

JOB SECURITY

FACING THE CHALLENGES OF ECONOMIC CHANGE

The many profound changes that the French economy is currently experiencing, like the economies in its neighbouring countries, lay an acute emphasis on the question of job security.

On the one hand, it is felt that job security is far worse than it was twenty or thirty years ago. And surveys among wage earners convey a strong sense of insecurity for their own job (chapter IV). Likewise, there is a widespread view that most people will have to change jobs once or even several times in the course of their working life. On the other hand, a good many employers stress the rigidity in the organisation of work that would seem to put a brake on necessary adaptation. The lack of flexibility apparently penalises both growth and employment.

Firms need to be flexible as economic changes force them to attain this. In oversimplified terms, they have two relatively unrelated problems to solve: on the one hand, finding methods to organise the workforce which allow them to meet fluctuations in demand, and on the other, adapting not only production methods and facilities but also the skills of their workforce to fit changes in the nature of products or techniques (chapter I).

Up to now, this need for increased flexibility has been mainly catered for by resorting more and more to temporary contracts, which at the same time creates greater job instability, particularly for younger or more senior wage earners. For the more disadvantaged (applicants with little training or work experience and people who are not very mobile), this job instability has resulted in a high risk of experiencing unemployment on a long-term basis or even sinking into exclusion.

Are flexibility and security mutually-exclusive? Can we, on the contrary, find ways and means to improve security for the workers and flexibility for the economy at the same time? This goal has been highlighted explicitly in the guidelines for employment adopted in the European agenda set in Lisbon for the current decade. This is also the same direction chosen by several European countries that have recently adapted their legislative and collective agreement system using the neologism *flexicurity* (see the example of the Netherlands in chapter III).

JOB SECURITY

FACING THE CHALLENGES OF ECONOMIC CHANGE

Flexibility and security: European policy directions

In March 2000, the Lisbon European Council set a strategic goal for the European economy to become "the most dynamic and competitive knowledge-based economy in the world" by the end of the decade. To achieve this, five priorities were put forward, including the quantitative and qualitative improvement of employment, which was to be achieved more especially by attaching greater importance to "education and lifelong learning, an essential component of the European social model". The final communiqué stressed, on these lines, the importance of "a flexible organisation of working time" and "alternating between training and work". The 2003 employment guidelines explicitly state that "providing the right balance between flexibility and security will help support the competitiveness of firms, increase quality and productivity at work and facilitate the adaptation of firms and workers to economic change" (European Commission, 2004).

They make "promoting occupational mobility" one of the goals to be reached and mention "improving the recognition and (...) transparency of qualifications and competencies (...), the transferability of social security and pension rights" as means to achieve this.

France's National Action Plan for employment for 2003, which lays down by which measures these guidelines shall be materialised at national level, mentions in particular that a committee¹ shall see "how to facilitate the development of new measures reconciling flexibility and security and providing a clearer and simpler legal framework for employment relations" and that it should "promote new forms of employment and work organisation" making sure that "the gap between stable jobs governed by statutes and temporary jobs guaranteeing little protection" does not widen.

The aim of this fifth report by the CERC is to clarify the state of job security; this examination is essential in order to shed light on the debates about current or proposed reforms. This requires clarification of the language used as well as careful analysis of the data, employment law and social protection.

I. GREAT MOBILITY AMONG EMPLOYEES

To best suit the needs of the analysis conducted in this report, it is first necessary to differentiate the following two notions: job instability and job insecurity.

Job instability and job insecurity

Stability of the employment relationship (or *job stability*) refers to the continuity of the employment bond between an employee and an enterprise. Severance of the employment bond can be as a result of the employee (resignation) or the firm (end of contract, redundancy). If these events are "swiftly" followed by a new hire, the situation for the person in question is quite different from the one he or she experiences if they remain unemployed on a long-term basis.

It is in this latter case that we will speak of job insecurity. Job security refers to the instance of a person remaining employed with no "long-term" break even if they change company. So what do we mean by a "long-term" break? The definition is partly conventional and is also governed by available information. In this report, we consider that a person employed in March of a given year who is jobless (or unemployed) in March of the following year is experiencing insecurity of employment.

The expression "job security", as it is used here, departs from its meaning in everyday language when questioning employees, for example, about the security of their job. The unintentional loss of one's job can have unfavourable consequences for the employee, even if he or she finds another one fairly quickly: the new employment contract may be more precarious, the pay less (if only because of the loss of wage benefits linked to seniority) or the supplementary social protection lower, etc. Furthermore, the period of unemployment between two jobs is coupled with a drop in income.

(1) This is the "Virville" committee whose report, presented in January 2004, focuses on proposals to simplify and adapt employment law, some of which are mentioned below.

JOB SECURITY

FACING THE CHALLENGES OF ECONOMIC CHANGE

Admittedly, these definitions are quite conventional, but they are useful for the production of factual and statistical analyses. All the same, we have to approach problems of insecurity by taking into account the feelings expressed by the persons involved and also observations made using the chosen definitions.

Job instability mainly reflects what is happening in employers' organisations (enterprises, public services, etc.); as for job insecurity, this depends on instability but also, in addition, on the move in the labour market as a whole.

Tackling the question of job instability firstly involves gauging the extent of the phenomena.

In 2002, total employment (metropolitan France, overseas departments and territories) amounted to some 25 million people and salaried employment to 23 million. From 2001 to 2002, employment increased by approximately 170,000 people, but this rise was the result of extraordinarily higher hiring and separation rates.

For instance, in a field of about 13 million employees in the private sector, in the course of 2002, enterprises made 5.2 million recruitments². Therefore, the recruitment rate was close to 40%. Likewise, about 40% of employees left their job.

At the same time, unemployment entry and exit rates were distinctly higher than the trend in the average unemployment number. Still in 2002, the French employment agency (ANPE) recorded more than four million registrations for unemployment benefit, whereas on average the number of jobless people signed up at the end of the month at the ANPE (category 1 – people immediately available and seeking full-time employment on a permanent contract) increased by about 100,000 between 31 December 2001 and 2002.

Three main factors need to be highlighted (chapter II).

1. The scale of hiring and separation rates is a sign of great instability of employment in French enterprises, but this situation is not specific to France. In fact, employees in the private sector in France experience³ lower instability than in the United Kingdom, Ireland, Spain, and Germany or indeed in Denmark and the Netherlands; instability is similar to that recorded in Belgium, Italy, Portugal, Austria, Greece or Finland. On the other hand, the French situation is not very favourable in terms of job security. Denmark, the Netherlands, Luxembourg, Belgium, Italy and Finland experience less job insecurity than France.

Only Germany, the United Kingdom, Ireland and Spain are in a less favourable situation. So, along with Austria and Greece, France belongs to a group of countries that guarantees a high level of job stability while permitting more job insecurity. Other countries, such as Denmark and the Netherlands, reconcile greater job security with greater instability.

2. Job instability increased significantly over the period between 1983 and 2002. For a hundred employees present at the start of a year in a firm, about 23 exits were recorded in the labour turnover returns in 1983 and 37 in 2002.

(2) Excluding temporary and non-renewable contracts of less than one month to replace employees on annual leave.

(3) Instability is defined here as exiting a company during a year whether for another job or for unemployment or inactivity, and is measured using a survey common to various European countries, the "European Community Household Panel".

JOB SECURITY FACING THE CHALLENGES OF ECONOMIC CHANGE

Admittedly, observation was limited to firms with fifty or more employees, but this same trend was most probably found also when looking at the economy as a whole. The explanation for the growth in job instability lies on the one hand in the growth of the services sector, where instability is normally high, and on the correlative decline of the industrial sector, where it is normally lower. On the other hand, this trend is explained by changes in production methods and the organisation of manpower.

3. And yet, overall job insecurity in 2002, measured by the annual transition rate between employment and unemployment or inactivity, was at the level observed twenty years before.

Whereas 7.6% of people who were employed (salaried or not) at the beginning of 1982 found themselves jobless in March 1983, the proportion was 7.5% for people who were in employment in 2001. This percentage was quite the same in the first year (1969) for which a standardized measure exists.

A more precise examination (chapter II) highlights phases of growth or cutback in overall insecurity. These fluctuations are far from being insignificant. For instance, between the high rate of insecurity in 1994 (9.3%) and the low in 2001 (7.1%), the number of transitions from employment to unemployment or inactivity went down by about 500,000.



Indicator: percentage of people employed in March of the year n-1 who are jobless (unemployed or inactive) in March of the year n.

Sphere: all of employment.

Source: Employment surveys.

Instability and insecurity do not always develop simultaneously. Indeed, instability only turns into insecurity if the job loss is followed by a long period of unemployment. When changeovers straight from one job to another become more frequent and when it becomes easier for jobseekers to return to work, the risk of instability turning into insecurity lessens. A strong vitality of the labour market coupled with a large number of job creations limits this risk. This serves to underline, in passing, the importance of macroeconomic policy.

- The slowdown in growth, from 1973 on, went in hand with a big fall in the exit rate from unemployment to go into employment. Because of firms, especially industrial ones, gradually adjusting to the new growth rate, the increase in salaried employment was no longer enough to absorb the rise in the working population and the labour market worsened noticeably.

JOB SECURITY

FACING THE CHALLENGES OF ECONOMIC CHANGE

The decline in job security, from the mid 1970s to the mid 1980s, no doubt conveys both the growth in instability⁴ and this decline in the labour market.

- Since the mid 1980s, the difficulty for a jobseeker to find employment again has hardly changed. For this reason, job insecurity moved more in step with instability up until the mid 1990s.

- Although job insecurity reached a peak in 1993-1994 because of the appreciable worsening of the economic situation, the big net creation of jobs from 1997 to 2001 distinctly improved the situation on the labour market. On the one hand, new recruitment opportunities encouraged employees to look for better jobs and therefore to resign: consequently, the rise in instability continued but it was more often on account of resignations. On the other hand, job insecurity was able to fall back appreciably because the transitions from employment to employment, without going through a long phase of unemployment, increased.

II. JOB INSTABILITY AND FIRMS CHARACTERISTICS

Labour turnover is of very variable size depending on firms and the activities they carry out. For instance, whereas on average the exit rate from employment is 40% in all the firms of ten or more employees, it is only about 20% in industry, the building trade and civil engineering sector. It is 52% in the private services sector and can go well beyond that in certain lines of business in the tertiary sector⁵. Moreover, job instability increases greatly in all the services and in the various sub-sectors, contrary to what can be seen for the greater part of industry⁶ and for the building trade and civil engineering sector.

Differences can also be very noticeable within the varying sectors depending on each firm. For instance, firms can find different answers to the constraints they meet, with very different consequences on the labour turnover rate.

1. Firms' needs for flexibility

As we have already pointed out, firms are subject to two different constraints for adapting employment: adjusting the amount of work to meet the temporal fluctuations in demand on the one hand, and adapting the quality of the workforce to developments in production or management techniques and also to qualitative changes in demand on the other.

Flexibility and fluctuation in demand

Some variations in demand are partially unpredictable (cyclical increase or decrease in orders) and others are easier to foresee: seasons in the year, but also fluctuation during the week or in the day.

This variability is particularly significant in the area of services, whose demand largely ebbs and flows and thus cannot be reserved for future use. Said otherwise the demand often has to be produced within specific time scales (shops, restaurants, call centres, transport, cultural and tourist activities, etc.).

(4) It is likely, but there are no statistical indicators to confirm this, that it increased on account of the change in the rate of growth at the beginning of the 1970s.

(5) Consequently, in all the firms of ten or more employees in the hotel and catering trade, annual hires (and separations) are greater on average than the initial workforce.

(6) But this stability is partly artificial, because, in this period, industry has increasingly outsourced certain service activities and also increased its use of temping (which is not shown in the labour movements of user companies).

JOB SECURITY

FACING THE CHALLENGES OF ECONOMIC CHANGE

Flexibility in the "amount of work" can be obtained, partially or even totally, in-house by reorganising working time. It can also be achieved by external flexibility, either by means of subcontracting or by using temporary contracts. More flexibility in the organisation of permanent employees' working time (we speak of reorganising working time) could help reduce resorting to temporary jobs, but at the cost of increased variability in working hours. Available data (bearing on 1999) show that firms which have to meet fluctuations in their business activity call far more on external rather than internal flexibility. In addition, for internal flexibility, they make much greater use of variation in overtime and extra hours than other systems of reorganising working time. Setting up systems for reorganising working time has a cost in terms of negotiation and management; working to flexible schedules also means organisation costs for the employees. Consequently, in the absence of specific incentives, it may be simpler for firms to fall back on external flexibility.

Adapting qualifications and skills

The advance of both production and organisation techniques requires adapting constantly qualifications of workers. This development can occur through improving the skills of the workforce employed or by renewing the workforce. Continuing vocational training is therefore an essential part of the management of firms. Incidentally, the funding for this is set aside and on average goes well beyond the legal obligations (chapter VII).

Investment in training is spread highly unequally concerning employment categories: investment is greater for the more skilled staff; whereas it decreases appreciably as from middle age (approximately 50 years) on the grounds that older employees would have less time to make this investment pay; it is also centred on the more stable proportion of employees that it is in the interest of firms to keep, the people for whom skills specific to the firms are important and costly to develop. For the firm, the reasoning that underpins the use of training increases the division of the workforce into two with a more skilled and more stable part, for whom an investment is made, and a low-skilled part that suffers instability head-on. Not many measures have been developed that might be able to thwart this two-part division. The bulk of training expenditure, within the legal obligation and typically beyond it, comes within the "company training plan". Although the works' council, when there is one, is required to be informed of achievements for the previous year and projects for the current one, the training plan is not negotiated and is the sole responsibility of the company director.

Rectifying this trend would involve giving more suitable incentives in order to make access to the possibilities offered by continuing vocational training easier for the great majority of workers.

Poor incentives to developing internal flexibility

Currently, not many instruments encourage firms to seek systems of in-house flexibility rather than resorting to adjusting the quantity or quality of their workforce.

- With respect to the reorganisation of working time, a big boost had been given as part of introducing the 35-hour working week. Negotiations within companies often resulted in agreements that help to improve cyclical flexibility. But at present this impetus is stopped.

JOB SECURITY

FACING THE CHALLENGES OF ECONOMIC CHANGE

- Procedures for preventing company difficulties and redundancy procedures provide for due training and redeployment, but this is a case of long overdue incentives developing in tough economic situations.

- Lastly, in general, companies are not made to take into account the cost of unemployment that their management practices may cause. As unemployment contributions only depend on their wage bill, companies do not have to contribute specifically to funding unemployment benefit or to the cost of initiatives to help their now jobless former employees return to work. On this point, recent proposals have been voiced that aim to make companies partially bear the social costs they generate. Introduced in very different situations from the French labour market, for example in the United States (experience-rating), these methods need to be carefully specified before being adapted to the French case. Given the higher level of unemployment benefit, adjustment could concern a limited part of the total cost; it could also include a sectoral adjustment as in the case of contributions for industrial injury insurance, to punish the sectors making inordinate use of external flexibility or, on the contrary, to support the ones experiencing specific structural difficulties.

All in all, subject to validating its practicability in France, adapting experience-rating might encourage companies to decide more often in favour of in-house mobility.

2. The case of services

Within many business activities and particular within the services sector, the service provided does not last long: it may not guarantee a full-time job or a job over a long period of time. Therefore the employees concerned receive a very low wage and their prospects are often precarious. Admittedly, they may practice what is called 'multi-wage-earning' and hold several jobs simultaneously, each one part-time and with staggered working hours, or carry out their activity among various employers. But in all these cases, job instability is high for these workers.

Several paths have been developed or proposed to reduce this instability: on the one hand the "employers' group", on the other, the "triangular" employment relationship bringing in a different employer (service supplier, association, etc.) from the user of the service.

Regrouping several companies makes it possible to spread the risk of job instability and therefore to reduce it; it can also provide the means to guarantee a full-time job for a wage earner sharing his or her time between the various members of the group. This idea is in keeping with the "activity contract" proposed by the Boissonnat report, which goes further by suggesting a combination, within this contract, of periods of employment and others of training.

Created in 1985, employers' groups are still a marginal system when considering the number of employees and enterprises concerned: a whole range of legal difficulties restricts their growth (e.g. the need to come under the same collective agreement).

JOB SECURITY

FACING THE CHALLENGES OF ECONOMIC CHANGE

The structuring of human services is probably more significant. Whether this involves jobs with a social purpose (childcare, help for dependent persons, etc.) or other service jobs (housework, help with school work, etc.), the first thing to note is their relatively poor development in France compared with other countries. The second thing is the extreme instability of employment for employees. This is partly related to the fact that, more often than not, the service user is the wage earner's direct employer (system known as a mutual agreement), even though they are recruited via an organisation (agent system). These management methods have been promoted by a policy of allowances or tax breaks⁷ benefiting the end user since he is the direct employer (and for approved associations or firms acting as agents⁸). To make sure they have a sufficient work schedule, in most cases, the employees then have to find several employers. Moreover, the employment contract with each employer expires once the service is no longer required.

All in all, the growth of services supplied to individuals under the system of agents (enterprises or associations) could allow for greater job stability than the currently applied direct employment relationship. This is by no means guaranteed though, because the fairly similar sector of operational services to businesses is experiencing very great job instability in France.

III. HUGE DISPARITIES IN INSTABILITY AND INSECURITY BETWEEN EMPLOYEES

Regarding job instability, the disparities (between unskilled and skilled, young and more experienced, recent recruits and long-standing employees in the company) are considerable; above all, they are tending to increase (chapter II). These disparities are often accentuated as far as job insecurity is concerned: for instance, the relative constancy of overall insecurity over the past twenty or thirty years hides the somewhat differing trends depending on the categories of wage earners.

This inequality is seen more clearly for the qualification criterion than for that of age. For example, young people enter unemployment more frequently but have shorter periods of unemployment, especially if they have a good standard of initial education; they also succeed more easily in getting stable employment. Other careers are marked by a permanent lack of job security or even, gradually, by exclusion from steady employment: this can affect young people with a very poor standard of education, but also poorly skilled people right in the middle of their working life or older employees⁹ who no longer have the appropriate skills.

The priority is to improve qualifications which raise several questions. Firstly, this raises the question of schooling: the all too high frequency of leaving initial schooling without a recognised qualification is a big obstacle.

(7) Tax breaks, incidentally, that generate unequal access among households depending on the level of their income.

(8) Since June 2004, the approval system is open to enterprises providing services to individuals seeing that services of social calling feature among their business activities.

(9) Around the age of fifty and beyond, it is much more difficult for a job-seeker to return to work: experiencing a break in employment too often leads to long-term unemployment.

JOB SECURITY

FACING THE CHALLENGES OF ECONOMIC CHANGE

Combating academic failure and the exclusion that may well ensue does not come within the framework of this report, but the connection between initial education and entry into working life is an essential element in which companies also have a part to play (apprenticeship, school courses combined with work experience). There is much still to be done from this point of view.

Besides, how to make the transitions from unstable employment to stable employment more frequent and how to reduce the paths leading to the dead-end of insecurity?

The first element involves the ability of employees to improve in both skills and qualifications within their job. This means once again touching on the question of continuing training. We saw that the natural inclination is not towards training for the less skilled, especially if they are in unstable employment. Combating this tendency would involve a new organisation of continuing vocational training between the State or the local authorities, the social partners and enterprises.

The social partners have already made headway with the reform which is part of the national collective agreement dated 20 September 2003 that resulted in the "lifelong learning" section of the Fillon act passed in May 2004.

The various "assisted contracts" (contrats aidés) including a training part have been grouped together under "professionalisation contracts" and a good many sector agreements signed since the act was passed plan to increase their effectiveness, in particular by opening them up more extensively than before to adults aged 25+ and by providing a longer training period than the one stipulated by the act.

Furthermore, "professionalisation periods" have been defined to help acquire a qualification or to take part in a professionalisation campaign via block-release training. This system is set aside for workers with specific characteristics, aged 45 or over or disabled. Workers with a high risk of job instability and insecurity, such as employees on permanent contracts whose qualifications are not suited to the advance in technologies and organisations, women going back to work after maternity leave or parents after parental leave would also be concerned.

Another important aspect to guarantee career paths is the validation of acquired experience, VAE, through a recognised qualification. The widening of measures allowed by the social modernisation act is too recent to be assessed. However, being able to acquire diplomas recognised by the professions without going through formal training courses is surely a great step forwards, particularly for the people for whom initial education at school was not a success.

On the other hand, it is not very likely that the introduction of the individual right to training noticeably lessens job instability for the wage earners who suffer most from this. This right, accrued according to seniority, only allows access to limited modules (six years' seniority is necessary to be entitled to 120 hours of training) and cannot be transferred from one company to the next.

JOB SECURITY

FACING THE CHALLENGES OF ECONOMIC CHANGE

Lastly, the national collective agreement had hoped that entitlement to a deferred training course leading to a qualification would be defined as well: "*with a view to equity, employees who stopped their initial education before or at the end of the first two years of higher education, and as a priority those who did not get any recognised vocational qualification [...], should have access to one or more training courses leading to a qualification or diploma that last a year in total*". This arrangement was not adopted in the May 2004 act. It would, however, have stood a good chance of allowing less skilled people to avoid exclusion or de facto marginalization from any career progression.

IV. CONSEQUENCES ON SOCIAL PROTECTION

Job instability also has consequences on employees' social protection (chapter V). Admittedly, entitlement to basic social protection is quite easy to gain in France, whether this involves health insurance or the validation of quarters' income for pension rights.

On the other hand, there are two problems.

The first, an obvious one, is the cutback in the amount of pensions if repeated spells of unemployment affect the 25 best years according to which entitlement is worked out.

The second focuses mainly on sickness (reimbursement of treatment and supplementary daily allowance). The least stable wage earners (in particular employees on fixed-term contracts) are often excluded from company supplementary insurance schemes (legitimately or because of the minimum periods of presence in the company that are required). Likewise, employees who have to leave a company (due to economic redundancy or not) lose their cover (and/or have to pay much higher contributions in order to continue to subscribe in a personal capacity). This will be strong concern since the company supplementary schemes should be of growing importance in health coverage.

Regarding unemployment compensation (chapter VI), current rules result (December 2003) in approximately 53% of jobseekers getting benefit from national unemployment insurance (jobseeker's allowance (ARE)), and 10% are indemnified by the unemployment assistance benefit (ASS). The others have access to the RMI or income support subject to being means-tested. Young people (under 25s) are the least well covered by unemployment insurance on account of their shorter working periods (and, what is more, they do not have access to income support). Their compensation period is also shorter on average (even if, as we said, their return to employment is speedier). For them, the safety net has got holes in beyond all doubt, even though certain measures in the employment policy are specifically designed for them.

The successive unemployment insurance reforms have somewhat increased the inequalities in relation to compensation by protecting the rights of people who have been in salaried work for a long time and reducing the rights of the less stable persons. Unemployment compensation therefore works not as an insurance scheme covering risks but according to a system of accrual of rights to a replacement income. It especially does not take into account the likelihood of finding a job more or less quickly.

JOB SECURITY

FACING THE CHALLENGES OF ECONOMIC CHANGE

Generally speaking, an in-depth debate should be conducted to reorganise the entire social protection to fit in with the changing nature of our societies, marked by three extremely important factors: the spread of employment for women on the one hand (which is tending to get rid of the "*single breadwinner*" model on which social protection systems related to the one who works were based, covering his beneficiaries); the more anarchic integration of young people into the world of work, especially ones who are unskilled or poorly skilled at the end of their school education, on the other; and lastly the growing instability of employment and professional careers.

Henceforth, certain questions are raised:

- Should we keep a system in which the benefits increase with seniority through "accrual of rights"; or on the contrary should we cover to a greater extent the risks for the most fragile people and especially those who suffer instability/insecurity the most, without, of course, turning these into a counter-incentive to finding work again?

- How to reorganise the way welfare works so as to reduce the disincentives to employment (e.g. as regards reconciling working life and family responsibilities) or to limit the effects of job instability on gaining access to housing or indeed to credit¹⁰?

V. JOB INSTABILITY AND NATURE OF EMPLOYMENT CONTRACTS

It may seem surprising that practically nothing has been said up to now in this report on job insecurity about the variety of employment contracts. And yet, on the face of it, this involves the most obvious distinction between stable and unstable jobs. The expiry of fixed-term contracts or temporary assignments is what feeds the biggest flows of exit from employment (in labour turnover figures, expirations of fixed-term or temporary contracts accounted for 54% of all exits from firms of ten or more employees in 2002) and entries to unemployment benefit (48% in 2002).

In fact, in response to variations in economic conditions, the most frequently used methods for flexibility are resorting to temporary work or fixed-term contracts when needing to adjust upwards and stopping recruitments to adjust downwards.

During the 1950s to 1970s, permanent contracts gradually became the reference in terms of job stability seeing that the rules and restrictions on redundancy were becoming clearer and stronger. But, since the late 1970s, firms have made increasing use of fixed-term contracts, over and above the cases provided for by the law.

Nevertheless, job instability and the insecurity it can generate are more deeply rooted than the legal framework within which they take shape. Permanent contracts can turn out to be extremely unstable and, conversely, fixed-term contracts can provide relative stability of employment.

(10) On this subject, it is worth noting that there are interesting provisions in the case of temporary work: collective agreements have introduced specific arrangements for supplementary protection (or aid for access to housing or training) that are less linked to an employment contract with a given temporary work agency than to seniority in the sector.

JOB SECURITY

FACING THE CHALLENGES OF ECONOMIC CHANGE

Incidentally, the rare econometric work in existence shows that growth in the proportion of temporary jobs is to a greater extent due to changes in production methods than to developments in the legislation on fixed-term contracts.

No one claims that a reform of legal nature can, single-handedly, find a remedy for the segmentation of the labour market, which is related to the peculiarities of the economy, enterprises and employees.

Two types of proposals have been extensively debated for several years now (chapter III).

On the one hand, various reports (Blanchard and Tirole 2003, Cahuc and Kramarz, 2004) have proposed that only one type of contract – a permanent one – be defined, so as to reduce the risks of segmentation of the labour market. The proposal was coupled with the elimination of rules concerning redundancy which were replaced by financial penalties (increased redundancy payments and a contribution by firms who dismiss employees which is adjusted either according to the employee's seniority - Cahuc and Kramarz – or according to the size of unemployment benefit paid -Blanchard and Tirole).

On the other hand, employers' organisations wanted¹¹ to extend the possibilities of using fixed-term contracts, in particular by creating an assignment contract lasting between 18 months and five years to complete a given project, but the length of which cannot be specified. In this way, the contract would expire when the project (or assignment) comes to an end. This proposal was taken up again in the report by the Virville committee (2004).

1. The proposal of a unique type of contracts comes from the preconception that the coexistence of permanent contracts, properly protected, and temporary contracts is the main cause of segmentation of the labour market. Admittedly, converting a temporary contract into a permanent contract is curbed by the existence of redundancy procedures, for the latter only, and this creates a leap into the cost of a possible termination of a contract.

1.1. For certain lawful cases of resorting to fixed-term contracts (replacing a sick employee, a temporary increase in activity, etc.), the introduction of a single contract would not be very likely to reduce job instability. The company would no longer have need for an extra employee when the absent employee returned or the temporary increase in activity was over. The employer would have no more reason to keep him or her than at present. In addition, with no redundancy rules, there would be an increased risk of an employee (e.g. the person replaced for sickness or maternity) other than the one recruited for this temporary need being made redundant.

1.2. In the frequent cases where recruitment on a fixed-term contract is outside the cases provided for by the law, would the introduction of a single contract help improve the likelihood of keeping someone in employment compared with the present situation? In part, yes. Nonetheless, as long as there is a trial period, the extra cost of a possible separation at the end of the trial period would still have to be dealt with.

(11) Proposal voiced as part of the negotiations on the reform of unemployment insurance in 2000.

JOB SECURITY

FACING THE CHALLENGES OF ECONOMIC CHANGE

In any case, to make sure that the situation of people taken on with a fixed-term contract under the current system does not deteriorate, the severance pay provided for in the single contract would have to be equivalent to the current bonus for instability of employment during the first nine months of the contract (maximum length of a fixed-term contract today). Failing which, the situation of these people would have been weakened.

2. In the current system, the employer is ultimately responsible for allowing redundancies to occur¹². But he is subject to obligations in terms of training and redeployment, and to supervision by the authorities and a judge.

2.1. This system is unsatisfactory. Admittedly, a distinction should be made between large and small companies. Our observations focus on the former. On the one hand, the system does not insist enough on redundancy prevention, it does not provide scope for actual social negotiation, it creates uncertainty about time limits and costs, does not sufficiently recognise that the enterprise is entitled to make employees redundant and encourages the case to be brought before a judge. In the last few years, having recourse to a judge has become excessive, to the detriment of negotiation within the company; this is a trend that has been stepped up by the "Social Modernisation Act" of 2002. Furthermore, the stridency applied to the rules concerning redundancy has probably been one of the causes for using fixed-term contracts, over and above the cases where such contracts are warranted.

2.2. These rules must therefore be modified. The legislator has embarked upon this path with the Social Cohesion Act: it refers back to the provisions prior to the Social Modernisation Act passed in 2002. This does not mean that the project for this modification should be shelved. In particular, we need to more appropriately structure the measures aimed at earlier prevention, the occurring redundancy and a reduction in the legal uncertainty for this phase.

3. By looking at things as far as the notion of social relations and employment contracts are concerned, the Council would like to stress a point it thinks essential: faced with the proposal of substituting mere commercial processes (redundancy only represents a monetary cost) for the implementation of legal and contractual rules, it is worth remembering that employment is the result of a contract drawn up between two parties who, incidentally, are not equal. Can it be undone unilaterally by the employer without there being a process aimed at reconciling the interests of both parties to the contract? Probably not.

Negotiation can help find solutions that are economically valid and more socially acceptable. This negotiation process should first take place within the company (between the employer and the workers' representatives) before bringing a judge in only as a last resort and only in certain cases.

Likewise, by forcing the employer, in a number of cases (company size, scale of redundancy under consideration, etc.), to give a thought to what will become of the employees laid off (redeployment unit, recovery plan), we make the company mobilise its "share capital" for the employees concerned and therefore improve their possibilities of redeployment.

(12) Responsibility confirmed by the Constitutional Council in its decision relating to the social modernisation act.

JOB SECURITY

FACING THE CHALLENGES OF ECONOMIC CHANGE

4. In the current system, rights related to the various fixed-term contracts differ. In particular, a large number of recipients do not get the bonus for instability of employment. This results, for the employee, in not receiving compensation for the instability of his or her job by an increased wage. In addition, companies are not encouraged to use permanent contracts, instead of fixed-term ones, in ways that allow the specificities of the job to be managed (for example its seasonal nature). It seems essential that all fixed-term contracts provide the same financial guarantees (notably be coupled with bonuses for instability of employment).

5. Increasing the variety of contracts by creating a new “project contract” may undoubtedly improve the flexibility of firms. Provided we go no further than the Virville committee’s proposals, this innovation is also compatible with increased security for employees. “Project contracts” should therefore only be designed for managerial staff or experts, and collective sector agreements should set the terms of their use.

6. Regarding temporary work, a way to make the employment relationship more stable for the temporary worker would be to dissociate the length of the employment contract with the temp agency from that of the service contract in the user firm. This practice exists in other European countries, in particular the Netherlands, Italy and Germany.

7. Many employees on fixed-term contracts meet with difficulties in obtaining bank loans or housing, on account of their status, because banks and letting agencies try to shield themselves from the risk of failure to meet repayments or of unpaid bills in the event of unemployment at the end of the employment contract. Along the lines of what is done by temp agencies, we could rectify this situation by creating a guarantee or insurance fund, financed by contributions based on salaries.

8. Overall, the Council finds that better reconciliation between security for workers and flexibility for enterprises should be negotiated in-depth between the social partners before legislative steps are taken. To make headway, it is necessary to *jointly* address the questions concerning redundancy and those involving modifications to be made to employment contracts, terms of unemployment insurance and the various aids for jobseekers. This global initiative could help define a satisfactory balance, between type of contracts and rules or methods of redundancy and between the flexibility needed by enterprises and the means given to employees to build a professional career.

CONTENTS OF CHAPTERS

Chapter I EMPLOYMENT TRANSFORMATIONS AND RISKS

- I. COMPOSITION OF EMPLOYMENT**
 - 1. Greater salaried employment
 - 2. The rise in women's employment
 - 3. Greater employment in the service sector
 - 4. Poorly skilled jobs: a decline that is temporarily halted?
 - 5. Resorting to part-time work
 - 6. Part-time jobs and personal service activities
 - 7. "Fragmented jobs" and employers' groups
- II. THE IMPACT OF NEW FORMS OF ORGANISATION**
 - 1. Types of organisation
 - 2. European comparisons
- III. FLEXIBILITY AND MANPOWER MANAGEMENT**
 - 1. Flexibility in the amount of work
 - 2. Internal mobility
- IV. TRENDS IN EMPLOYMENT STATUSES**
 - 1. Temporary employment on the increase
 - 2. Straddled between salaried employment and self-employment
 - 3. Self-employed workers: social rules are close to rules for salaried workers
 - 4. Between employment and unemployment: continuum or fuzzy area

Chapter II JOB INSTABILITY AND JOB INSECURITY

- I. INSTABILITY OR INSECURITY?**
 - 1. Why is it necessary to distinguish between the two notions?
 - 2. Measuring instability and insecurity
- II. OVERALL TREND**
 - 1. Job insecurity: a nuanced analysis of the long-term trend
 - 2. Job instability
 - 3. The difficulty of getting back into employment
 - 4. European comparisons
- III. GROWING INEQUALITIES WITH RESPECT TO INSTABILITY**
 - 1. Instability and firm size
 - 2. Instability and nature of activities
 - 3. Instability and employee characteristics
- IV. FROM INSTABILITY TO INSECURITY: ARE INEQUALITIES INCREASING?**
 - 1. Qualification
 - 2. Seniority in the firm
 - 3. The case of young people
 - 4. The over 50s

JOB SECURITY
FACING THE CHALLENGES OF ECONOMIC CHANGE

Chapter III FLEXIBILITY AND LEGAL FRAMEWORK

- I. FIXED-TERM CONTRACT OR TEMPORARY WORK AND JOB INSTABILITY**
 - 1. Various uses of fixed-term or temporary contracts
 - 2. Fixed-term or temporary contracts and job insecurity
 - 3. Fixed-term or temporary contracts: stepping stone or dead-end?
 - 4. Fixed-term or temporary contracts and flows on the labour market
 - 5. Fixed-term or temporary contracts in Europe
- II. VARIETY OF EMPLOYMENT CONTRACTS**
 - 1. Brief history of contracts
 - 2. Permanent contracts
 - 3. Fixed-term contracts
 - 4. Temporary contracts (temping)
- III. DOES THE OECD INDICATOR CORRECTLY MEASURE THE EMPLOYMENT PROTECTION ?**
- IV. RECONCILING FLEXIBILITY AND SECURITY**
 - 1. An economic point of view on the employment legislation
 - 2. Increasing financial incentives
 - 3. A single employment contract?
 - 4. Adapting the variety of contracts
- V. SEEKING OVERALL COHERENCE: THE DUTCH CASE**

Chapter IV PERCEIVED JOB INSECURITY

- I. EVOLUTION OF PERCEIVED JOB INSECURITY**
- II. WHO IS WORRIED ABOUT HIS/HER OWN JOB SECURITY?**
 - 1. Type of contract
 - 2. Seniority
 - 3. Age
- III. WHY THESE DIFFERENCES BETWEEN OBJECTIVE AND PERCEIVED SECURITY?**
- IV. EUROPEAN COMPARISONS**
- V. DOES EMPLOYMENT PROTECTION LEGISLATION IMPROVE PERCEIVED JOB SECURITY?**

Chapter V JOB INSTABILITY AND SOCIAL PROTECTION

- I. COMPULSORY SOCIAL PROTECTION**
 - 1. Health
 - 2. Pensions
- II. COMPANY SUPPLEMENTARY INSURANCE SCHEMES**
 - 1. Supplementary pensions
 - 2. Industrial disability
 - 3. Refunding of medical expenses
- III. SOCIAL PROTECTION AND JOB INSTABILITY IN EUROPE**
 - 1. Pensions
 - 2. Health
- IV. RETHINKING THE LINK BETWEEN WORK AND SOCIAL PROTECTION**

JOB SECURITY
FACING THE CHALLENGES OF ECONOMIC CHANGE

Chapter VI UNEMPLOYMENT COMPENSATION

- I. FIVE SYSTEMS OF COMPENSATION**
 - 1. Unemployment insurance: ARE
 - 2. Unemployment assistance: ASS
 - 3. Integration allowance: AI
 - 4. Benefits for older unemployed: ARE
 - 5. General non-contributory minimum: RMI
- II. LEVEL OF UNEMPLOYMENT BENEFITS**
- III. WHAT HAPPENS ABROAD?**
- IV. THE LEAST STABLE ARE THE LEAST WELL-COMPENSATED**
 - 1. Temporary jobs and type of contract
 - 2. Age
- V. REFORMS HAVE ACCENTUATED *DE FACTO* INEQUALITIES**
- VI. UNEMPLOYMENT, HEALTH COVER AND PENSIONS**

Chapter VII CONTINUING TRAINING

- I. COMPANIES AND CONTINUING VOCATIONAL TRAINING**
 - 1. Investments in training going beyond the legal minimum
 - 2. Huge disparities in access to continuing vocational training
 - 3. Regulations and company practices
 - 4. Validation of acquired experience (VAE)
 - 5. Training: usefulness and limits
- II. MAKING CAREER PATHS SECURE**
 - 1. Employees' individual rights
 - 2. Redundancy and training
 - 3. Training for jobseekers
 - 4. A right to deferred training?