent report by the Croatian government, the Office for Gender Equality in 2009 carried out a survey on "Perceptions, experiences and attitudes concerning gender-related discrimination in the Republic of Croatia", which examined perceptions, experiences and attitudes concerning gender (in)equality at the workplace on the labour market. The research concluded that there is a tendency towards committing gender discrimination against women in the business and professional sphere of the labour market, especially when it comes to better paid jobs and expectations of co-operation from their male colleagues.

Despite some progress in the context of developing a policy framework on gender equality (Gender Equality Act, "National Policy for the Promotion of Gender Equality") the situation of women in the labour market is still problematic as women are affected disproportionately by the widespread use of fixed term contracts and discouraged from complaining about discrimination. Statistical data and sufficient number of comprehensive research results in this area are still missing.

Croatian employment service has been implementing the project "Supporting equality in Croatian labour market" within Community Programme Progress which started in 2009. The global objective of the project was to contribute to development of successful implementation of national policy to combat discrimination on the labour market. The project included three components: identification of main features of discrimination in Croatian labour market; provision of support to labour market stakeholders for more efficient inclusion of antidiscrimination issues in labour market activities and policies; promotion of diversity among employers in Croatia. „Compendium of good practise examples in promoting diversity and implementing antidiscrimination measures in the labour market“ was part of the project that introduced a broad set of ideas that might be implemented against different forms of discrimination, including gender discrimination. The good-practices were selected from different EU countries and covered different levels of intervention as well as different forms of discrimination. One of the examples of good practice was the project carried out by the Croatian NGO "CESI" (Center for education, counselling and research) in 2009 which resulted in raised level of knowledge and empowerment of 450 representatives of the trade unions in the textile, leather, and rubber sector.

Institute for Market Development organised recently "Diversity Award", as part of the project "Promoting diversity in the Croatian labour market" which is funded in 2011

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<sup>22</sup> Meulders, D., *La flexibilité en Europe*, in: Maruani M., (ed.), *Les nouvelles frontières de l'inégalité – Hommes at femmes sur le marché du travail*, La Découverte-Mage, Paris, 1998

under the Community Programme Progress. Employers are notified and are currently taking participation in the contest. The results are expected to be publically announced in November.

## 5.1. Constraints

In such a context of global, European and regional challenges on one hand, the employers' demands for increased competitiveness and capital accumulation, capacities may be plausibly formed around demands for further labour-markets' flexibilisation, as indeed they are. On the other hand, unions' and wider society's demands for greater legitimacy of labour markets' outcomes may plausibly be based on agenda of greater and more universal workers' security, as indeed they are.

Both long-term trends in employment and work and more pressing requirements of the EU accession processes are making the present equilibrium between employers, unions and government – hardly sustainable.

- 1.) Many firms are feeling increasing global competition which is calling into question existing arrangements – however responses are differing, as employers are learning how to organise flexibility and how to transfer the burden on employees through extensive use of fixed-time and overtime. For large privatised firms with high unionisation rates major avenues to flexibility have become subcontracting, fixed –term contracts for new positions and/or working-time (re)organisations.
- 2.) There is unfinished agenda of restructuring and privatisation, including the public sectors too. While for years a dominant strategy of restructuring has been reduction of workforce assisted by schemes of early retirement, in presence of rising dependency rate, this is losing its credibility - making all actors' choices harder, and putting increasing pressures on active labour market policies to be developed appropriately.
- 3.) Unions' strategies have proved successful in protecting some sectors of the workforce from excessive marketisation (particularly where unionisation has remained high), but they also contributed to the workforce segmentation, and put out of unions' reach an increasing share of workers.

As highlighted earlier, Croatia used to be a high job security country, and presence of that legacy is still highly felt in public sector, state-owned firms, even in large privatised firms too, all belonging to the 'core' with relatively high union density and collective agreement coverage. In presence of that strong path-dependencies, a **challenge of substituting a system of job security with one based on employment security, including greater external and internal flexibility – is certainly overwhelming.** Critical in this process might be lack of trust between social partners.<sup>22</sup> Even if some progress has been achieved with education reforms as well as with labour market policies, still there is no guarantee that, even if embraced by all actors, Croatian triangle will be 'golden' at all. There are numerous reasons for scepticism: they concern macroeconomic deficits, microeconomic incentives as well as deficits of social capital.

<sup>23</sup> As Wilthagen and Tros put it: 'Trust is a major factor here. If levels of trust are low or absent, either among social partners or towards the government, flexicurity strategies can be expected to meet with strong opposition and mistrust.....countries, sectors and companies that lack a tradition and platform for coordination and negotiation seem to be at a disadvantage when it comes to producing flexibility-security trade-offs' (Wilthagen and Tros 2004)

**Firstly**, for countries facing serious public finance problems, including those arising from extremely high dependency rates, with low participation and ageing, it may be very hard to considerably increase spending on both - passive labour market policies (PLMP) and active market policies (ALMP)<sup>23</sup>.

**Secondly**, employment regimes of mature market economies are the outcomes of specific evolutions. For example, Danish system has also been developing through long historical processes leading to evolution of 'negotiated economy' in which there is a high level of trust between social partners<sup>24</sup>, which has an enormous importance in the process of introduction of flexicurity in labour relations. Present situation in Croatia is very different – while formal institutions of social dialogue exist, social partnership is underdeveloped and faced with important barriers, mutual distrust being the important one. Tripartite Economic and Social Council is functional and some progress in its work has been made, yet it remained too much formal with the government clearly dominating over the agenda and the other two actors.<sup>25</sup> Collective agreements coverage is at somewhat less than 50%. Office for Social Partnership's report is asking for urgent regulation of unions' representation in collective bargaining.<sup>26</sup> Representation and legitimacy is a major problem for employer's associations too. Defining representation criteria in line with the ILO standards is urgent.

Additional problem is practice of Collective agreements' (CA) extension to non-covered firms/employees - presently no evidence to prove that public interest for such an extension exist at all. While unions are prone to 'make out of exception a rule', it actually weakens the bipartite dialogue. Extensions are criticised by CEA as contrary to freedom to enterprise and voluntary nature of bargaining.<sup>27</sup> Problematic is CAs enforcement too. Implementation is rather weak, with surveillance and enforcement mechanisms underdeveloped.

Effective social dialogue is underdeveloped. Even if 'flexicurity' is providing actors with common terrain, it seems that is up to the state to take the lead, trying to 'satisfy' both sides.

**Thirdly**, the unemployment insurance design raises moral hazard issues that are much more difficult to overcome in countries where individuals are more prone to cheat over government benefits and where officials are more prone to engage in corruption over supply of benefits. In addition, increased benefits may increase the benefits of one's engaging in informal work, especially if there is abundant supply of it. Culture is certainly important, as are civic attitudes towards government benefits. Yet there opportunities for designing policies which will change incentives (e.g. strict job search requirements and tight eligibility criteria) but taking into account historically formed preferences.

<sup>24</sup> *It may be prohibitively costly to finance the system*: In countries with high unemployment, increasing unemployment benefit (i.e. replacement rate) might sharply increase their costs with negative impact on the tax wedge and on budget deficit. This should be avoided, particularly in countries, as Croatia with demographic trends leading to decreased numbers and share of people of working age.

*Increased flexibility in the context of opening to globalisation forces* may actually increase the share of non-competitive workers to be gradually expelled from the labour market. In addition, pressures on increase of public spending may certainly increase, resulting with an increase of budget deficit.

<sup>25</sup> Madsen 2005

<sup>26</sup> Cimeša and Marinković Drača 2002; interviews at UATEC).

<sup>27</sup> Namely, due to liberal treatment given by the law even to small unions (10 members are enough to get national registration and tariff legitimacy) and when more than one union exists: all have to be represented in negotiations. Very common are conflicts over negotiation team, but also obstruction by smaller unions or misuse of dominant position by larger ones. OSP 2006)

<sup>28</sup> Rebac, I., 'Kolektivno pregovaranje u Hrvatskoj (Collective bargaining in Croatia)', *Radno pravo*, 2006.

In conclusion, it should be borne in mind, as far as flexicurity is concerned, that economic, social and labour market reform processes in Croatia during the last decade were not so much driven by the guiding principles of flexicurity.

## 6. Recommendation:

- The government of Croatia should further develop social dialogue based on the principles of mutual recognition and respect. The Croatian Economic and Social Committee should prepare a strategy to advance social dialogue, with the support of the European Commission.
- The goals of the lifelong learning programmes should be set with the medium-term objective of helping the Croatian workforce. In doing so, special attention should be paid to less skilled workers. Comprehensive strategies for lifelong learning should be established and implemented on a tripartite basis. The European Commission should support this initiative which could significantly improve the socio-economic situation in Croatia.
- The European Commission should work with the Croatian Government to set up an independent statistical institute that would collect data on the labour market. It appears that there is a lack of such studies, although they would provide major added value to the work of the social partners and the Croatian Government. This would allow them to work on shared and objective data, with a view to properly assessing where and how the Croatian labour market could operate with greater flexibility and security.<sup>28</sup> Analysis of these data would help to understand and highlight, inter alia, gender differences.
- Improving access to paid work for women through:
  1. childcare and elderly care (increase of funding for childcare and care for other dependants; providing incentives to companies for building and maintaining childcare facilities; providing support to employers who offer their employees career breaks; child care and other family support services; more liberal conditions for private child care services;
  2. flexibility – even though there is a debate of long-term consequences of part-time work for gender equality, there is a need for promotion of flexible working arrangements that allow a better reconciliation of work and family life in the form of flexible working hours, flexible workplace and flexible work contracts.

It is important to stress that conditions and quality of flexible working arrangements must be strictly regulated in a way that provides social security –equal access to well paid jobs and guarantee equal treatment with those with full time in terms of pay, benefits and promotion, as well as possibility of easily shifting from one arrangement to the other.

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<sup>29</sup> When key actors and social stakeholders in Croatia discussed the issue of flexicurity in the context of the EU-Croatia Joint Consultative Committee (JCC) in 2009, the following conclusions were drawn on key aspects in regard to an effective implementation of major flexicurity principles.

## 7. Conclusion

In conclusion, first problem in Croatia is misuse of some flexible forms of work and underuse of some other non-standard employment arrangements. The second problem is related to the lack of awareness that women are overrepresented in this kind of employment, not as a consequence of their will, but as the consequence of reduced workload or misuse of some forms of work, which means that they hold temporary, insecure or even informal jobs, in other words they hold weak position in the labour market, making them more vulnerable to poverty and external shocks, such as recent economic crisis.

Croatian society must strengthen institutional protection of women's rights, encourage the work of women's think-tank associations, develop atypical forms of employment contracts and initiate transition from fixed to flexible working hours. Such an approach, coupled with changing in educational policy, education of judges and labour inspectors in the domain of gender equality, as well as more intensive and more responsible role of the media, strengthening of labour courts and speeding up of their activity can lead to modus for breaking down stereotypes and achieving equal distribution of responsibilities in family and working environment, affirming the principles and values of equality as inseparable part of individual's integrity in general.

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