

INTERNATIONAL TRENDS IN INSECURE WORK: A REPORT FOR THE TRADES UNION CONGRESS

Nathan Hudson-Sharp and Johnny Runge

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International Trends in Insecure Work: A Report for the Trades Union Congress.

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Abstract

An increase in insecure forms of work has been identified in most European countries. Arrangements such as fixed-term contracts, temporary working and employment via agencies have proliferated, arguably undermining 'standard' employment relationships and the securities they offer. However, while there is widespread agreement on the international expansion of insecure forms of work, the drivers and subsequent nature of that insecurity are thought to be highly variable. Drawing upon European Labour Force Survey data, this report adopts a case study approach to provide an account of some of these variations, in order to provide a concise and comparative account of international trends in insecure work.

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Executive Summary

An **increase in insecure forms of work** has been identified in most European countries. Arrangements such as fixed-term contracts, temporary working and employment via agencies have proliferated, arguably undermining 'standard' employment relationships and the securities they offer workers. However, while there is widespread agreement on the international expansion of insecure forms of work, the **drivers and subsequent nature of that insecurity are thought to be highly variable across countries.**

This report uses a **case study approach** to examine different employment relationships that are thought to be at risk of insecurity. We use **the UK as our benchmark case study** and in each contractual arrangement, compare to one or more other European countries. The cases were selected purposively to provide **an account of variations of how specific labour market institutions¹ and traditions characterise the nature of work insecurity.**

The importance of policy in driving or limiting non-standard work arrangements

The main lesson from this report is that **labour market institutions, regulations and traditions matter.** The rise of insecure forms of work is not an inevitability of macroeconomic change. Rather **policy decisions play an essential role in determining the level of non-standard work arrangements and the insecurities associated with them.** For instance, strict employment protection for permanent jobs and/or liberal rules on temporary employment relationships is likely to increase the incidence of non-standard employment, as we see in Spain and the Netherlands. Similarly, the highly deregulated labour market in the UK provides incentives for a variety of atypical working relationships such as zero hours contracts, temporary agency working and bogus self-employment. It is therefore not surprising that **the UK has seen a larger increase in insecure work since the financial crisis than many other countries.** For instance, the increase in the number of temporary workers in the UK since 2008 is the third-largest in the EU.

Our case studies reveal that in some ways, the **UK stands as an exceptional case** regarding the drivers and nature of the increasing use of non-standard forms of work. Firstly, whilst insecure work in other case study countries has often expanded or declined dramatically following episodes of substantial deregulation or reregulation, **the highly deregulated and liberal UK labour market, with comparatively low levels of employment protection for permanent and temporary workers, has not been substantially altered in recent decades.** As such, changes in types of non-standard employment have to a larger extent been organic responses from employers and employees to changing labour market conditions, most recently in response to the economic crisis. Whilst the high usage of zero-hours contracts and self-employment is certainly grounded in the UK labour market traditions and institutions which allow for departures from the traditional model of employment, the more immediate drivers for the increasing use of such arrangements appear to differ. In this regard, it should be noted that the **absence of new legislation, in the context of other changes, can be regarded as a policy decision in itself, as it can be seen as an endorsement of the already existing deregulated and liberal labour market.**

¹ Usually thought of as policy interventions or collective organisations that interfere with wage and employment determination, such as collective bargaining, legislation on minimum wage, employment protection, unemployment insurance and active labour market policies.

The most insecure forms of work are arguably those that depart from the traditional employment relationship

Secondly, whilst many European countries have seen an increase in what we can call 'traditional' insecure forms of work, such as fixed-term contracts or marginal part-time work, **the liberal UK labour market has seen expansions in more atypical forms of work, such as zero-hours contracts, temporary agency working and (bogus) self-employment.** Such contractual arrangements are arguably at the highest risk of precariousness, as they **depart from the traditional employer-employee relationship.** Whilst fixed-term contracts and marginal part-time work generally fit into European labour markets and welfare states, in the sense that they are built around a standard employment relationship with employer obligations as a given, the **unclear contractual relationship in more atypical forms of work may place the individual at the periphery, or indeed, outside labour market regulation and social protections.**

The most clear-cut example of the challenge to the traditional employment relationship is the **trend towards bogus self-employment, platform workers and umbrella companies.** In these arrangements, **the nature of the employment relationship may be uncertain.** This uncertainty can create difficulties for individuals seeking to enforce employment rights. On paper, the individual is **classified as an independent self-employed contractor,** but in practice the employment relationship is characterized by the same **subordinate relationship that exists between an employer and an employee.** This means that the individual **incurs all the risks associated with self-employment,** but **receives none of the advantages** such as flexibility and autonomy. Such contracts are not only a new phenomenon with the emergence of the sharing economy, but have a long history in some sectors, and particularly in construction. This group is likely to be part of the recent wider increase in self-employment in the UK. The **rapid growth in self-employment in the UK,** the highest in the EU, increasing by 800,000 people from 3.8 million in 2008 to 4.6 million in 2015 (15% of the total workforce), is likely to reflect not only a **cyclical adjustment to the economic downturn,** but has become an **entrenched and structural feature** of the UK labour market. In contrast to the UK, France is an example of a wider European trend towards creating self-employment schemes that **provide labour and tax incentives to boost self-employment,** often with the aim of reducing unemployment. In particular, after a 2008 law provided so-called micro-entrepreneurs with tax and social contributions benefits, France has seen a rise of self-employed, but often with high level of job insecurity and sometimes resembling bogus self-employed.

Temporary agency work can also be characterised by a somewhat uncertain, or at least atypical, employment relationship due to the triangular relationship between workers, user organizations and agencies. The number of temporary agency workers in the UK is disputed, ranging from 300,000 to 1.2 million, but it is clear that this is a much more prominent employment form than in most other European countries. The UK represents a comparatively **lightly regulated** temporary agency sector. In particular, in all other EU member states except Ireland and the UK, agency workers are treated as employees of the agency, working under the supervision of the hirer company. In the UK, the situation is ambiguous. The agency worker can be employed by the agency on an 'employment contract' (as an employee), a 'contract to provide services personally' (as a worker) or on a self-employed basis. In the UK, most agency workers are entitled to protection provided by general labour market legislation such as the working times directive and the national minimum wage, and most recently by the (forced) implementation of an EU directive, which provided the right to equal pay and treatment after a 12-

week placement. However, due to their uncertain employment status and the intermittent nature of their work, they often lose out on other employment rights, including some family friendly rights and protection from unfair dismissal. In contrast, the German case study highlights the **role of the state, legislation and collective bargaining in influencing the usage and insecurities of agency workers**. After deregulatory reforms throughout the 1980s, 1990s and early-2000s, the German state facilitated the increase in temporary agency working, and conversely has recently acted to re-regulate the industry, via sectoral agreements with pay supplements and the introduction of a minimum wage.

Finally, **since people on zero-hours contracts often have multiple and changing employers, this may undermine traditional employer obligations**. In the UK, there continues to be a rise of zero-hours contracts, with the most recent LFS estimate indicating that around 900,000 people work on zero-hours contracts. These workers are covered by general labour market legislation such as the national minimum wage and the working time directive, but **the regulation on zero-hours contracts, such as the recent ban on exclusivity clauses, is of comparatively minimal scope**. In contrast, the two other case studies, Italy and the Netherlands, have a range of provisions regulating zero-hours and on-call contracts, including on the maximum contract duration and minimum hours per shift, as well as provisions detailing that employers are required to provide regular contracts when reaching a certain number of weekly hours.

Governments and trade unions need to find innovative ways to adapt to new employment practices

In light of the increasing use of such highly atypical employment relationships, **it is welcome that the UK government, alongside their European counterparts, have started to look into how modern employment practices relate to worker rights and employers' obligations**. As the UK case studies contained within this report demonstrate, and in particular those on bogus self-employment, temporary agency working and zero-hours contracts, there is a need in the UK to **align the distinctive rights given to “workers”, “employees” and “self-employed” to modern working practices**.

For trade unions, this process should also include finding innovative ways to adapt to new employment practices, particularly concerning increasing union membership and collective bargaining. This report demonstrates that **trade unions across Europe have sometimes played an important role in shaping insecure work**, but it has also shown that **atypical forms of employment presents trade unions with a number of challenges**. Non-standard workers are less likely to be union members; they are less likely to be aware of their statutory rights, and indeed they are often afraid of asserting their rights. This reflects the underlying challenge that unions must **balance their obligation to fight unfair work practices with the fact that these employment contracts for some workers represent their only opportunity to gain a foothold in the labour market**. Another challenge is that atypical workers are a highly fragmented group of workers with high turnover rates. The case studies show that trade unions might still have the willingness and capability to effectively represent these workers, but they are **much more effective when workers are concentrated in specific sectors and industries**, rather than being disbursed across the wider economy. This presents a significant challenge for trade unions.

The importance of taking a cross-national perspective

Whilst reshaping our labour market institutions to accommodate for new employment practices, it is important to learn from the experiences of other countries. That said, one of the main conclusions from this report is that **no single type of atypical employment relationship will be characterized by the same level of insecurity in different countries**. The most obvious example is fixed-term contracts, which in some countries are mainly used as part of educational schemes or as organised routes into permanent employment, whilst fixed-term contracts in other countries tend to be short term and primarily taken up out of necessity. Another example is short-hours work, which in some countries provides students with an opportunity to gain experience and supplement student bursaries, whilst in its most extreme variation in the form of zero-hours contracts can be used by employers in an exploitative way.

Further than this, the report shows that **country-specific circumstances matter** when determining the impact of specific mediating forces on the insecurity of work. This implies that **the success of policy measures at a national level will depend on national contexts**. This does not imply that countries cannot learn from each other and use the experience of other countries to guide them, but ultimately each country is constrained and enabled by their labour market institutions, legislation and traditions, as well as other specific factors.

Introduction

An increase in insecure forms of work has been identified in most European countries. Fixed-term contracts, temporary working and employment via agencies have proliferated, arguably undermining 'standard' employment relationships and the securities they offer. In general, this rise in insecure work has been attributed to macro-level change. Globalisation, technological developments, as well as the impacts of the 2008/09 economic recession have been described as fundamental drivers of insecure work, transforming labour markets through increased international competition and mobility, as well as job creation, destruction and change.

Nevertheless, while there is widespread agreement on the macro underpinnings of the international expansion of insecure work, a comparative perspective provides a more much nuanced account. Studies have identified not only a global unevenness amongst the macro forces that underpin trends in insecure work (Lee and Kofman 2012), but have also described significant cross-national variation in its extent and composition, in part due to the complex relationships that exist between different types of insecure work and the institutions and policies of host nation states (della Porta et al. 2015). It is the purpose of this report to provide an account of these variations, in order to provide a concise and comparative account of international trends in insecure work.

Building upon the TUC's recent report '*Living on the Edge: the Rise of Job Insecurity*', this report will provide a description of five main forms of insecure work found in the UK, and compare them to their European counterparts. Drawing upon European Labour Force survey data and case study research, it will provide an account of how specific labour market institutions, legislations and traditions characterise the nature of work insecurity.

While recent research often uses broader conceptualisations of 'precarity' to interrogate the extent, composition and impacts of insecure work (Arnold and Bongiovi 2012), this report follows the approach undertaken by the TUC and focuses on changes in the relationship between employers and working people. It therefore uses individual employment relationships to identify incidences of insecure work, focusing on:

- Temporary work, including:
 - Fixed-Term Contracts;
 - Temporary Agency Working;
 - Zero-hours / On-call Contracts;
- Part-time Work;
- Self-Employment.

By concentrating on the employer-employee relationship and separately interrogating these five forms of insecure work, this report will seek to provide an account of the variations that underpin work insecurity across Europe. In the context of the upcoming Taylor Review on modern employment practices and the recent enquiry launched by The House of Commons Business Committee into the future world of work, this report will therefore provide an important international context to the UK debate.

Although much can be gained from adopting this comparative perspective, it is important to signpost that looking to other European experiences cannot provide clear-cut guidance as to how insecure work arrangements should or should not be tackled in the UK. Indeed, it is one of the main conclusions

of this report that no single type of employment relationship is characterised by the same level of insecurity across different countries, and similarly each country is constrained and enabled by their own unique circumstances (such as labour market institutions, legislation and traditions). As such no one single or collection policies or approaches will be guaranteed success (or failure) across a wide variety of countries. However, this observation also implies that it is important to understand exactly what factors makes each country's experience of insecure work unique, and how these manifest themselves differently in different labour market settings. As such, when used appropriately, countries can learn from each other and use the experiences of others to guide them.

Section 1: The Macro Drivers of Insecure Work

Summary

- In general, the rise of insecure work across Europe has been attributed to a number of macro-trends. **Globalization and technological development have cumulatively been described as fundamental drivers of insecure work**, transforming labour markets through increased international competition and mobility, as well as job creation, destruction and change. These drivers have also been attributed to developments on the meso-level trends, influencing the simultaneous **deregulation of labour markets, labour market activation and the declining power of unions**; some of which, to varying degrees, have been intensified by the **2008/09 economic recession**. This section provides a very brief overview of these drivers, including cross-country variations, to provide the backdrop to our more detailed case study research.

Technological advancement has changed the face of work and employment relations throughout the last centuries. The periods of technological change are often referred to as industrial revolutions, and can be usefully divided into four separate movements (see Schwab 2016). According to this typology, the first industrial revolution was based on the transition from manual to mechanised production methods using machines and steam power. The second industrial revolution was based on the transition to mass production using electric power. The third industrial revolution refers to the automation and computerisation of production using electronics and information technology. And finally, today we stand at the brink of a fourth industrial revolution, which builds on the third and refers to the current era of digitalisation. Table 1 below provides an overview of the four periods.

Table 1. The four industrial revolutions

| Revolution | Year | Information |
|------------|------|--|
| 1 | 1784 | Steam, water, mechanical production equipment |
| 2 | 1870 | Division of labour, electricity, mass production |
| 3 | 1969 | Electronics, IT, automated production |
| 4 | ? | Cyber-physical systems |

Source: Schwab (2016)

Degryse (2016) establishes a framework for understanding the impacts that technological change may have on the labour market, and identifies four main trends:

1. **Job destruction.** Job losses due to computerisation, automation and robotisation.
2. **Job creation.** Job creation in new sectors, products and services.
3. **Job change.** New forms of jobs enabled by new worker-machine interaction.
4. **Job shift.** Development of new work platforms.

Much of the existing literature discusses whether technological change leads to 'technological unemployment' (Keynes 1930). The experience of the three previous industrial revolutions has been that job losses (Point 1 in the above) were offset by job creation (Point 2) in new areas (Mokyr et al. 2015). However, currently some experts warn that the impact of the fourth industrial revolution could be different, whereby that the new era of digitalisation will not only lead to a displacement of specific types of jobs, but also a decline in overall employment (McAfee and Brynjolfsson 2014). Whether or not technological change leads to a substantial reduction in overall employment, it is likely to lead to

new forms of work and employment relations (Point 3 and 4), which will inevitably impact on job insecurity and precariousness, both actual and perceived.

A most recent case study would be that of the 'gig-economy'. Usually defined as including two new forms of work types: 'crowd-work' and 'work on-demand via apps' (see De Stefano 2016; Cardon and Casilli 2015; Kessler 2015a; Said 2015; Smith and Leberstein 2015), the gig-economy provides efficient matching between demand and supply for labour and services and also allows for flexible work patterns. It also leads to a severe 'commodification' of work, where 'humans become a service', which can be provided 'just-in-time' and compensated on a 'pay-as-you-go' basis. De Stefano (2016) notes that the commodification of workers are not confined to the gig-economy, but can rather be seen as part of a wider trend with the proliferation of non-standard forms of work. Nonetheless, there are specific features of the new technological platforms, which have the potential to have a particularly strong impact on job insecurity.

The possibilities of billions of people connected by mobile devices, with unprecedented processing power, storage capacity, and access to knowledge, are unlimited. And these possibilities will be multiplied by emerging technology breakthroughs in fields such as artificial intelligence, robotics, the Internet of Things, autonomous vehicles, 3-D printing, nanotechnology, biotechnology, materials science, energy storage, and quantum computing (Schwab 2016). The most prominent new type of contractual relationship arising from the digitalisation of the labour market is the so-called 'sharing economy', and development of 'platform workers'.

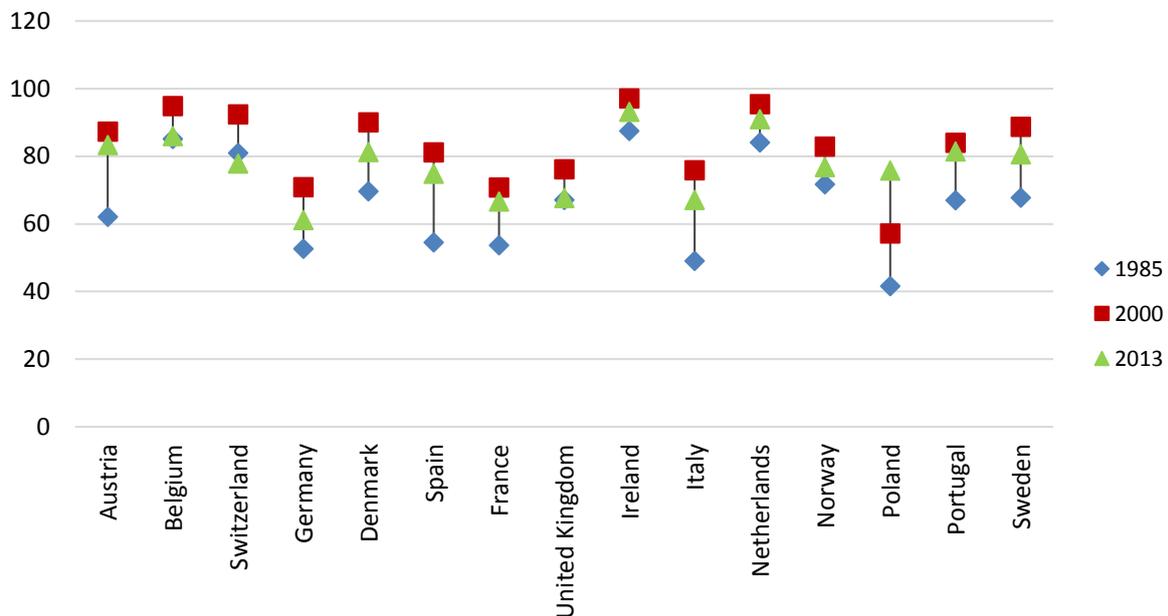
As described by Aloosi (2016), the sharing economy has developed at the "fringes of regulation" and has generally entered a market absent of a legal framework (Maselli 2016; Eurofound 2015). In most cases, platform workers are classified as self-employed rather than employees, which can significantly affect their employment rights. Indeed, one of the potentially most transformative impacts of platforms on the labour market may be its inherent ability to reorganise activities which traditionally relied on standard employment relationships into activities of self-employment (Drahokoupil and Fabo 2016).

The lack of representation of platform workers, at least in the current regulatory environment, arises from several factors (Eurofound 2015; De Stefano 2016): the impracticability of associating with peers dispersed on the internet; the unwillingness to cooperate given the direct competition between platform workers; and the reluctance to exercise collective rights as it could negatively impact on their reputation (often in the form of ratings), or could lead to retaliation from the platforms reflecting platform workers low employment security. As such, if trends toward this non-standard form of work continue, it is likely that the risk of precariousness will increase.

In addition to considerations of technological change, it has become common place within the literature to attribute the rise of insecure work to the impacts of **globalisation**. Broadly described as the process of intertwining of national economies to global markets (Castells, 2004), globalisation is recognised to encompass a number of trends, including rise of international communication networks, and the increased international flow of knowledge and information and people (Stiglitz, 2006). Due to its multifaceted definition encompassing economic, financial, demographic, political, social and cultural trends, there is no single way of measuring and demonstrating the degree and development in globalisation. Economic globalisation, however, is often used as an indicator. For instance, Chart 1 below shows the different country scores on the KOF Index of Economic Globalisation, which

incorporates the actual economic flows (including data on trade, FDI and portfolio investment), as well as taking into account restrictions on trade and capital. It shows an increase in economic globalisation from 1985 across all selected European countries. The economic crisis in 2008/09, however, means that many countries have experienced a slight decline in recent years.

Chart 1: Country Scores on KOF Index of Economic Globalisation

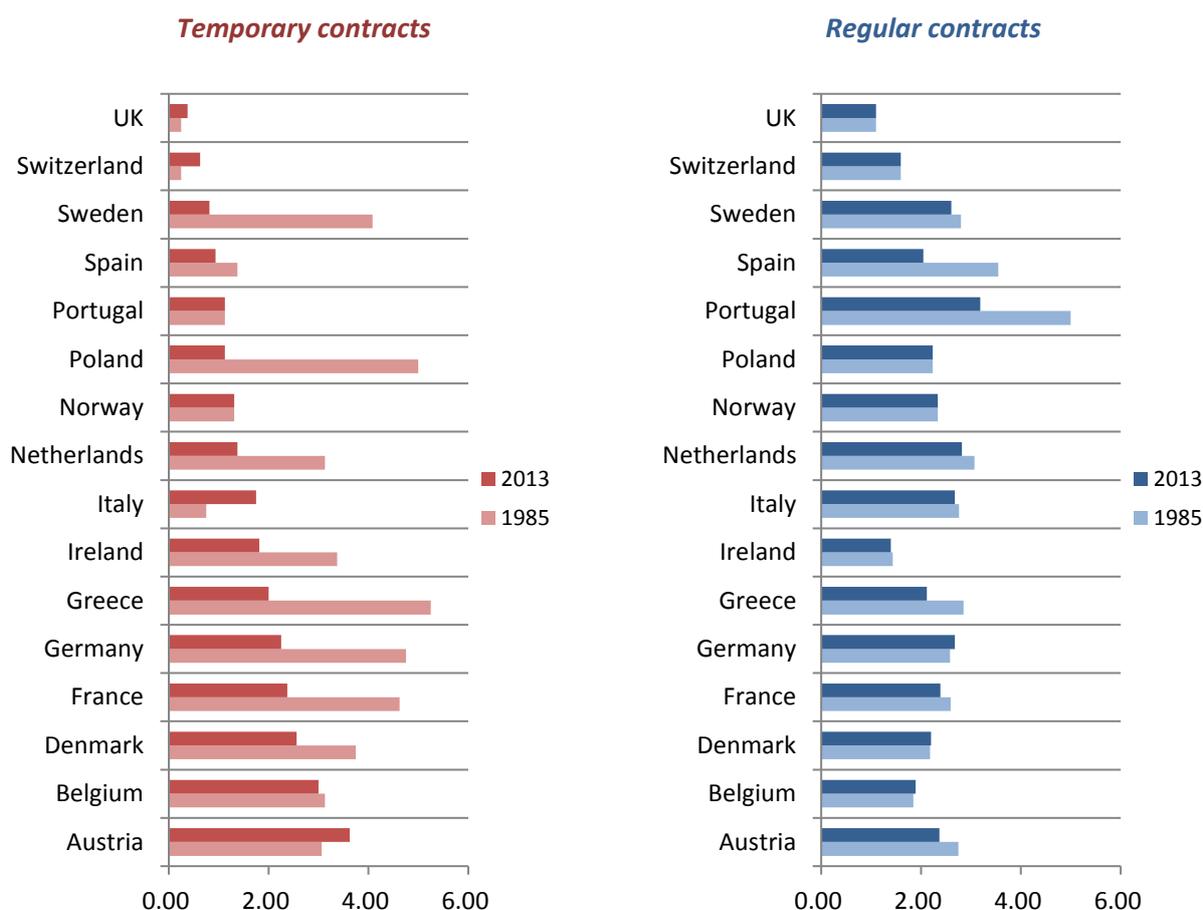


Source: KOF Index of Globalisation (1985 2000 2013). <http://globalization.kof.ethz.ch/>

Although often quite nebulous in its description, the literature identifies numerous labour trends have been associated with globalization. This includes growth in perceived and real job insecurity, increasing nonstandard and contingent work, and risk shifting from employers to employees (Arnold and Bongiovi 2012).

Although technological change and globalisation are frequently described as the main drivers of insecure work, it would seem more accurate to suggest that their more immediate impact has been on the social, political and economic conditions of host nation states, which in turn elicits the conditions of work insecurity. The literature, for example, identifies widespread trends in the **deregulation of European labour markets**, resulting in a level of flexibilization which is frequently attributed to lower pay, insecurity, and more regular unemployment, as it transfers the risks to employees for the sake of national competitiveness (Arnold and Bongiovi 2012). The decline in employment protection at a cross-country level is illustrated in the below graph, using the OECD employment protection index. This shows that temporary contracts in particular have seen a substantial decline in employment protection in many countries. It also situates the UK labour market as the one with the least strict employment protection regulations.

Chart 2: Strictness of Employment Protections (OECD Indicator) in Selected European Countries in 1985 and 2013, for Temporary Contracts and Regular Contracts.



Source: <http://www.oecd.org/els/emp/oecdindicatorsofemploymentprotection.htm>

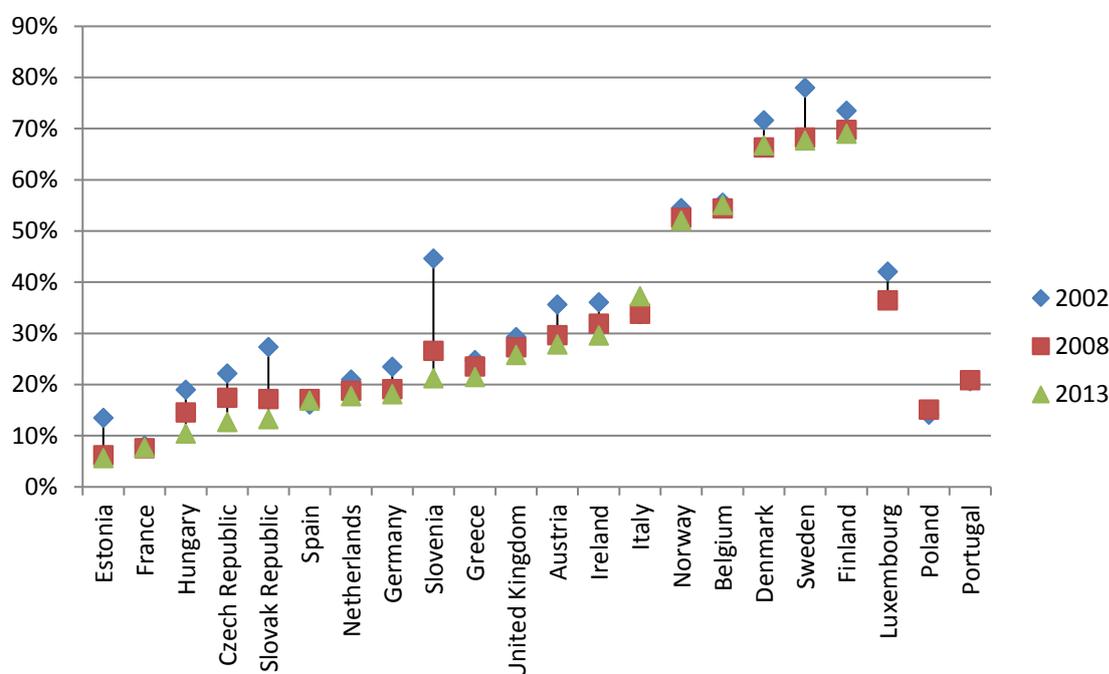
In addition, the simultaneous introduction of **labour market activation** policies, aimed at getting working-age people off benefits and into work, has arguably exacerbated risk, making it increasingly more essential to participate in paid employment at the same time that jobs have become more precarious. As the activation and increased flexibility of labour markets have both become central features of neoliberal-led structural reform, the term ‘flexicurity’ has become increasingly popular within policy debate; heralded as the solution by governments to enable employers and labour markers more flexibility, whilst ensuring workers can still be protected from insecurity (Burchell 2009; Kalleberg 2011). Broadly speaking, however, the dominant view within the literature is that increasing demands for flexibility on the labour market threatens employment security (Muffels and Luijck 2008). For many scholars the flexibilization of the labour market is synonymous with lower pay, insecurity and more regular unemployment, as it transfers the risks to employees for the sake of national competitiveness (Arnold and Bongiovi 2012).

To coincide with these trends, a widespread **decline in trade union membership** in Europe has also been identified. As demonstrated in Chart 3, the majority of European countries have experienced a continuous decline in union density; a finding that is indicative of a longer-term trend (Visagie et al. 2012). A number of reasons for this trend have been identified. Arguably one of the most important is sectoral shifts in European economies, reducing the size of typically unionised industries, such as manufacturing (Pedersini 2010). Another is widespread public sector reform, which has reduced trade

union membership through increased outsourcing and privatisation (Pedersini 2010). This decline in trade union membership has also been attributed to more demographic issues, such as the increase of unemployment, the disinclination of young and ethnic minority workers, and the improved skill levels of the labour force (Waddington 2005; Visagie 2012).

The decline of trade unions, who typically oppose the deterioration of job security, pay rates and terms and conditions of employment that coincide with insecure forms of work, clearly identifies an additional level of risk for the future of European labour markets (Keune 2013). Evidence suggests, however, insecure work has become a prime object of union strategies in recent decades, with a variety of initiatives being developed attempt to mitigate its growth and improve the conditions of insecure work. This includes collective bargaining, influencing national policies and legislation through campaigning, litigation, organizing precarious workers, mobilization and campaigns to influence public opinion (Keune 2013).

Chart 3: Trends in Trade Union Density (EU28)



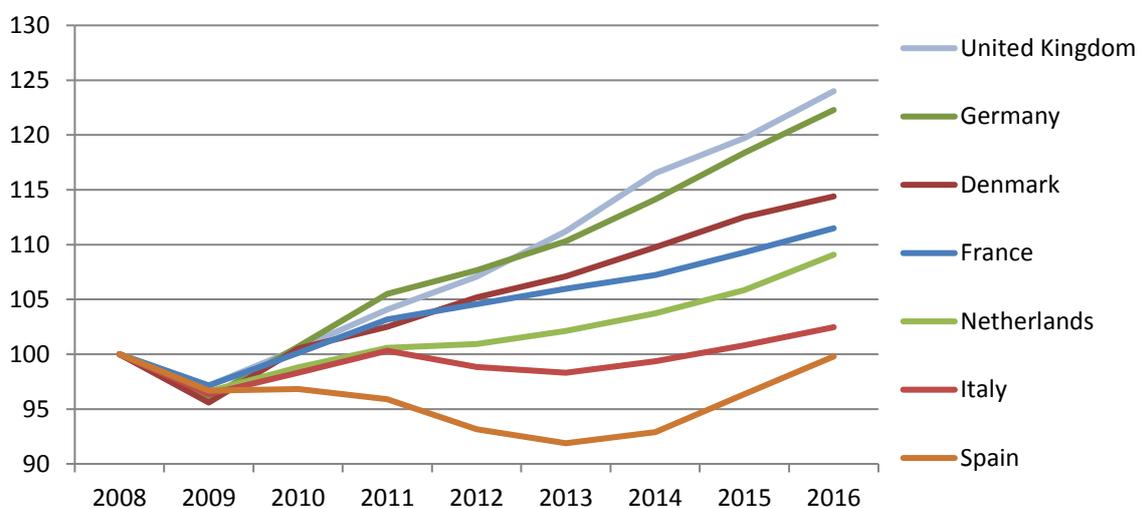
Source: https://stats.oecd.org/Index.aspx?DataSetCode=UN_DEN

Finally, the impact of the **2008/09 Economic Crisis** has been an important factor in the development of insecure work. In many respects the economic crisis has been identified to exacerbate many of the pre-identified drivers of insecure work (Broughton et al. 2016a). In particular, deregulatory strategies associated with the expansion of insecure work has been noted as intensifying since the crisis (Prosser 2016), and employers have been identified to increasingly hire on temporary and/or marginal part-time basis (Broughton et al. 2016a). Since the impact of the economic crisis has varied across countries, Chart 4 depicts the developments in real GDP across those European countries, which are included in the subsequent country case study research.

It shows that all the selected countries experienced an immediate drop in real GDP the first year after the financial crisis, but then took vastly different recovery paths, ranging from Spain who have only in

2016 reached their pre-crisis level, to the UK and Germany who have experienced a comparatively strong expansion of real GDP.

Chart 4. Development in real GDP. Index, 2008=100.



Source: Eurostat <http://ec.europa.eu/eurostat/data/database>

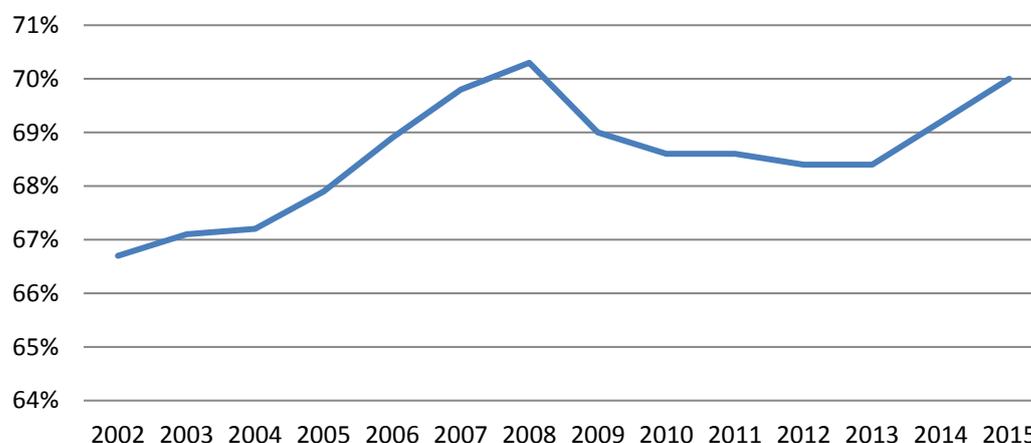
Section 2: Trends in Employment in Europe

Summary

- The overall **employment rate across Europe increased between 2002 and 2008**; then it experienced a **sudden drop during the financial crisis** and stagnated for a number of years, before starting to **recover from 2014 onwards**.
- There has been an overall trend of **growth in temporary forms of work across Europe** in recent years, whilst the **proportion of self-employed has remained relatively stagnant**.
- These general trends, however, mask some **substantial cross-country differences**, which are outlined in the following section.
- The UK has seen the **third-highest absolute growth in temporary employment since the financial crisis**, but still has one of the lowest proportions of temporary employees in the labour market. Meanwhile, the UK has seen the **highest growth in the EU in the number of self-employed**, whilst the proportion of self-employed in the UK labour market remains around the EU average.

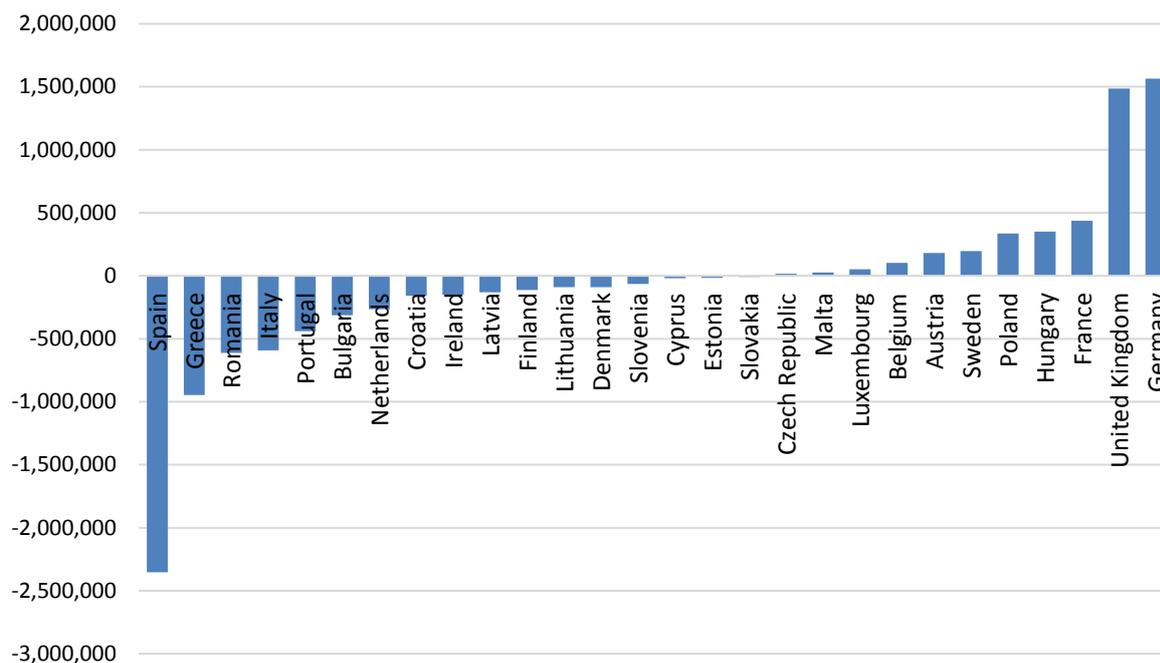
As Chart 5 shows, the overall employment rate in the EU28 countries increased between 2002 and 2008, from 67% to more than 70%; it then experienced a sudden drop during the financial crisis and stagnated for a number of years, before starting to recover from 2014 onwards to its pre-crisis level in 2015.

Chart 5: Total employment rate between 2002 and 2015 in EU28 countries (average)



This overall trend masks some significant cross-country differences. As shown in Chart 6 below, some countries have recovered enough since the financial crisis to register positive employment growth numbers for the overall period, whilst other countries, mostly Southern European, still have large negative growth numbers for the overall period. Between 2008 and 2015, the UK experienced the second-highest absolute growth in total employment. As the rest of this section demonstrates, a substantial proportion of these jobs are among self-employed and temporary workers.

Chart 6: Growth in total employment between 2008 and 2015 (EU28)



Source: European Labour Force Survey (2008 2015) <http://ec.europa.eu/eurostat/web/lfs/data/database>
(Age Class: From 20-64 years)

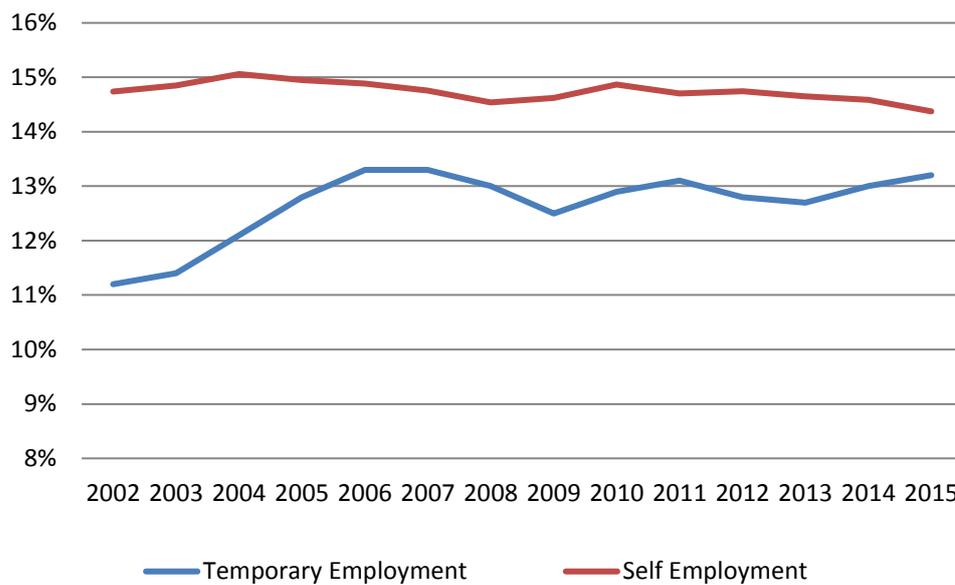
Going beneath these overall numbers, the standard employment relationship (SER) is arguably the cornerstone of European labour markets. Characterized by full-time hours and a permanent/open-ended duration of employment, the majority of European’s workers’ rights and protections are built around SER; securing workers stability and consistent earnings, as well as rights such as holiday pay, sick pay, and protections against unfair dismissal through labour market regulations and collective agreements. In comparative literature, the insecurity of atypical workers is often discussed in direct comparison to SER, subsequently defining insecurity by the extent to which the rights and protections afforded by individuals in atypical working arrangements differ from those of ‘standard’ workers.²

While the standard employment relationship continues to be the most dominant form of employment in Europe (accounting for 59 per cent of the total share employment in 2015), it is on the decline, giving way to more contingent forms of work as they grow in both significance and size. Chart 7 below shows an overall trend of temporary forms of work³ being on the rise in Europe, increasing from 11.2 per cent of total employment in 2002 to 13.2 per cent in 2015.

² Conceptualising insecure work in opposition to SER is a useful starting point, but it should be noted that SER itself can sometimes be characterised by precariousness (see Grimshaw et al. 2016a).

³ ‘Temporary employment’ refers to wage and salary workers whose jobs have a pre-determined point of termination, such as reaching a certain date, completion of assignment, or return of another employee who has been temporarily replaced.

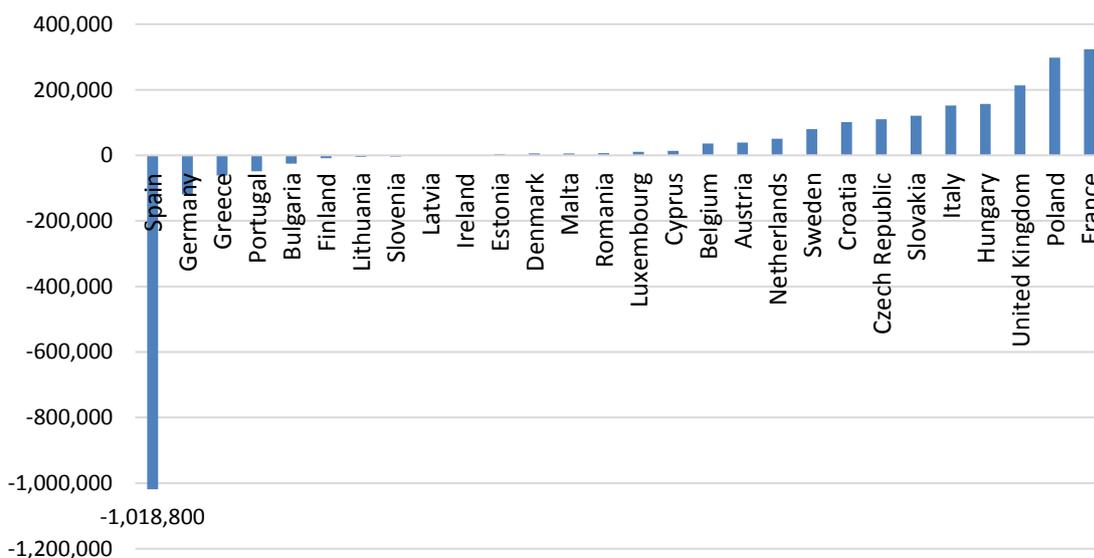
Chart 7: Temporary employment and self-employment as a percentage of total employment (EU28 average)



Source: European Labour Force Survey (2002 to 2015) <http://ec.europa.eu/eurostat/web/lfs/data/database>. (Age Class: From 20-64 years)

This overall trend, however, masks some significant cross-national variation. Despite the majority of countries demonstrating some growth in the number of temporary forms of employment between 2008 and 2016, Chart 8 shows that the extent of that growth varied significantly between nation states. Furthermore, Chart 8 also shows a number of countries experiencing a decline in temporary forms of work, in particular Spain. Meanwhile, the UK experienced the third-highest absolute growth in the EU.

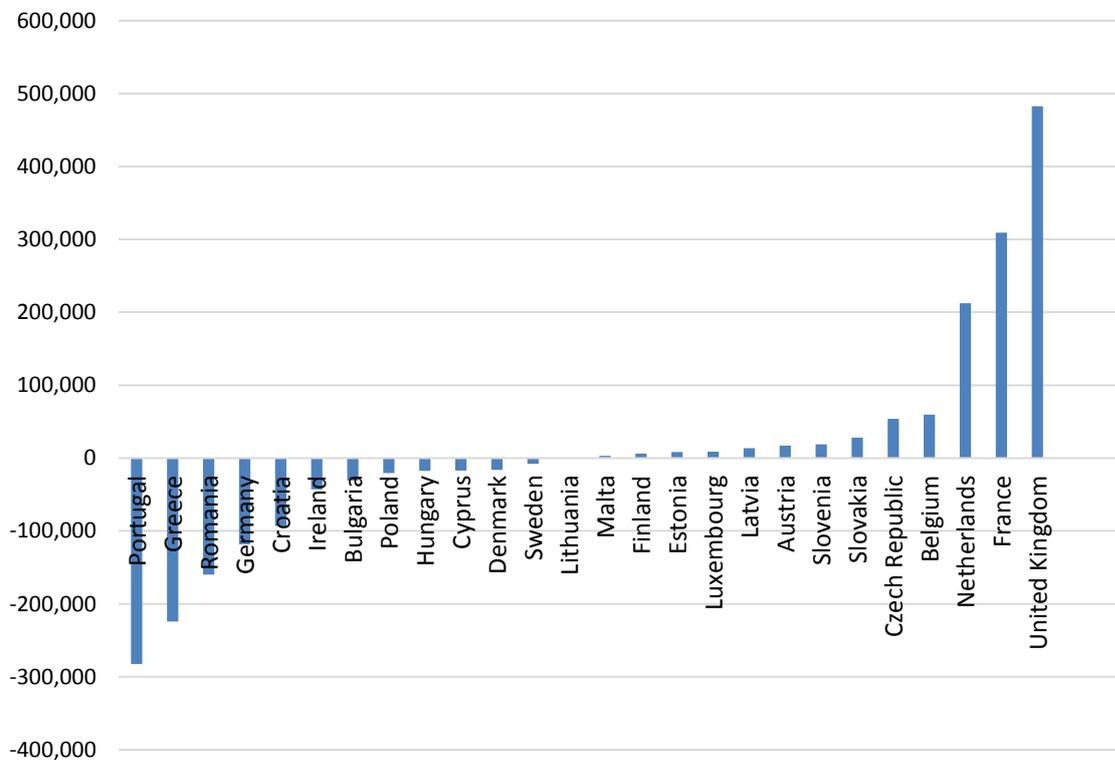
Chart 8: Growth in temporary forms of employment between 2008 and 2015 (EU28)



Source: European Labour Force Survey (2008 and 2015) <http://ec.europa.eu/eurostat/web/lfs/data/database> (Age Class: From 20-64 years)

The relatively stagnant trend in the proportion of self-employed in Europe also masks some significant cross-country differences. Whilst the UK, France and the Netherlands experienced relatively large growth in the number of self-employed, other countries such as Portugal, Greece and Germany have seen a decline in recent years.

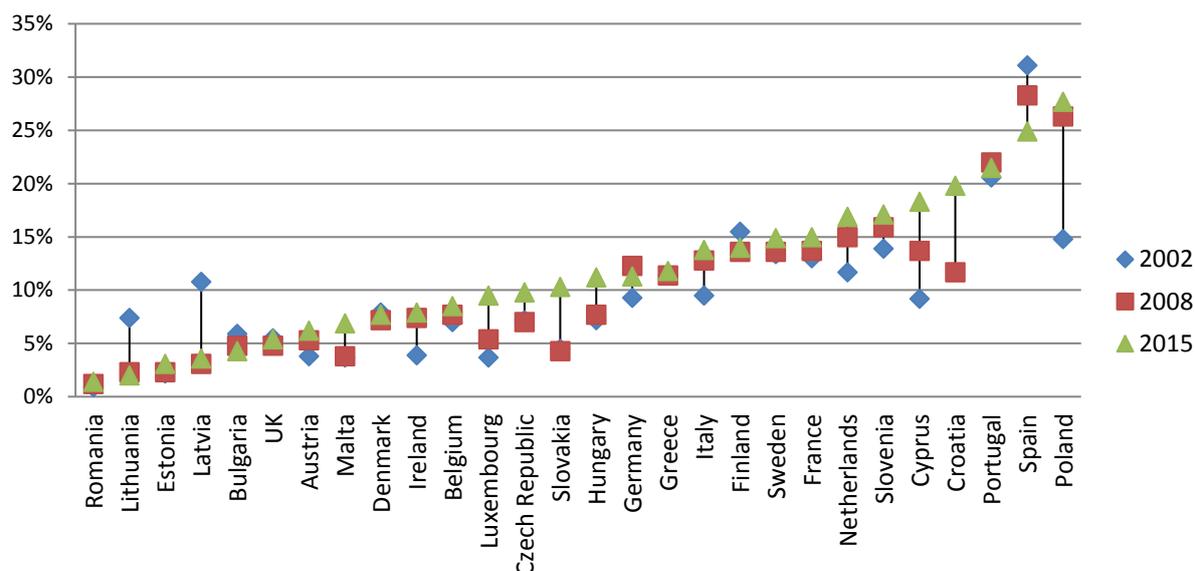
Chart 9: Growth in total self-employment between 2008 and 2015 (EU28)



Source: European Labour Force Survey (2008 and 2015) <http://ec.europa.eu/eurostat/web/lfs/data/database>. (Age Class: From 20-64 years)

The next two charts provide even more complexity to the picture. Chart 10 on temporary employment demonstrates how not only the proportion of temporary employees across nation states can vary (ranging from 1 per cent in Romania to 28 per cent in Poland), but also how the scale and direction of travel overtime can also greatly differ over a chosen time period. For example, Chart 10 shows Lithuania, Latvia, Finland and Spain all experienced a decline in the proportion of temporary employees between 2002 and 2015, and even how in countries such as Germany and Portugal experienced inconsistent trends. Despite the substantial increase in temporary employment in the UK, the country still ranked as having one of the smallest proportions of temporary employees in the overall workforce in the EU.

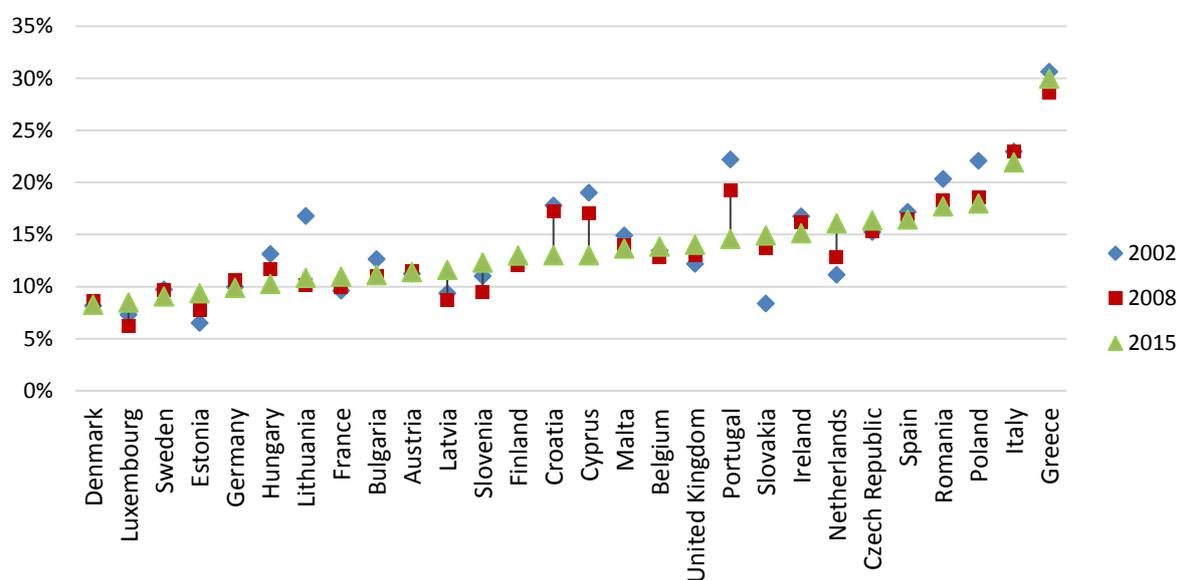
Chart 10: Temporary Employees as percentage of the Total Number of Employees



Source: European Labour Force Survey (2000 2008 2015) <http://ec.europa.eu/eurostat/web/lfs/data/database>
(Age Class: From 20-64 years)

Similarly, Chart 11 below shows the variations in the proportion of self-employed. Southern European countries, particularly Greece and Italy, register high rates of self-employment. Meanwhile, the UK remains close to the EU average.

Chart 11: Self-employed as a percentage of total number of employees in EU28 countries

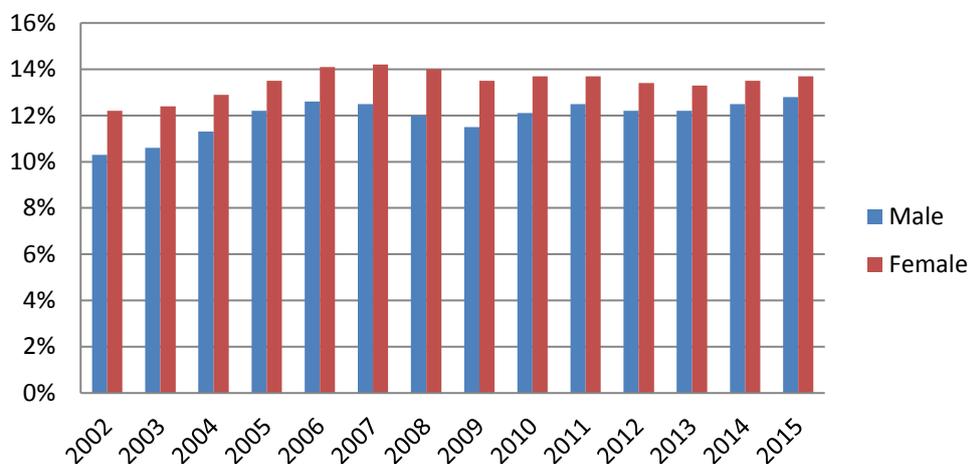


Source: European Labour Force Survey (2002 2008 2015) <http://ec.europa.eu/eurostat/web/lfs/data/database>
(Age Class: From 20-64 years)

As well as identifying disparities in the general growth of temporary forms of work, analyses of country-level demographic data highlights some significant cross country variations. For example,

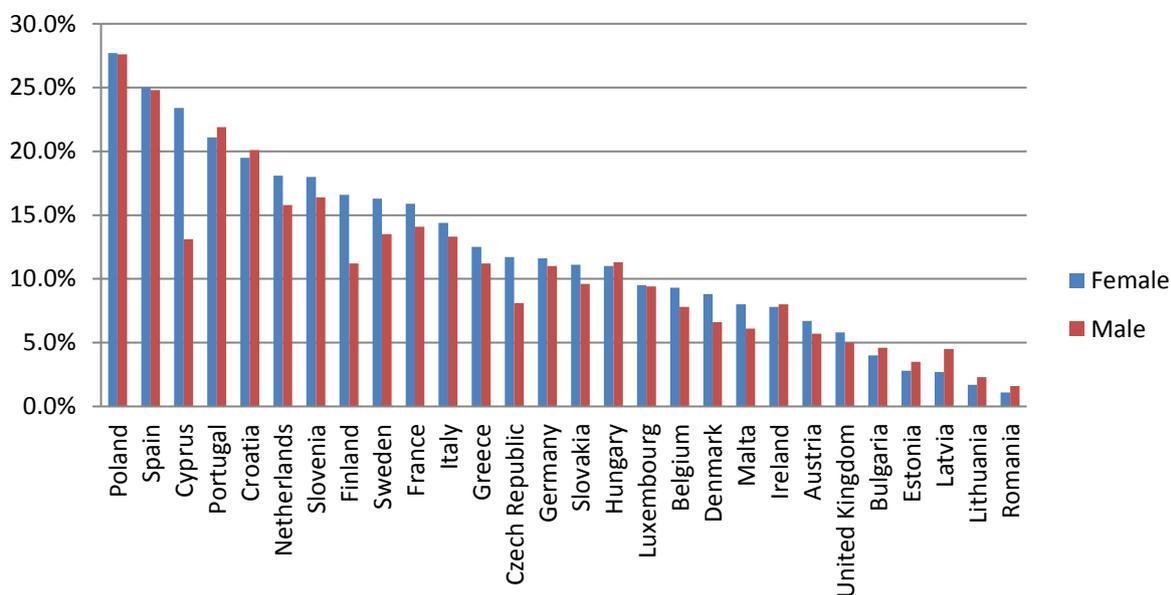
whereas Chart 12 shows a greater proportion of the female workforce to consistently feature in temporary forms of work (ranging on average between 12 and 14 per cent), Chart 13 demonstrates significant national differences. Chart 13, for example, shows that whereas in Poland 28 per cent of the female workforce are in temporary work, it is only 1 per cent in Romania.

Chart 12: Proportion of Men and Women Temporarily Employed (EU28 average)



Source: European Labour Force Survey (2000 to 2015) <http://ec.europa.eu/eurostat/web/lfs/data/database> (Age Class: From 20-64 years)

Chart 13: Proportion of Men and Women Temporarily Employed (2015)

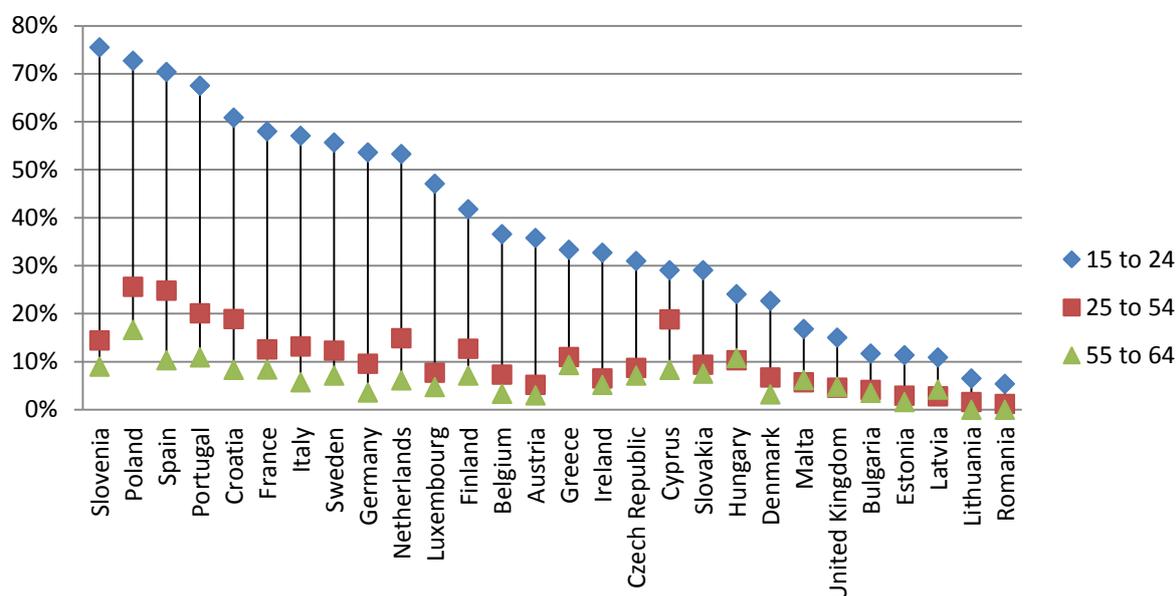


Source: European Labour Force Survey (2015) <http://ec.europa.eu/eurostat/web/lfs/data/database> (Age Class: From 20-64 years)

This tendency for variation also extends to trends around age. As reflected in Chart 14, the overall evidence identifies that temporary employment is primarily a youth phenomenon; with greater proportions of younger than older people likely to be in temporary forms of employment

(Allmendinger et al., 2013). There is however, again, significant cross national variation, with proportions for 15 to 24 year olds ranging from 76 per cent in Slovenia, to 5 per cent in Romania.

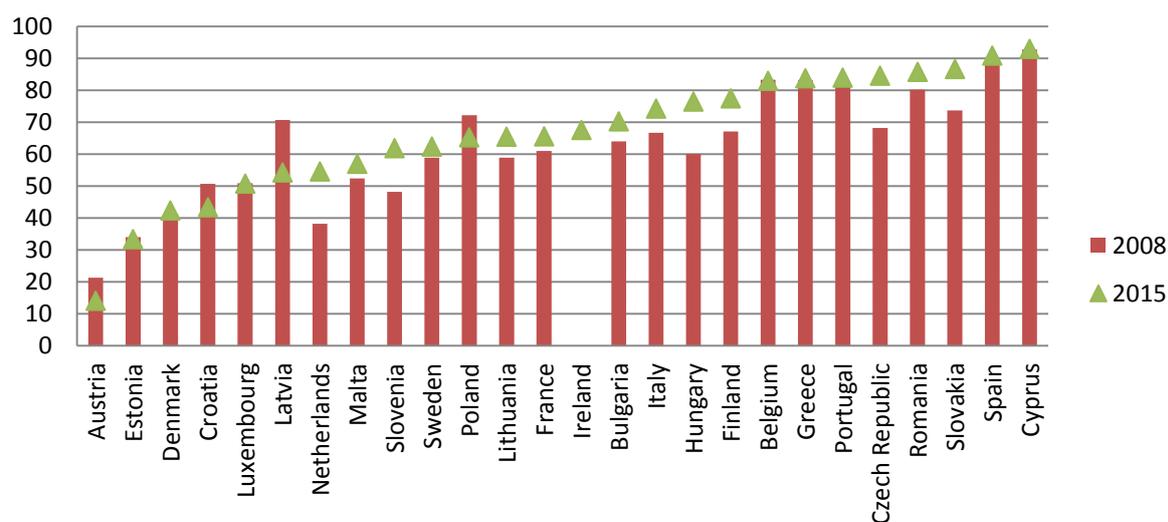
Chart 14: Temporary Employment Rates by Age Groups (2015)



Source: European Labour Force Survey (2015) <http://ec.europa.eu/eurostat/web/lfs/data/database> (Age Class: From 20-64 years)

These variations can extend further still into choices made to enter temporary employment. As demonstrated by Chart 15, despite an overall trend of increased involuntary temporary employment across Europe, in some countries the opposite is in fact true. In Austria, Croatia and Poland, for example, a greater proportion of temporary workers chose to be temporarily employed in 2008 than in 2015.

Chart 15: Involuntary Temporary Employment as a percentage of Total Temporary Employment



Source: European Labour Force Survey (2008 and 2015) <http://ec.europa.eu/eurostat/web/lfs/data/database> (Age Class: From 20-64 years). Note: missing data on Ireland in 2008 and the UK in 2008 and 2015.

Case Study Research

Having briefly outlined the macro drivers for the rise in insecure work, as well as the growth trend and country variations in temporary forms of work and self-employment, this report will now embark on its more detailed case study research. The case studies will provide insight into some of the drivers behind variations we see between nation states, looking at institutions, legislations and labour market traditions. The UK will serve as the benchmark case study across all employment types studied. The purpose is to examine selected employment types at risk of insecurity in the UK, and compare them with the experiences across Europe.

The first three sections will examine three forms of temporary working, in particular:

- fixed-term contracts;
- temporary agency working;
- zero-hours contracts

Whilst the two final sections will examine:

- part-time work;
- self-employment

Fixed-Term Contracts across Europe

Summary

- Case studies: **UK, Spain, France**
- In the first case study section on temporary employment, we examine the use of fixed-term contracts, which refer to employment relationships with a **predetermined end-date**, or contracts that end when a **certain objective has been reached**.
- The **temporary nature of the employment relationship** may, on the one hand, bring flexibility and better work-life balance, but, on the other hand, may increase the individual's risk of precariousness, including low job security, low overall earnings and pensions, and less access to social security entitlements.
- Comparative studies show vastly **different trends across Europe regarding the contract duration**. For instance, in Spain, fixed-term contracts of less than 3 months are predominant, whilst German fixed-term contracts are often used for vocational training or as an extended probationary period lasting more than 2 years.
- **The UK** has a comparatively low (and declining) use of traditional fixed-term contracts. These are often characterized by relatively high transition rates and are predominantly taken up voluntarily. However, this should be seen in the context that the **existence of other types of employment contracts have become increasingly common in recent years in the UK labour market, most notably temporary agency working, zero hours contracting and bogus self-employment**. UK workers on the traditional fixed-term contracts are offered a number of protections. Nevertheless, even the traditional fixed-term contracts are **not governed by a large degree of regulation in the UK**, which becomes apparent when comparing to the number of protective provisions and other regulation in Spain and France.
- **In Spain**, fixed-term contracts represent the vast majority of flexibility and temporary work arrangements. Spain is famous for its **high proportion of fixed-term contracts** (for a long period the highest in Europe, now only surpassed by Poland) and its **highly dualized labour market**, in which there exists a large group of largely unprotected outsiders at the periphery of the labour market, alongside a highly protected core workforce on permanent contracts. With roots in reforms after democratization in the 1970s, the dualized labour market has become an entrenched feature of the Spanish labour market despite repeated regulatory attempts aimed at increasing the appeal of regular contracts vis-à-vis fixed-term contracts. Only the economic crisis in 2008-09 somewhat reduced the proportion of fixed-term contracts, as temporary employees took the burden of cyclical adjustment, underlying the insecurity of temporary employment in Spain. Generally, fixed-term contracts in Spain are of a **very short-term nature**, reflected in the **very low transitions rates into permanent employment**, and as such people in fixed-term contracts can struggle to qualify for certain benefit entitlements and their frequent unemployment spells can result in lower retirement pensions. In addition, people on fixed-term contracts are at a higher risk of low pay and in-work poverty, according to existing evidence.
- **In France**, the standard employment relationship still remains the dominant labour contract, but there is some use of fixed-term contracts. These are **highly regulated with specific provisions of what types of activities fixed-term contracts can be used for**, unlike the UK and

Spain. These typologies of contracts, in turn, determine the rights and benefits given to workers. There has been a marked **increase in the use of very short-term fixed-term contracts**, lasting less than a month, and in many instances less than a week. This almost resembles the use of zero-hours contracts in the UK, and in any case limits the access to certain social benefits that are based on working time. France also exemplifies the ways in which **people on fixed-term contracts can be vulnerable to a lack of social representation**, due to their highly heterogeneous nature where workers are disbursed across sectors and industries, reducing their bargaining power. This is in contrast to temporary agency workers, who are typically concentrated in specific sectors, which will be highlighted later in the report.

Having presented the aggregate data on trends and variations of temporary working and self-employment across the EU, we now turn to country case study research of different types of employment relationships. The first three sections examine different types of temporary employment, the first being the use of fixed-term contracts. These are contracts with a predetermined end-date or contracts that end when a certain objective has been reached. The share of these contracts of total employment averaged about 7% in Europe in 2014 (Broughton et al. 2016a). The lowest shares were found in the UK, Romania, Lithuania, and Estonia, whilst the highest shares were found in Poland, Spain, Cyprus and Portugal (where Spain represents one of our case studies).

In a comparative European study on precarious employment, Broughton et al. (2016a) assess the risk of insecurity for those on fixed-term contracts to be of medium level. Advantages include higher flexibility and better work-life balance. In contrast, key risks include low pay and the lack of job security. Furthermore, because workers' rights and protections have generally been built around the open-ended contract, people on fixed-term contracts may lack access to some employment rights and social benefits due to the temporary nature of their contract (Broughton et al. 2010).

As such, the security of people on fixed-term contracts are often determined by the employment duration, not just because this determines overall earnings and acquired pensions, but also because protections and social security entitlements often are on a pro-rata basis or reliant on a certain number of working hours over a given period. Interestingly, comparative studies point towards substantial differences in the duration of fixed-term contracts in EU member states. Short-term contracts of less than 3 months are predominant in Spain and Belgium, and as we shall see, it is also relatively high (and notably increasing) in our second case study on France. Meanwhile, the duration of fixed-term contracts in Germany and Austria often exceeds two years. As such, in Germany and Austria, fixed-term contracts are not commonly regarded as one of the most insecure types of work, since such contracts are often taken up voluntarily and used for vocational training or as an extended probationary period into permanent employment (Broughton et al. 2016b). According to the 2014 EU LFS, the UK also has a relatively low level share of involuntary fixed-term contracts (35%), whilst Spain (86%) and France (55%) are in the upper-end regarding workers who preferred permanent employment positions.

Another key factor to consider is whether temporary contracts serve as a stepping stone into more regular employment relationships, or whether people get trapped in non-standard and insecure employment (Broughton et al. 2016a). The publication *Employment and Social Developments in Europe 2015* shows the share of temporary employees who transition to permanent jobs one year after in 2013. A number of countries report relatively low transition rates around 10% (France, Spain,

Greece and the Netherlands). In contrast, the highest transitions rates are found in Estonia (65%) and the UK (63%). This again points to the substantial differences in the use of fixed-term contracts in our three case study countries, which will be discussed in detail in the subsequent sections.

Fixed-term contracts in the UK

When discussing the prevalence of fixed-term contracts in the UK, and the extent to which these are characterised by insecurity, it is important to recognise the existence of other types of flexible labour contracts, which are highly common in the UK labour market. This includes notably the use of temporary agency workers, zero-hours contracts and bogus self-employed. The relatively high share of these employment arrangements and the employment protections and rights associated with them are not discussed in this section, but it is clear that these arrangements, in some instances, are a direct replacement for more standard fixed-term contracts. This trend probably goes a long way in explaining the low (and decreasing since 2000) level of standard fixed-term contracts in the UK, and must be taken into consideration when discussing the insecurity of fixed-term contracts, particularly when examining data on transition rates and motivations for taking up employment on fixed-term contracts.

Job insecurity in fixed-term contracts in the UK

Generally, UK employers are required to treat people on fixed-term contracts equally to comparable permanent employees. Fixed-term workers are entitled to same pay and working conditions and benefits, unless the employer has an “objective justification” for not doing so⁴ (Grimshaw et al. 2016b). Fixed-term employees can also qualify for additional rights, if they work for the same employer for a number of years. For instance, after two years they gain the right to claim unfair dismissal, which implies that workers on short-term fixed-term contracts may be vulnerable to dismissal (Broughton et al 2010). After four years, unless it can be objectively justified, the employee automatically becomes a permanent employee (Grimshaw et al. 2016b)

However, in a comparative perspective, traditional fixed-term contracts are not governed by a large degree of regulation in the UK. This will become apparent when comparing to the other case studies of France and Spain in the next two sections.

Fixed-term contracts in France

Overall, the standard and open-ended contract constitutes the, by far, largest share of employment in France. However, firms also use fixed-term contracts in some instances, generally to provide flexibility as a consequence of the high employment protection in permanent contracts (Hoekstra et al. 2016). As such, fixed-term contracts represent the second most common contract, accounting for around 7% of total employment in 2014, which is equivalent to the EU average (Broughton et al. 2016a).

In France, a fixed-term contract cannot be used for a job that relates to an organization’s regular business activity. Instead, French employers must have a justification for hiring employees on fixed-term contracts (see Broughton et al. 2016a). Note, this is in contrast to the UK case, where employers do not need to justify why the employment takes the form of a fixed-term contract. In France, the four main justifications/job types are: replacement of an absent employee; temporary increase in economic activity; seasonal work by nature; and in certain sectors it is customary practice not to conclude permanent employment contracts given the type of work and its temporary nature (i.e.

⁴ See <https://www.gov.uk/fixed-term-contracts/employees-rights>

hotels and restaurants, entertainment, sports etc.). Whilst the above fixed-term contracts are designed to facilitate the functioning of the firm by providing flexible labour, there are also an additional number of fixed-term contracts that are designed for welfare reasons. This includes subsidized contracts to facilitate transitions into the labour market, and for targeted groups of workers, such as older and younger people, and people in specific occupations.

Job insecurity in fixed-term contracts in France

These justifications/contract types, in turn, are governed by slightly different protections and regulation on aspect such as the maximum contract duration, the number of renewals, and additional compensation. Taken together, the case of France (like the following case study on Spain) represents an example of a high level of regulation of fixed-term contracts, reflected in their high score on the OECD temporary employment regulation indicator. This is in stark contrast to the previous case study on the UK, which ranks as one of the least regulated economies regarding fixed-term contracts. A brief overview of the regulations in the different types of fixed-term contracts are provided in Table 2 below.

Table 2. Main regulations of different types of fixed-term contracts

| Justification/ contract type | Maximum duration | Maximum number of renewals | Limits to successive contracts | Compensation at end of contract |
|--|---|---|---|---|
| <i>Temporary increase in economic activity</i> | 18 months | 2 (1 before Macron Law in 2015) | Waiting period: a third of length of contract if above 14 days. Half of length of contract if under 14 days. | 10% “precarity bonus” of wage (6% in some collective agreements) |
| <i>Replacement for absent employee</i> | No maximum (but general ban on long-term cover for permanent posts) | 2 (1 before Macron Law in 2015) | No limit | 10% “precarity bonus” of wage (6% in some collective agreements) |
| <i>Usage in specific sectors</i> | No maximum (but general ban on long-term cover for permanent posts) | 2 (1 before Macron Law in 2015) | No limit | No compensation |
| <i>Seasonal</i> | Duration of season | 2 (1 before Macron Law in 2015) | No limit | No compensation |
| <i>Specified purposes</i> | 18 months | No renewal | No limit set by law but by | 10% “precarity bonus” of wage (6% in some collective agreements) |
| <i>Subsidised contracts</i> | Depends on contract | Depends on contract | No limit | No compensation |

Source: Table 5 in Kornig et al. (2016: 42). Notes: For a more detailed account, including various exceptions to the general rules, see the original source.

Generally, the legislation only allows employers to renew an employee’s fixed-term contract twice (increased from 1 renewal in the Macron Law in 2015), and the maximum duration must generally not

exceed 18 months (although some types of fixed-term contracts differ). Even though legislation for most types of fixed-term contracts requires employers to compensate employees with a monthly “precarity bonus” of 10% of their remuneration, studies show that fixed-term contracts in France are often characterized by low pay and in-work poverty (see Broughton et al. 2016b; Kornig et al. 2016). Furthermore, as with many other atypical forms of work, the temporary nature of their contracts limits the access to certain social benefits that are based on acquired working time (ibid.). For instance, workers on fixed-term contracts are more vulnerable to longer-term illness absences from work, as they do not enjoy compensation in case of illness and accidents, nor do they have access to additional health care schemes (ibid.).

Regarding social representation, all employees in France (regardless of employment contract) have the same rights to unionization and representation. However, temporary workers tend to be less unionized than permanent workers, and fixed-term workers are less likely and sometimes unwilling to speak to unions, for fear of being denied work (see Kornig et al. 2016). Furthermore, trade unions must generally tread carefully in their opposition to temporary work arrangements, as these contracts for some workers represent the only opportunity to gain employment and subsequently an entry point into permanent contracts (ibid.).

Workers on fixed-term contracts in France may also be vulnerable due to their highly heterogeneous nature, where workers are widely disbursed across sectors and industries (Broughton et al. 2016b). In a country where employment rights are negotiated at industry levels, with collective bargaining agreements covering every employee in the specific industry, it is a challenge for unions to effectively represent the interest of fixed-term workers (ibid.). This is a similar dynamic to the one identified in Germany in a later case study on marginal part-time employment, where there is limited social representation of Minijobbers who are disbursed into many different sectors of the economy and only ever constitute a minority (albeit sometimes large) of employees in firms, whilst temporary agency workers are generally better represented and have stronger bargaining power due to their concentration in certain sectors of the economy.

Finally, a recent study on precarious work in Europe identified the increasing incidence of fixed-term contracts of very short duration in France both before and after the economic crisis in 2008, and noted that these could be at a higher risk of insecurity (Broughton et al. 2016b). The number of fixed-term contracts of less than one month has increased sharply, and of those, it was particularly fixed-term contracts of less than one week that accounted for the majority of the increase (IDEA Consult 2015). For employers, these contracts provide short-term quantitative flexibility, but due to their very limited duration, it can be argued that they bear a great resemblance to zero-hours contracts (Kornig et al. 2016).

Fixed-term contracts in Spain

It is clear from the introduction to this section that our final case study Spain is an exceptional case, with a high share of fixed-term contracts (only recently surpassed by Poland in the EU). Furthermore, a majority of these contracts are of a short-term duration lasting less than 3 months, but this is not because contracts are converted into permanent contracts; rather the transition rates into permanent employment are among the lowest in the EU.

The comparative high levels of unemployment in Spain have made the country “*the perfect laboratory for never-ending labour market reforms*” (Llorente and Hernández 2016: 7). As such, to understand the high usage and insecurities of fixed-term contracts in Spain, it is necessary to track the unfolding of various labour market reforms since the Franco regime, mapped out in the text below and summarised in a table in Appendix 1.

During the Franco regime, job protection was strong for labour market insiders (mainly male heads of households), which compensated for the lack of a modern welfare state and the Franco regime’s ban of trade unions and collective bargaining (Dubin and Hopkin 2013). As Spain democratized, trade unions and political parties were reluctant to retreat from the legacy of insider protectionism. Thus, the Labour Code of 1980 largely institutionalised the strong employment protections for the core workforce, by maintaining strict dismissal protections and high severance payments for the core workforce. This was reinforced by the subsequent tendency of labour courts to favour employees when ruling on unfair dismissals (Garcia-Perez et al. 2016). Fundamentally, the Labour Code assumed standard open-ended contracts to be the default contract, and the law only allowed for temporary contracts when the job or economic activity was of temporary nature (i.e. seasonal jobs, temporary cover for permanent employee etc.).

Meanwhile, unemployment rates increased dramatically during the first half of the 1980s, eventually reaching above 20%. This prompted the Socialist administration to push through labour market reforms in 1984. Since social partners remained hostile to reducing firing costs for regular workers, combined with the electoral importance of the regular workers to the Socialist party, the resulting reform aimed at increasing the use of temporary contracts (Dubin and Hopkin 2013; Garcia Perez et al. 2016; Rueda 2007). In practice, the reform increased the flexibility on the margins. It eliminated the requirement that temporary contracts can only be used for activities of temporary nature, and instead created various new types of temporary employment contracts, where the dismissal costs were either very low or non-existent (Dubin and Hopkin 2013).

This “partial deregulation” (Polavieja 2003, cited in Dubin and Hopkin 2013) had a major impact on the structure of the Spanish labour market. The reform soon led to a large increase in temporary employment, since the comparatively lower protection costs appealed to employers (Garcia-Perez et al. 2016). In fact, between 1985 and 1994 almost all new hires (above 95%) were employed in fixed-term contracts, with a very small transition rate to permanent contracts, estimated to be below 10% (Guell and Petrogolo 2007, cited in Garcia Perez et al. 2016). This meant that whilst standard open-ended contracts had represented above 90% of contracts in the beginning of the decade, a decade after the reform around 35% of the workforce were employed on temporary contracts, making it by some distance the highest proportion in Europe at the time (ILO 2016). Essentially, the reform had created a “dualization” of the labour market, in which there existed an increasingly large group of unprotected ‘outsiders’ at the periphery of the labour market alongside the continued existence of a protected core workforce.

Initially, the 1984 reform had the intended effect of reducing unemployment, but the crisis of the 1990s reversed these gains and propelled unemployment back to around 25% in 1994. This in turn exposed the limits of a dualized labour market (Guillen 2010, cited in Dubin and Hopkin 2013). To address this, the following years saw a new policy approach that sought to increase the appeal of regular contracts vis-à-vis fixed-term contracts. Llorente and Hernández (2016) list four overarching themes of the reforms during the 1990s and 2000s up until the economic crisis:

- 1) Limiting the duration of fixed-term contracts
- 2) Restricting the groups of workers that could benefit from temporary contracts
- 3) Subsidizing the transition into permanent contracts
- 4) Increasing the dismissal costs of fixed-term contracts

The specifics of the individual reforms can be found in Appendix 1. Overall, the reforms had limited impact on the rate of temporary employment in Spain (Llorente and Hernandez 2016). The reforms did not go far enough to change the underlying fact that temporary contracts were still cheaper and had lower dismissal costs for companies (Dubin and Hopkin 2013). By now, fixed-term contracts had seemingly become entrenched in the Spanish labour market, and companies had grown accustomed to use this type of contracts in their operations and in particular in their business cycle adjustments (ILO 2016). This meant that the proportion of fixed-term contracts of all employees remained stagnant at around a third throughout this period.

It was not until the economic crisis hit in 2008-09 that the share of employees on fixed-term contracts declined in Spain. Generally, the economic crisis had a number of different impacts on the proportion of temporary contracts across European countries and sectors (Garcia-Perez et al. 2016). In some cases, companies adopted a “wait and see” strategy, opting to increase flexibility by replacing permanent workers with temporary workers on very short-term contracts (ILO 2016). Such practices were observed in France, Italy, Ireland and the UK, where temporary employment contracts tended to grow and the share of temporary contracts among new hires increased (ibid.).

In contrast, when reduction of the workforce became inevitable, this often happened at the expense of unprotected workers in fixed-term contracts. This happened in Spain, where temporary contracts declined from 29% in 2008 to 22% in 2013 (ibid.). Importantly, this was not because people shifted towards permanent contracts, but rather because temporary employees took the burden of the cyclical adjustment, as they were relatively easy to fire. In the last quarter of 2008, 15% of Spain’s workforce in fixed-term contracts lost their job, compared to only 2.5% of permanent workers (ILO 2016). Other numbers illustrating the same trend show that from Q3 in 2007 to Q1 in 2013, 3.1 million jobs were destroyed in Spain; 76% of these were held by temporary workers (Garcia Perez et al. 2016). Another important part of the explanation for the declining proportion of temporary contracts is that the economic crisis burst the speculative bubble in the Spanish construction sector, which had a high share of people on fixed-term contracts.

As a result, labour market reforms in 2010 and 2012 again tried to re-balance the protection of insiders and outsiders. The reforms in fact went further than this; as the Government also aimed to strengthen firms’ internal flexibility, with a view to discourage dismissals. This was done through a variety of labour market measures, including by liberalising collective bargaining (Jansen et al. 2016; Hoekstra et al. 2016; Garcia-Perez and Jansen 2016). As there is only provisional evidence on its impact, it is still too early to assess these labour market reforms (see Garcia-Perez and Jansen 2016). Nevertheless, by reviewing the existing evidence, Garcia-Perez and Jansen (2016) recently gave a preliminary assessment of the impact, concluding that the measures taken in relation to employment protection have been largely insufficient to address the dualism in the Spanish labour market through failing to address the fundamental issue that temporary contracts can be used for non-temporary and non-seasonal activities (ibid). In contrast, the authors found that the reforms that liberalised collective bargaining and encouraged internal flexibility to avoid dismissals in response to lower aggregate demand have had more positive effects (ibid).

Job insecurity risks in fixed-term contracts in Spain

In theory, by decreasing firing costs, fixed-term contracts can help workers with uncertain job prospects to gain employment (see Garcia Perez et al. 2016). In addition, it may help these workers to increase their credentials and expand their network, and in this way facilitate the transition into permanent employment, particularly in the context of strict dismissal protection in regular jobs (Garcia Perez et al. 2016; Eichhorst 2014). These positive effects have been apparent in economic boom periods, where the dualized labour market model has facilitated strong job creation, although these have typically been concentrated in low-paid, low-productivity sectors (Garcia-Perez 2015).

However, the downside is that in recessions dualized labour markets tend to exacerbate job destruction, leading to high employment volatility (Garcia-Perez 2015). As in other types of non-standard work, there is also a risk that an individual merely transitions from fixed-term to fixed-term contracts, or back and forth between fixed-term contracts and unemployment (Blanchard and Landier 2002). Indeed, the majority of fixed-term contracts in Spain are less than 3 months of duration and only around 12% succeeds in transitioning into permanent employment contracts within one year (Broughton et al. 2016a). Other studies also show very low transition rates (see Güell and Petrongolo 2007; Amuedo-Dorantes 2000). As such, rather than transitioning into permanent employment positions, there is a substantial risk of transitioning into periods of unemployment as shown by the recent economic crisis, where the temporary workforce in Spain bore the burden of cyclical adjustment.

The very short-term nature of many fixed-term contracts also means that people in fixed-term contracts can struggle to qualify for certain benefit entitlements and their frequent unemployment spells can result in lower retirement pensions (see Llorente and Hernandez 2016). In addition, people on fixed-term contracts tend to have substantially lower wage level, even after controlling for factors such as gender, age, activity, occupation, region and the level of education (ibid.).

Temporary Agency Working across Europe

Summary

- Case studies: **UK, Germany**
- This section examines a second type of temporary employment, namely temporary agency working. A temporary agency worker is **supplied by an intermediary firm (an agency) for temporary assignments in a user organization**.
- The **temporary nature of assignments, combined with the often limited hours**, mean that agency workers may not have full or any access to specific labour rights. In addition, the atypical **triangular employment relationship** between the temporary agency worker, the user organization and the employment agency involve further uncertainties, which may have a negative impact on labour rights, company benefits and wages. On the other hand, temporary agency work **may bring flexibility and better work-life balance**, and the opportunity to act as a stepping stone to permanent employment.
- Temporary agency working accounted for around **1.5% of total employment across the EU** in 2014, although such figures based are associated with substantial measurement difficulties.
- **The UK** represents a comparatively **lightly regulated** temporary agency work sector. In contrast to all other EU member states except Ireland, the UK legislation contains no clear requirement that private employment agencies need to employ temporary agency workers. Whilst some agency workers are classified as ‘employees’, others are employed under a contract for services, which has a negative impact on certain rights. Some agency workers qualify as workers and are therefore entitled to **protections provided by general labour market legislation** such as the working time and holiday pay rights and the national minimum wage. Furthermore, the European context has facilitated a move towards re-regulating the UK temporary agency industry, with the **implementation of the Agency Workers Regulations in 2011**, resulting in the **right to equal pay and treatment** after a 12-week placement at the same hirer in the same job role. The regulations also included an incentive, known as the Swedish derogation, for agencies to overcome the equal pay and treatment principle by establishing a more traditional employment relationship with the agency worker, as it is known from Germany and other European countries. To what extent this option has been used, however, remains unclear. Finally, Trade unions and trade associations have also played a key role in the temporary work industry in the UK, but only through actively lobbying for their interests and influencing European and national legislation that have a direct or indirect impact on temporary agency work.
- In contrast, **the case of Germany** shows how the insecurity of temporary agency workers can be **shaped by the state, legislation and collective bargaining**. Through **deregulatory reforms during the 1980s and 1990s and culminating with the Hartz reform packages in the early-2000s**, the German state facilitated the increase in the incidence of temporary agency work and also shaped the insecurity of temporary agency work, including the risk of low-pay and in-work poverty due to the collective agreement derogation, which (maybe inadvertently) laid the foundation for reducing pay among temporary agency workers. However, it was also the German state who recently acted to **re-regulate the temporary agency industry** to protect agency workers, via sectoral agreements with pay supplements as well as the introduction of a

minimum wage. Another stark difference with the UK case is that **social partners have played a large role in the temporary agency industry**. Facilitated by the derogative option to circumvent the equal pay principle in collective agreements, the wage and work conditions in the temporary agency market has until the introduction of the minimum wage been almost entirely covered by collective agreements since 2003. In addition to their role in collective bargaining, trade unions have also played a major role in campaigning actively for protecting temporary agency workers. Specifically, pressure from trade unions is thought to have significantly contributed to the recent re-regulations.

A temporary agency worker is supplied by an intermediary firm (an agency) for temporary assignments in user organizations (Forde 2001). The temporary nature, combined with the often limited number of hours, means that agency workers may not have full or any access to specific labour rights that are dependent on the duration of employment (Broughton et al. 2016a). Temporary agency work is distinct from other types of atypical employment in that it is characterized by a triangular relationship between the user organization, the temporary agency worker and the employment agency, which may have a negative impact on labour rights and company benefits. There is also a direct risk that agency workers receive lower wages than comparable employees in the user firm, partly because user companies need to compensate for the fees paid to employment agencies (ibid.). On the positive side, temporary agency work – like many other atypical employment relationships – may in some circumstances suit the lifestyle of the individual or act as a stepping stone into permanent employment, although on the whole the literature shows that transitions rates are relatively low (ibid.).

Generally, temporary agency work represents a minor part of the labour market in most European countries, constituting on average 1.5% of total employment in 2014, according to the EU Labour Force Survey (Broughton et al. 2016a). Note that there are substantial difficulties in measuring the number of temporary agency workers, which is reflected in both missing and inaccurate data from several countries in the EU LFS (see Broughton et al. 2016; Eurofound 2008). In particular, it should be noted that the UK (our first case study) has a relatively low share of temporary agency workers according to Labour Force Surveys, but other data sources give much higher estimates (see Runge et al. 2017).

The comparative literature identifies three models among European countries regarding the definition and regulation of temporary agency work (Voss et al. 2013; Michon 2006).

- Countries where temporary agency work is not clearly distinguished from other contractual arrangements. It is therefore regulated within the existing labour law. E.g. the UK, Ireland, Finland.
- Countries where temporary agency work is determined by the specific status of employment agencies who are regulated by a specific law. In contrast, agency workers themselves are not treated as a specific type of workers. E.g. Germany, Austria, the Netherlands, Spain.
- Countries where both temporary agency workers and agencies are designated a specific legal status. E.g. Belgium, France, Italy, Portugal.

Our two case studies will cover the first category in which temporary agencies are regulated within the existing labour law (the UK) and the second category in which legislation around temporary agency work is determined by the status of employment agencies (Germany).

Temporary Agency Working in the UK

It is clear from the above categorizations that our first case study of the temporary agency market in the UK represents one of the most flexible regulatory approaches in the EU (see also Forde and Slater 2011). Regarding the legal status of temporary agency workers, comparative studies describe how agency workers in all EU member states, with the exception of the United Kingdom and Ireland, are defined as employees of the employment agency, working under the supervision of a client organization (Arrowsmith 2006; Voss et al. 2013). In contrast, the UK legislation contains no clear requirements that private employment agencies need to employ temporary agency workers. Thus, agency workers' relationship with employment businesses is defined by a 'contract for services' rather than an 'employment contract', meaning that can be classified as 'workers' or 'self-employed' rather than 'employees' which has a negative impact on certain rights (Maroukis 2015; Voss et al. 2013; McCann 2008).⁵

In terms of regulation, Eurofound (2008) notes that most EU15 Member States, with the notable exception of the UK, have some kind of sectoral collective bargaining in place for temporary agency workers. As we shall see, the lack of sectoral bargaining is in stark contrast to the temporary agency industry in Germany, where social partners since 2003 have played an important role in setting wages and conditions. In the UK, trade unions have still played a role, but only through campaigning for the rights of vulnerable workers and actively lobbying for their interests and influencing European and national legislation that have a direct or indirect impact on temporary agency work.

Until 2011, the Employment Agencies Act (1973) and The Conduct of Employment Agencies and Employment Businesses Regulations (2003) together set out the responsibilities of temporary work agencies in the UK and the associated rights of temporary agency workers. Agencies are required to provide agency workers with information about the user company, the start date and duration of assignment, the job role and potential health risks, whilst the client company is responsible for supervision during the assignment. The regulations also restrict agencies from a range of practices, such as charging a fee to a job seeker for finding vacancies, sharing any personal details, withholding agency worker wages, using agency workers to replace workers taking part in industrial action etc. In addition to the specific regulations governing agency working, temporary agency workers are also entitled to certain rights under more general labour market regulations, such as the National Minimum Wage, limits on working time, no unlawful deductions from wages, health and safety at work, and equal opportunity (Forde and Slater 2014).

The implication of the deregulated temporary agency industry in the UK is that it has been relatively exposed to European influences, seeking a balance between flexibility for employers and security for temporary employees (Ferreira 2016). Specifically, whilst the EU Agency Workers Directive did not affect the German temporary agency industry as the principle of equal pay and treatment was already encoded in German law (see next case study), parts of the directive caused controversy in the UK. To ensure that the UK complied with the directive, the Agency Workers Regulations (AWR) came into

⁵ See Table 4 in the section on self-employment for a more detailed analysis of the differences between "employees", "workers" and "self-employed" in the UK.

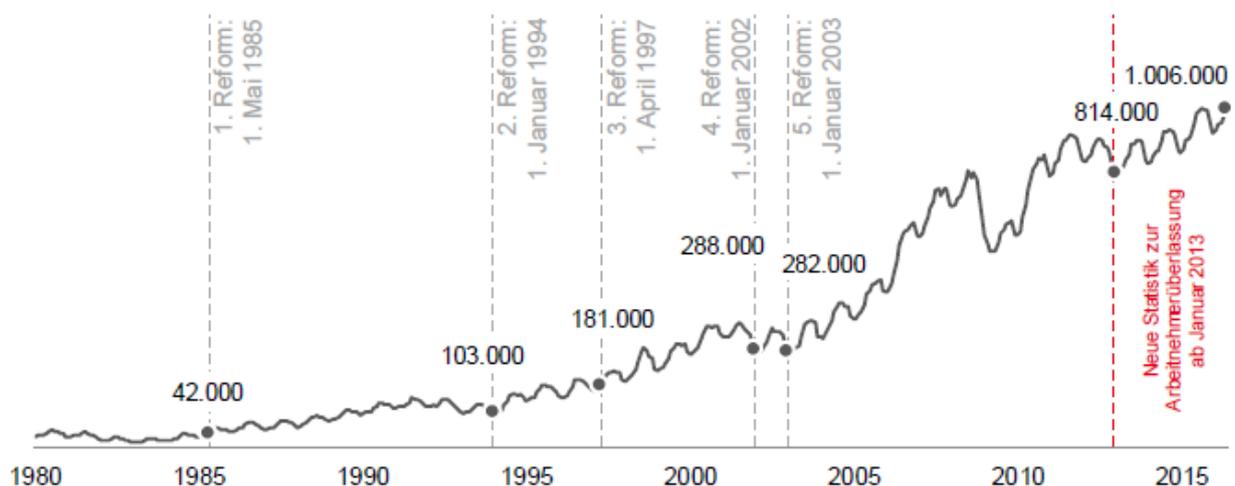
force in 2011, guaranteeing that temporary agency workers are protected through a number of equal treatment provisions, which entitles the agency worker to the same basic conditions of employment as people working ‘comparable jobs’ on permanent contracts. These provisions can be split into those which are available from day one of an assignment, such as equal access to office facilities and information about job vacancies, and those obtained after 12 calendar weeks of continuous employment at a client firm in the same role, such as equal pay and annual leave.

The Agency Worker Regulations also introduced the Swedish derogation (also known as ‘pay-between-assignment’ contracts) as an incentive for employers to avoid the equal pay provision. This significantly alters the employment relationship, as the agency effectively offers a permanent contract to the agency worker, who is then paid between assignments and entitled to the normal rights associated with a permanent contract, bringing it closer to the practices in other European countries. However, agency workers crucially give up the entitlement to equal pay and treatment after 12 weeks, leading some organizations such as the TUC to advocate a removal of the Swedish derogation to prevent employers from using agency workers to undercut the pay and conditions of other workers (TUC 2016b). Overall, there is limited evidence to what extent this possibility has been taken up by agencies (see Finn 2016; Forde and Slater 2016)

Temporary Agency Working in Germany

Since the early-2000s there has been a substantial rise in temporary agency work in Germany. As Chart 16 below illustrates, the number of agency workers has increased substantially, from 282,000 in 2003 to a peak of 951,000 in 2015 (Bundesagentur für Arbeit 2016). This rise should be seen as part of the general expansion of non-standard forms of employment in Germany since the Hartz labour market reforms in the early-2000s.

Chart 16. Development of the number of temporary agency workers in Germany, 1980-2015.



Source: Bundesagentur für Arbeit (2016).

From this rise in non-standard forms of work, it cannot automatically be implied that there has been a rise in insecure work in Germany. As discussed elsewhere in the report, not all types of non-standard employment can be regarded as insecure, as the level of insecurity associated with a certain job type often depends on various factors. For instance, it has already been noted that fixed-term contracts are not commonly regarded as one of the most insecure types of work in Germany, since such

contracts are often used for vocational training or as an extended probationary period into permanent employment (Broughton et al. 2016b). However, a recent European Parliament report argues that other types of non-standard work could be more at risk of insecurity in Germany, including marginal part-time work (see case study on Minijobs) and temporary agency work (ibid.).

In contrast to the UK, the regulatory framework in Germany, which is laid out in the 'Temporary Agency Work Act' (1972), historically placed substantial restrictions on temporary agency working arrangements, contributing to the relatively slow growth of temporary agency work up until the 2000s (Ferreira 2016). However, since its adoption, the 1972 Act has been substantially revised with various reforms throughout the 1980s and 1990s and particularly by the Hartz labour market reforms in the early 2000s. This marks a turning point for temporary agency work in Germany, both in terms of facilitating an increase in the incidence of temporary agency work, and in terms of shaping the factors that contribute to the insecurity associated with temporary agency work in Germany.

Overall, the successive reform packages during the 1980s, 1990s and 2000s have removed a number of restrictive provisions (see also Spermann 2011; Finn 2016; Bundesagentur für Arbeit 2016). These include:

- reforming the maximum duration of assignments by gradually increasing the duration from 3 months to 24 months during labour market reforms in 1985, 1994, 1997 and 2002, before finally abolishing the maximum duration altogether in 2004;
- removing the 'synchronization' ban, thus allowing agencies to employ workers on a one-off fixed-term contract during the period of their assignment at the client organization, thus lowering the dismissal protection of agency workers;
- lifting the restrictions on the use of temporary employment in the construction industry
- lifting the requirement that fixed-term contracts without an "objective reason" were not allowed.

Often characterized as a full deregulation of the temporary agency market, the Hartz reform package did specify some permitted deviations. Most importantly, in return for the lifting of restrictions, the Hartz reform package established a legal principle of 'equal pay and treatment'. However, this provision came with the important exception that collective agreements could bypass the principle. At the time of implementation, trade unions accepted the collective bargaining exception as they estimated this would help them organize the temporary work sector. Meanwhile, employers feared that trade unions would refuse to reach agreements and thus push through equal pay, which at the time was estimated to lead to a 20 per cent increase in wages (see Weinkopf 2006).

Immediately after the Hartz reforms were passed, negotiations started between the German Trade Union Confederation (DGB) and employers' associations represented by two main agencies' associations. However, the main DGB negotiations were quickly bypassed and the first collective agreement was agreed between a smaller agencies' association and the smaller Christian Federation of Trade Unions, setting a low gross hourly wage of €5.20 for low-skilled occupations (see Benassi and Dorigatti 2014). It was clear that the role of 'yellow trade unions'⁶ had been underestimated during this process, particularly their willingness to reach agreements on the lowest possible wages (Jaehrling et al. 2016).

⁶ A "yellow" union is a worker organization which is influenced by an employer.

As a result, the DGB unions' main bargaining chip of refusing to enter a collective agreement and thereby automatically push through the equal pay and treatment principle was taken away from them. This substantially weakened their position in subsequent negotiations, in which employers refused wages close to equal pay. The agreement that was eventually signed reflected the poor outcome of the Christian unions' agreement and the DGB unions' reluctance to allow the spread of 'yellow' collective agreements (Jaehrling et al. 2016). Other agreements were concluded soon after, leading to virtually full collective bargaining coverage of a sector, which had largely been outside collective labour agreements prior to 2004 (Spermann 2011). This meant that the relationship between trade unions and trade associations became of vital importance to understanding the temporary agency industry in Germany, including the setting of wages and conditions, in stark contrast to the UK.

Job insecurity in temporary agency work in Germany

Generally, temporary agency work share many similarities with permanent employment relationships in Germany. In particular, temporary agency work is subject to all usual social contributions (i.e. pension, health, unemployment, and insurance contributions) and is included in statutory social insurance, holiday entitlements, sickness pay, and are covered by protection against unfair dismissals (Jaehrling et al. 2016).

However, these formal equal rights must be understood in the context that agency work tend to be of very short duration (Jaehrling et al. 2016; Finn 2016). In 2015, 54% of temporary work assignments lasted less than 3 months, and 31% lasted less than 1 month (Bundesagentur für Arbeit 2016). Only 18% were employed more than a year in the same temporary work agency (ibid.). As only a small minority, according to the study, is offered a regular job at the user company, the risk of losing one's job is estimated to be around five times higher among agency workers than permanent employees (ibid.).

In addition, agency workers in Germany face a higher risk of low pay and in-work poverty, partly due to the low gross wages that were agreed in collective agreements after 2003, where legislation introduced the possibility to derogate from the principle of equal pay in collective bargaining agreements. Studies show that agency workers are more likely to rely on means-tested income support while in employment; temporary agency work is more prevalent in low-pay sectors; and due to the low transition rates, agency workers are at a higher risk of going back and forth between employment and unemployment (Broughton et al. 2016b). As an example of the latter, temporary agency workers (alongside other temporary employees) took a large part of the cyclical adjustment risk during the recent economic crisis (ibid.), reflected in the slight downturn in the number of agency workers, shown in Chart 16 around 2008-09.

As an example of the risk of low pay, the pay gap between agency and regular workers in the metal sectors was between 30-40% in 2009 (Weinkopf 2009, cited in Benassi and Dorigatti 2014). Another study showed that two-thirds of agency workers earned hourly wages below the low-pay threshold of €9.13 (Kalina and Weinkopf 2014, cited in Jaehrling et al. 2016). In the most recent estimate, the German Federal Employment Agency found that agency workers, on average, received 58.1% of the remuneration of permanent employees (BA 2016c, cited in Jaehrling et al. 2016). The pay differential is still significant in studies that take into account the structural differences in qualification, occupation and employment history between agency and permanent workers, with one study finding a pay gap between 15-25% (Jahn and Pozzoli 2013, cited in Jaehrling et al. 2016).

Recently, there has been a trend towards re-regulation and improved conditions for temporary agency workers. For instance, a wave of sectoral agreements, in sectors such as chemicals and metalworking, ensured earning supplements to close the pay gap between agency workers and comparable full-time employees. These are implemented gradually, depending on the duration of the assignment. Some authors note that this initiative was only possible due to a strong tradition of social partner cooperation, and in particular it only succeeded in sectors where trade unions were strong and where employers' associations were willing to compromise as part of a larger bargain (Eichhorst and Tobsch 2015).

In addition, a series of legislative reforms have also re-regulated the temporary agency work industry, leading to an improvement in working conditions (see Jaehrling et al. 2016). First, a minimum wage for temporary agency work was introduced in 2012, followed by a national minimum wage in 2015. Second, a 'revolving-door-clause' was introduced, banning companies to rehire a former permanent employee on poorer terms as an agency worker less than six months after the individual has been terminated from their previous position. Third, it was made obligatory for client companies to inform agency workers about any vacant positions in the company, to increase their chances of transitioning into permanent employment.

Most recently, in 2017 a maximum hiring period of 18 months was introduced for temporary agency workers, although this can be extended or reduced by specific collective agreements. Furthermore, the same legal reform entitles temporary agency workers to the same pay and conditions as permanent employees at the client company after 9 months' assignment. Again, this can be extended to 15 months by collective agreement providing a gradual increase towards equal pay starts after 6 weeks.

It remains to be seen how these reforms will impact on pay levels and conditions, in particularly whether trade unions will make use of the derogative options (Jaehrling et al. 2016). It has been suggested that the reforms may increase labour turnover in sectors with high incidence of agency workers, in addition to creating incentives for employers to subcontract services to firms or self-employed people operating outside collective agreements (Broughton et al. 2016b). In any case, like with previous regulatory initiative and protections, the effect will be limited by the fact that employment contracts of temporary agency workers tend to be short-term as previously discussed. In fact, the German Government provided figures that showed that only a quarter of temporary agency workers between 2000 and 2012 had employment contracts lasting more than the 9-month minimum threshold for the equal pay condition (German Government 2016: 41). The equivalent figure for the 15-month threshold was 15% (ibid.).

Zero-Hours Contracts across Europe

Summary

- Case studies: **UK, Italy, Netherlands**
- This section examines a third type of temporary employment, namely the use of contracts with a **non-specified number of hours where employers request the availability of the worker as**

and when they need them, but where the worker is not required to accept the offer. In the UK, these are known as **zero-hours contracts**. Similar contracts exist in other European countries but are known under various terminologies, such as **on-call work, casual work and standby work**.

- Simply, people on zero-hours contracts are at risk of **uncertainty and variability of working hours and earnings**, as employers are not obliged to offer regular work. In return, workers are afforded a **high level of flexibility**, as they are not obliged to accept any work offered to them.
- **In the UK**, there is a **high and increasing usage of zero-hours contracts**, which are particularly concentrated among young people and in certain sectors such as hospitality, and health and social care. People on zero-hours contracts are **covered by general labour market legislation** such as the national minimum wage and the working time directive. However, unlike the other case study countries, there exist no specific regulation in the UK such as limiting the maximum duration of zero-hours contracts and guaranteeing workers a minimum number of daily or weekly hours. As such, the UK represents a case where **regulation of zero-hours contracts is of comparatively minimal scope**.
- **Italy** is covered only briefly to illustrate a number of **significant regulatory protections surrounding on-call contracts**. This type of contract was only introduced into the Italian labour market in 2003, albeit with a number of regulatory restrictions, which were further tightened during recent labour market reforms. These include a maximum duration an individual can undertake such employment; a sectoral and generational limit; a requirement for employers to notify a public authority if they intend to use on-call workers, which must be justified with reference to production peaks and organizational needs; a requirement for employers to notify workers one day in advance; as well as a ban on using on-call workers over weekends, holidays and bank holidays.
- **The Netherlands** is generally an interesting case study of atypical employment relationships, being the only country in the EU where **standard forms of work represent a minority of jobs**. In the Netherlands, a **relatively strict employment protection for permanent contracts** is combined with a **relatively loose regulation of temporary employment** itself, opening up for a high number of non-standard employment relationships. As such, the use of zero-hours and on-call contracts was high in the Netherlands in the 1980s and 1990s. However, the use of on-call employment decreased substantially as a result of the Flexibility and Security Act in 1999, which aimed to **increase the “securitization” of flexible contractual arrangements**, including by introducing provisions on the maximum duration of contracts, a minimum payment of 3 hours per call, and provisions for when zero-hours contracts automatically turn into regular contracts, depending on the number of hours worked.

This final section on temporary employment examines the job security of people employed on contracts with a non-specified number of hours, where employers request the availability of the worker when they need them. Comparative European case studies on these types of contracts face a number of challenges, particularly the difficulty of deciphering the various terminology used to describe such practices in European countries, as well as the subtle differences in what is exactly meant by this type of work (Sullivan et al. 2015). The literature refers to *on-call work, casual work, zero hours contracts, standby work* etc. (ibid.).

Whatever terminology used, it is important to note that in this report we are not concerned with the case of doctors or other professions which require the employee to be on standby during specific periods, often during unsocial hours such as nights, weekends and holidays. Such on-call arrangements are seen as a way of performing usual tasks related to the nature of the specific work, and importantly it is supposedly taken into account via higher wages (Eurofound 2010a).

Instead, the employment relationship considered in these case studies are of a nature where working hours are entirely dependent on the employers' demands, who provides work to employees piecemeal and for limited duration. As such, individuals working in on-call arrangements are at risk of having unpredictable and irregular working hours, which in turn increases the risk of low wages, limited access to benefits and less job satisfaction (ILO 2004).

Whilst recognizing the limitations imposed by the subtle differences in terminology, Sullivan et al. (2015) divides European countries into four categories according to their practices and regulations around zero hours contracts (ZHCs):

- i) **ZHCs do not exist:** Slovenia, Spain, Croatia, Poland, France, Denmark.
- ii) **ZHCs are recognized, but significantly regulated:** the Netherlands, Italy, Germany.
- iii) **ZHCs are recognized and lightly regulated:** the UK and Norway
- iv) **ZHCs are not recognized in itself, but can form part of another contractual arrangement:** Estonia, Czech Republic.

It is not the purpose of this comparative study to analyse all four categories in full, but it will instead explore the job insecurities associated with zero hours contracts in country case studies where zero hours contracts are recognized in the labour market, but have either been lightly regulated (the UK) or more significantly regulated (the Netherlands). In addition, the regulatory mechanisms in the Italian labour market will be briefly covered.

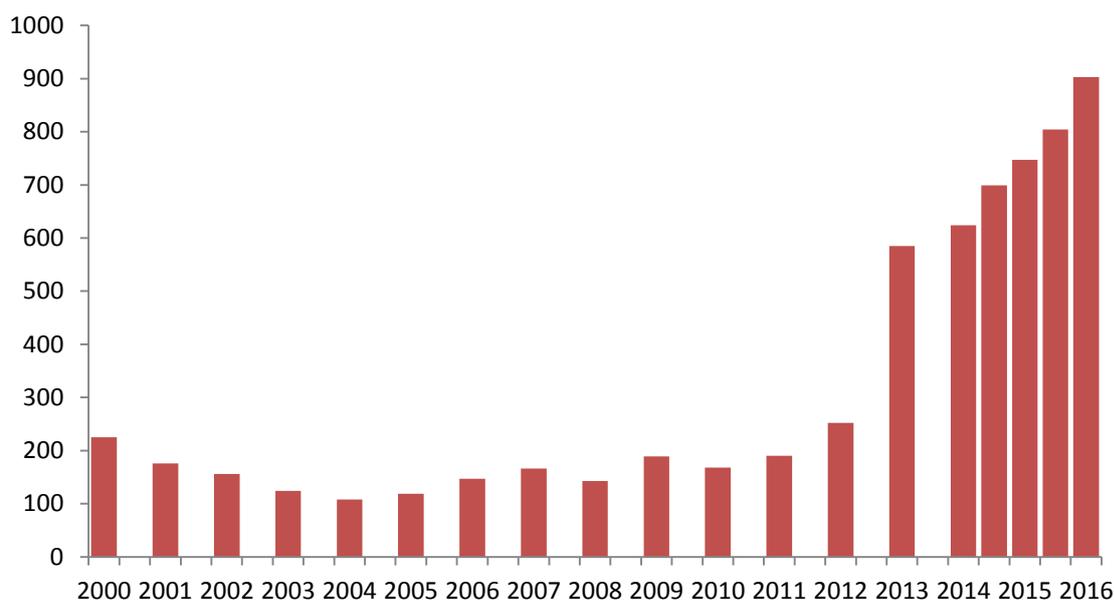
Before analyzing the case studies, it is worth recalling the two primary mediating forces through which job insecurity in zero hours contract arrangements is likely to be affected. First, job security can be affected by legislation and regulation, such as limiting the length of time an employee can undertake such work, limiting the scope of such work to certain age groups or sectors, and requiring companies to notify a state body or government of the use of zero-hours contracts (Sullivan et al. 2015). Such regulations will be explored further in the case studies of Italy and the Netherlands. The case study of the UK represents a case where regulation, such as the recent ban on exclusivity clauses, is of comparatively minimal scope (Sullivan et al. 2015).

In addition to regulation, collective bargaining plays an important role in some countries in determining the insecurity associated with on-call and zero hours contracts. In particular, in many countries collective bargaining and codetermination mechanisms often regulate working hours. In the Dutch case study, it will also be examined how collective bargaining has been used to deviate from legislative minima, and how recent legislation in turn has pursued to limit this (Adams and Deakin 2014; Sullivan et al. 2015).

Zero-hours contracts in the UK

The insecurity associated with zero-hours contracts has received a lot of attention in recent years in the UK, amid the increasing number of zero-hours contracts since 2012.

Chart 17. Number of people (000s) in zero-hours contracts in the UK, October to December 2001-2016, April-June 2014 & 2015.



Source: Office for National Statistics (2016), Labour Force Survey, not seasonally adjusted.

Zero hours contracts have not developed in response to a new legislative initiative or regulation regarding benefits and employment, but rather as a result of a long-term development of a highly flexible and deregulated labour market (Eurofound 2015b). Studies note that whilst the recent increase is likely to be reflective of both cyclical and structural forces, some of the reported increase is also likely to be caused by measurement error. Since the Labour Force Surveys are based on respondents' identification of their own employment situation, part of the increase may reflect the fact that the term "zero-hours contracts" only in recent years have become widely known and used in the public debate (ONS 2016).

It should be noted that other estimates of the number of zero-hours contracts are significantly higher. For instance, based on a survey of UK businesses, ONS estimates there were around 1.7 million zero-hours contracts in November 2015. This was equivalent to approximately 5% of all employment contracts in the UK, whilst the LFS estimate of around 900,000 represented around 2.9% of the workforce. Business surveys, however, have its own issues, as they count the number of contracts rather than people, and therefore risk double-counting individuals who may be in more than one zero-hours contracts at any given time (ONS 2016).

Regardless of the exact prevalence and expansion, it is evident that zero-hours contracts have become an entrenched part of the UK labour market, much more so than in other European countries. It is also evident from the data that zero-hours contracts are particularly prevalent among young people and in certain sectors, particularly in food & accommodation and health & social work, but also transport, wholesale & retail trade, and education (ONS 2016).

Job insecurity in zero-hours contracts in the UK

People on zero-hours contracts in the UK are fundamentally at risk of uncertainty of working hours and earnings, as employers are not obliged to offer work. Conversely, however, workers are not obliged to accept any work, giving a high degree of flexibility. Another argument, often articulated by

employer organizations, is that zero-hours contracts create employment opportunities for people who would otherwise have been at high risk of unemployment (Pyper and Delebarre 2016).

Generally, people on zero-hours contracts are covered by general labour market provisions, such as the national minimum wage, as well as the working time directive, which requires that the worker must be paid when they are required to be at the work premises, and as such, they cannot be required to “clock off” during calls (Acas 2016; Pyper and Delebarre 2016). The UK regulation on zero-hours contracts, however, is of relative minimal stature. For instance, there are no limitations on the maximum duration of employment (such as in Italy) and there is no guaranteed income per call (such as in Netherlands). However, it should be noted that recently after a public consultation, the UK government has implemented legislation to ban the use of “exclusivity clauses”, which were often cited as the most exploitative use of zero-hours contracts. These clauses allowed employers to prevent zero-hours contractors to work for other companies – even though employers did not have to guarantee any hours in return.

Like temporary agency work and bogus self-employment, the growth of zero-hours contracts also risks undermining the traditional employer-employee relationship. As discussed in the case studies on self-employment and temporary agency work, this is especially important in the UK due to the different entitlements and protections given to ‘employees’, ‘workers’ and ‘self-employed’ under UK legislation. As such, a key issue has been to identify under which category people on zero-hours contracts belong. In addition to the question of the status of zero-hours workers, the traditional employer-employee is challenged by the lack of continuity of employment for zero-hour contractors, who often have multiple and changing employers. This means they often lack the necessary continuous service with one employer required to qualify for certain rights, such as unfair dismissals protections and statutory redundancy pay (TUC 2016b). In addition, they often do not obtain the required weekly earnings to qualify for sick pay (ibid.).

Zero-hours contracts in Italy

In Italy, the legal framework was changed in 2003 to allow for more non-standard forms of work. The legislation introduced and reformed various types of employment contracts in the Italian labour market, including staff leasing contracts, on-call work, job sharing, part-time work, supplementary work, and training contracts (Eurofound 2010a). One of these was on-call work or zero-hours contracts (*lavoro intermittente*), which in 2010 was estimated to account for 0.7% of employment contracts (ibid.). Italy, however, is an example of how the state can shape the insecurity of on-call workers via legislation, as the 2003 law came with a few regulatory restrictions, and since then on-call work has been further regulated, particularly during labour market reforms in 2012 and 2013 (Sullivan et al. 2015).

Overall, there are four main provisions and restrictions (see Eurofound 2010a; Sullivan et al. 2015; Deakin 2014). Firstly, there is a limit on the length of time a person can undertake such employment whereby each employee on an on-call contract can maximum work 400 working days over 3 years. After this the on-call worker has a legal entitlement to a full-time employment contract. Second, the latest reforms limit the scope of such contracts to certain age groups and sectors. Only those younger than 25 or older than 55 can be employed on on-call contracts, and the law prohibits their use in the public administration. Third, employers are required to notify the Ministry of Labour if intending to use on-call workers, justifying there is use in reference to production peaks and organizational needs. As such employers cannot use on-call workers for their general organizational needs or substitute

regular workers. In addition, notification to the employee must be given at least one working day in advance of the assignment. On-call workers also cannot be used over weekends, holidays and bank holidays. Finally, the contract can have a guaranteed monthly allowance (generally set by collective agreements) for the period during which they are available, regardless of whether work is provided or not. In this case, however, on-call workers are required to accept any work offered during this period.

Zero-hours contracts in the Netherlands

The Netherlands represent an interesting case study into atypical employment relationships, being the only country in the EU where standard forms of work represents a minority of jobs (Broughton et al. 2016a). Similar to the case study of Spain, and in contrast to the forthcoming case study of Denmark, the Dutch labour market has relatively strict employment protection for open-ended contracts, which empirically has been shown to be positively related to the use of temporary employment arrangements (OECD 2004). In the Dutch case, this is combined with relative loose regulation of temporary employment itself, which arguably opens up for a high incidence of atypical work arrangements (see De Graaf-Zijl 2012a).

As such, the increase in the use of on-call workers and zero hours contracts should be seen as part of a wider trend in the Netherlands towards the increasing use of using non-standard forms of employment. Generally, the labour market model in the Netherlands can be seen as part of the flexicurity model (Eurofound 2010a). In the case study of part-time employment in Denmark, the main focus of the model was on securing 'flexibilization' of standard forms of work by securing transitions and high turnover in the labour force. In the Netherlands, as we shall see, the focus has been on increasing 'securization' of flexible contractual arrangements (ibid.).

Dutch legislation recognizes 3 types of on-call contractual arrangements. The following summaries are based on the detailed account in Eurofound (2015):

i) **On-call contracts by agreement**

'On-call contracts by agreement' refers to a series of separate fixed-term contracts for each call of work. The employee is paid for hours worked and can refuse the offer without any consequences. After receiving three of such contracts with the same employer, the fourth contract must be a permanent one if there has been less than 3 months between the contracts. Collective agreements are allowed to deviate from this legislation, and in some sectors collective agreements stipulate that such contracts are not allowed.

ii) **Zero hours contracts**

'Zero-hours contracts' can be temporary or permanent, but do not guarantee hours. In contrast to on-call contracts by agreement, the worker is expected to come to work if called in. During the first 6 months of the contract, the employer is only required to pay for hours worked, but after this the employer is obliged to pay for the average number of hours worked in the previous 3 months for as long as the contract is active, but only if the employee has worked at least once a week or a minimum of 20 hours a month. This provision is intended to provide for some job security to allow longer-term planning. However, sectoral collective agreements can extend the 6-month period.

iii) **Min-max contracts**

'Min-max contracts' offer a minimum number of hours within a week, month or year, which the employer has to pay for, regardless of whether work is available. The contract also states a maximum number of hours that the employer can ask an employee to do, which the worker must be available for. If an employee continuously works more than the hours guaranteed, they can ask for an increase in the minimum guaranteed hours in the contract corresponding to the average number of hours worked in the previous 3 months. As with the other two types of on-call contracts, collective agreements can modify the regulations.

For all the above contracts, employees with fewer than 15 weekly hours, have to be offered shifts lasting minimum 3 hours.

The use of on-call workers and zero-hours contracts was particularly high in the Netherlands during the 1980s and 1990s (Eurofound 2015). The defining moment in the development and use of on-call contracts in the Netherlands was the Flexibility and Security Act in 1999, which aimed to protect atypical workers by aiming to harmonize employers' need for flexibility with workers' need for security. It was this reform that introduced many of the provisions listed above, including on the maximum duration of contracts, the minimum payment of 3 hours per call, the six month threshold, and the prescription that the worker has a right to a permanent employment contract after working more than 20 hours per month for three consecutive months.

Partly as a result of the Flexibility and Security Act, on-call employment has decreased substantially since 1999 (Knecht et al. 2007; Klein Hesselink et al. 2008). In 1997, 13% of private sector employment was on an on-call basis. By 2002 this proportion had already declined to 5% (De Graaf-Zijl 2012a). It only started increasing again in recent years, rising from 5% to 7% of all employees between 2010 and 2015 (Statistics Netherlands 2016). According to a publication by the Eurofound (2015), this increase can be partly attributed to the discovery of employers that employees are afraid of asserting their legal rights, fearing it would damage their relationship with the employer.

Job insecurity in zero-hours contracts in the Netherlands

Generally, Dutch on-call workers are entitled to the same rights as regular employees, i.e. minimum wage, unemployment benefits, health coverage, holiday pay, pension insurance and protection against unfair dismissal (De Graaf-Zijl 2012a). The caveat, as with many other non-standard forms of work, is that the extent of these entitlements often depends on the actual hours worked (Eurofound 2015c). Furthermore, the employment contract is still fundamentally characterized by uncertainty in terms of hours and earnings (Eurofound 2015c), although it is clear that, in contrast to the fairly deregulated case of the UK, the various protections introduced by the Flexibility and Security Act should give Dutch employees on zero-hours contracts more rights regarding the number of hours and more possibility for transitions than their UK counterparts.

Regarding social representation, it is a well-established fact that non-standard workers are less often a member of trade unions (e.g. Conley and Stewart 2008). In the Dutch set-up, where most collective labour agreements are universally binding for both members and non-trade union members, this has no implications for the wage differentials between regular and non-standard workers (De Graaf-Zijl 2012a). It can, however, have implications in other ways, as it is harder for trade unions to reach out

to workers. As identified by Eurofound (2015c), this can be problematic as there is little control over whether employers actually follow the provisions in the Flexicurity and Security Act. In fact, as identified by Eurofound (2015c), employers are known to violate regulations such as the minimum three hours payment. The study argues that on-call employees often do not report such violations, either because they do not know their rights, or because they are afraid of losing their shifts (ibid.)

In addition to legislating on security and flexibility of temporary employees, the Flexibility and Security Act in 1999 allowed sectoral collective agreements to deviate from legislative minima, in order to tailor its restrictions and provisions to the given sector (Eurofound 2010b). This has become relatively common practice. For instance, some studies estimate that 23% of all collective labour agreements include deviations from the maximum number of temporary contracts, split equally between those that extend and limit the number of possible fixed-term contracts (Houwing 2010; Schils and Houwing 2010, cited in De Graaf-Zijl 2012a). Other examples deviate on the duration of contracts and the number of hours. For instance, the social partners in the cleaning sector have agreed that on-call contracts must be open-ended contracts or fixed-period contracts of up to 6 months, with a minimum guarantee of 8 weekly working hours per 4-week period (Eurofound 2015). In the childcare sector, the difference between the minimum and maximum number of hours in a min-max contract cannot exceed 60 hours per month (ibid.). Finally, in the medical sector, the collective agreement stipulates that zero hours contracts can only be used in unforeseen circumstances, such as staff absence and a sudden increase in demand (ibid.).

Section 4: Self-Employment across Europe

Summary

- Case studies: **UK, France**
- **The self-employed** are often seen as a highly privileged group, but their job status also carries substantial potential risks. Whilst they are said to enjoy **higher flexibility and autonomy**, the self-employed **give up a number of entitlements and protections associated with regular employment**, making them at risk of longer working hours, uncertainty of income, as well as having no or limited access to rights such as sick pay, holiday pay and social security entitlements. This inherent risk has come to the forefront recently, as people increasingly take up self-employment out of necessity to avoid unemployment, or are employed as **bogus self-employed**.
- Bogus (or false) self-employment refers to a special working arrangement in a 'grey area' between self-employment and employment. On paper, the individual is **classified as an independent self-employed contractor**, but in practice the employment relationship is characterized by the same **subordinate relationship that exists between an employer and an employee**. This means that the individual **incurs all the risks associated with self-employment**, but **receives none of the advantages** such as flexibility and autonomy. This arguably makes the employment type one of the most insecure on the labour market.
- **In the UK**, the recent **rise in self-employment** cannot be attributed mainly to the adoption of legislative initiatives, like the introduction of a specific type of self-employment in France. Instead, the existing design and institutional traditions of the liberal UK labour market made the rapid growth of self-employment people a possibility as a **cyclical adjustment to the economic downturn**. Since then, this **may have become entrenched and reflect a more structural feature** in the UK labour market. Whilst a share of self-employment are relatively privileged and high-paid individuals, many are engaged in low-paid work and therefore exposed to the fairly **limited protections afforded by labour market legislation to self-employed, compared to employees and workers**. Furthermore, there is evidence of **high incidence of bogus self-employment**. This phenomenon is not only restricted to the emerging sharing economy, but also **prevalent in other sectors, such as the UK construction sector**.
- **France** provides an example of a wider European trend of creating self-employment schemes that **provide labour and tax incentives to boost self-employment**, often with the aim to reduce unemployment rates. Unlike in the UK case, the expansion in self-employment in France can be traced back to a specific law from 2008, **granting special status and social contributions advantages to so-called micro-entrepreneurs**, who are independent workers pursuing small-scale activities. However, available evidence seems to suggest that the vast majority of these workers **earn wages below the minimum wage**, in addition to **not being covered by collective agreements or enjoying right to employment protection and unemployment insurance**. In addition, their dependence on one client and their often involuntary choice to undertake self-employment **resemble the characteristics of the bogus self-employed**. In addition, evidence suggests that many micro-entrepreneurs fail to sustain activity and **few make the transition to conventional self-employment by breaking through the turnover threshold**.

- As emerging technologies and globalisation have led to an increasing fragmentation and displacement of employer responsibilities, the **issue of bogus self-employment has received extra attention in recent years**. In particular, the sharing economy has caused political and legal disputes over the employment status of independent contracts. However, as exemplified by the construction sector, the problem of bogus self-employment is not a new phenomenon. New developments could create the impetus to **solve the increasing tension and blurring divide between employment and self-employment**, and the associated employment rights and protections which are afforded to each employment type. For instance, the UK has launched the Taylor Review which considers the implications of new forms of work on worker rights and responsibilities. Solving these tensions would **not only favour insecure workers**, but it would **also increase the competitiveness of responsible companies and reducing the annual loss in social security contributions to state coffers**.

Having addressed some significant cross-national variations in the various forms of temporary working relationships, we will now focus on self-employment, and in particular the insecurities associated with false/bogus self-employment.

The advantages of regular self-employment are well known and include higher flexibility and autonomy, and at least more positive perceptions of job security (Broughton et al. 2016a). Traditionally, self-employed are seen as enjoying being their own bosses and report higher levels of job satisfaction in surveys (IPPR 2015, European Social Survey 2010). However, in return for these advantages, the self-employed give up a number of entitlements and protections associated with standard employment contracts. This means that self-employed are at higher risk of working longer hours, having no or limited access to rights such as sick pay, holiday pay and social security entitlements, and they are themselves responsible for investment in training (Broughton et al. 2016a). Furthermore, self-employed often face the challenge of not having certainty or security of income, and as such they may, for instance, be more vulnerable to reductions in demand for their goods and services, which results in a reduction in their working hours and earnings (IPPR 2015; FSB 2016).⁷

Overall, these considerations show that whilst people in self-employment traditionally have been seen as a fairly privileged group, their employment status inherently also carries substantial potential risks. This has come to the forefront of both the public and academic debate recently, as there has been an increasing prevalence of people who take up self-employment out of necessity, maybe as they face long periods of unemployment, and those who are in so-called 'bogus' or 'false' self-employment. Both these types of self-employment are often at risk of low pay.

In addition to looking at overall self-employment, the case studies in this section will zoom in on the issue of bogus self-employment. Bogus self-employment can be seen as a sub-category of those individuals who are self-employed but do not have any employees (freelancers). Freelancers account for around 10% of total employment in Europe, but has only increased by around one percentage point in the last decade (Broughton et al. 2016a). Numbers from the EU LFS show some substantial national variations in the number of freelancers, with particularly Southern European countries such as Greece and Italy having high percentages. Meanwhile, self-employment with employees accounts

⁷ However, this flexibility in working hours can also be seen as an advantage for the self-employed, who during economic downturns may be able to sustain themselves on lower earnings until the recovery picks up, whilst employees face the risk of redundancies and unemployment (IPPR 2015).

for 4% of employment in Europe, falling slightly in the last decade (ibid.). Again, Greece and Italy score fairly high, but generally the country variations are not as pronounced and most record shares between 3-5%.

Meanwhile, far from all freelancers are bogus self-employed; for instance, many freelancers in Southern Europe are genuine self-employed running very small businesses. Bogus self-employment, on the other hand, refers to a special working arrangement that is located in a “grey area” between being self-employed and being an employee (Kautonen et al. 2010). Bogus self-employment can be defined as a “subordinate employment relationship disguised as autonomous work” (Frade and Darmon 2005, cited in Grimshaw et al. 2016b). On paper, the individual is classified as an independent self-employed contractor, but in practice the employment relationship is characterized by the same subordinate relationship that exists between an employer and an employee (European Commission 2012).

Employers arguably use bogus self-employment to avoid paying social insurance contributions and curtail labour rights (Thörnqvist 2011; Buschoff and Schmidt 2009, cited in Grimshaw et al. 2016b). This means that the individual incurs all the risks associated with self-employment, but receives none of the advantages such as flexibility and autonomy. As such, it is often described in the literature as one of the most precarious types of working relationships (Broughton et al. 2016a). Most often, the worker has been pushed involuntarily into this employment form, often due to unemployment or the threat of unemployment, with employers ‘forcing’ employees into becoming self-employed contractors (Kautonen et al. 2010). In addition, bogus self-employed tend to rely mainly or entirely on one client, increasing the vulnerability of the individual (ibid.).

Historically, in many countries, bogus self-employment has been strongly associated with the construction industry, transport, cultural sectors and IT, but may also start entering other industries (see UK case study). In addition, as emerging technologies and globalization cause increased fragmentations and disruptions in the world of work, the issue of bogus self-employment has received extra attention in recent years with the increasing prevalence of sharing economy companies, such as Uber and Deliveroo, who treat their taskers as independent contractors. This has focused attention on the increasing tension and blurring of the divide between employment and self-employment, by causing political and legal disputes over the employment status of workers in the sharing economy.

Self-employment in the UK

There has been a marked increase in the number of self-employed in the UK in recent years, and particularly since the financial crisis, from 3.8 million in 2008 to 4.6 million in 2015. This means that self-employed now represents around 15% of the overall workforce (ONS 2016). The increase in the number of self-employed workers since the financial crisis stands out as an exception in the European landscape alongside the Netherlands and France. Overall, self-employment in Europe has remained fairly static since the financial crash in 2008 (FSB 2016; Broughton et al. 2016a). Standing out at the other side of the spectrum is Germany, who has seen a recovery in job growth since 2010, all of which has occurred in employee jobs, and in fact the total number of self-employed workers in Germany has declined (IPPR 2015). One likely reason is that Germany did not suffer as deep a recession, but also that Germany restructured their businesses to adjust to the lower demand (ibid.). Particularly, short-hours working and Minijobs (see previous case study) have arguably mitigated the rise in redundancies and unemployment rates (ibid). As such, labour markets in the UK and Germany has taken different routes towards cyclical adjustment.

Chart 18. Number of self-employed workers in the UK Q1 1993 – Q1 2016, (millions)



Source: Office of National Statistics (ONS) 2016

There are a number of potential underlying causes for the rapid growth of self-employment in the UK in recent years (see Thompson 2015):

- **The economic cycle.** The economic downturn in 2008 meant that the number of regular vacancies were limited in the UK economy until 2013, which may have forced or encouraged workers towards self-employment opportunities. However, the strength of employment relative to GDP in the UK (and the resulting 'productivity puzzle') has raised questions about the extent to which the rising proportion of self-employed (which account for around half of job creation since 2008) merely reflects cyclical factors or whether there is a more structural shift underway in the UK labour market. The latter interpretation is supported by the fact that the trend has continued even when the UK labour market has entered a period of strong recovery (FSB 2016). For the purposes of this paper, it also raises questions as to whether part of the increase reflects 'disguised unemployment' (ONS 2016).
- **Government policy.** Although not as directly as in some other European countries, such as France's law giving special status to micro-entrepreneurs, the UK government has partly contributed to the rise in self-employment, via schemes such as the New Enterprise Allowance to encourage people to start their own business; via the introduction of the Jobseeker's Allowance which may have encourage people to declare themselves self-employed in order to claim tax credits; and due to changes made to annuities which may have encouraged older workers to delay their retirement.
- **Technological change.** The cost of starting a small business with very few or no employees has become cheaper with the growing accessibility of the internet and new software.

Furthermore, part of the increase could be due to a **rise in bogus self-employment**, fuelled by technological developments and the sharing economy. However, it should be noted that bogus self-employment has a long history and has been particularly prevalent in the UK construction sector,

where the main union UCATT has long campaigned against the practice. Generally, flexible working practices are often beneficial for employers due to the seasonal nature of the construction industry and the cyclical economic demands that cause peaks and troughs in demand. In fact, some have argued that construction firms sometimes consciously choose more flexibility at the expense of productivity (Behling and Harvey 2015). Hiring independent contractors is one way of securing a flexible workforce that can secure both flexibility in economy upturns and minimising economic risk in downturns (ibid.). In addition, specific tax rules for the UK construction industry further encourages firms to use bogus self-employed. Principally, the *Construction Industry Scheme* allows firms to make a fixed-rate tax deduction from the pay of independent contractors (Grimshaw et al. 2016).

Such factors have led to what is described as a “*high frequency of fragmentation and displacement of employer responsibilities*” (Grimshaw et al. 2016b: 79), where the burden has been passed onto gangmasters, employment agencies and bogus self-employed. In a detailed study on bogus self-employment in the UK construction industry, Behling and Harvey (2015) argue half of the self-employed in the UK construction industry are estimated to be bogus self-employed. Considering that more than 50% of workers in construction are self-employed, this means that the employment relationship of around a quarter of all workers in construction can be characterised by bogus self-employment (ibid.).

As the self-employed in the UK are not covered by labour law, but only by civil and commercial law, the benefits of bogus employment for employers are obvious. It frees them from any statutory obligations and the requirement to pay social security contributions, which makes it cheaper to hire self-employed contractors compared to employees (Grimshaw et al. 2016b; Johnson 2017). In addition, a firm-contractor relationship means there is no pension auto-enrolment, no cost of tax administration which is passed on to the worker, and there are savings on holiday pay, sick pay and other entitlements (Mian 2016). Overall, this undoubtedly provides firms with a financial incentive to move towards a model of firm-contractor relations instead of the model based on the relationship between employer and employee (ibid.). Citizens Advice have recently found that around 10% of self-employed clients are bogus self-employed. If scaling up to the whole population, this amounts to 460,000 individuals who should be classified as employees (Citizens Advice 2015)

Job insecurity of self-employed in the UK

In the UK, there are three unique employment statuses, all associated with different entitlements and protections. As shown in Table 4, ‘employees’ enjoy the full range of employment rights associated with having a regular employment contract. ‘Workers’ enjoy less protection, but are still entitled to the minimum wage and other basic rights. In contrast, ‘self-employed’ individuals only enjoy legal protections covering unlawful discrimination and health and safety (Grimshaw et al. 2016b). In addition, self-employed women may be entitled to a low level of statutory maternity leave allowance (ibid.). Meanwhile, people in self-employment are not entitled to paid annual leave and sick pay, among other entitlements, and they are not covered by labour market legislation such as the minimum wage and working time protections (Broughton and Richards 2016).

Table 4. Employment rights of specific employment statuses in the UK

| Employment rights | Employee | Worker | Self-employed |
|--|----------|--------|---------------|
| <i>Protection against unfair dismissal</i> | X | | |

| | | | |
|--|---|---|-----|
| <i>Maternity/paternity leave</i> | X | | (X) |
| <i>Sick pay</i> | X | X | |
| <i>Minimum wage</i> | X | X | |
| <i>Working time protections and holiday entitlements</i> | X | X | |
| <i>Discriminations protections</i> | X | X | (X) |
| <i>Health and safety protections</i> | X | X | X |

Source: Tomlinson and Corlett (2017); Grimshaw et al. (2016b); TUC (2016a)

There are also some substantial gaps in social security protections. Some important social protections are universal, such as the basic state pension (albeit at a very low level) and the national healthcare service (Grimshaw et al 2016b). But the self-employed are excluded from additional state pension and unemployment benefits (ibid.). A further issue results from reforms to the welfare system with the move to Universal Credit, which means self-employed workers will have to report income monthly instead of yearly, meaning that peaks and troughs in earnings over the year will no longer be smoothed out (ibid.). Self-employed also face significant gaps in trade union representation, although as we have already seen, trade union campaigns have been very visible and far-reaching in the construction industry (ibid.). Furthermore, the trend towards bogus self-employment growth pushes responsibility of training and development onto workers, with firms merely buying skills of self-employed labour rather than developing through training and apprenticeships (Harvey and Behling 2008).

Recently, surveys and reports have focused especially on the risk of low pay and in-work poverty among UK self-employed. For instance, according to BIS survey data, a third of self-employed believed they were worse off financially compared with being an employee (BIS 2016). Similarly, Family Resources Survey data shows that the median earnings of self-employed workers were 25% lower than employee counterparts (Dellot 2014). The Resolution Foundation's most recent *Earnings Outlook* (2016) shows that whilst the incidence of self-employment has risen by 45% since 2001-02, earnings have fallen by around £60 per week during the same period. Finally, a study by the Social Market Foundation found that around half (49%) of UK's self-employed are in low pay,⁸ compared to around 20% of employees (Broughton and Richards 2016).

However, it should be noted that recent analysis by the Resolution Foundation has shown that the recent growth of self-employment has not only been driven by low paid self-employed, but also by relatively 'privileged' self-employed individuals, with good educational qualifications and higher earnings (Tomlinson and Corlett 2017). According to the Resolution Foundation, this group has accounted for nearly 60% of the expansion of self-employment in the UK since 2009, and includes people working in advertising, public administration and banking (ibid.). However, the study notes that around 60% of all self-employed still work in relatively precarious sectors. Particularly, a majority of low-paid self-employed in the UK are concentrated in five sectors, namely construction, administrative and support activities, transport and storage, professional, scientific and technical activities, and wholesale and retail trade (Broughton and Richards 2016).

⁸ Measures as two-thirds of median earnings for those whose main job was as an employee.

The UK government has launched the Taylor Review, an enquiry into modern employment practices which will consider the implications of new forms of work on worker rights and responsibilities. There are a number of factors which means that there could be created a momentum for implementing reforms to address the blurring divide between employment and self-employment. It is, after all, not only individual workers who lose out by losing their entitlements to the national minimum wage, holiday pay and sick pay (FSA 2016). In addition, responsible businesses become less competitive, and ultimately the state receives less tax contributions (ibid.). Indeed, Citizens Advice (2015) calculated, on the basis of a survey of their self-employed clients, that the state could lose as much as £314 million annually, with an assumption based on their self-employed clients that 10% of self-employed should be classified as employees. Finally, Harvey and Behling (2015) have estimated the annual loss of national insurance contributions in 2013 from bogus self-employed in the UK construction sector to be £1.5b with the assumption that around half of the self-employed in construction are bogus self-employed.

In a similar fashion, using data from the UK Family Resources Survey, the TUC (2017) has calculated that the recent increase in self-employment, from 13.1% to 15.1% of the UK workforce, has led to a negative impact on the public finances of around £3.4b. Most of this impact is due to lower wages among self-employed, whilst a small part is due to the more favourable treatment in National Insurance Contributions.

Self-employment in France

Following a long-term reduction since the 1950s, the proportion and number of self-employed in France has increased since 2005. Usually, this is partly contributed to the impact of the economic crisis (see Kornig et al. 2016) as well as to the introduction of a 2008 law granting a specific status to so-called 'auto-entrepreneurs' (since 2016 referred to as 'micro-entrepreneurs'). This status can be used by independent workers pursuing small-scale activities, and can be seen as part of a wider European trend of creating self-employment schemes providing labour and tax incentives to boost self-employment, with the aim of reducing unemployment (see ETUC 2017).

The scheme allows 'micro-entrepreneurs' to benefit from simplified tax returns and social security contributions, subject to a maximum annual turnover, currently set at €82,200 for commercial businesses and €32,900 for service professionals and artisans. Specifically, instead of the previous system of charging a maximum fixed percentage of a small business' turnover, the new system charges small entrepreneurs' income tax and a 'pay-as-you-go' percentage of their turnover (Broughton et al. 2016b). Furthermore, at least until 2015, the simplicity of starting up a business were very simply and free, only requiring the completion of an online application to be included on the national business register. Since 2015, the process has become slightly harder and more time-consuming by requiring a cash payment and the need to physically go to one of three business centres across the country, following pressures from trade associations to introduce more controls.

The scheme has been enormously successful in terms of increasing the numbers of people who pursue this type of self-employment. People using the scheme are most concentrated in four sectors: business consultancy, household services, trade and construction (Kornig et al. 2016). Due to the prominence of the micro-entrepreneur, the French statistics agency (INSEE) now divides data on self-employment into conventional self-employed and micro-entrepreneurs. By 2014, the number of micro-entrepreneurs had risen to more than 1 million (Broughton et al. 2016b). Three out of four of micro-entrepreneurs would not have created their business without the special granted status

granted (INSEE 2012, cited in Kornig et al. 2016). As such, the scheme has succeeded in its aim to increase the number of self-employed, but the relevant question for this report is to what extent these workers are insecure, and in particular whether their employment relationship is vulnerable to abuses and bogus self-employment style relationships.

Job insecurity of the micro-entrepreneur in France

According to the French statistics agency, 67% of micro-entrepreneurs work exclusively in this employment status, whilst 33% use micro-entrepreneurial activity as supplement to other employment, which may be associated with access to certain employment protections and benefits. However, for those working exclusively as entrepreneurs, by definition their employment is defined by low pay due to the maximum turnover threshold (Kornig et al. 2016). Indeed, it has been reported that 90% of all auto-entrepreneurs earn less than the minimum wage (ibid.).

In addition to the problem of low pay and in-work poverty, auto-entrepreneurs do not enjoy the right to employment protection and unemployment insurance (unless voluntarily taken out), although there is a compulsory health insurance (Broughton et al. 2016b). Similarly, they are excluded from collective bargaining and as such, there is a lack of procedures regarding disciplinary matters (Kornig et al. 2016). In terms of certain other characteristics, micro-entrepreneurs also tend to resemble bogus self-employed more than conventionally self-employed, in the sense that they tend to be more dependent on one client and their choice to be independent tend to be taken out of necessity, often caused by periods of unemployment or due to a demand by employers (ibid.).

Furthermore, there is little evidence that micro-entrepreneurs have succeeded in sustaining activity for long periods. According to the French statistics agency, only 58% of micro-entrepreneurs remained active 3 years after starting up, with the rest either abandoning the employment status or failing to maintain a turnover above 1 euro (Broughton et al. 2016b). Moreover, evidence suggests that few make the transition from micro-entrepreneurial activity to conventional self-employment by breaking through the maximum turnover threshold (ibid.).

Section 5: Part-Time Work across Europe

Summary

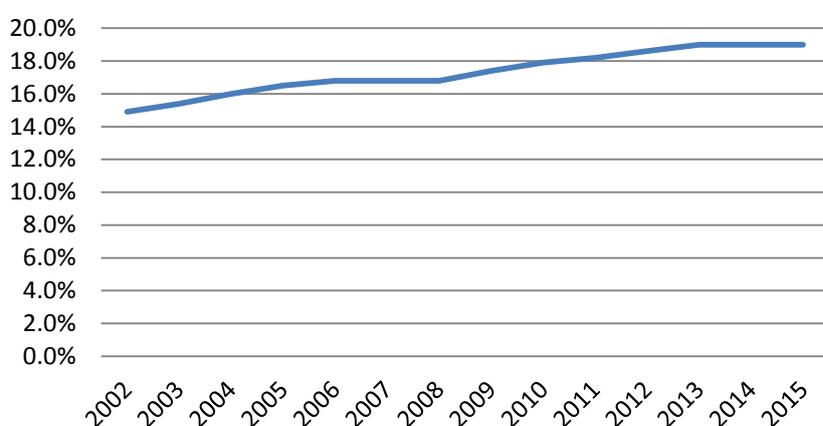
- Case studies: **UK, Denmark, Germany**
- Open-ended and voluntary part-time employment is often treated as a **semi-atypical or semi-standard working arrangement**, generally at relatively **low risk of insecurity**. This is in part due to part-time workers often having access to the same entitlements as those working full-time. As such, the overall increase in part-time employment in recent years does not necessarily imply an increase in insecure work.
- However, this report identifies **marginal part-time employment with a low number of working hours at a higher risk of insecurity**. The proportion of marginal part-time employees has risen across Europe in recent years. This is in part due to the increasing participation of women in the labour market. However, there are **significant cross-country differences**, with the Netherlands and our two case studies, Denmark and Germany, recording the highest proportion of marginal part-timers. The UK also ranks above the EU average in the proportion of employees with low number of weekly working hours.
- **In the UK**, part-time workers are **protected from being treated less favourably than comparable full-time workers**. This includes pay rates, pension benefits, holidays and training. Importantly, this applies pro-rata, in proportion to the hours worked. Generally, the UK literature on insecure work among part-timers tend to **focus on zero-hours contracts**, which adds a layer of insecurity due to the atypical employment relationship and the variable working hours and earnings. In addition, the high use of zero-hours contracts is also likely to be the reason why the UK ranks highly in the proportion of marginal part-time employees in the EU Labour Force Survey.
- **Denmark** has a relatively **high share of part-timers**, who are generally not considered to be at a high risk of insecurity, as they enjoy **similar rights to full-time workers**. There are, however, a significant proportion of marginal part-time employees. A large proportion of these are students who use it to gain experience and top-up their student bursaries. However, insecurity risks exist for those that rely on marginal part-time employment. Those who work below 8 weekly hours are excluded from certain employment rights; they are not covered by collective agreements and legislation, and they cannot access pension and sickness pay. Furthermore, they may find it difficult to fulfil the requirements to become eligible for full unemployment insurance, which is depended on hours worked.
- **In Germany**, marginal part-time workers in so-called **Minijobs are common place**. This can be attributed to long-standing labour market legislation and traditions. Specifically, Minijobbers are exempt from income tax and social insurance contributions, conditional on a maximum earnings threshold. This exemption holds irrespective of any other individual and family earnings, which makes it popular among some students, pensioners and regular workers to supplement other incomes. Combined with other legislation underpinning the German male breadwinner model, such as the income-splitting tax arrangements for married couples and the entitlement to social insurance for spouses, Minijobs have also been particularly attractive for (mostly female) spouses. However, when this type of employment stands alone, the worker **can**

be at risk of especially low pay (although the introduction of the national minimum wage in 2015 have gone some way in addressing this) and a **lack of enforcement of employment rights**.

Having addressed some significant cross-national variations in the various forms of temporary working and self-employment relationships, we will now focus on the growth of part-time work, and in particular the insecurity associated with marginal (low-hours) part-time employment.

Part-time work, generally, is often treated as a semi-atypical or semi-standard working arrangement. For instance, a recent report estimates the risk of open-ended part-time work to be of low risk of precariousness (Broughton et al. 2016a), since part-time employees often have access to the same entitlements and rights as full-time regular workers. As such, the overall increase in part-time employment in Europe from 14.9 per cent in 2002 to 19 percent in 2015 (see Chart 19) does not necessarily imply an increase in insecure work.

Chart 19: Part-time employment as a percentage of total employment (EU28 average)

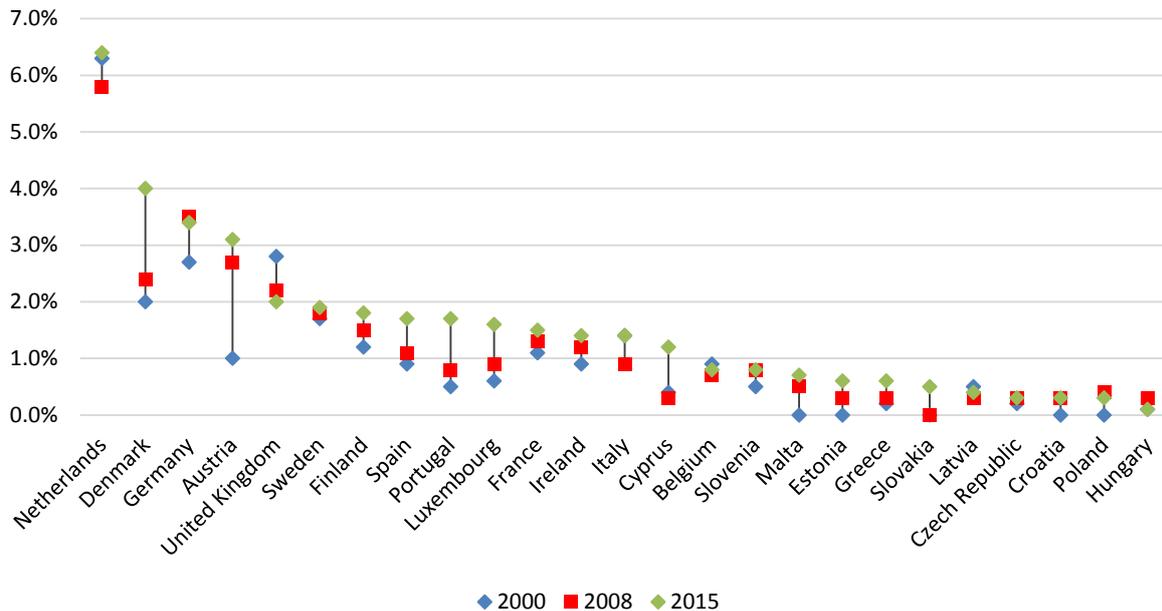


Source: European Labour Force Survey (2002 to 2015) <http://ec.europa.eu/eurostat/web/lfs/data/database>. (Age Class: From 20-64 years)

However, this report, alongside many others, identifies two particular categories of part-time work which may be more at risk of insecurity. These are involuntary part-time work and marginal part-time work with a low number of hours (ibid.). The following case studies will focus on describing job insecurity in marginal part-time work (defined typically as less than 20 hours a week), which puts employees at risk of a number of insecurities, such as low-pay, less job security, as well as less investment and training from employers (Broughton et al. 2016a)

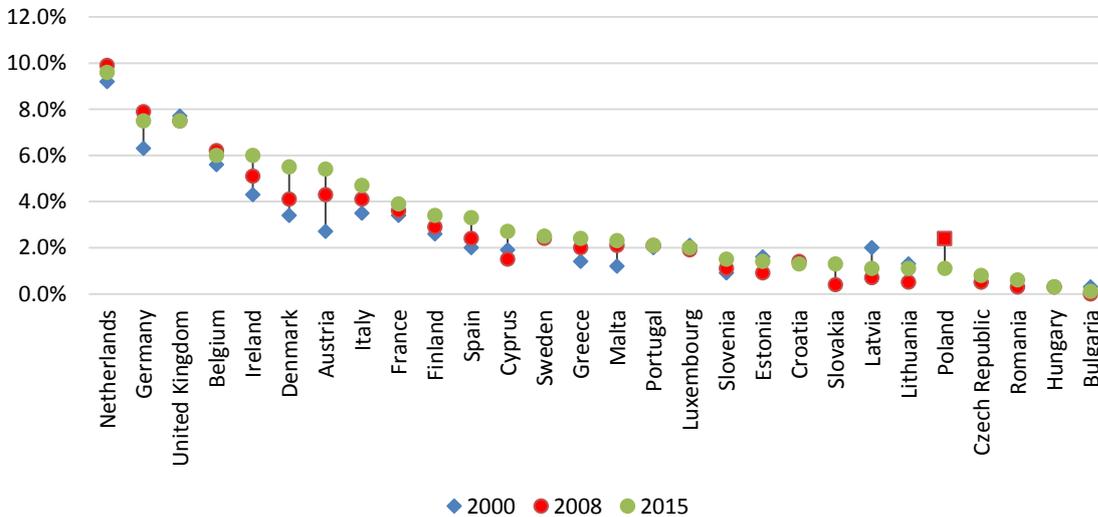
In 2015, about 9% of the total employed workforce in Europe worked fewer than 20 hours per week. The share of marginal part-time work has been constantly growing in almost all European countries since 2003 mainly due to the increasing participation of women who enter or re-enter the labour market with a low number of working hours. Marginal part-time work is highest in the Netherlands, where permanent part-time and marginal part-time sums up to about 40 % of total employment. In Germany, Denmark, Ireland, United Kingdom and Austria marginal part-time work is above the EU-28 average, accounting for between 10 to 15 %. The share of marginal part-time is closer to the European average in Belgium, Spain, Luxembourg, Malta and Sweden whereas this type of work only plays a minor role (1 % to 4 %) the eastern European countries.

Chart 20: Proportion of Employed Persons working 1-9 hours a week



Source: European Labour Force Survey (2002 2008 2015) <http://ec.europa.eu/eurostat/web/lfs/data/database> (Age Class: From 20-64 years)

Chart 21: Proportion of Employed Persons working 10-19 hours a week



Source: European Labour Force Survey (2002 2008 2015) <http://ec.europa.eu/eurostat/web/lfs/data/database> (Age Class: From 20-64 years)

As in the other sections, the first case study will focus on the UK. This however, will not be as comprehensive, as most of the literature and debate on short-hours, insecure working arrangements in the UK tend to focus on the use of zero-hours contracts, which have already been covered in this report. The second case study will examine Denmark where marginal part-timers with short hours are identified as a fairly small group, but who may be at risk of insecurity due to some specific provisions

in the Danish legislation. The third case study will examine the institutional arrangements in Germany that underpin the high usage of so-called Minijobs.

Marginal part-time employment in the UK

Overall, part-time workers in the UK are protected from being treated less favourably than comparable full-time workers, except in circumstances where the employers have an “objective justification” for not doing so. Specifically, part-time workers should get the same treatment on pay rates (including sick pay, maternity/paternity pay), pension benefits, holidays, training and career development, promotion or redundancy, and opportunities for career breaks.⁹ However, most of these benefits are applied pro-rata, in proportion to the hours worked, which means that insecurities related to earnings and benefits would generally be higher for marginal part-time employees who work short hours. In the UK, the literature and debate on insecure work among part-time employees tend to focus on zero-hours contracts. These however have an added layer of insecurity due to the uncertainty regarding the employment relationship, as well as working hours and earnings. The high incidence of zero-hours in the UK is also likely to be part of the reason why the UK ranks fairly highly in Chart 20 and 21 on the proportion marginal part-time contracts.

Marginal part-time employment in Denmark

In the international labour market literature, Denmark is often presented as a frontrunner of the ‘flexicurity model’. In the Danish case, the model is often presented as a ‘golden triangle’, consisting of three mutually supportive pillars: low employment protection for regular employment contracts, a high level of social insurance coverage and active labour market policies (see Eurofound 2009; Bredgaard et al. 2009). Like the Dutch Polder model, the Danish flexicurity model has not been developed as a grand plan, but rather as an unintended outcome of a series of path-dependent strategic choices by actors in the labour market, and only later has its unique form been recognized and articulated by academics and actors in the labour market (Eurofound 2009).

At first sight, the Danish flexicurity model would seem to result in a relatively low incidence of atypical and insecure employment relationships. In stark contrast to the stricter employment protection in Spain (see case study on fixed-term contracts), the low employment protection and high turnover of the Danish core workforce means that employers should not need to employ workers on atypical contracts to gain flexibility (Broughton et al. 2016b). In addition, the high union density and collective agreement coverage, combined with a generous social security system (the third pillar of flexicurity), provides protection for people working in atypical employment relationships.

The prediction of low incidence of non-standard work relationships only seems to be partly true (Bredgaard et al. 2009). Whilst the share of self-employment and fixed-term contracts are below the EU average, the share of part-time employment in Denmark is higher than the EU average. According to the 2014 EU Labour Force Survey, the share of part-time employees in Europe is on average 7%, with Denmark slightly above this number (Broughton et al. 2016). However, due to the different definitions of part-time employment across different member states, the EU LFS is generally based on people’s spontaneous response to such questions. As such, national statistics may differ, and generally Danish labour market statistics point towards a share closer to 25% (Rasmussen et al. 2015).

⁹ <https://www.gov.uk/part-time-worker-rights>

Job insecurity of marginal part-time employees in Denmark

Generally, part-time employees are covered by the same level of protection and rights as full-time employees, and as such, they are not generally considered to be in a position of insecurity. Indeed, in the literature, part-time work is often referred to as a standard employment relationship, and excluded from their investigation of precarious work (Bredgaard et al. 2009; Rasmussen et al. 2016; Madsen 2013 the book). Indeed, in a study on trade unions' attitude towards precarious employment relationships, it is stated that whilst trade unions historically preferred full-time employment, they no longer oppose part-time employment as it is largely covered by same protections and conditions as full-time employment (Mailand and Larsen 2011). In contrast to some of the other atypical employment relationships covered in the case studies of this report, part-time work in Denmark does not seem to entail a significantly higher risk of low pay. Whilst studies confirm that part-time workers are more likely to be low-wage earners than full-time employees (see Mailand and Larsen 2011), studies that have controlled for demographic, educational and occupational variables have not been able to find a significant wage difference (Gash 2005).

That said, it is important to recognize part-time employees, like in the subsequent case study of Germany, comprise many different people, with different motivations and life circumstances. Generally, a large proportion of Danish part-time workers are voluntarily employed in these types of positions (Rasmussen et al. 2016). For instance large shares of Danish part-timers are students, who combine this type of work with education or training. According to the Danish Labour Force Survey, in 2013 students represented 40.8% of all part-time workers (ibid.).

But other groups are in such contracts out of necessity and, given the opportunity, would increase their working hours. As such, several studies do identify some specific categories of part-time employees to be at larger risk of precariousness (Rasmussen et al. 2016; Broughton et al. 2016; Mailand and Larsen 2011; Madsen 2013). In particular, those who work a very low number of weekly hours (i.e. marginal part-time employees) may be at larger risk of job insecurity. This is because their job status may affect their eligibility to unemployment benefits, pensions and other social benefits, in addition to the inevitable low earnings associated with relatively few working hours. Specifically, in Denmark, part-time employees working less than 8 hours on a weekly basis are not entitled to an employment contract; they are not covered by collective agreements and legislation; and they cannot access pension and sickness pay (Larsen and Navrbjerg 2011; Rasmussen et al. 2016). Furthermore, they may find it difficult to fulfil the requirements to become eligible for full unemployment insurance, which requires one year of full-time work during the past three years, equivalent to an average of 13 weekly hours for a part-timer over a three-year period (Larsen and Navrbjerg 2011).

It is difficult to estimate the exact size of this group, but the Danish 2015 Labour Force Survey indicates that 11% of employees work between 1-14 hours weekly (Rasmussen et al. 2016; Broughton et al. 2016). The numbers cannot be divided into sectors, but studies suggest short-hours part-time contracts are more concentrated in private cleaning, retail, restaurants, and hospitality sectors (Mailand and Larsen 2014; Rasmussen et al. 2016). The sectoral composition is important in the Danish case, as these sectors are usually less organized and have lower collective bargaining coverage. Generally, collective agreements cover around 75% of the Danish workplaces, making the remaining 25% of workers in the unorganized labour market potentially vulnerable as they are not covered by social benefits in collective agreements, unless it is given by the specific employer or national legislation (Mailand and Larsen 2011). This means that they will generally be with either no or less rights when compared to the workforce in the organized labour market. A prominent example is that

Denmark does not have a national minimum wage, which is regulated in sectoral collective agreements. In contrast, other benefits such as healthcare are part of the universal Danish welfare state, which means that all Danish nationals regardless of employment contract enjoy these rights (Esping Andersen 1999).

Marginal part-time employment in Germany

Marginal part-time work, or '*Minijobs*', is a specific feature of the German labour market. The existence of Minijobs dates back to specific national regulation implemented in the 1950s, which sought to solve labour shortages in certain industries by encouraging the transition of housewives into the labour market in part-time jobs (Jaehrling et al. 2016). The legislation has been modified a number of times during the last 20 years. This is summarised in Table 3 below. However, the general principle has remained the same: marginal part-time workers are exempt from the general obligation to pay social insurance contributions and regular income taxation, if they earn below a maximum threshold, currently set at EUR 450 per month (Broughton et al. 2016b; Jaehrling et al. 2016). This specific arrangements is granted for all Minijobbers regardless of the individual's other earnings or household income. Since the mid-2000s, the number of Minijobs in Germany has remained around 7 million increasing slightly to 7.4 million by November 2016 (Bundesagentur für Arbeit 2017).

The most far-reaching attempt to stop the spread of Minijobs was made in 1999, but the reform effort fell short of its original ambition to half the monthly earnings ceiling, which ultimately remained unchanged, albeit with an objective to prevent further annual increases in the future. This objective was soon violated, with two further increasing in the earnings threshold over the following years. In addition, the 1999 law introduced a flat-rate employer social insurance contribution, initially set at 22%, and subsequently rising to around 31% after reforms in 2003 and 2006 (Jaehrling et al. 2016). This social insurance contribution, however, did not give Minijobbers any entitlement to social insurance, with the exception of a low pension entitlement (*ibid.*). However, Minijobbers were given the opportunity to 'opt-in' to supplement the employer contributions to the standard level from their own pay. This, however, resulted in a very limited pension due to the relatively low monthly earnings (*ibid.*). From 2013, this changed to an 'opt-out' arrangement to contribute to the public pension insurance, but the two binary options effectively remained the same (*ibid.*).

A few years after the 1999 reforms, the policy of containing marginal part-time employment was effectively abandoned. Instead, the rationale behind the 2003 reforms was that Minijobs were an effective means of creating a flexible labour market and providing incentives for employees to take up jobs in the lower-income segment (Jaehrling et al. 2016). Thus, the earnings ceiling was raised from EUR 325 to 400 (and to EUR 450 in 2013). The previous working time ceiling of 15 hours was abolished, and it has not since been reintroduced. The obligation of those who used Minijobs as their secondary job to pay income tax and national social contributions were scrapped, having only been introduced in the 1999 reform. Finally, the term '*Midijobs*' were created, a transitional employment type representing workers earning incomes between EUR 400 and 800, in which social security contributions would rise in stages from 4% to the standard rate of 21%.

Table 3. Overview of selected labour market reforms in Germany

| | |
|-------------|---|
| 1999 | Earnings ceiling set at EUR 325. Introduced flat-rate employer social insurance contributions set at 22%. Abolished exemptions from social insurance contributions and income tax for those using Minijobs as a secondary job. Employees were given the opportunity to opt-in to top-up employers' social insurance contributions, but resulting pension entitlements were fairly low given their low monthly income. |
| 2003 | Earnings ceiling raised from EUR 325 to EUR 400. Working time ceiling of 15 hours abolished. Introduction of transition zone of earnings between EUR 400-800, in which social security contributions would increase gradually from 4% to 21%. Re-instated exemptions from social insurance contributions and income tax for those using Minijobs as a secondary job. |
| 2006 | Increased the employers' social insurance contribution to the current 31% (consisting of 13% for health insurance, 15% for pension insurance, 2% flat-rate income tax, and 1% in other levies). |
| 2013 | Introduced automatic contributions to public pension insurance, with the option of opting out. Increased the earnings ceiling from EUR 400 to 450. |
| 2015 | Introduction of a statutory minimum wage in Germany, which has a direct impact on low-paid Minijobs (see section on national minimum wage) |

Job insecurity of marginal part-time employees in Germany

In assessing and understanding the job insecurity of Minijobbers in Germany, it is important to note that the group comprises different people, with vastly different motivations and life circumstances. For instance, it is important to understand to what extent Minijobs are taken up voluntarily or out of necessity. In fact, Minijobs are popular among married women and mothers, and they are also fairly attractive for those who use it as a secondary source of income such as students, pensioners, as well as people with a regular job which provides earnings and social insurance (Broughton et al. 2016). These groups can benefit from the fact that the exemption from social insurance contributions and regular income taxation remains unaffected by other individual or household earnings.

Indeed, around a third (36%) hold Minijobs as a secondary job, whilst two-thirds (64 %) hold Minijobs as their only job (Bundesagentur für Arbeit 2017). Often, the former's choice to participate in this employment relationship is entirely voluntary and can hardly be characterised as precarious, even though the job itself may be of low quality (Broughton et al. 2016b). Another dividing line that must be taken into consideration is that the Minijobber may live in medium or even high income households rather than in poverty, although a dependence on a spouse can be inherently insecure especially in case of divorce.

That said, it is clear that a large group of Minijobbers enter into marginal part-time employment out of necessity, and are dependent on the income and rights associated with this type of employment. In fact, survey research identifies that more than half of Minijobbers state that they would like to work more (Jaehrling et al. 2016). For this group, one of the main job insecurities associated with Minijobs is the risk of low pay and in-work poverty. Particularly the elimination of the 15 hour working time limit in 2003 contributed to a reduction in hourly wages (Broughton et al. 2016). However, recently the introduction of the statutory minimum wage has taken some steps in addressing low-pay, although the potential effects have not been fully realised.

Alongside other German employees, Minijobbers are entitled to employment rights such as holiday and sick pay. In practice, however, the literature points towards widespread discrimination among

employers against Minijobbers, with many employers only paying for the hours worked (see Jaehrling et al. 2016). This problem is exacerbated by the fact that many Minijobbers are less likely to claim legal entitlements and are less likely to be of the opinion that they are entitled to basic rights (Fischer et al. 2015). In this context, it should be said that government-led campaigns have sought to better inform Minijobbers of their rights, and even some employers' associations have launched campaigns to inform their members (Jaehrling et al. 2016). Furthermore, the lack of a full-scale social insurance, in particular the limited pension insurance, exposes the Minijobber to old-age poverty, especially in cases of divorce (Broughton et al. 2016).

For those working solely as Minijobbers, there is a strong financial incentive to stay below the maximum earnings threshold to avoid income taxation and social security contributions, and thus they risk getting stuck in marginal part-time work. In addition, some formerly unemployed people will have their benefits withdrawn if their monthly earning exceeds EUR 165, again providing a financial incentive to avoid further working hours, which enhances the risk that the individuals will get trapped in low-hours part-time employment (Broughton et al. 2016b).

Furthermore, Minijobs arguably contribute to gender inequalities, hindering women's full participation in the labour market. The German institutional arrangement still supports the single breadwinner model, particularly through the system of joint taxation and derived entitlement to social insurance for economically inactive spouses. Taking a normal part-time job for a spouse may not be financially attractive, and in some cases depending on the household's marginal tax rate, the marginal deduction rates can be higher than 100%. Thus, the German institutional arrangement provides strong incentives for spouses, often women, to take a Minijob below the earnings ceiling. As such, they are likely to stay in highly fragmented and low-paid employment relationships.

Another factor that is commonly discussed when assessing the degree of insecurity is whether Minijobs act as a stepping stone into more secure and regular employment, or whether the Minijobber merely gets trapped in a low-pay, no-pay cycle. Generally, the empirical evidence is mixed and fairly unclear. Official statistics suggested that around a quarter of all Minijobbers transitioned into regular jobs in 2012, although it is not clear how long these jobs lasted, i.e. if they transitioned into seasonal jobs or more open-ended and secure employment contracts (Berge et al. 2016). In any case, this still leaves around 75% of Minijobbers in the low-pay, no-work cycle. Other studies have documented that people often stay in Minijobs for very long durations (see Wipperman 2012).

Regarding the representation of Minijobbers, there is little evidence of trade union organization, particularly compared to the efforts of the German trade unions described in the case study on temporary agency workers later in this report. Formally, Minijobbers (alongside other part-timers) enjoy rights to interest representation and pro rata work council mandates, but participation is often restricted due to limited and unsocial working hours (Jaehrling et al. 2016). Furthermore, Minijobbers are relatively spread out across various sectors and therefore only constitute a minority in companies and sectors, which substantially weakens their bargaining power (ibid.). In contrast, as we will see in a later case study, temporary agency workers in Germany are more concentrated in specific sectors, especially manufacturing industries, giving them more bargaining power, in particular when threatening to strike (ibid.).

As we have seen, until the introduction of the national minimum wage in 2015, reforms had not significantly addressed the insecurity and low-paid status of Minijobs, despite calls from trade unions,

women's associations and charities. The literature identifies a number of factors to explain the reluctance to implement far-reaching reforms. First, politicians across the political spectrum have remained reluctant, largely for fear of agonising important core voters. Second, employers' associations continue to regard Minijobs as an important instrument to enhance labour market flexibility (BDA 2016, in Jaehrling et al. 2016).

Meanwhile, the introduction of the minimum wage in 2015 had an indirect but substantial impact on Minijobs. This is not surprising as a large proportion of Minijobbers earned hourly wages below the minimum wage threshold before its introduction. Whilst around 8% of regular employees earned less than EUR 8.50 in 2014, the year prior to the introduction of the minimum wage, almost 60% of Minijobbers were below the threshold (Pusch and Seifert 2017). As a result, the hourly pay has risen considerably faster for Minijobbers than for all other employees since the introduction of the minimum wage. On average, Minijobbers achieved double the wage growth compared to all employees (Amlinger et al. 2016). In addition, the number of Minijobbers has declined, particularly those with no other employment, at the same time as regular employment has increased (Berge et al. 2016). In fact, one source found that the number of transitions from Minijobs to regular employment has doubled since the introduction of the minimum wage (ibid.). Unsurprisingly, these effects could be observed particularly in low-wage sectors, such as hospitality and accommodation (Amlinger et al. 2016). The trend may be employer-driven: some employers may no longer find Minijobs financially attractive due to the combination of higher wages and the higher social security contributions, and they may now prefer hiring people on more regular contracts as the higher wage prevents Minijobbers from working sufficient hours and thus making them less flexible (Jaehrling et al. 2016).

However, there is also emerging evidence that a large part of the workforce in Minijobs are still paid below the minimum wage. A recent study showed that the hourly wage of around half of all Minijobbers in Germany were below the minimum wage in 2015 (Pusch and Seifert 2017). This was an improvement compared to the year prior to the introduction of the minimum wage, where 60% had been paid below EUR 8.50. In fact, 20.1% of Minijobbers were paid less than EUR 5.50 in 2015, only a slight improvement compared to the 21.9% a year prior (ibid.).

Overall, the introduction of the minimum wage has demonstrated that changes in the general regulatory environment can help to address the insecurities associated with marginal part-time work, although its impact has not yet been fully enforced. Another indirect initiative, short of directly reforming Minijobs themselves by removing the exemptions from income taxation and social insurance contributions, would be reforming the income-splitting tax arrangements for married couples and the entitlement to social insurance for spouses, which has provided the financial incentive for spouses to work in Minijobs (Jaehrling et al. 2016). Note that this would not change the incentives for other groups, which are not second earners, such as students and pensioners (ibid.). Whether there is appetite among social partners to undertake such reforms is uncertain, but there have been signs of convergence on the issue in recent years (ibid.).

Key Lessons from the Case Studies

This report is by no means comprehensive; however it provides a sufficiently detailed and nuanced account of international trends of insecure work, which presents not only a summary of the general nature of work insecurity within Europe, but also an account of key differences determined by factors at country level.

Lesson 1: Labour market institutions and regulations matter for the prevalence of non-standard work arrangements. For instance, strict employment protections for permanent jobs and/or liberal rules on temporary employment relationships are likely to increase the incidence of non-standard employment, as we have seen in Spain and the Netherlands. Similarly, the highly deregulated labour market in the UK provides incentives for a variety of atypical working relationships such as zero hours contracts, temporary agency working and bogus self-employment, and the high incidence of marginal part-time employment in Germany is a natural consequence of regulation that provides Minijobbers with an exemption from social security contributions and income taxation, combined with the institutional arrangements of tax-splitting arrangements that underpin the male breadwinner model.

Lesson 2: Whilst temporary and short-hours contracts are often marked by some degree of insecurity, the types of employment contracts that are arguably at the highest risk of precariousness are those that depart most from the traditional employer-employee relationship. Since European labour markets and welfare states are generally built around standard employment relationships with employer obligations as a given, unclear contractual relationships may place the individual at the periphery, or indeed, outside labour market regulation and social protections. The most clear-cut example of this is the trend towards bogus self-employment, platform workers and umbrella companies, where employer obligations are entirely absent. Similarly, temporary agency work can be characterised by a triangular employment relationship, whilst the employer variability associated with zero-hours contracts may undermine traditional employer obligations. In light of the increasing use of such highly atypical employment relationships, **it is welcome that the UK government, alongside other European governments, have started to look into how modern employment practices relate to worker rights and employers' obligations**, hopefully with the aim of eventually revising the arguably old-fashioned labour market institutions and welfare states. Although not touched upon in the report, this also includes finding innovative ways for trade unions to organise the new type of atypical workers.

Lesson 3: Even when non-standard workers are entitled to protections on paper, there is sometimes a lack of enforcement, with many instances of widespread discrimination towards non-standard workers among employers. For instance, a large proportion of Minijobbers in Germany are still paid below the national minimum wage and missing out on their rights to sick and holiday pay. One of the problems highlighted across the country studies is that non-standard workers themselves often are **less likely to be aware of their statutory rights**, and indeed they are **often afraid of asserting their rights**, in the fear of losing future working opportunities with employers. In this regard, the literature also notes that non-standard workers are **less likely to be union members**, and also less likely speak to unions. This reluctance to claim legal entitlements also underlines the challenge presented to trade unions, who must balance their obligation to fight unfair work practices with the fact that these employment contracts for some workers represent their only opportunity to gain a foothold in the labour market.

Lesson 4: Atypical workers that are disbursed across a range of sectors may suffer in terms of social representation. When insecure work patterns are concentrated in specific sectors, trade unions tend to have both more willingness and capability to effectively represent workers than when they are disbursed across sectors and industries. This dynamic was observed both in France and especially in Germany, where temporary agency workers had strong bargaining power particularly due to their credible threat of strike, whilst Minijobbers in the case of Germany and people on fixed-term contracts in the case of France, never constituted more than a minority (albeit sometimes large) of workers in industries and firms.

Lesson 5: There seems to be slight differences in the drivers for the increasing use of non-standard work contracts in the UK compared to some other countries. **In many of the case study countries, types of atypical work relationships have increased dramatically after episodes of substantial deregulation,** such as the increase in temporary agency work in Germany after 2003. The opposite is true after episodes of substantial re-regulation, such as the decrease of on-call arrangements in the Netherlands after the implementation of the Flexibility and Security Act in 1999. Similarly, introduction of specific regulation that effectively introduces a specific type of employment contract to the national labour market has given rise to a surge in self-employed auto-entrepreneurs in France. However, the UK labour market differs in this respect. **The highly deregulated and liberal UK labour market has not been substantially altered in recent decades. As such, changes in types of non-standard employment have been organic responses from employers and employees to existing labour market conditions, most recently in response to the economic crisis.** Whilst the high usage and insecurity of zero-hours contracts and self-employment is certainly grounded in the UK labour market traditions and institutions, the recent drivers for the increasing use of such arrangements are likely to differ.

Lesson 6: No single type of atypical employment relationship will be characterized by the same level of insecurity in different countries. The most obvious example is fixed-term contracts: in some countries these are mainly used as part of educational schemes or as organised routes into permanent employment; whilst fixed-term contracts in other countries tend to be short term and primarily taken up out of necessity. Another example is short-hours work, which in some countries provides students with an opportunity to gain experience and supplement student bursaries, whilst in its most extreme variation in the form of zero-hours contracts can be used by employers in an exploitative way.

Lesson 7: Most importantly, this report shows that **country-specific circumstances matter** when determining the impact of specific mediating forces on the insecurity of work. This implies that **the success of policy measures at a national level will depend on national contexts.** This does not imply that countries can't learn from each other and use the experience of other countries to guide them, but ultimately each country is constrained and enabled by their labour market institutions, legislation and traditions, as well as other specific factors.

Appendix 1: Overview of Selected Labour Market Reforms in Spain since 1980

| | |
|------------------------|--|
| 1980 | The Workers' Statute and Employment Law, or the Labour Code, established the standard open-ended contract as the default contract, and only allowed for temporary contracts when the temporary nature of the economic activity justified it. |
| 1984 | The 1984 reform "partially deregulated" the labour market, in the sense that regular open-ended contracts remained untouched, whilst there was a full normalization of temporary employment. This meant that employers could now freely choose between employing workers on the protected open-ended contracts, or different types of temporary contracts, all with substantially lower dismissal protections. This led to a significant dualization of the labour market in the following years. |
| 1994 | The 1994 reform aimed to relax employment protection for regular contracts, in particular by clarifying the legal status of dismissals in an attempt to increase employers' chances in front of labour tribunals. However, the change had little effect on the courts' decisions in the following years, and as a result core workers retained a high degree of protection (Dubin and Hopkin 2013). Furthermore, fixed-term employment promotion contracts were severely restricted to only allow for certain types of tasks and workers, but employers simply employed workers on other types of fixed-term contracts (ibid.). |
| 1997 | The 1997 reform abolished the so-called employment promotion contract and created a new type of permanent contract with lower dismissal cost, with the aim to improve the situation of certain marginal groups. These contracts were subsidized by the Government with deductions in employers' social security contributions. Again, this did not seem to reduce companies' use of other temporary contracts, which were still cheaper and had lower dismissals costs (Dubin and Hopkin 2013). |
| 2001 | This reform essentially extended the 1997 reform by widening the number of marginal groups eligible for the new type of permanent contracts with lower dismissal costs. In addition, limited compensation for dismissal for temporary workers was introduced. |
| 2006 | A ceiling was established for the number of consecutive fixed-term contracts that a worker can be signed for the same position, equivalent to two contracts in a period of over 24 months in the last 30 months. |
| 2010 & 2012 | The 2010 and 2012 labour market reforms again tried to re-balance the difference in protection of insiders and outsiders in the labour market, with measures such as the introduction of a new type of permanent contract with a one-year probationary period, and by reducing the degree of employment protection in permanent contracts. But the reforms also went further than this, as the legislation aimed to strengthen firms' internal flexibility, with a view to discourage dismissals. This was done through a variety of labour market measures, including by liberalising collective bargaining, and in particular by prioritising firm-level collective agreements over sectoral agreements. |

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