**Vincent Février**

**University of Liège**

**Governing Societal Challenges in Transformational Times**

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**Abstract:**

**Flexibilization of Labour Law in Belgium: Analysis of a Short-Lived New Regime and its Downfall: The Case of Associative Work.**

Flexibility has become a key word in contemporary labour relationships. To which extend may the legislator modify Labour Law regulations or exclude their application when it perceives them as a burden on economic actors?

The presentation will focus on a particularly far-reaching example. The Belgian legislator has adopted on 18 July 2018 a statute introducing a new legal figure, that of the associative work (verenigingswerk; travail associatif). This new figure covers various activities taking place within organizations from the associative sphere like sports coaches, guides for socio-cultural activities… The legislator considers that the services in question are highly valuable for the whole society and that this kind of associative work should be encouraged.

Associative work differs from voluntary work because the co-contracting organization of an associative worker provides a (generally small) financial counterpart for the work provided. Therefore, associative workers in a link of subordination should normally be qualified as employees.

Such requalification is seen as unsatisfactory. Following the preparatory notes on the statute, the sector is characterized by an important need for flexibility, and the application of Labour Law regulations, deemed too restrictive, would deter the organizations from resorting to those workers.

Provided its conditions are met, the 2018 statute excludes associative work from the field of application of most of Labour Law. This includes notably the Labour Act, the Protection of Remuneration Act, the Collective Agreements Act and the Workplace Well-Being Act.

This statute was annulled by a decision of the Constitutional Court on 23 April 2020. The creation of an *ad hoc* regime is a political choice and it is not for the Court to rule on it, unless there is a difference of treatment which is not justified or a disproportionate attempt on the workers and employers’ rights. The objective of simplification of administrative work by the actors does not justify a merely total exclusion of Labour Law regulations.

A new legislative proposal has been introduced in order to save the regime. Despite the efforts made to meet the Court’s criticisms, the new statute retains most of the exclusions provided for by the original, as pointed out in its Opinion by the Council of State.

This study shows that if there is a room for flexibilization of Belgian labour law, it is not limitless.

**Short Biography**

Vincent Février graduated in Law at the University of Liège in 2018. He also received a LLM at the Maastricht University in European Law in 2019. He is currently a PhD candidate at the University of Liège as an *aspirant* (research fellow) of the F.R.S-F.N.R.S. He is comparing the concept of worker in Belgian Labour Law and in European Economic Law (freedom of establishment, freedom to provide services and Competition Law) in order to determine if the logic of Belgian Labour Law could be threatened by the current and potential influence of this segment of European Law, and whether the Belgian State keeps a margin of manœuvre to build a Law protecting the workers as it sees fit.