



## Mutual Learning Programme

### Peer Review on 'Dismissal Law 2.0. How to promote work-to-work transitions and sustainable labour relations?'

22-23 October 2015, The Hague (Netherlands)

#### *Executive Summary*

**The Peer Review discussed the policies and recent reforms implemented by EU Member States to ensure that dismissal and redundancy procedures promote early activation and enable rapid work-to-work transitions.** The event was hosted by the Ministry of Social Affairs and Employment of The Netherlands. It brought together Ministry officials and independent experts from Belgium, Bulgaria, Denmark, Finland, Italy, Norway, Romania, Slovakia, and Slovenia, as well as representatives from the European Commission and the OECD.

Promoting the activation and enhancing the employability of workers at risk of losing their jobs is an issue of common interest across Europe, not least in the context of the aftermath of the economic crisis. Measures in this regard can be quite diverse, and may involve activation programmes during notice periods, financial incentives for employers to invest in training, classic forms of Public Employment Service (PES) active labour market policy support and allowances for dismissed workers.

The Netherlands adopted in June 2014 a reform of its dismissal laws under the Work and Security Act (WSA), which changes important aspects of the rules on flexible employment (including the provisions on successive fixed-term contracts), the law of dismissal and unemployment benefits. It was felt that a reform was needed in a context of growing labour market segmentation, characterised by a rising share of flexible employment and long-term unemployment.

The changes in the law of dismissal and the provisions on successive fixed-term contracts (now limited to 2 years) took effect on 1 July 2015. Some of the changes to the Unemployment Insurance Act took effect on 1 July 2015, with the remaining changes to be introduced on 1 January 2016.

The general idea is that the Unemployment Act should be more activating, resulting in people leaving the benefit system sooner. This is to be achieved by successively reducing periods of entitlement (from 36 to 24 months) and enhancing the ability to combine a salary from part-time work with claiming unemployment benefit. Criteria on what constitutes a 'suitable job' have also been changed.

- Transition from work to work is also to be encouraged by changes in dismissal legislation, which include the payment of a 'transition allowance' (instead of severance pay). However, this allowance is not earmarked and it is therefore up to the dismissed worker how this is spent.

Further reforms to be implemented including:

- Greater involvement of social partners during the notice period before the actual dismissal.
- The costs of unemployment benefits should be spread more equally between employers and employees.
- Social partners may arrange for privately organized supplementary unemployment benefits.

The other countries represented at the Peer Review, despite having different dismissal laws and approaches to labour market activation than the Netherlands, share similar challenges, such as enhancing the employability of the workforce, promoting the early activation of dismissed workers, and reducing long-term unemployment. Recent developments in the Netherlands were thus compared to similar experiences in other Member States in relation to the obligations placed on employers in dismissal procedures, the types of financial compensation (e.g. severance payments) received by dismissed workers, policies to incentivise dismissed workers to take up training, as well as the type of support social partners provide to dismissed workers.

**The key policy messages from the Peer Review can be summarised as follows:**

***The importance of job quality for sustainable and inclusive economic growth***

- Public institutions in the Member States have a key role to play to make the workforce more adaptable and employable, and in providing the right incentives for higher professional aspirations.
- Ensuring smooth work-to-work transitions and high employability is gradually becoming a priority for public policy, because of increasing evidence of the damaging effects of longer unemployment spells.
- Early profiling of the specific needs of redundant/dismissed workers is needed during the notice period in order to best target support. Early registration with PES or similar support structures can help in this regard.

***Issues, barriers and challenges***

- Lack of evaluation and data evidence on the impact of previous labour market policy and Employment Protection Legislation (EPL) reforms. Further emphasis should also be placed on cost-benefit analysis.
- Disincentive effect of some collective redundancy procedures in certain Member States whereby workers wait until just before dismissal to obtain the highest possible monetary settlement.
- Financial compensation arrangements more generally (severance payments) can be a disincentive for dismissed workers to engage in early activation or to find a new job straight after dismissal, and can discourage employers to hire again.
- Transition allowances which are not earmarked or means tested can be used for other purposes and do not target those most in need of transition support.
- Further assessment is needed of the application and impact in practice of conditionality and sanctions in relation to the receipt of unemployment benefit to ensure such measures support early and sustainable activation.
- Ensuring better protection for flexible contracts with better access to social security etc. remains a challenge for legislators. There is a valve effect whereby changes to the law will result in employers finding other circumventing ways of employing cheap labour.

### ***Mutual learning and dissemination of effective practices***

- Intervening on the weakest segment of displaced workers by promoting a preventative approach before dismissal occurs is one of the most effective ways to combat long-term unemployment. Overall, a needs based approach to providing transition support would limit deadweight and ensure that the most vulnerable access maximum levels of support.
- Different actions are needed for different stages of employment (e.g. lifelong learning support during employment; a focus on matching skills to market demands during notice periods; and additional psychological and job search support after a redundancy/dismissal takes effect).
- Innovative ways of fostering co-operation between public and private employment services should be explored to combine their efforts and join forces to support displaced and transitioning workers. This would also allow for the development of innovative types of support, such as psychological support. Efforts are required to avoid creaming.
- Structures such as “Job security councils” or “mobility centres”, and other social partner-based initiatives with a mutual fund enabling activation based on individual needs have provided effective in some countries.
- Transition allowance may need to be earmarked in order to ensure they are used for activation. Bundling the Transition Allowance with (lower) severance payments could be way of ensuring that dismissed workers use part of their financial compensation for activation and retraining purposes while at the same time ensuring that such payments retain their dissuasive character (for employers) and compensating workers for loss of human capital. Some concerns were expressed that severance pay/transition allowances payable by employers could act as a ‘tax on employment’.
- Collectivising dismissal risks and minimising their financial impacts on employers could be managed through the creation of a fund, fed, for instance, by a payroll levy.

### ***Further information***

Full report, presentations and background papers will be available at:

<http://ec.europa.eu/social/main.jsp?langId=en&catId=1070&newsId=2301&furtherNews=yes>