Free to work: Employment regulations in 2019

Patrick Hall, Caio Zanforlin, and Anna Jandura-Cessna

The Employment Flexibility Index of LFMI quantifies a great divergence in employment regulations between EU countries. Of the 41 countries included in the index (EU and OECD countries), Denmark and the United States were ranked as having the most flexible labour regulations, while France and Luxembourg were ranked last.

Flexible employment regulations may allow for more employment opportunities and enable businesses to respond to market fluctuations.

A proposed Council Recommendation by the European Commission seeks to provide workers in non-standard employment, such as those who are self-employed, with social security protection. The Commission's rationale is to ensure that employees who have exceptional employment circumstances are protected during economically challenging times. This proposal could decrease employment flexibility throughout the EU.

Benefits of employment flexibility

Employment flexibility can be measured by looking at fixed term contracts, work hours, and redundancy rules. Fixed term contracts increase employment flexibility for a number of reasons. They allow more people to enter the labour market (as employers have less conditionality around hiring), particularly those with little or no skills who have the opportunity to gain work experience. Reducing the amount of regulation on work hours also increases flexibility. Flexible regulations on work hours allow businesses to respond to fluctuations in commercial and labour markets, which then results in the creation of more employment opportunities. Strict redundancy rules and costs decrease employment flexibility, as they hinder a business's decision-making in employee termination and hiring. By reducing these restrictions, employers are incentivised to take on new employees.

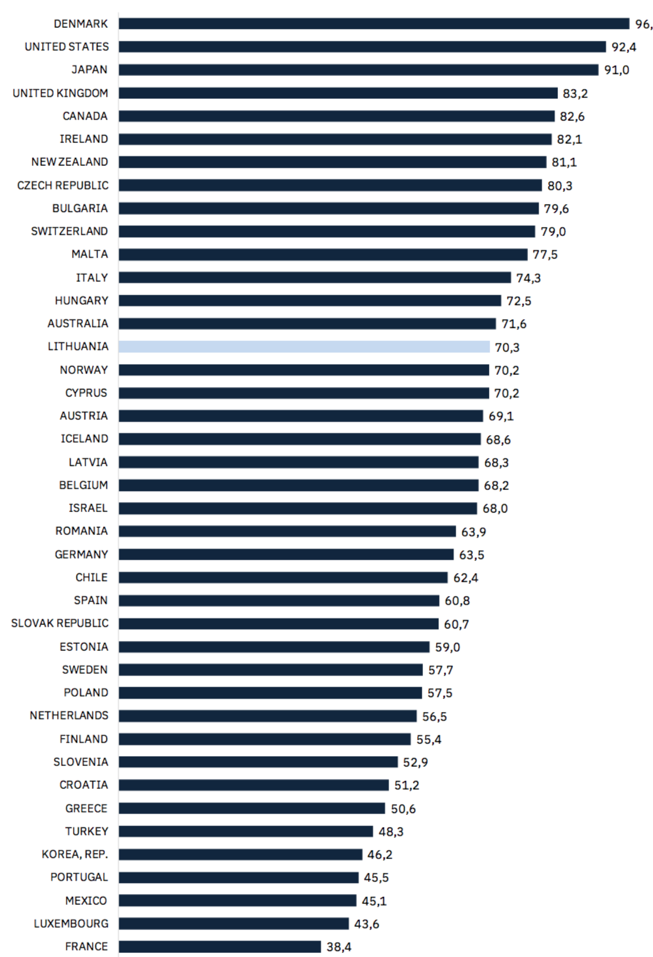
A comparative approach to employment flexibility in Europe

The 2019 Employment Flexibility Index by the Lithuanian Free Market Institute rank scores EU member states from most flexible to least flexible in terms of employment, in an effort to contribute to the debate on regulating labour markets and employment flexibility.

The study examines four indices of employment flexibility; indicators of hiring, working hours, redundancy rules, and redundancy costs. Member states are given a score out of 100 for each of the indices, and from this an average mean score is calculated, allowing the member states to be ranked in order of highest (most flexible) to lowest (least flexible) vis-à-vis employment flexibility. The study used data from the Doing Business World Bank data catalogue to establish the nominal score values.

The figure displayed shows the ranked list of EU and OECD countries with regard to employment flexibility. The study highlights Lithuania's 10-point improvement in the latest index, bringing it from 27th to 15th place. This was achieved by reducing the redundancy notice period and significantly reducing the compulsory severance pay. Norway too, saw improvements, shifting from 21st to 16th on the list due to removing restrictions on night work.

Denmark, the UK, and Ireland top the list for employment flexibility amongst EU countries. These three countries allow fixed term contracts with unlimited renewal, have no work hour restrictions i.e. night work or overtime, and, in the case of Denmark and the UK, have no redundancy restrictions. Denmark overall scored of 96.9 out of 100 for employment flexibility, with full marks (100 out of 100) for hiring, redundancy rules and redundancy costs. They received a score of 87.5 out of 100 for working hours, being held back from full marks due to requiring 25 working days of mandatory paid annual leave. Denmark and Sweden are the only two EU Member States who do not have a minimum wage (however, due to more rigid rules on entering employment contracts, regulation of fixed-term contracts, working hours and redundancy issues, Sweden's index score is significantly lower than Denmark's).



On the contrary, France, Luxembourg and Portugal are at the bottom of the list. Their fixed term contracts are only permitted for work of temporary nature and include restrictions on length and renewability. In France and Portugal, workers must be reassigned prior to redundancy, and in the case of all three countries, employers must notify a third party when dismissing an employee.

Lithuania has shifted on the index from 27th place in 2017 to 15th place in 2018. Lithuania's overall index score has increased from 60.6 to 70 largely due to significant reforms in redundancy costs. Previously, a notice period of 8.7 salary weeks was required, and severance pay of 15.9 weeks (even greater for workers who have a tenure of 5 or 10 years). This has been reduced to 8.7 salary weeks for all workers, and the required notice period has decreased to 4.3 salary weeks.

The Commission's proposal and implications

The European Commission released a proposal for a Council Recommendation on access to social protection for workers and the self-employed in March 2018. The Employment, Social Policy, Health and Consumer Affairs (EPCSO) council soon after agreed on a recommendation in December. In the proposal, the European Commission stated their three aims:

- *"Allow all individuals in employment and self-employment to adhere to corresponding social protection systems (closing formal coverage gaps),*
- *Take measures allowing all individuals in employment and self-employment to build up and take up adequate entitlements as members of a scheme (adequate effective coverage) and facilitate transferability of social protection entitlements between schemes,*
- *Increasing transparency regarding social protection systems and rights."*

The Commission's aim in increasing transparency of social security systems in Europe could yield positive results, especially in terms of functionality. However, the other two aims present difficulties in terms of implementation and may have negative consequences for Europe.

The Commission believes that the current "gaps in access to social protection" will "hinder the take-up of opportunities to move from one labour market status to another." However, the Commission's proposal to bridge these gaps in social protection might instead further decrease labour market flexibility, rather than ameliorate them. If employers were required to adjust to the Commission's proposal by adopting their employee's social protection systems, employers might be further hindered with hiring and redundancy processes. Additionally, the Commission's proposal could lead to higher administrative costs with record-keeping and monitoring of social security benefit transfer. The Commission's proposal could also lead to the stagnation of entrepreneurial "spirit" and competition amongst Europeans, who will likely feel unincentivised by these regulatory and cost barriers.

Harmonising social security access across all Member States could create a larger welfare state, lead to mandatory contributions for non-standard employees and the self-employed, and subsequently result in reduced European competitiveness. The aims also do not address future demographic issues. The ratio between workers to retirees will lean more heavily to retirees, as there will be 51.2% of those 65 and older in 2070 (relative to those of working age – 15-64 years old). Increasing social security contributions is a short-sighted band aid solution to this problem. Member states have different style welfare systems and different budgets, therefore implementing harmonized welfare across all member states would not only be difficult, but also may result in larger welfare schemes across all member states. Harmonisation of social security access could also stifle competition, as having a range of regulation amongst Member States generally diversifies business strategies.

Conclusion

The Employment Flexibility Index shows that Denmark, the United Kingdom and Ireland remain in the lead in terms of hiring flexibility among EU countries. France, Luxembourg and Portugal have the least flexible employment regulation among the EU member-states. Denmark tops the ranking (for EU and OECD) because the law does not regulate the minimum wage for a full-time worker. The Commission's proposal would have negative implications for employment flexibility across Europe and would discourage entrepreneurship. The proposal would also be difficult to implement and is beyond the scope of the EU's role.

References

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