



Reducing Precarious Work

Protective gaps and the role of social dialogue in Europe

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Executive Summary

Precarious work is a headline agenda issue for policymakers and social partners alike across Europe. Although often characterised as concentrated in a peripheral segment of the labour market or resulting from exploitative employer strategies, since the economic crisis problems of precarious employment seem to have become increasingly widespread, affecting a wider range of workers' labour market experiences. The approach we take here is to recognise that all forms of employment may be at risk from poor working conditions and insecurity related to four types of '**protective gaps**' in the system of economic and social protection. These include gaps in employment rights, in social protection, in representation and in enforcement of rights.

The extent to which work is precarious varies by country and relates to the weakening of employment protections, restricted social protections, greater employer use of subcontracting and false self employment, inequalities among standard and non-standard employment forms, diminished capacities to exercise collective voice and reduced government resources for enforcing the law. These changes pose significant long-term problems for all stakeholders, especially employers, governments, trade unions and civil society organisations. Not only do they risk growing labour market segmentation, as policies to deregulate and level down standards often impact more on those in already precarious work, but they also undermine efforts to sustain and develop 'high road' models equipped for today's grand challenges of technical change, global competition and a properly resourced, modern welfare state.

To explore these issues, a major two-year research programme involving experts in six countries - **Denmark, France, Germany, Slovenia, Spain and the UK**¹ - investigated first of all the extent and form of protective gaps and how they interact to generate patterns of both more inclusive and more exclusive labour markets. After reviewing the coverage and effectiveness of systems of protection we analysed the risks of precarious work in both standard (full-time, permanent) and non-standard forms of employment (variable and part-time hours, temporary and subcontracted work, including false self employment). To identify how precariousness may be reduced through **innovative forms of social dialogue** we identified case studies of social dialogue at sector, workplace and supply chain levels in the six countries. These examples reveal promising mechanisms for advancing social protection rights, reducing ambiguities in employment status, closing enforcement gaps, negotiating social value procurement rules, and giving voice to vulnerable workers. The combined research evidence contributes to policy debates by demonstrating both the potential for European regulatory regimes to promote or mitigate precariousness at work and the scope for social dialogue to create more inclusive labour markets in contradiction to the perception that social dialogue always protects those in stronger positions in the labour market- the so-called insiders.

¹ Full details of members of the six-country research team and internet link to the detailed research reports are on the back page of this Briefing.

Analysing precarious work through ‘Protective Gaps’

The financial crisis and subsequent austerity policies have exacerbated social and economic disparities within and across member states in Europe², leading to calls for greater clarity in designing suitable labour market policy responses. To date the policy debate has crystallised around two positions. The first is to call for a more inclusive approach to labour market regulation to combat the growing inequalities and insecurities experienced across a wide spectrum of occupations and employment types, evidenced by diminished protections among workers in standard full-time, permanent jobs as well as reduced securities for non-standard employment. This could mean a move away from protections associated with the standard employment relationship to focus on more universal protection.³ The second position is to argue for a general levelling down of protection standards as the crisis has reinforced a tendency for employment protection to favour those already in core or standard jobs (the so-called ‘insiders’) at the expense of the interests of workers in more precarious and often non-standard employment (‘outsiders’). This is held to be due in part to trade union support for protections for core members at the expense of non members on the margins of the labour market.⁴

Our research aimed to move beyond these polarised positions⁵ by first of all identifying across the six countries the effect of current regulatory systems and recent reforms in promoting inclusion or exclusion. This investigation both takes into account multiple dimensions of precariousness and considers how these may be related to specific employment forms. The implications of new or divergent employment forms for access to social protection are investigated alongside access to employment rights in recognition of their joint role in shaping employment and income security.

Secondly it seeks to identify how social dialogue can foster more inclusive labour markets by reducing precarious work. This approach does not assume that social actors are motivated only by a concern to maintain or strengthen protection for the core workforce. Instead, it explores to what extent the increasing role of non-standard employment forms in the labour market is changing approaches to employment regulation and protection. Protections available to those on standard employment contracts are not considered to be guaranteed but instead as potentially at risk of erosion where non-standard employment arrangements emerge as unregulated and low cost alternatives. The interconnected problems of protection for all workforce groups may also be a basis for possibilities for collective action among diverse groups of workers against a general levelling down of their conditions often supported by trade unions or so-called core workforces. This more encompassing approach can be used to better understand under what conditions -specifically what

² EC (2013) *Employment and Social Developments in Europe*, European Commission; OECD (2011) *Divided We Stand*, OECD; Karamessini, M. and Rubery, J. (eds.) (2015) *Women and Austerity*, Routledge; Vaughan-Whitehead, D. (2015) *the European Social Model in Crisis: Is Europe Losing its Soul?*, Edward Elgar.

³ See for example Standing, G. (2011) *The Precariat: The New Dangerous Class*, London and New York: Bloomsbury Academic.

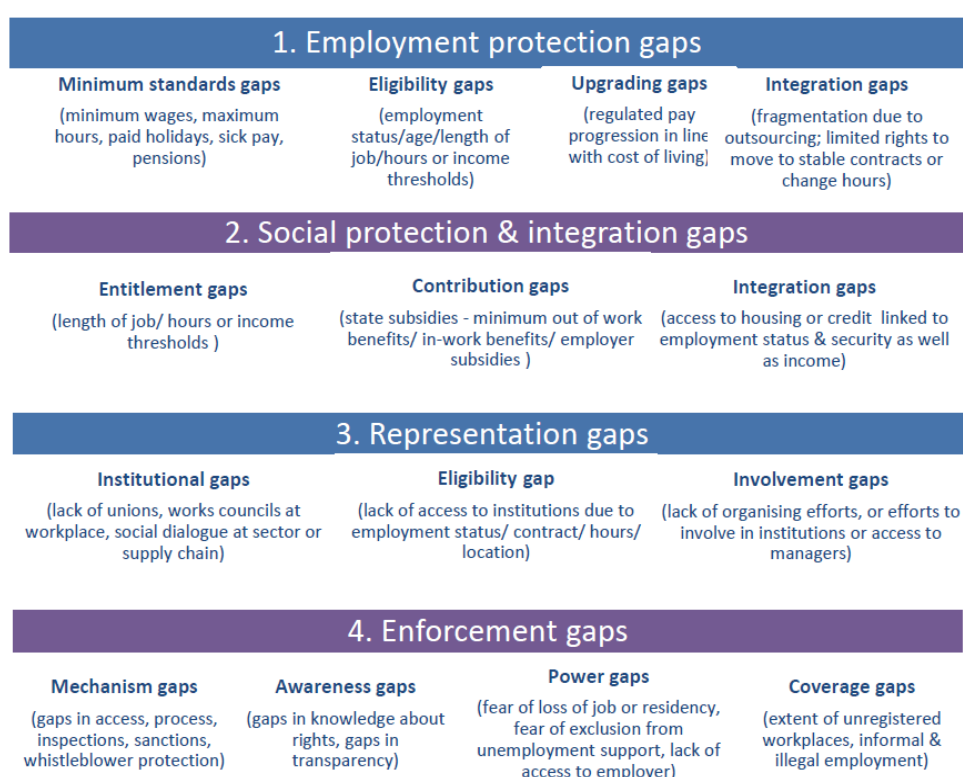
⁴ See, for example, Rueda D. (2006) ‘Social democracy and active labour market policies’, *British Journal of Political Science*, 36: 385-406; Palier, B. and Thelen, K. (2010) ‘Institutionalizing dualism: complementarities and change in France and Germany’, *Politics & Society* 38(1): 119–148.

⁵ This positioning builds on arguments by Rubery, J. (2015) ‘Re-regulating for inclusive labour markets’, Geneva: ILO; and Crouch, C. (2015) ‘Labour market governance and the creation of outsiders’, *British Journal of Industrial Relations*, 53(1): 27-48 and on arguments with respect to the negative effects of reforms on vulnerable workers by the ETUI (2014) *Benchmarking Working Europe 2014*, Brussels: ETUI; Schömann, I. (2014) ‘Labour law reforms in Europe: Adjusting employment protection legislation for the worse?’, *ETUI Working Paper 2014.02*.

types of industrial relations systems- it may be possible to realise the Europe 2020 vision of 'inclusive growth in which the 'benefits of growth and jobs are widely shared'.

Our framework considers that varieties of both precariousness and inclusiveness in employment arise out of differences in four types of '**Protective Gaps**' (figure 1). In each case, policy and practice reflect diverse country-specific bundles of legal regulations and collective bargaining, with varied implications therefore for recommended reforms. **Employment protection gaps** derive from the fixing of low minimum standards (in minimum wages or the right to unfair dismissal for example), exclusive eligibility rules (e.g. against those working short or variable hours or in temporary jobs), weak mechanisms for the regular upgrading of standards, and limited integration opportunities for workers to upgrade skills, pay and/or employment status, or indeed to retain standard employment status.

Figure 1. Protective gaps shaping precarious employment



These interact with **social protection gaps** that deprive workers from, for example, unemployment benefits, maternity leave and pensions. On the one hand, gaps arise where hours, earnings and job continuity thresholds exclude many job types & work patterns and, on the other, rules may generate inequalities in levels of contributions or subsidies towards social protection. **Representation gaps** occur where there are absent or weak institutional arrangements for representation via unions or works councils, as well as employer engagement in collective employers' organisations (e.g. in workplaces where many temporary agency workers are employed, or among subcontractor workplaces). Workers may also fall outside of coverage where eligibility rules exclude them on the basis of self-employment status for example, and there may be unequal patterns of involvement

when unions make limited efforts to recruit workers employed on non-standard contracts.⁶ The related problem of **enforcement gaps** reflect growing awareness among social partners that more needs to be done to ensure statutory rules and collective agreements are abided by. Workers may lack information about their rights, or be fearful of contesting the issue, or face considerable constraints where the work is organised in the informal economy. The following summaries for each gap provide a snapshot of country issues.

Employment protection gaps: minimum wages, job security and working time

Workers are less exposed to precarious conditions the more that employment protections over pay, job security and working time are set at a decent level and extend to all workers regardless of employment contract. In reviewing gaps in employment protection we found that:

- i) decent protective standards in some countries have already been extended to some workers with non standard, part-time and short tenure contracts;
- ii) a regulation may have both *inclusive* and *exclusive* features -for example a minimum wage may be fixed at a low level (exclusive) but have high coverage (inclusive);
- iii) interactions between legal regulations and collective bargaining vary across countries; and
- iv) reducing precariousness associated with a type of employment contract may require policies that take an unequal or targeted approach.

Protection against low pay for people in precarious employment depends to a great extent on the **inclusiveness of minimum wage rules**. In five countries a statutory national minimum wage applies to all employees regardless of tenure or hours and in the UK, Spain and France some categories of the self-employed may also be eligible. Denmark relies on collective bargaining agreements for minimum wage setting (and for job security and working time regulations) but coverage is not guaranteed for those working under eight hours per week or with less than one month's tenure. Levels of minimum wages relative to median earnings also matter: they are high in France and Slovenia (and in industry agreements in Denmark), medium in Germany and the UK, and low in Spain. Since 2010 Slovenia and the UK have been raising the minimum wage level while Spain has abandoned a policy of improvement. Germany introduced a new minimum wage in 2016 and tied it closely into the collective bargaining systems to prevent it becoming a 'going rate' for low-wage jobs –a problem that has become quite extensive in the UK.

Compared with minimum wages, workers in precarious jobs face many more gaps in employment security protection due to eligibility based on minimum job tenure or hours thresholds. Consequently many recent entrants (young people or those previously unemployed or inactive) and many on temporary contracts are excluded from protection. Job tenure requirements vary from 6 months or less in Spain, Slovenia and Germany to 9 to 24 months in the UK and France. In Denmark time periods vary from short to long according to the collective agreement. Spain is notable for granting employment protection to temporary workers after just one month's service with a contract of less than six months and for raising redundancy compensation per year of fixed-term employment⁷ from

⁶ Our research also finds many unions face diminished resources and capacities in the wake of the financial crisis -see, also, Glassner, V. (2013) 'Central and eastern European industrial relations in the crisis: national divergence and path-dependent change', *Transfer* 19(2): 155-169.

⁷ This right applies to workers with 'temporary contracts for employment promotion', *contrato temporal de foment del empleo*.

8 to 12 days. Thus despite having still the highest share of temporary employment in Europe, Spain now provides some of the strongest employment protection standards for these workers. These improvements for temporary workers are matched by deteriorating protection for standard contracts in Spain, a trend also found in Slovenia from a high level and the UK from an already low level.

The growth of zero hours contracts (UK), short-hours mini jobs and ‘work on demand’ contracts (Germany) and ‘reserves’ (Denmark) indicates the importance of a right to a minimum number of hours of paid work per shift or per week. Only France and Germany set statutory minimum hours, though collective agreements in Denmark may also set minima of 20-28 hours per week. In France many exceptions are allowed to the high minimum of 24 hours per week such as for students and those in subsidised jobs. In Germany minimum hours guarantees only apply to ‘work on demand’ and not to regular part-time workers, and collective agreements can even reduce the protections⁸.

Social protection gaps

Precarious work may deprive individuals of access to decent levels of social protection, including **unemployment benefits, maternity pay and pensions**. Employers’ use of precarious employment forms may also increase the need for income supplements for those in work. Moreover, where precarious employment is low paid and/or exempt from social contributions it may create problems for the funding of social protection.

Access to social protection often depends upon meeting hours or earnings thresholds to make contributions, on numbers of contributions over specific periods and on employment status. **More inclusive systems** (figure 2) have low thresholds, allow for discontinuity of employment, and extend to the self employed. They also set minimum benefits per person that recognise that individuals in precarious work have similar minimum support needs and may give credits for non-wage work activities such as care work. Trends over recent years towards more inclusivity, associated with the ‘normalisation’ of non-standard forms of work, vary across the six countries and coincide with trends towards **more exclusive systems** as levels of benefits decline or overall eligibility requirements for benefits increase.

Of the three types of benefits considered, **maternity pay** is the most inclusive, as all countries except the UK have short or flexible continuity requirements and no or low earnings thresholds. France, Slovenia and Denmark also cover the self employed and they can opt in in Spain and Germany. Spain has made specific arrangements to require only a very limited employment history for those under 26 in recognition of high youth unemployment. In contrast, the UK pays the lowest benefit and requires 6 months continuous employment with the same employer for full rights. Pension protection has also taken on some inclusive dimensions including: compulsory cover for the self employed (all except Germany); minimum pensions that provide partial compensation for low pay or short hours (again except Germany⁹); and eligibility of part-timers to insure on higher benefit schemes designed for full-timers (Denmark only). Exclusions from pension contributions due to

⁸ This is a general feature of German legislation on working time whereby many standards are in fact set out as non-mandatory or concessionary law, *tarifdispositives Recht*, so that they can be adjusted to the needs of occupations/industries by collective agreement.

⁹ Also, in Slovenia part-time work results in only pro rata credits unless it is agreed under the right to reduce hours for parents of young children.

earnings or hours thresholds are still issues in the UK, Germany and France, although in France minimum contributions have been reduced.

Unemployment benefits are the most exclusive benefits as most self employed are not eligible except in Slovenia (registered businesses only) and Denmark (full-time self employed only); voluntary opt ins in Spain and Germany are not widely used. Minimum benefit levels support the low paid and part-time workers (except Germany), while Spain, France and Denmark seem to have done most to help the intermittently employed to accumulate rights to unemployment benefits. Countries vary considerably in the availability of social assistance once contributory rights are exhausted.

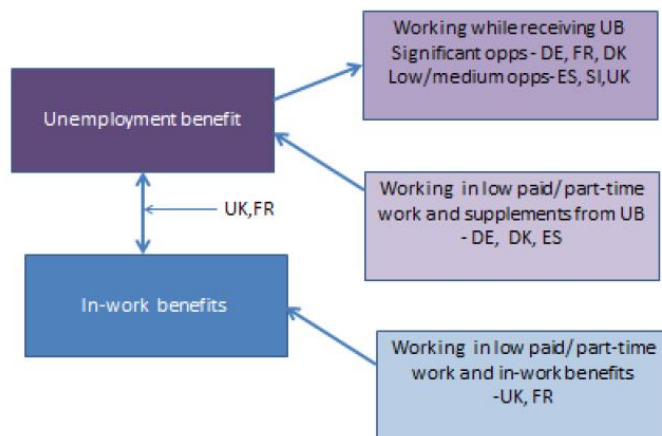
Differences in social protection reflect differences in employment and family systems: Denmark and Slovenia assume women will be engaged in continuous full-time employment and compensations are made against this standard model. At the other extreme Germany still relies on the family to provide support as indicated by the lack of any minimum individual social benefits.

Figure 2. Inclusive and exclusive social protection systems



Precarious work is also at the heart of changes to social protection systems. It influences the trend to provide benefit support for those in work, but also shapes 'work-first' policy reforms designed to encourage the unemployed or inactive to take up work whatever its quality. The UK and France, and to a limited extent Germany, provide extensive in-work benefits that subsidise low earnings caused either by low hourly pay or short hours. Spain and Denmark allow only short-term support and Slovenia so far is not providing benefit support for low wage work (figure 3).

Figure 3. Integrating out-of-work and in-work benefits



These trends are blurring the divide between being unemployed and being employed. Moreover, there is a risk that the social security contributions system is incentivising the use of precarious work, especially low and variable hours, low-wage and self employment. The posted worker directive also provides a strong incentive for employers in high social security contribution countries as it allows contributions to be paid on home country rules.

Representation gaps

Gaps in representation depend firstly on the institutional structure of representation for all workers. These can be considered along two dimensions: collective bargaining coverage and coverage of information and consultation at the workplace. On this basis we find that Denmark and France have relatively high coverage along both dimensions; Spain and Slovenia have high collective bargaining coverage but moderate workplace representation; Germany has moderate bargaining coverage but low workplace participation and the UK scores low on both dimensions.

There are relatively few specific provisions to assist in the organisation and representation of precarious workers; one positive example is the right for agency workers in Germany to participate in works council elections after three months employment, but this is not that effective due to the short length of placements. Despite many initiatives to organise and represent precarious workers, key challenges remain:

- 1) part-timers still tend to be under-represented, in part due to working in sectors with low coverage;
- 2) there are dilemmas as to whether the main objective is to represent those in non-standard employment or to reduce the number of such contracts; and
- 3) variations in collective bargaining strength and employment conditions across sectors complicates strategies to protect precarious workers –for example, work may be outsourced to other sectors that have lower collectively agreed wages.

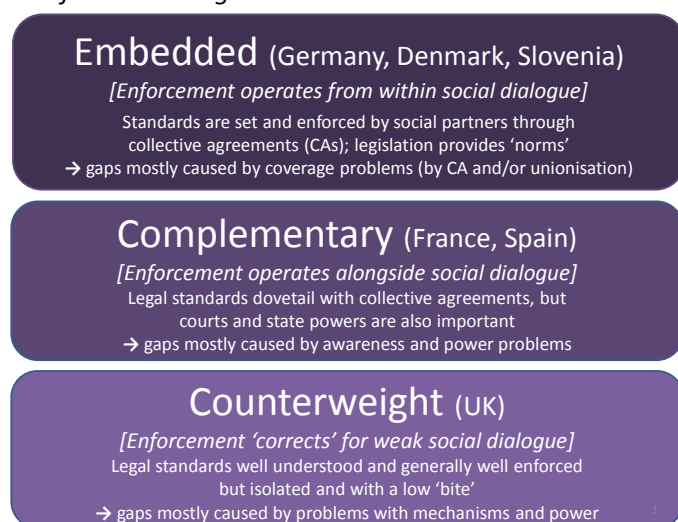
Overall, the limited success of representing workers in precarious employment and resisting the erosion of conditions may be considered more an outcome of structural aspects (weak unions, absent unions in certain industries and among certain employment types) than a lack of union commitment. This suggests that within the environment of precarious work, trade union activities are often precarious themselves. Labour market dualism thus appears to be more related to structural deficits than to union strategies to favour workers in standard employment. Strong representation in the overall labour market is also found to generally have positive effects on the

conditions of those that could be considered ‘outsiders’. Yet all six countries face similar challenges of how to improve representation in precarious labour markets, how to overcome increasing blind spots in knowledge (e.g. about working conditions and about employer tactics to avoid regulatory constraints¹⁰), and how to prevent employers using subcontracting to evade representation strategies (especially via use of false self employment).

Enforcement gaps

Enforcement gaps reflect the complex relationships between legal protections and systems of social dialogue in different countries and in different sectors. The six countries display three broad types of enforcement regime (figure 4). In the first type, enforcement is embedded within the system of social dialogue (Denmark, Germany and Slovenia). In the second, enforcement mechanisms are complementary to the system of social dialogue (France and Spain), and in the third enforcement is a counterweight to the weakness of social dialogue (UK).

Figure 4. Enforcement regimes



Differences in enforcement regimes give rise to particular problems such as awareness gaps, power gaps, and coverage gaps. In countries with strong or coordinated systems of social dialogue (Germany, Denmark and Slovenia), minimum standards are typically regulated through collective agreements, with responsibility for monitoring and investigating breaches shared between employers and unions and labour inspectorates accorded a relatively narrowly defined role. Workers in non-covered sectors or occupations will be disadvantaged due to a lack of both strong collectively agreed minimum standards and a fall-back position of a strong legislative system. State-centred systems (France, Spain) may combine social dialogue to establish ‘norms’ with a clear role for state agencies in monitoring and enforcing standards. In contrast with Denmark, Germany and the UK, labour inspectorates in France and Spain are ‘generalist’ in that they have responsibility for enforcing a wide range of standards (e.g. health and safety, working time, equal treatment, wages), though gaps in effectiveness are a problem especially in the large informal sector. In the UK, where social dialogue is weak and fragmented, the law plays a greater role.

¹⁰ On this issue our research complements other evidence of employer ‘exit options’, see Doellgast, V., Lillie, N. and Pulignano, V. (eds.) (2017) *Reconstructing Solidarity: Labour Unions, Precarious Work, and the Politics of Institutional Change in Europe*, Oxford University Press.

In all countries, much depends on the scope and remit of inspection agencies and social partners, as well as the ‘bite’ of minimum standards (e.g. the relative value of minimum wages); standards may be well enforced but at a low level. Furthermore individual legal challenges over mistreatment, underpayment or discrimination are severely constrained by the resources and knowledge needed to construct a case, as well as accessibility, as demonstrated by the recently introduced expensive fees to take a case to a tribunal in the UK.

There is also evidence of increasing reliance on a corrective rather than a preventative approach to enforcement and compliance. This means only inspecting after a serious incident instead of committing resources to raising awareness among workers and sharing information and best practice among companies to avert problems. Although the number of inspectors has increased in France and Spain (to deal with social security checks and undeclared labour), in Denmark, Slovenia and the UK numbers appear to be declining although data are unreliable. One counter-measure adopted by all countries is to increase fines for specific breaches of workers’ rights. However, without a minimally effective inspectorate, employers may be increasingly tempted to take a chance that breaches will not be detected or reported by workers.

Comparing Protective Gaps for Four Types of Precarious Work

i) Resilience or erosion in the SER?

The standard employment relationship (SER) is a cornerstone of systems of production, employment relations and social protection (figure 5). While most European citizens are employed under the SER, the weakening of labour market institutions, such as collective bargaining, and the fragmentation of production through outsourcing has left many workers even in full-time permanent employment at risk of low wages and limited career prospects. The evolution and form of the SER varies across the six countries, reflecting differences in regulation, gender relations, and systems of employment and social protection (table 1). These in turn give rise to differences in the size of protective gaps with other employment forms.

Employment protection for the SER has remained relatively stable in four countries but declined in Spain and Slovenia. However, the UK still has much lower overall protection than the other five countries. There is clearer evidence of erosion of the SER in data on wages which show common trends towards lower wage shares and widening wage inequality (except in the already unequal UK). Moreover, among permanent workers, the economic crisis increased the risk of in-work poverty in all countries, with no evidence yet of decline in Spain and the UK.¹¹

We find limited evidence to support the notion that the SER is in terminal decline. Full-time and permanent work is still the main form of employment relationship across the EU even in liberal market economies such as the UK. Although self employment has grown in Slovenia, Spain and the UK, more people are in work (even after the financial crisis) underpinned by steady growth in female participation rates (with the exception of Denmark).

Figure 5. Institutional anchors of the SER

¹¹ Data from Eurostat *EU-SILC survey [ilc_iw05]* show in-work poverty among permanent workers in Spain rising from 4.8% in 2007 to 6.0% during 2008-2009 and still at 5.9% by 2014, and in the UK from 5.0% in 2007 rising to 6.4% in 2012 and still at 6.0% by 2014.



Table 1. Historical SER context in the six selected countries

	Regulation of SER	Male breadwinner 'norm'	Labour market flexibility for permanent workers	Gaps in standards between employment forms
Denmark	Voluntarism	Weak	High (but with strong social wage)	Moderate
France	State-centred voluntarism	Moderate	Low	Moderate
Germany	Hybrid	Strong	Low	High
Slovenia	State-centred voluntarism	Weak	Low	Low
Spain	State-centred voluntarism	Strong	Moderate	High
UK	Employer-led voluntarism	Moderate/ strong	High (but without strong social wage)	Low/moderate

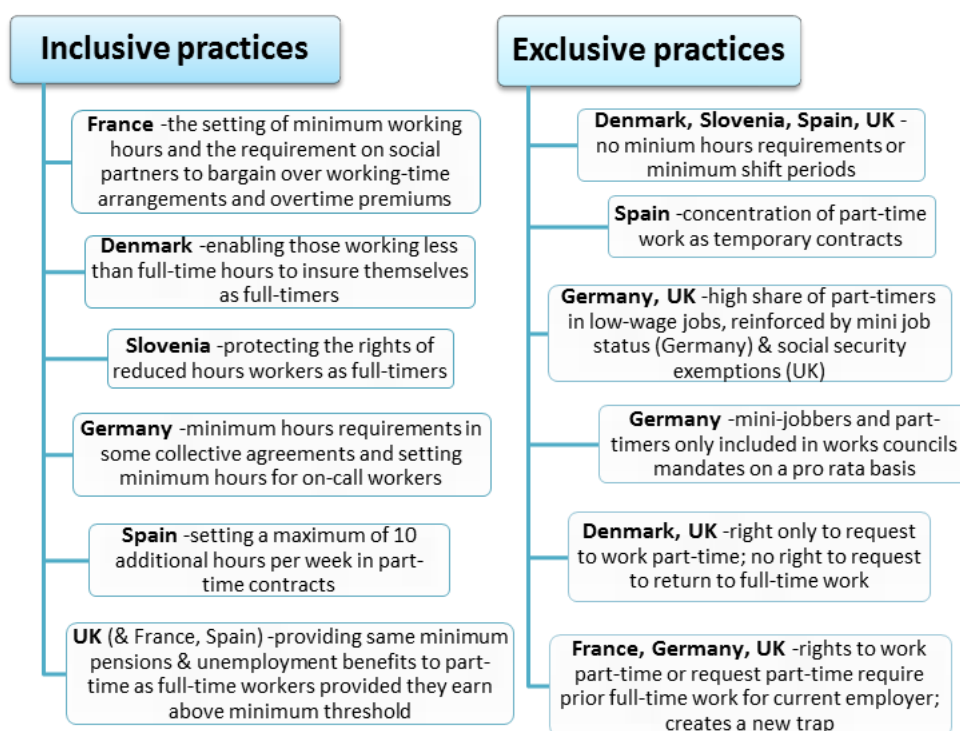
Nevertheless, norms of fairness, redistribution, and job security have to an extent been hollowed out. The 'feminisation' of the workforce, focus on labour market activation and weakening of the welfare state have served to 'normalise' the principle of employment flexibility and the risks of low wage and short-working hours. At the same time, there is also evidence that in particular contexts the SER can and does adapt and extend its protection to non-standard forms of employment, as considered in the next sections.

ii) Part-time and variable hours work

The six countries revealed strong differences in the incidence of part-time work, in who works part-time and in the extent to which it results in poor working conditions. Germany and the UK both have a high incidence of part-time work, mainly concentrated among adult women, reinforced by distinctive tax and social security arrangements. Part-time work is mainly voluntary but much of it is precarious in offering only low pay, poor progression, and with risks of exclusion from benefits and employment rights.

In contrast in Denmark and Slovenia part-time work is primarily associated with young people and is mainly voluntary, although Denmark has a high and Slovenia a low overall incidence. Continuous employment by women is the norm in both countries and in Slovenia although parents of young

children have the right to reduce hours all are expected to return to full-time work when children are older, while in Denmark there is more of a choice. Spain and France, two medium incidence countries, also have very high shares of involuntary part-time workers, indicating a lack of acceptance of part-time work. In Spain most part-time work is temporary, low paid and concentrated in the private rather than the public sector. France retains a high share of involuntary part-time work despite having reduced protective gaps for part-time workers in many respects. The following picture shows country examples of inclusive and exclusive practices that are reversing or reinforcing the precariousness of part-time work.



iii) Temporary employment

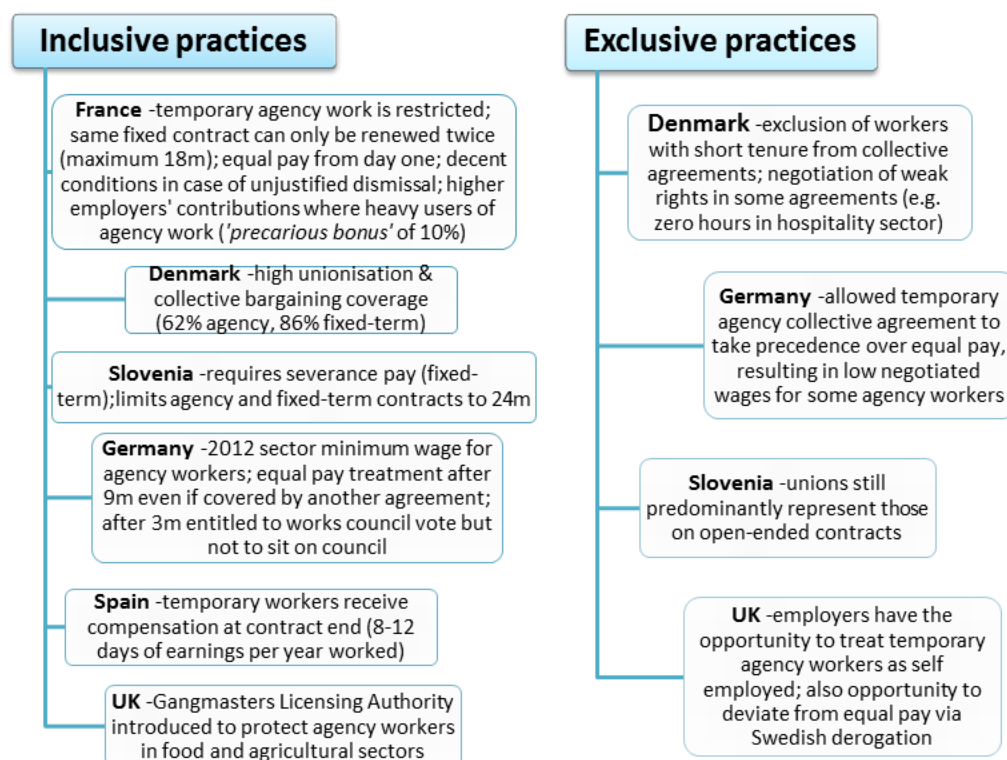
The incidence of temporary employment varies by country with shares in the UK (6%) and Denmark (9%) relatively modest, but significant in Germany (13%), France (16%) and Slovenia (18%) and high in Spain at 25% despite recent strong declines¹². Fixed-term contracts dominate over agency work in all six countries with the latter almost non-existent in Spain. Spain, Slovenia and France tend to offer only short duration contracts while duration tends to be longer in Germany and Denmark where 41% and 30%, respectively, of temporary workers enjoy contracts of more than two years duration.¹³

The forms of protective gaps again vary greatly between countries. The UK stands out for providing the least protection for temporary workers: it allows agency workers to be treated as self-employed, provides no specific compensation for termination of fixed-term contracts, requires agency workers to wait 12 weeks for equal pay and provides a loophole to this known as the Swedish derogation. In contrast Spain, Slovenia, Germany and France offer equal pay for agency workers and severance pay to those on fixed-term contracts from the very start of employment, with France in particular using a range of regulations to reduce protective gaps. Spain has introduced employment protection and redundancy rights after short duration in part to compensate for its high use of temporary contracts.

¹² Online 2015 Eurostat data, 'lfsa_etpga'.

¹³ The large share of missing responses in the UK survey data mean reported patterns are not statistically reliable.

Denmark excludes short duration workers from collective agreements but on the other hand has a high rate of unionisation of such workers and high collective bargaining coverage. Collective bargaining coverage is also achieved through specific temporary agency agreements in France and Germany and by the extension of agreements in France, Slovenia, and Spain. However, such agreements in Germany have set relatively low wages, thereby levelling down equal pay, though this has been somewhat reversed recently.



Overall, the requirements for equal pay in all six countries cannot prevent the predominance of poor pay, precarious representation, unenforceable transitions to open-ended contracts, and a lack of seniority rights. Indeed the temporary character of employment implies the absence of a continuous employment relationship and therefore no mutual employer-worker investment or the ability and incentive to enforce better employment conditions. The above inclusive and exclusive practices towards temporary work (fixed-term and agency) shape its precarious character, but without regulations to increase the costs of temporary contracts to employers or to ensure mutual benefits to employees and employers, the outcomes may be limited.

iv) Subcontracted work

Three types of precarious subcontracted work are considered: i) subcontracted employees, ii) posted work and iii) false self-employment. Each form of subcontracting poses different challenges when it comes to practices to limit precariousness: examples of inclusive and exclusive practices by employment form can be summarised as follows.

There are limited official data, but table 2 indicates the recent post-crisis trends and cross-country variations in use of posted workers and own-account self employed. Employer policy and practice constitute a key trigger for the use of precarious subcontracted work particularly when there are strong financial incentives to contracting –for example to pay low social security contributions for

posted workers or for self-employed contractors. Government policy may also play its part promoting precarious work. For example, stringent conditions on the unemployed to seek paid employment of any form in Slovenia and the UK have encouraged moves to self employment -in Slovenia, a 2008-2014 scheme paid the unemployed €4,500 if he/she remained self employed for 24 months.

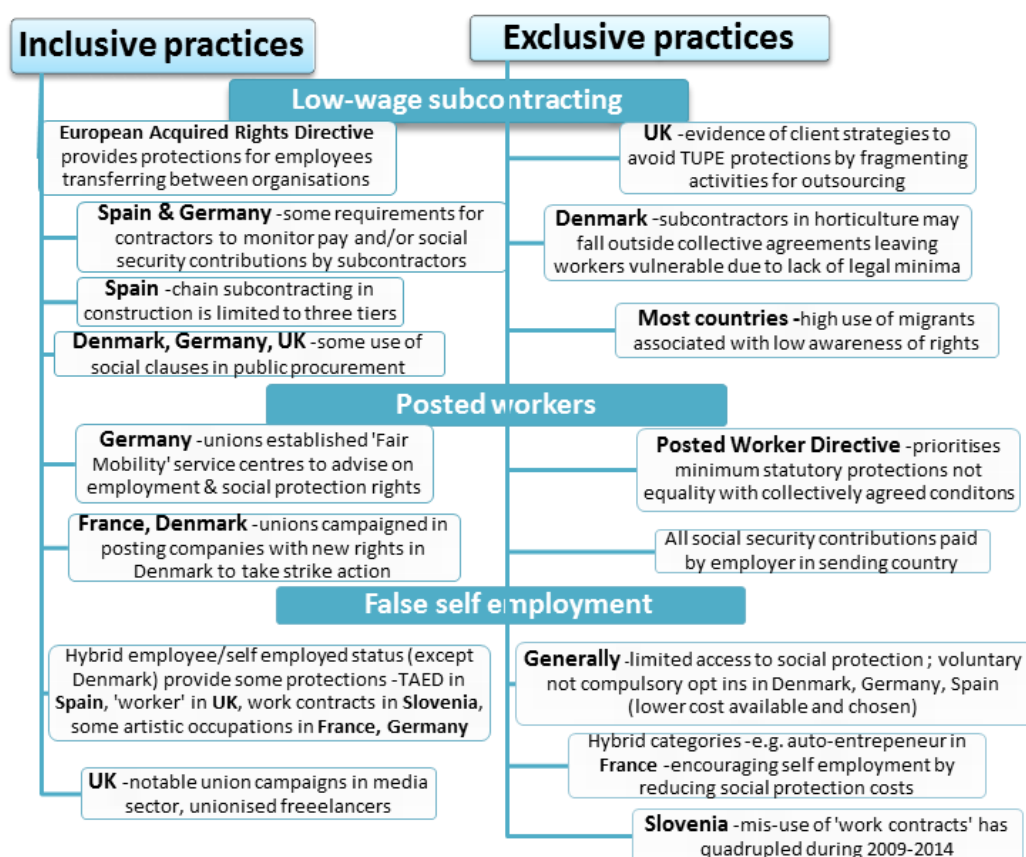


Table 2. Summary of patterns and trends in six countries: posted work and self employment

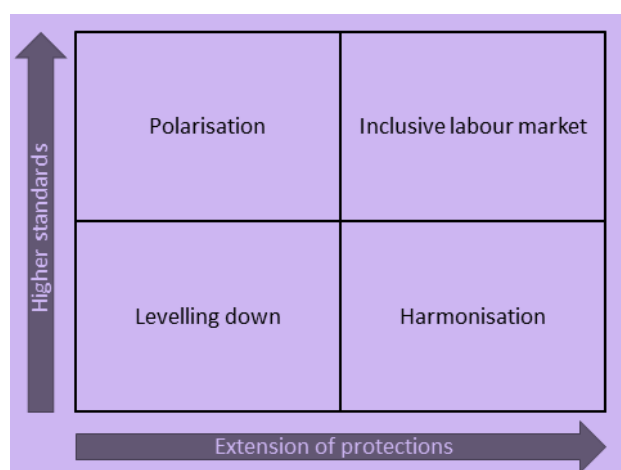
	Denmark	France	Germany	Slovenia	Spain	UK
Posted work:						
Post-crisis trend in sending posted workers	small rise	large fall	rise	large rise	large rise	stable
-volumes sent	low	high	high	very high	medium	Low
-volumes received	low	very high	very high	very low	medium	low
Self employment:						
Post-crisis trend	stable	rise	fall	large rise	rise	large rise
Own-account workers (share of total SE)	low	low	low	average	average	very high
Gender difference	wide	wide	wide	narrow	narrow	narrow

Re-regulating the employment relationship

A key question is whether the efforts of social partners should be focused on restoring the position of the standard employment relationship, or on the stronger regulation of non-standard work. Four scenarios can be identified (figure 6). The two left-hand scenarios represent strategies that are exclusive in nature: standards may be **levelled down** to the lowest comparators or there may be a **polarisation** of standards between different sectors or workforce groups (e.g. via social security reforms that favour full-time male breadwinners over women in part-time roles), reinforcing the differential bargaining power of workers.

The right-hand strategies are more inclusiveness through extending protections. When achieved without an increase in standards, through **harmonisation**, it likely involves winners and losers. **Inclusive labour market** changes, via government policy or the efforts of social partners, extend protections to workers in precarious employment and raise standards for all. Through 21 detailed case studies in the six countries, our research investigated different positive forms of social dialogue that sought to reduce precarious work via paths of either harmonisation or inclusive labour markets.

Figure 6. Alternative models of labour market regulation



Closing Protective Gaps through Social Dialogue

Social dialogue can involve traditional channels of union-employer collective bargaining, or novel and innovative forms of collaboration involving multiple stakeholders, such as government agencies, civil society organisations, regional and local government and training bodies. The following five themes summarise the empirical evidence from detailed case studies conducted in all six countries.

Integrating social protections for part-time, casual and variable hours workers

Systems of welfare and social protections are arguably the foundation of the Standard Employment Relationship (SER), and gaps in protection may exist where workers are on less than full-time hours, or on other forms of casual and variable hours contract where earnings are low or fluctuating. Evidence from the case studies suggests that localised action through social dialogue to stabilise working hours and earnings can potentially have a positive impact on social protections by increasing hours and earnings. Trade unions were instrumental in ending the use of zero hours contracts in the **UK local authority care work case**, and local collective agreements set longer working hours for both **care and retail** workers in **France** and subcontracted **catering workers** in **Spain**. Similarly, unions have been at the forefront of efforts to stabilise working hours in the **retail sector in Slovenia**.

Longer hours for mini-jobbers in **Germany** combined with tax changes would give **retail** workers (mostly women) higher earnings independent of their spouses.

Utilising ‘wide social dialogue’ to combat precarity among domiciliary care workers in France

A crisis in recruitment and retention and ‘hidden precarity’ among care workers in the French region of *Provence Alpes Côte d’Azur* provoked a new political will among regional government and social partners to diagnose and address the problem together. An impressive array of stakeholders including regional development agencies, training bodies, public employment services, health insurance fund, trade unions, employers and local government negotiated a regional cooperation agreement in 2010 aimed at: i) reducing involuntary part-time work (and addressing unpaid travel time via smarter spatial distribution of the workforce); ii) financial assistance for training and professional pathways, iii) qualifications for job seekers to the sector extended in 2014 to also securing pathways into other healthcare jobs. During 2012-14 3,700 care workers benefited from increased hours, training, higher pay (an extra €320 per month) and improved protections. Moreover, this agreement has improved social dialogue in this sector, building ‘a genuine arena for negotiation’. More still needs to be done however to improve working conditions as many women were unable to step up to full-time hours because of fatigue and burnout.

Addressing ambiguities in employment status

As technologies and production systems evolve, we are observing rapid changes in employment relationships that test customary practices about what constitutes an ‘employee’ or ‘self employed’ and challenge countries to establish clarity and equality of employment status. Segmentation of workers by employee, agency worker and self employed status impacts directly on entitlement to employment rights and social protections. In addition, ambiguities in legal status of many workers deemed to be self employed presents employers with significant scope to transfer risks onto workers.

Evidence from the country case studies suggests that social dialogue can reduce the scope for employers to exploit ambiguities in employment status, but this can come at a cost where standards for all workers are levelled down. In **Slovenia**, around 250 **freelance media workers** at the state owned broadcaster RTV were transitioned onto permanent contracts following a management-union agreement, with significant union support from the Slovenian Labour Inspectorate and financial pressures on the employer from legal compensations paid to workers. Legal reform in **Spain** around economically dependent self employment (TAED¹⁴) in principle reduced ambiguities in legal status and reduced precarity. However, the case studies caution that while some employers may switch formerly self employed workers to better protected TAED status other employers may push workers with a standard employment contract into false self employment in order to reduce employers’ costs¹⁵.

Although take-up has been patchy, a joint union-employer task force for the manufacturing sector in **Denmark** (since 2014) has assisted social partners at local level to close protective gaps facing **temporary agency workers**, including examples of increasing job security by conversion to a permanent position after 3-6 months and training between assignments. In the **UK**, local union action was important to slow down the introduction of **agency workers in the food production case**

¹⁴ TAED refers to *trabajador autónomo económicament dependiente*, defined in the 2007 Labour Code for the self employed.

¹⁵ The Spanish case studies contrast developments at two large bakery firms, Bimbo and Panrico

but the gains were short lived as job losses followed shortly afterwards. Absence of effective social dialogue in **the UK logistics case** has meant that high use of agency workers has seen harmonisation achieved by a gradual levelling down of pay for permanent workers.

Closing enforcement gaps

Improved employment rights, along with rules and regulations which govern the behaviour of employers, do not necessarily translate into an effective system of protection if standards are not properly enforced or considered legitimate. Evidence of a greater reliance on a corrective rather than preventative approach is affecting each country's norms of compliance; employers may be more tempted to take a chance in the expectation that regulation breaches will not be detected and that workers will not raise concerns.

Case-study evidence shows that social dialogue operates in multiple ways to ensure that rules and regulations are properly enforced. For example, at the organisation level, unions in both the **UK higher education sector** and the **Slovenian media sector** have been successful at ensuring a wider range of workers' benefits from the rights and standards set down in the SER by pressing employers to reduce the share of non-standard contracts. In **Germany**, voluntary agreements which commit clients at the top of **meat and steel supply chains** to improve working conditions and enforce basic entitlements such as the minimum wage among subcontractors has seen a reduction in employers' use of non-standard work and posted workers that had been providing a means of evading obligations. In **Spain** a new legal limit placed on the number of subcontracting tiers is designed to maintain a stronger link between the top and bottom of the **construction** supply chain and ensure that health and safety issues are properly addressed by contractors at each level.

Closing gaps along the supply chain

A combination of complex chains of subcontracting, cost-competitive procurement processes, and offshore transfer of liabilities (e.g. via a posting company) often place the subcontracted worker in a precarious position. Nevertheless, our case studies reveal many interesting developments involving coalitions of actors within and across countries seeking to close protective gaps and establish new forms of collective bargaining and/or strengthened social dialogue to exact greater social value from subcontracting practices.

In **Denmark, Germany** and **the UK**, social partners in the public sector have recently been incorporating 'social clauses' in public procurement contracts. In all three countries, subcontracted workers risked being covered by a less generous collective agreement (than workers in the public sector client organisation) or none at all. A case study of the **municipality government of Copenhagen** found social partners had negotiated labour clauses and chain liability in all procured services. They also benefited from new forums for social dialogue for subcontracted cleaning, construction and housing services. Key to the success (and lacking in other Danish municipality agreements) is the appointment of external, independent auditing of subcontractors' compliance. Monitoring has also proved crucial in the **case study of Bremen municipality** which improved enforcement of minimum wages especially among construction sector subcontractors, although social partners are calling for tougher sanctions. In **the UK**, local authorities have been pressed by the public sector Unison to implement its 'Ethical Care Charter', which includes requiring subcontractors to pay the living wage (at least 15% higher than the statutory minimum wage) and to pay travel time

among other conditions. Our case study of **Leeds municipality** shows how local social dialogue can make this effective, albeit severely constrained by the harsh, ongoing spending cuts imposed by central government since 2010 which also restrict capacities for independent monitoring and increase risks that other elements of workers' total pay will be cut (such as unsocial hours pay premiums).

In **Spain** a major legislative reform in 2006 has considerably reduced risks to workers of subcontracting in the construction sector in response to several years of trade union campaigns about the high rate of accidents in the sector. New legislation limits vertical subcontracting of construction activities to three tiers and requires all firms to be registered. This was a very idiosyncratic form of social dialogue whereby the construction union (FECOMA¹⁶) campaigned for 600,000 signatures in support of a legislative initiative as allowed under the Spanish Constitution.

Giving voice to vulnerable workers

While precarious work can be found among many diverse sectors and occupations of the economy, certain workforce groups tend to be over-represented –youth, the low educated, women, and migrant and posted workers. Several case studies therefore investigated social partners' efforts to improve representation gaps and strengthen rights of vulnerable workers to employment protection and social protection.

Efforts to extend the benefits of union protection to migrant workers are proving fundamental in many European countries. In **Denmark**, union membership is very low among migrants –estimated at just 12% among Polish workers. A positive case study of a **fish processing company in Northern Jutland** found that Romanian workers had approached the trade union (3F), despite fears of being fired by their employer, and started a lengthy process of building trust with local union representatives. A subsequent union media campaign highlighted the modern slavery conditions in the company. The union issued an industrial action against the company and eventually won collective agreement with conditions following industry norms. A similarly positive case in **France** involved the formation of a 'social space' for cooperation and dialogue among social partners and local elected officials to address poor housing conditions and improving awareness of rights among **seasonal migrant workers in the Languedoc-Roussillon region**.

In **Slovenia**, a great deal of public debate and collective action has focused on the increasingly **precarious situation of young people**. Problems of unpaid internships and unregulated freelancing (namely, false self employment) have been a catalyst since 2010 for several new representative organisations, including the Movement for Decent Work and Welfare Society, the Trade Union *Mladi Plus* (Youth Plus) and the Trade Union of Precarious Workers. The largest is *Mladi Plus* with around 3,000 members and growing, and campaigning on unemployment, youth housing, career counselling and law counselling for their members.

What recommendations?

Our research findings underpin the need for all stakeholders a) to be more aware of the extensive protective gaps across European labour markets and b) to design and implement effective policy and

¹⁶ The Construction Federation of the Spanish Trade Union Comisiones Obreras.

practice (via legal reforms and/or collective agreements) that will close gaps and reduce the pervasiveness of precarious employment. Our high-priority recommendations addressing all four protective gaps and drawing lessons from our case studies are as follows:

- ❖ **Establish minimum hours guarantees** accompanied by greater employee control over work schedules
- ❖ **Use levies and funds to compensate for risks encountered by workers in non-standard employment** such as targeted training subsidies or tax penalties to employers
- ❖ **Make collective agreements more inclusive**, including greater use of extension mechanisms
- ❖ **Improve capacities for social partners to perform socially responsible bargaining**, including on gender equality issues
- ❖ **Extend employment rights and social security protections to the self employed** especially health insurance and pension provision
- ❖ **Extend rights to flexible working within standard employment** and from at the point of recruitment
- ❖ **Make social security protection more inclusive** to provide for high minimum benefits and facilitate access for workers in non-standard employment
- ❖ **Strengthen works councils' rights to act on reducing excessive employer use of non-standard employment forms**
- ❖ **Include workers on non standard contracts in workplace systems of representation**
- ❖ **Continue to develop strategies to mobilise migrant workers** especially in unregulated sectors
- ❖ **Commit additional resources to the monitoring and enforcement of labour standards**
- ❖ **Encourage (via legislation or industry agreements) the diffusion of good practice 'social value procurement' to reduce precarious work among subcontractors**

Our investigations also reveal new opportunities made possible through multi-faceted forms of social dialogue that engage a wider group of stakeholders and extend the traditional remit of industrial relations issues. Our evidence suggests this '**extended social dialogue**' (formal and informal) generates a better understanding and diagnosis of the issues relating to precarious employment. However, while often effective at local level we find little evidence of effective diffusion of mutual gains, suggestive of the need for increased capacities for trade unions in particular to coordinate strategies across regions.

1. Introduction and overview

Precarious work is a headline agenda issue for policymakers and social partners alike across Europe. Although often characterised as concentrated in a peripheral segment of the labour market or resulting from exploitative employer strategies, since the economic crisis problems of precarious employment seem to have become increasingly widespread, affecting a wider range of workers' labour market experiences. Understanding of the nature of the problem in Europe has improved considerably with the publication in recent years of several research reports, books and academic articles. However, this project was motivated by the need to fill several remaining gaps in our research knowledge and to address some critical points in current debates, where in our view there are misunderstandings relating to both the character of precarious employment and what can be done to reduce it. In this introduction to our report we summarise the starting points for our research and outline the basic features of the research design.

Starting points

The financial crisis and subsequent austerity policies have exacerbated social and economic disparities within and across member states in Europe (EC 2013; Karamessini and Rubery 2015; OECD 2011; Vaughan-Whitehead 2015), leading to calls for greater clarity in identifying the causes and character of precarious employment and in designing suitable policy responses, as well as actions by employers and trade unions. Building on recent studies, this project identified five key starting points for our research, designed to complement and extend current knowledge and to improve the evidence base for policy debate.

i) Delinking precarious work from type of contract. There is a tendency in some research studies, and particularly in policy debates, to associate non standard employment (namely, part-time, temporary fixed-term, temporary agency or self employment) with a condition of precariousness. This is particularly true in definitions of 'insiders' and 'outsiders' in recent political science debates. For example, Rueda (2007: 15-16) associates outsiders with precarious employment, defining them to include part-timers (since 'a large proportion...would prefer to work full-time') and fixed-term workers (again given evidence of their involuntary nature for many workers). Similarly, Palier and Thelen contend that dualism in French and German labour markets pits precarious 'atypical' jobs (temporary, part-time) against stable, well protected, regular employment (2010: 127-128). The problem with these definitions is twofold. First, not all non standard employment is necessarily precarious, since for example part-time work may provide decent pay, job security, worker voice and career prospects. Second, many standard forms of employment, that is full-time, permanent jobs, may not offer decent conditions and in fact suffer high risk of job insecurity, low pay and so on.

These problems are picked up in recent accounts of precarious work where we find an extended analysis that covers full-time permanent jobs in comparative assessments of the relative risk of precariousness (Broughton et al. 2016; EuroFound 2015; Holman 2013; Leschke 2012). Broughton et al. (2016: 66-69) for example identify significant risks among standard jobs of low pay (concentrated

in certain sectors), eroded job security guarantees and poor job quality (especially work intensity and work autonomy measures in several countries), while the EuroFound (2015) analysis focuses in on specific occupations where workers face ‘multiple disadvantages’ and calls attention to the workforce occupational group (whether low educated, women or migrant workers for example) rather than contract status per se. Our research considers the possibility of precariousness across all forms of employment but retains a focus on contract form (rather than say occupation, industry, or level of required skill) since this fits with our interest in the nature of regulatory protections. We investigate to what extent the increasing role of non-standard employment forms in the labour market is changing approaches to employment regulation and protection. Protections available to those on standard employment contracts are not considered to be guaranteed but instead as potentially at risk of erosion where non-standard employment arrangements emerge as unregulated and low cost alternatives. We identify four general employment forms: full-time, permanent; part-time; temporary (fixed term and agency); and subcontracted work (outsourced, posted work and false self employed).

ii) Analysing precarious work through ‘protective gaps’. While other investigations of precarious work (or ‘disadvantaged’ work) specify objective and subjective measures of job quality (e.g. Broughton et al. 2016; Eurofound 2015), our research analysed precarious work as arising from ‘protective gaps’ in regulatory systems of employment protection and social protection, as well as in systems of representation and enforcement of rights. In our analytical framework developed in chapter 2, ‘protective gaps’ are said to encourage exclusive labour markets where not all workers enjoy the benefits of decent employment standards, while the narrowing of gaps encourages more inclusive labour markets (following Rubery 2015).

This institutional framework enables a suitably wide-ranging analysis of precarious work. For example, we are able to explore the implications of specific employment forms for access to social protection alongside access to employment rights, in recognition of their joint regulatory role in shaping multiple aspects of job quality including income security in case of job loss, maternity leave or retirement and risk of poverty in case of low pay, as well as responding to evidence of a blurring of work and non-work boundaries in regulatory protections and gaps. Our analysis in this report thus brings together both the anticipated inclusive and exclusive impacts of regulatory protections with empirical evidence of its actual impact wherever possible. Moreover, this approach facilitates a societal specific approach that is sensitive to the diverse functions of employment protection, minimum wage, collective bargaining, unemployment insurance and other rules and the inter-relationship between them (see, also, Crouch 2015, Grimshaw 2013).

iii) Country specific nature of precarious work. The challenge in defining precarious employment is complicated in cross-country comparative analysis both because of differing societal notions of what describes ‘standard employment’ and the significance of specific indicators of precariousness. On the one hand, EU level protections have contributed to greater harmonisation of standards (see box 1.1). On the other hand, many areas are not protected at EU level (e.g. collective bargaining rights and minimum wage fixing procedures), each country’s implementation of EU directives varies (see Hartzen et al. 2008 for example on the Transfer of undertakings directive) and employer and government responses to new rules respond to each country’s particular economic and institutional conditions.

Standards of employment differ considerably across countries both in level and in direction of change. For example, employment protection standards may be strong or weak, and rules may be strengthened or weakened in response to changing societal pressures –an outcome of competing interests, politics, economic conditions and social needs. Conversely, therefore, precarious conditions of work need to be assessed both in relation to corresponding indicators in other countries and against the country’s standard conditions. For example, the incidence of low paid work among part-time workers in France may be low relative to other countries but high relative to full-time workers in France.

Box 1.1. Relevant European directives and anticipated impacts on employment standards

- Informing workers of their employment conditions 91/533/EC; protects against informal employment relationships
- Health and safety for fixed-term and temporary work 91/383/EC; ensures health standards are extended to workers with temporary contracts and gives option to member states of prohibiting their use in sectors or workplaces defined as potentially dangerous
- Protection of young people at work 94/33/EC; outlaws child labour and provides for minimum standards for health and safety, including working time
- Posted workers directive 96/71/EC; identifies a set of core standards of the host country that apply to workers employed by posting companies (including minimum rates of pay, working hours and paid holidays, equal treatment and health and safety at work) but social security protections follow home country rules
- Part-time work directive 97/81/EC; designed to eliminate discrimination against part-timers in relevant labour market and social policy (including pensions for example)
- Fixed-term contracts directive 99/70/EC; provides stronger equality of standards between fixed-term and permanent contracts of employment with a view to combatting discrimination and preventing abuse arising from employers’ use of successive fixed-term employment contracts
- Transfer of undertakings 2001/23/EC; provides protection against dismissal for reasons of transfer of work activities (e.g. due to outsourcing or acquisition) and application of collective agreement to the new employer (minimum 12 months) and terms and conditions of employment (except pensions)
- Working time directive 2003/88/EC; sets specific working time standards covering maximum hours, rest breaks and paid holidays, plus additional protections for night work and for specific occupations (e.g. trainee doctors and separate directives for rail, air, road and sea transport)
- Temporary agency work directive 2008/104/EC; designed to guarantee minimum standards for temporary agency workers, as well as non-discrimination, although with flexibility for employer use also
- Posted workers enforcement directive 2014/67/EC; strengthens the application of the posted workers directive by addressing fraud and improving information exchange between sending and receiving member states.

Source: details from the European Commission website, <http://ec.europa.eu/social/main.jsp?catId=706&langId=en>.

iv) Employer strategies shape the extent and form of precarious work. Drawing on a well-established tradition of labour market segmentation theory (Craig et al. 1982; Gordon et al. 1982; Rubery 1978; Sengenberger 1981; Wilkinson 1981), our approach assumes that employing organisations play a role in shaping the character of inequalities and dualisms in Europe’s labour markets. Employers may, for example, design selective access to career and training opportunities, under-invest in productive structures leading to low-wage, low-skill vicious cycles, adjust to worsening economic conditions in

ways that adversely affect some workers' job queue prospects, or undermine collective worker resistance through divide and rule tactics. Equally, employers may adopt a more inclusive set of strategies towards people management that reduces protective gaps experienced by different workforce groups.

This approach is important since it recognises the limits to an explanation of precarious work overly reliant on the changing economic or technological conditions; empirical evidence of rent-seeking behaviour for example suggests that many employers with the ability to pay high wages commensurate with investments in technology and productivity performance are nevertheless unwilling to do so (Craypo 2003). It also recognises the uneven development of sectors, networks and organisations that fuel differential opportunities for workers' pay and employment prospects that are not determined by their potential productivity characteristics (Grimshaw and Rubery 2005); workers may be at the right or wrong end of a supply chain for example and therefore more or less able to press for a decent share of their employer's rent. As such, our approach is attentive to empirical evidence of employer strategies that shape the changing use and character of precarious work.

v) Social dialogue and policy reforms are needed to reduce precarious work. Our fifth and final starting point was to recognise the multiple roles of social dialogue in fostering more inclusive labour markets by reducing precarious work. Here, our approach aligns with that of the European social model and acknowledges both 'narrow' and 'wide' forms of social dialogue (see box 1.2). It also contributes to the current 'New start for social dialogue' promoted by the European Commission, which argues social dialogue is 'a prerequisite for the functioning of Europe's social market economy and crucial to promote both competitiveness and fairness'.¹⁷

Unlike several other studies that argue unions often adopt dualist strategies towards their members (see chapter 2), our approach does not assume that governments, employers or unions are motivated only by a concern to maintain or strengthen protections for the core workforce. For unions, for example, the interconnected problems of protection for diverse groups of workers may in fact be a basis for collective action against a general levelling down of their conditions. This more open-minded approach can be used to better understand under what conditions -specifically what types of industrial relations systems- it may be possible to realise the Europe 2020 vision of inclusive growth in which the 'benefits of growth and jobs are widely shared'. While country models of industrial relations set the context for what may be possible to achieve, in terms of for example indicators of union membership, employer membership of representative associations and so on, we sought to investigate what works in practice by collecting original data from case studies at sector, region, organisation and supply chain levels. Our approach complements several other valuable European studies that have highlighted the positive role social dialogue can play in reducing precarious work especially via stronger participative standards and increased resources for closing enforcement gaps (e.g. Ebisui 2012; Keune 2013; Simms 2015; Vosko and Thomas 2014), issues we pick up in the following chapter of this report.

Box 1.2. Social dialogue and the European social model

The terms 'social dialogue' and 'social partners' are closely associated with the European social model

¹⁷ <http://ec.europa.eu/social/main.jsp?catId=88&langId=en&eventId=1028>.

which encompasses systems of industrial relations, labour market regulation, economic planning, and social or welfare protections (Vaughan-Whitehead 2014). This is often contrasted with social models in liberal market economies, such as the US and to some extent the UK, where trade unions are more marginal, labour markets are less tightly regulated, and welfare systems are minimal or residual.

Narrowly conceived, social dialogue may be defined as any form of consultation, negotiation or dispute between employer and trade union. More broadly, however, it may be construed as encompassing a wider range of organisations, influences and institutional pathways as shown in figure 1.1.

Figure 1.1. Narrow and wide forms of social dialogue



Within the formal specifications of the European social model, a system of industrial relations and social dialogue is described as having four institutional pillars as follows:

- i. Strong and legitimate trade unions;
- ii. Centralised or coordinated wage setting;
- iii. Embedded processes of consultation and employee engagement at the level of the firm; and
- iv. Scope for union participation in policy-making

Source: European Commission (2009).

Research design

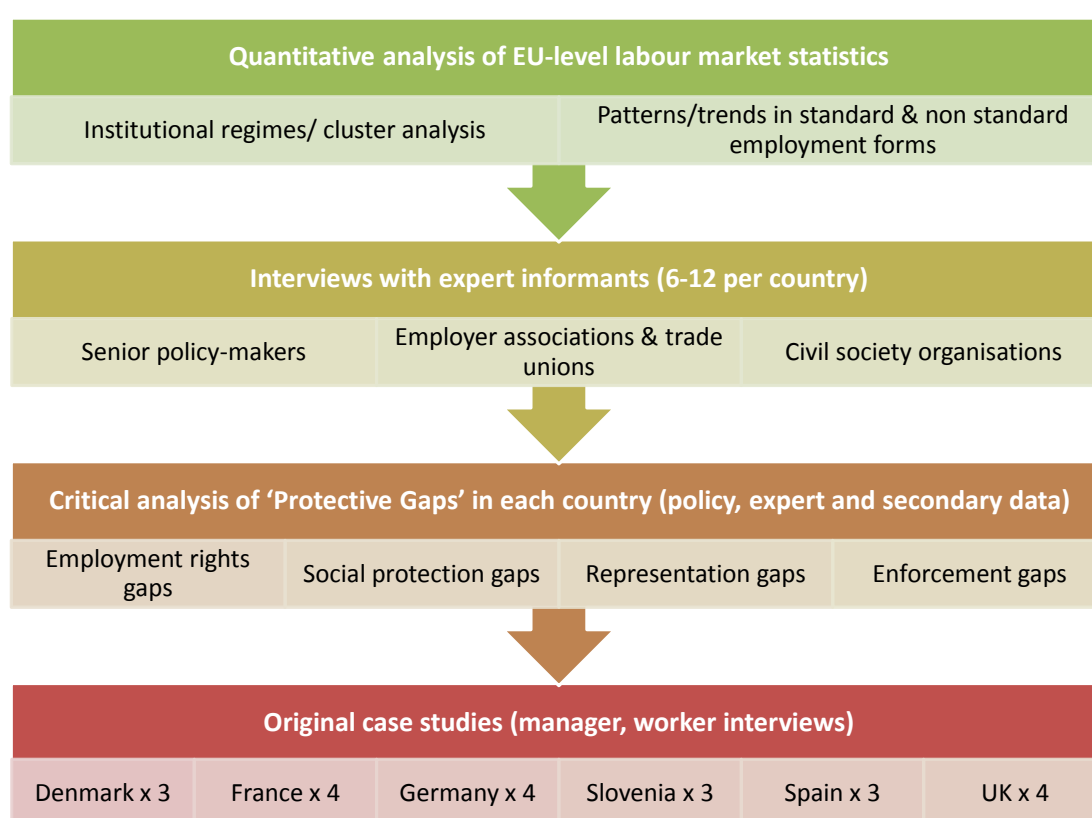
This 24-month project, spanning six country teams of researchers adopted an interdisciplinary, multi-level and mixed method research design (figure 1.2). Teams held four project meetings (Manchester, Duisburg, Ljubljana and Salamanca), as well as numerous skype and telephone conference calls. These discussions fulfilled various purposes, including agreeing a uniform set of research questions and instruments, debating conceptual issues, sharing evidence and ideas from country studies, and planning for the fieldwork, national workshops and Brussels conference.

While country teams started a detailed review of relevant literature and policy debates, a first aim was to undertake a detailed quantitative analysis of European labour market trends in standard and

non-standard forms of employment. Patterns and trends were analysed for employees and for the self employed and countries clustered according to institutional regime types. Preliminary results were reported in Duisburg and then revised.

A first stage of interviews was carried out by individual country research teams. Full details of interviewees are in the national reports. The aim was to discuss issues of precarious work with key stakeholders –involving senior representatives of employer associations, trade unions, government agencies and, where relevant, civil society organisations. These interviewees, between six and twelve per country, provided a wealth of data on the nature and significance of various aspects of precarious work and, in some cases, provided feedback on preliminary drafts of Part one of the national reports. Each country team organised a ‘national workshop’ towards the end of the first year of the project to which these interviewees were invited.

Figure 1.2. Multi-level, mixed method research design



A major task undertaken by the six country teams was to produce a critical analysis of ‘protective gaps’, drawing on policy documents, secondary data analysis and first stage interviews. This analysis formed part one of each country report, as well as the primary material for parts 2 and 3 of this comparative report.

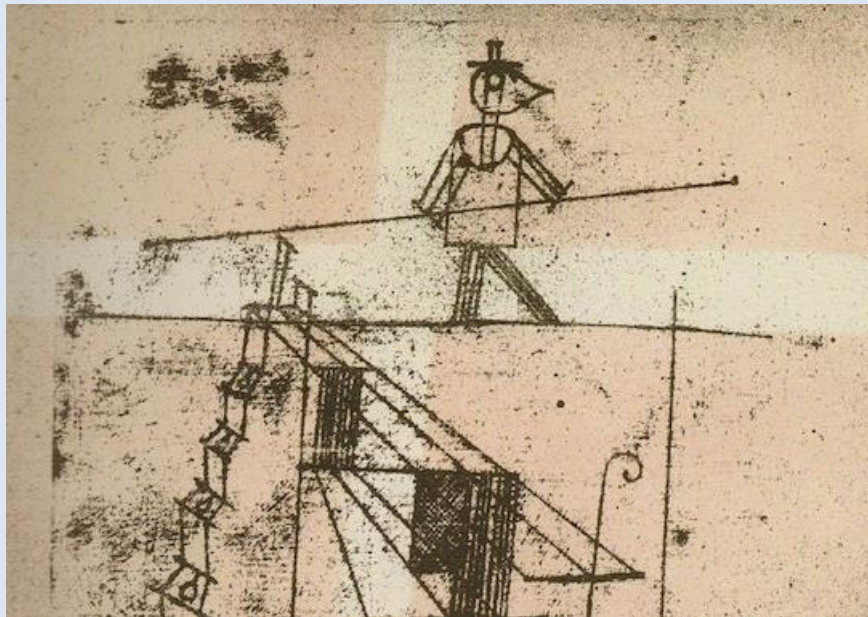
A second stage of detailed case studies were undertaken during the second half of the project. These involved a mix of sector, organisational and supply chain ‘nested’ cases. A total of 21 cases were undertaken, numbering between three and four per country. Full details are provided in chapter 13. All cases involved the collection of management and worker views and all sought to interrogate

issues of precarious work arising from the analysis presented in the national report part one, which was debated among teams at the Duisburg and Ljubljana meetings.

Part 1

The Policy and Empirical Context of Precarious Work

2. Debating precarious work and the role of social dialogue
3. European employment models before and after the crisis:
Introducing the six countries
4. Job types in Europe: patterns and trends during 2006-2013



2. Debating precarious work and the role of social dialogue¹⁸

This chapter explores the debate on precarious work and presents a new framework for analyzing the extent and form of precarious work across all forms of employment. To reduce precarious work we need a benchmark of well protected employment. In the past the traditional standard employment relationship (SER) served as such a benchmark for decent wages, protection against unfair treatment, job security and participation. The SER also served as a social norm from which many other social rights such as social insurance for health, old age, unemployment and accidents, as well as worker entitlements to paid holidays, public holidays, sickness and in some countries even paid and unpaid parental and training leaves were guaranteed. Depending on the strength of the social partners and the different political traditions these social rights were introduced by legislation or by negotiations between the social partners. Mostly these social rights were corporatist in nature since new legislation was drafted in consultation, or even close cooperation, with the social partners or acted to generalize ‘good practices’ that had previously been negotiated in particular industries or companies.

While the SER as a social construct still serves as a valuable benchmark, we can no longer assume it has as wide an applicability as in the past. In most European countries we observe both the growth of non-standard forms of employment, such as part-time, temporary agency work or self employment, and gaps in employment and social rights for these workers. However, employees in standard, full-time open-ended employment, which is the category of employment that still accounts for the majority of the workforce in our six selected countries (see chapter 9), may also be at risk. There are many drivers of job loss and job insecurity, leading some commentators to describe contemporary capitalism as a ‘disposable jobs regime’ (Rossman 2013). Many, for example, may be at greater risk of low wages because of a decline in many countries in the coverage by collective agreements, because of the growth of outsourcing/offshoring, or because there are more limited prospects of advancement beyond a low minimum wage even after acquiring experience and skills. Those employed in small companies may find they only offer limited employment protection.

These developments call into question the boundaries between standard employment rights and conditions and those associated with more flexible forms of work in part-time and temporary jobs as well as jobs in the informal sector. Moreover downward pressure on employment and income security for those employed in regular work also reduces the prospects for those on flexible contracts of accessing more secure jobs in the future. Nevertheless those on non standard employment contracts may be particularly at risk for specific forms of precarious work. For example unstable working time is particularly evident in several different employment forms, including zero hours contracts, mini-jobs and pseudo (or involuntary) self-employment. Precarity may also be associated not with the employment contract as such but with limited opportunities either to transfer into more

¹⁸ This chapter was co-authored with Philippe Méhaut and Gerhard Bosch.

stable employment relationships or to upskill in different ways, including limited access to apprenticeships, exclusion from management training programmes and the lack of investment in training in workplaces where precarious work is concentrated. Precarious wages are associated with high shares of workers paid less than a living wage, non-compliance with statutory minimum wage rules, insecure income for workers with (pseudo or real) self-employed status and wage losses associated with supply chain outsourcing. Finally, many workers also experience limited opportunities to exercise individual or collective voice whether due to non-recognition of unions or failure of unions to encompass certain workplaces or sectors.

To explore these issues further we first of all need to situate the analysis within the growing literature on both the meaning of precarious employment (see next section) and on the debates relating to the causes and consequences of divides between precarious and non precarious forms of work in labour markets (second section). This review of current debates provides the context for proposing a new framework for identifying the extent and form of precarious work through analysing protective gaps in employment rights, social protection, representation and enforcement (third section).

The social structuring of precarity

Precarious work is not clearly or precisely defined, in national or in international standards (even if the ILO decent work could be a reference point). As emphasized by McKay (2012), in a study on 12 countries, there is neither an official definition nor, as their survey found, a consensus among the key actors on the labour market.

One of the main difficulties is that we need a reference point: what is not precarious, that is a job of good quality. The usual reference is the Standard Employment Relationship (SER). However, it is well known in international comparisons that the characteristics of the SER differ according to national institutions, national standards, national configurations of actors, of labour markets. When studying precarious employment understood as nonstandard employment, it is important to take into account the relative character of such notions. In fact, the definition of precarity very much depends on the criteria used to define standard employment (i.e. employment that is perceived as suitable or acceptable in terms of stability, working conditions, labour standards, and security) in a particular country (Barbier and Lindley 2002). In other words, national realities matter when it comes to the characterisation of employment precarity (Paugam 2000). Nonetheless, if analysed in comparative perspective, the use of such a notion can be found to be very encompassing (ESOPE 2005). As a consequence, the category of precarious employment can be seen as an imprecise one, whether from a statistical, analytical, political or social perspective, and needs to be disentangled according to the country analysed. This means that the established use of this category by academics, as well as by social actors such as the state and social partners, is defined under the influence of different national normative systems (Barbier 2011).

This is why our six countries comparison does not start from a common definition. The SER as a national construct is taken as the reference point to investigate the various gaps between different atypical situations and this SER and to reveal the complexity of the phenomenon.

If we look at the case of France by way of example, the most common definition – at least in statistical terms – of precarious work refers to the one devised by INSEE (French National Institute of Statistics), which uses the term '*formes particulières d'emploi*' (non standard forms of employment

status) in order to qualify it: *'The term non standard forms of employment (or sometimes precarious employment) encompasses all employment statuses that are not Open Ended Contracts (OECs). These are: temporary work, fixed-term contracts, apprenticeship and subsidised contracts.'* Essentially, the standard employment relationship as permanent employment defines the view of what is acceptable decent work and has been elected as the social norm with which all other employment forms must be compared. Moreover, based on such a definition, precarious work can thus be seen as a synonym for non standard work, and the distinction between open-ended contracts and fixed-term contracts becomes the main criterion that allows the identification of precarity in employment. Accordingly, such a notion was conceived as strongly based on status as a key employment characteristic but without including part time or self employment, as it now conforms to the model of the standard SER as designed for a male breadwinner).

Nevertheless, precarious work cannot be considered a homogeneous category, especially defined by the 'permanent/non-permanent divide', as this does not have a universal meaning. In particular, some have insisted on the fact that employment precarity as well as atypical employment are only one dimension of a multidimensional picture of fragmentation, where inequalities increase according to social protection areas, to sectors in the economy, and so on (Barbier 2011). Moreover, many scholars have also underlined the peculiarity of this definition, as non standard employment status does not always necessarily imply precariousness. It is no more possible to associate precarity with the so called non standard forms of employment, than it is to automatically associate stability with standard employment (Kornig and Michon 2011).

More and more, scholars have been exploring the various facets of precarious jobs, work or employment or indeed the existence of a precariat. Standing (2011 p 10) summarizes seven fields of security: labour market, employment, job, work skill reproduction, income and representation. For him the 'precariat' is characterised by the lack of these seven forms. This multidimensional approach can also be found in MacKay (2012) or in Paugam (2005). Beyond the diversity of forms of destabilisation as compared to employment standards, it has also been pointed out that precarity seriously weakens workers' collective organisation, introduces a high level of uncertainty regarding the duration of employment, increases the difficulty in building professional career paths by triggering individual and collective anxiety about the future, and all in all represents an impediment to collective action. Some scholars are also introducing more subjective aspects. In this case, the focus is on the individual experience of precarity and the particular meaning that it can assume in one's own professional trajectory, particularly with respect to individual aspirations and desires. The significance of this approach comes from the fact that it allows one to look at mobilisation and collective action from another perspective which cannot be grasped through the traditional categories used to analyse trade unions' actions. Instead it seeks to focus on the social profiles and social conditions of people in precarious work (Cingolani 2014).

Labour market researchers have thus also highlighted the existence of a myriad of statuses, or at least the emergence of differentiated uses of flexibility and non standard employment contracts according to workforce groups. Indeed, research has shifted focus over the last twenty years to recognise that differentiated forms of employment may correspond to different workforce groups, sectors and activities (Eichhorst and Marx 2015). This perspective shows that the social uses of non standard forms of employment status also differ in relation to the socio-demographic composition of workers employed and in relation to the economic sectors in which their use is more developed.

Employers thus make use of non standard forms of employment as a mean to extract flexibility from their labour force, but the nature of these relationships depend upon the specificity of the employers' needs in terms of flexibility (Kornig and Michon 2011). Moreover, these different uses and forms of non standard employment give rise to a diversity of experiences of job insecurity, and expectations with respect to the likelihood of achieving secure employment paths. This segmentation is intensified by the tendency for the social characteristics of precarious workers to differ in important respects even from those of the trade unionists whom they are likely to encounter (Bouffartigue 2008).

Finally, some scholars have suggested looking at precarity in a new way, that is by focusing on the social conditions which may force people into precarity, and by looking at the experiences of those who are affected by it. The point is to highlight the diversity of realities that lie behind the terms 'precarious' and 'precarity', and to develop a comprehensive approach to precarity, which should be seen through the filter of the subjective perspective of those experiencing it (Cingolani 2005).

To sum up, precarity can be differently understood according to the approach that is adopted. At least four approaches can be identified:

1. The first concerns employment status, particularly those statuses that diverge from standard (permanent) employment. Although it is to some extent reductive, since even standard permanent employment may be exposed to some forms of vulnerability, this approach is considered to be very useful when depicting evolution over time or when comparing across sectors or companies.
2. The second deals with difficulties in securing a decent wage that makes individual financial self-sufficiency possible without the need for any social transfer. This is the case of low-skilled jobs that, moreover, do not give access to social benefit entitlements at adequate compensation levels, fostering the growth of the so called 'working poor' category.
3. The third addresses employment instability and its consequences for long-term employability (i.e. the difficulty of finding an equivalent position in the event of job loss). In terms of this approach it is important to distinguish between job insecurity and employment insecurity: the first term refers to the instability of the employment contract within a company while the second refers to difficulties in maintaining continuous employment trajectories on the labour market. Losing a job might not be extremely problematic if it is relatively easy to get a new one without experiencing a spell of unemployment whose duration is undetermined.
4. The final approach deals with aspects related to work and its nature. In this case, precarity is related both to the content of work which may trigger a feeling of futility in the worker executing it (i.e. contents are uninteresting, badly paid, and unacknowledged within the company or work unit) and to job insecurity. In this case, the vulnerability that derives from such elements concerns both individuals' economic security and their access to social rights, which are in large part related to their employment situation. It has been argued that other aspects can be taken into account when following such an approach, like for example occupational health and safety.

Like many social phenomena, the diversification and development of precarious work have a variety of causes. In fact, a complex bundle of social, economic and political factors can be considered as the drivers behind the development of precarious work (Fagnani and Letablier 2009; Standing 2011;

Gautié and Schmidt 2010; Warhurst et. al. 2012). Some of these factors are shared in these analyses while others are more open to debate and there is as yet no consensus on their relative weight.

It is clear that changes related to the economic environment (economic structure, crisis, globalisation, financialisation, increasing competition) have led companies to seek a reduction in their costs through various means, given that companies have had to adapt their productive organisation to changes in demand. In particular, the logic of reducing the cost of labour as a way of responding to flexibility requirements – notably external flexibility based on employment status – has led companies to increase their use of particular forms of employment such as short/fixed-term contracts, temporary and part-time through various levers, in both manufacturing sector and services. In particular, the widening range of opening hours in services can be considered as major factors in this respect. The rate of unemployment in the specific labour market also shapes the room for manoeuvre for employers.

The rigidity of the standard labour contract, seen by companies as not flexible enough to adapt to the requirements of the new economic environment, is highlighted, particularly by liberal economists as a further element contributing not only to the increase in the use of fixed/short-term contracts, but also to the increase in the use of subcontracting and freelance labour. However, it is difficult and controversial to prove a link between the strictness of employment protection legislation and the share of precarious work.

The changes in the structure of employment, with respect to the feminisation, ageing and upskilling of the employed workforce, together with the growth of the service sector, have also had an impact on the particular forms of employment in the labour market and on the organisation of working time. The growth of the service sector has contributed to the increased use of contracts involving part-time or flexible hours, and this sector remains the greatest user of this type of contract. On top of the growth of the service sector, the feminisation of the labour market has contributed to increase part-time working most but not all countries. In relation to these elements, labour market economists acknowledge the reorganisation of employment relationships, particularly in terms of diminished social protection, and emphasise generalised labour market flexibility as a driver behind the segmentation and plurality of employment statuses with their different exposures to economic risks. As a consequence, they propose a new distinction between three workforce groups: between workforce groups in stable but changing employment; between workforce groups fully exposed to market flexibility; and highly skilled professionals. Workers involved in non standard forms of employment status are most often considered to belong to the second group, even if their total employment experience is not fully defined by the term precarious employment (ESOPE 2005).

The development of non standard forms of employment is also the result of changes in the behaviour of the actors on the labour market. The crisis and in particular, mass unemployment has also affected the overall balance of power in the labour market, to the detriment of employees, who are increasingly forced to accept precarious jobs. Workers lose bargaining power against the threat of unemployment and competition for jobs increases, inducing a 'fragmentation of employment standards', which is also related to the fact that the workers who are most affected by such dynamics are less likely to be unionised and less involved in any struggle for social welfare (Belkacem et al. 2014). This is especially true for young employees, for whom precarious employment is increasingly becoming inevitable as the only route to labour market entry and integration but also applies to all situations in which precarious employment is combined with low skilled work. In fact, this

combination can result in segmentation and strong divisions even between workers in the same work group: unskilled jobs and/or low level and unpleasant tasks are assigned to precarious workers and supervisory responsibility over the precarious workers are assigned to permanent employees (Bouffartigue 2008).

Trade unions' actions may also be important and research has shown that in some industries unions use collective bargaining agreements to ensure the protection of the most vulnerable workers from precarity. However, observation of everyday situations shows that the existence of protection as set out by such agreements, although necessary, is insufficient to provide minimum guarantees.

Public policies have played an important role as well. In particular, labour market flexibility has been introduced by policies aimed at allowing exceptions to the normal employment relationship, to varying degrees, with very diverse justifications and with varying outcomes. Exceptions have been often justified on account of the solidarity-based need for job creation (ESOPE 2005). In fact, public policies have often accompanied, or even encouraged, part of the development of non standard or specific employment forms through measures intended to fight unemployment (subsidised contracts, business development, legal recognition of new forms of employment, etc.). In the end, although there has been a tendency to develop policies and programmes at EU and national level intended to minimise the extent to which the non standard forms of employment status which arose in response to flexibility deviated from the SER norm, in reality, policies have allowed for exceptions to the 'normal legal employment contract', for example for labour market integration purposes, which has further favoured the spread of poor quality and insecure jobs.

Social dialogue, precarious work and the dualism debate

The policy debate about precarious work in Europe has to date crystallised around two positions. The first is to call for a more inclusive approach to labour market regulation to combat the growing inequalities and insecurities experienced across a wide spectrum of occupations and employment types, evidenced by diminished protections among workers in standard full-time, permanent jobs as well as reduced securities for non-standard employment. This could mean a move away from protections associated with the standard employment relationship to focus on more universal protection (e.g. Standing 2011). The second position is to argue for a general levelling down of protection standards as the crisis has reinforced a tendency for employment protection to favour those already in core or standard jobs (the so-called 'insiders') at the expense of the interests of workers in more precarious and often non-standard employment ('outsiders'). This is held to be due in part to trade union support for protections for core members at the expense of non members on the margins of the labour market (e.g. Rueda 2006; Palier and Thelen 2010).

Our research aimed to move beyond these polarised positions, building on the arguments of Rubery (2015) and Crouch (2015) in particular.¹⁹ The first approach is associated with views the usefulness of the SER has once to an end; its declining coverage is interpreted as a terminal condition that cannot be cured (Stone and Arthurs 2013). It also takes the position that the SER only favours the privileged-the male breadwinners – and that the SER should be replaced with more universal rights (Vosko 2010), including a basic income for all (Standing 2011). The argument is made that this would provide citizens with independence from the labour market and enable them to bargain for the kind of work

¹⁹ Other relevant studies include the ETUI's (2014) investigations into the negative effects of reforms on vulnerable workers (ETUI 2014; Schömann 2014).

and employment arrangements that suit the workers not the employers (Rubery 2015). However, not only are there doubts about the ability of such a system to be sufficiently generous to meet the complex income needs of individuals and households but also as to whether it is plausible to believe that such a system could be introduced and maintained in current political conditions. Furthermore the prescription of basic income as the core alternative assumes that employment rights can be mainly reduced to income protection. However, through our more detailed analyses of protective gaps we suggest that a more wide-ranging set of regulatory reforms may be needed to bring about inclusive labour markets. Furthermore it is important that the costs of decommodifying labour are shared by employers as well as the state if support for basic social reproduction costs of citizens is not to become too burdensome. This implies that we need to reduce the precariousness of employment to avoid a huge increase in demand for social protection support if employers further abandon their commitments to the SER (Rubery 2015).

However it is with the second policy argument, namely that regulation creates insiders and outsiders and that trade unions act primarily to promote the interests of insiders, that we first concern ourselves. This is an important issue for the project not least because it aims to identify how social dialogue can foster more inclusive labour markets by reducing precarious work and therefore does not assume that social actors are motivated only by a concern to maintain or strengthen protection for the core workforce. Instead, it explores to what extent the increasing role of non-standard employment forms in the labour market is changing approaches to employment regulation and protection.

The shift in formerly coordinated market economies with traditionally relatively low levels of income inequality towards polarised labour markets with well protected core insiders, on the one hand, and an increasing share of outsiders with precarious employment conditions, on the other, is the central concern of the economic insider-outsider-theories and the more recent literature on the dualisation of the labour market. The insider-outsider theory argues that 'insiders' are protected by labor turnover costs which are substantially increased by a strong employment protection legislations and other labor standards which increase the bargaining power of the incumbent workforce via for example strong participative standards through co-determination (Bosch 2015). Insiders use their market power to push up their wages above the equilibrium wage which increases unemployment and the spells and duration of unemployment of the outsiders. The policy implications of the insider-outsider theories are elaborated by Lindbeck and Snower as follows:

'Insofar as insiders have more favorable opportunities than outsiders, policies that create a more level playing field in the labor market can improve both efficiency and equity. ... Broadly speaking, there are two types of policies that can create a more level playing field between insiders and outsiders: (i) 'power-reducing policies' (that mitigate the insiders' market power), and (ii) 'enfranchising policies' (that give the outsiders a stronger voice in the wage determination process). The power-reducing policies range from restrictions on strikes and picketing to relaxing job security legislation (e.g., laws to streamline firing procedures, reduce litigation costs, and reduce severance pay).' (2002: 41).

In practice the 'power reducing policy' has played a dominant role in the recommendations of this school of thought as too much 'enfranchising policies' would raise the labor standards of so-called outsiders to the level of core workers. The policy implications of this theory also consider the magnitude of required policy change:

'As noted, labor turnover costs discourage firms from hiring and firing, thereby creating a corridor of wages within which employment is not responsive to policy stimuli. Consequently 'timid' labor market reforms –in which policy parameters are changed by only small amounts – are likely to be ineffective in labor markets with significant [labour turnover costs]LTCs. Then only 'bold' reforms can stimulate employment.' (Lindbeck and Snower 2002: 42).

Lindbeck and Snower (2004) develop their proposals on the basis of neoclassical economics general equilibrium theory. Their recommendations pretend to be in the interest of the outsiders who would profit from a level playing field with lower labor standards. What insiders and outsiders really think or prefer is not the subject of this theory.

The actual preferences of insiders and outsiders and their impact on voting, coalition building and government policy are, however, the main subject of new insider-outsider and dualisation theories in political and social sciences (Rubery 2015). Rueda (2005, 2006, 2014), for example, does not conceptualize 'labour' as a homogenous political actor because the interests of insiders and outsiders 'are fundamentally' different' (2005: 62). Insiders care more about their own security than about the unemployment of outsiders. They reject active and passive labor market policies because they mean higher taxes and more low-wage competition. Since outsiders participate less in political elections and the pressure of well-organized core workers is stronger, social democratic parties have strong incentives to consider insiders as their core constituency. He finds in fact greater support for active labor market policies among outsiders and greater support for employment protection among insiders. He admits, however, that insiders may also profit from active and passive labor market policies and that while coalition building across insider and outsider groups may be more difficult than in the past it is nevertheless still possible.

Some authors are now even speaking of 'the age of dualisation' in Europe (Emmenegger et al. 2012). They argue that the concept of dualisation differs from other concepts, such as polarisation or marginalisation, in that it encompasses not only the outcomes of dualisation but also the politics of change (Emmenegger et al. 2012). The basic argument is that the dualisation of labour markets has been made possible only by the breakup of earlier solidaristic political alliances whose aim was to include all categories of employee.

Taking Germany as a showcase for this theory, Palier and Thelen (2010: 139) surmise that '*a new (less egalitarian but possibly quite robust) equilibrium*' is emerging. In evidence they adduce the disputes within the trade union movement around the question of a minimum wage: '*The stronger unions are joined in their opposition to a statutory minimum wage by the main employers' federations*' (2010: 125). Hassel (2014) and Carlin and Soskice (2009) – also referring to Germany - advance a similar argument and point to the emergence of new 'producer coalitions' between core workforces supposedly unaffected by deregulation and their employers, which are said to be dividing the trade union movement. Carlin and Soskice write: '*Works councils representing skilled workers had every interest in flexible low-level service labour demands*' (2009: 93). Even in 2014, by which time all the German trade unions had long since been actively supporting the campaign for a minimum wage, Hassel was writing that: '*The capacity of service unions ... to protect and raise wages by campaigning for a national minimum wage ... is severely limited by the opposition of manufacturing unions*' (Hassel 2014: 72).

There is no doubt that there are indeed tensions between insiders and outsiders in the labour market. However, the supposed new equilibrium in Germany has never existed. Neither the

employers nor the trade unions have accepted dualisation, which in reality amounts to a state of uncertainty with unresolved disputes around distribution and power. The employers have sought to extend the scope of the power they have gained and in doing so have also attacked the core workforce. As mentioned, in the neoliberal insider-outside models, the decent working and employment conditions of insiders are seen as unjustified privileges that act as barriers to outsiders and obstacles to full employment. Many core jobs have been outsourced to less tightly regulated segments of the labour market and the trade unions have been forced by the threat of further outsourcing into concession bargaining, with cumulative consequences for other firms. On the other hand, the negative experiences of many core workforce members in the strong German manufacturing unions induced them to reach back into their still living tradition of solidaristic politics and support the service unions' demands for a statutory minimum wage. The trade unions' hard-won internal solidarity was an indispensable power resource in the implementation of the minimum wage. The introduction of minimum or living wages across the world (e.g. Reich, Jacobs and Dietz 2014) is an example of the renewal of solidaristic politics. It reveals the limits of dualistic equilibrium models with static defined constellations of insider-outside interests.

Emmenegger (2009) has questioned the value of narrow concepts of rationality which are used in the insider-outsider models. Firstly, citizens usually vote for packages which are offered by political parties. It is also acknowledged by Rueda that, for example, health care, pensions or education are of equal importance for insiders and outsiders. Secondly, the employment status of a worker may change over time. The outsider position may be a transition to a better job. Many outsiders want to become insiders and may therefore value job security very much in part because they may be subject to discrimination in competing for jobs (Rubery 2015). Conversely, insiders may feel endangered by outsourcing and delocation and may well esteem the value of an active labour market policy to cushion employment transitions. Thirdly, preferences are formed within the household in which the income is shared. Many outsiders, especially young people and women in precarious jobs, are supported by protected core workers and are therefore unlikely to vote against core employment security. Fourthly, both insiders and outsiders may be increasingly likely to share interests in resisting deregulatory policies that are shifting political power to employers. The outsiders may not be convinced of the neoliberal theory that lowering the standards of insiders would really help them and the insiders may fear their employment protection would be the next candidate on the deregulation agenda. Moreover, both groups have good reasons not to believe that deregulation is really lifting the boat for everybody as research and experience has shown.

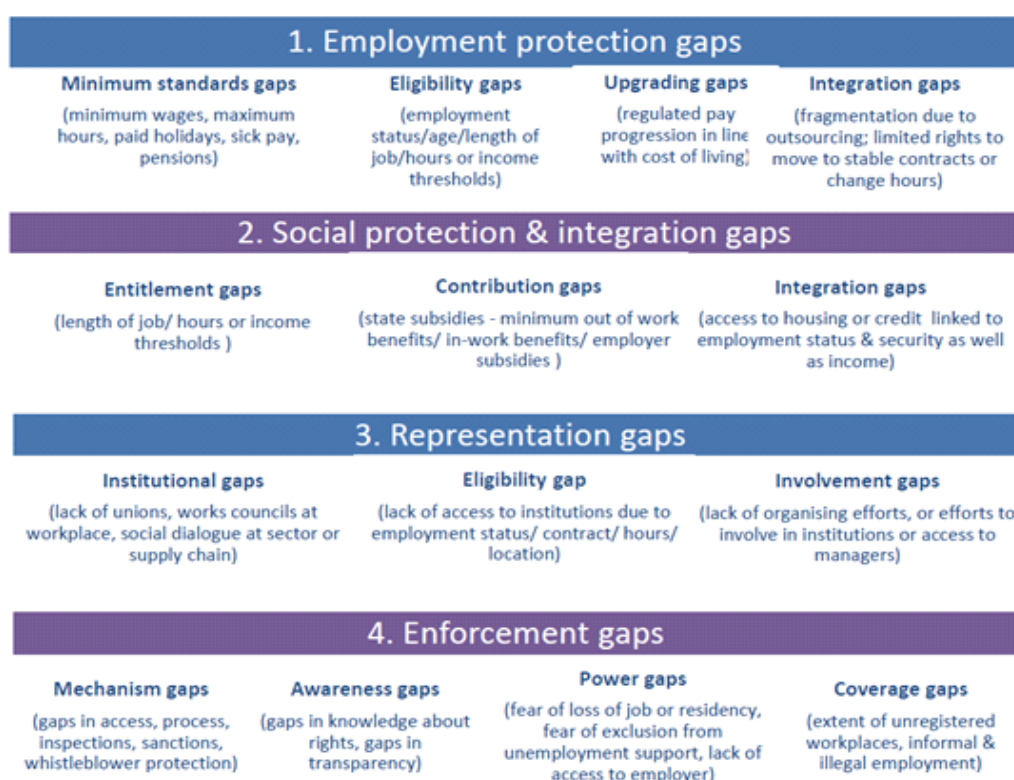
Thus the focus on the divide between insiders and outsiders is overstated and used to pursue policies that may be in fact to the detriment of outsiders. Protections available to those on standard employment contracts are not guaranteed but instead are at risk of erosion where non-standard employment arrangements emerge as unregulated and low cost alternatives. The interconnected problems of protection for all workforce groups could indeed lead to new solidaristic actions between trade unions and so-called core workforces alongside outsider groups against a general levelling down of their conditions often supported. It is only through this more encompassing approach to social dialogue that the Europe 2020 vision of inclusive growth in which the 'benefits of growth and jobs are widely shared' is likely to be realised.

Protective gaps and precarious work: a framework for analysis

Three main points emerge from our review and critique of current debates on precarious work. Firstly we take the view that the form and nature of precarious work varies according to the institutional context. This means that the problems or protective gaps associated with particular employment forms will vary between countries and also potentially between sectors and firms. Precariousness is not therefore a fixed characteristic of particular employment forms but the outcome of the system of protection and the interaction with the employment form. Indeed what is considered precarious is also a social norm and may vary across countries.

Secondly, far from displacing the SER as a standard we take it as the benchmark for assessing protective gaps even if we also need to consider both variation in the SER within and among countries and trends towards erosion of standards over time. This erosion may be occurring alongside policies and practices that are normalising some non standard forms of employment and effectively thereby extending the SER beyond its traditional form (Bosch 2004). These dynamic interactions between the employment forms and the extent and form of precariousness are thus a central feature of the analysis.

Figure 2.1. Protective gaps shaping precarious employment



Thirdly we adopt a multi-dimensional approach of the definitions of inclusive and exclusive labour markets in recognition of the multiple dimensions to both precariousness on the one hand and protection or security on the other. Even a single policy instrument may have both inclusive and exclusive elements, for example providing universal coverage but offering only a low standard of protection. Labour markets may in fact be inclusive on one dimension and exclusive on another. The extent of inclusiveness reflects among other things:

- a) the share of jobs that are vulnerable to becoming precarious;
- b) the protections available in these jobs; and

c) the opportunities to transition out of more flexible or non standard employment into more stable employment forms if desired.

Our framework considers that varieties of both precariousness and inclusiveness in employment arise out of differences in four types of '**Protective Gaps**' (figure 2.1). In each case, policy and practice reflect diverse country-specific bundles of legal regulations and collective bargaining, with varied implications therefore for recommended reforms.

Employment protection gaps derive from the fixing of low minimum standards (in minimum wages or the right to unfair dismissal for example), exclusive eligibility rules (e.g. against those working short or variable hours or in temporary jobs), weak mechanisms for the regular upgrading of standards, and limited integration opportunities for workers to upgrade skills, pay and/or employment status, or indeed to retain standard employment status. These interact with **social protection gaps** that deprive workers from, for example, unemployment benefits, maternity leave and pensions. On the one hand, gaps arise where hours, earnings and job continuity thresholds exclude many job types and work patterns and, on the other, rules may generate inequalities in levels of contributions or subsidies towards social protection.

Representation gaps occur where there are absent or weak institutional arrangements for representation via unions or works councils, as well as employer engagement in collective employers' organisations (e.g. in workplaces where many temporary agency workers are employed, or among subcontractor workplaces). Workers may also fall outside of coverage where eligibility rules exclude them on the basis of self-employment status for example, and there may be unequal patterns of involvement when unions make limited efforts to recruit workers employed on non-standard contracts.²⁰ The related problem of **enforcement gaps** reflect growing awareness among social partners that more needs to be done to ensure statutory rules and collective agreements are abided by. Workers may lack information about their rights, or be fearful of contesting the issue, or face considerable constraints where the work is organised in the informal economy.

²⁰ Our research also finds many unions face diminished resources and capacities in the wake of the financial crisis -see, also, Glassner (2013).

3. European employment models before and after the crisis: Introducing the six countries

Inclusive labour markets can only be developed and sustained as the result of specific constellations of institutions that are able to reflect the variety of changing socio-economic needs of a country's population (Berg 2015). These institutions shape, govern and legitimise behaviour in the spheres of labour law, welfare state policy, union-employer relations and gender relations, all of which interact to forge varying strengths and types of inclusivity in different countries, as well as risks of precarious employment. At any point in time, with respect to each of these inter-connected spheres, a country's institutions are changing in ways that imply shifts towards and/or away from greater inclusivity. Processes of continuous change, whether incremental or radical, reflect and embody a complex, idiosyncratic and changing raft of compromises and conflicts among collective interest groups, rent-seeking actions of corporations, and ideologies of the national and international political elites (Bosch et al. 2009; Maurice et al. 1986; Streeck and Thelen 2005). While we may have in mind a clear goal of what an inclusive labour market looks like, there is no one course of institutional development towards this goal both because countries have contrasting starting points and because there is likely to be more than one constellation of institutions that serves the goal of greater labour market inclusivity.

We therefore need to set up a general comparative assessment of institutional arrangements in each of the selected six countries before interrogating the precise nature of labour market inclusivity and exclusivity. Many of the specific country institutional details are interrogated in subsequent parts of this report. The goal here is to provide the foundations for an institutionalist, 'contextualised comparison' (Locke and Thelen 1996) –namely, to draw the different general starting points with respect to institutional, economic and labour market conditions. Building on well-known typologies from the employment and social policy literatures, we focus on the key institutional attributes associated with four inter-connected spheres that are likely to shape the strength and nature of labour market inclusivity and precarious employment:

- Regulatory approaches to fixing employment rights;
- Institutions of social dialogue;
- Welfare state protection; and
- Gender relations in the labour market.

For reasons of time, resources and a decision to narrow the institutional lens, certain institutional arrangements are missing from our investigation into country differences in protecting against precarious employment. These include the system of vocational education and training, which provides an important role especially in shaping youth transitions into the labour market, and corporate governance, which has an especially powerful effect on job security and pay structures, as well as skill investment (Appelbaum et al. 2013; Busemeyer and Trampusch 2012; Cushen and Thompson 2016; Heinz 2014; Pendleton and Gospel 2013). Moreover, while we are sympathetic with

a wider analytical framework that places the character of a country's production system and the comparative institutional advantages that it confers at the core of comparative employment analysis (Rubery and Grimshaw 2003; Whitley 1999), this report provides only an indirect commentary on the role of technology, industry specialisation, business characteristics and productivity growth in shaping precarious employment.

Table 3.1 introduces the six countries according to their location within (or between) well-known typologies prior to the crisis. While typologies have well-known limitations –they collapse too much country diversity into too few categories, overplay institutional determinism, presume institutional stability, underplay questions of distribution and inequality and often provide an unbalanced account of the roles of different social actors (e.g. Crouch and Farrell 2002; Hancké et al. 2007; Levy 2006; Thelen 2003) –they are nevertheless a useful backdrop for our analysis. It is clear that our six country cases cover the full range of different categories identified in the literature as well as providing contrasting hybrid combinations of inter-connecting regimes. In the following comparative analysis we develop these country characterisations in more detail through the lens of the aforementioned four spheres of institutional arrangements. In each case we compare and contrast institutions and consider the impact of the 2008-2009 economic crisis and the associated changes in economic and labour market conditions.

Table 3.1. Locating six countries across institutional types: Pre-crisis

	Variety of capitalism	Industrial relations regime	Welfare state regime	Gender regime and dominant household forms
Denmark	CME	Nordic corporatism	Social democratic	Dual-earner model/ Weak MBW
France	CME/State-led	Polarised/state-centred	Conservative	One-and-three-quarters earner/ Modified MBW
Germany	CME	Social partnership	Conservative	One-and-a-half earner/ Strong MBW
Slovenia	CME/Post-transition	Social partnership	Conservative/ Social democratic	Dual-earner model/ Weak MBW
Spain	CME	Polarised/state-centred	Familialist	Dual-earner/ Strong MBW
UK	LME	Liberal pluralism	Residual	One-and-a-half earner/ Modified MBW

Notes: CME = coordinated market economy, LME = liberal market economy; MBW = male breadwinner.

Sources: Hall and Soskice (2001), Frege and Kelly (2013), EC (2009), Esping-Andersen (1999), Lewis (1992), Lewis et al. (2008).

Regulatory approaches to fixing employment rights

Much of the analysis in this report hinges on the contrasting traditions and willingness of the state to intervene in labour markets to introduce and change (upwards or downwards) employment rights with varying consequences for precarious work. Two issues are central to our subsequent thinking and analysis. The first is that state interventions interact in very different ways with interventions of unions and employers: state traditions vary across our six countries from highly voluntaristic systems to highly state-centred systems, but in all countries we find state support playing an increasingly

essential role shaping employment rights. The second inter-related issue is that state actions, whether playing a minor or major role, vary in their tendency towards fixing employment rights at a relatively low or high standard and, again, trends towards more or less generous state reforms vary across countries. EU law also plays a key role in shaping protective and participative standards across member states, via the working time directive, anti-discrimination laws, paid annual leave and others.

The six countries can be compared according to the different combinations of protective and participative statutory standards. These standards are defined by Sengenberger (1994) as follows:

- *Protective standards* cover rights to a minimum wage, working time or employment protection, for example, and establish statutory rules
- *Participative standards* cover consultation or codetermination rights of employees or their representative organisations –unions and works councils –including the provision of time, resources and protection against discrimination for employee representatives.

Denmark is one of Europe's strong autonomous systems since for a large majority of workers their statutory rights have far less relevance than standards fixed through industry-level collective negotiation –as with the absent statutory minimum wage for example. Employment rights are thus understood as '*employment regulated through collective agreements*' applicable to all employment forms, but nevertheless varying significantly by industry (Rasmussen 2015: 13-15). There are however (at least) three important statutory protections: i) statutory provisions for non-manual workers set out in 'The Employers and Salaried Employees Act'²¹, estimated to cover around 53% of the workforce (Rasmussen et al. 2015: 16-17); ii) provisions to enforce EU equal treatment directives, on part-time work and fixed-term contracts; and iii) the Act on Working Time which translates the EU Directive. It is worth noting that despite wide collective bargaining coverage (around 74% in the private sector), there are representation gaps (see chapter 7). Participative standards are enhanced by granting unions responsibility for administering the unemployment insurance funds (as in Sweden and other Ghent system countries), although this was considerably watered down in the early 2000s leading to falling membership of the union administered unemployment insurance funds and growth in the cheaper funds run by yellow unions (independent unions that abstain from industrial and political conflict and do not engage in collective bargaining) (Klindt and Halkjær 2012).

Prior to the crisis, Spain and Slovenia were both characterised by an active role of the state in extending protections through statutory provisions coupled with relatively high coverage of collective bargaining, particularly in Spain where collective bargaining is described as being at the core of its employment relations (Fernández et al. 2014, cited in Muñoz de Bustillo Llorente and Pinto Hernández 2015: 15). Recent years suggest similar trends in both countries. The first is a decline in statutory support for participative standards. In Slovenia, legal reforms (effective from 2009) made it easier for employers to pull out of collective agreements by making membership of chambers of commerce voluntary (and such membership is required for employers to sign a collective agreement). Nevertheless, EIRO data suggest coverage of collective bargaining is still very high –a small drop from an estimated 96% to 90% during 2006-2013.²² The second is a watering

²¹ This legislation derives from statutory protections established for teachers, postal workers and other groups for whom there was no collective bargaining historically, then expanded to cover many more 'salaried' occupational groups subsequently.

²² <http://www.worker-participation.eu/National-Industrial-Relations/Countries/Slovenia/Collective-Bargaining>.

down of statutory protections for workers in standard employment while simultaneously improving protections for fixed-term and agency workers (see chapter 5). The Spanish government introduced a new hybrid type of open-ended contract in 1997 and eventually in 2012 generalised many of the conditions (Muñoz de Bustillo Llorente and Pinto Hernández 2015: 70-71), while in Slovenia the government's 2013 amendments to the Employment Relationship Act (ERA-1) improved standards for workers in non-standard contracts while at the same time reducing them for workers in open-ended contracts (Ignatović and Kanjua Mrčela 2015: 20-21). The legal reforms in Slovenia appear to fit well with the practice of collective bargaining, which is said to complement the legislation by *'providing mostly more favourable coverage of workers' rights than in the Acts'* (op. cit.: 26). Nevertheless, particularly in Spain, there is a question about whether deeper legal reforms are crowding out collective negotiation as a mechanism to fix, or upgrade, standards via traditionally strong participative standards.

Germany has moved in recent years from one of Europe's autonomous systems to a hybrid system with a greater state role in fixing protective standards (Bosch 2015). The combination with strong participative standards means it displays a dynamic, hybrid mix of statutory and voluntary regulatory forms. A major change came with the new national statutory minimum wage, a clear symbol of stronger protective standards. Moreover, the legislation grants substantial participatory rights to unions and employers and sets collectively agreed wage rises as a benchmark for minimum wage rises.

Collective bargaining in Germany, as we show for other countries too, plays a dual role: on the one hand it reconfirms and specifies the legal requirements, but on the other it can undermine the legal standards (e.g. through yellow unions agreeing worse conditions) (Jaehrling and Wagner: 25-30). Under the principles of concessionary legislation (*Tarifdispositives Recht*), opening clauses in Germany's employment legislation can be altered or revoked through collective agreement in order to encourage an appropriately flexible interpretation and application of the law (op. cit.: 23). This kind of inter-relationship can be positive for social dialogue since it incentivises employers to join an employer association in order to influence a more flexible implementation of statutory rules. At the same time, however, it may also yield greater power to employers who may choose to undermine minimum statutory rights –especially during the current period when employers tend to have the upper hand in negotiations.

The UK has also shifted considerably in recent years with an incremental strengthening of statutory protective standards. During the New Labour governments (1997-2010), the reversal of the UK's opt out from the EU social chapter²³ and legal intervention on the minimum wage and family support policies represented 'significant legislative development' (Dickens and Hall 2010: 302). At the same time, however, the 2000s sustained much of the 1980s Thatcherite legislation that curbed strikes and dismantled statutory support for collective bargaining (McCann 2008) such that the UK is one of the countries with very weak statutory participative standards. Collective bargaining and union membership has continued to decline meaning that especially in private sector workplaces supplementary protections formerly negotiated through collective bargaining such as more generous severance pay, sick pay or maternity leave were eroded. Right-wing governments since 2010 have on

²³ In 1991, the Thatcher government negotiated an opt-out from the social chapter of the Maastricht Treaty on European Union, although several other EU measures impacted upon British workers' employment rights, such as equality and discrimination legislation.

balance weakened employment protection. The exceptions to the largely deregulatory agenda have come from EU law.

In France on the other hand the state intervenes very strongly in protective standards and also supports participative standards for example by declaring most collective agreements generally binding. Statutory protections in the form of the minimum wage, working time and employment protection are strong, as is statutory support for parties to collective bargaining to negotiate changes at establishment level. Unlike Denmark there is limited support for union membership, in the form say of the Ghent system, such that union membership has traditionally been among the lowest in Europe (similar in fact to the United States). French unions therefore lack the resources enjoyed by their European counterparts. Other participative rights have been strengthened: since 2013 employees have enjoyed the right to have a representative on the top-tier body (*conseil d'administration* or *conseil de surveillance*) of firms with more than 5,000 employees.

Institutions of social dialogue

Institutions of social dialogue are a second critical sphere that influences the degree of labour market inclusivity and risk of precarious employment. Diverse country forms of industrial relations in Europe mean that the purpose, influence and effectiveness of social dialogue vary widely. Moreover, the recent economic crisis and ensuing labour reforms have presented new challenges for sustained and effective social dialogue. Nevertheless, social dialogue remains core to the mission of the European Union and is expected to play a major role in shaping more positive labour market developments (see chapter 1, box 1.2).

In most EU member states there is a mixture of national and sectoral collective bargaining, and high levels of bargaining coverage result from the relatively high levels of coordination among employers and/or use of statutory extension mechanisms (particularly in France). National and sector-level collective bargaining is bolstered by firm or plant-level consultation and engagement through works councils, shop stewards or management-staff forums. Most EU countries also provide the scope for formal consultation with social partners such as unions and employers' organisations over economic, social and labour market policies. This may be either guaranteed by law (support for participative standards as described above) or as a result of custom and practice, the only major exceptions being the UK and most Central and Eastern European (CEE) countries where consultation is typically ad-hoc or non-binding.

Table 3.2 describes the key industrial relations characteristics of the six selected countries. Denmark is classified as organised or Nordic corporatism since social partners enjoy strong autonomy to engage in social dialogue at national or sector level, underpinned by high union membership and bargaining coverage, with little interference (or support from) the state in the form of legislation or mediation. Germany and Slovenia are social partnership regimes that are also characterised chiefly by collective bargaining although with a stronger regulatory role of the state. In Germany, sector-level collective agreements are complemented by highly institutionalised forms of employee representation at local level through the use of forums such as works councils. In all three countries, there is significant scope for 'privileged' social partners such as peak-level representatives of labour and business to contribute to economic and social policy making. It is notable that Slovenia is quite distinctive from other CEE countries, which tend to be characterised as 'mixed/transitional' regimes. Nevertheless, there are problems in Slovenia concerning the weak organisation of employers, the

lack of a mandate to reach multi-employer agreements with unions, and the prevalence of company bargaining, with many (small) firms, areas and sectors left uncovered (EC 2009: 33; see chapter 7).

Table 3.2. Industrial regimes in six countries

	Regime type	Union density 2008→ 2013	CB coverage 2008→ 2013	Post-crisis key changes
Denmark	Organised corporatism	66%→ 67%	81%→ 84%	-general resilience of pre-crisis multi-tier system
France	Polarised/State centred	8%→ 8%	98%→ 98%	-increased scope for local derogations from sector agreements
Germany	Social partnership	19%→ 18%	61%→ 58%	-strengthened sectoral social dialogue, including as a result of new minimum wage -flexible use of opening clauses
Slovenia	Social partnership	27%→ 21%	92%→ 65%	-derogations in some sector agreements permitted -cross-sectoral agreement on minimum standards for workers in non-covered sectors removed
Spain	Polarised/State centred	17%→ 17%	79%→ 78%	-automatic extension of sector agreements rescinded -‘ultra activity’ removed -inverted favourability principle
UK	Liberal pluralism	27%→ 26%	34%→ 30%	-government imposed pay cuts in public sector agreements

Notes: CB = collective bargaining.

Source: Regime types from EC (2009: table 2.2); ICTWSS database version 5.1.

In the two state-centred regimes, France and Spain, governments may design policies without input from social partners, although they are often involved in the implementation process through sector systems of social dialogue (with some scope for the use of derogations). Although state regulation provides a framework for social dialogue, Spain differs from France in that union membership is higher and the state is typically less directly involved in setting minimum standards. Finally, the UK liberal pluralist regime exhibits relatively low levels of state intervention in labour issues, with low minimum standards and a greater reliance on ‘market forces’ to shape the strength and quality of employment relations at all levels. There is limited scope for either business or labour to input directly into economic and social policy making, although peak-level organisations may use their profile to lobby government over specific issues. Collective bargaining is generally decentralised and fragmented across sectors; sector level collective bargaining is largely a feature of the public sector only.

Employee representation in the workplace tends to be high under conditions of ‘corporatism’ and ‘social partnership’, although the difference relative to ‘state centred’ systems such as France and Spain is small owing to highly institutionalised forms of worker representation at firm or plant level. The main difference is with the UK where workplace level employee voice is relatively weak, framed by a mixture of market forces and voluntarism. The 2004 Information and Consultation of Employees (ICE) regulations give employees in EU member states the right to be informed about their employer's economic situation; to be informed and consulted about ‘employment prospects’ (or the

threat to); and to be informed and consulted (with a view to reaching agreement) about ‘decisions likely to lead to substantial changes in work organisation or in contractual relations’. The ICE regulations do appear to have narrowed the gap between countries in terms of the scope and depth of employee engagement at local level, but in several members states they were seen as more of a complement to existing channels of worker engagement such as works councils (EC 2009), and evidence for the impact of ICE on actual company-level practices is mixed.²⁴

Impact of the crisis

The global financial crisis triggered many changes within European industrial relations, arguably increasing the role of ‘markets’ in shaping pay and employment conditions and weakening trade union influence through sector and local level collective bargaining (Glassner et al. 2011; Koukiadaki et al. 2015). Research identifies a gradual unravelling of coordinated wage setting in several countries, even prior to the onset of austerity reforms, and identifies pressures on social partners to concede ground on labour standards in pursuit of macroeconomic goals. Marginson (2015) argues that Europe has witnessed a schism in the form of change. While changes in collective bargaining in countries such as Denmark, France, Germany and Slovenia were a result of concerted efforts of government and the social partners, changes in Spain (in common with other southern European countries) have been more fiercely contested by trade unions resulting in government imposition of reforms under the eyes of institutions representing international creditors.

In many European countries, policy reforms have posed a threat to sector agreements and introduced greater scope for local level deviations from sector standards, especially on pay and working time. Marginson (2014) highlights potential changes in legitimacy, coverage and reach that serve to undermine effective articulation across levels (table 3.3). At sector level, automatic extension arrangements were rescinded in Spain. Also, the removal of the provision for ‘ultra-activity’ in 2012 (which saw collective agreements remain in force until a new one was signed -albeit largely through custom and practice arrangements) reduced the number of workers covered by a ‘valid’ collective agreement from 5.2 million in 2012 to 2.1 million in 2013²⁵ (Muñoz de Bustillo Llorente and Pinto Hernández 2015).

Table 3.3. Potential undermining of articulation of bargaining across levels

	<i>Legitimacy</i>	<i>Coverage</i>	<i>Reach</i>
Weakening of sector level bargaining	End sector level agreements, impose constraints on wage growth	Remove automatic extension clauses, exclude certain groups/firms	Shorten period before renegotiation, end automatic renewal
Scope for local level deviations	Encourage growth of firm/plant level agreements, invert favourability principle – e.g. give priority to locally agreed standards level over sector level	Increase formal opportunities for opening clauses and derogations	Extend the definition of ‘business exigencies’ which allow for temporary or partial lowering of sector standards, introduce variable pay systems

²⁴ For example in the UK, there was some evidence of the modification of existing information and consultation arrangements following the ICE 2004, but this did not lead to an upturn in the creation of more comprehensive mechanisms of engagement such as Joint Consultative Committees (Kersley 2006).

²⁵ Although this figure has since recovered a little to 2.9 million in 2014.

Source: adapted from Marginson (2015).

In France the parameters of key issues such as pay or working time, are no longer fully specified in national agreements and neither is the scope of company negotiations. For example, only an increase in base wage rates may be specified rather than a general increase (Howell, 2009). Nevertheless, other countries have witnessed a strengthening of sector level social dialogue. In Germany, competition from companies not covered by collective agreements and the growing share of low-paid workers prompted the negotiation of legally binding minimum wages in sectors such as social care services and temporary agency work (Stettes, 2012). This was eventually followed by a national statutory minimum wage in 2015 which encourages a strong role for the trade unions in setting and monitoring minimum rates across all sectors (Bosch 2015).

Regarding local level bargaining, the newly elected Spanish government in 2011 inverted the favourability principle to give priority to company level bargaining over sector level, along with provisions for non-union representatives to sign company agreements where unions are not present (Marginson 2015). Bargaining across levels was historically less well articulated in Spain, meaning that the spread of company level collective bargaining has proceeded somewhat independent of changes in sector level bargaining. In both France (since 2013) and Spain (since 2010), the scope for derogations from sector level agreements on pay and working time by local negotiators has increased for reasons of 'economic hardship'; although in France this had to be offset by guarantees from employers that jobs would be protected (EC 2014). In France, employers and three of the five union confederations concluded a wide-ranging agreement on labour market reform in January 2013, which included the possibility of company-level agreements derogating from wage and working time provisions in order to preserve employment (Turlan and Cette, 2013).

The historically strong articulation between sector and local level bargaining in Denmark has allowed for the implementation of flexible working time arrangements, whereas in contrast, German unions have historically been reluctant to create greater scope for local level bargaining by works councils particularly as the protection of jobs remains a high priority (Marginson 2015). Nevertheless, one-off opening clauses were permitted in Germany in the chemicals and metalworking sectors in 2009 and 2010 which gave plant-level management the scope to vary the implementation of higher level wage deals (EC 2014). In Slovenia, derogations from sector level agreements in metalworking and banking are now permitted, and the 'fall-back' cross-sectoral agreement on minimum standards for workers in non-covered sectors was removed (Stanojević and Klarič, 2013). Opening clauses have not spread to Denmark and some of the most vulnerable sectors including low wage areas such as cleaning still have sector collective bargaining.

Social dialogue in the public sector has also been affected by the crisis, because of the ripple effects caused by huge bank bailouts, sovereign debt crisis and an ideological response among policy makers that believed reduced public sector labour costs might reverse poor fiscal conditions. In some cases, this involved a direct infringement of social partners' traditional autonomy to bargain over public sector pay, leading to cuts in real wages, downgrading of pensions and job cuts (Glassner 2010), as well as renewed pressures for privatisation and outsourcing (Grimshaw et al. 2015). As might be expected, those countries most exposed to sovereign debt pressures saw heavy cutbacks in the public sector: the conditions attached to bailouts in fragile economies such as Spain led to a significant restructuring of employment relations (Koukiadaki et al. 2014). In addition, even countries with lower debt to GDP ratios such as Denmark also adopted austerity policies: Danish reforms

included linking public sector wage settlements to the private sector, which effectively imposed a pay freeze in 2011 and 2013 (Mailand 2014). Job losses, outsourcing and a new low pay grade in the German public sector actually pre-dated the crash (Bosch et al. 2012). In the UK, there was significant evidence of unilateral government action on public sector pay. A pay freeze was imposed for two years, followed by a six year cap of 1% on wage settlements. The imposition of heavy budget cuts (particularly in local government and the police service) led to a reduction in the size of bargaining units caused by job losses and outsourcing. Also, the government intervened in the functioning of independent pay review bodies for the civil service, health service and education by pressing for the removal of seniority-based incremental pay scales and encouraging local level managers to introduce performance and labour market factors to pay setting (Grimshaw et al. 2015).

Summing up, the key issues for our six selected countries are as follows. In Spain government intervention to reform collective bargaining has seen a reduction in the number of workers covered by sector level agreements, although the decentralisation of bargaining has been somewhat uncoordinated as a result of the underlying fragmentation of employer and union structures across sectors and regions. Change in Denmark has tended to be relatively organised, involving negotiations between relatively strong employers' associations and trade unions. In Germany and Slovenia change appears rather less coordinated. The introduction of a statutory national minimum wage in Germany is arguably a reflection of the declining power of sector agreements to effectively regulate the whole labour market. Similarly, the falling collective bargaining coverage can be traced in part to business strategies of subcontracting and use of agency workers that have not been coordinated. Collective bargaining reform in France has been relatively minor although there is some evidence that employers have been able to exploit existing ambiguities in the substantive content of sector agreements in order to achieve local level flexibility. Although the reform of coordinated collective bargaining in the UK has been comparatively minor (e.g. imposition of public sector wage restraint, proposed changes to strike ballots), the decentralised and fragmented system of wage setting in the UK is now seen as something of a template for southern European countries to emulate (Koukiadaki et al. 2016).

Welfare state protection

Although the six countries can be fitted into the standard categories of welfare states as provided by Esping-Andersen (see table 3.1 above), these categorisations hide often as much as they reveal when it comes to understanding the impact on protection gaps for precarious work. Furthermore all welfare states are undergoing processes of change in response to strong pressures (see figure 3.1). First therefore we discuss the types of welfare state and their potential impact on social protection for precarious workers and non standard forms of employment. Second we consider the implications of trends in welfare states for inclusive labour markets.

Table 3.4 repeats the categorisation of the countries included in table 3.1 above, such that the UK is an example of a residual welfare state, Germany, France and Spain are conservative or corporatist welfare states and Denmark a social democratic welfare state with Slovenia sharing aspects of both the latter categories, with a high use of insurance principles but also a strong commitment to gender equality and overall low levels of inequality. The table also highlights the key features of these ideal type models that can be expected to be of concern to precarious workers: these include the minimum level of benefits, the conditions for access, the inclusion of the self employed and those

deemed to be in marginal-type employment and the importance of employer-specific benefits in supplementing state-level benefits.

Table 3.4. Key features of welfare states systems of significance for those in precarious work

Risk of precarious work	Residual (UK)	Conservative/corporatist (Germany, France ,Spain) (Slovenia-hybrid)	Social democratic (Denmark) (Slovenia-hybrid)
Level of benefit	low	Variable with earnings and reemployment record	High
Access to benefits	Limited/means-tested	Depends on employment record/ derived rights	Individualised access
Coverage of the self employed	Limited/means-tested	Either excluded or pay employer + employee contributions	Covered as citizens
Coverage of the marginally employed	May be excluded	Normally included unless employed under specific regime (e.g. mini jobbers in Germany)	Included in citizen's rights/ maybe excluded from voluntary protection provided through trade unions/ collective agreements
Role of employer benefits	Important top up to low state benefit but variable in availability	Generally low	May be important but also widely provided and may be mandatory

Residual welfare systems are there for those at the bottom of the labour market and thus could be expected to provide a high proportion of its welfare support to those in precarious jobs. However, to minimise this risk residual welfare systems often rely on household means testing and may also exclude those at the margins of the labour market. Conservative or corporatist systems can be expected to provide relatively lower benefits to those in precarious work as they tend to be linked to both earnings and employment history. Those in precarious work may have to rely on social protection rights derived through the family. Marginal workers are generally included in the social insurance net though specific exemptions may be developed as with mini jobbers in Germany. Traditionally the corporatist regimes were only or mainly concerned with employees not the self employed and when the self employed are covered they often face high contributions to match the equivalent of the employer as well as the employee contributions combined. The social democratic system tends to provide high benefits often related to citizenship not employment record and individualised not household based. However these are combined with benefits linked to specific sectors and collective agreements which may exclude those in precarious work.

These generalised descriptions of how the systems treat different groups of workers are primarily associated with three key country models -that of the US, Germany and Sweden– owing to both Esping-Andersen's (1990) early work and subsequent developments of those ideas. Some important aspects of these ideal type welfare states do not however apply to our specific countries. Thus for example the UK shares similarities to the US in providing only limited contributory benefits -judged by level of benefits and duration- but differs strongly from the US in providing longer term and widespread social assistance plus free healthcare independent of employment status. Both countries have extensive tax credits systems but the US system is an annual adjustment not the week by week

subsidy as in the UK which is necessary to help people move off means-tested out of work benefit systems.

Among the conservative/corporatist countries included here we also find that despite all using primarily insurance based system and earnings related benefits there are many differences. Germany has retained the purist earnings-related system for pensions and in the first phases of unemployment benefits but has moved away from providing long term earnings-related unemployment benefits and due to problems of lower benefits and a rising problem of low pay is also making increased use of means tested benefits. The other three conservative or corporatist countries provide more hybrid benefits –combining minimum benefit levels with earnings related benefits though maximum levels of benefits vary as does the duration. France has also moved from a mainly insurance-based system to what has been labelled a dualist social protection system with considerable emphasis on providing a minimum income floor through means tested minimum income benefits combined with a range of job and wage subsidies. In contrast Spain still primarily relies on an insurance-based system and to deal with the economic crisis introduced a hybrid extension of its insurance based system but based on means testing. Slovenia has raised minimum benefits and has a low level of maximum benefits but still only pays full benefits for those in full-time work (including those on temporarily reduced hours for childcare).

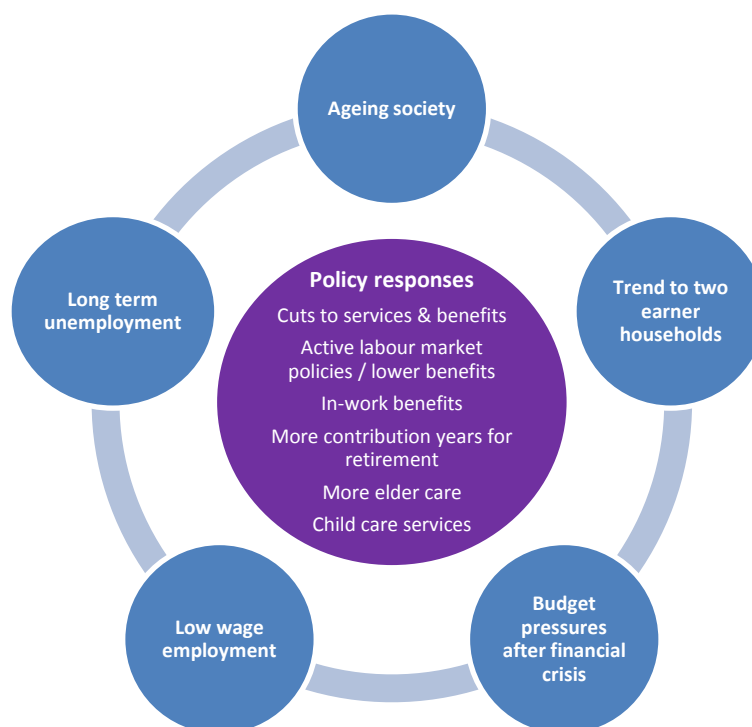
Denmark combines rights to high minimum benefits associated with citizenship, and available to individual adults independent of household income, with more earnings related benefits. It also shares with Sweden an emphasis on active labour market policy to encourage the unemployed back into work through positive actions to upgrade and upskill, rather than primarily through sanctions as in the UK. However it differs from Sweden in focusing primarily on social protection as it has very limited employment protection. This system underpins the famous Danish flexicurity model where firms are able to lay off workers with limited costs and workers have access to generous benefits and support to return to work.

Not only do the six countries' welfare states differ from ideal type models in a number of important respects but the welfare states are themselves in a state of high and often constant reform. Figure 3.1 highlights the key pressures on welfare states across Europe and the kinds of new policies -or new emphases within policies and expenditure priorities- that these pressures are giving rise to. Due to the financial crisis and austerity in some countries there has been a general downgrading of benefits and/or services but this varies across countries. For example the UK has downgraded both while Spain has mainly cut back on service development not on social protection. Slovenia although also affected by the crisis has raised minimum benefits. On the other hand Denmark cut back its generous benefits from four years to a still generous two years in 2010. These cutbacks will obviously affect those in precarious work, but where cuts are combined with higher minimum benefits this may reduce the impact on the most vulnerable.

Precarious and in particular low paid work is in itself a pressure on welfare states and there is more concern with in-work rather than simply out of work poverty. The UK, France and to some extent Germany have increasingly shifted the focus of the benefits system from out of work to in-work or to combined in- and out-of-work benefits. A major controversy, which we return to throughout the report, is whether this switch is facilitating the growth of precarious work as employers feel able to offer, and employees to accept, precarious work due to the availability of state support. There are

also parallel concerns that the rise of precarious work is making it more difficult for the unemployed to find work that pays enabling them to leave benefits.

Figure 3.1. Policy pressures on welfare states and new policy approaches and priorities



This is giving rise to a range of policies including more active labour market policies but in contrast to the supportive systems in the social democratic regimes such as Denmark, active labour market regimes may instead primarily provide sticks not carrots. Sanctions for lack of job search are a key characteristic of the UK system and indeed also the German one (Greer 2016). The ageing population is also giving rise to welfare state changes including more investment in elder care, which may have implications for the growth of precarious jobs where these are provided as low paid and short hours jobs, and to changes in pension systems, particularly raising the retirement age and often the contribution requirements for a full pension. These changes are potentially very negative for those in precarious work for large parts of their career as they would find it very hard to meet existing let alone higher contribution requirements. These problems may be mitigated by credits for time spent in intensive childcare or by specific adjustments to increase the recognised value of contributions made from low paid, part-time or intermittent work within pension or unemployment benefit systems.

The raising of the pension age is partly to reduce pension costs but also to increase the number in paid work. This is also in part the motivation for the increased provision of childcare in some of the six countries so that more women can remain in paid employment. This was already well established in Denmark and France by the turn of the century but over the next decade there was major expansion in Spain, Slovenia and Germany (but from a very low level). The UK registers relatively high provision²⁶ but is often for short hours. Five of the countries provide considerable subsidies to

²⁶ Childcare enrolments for under 3s only reached 23% in Germany in 2010 but rates in the other countries were much higher -between 40 and 42% for Spain, Slovenia and the UK while France had a 48% and Denmark a 66% rate in 2010.

childcare so that the net cost of full-time care for a dual earner household is 15% or less of the average wage, while in the UK it costs on average 45% of the average wage²⁷. The availability or not of affordable childcare may have a major impact on women's likelihood of taking non standard forms of employment, particularly part-time and variable hours jobs, as we explore next. Another dimension to the welfare state that is often neglected in these discussions²⁸ is the organisation and funding of higher education. This also can have impacts on the availability of labour for precarious work; as we will see in chapter 10 in Denmark and Slovenia most part-time work is undertaken by young people, mainly students.

Gender relations in the labour market

Gender relations and their interactions with both labour market and welfare systems are extremely important in shaping the form and prevalence of precarious work. Women are disproportionately concentrated in precarious work in most countries and while men are also at risk from precarity this more often applies to men in their younger ages or after redundancy while for women their risks of both insecurity and low pay greater in midlife due to care responsibilities. However the extent of the risk for women varies according to the welfare and gender regime.

Among our six countries women's employment participation has become normalised. Spain has the lowest female employment rates but the gap with men's employment rates is relatively low so that the problem is more a lack of employment opportunities plus the legacy of a low employment rate among the current cohort of older workers. However there are major differences among the six countries in the form of participation and the impact of motherhood on participation. Denmark and Slovenia are both primarily dual earner systems and while in Slovenia women can reduce hours when they have small children it is expected that they will return to full-time work while in Denmark a minority might opt for part-time work on a longer term basis. France has primarily integrated women on a full-time basis into employment but the growth of part-time work plus high unemployment has led to a more varied pattern over time. To some extent this is offset by efforts to establish a long minimum length of weekly hours (24) for part-timers thereby protecting against the full emergence of a one and half earner model for gender relations but there are many groups excluded from this minimum. Spain has traditionally had a lower employment rate for women but where women worked they worked full-time. However women's employment in Spain has risen markedly over the last two decades and alongside this change there has also been a significant growth of part-time work. Nevertheless there is limited evidence that part-time work is a desired form among Spanish women and is primarily associated with temporary employment. Finally both the UK and Germany have now relatively high rates of female employment but also very high shares of part-time work, particularly among mothers.

Figure 3.2 compares and contrasts different forms of gender, welfare and employment regimes and their implications for precarious work. More exclusive gender regimes occur when women are either excluded altogether from employment (due to demand side problems, cultural issues or disincentives through taxes, benefits and childcare costs to work) or when they do work they are

http://www.oecd.org/els/soc/PF3_2_Enrolment_in_childcare_and_preschools.pdf Germany is in the process of greatly expanding childcare while the UK and Spain have tended to cut back since 2010.

²⁷ https://www.oecd.org/els/soc/PF_3_4_Childcare_support_May2014.pdf

²⁸ See Anxo et al. 2010 for a discussion of the need to integrate education into a welfare state and life course perspective

clustered in non standard forms of employment that are organised and paid separately from standard forms of employment. This would apply when there are limited opportunities to use maternity leave to stay in the same job and when childcare availability or costs leads to confinement to short hours working. Marginalisation and precariousness are exacerbated where these jobs are excluded from social protection. This may be done as it is assumed that most women will have derived rights through their parents or spouse to social protection but for those women not in stable families the costs could be quite severe.

Figure 3.2. Characteristics of inclusive and exclusive forms of gender regimes



The problems of confinement to low paid, short hours jobs increase in labour markets where the minimum wage is set at a relatively low level and there is wide wage inequality. The three countries that fall more into the exclusive category are the UK, Germany and Spain. More inclusive gender regimes are associated with women either being able to work in full-time jobs, supported by regular and non excessive working hours and by available and affordable childcare, or when they do work shorter hours or flexibly this is in the form of reduced hours within a standard employment relationship -that is, not concentrated in low paying forms specialising in non standard forms of employment. These patterns will be reinforced by individual social rights and the costs of part-time working are also likely to be lower in systems where there is a high and effective floor to the labour market that covers part-time jobs. Denmark, Slovenia and France share more characteristics with this inclusive version of gender relations than the exclusive although of course gender equality has still not been achieved in any of the six selected countries.

Conclusion

This brief overview of country characteristics of employment organisation covered the regulation of employment rights, social dialogue, welfare state protection and gender relations. We find similarities and differences across each of these four features, generating distinctive societal mixes of institutional attributes with particularly marked differences in the recent pace and direction of

change. One of the guiding hypotheses of our study is that these distinctive country trajectories, combined with patterns of economic and labour market conditions, shape and constrain the degree of inclusivity and exclusivity of labour markets, as well as the nature and meaning of precarious work. Nevertheless, a potentially strong influence on country trajectories of change, possibly generating closer convergence, derives from the many European directives on employment equalities and standards, an issue that is considered within each of the chapters in Parts two and three of this report.

4. Job types in Europe: patterns and trends during 2006-2013²⁹

While the definition of precarious work developed for this report does not correlate neatly with non-standard forms of employment (see chapter 2), it is nevertheless essential for our subsequent detailed investigation to understand the basic patterns of employment segmentation that are picked up in the main databases for Europe. This means tracking patterns in the formal categories of full-time and part-time, permanent and temporary, employees and self-employed, as well as whether or not a specific contract is a preferred option or a second choice. We are particularly keen in this chapter to track changes over time and have selected the period 2006 to 2013 in order to identify patterns prior to and after the recent economic crisis; there are limitations to this method, however, since there is significant variation across Europe in the date the crisis began, as well as its duration. We are also especially interested in gender patterns, given ample evidence of the divergent experiences of men and women during the crisis and subsequent period of austerity reforms (Karamessini and Rubery 2014). The data analysis also disaggregates results by age, education and occupation where appropriate. A further goal of this chapter was to test whether or not countries' use of different employment contracts clustered into recognisable regimes, such as those characterised by Gallie, Amable and others in their institutionalist comparative frameworks. We begin with an introduction to the dataset.

The dataset

The data analysis draws on a sample of employed and self-employed workers taken from three years of the Labour Force Survey (LFS) as shown in table 4.1. The dataset covers the EU-28 plus Norway, but for our purposes the sample excludes Cyprus and Malta due to insufficient information for the years analysed, resulting in coverage of 27 countries. The LFS is a large household sample survey providing quarterly results on labour participation of people aged 15 and over.

Table 4.1. Sample Size: Employees and self-employed by year, EU-27

		2006	2009	2013
Employees		85.2%	85.5%	85.7%
	N	180023	183295	191590
Self-employed		14.8%	14.5%	14.3%
	N	31168	31093	32097
Total		100.0%	100.0%	100.0%
	N	211191	214388	223687

²⁹ This chapter was co-authored by David Holman and Marti Lopez-Andreu.

In order to facilitate the analysis of diverse contractual forms of employment, we identified specific job categories related to employee status and self employed status, described in table 4.2. For employees, we identified eight job types according to specific combinations of working hours (full-time or part-time), contract type (permanent or temporary) and whether the part-time or temporary work was undertaken voluntarily or not. Similarly, for self-employed workers, we classified six job types according to working hours (full-time or part-time), whether the person works with or without employees, and whether part-time work is undertaken voluntarily or not.

Table 4.2. Classifications of job types

a) Employees

Job type:	PT	INVPT	TEMP	INVTEMP
Full-time permanent	-	-	-	-
Part-time (voluntary) permanent	x	-	-	-
Part-time (involuntary) permanent	x	x	-	-
Full-time temporary (voluntary)	-	-	x	-
Full-time temporary (involuntary)	-	-	x	x
Part-time (voluntary) temporary (voluntary)	x	-	x	-
Part-time (involuntary) temporary (voluntary)	x	x	x	-
Part-time (involuntary) temporary (involuntary)	x	x	x	x

b) Self employed

Job type:	PT	INVPT	SOLOSELF
Full-time with employees	-	-	-
Full-time without employees	-	-	x
Part-time (voluntary) with employees	x	-	-
Part-time (voluntary) without employees	x	-	x
Part-time (involuntary) with employees	x	x	-
Part-time (involuntary) without employees	x	x	x

Analysing job types for employees

In this section we distinguish between two categories of job types for employees: i) permanent voluntary contracts (PVCs), consisting of full-time and voluntary part-time jobs; and ii) temporary and involuntary contracts (TICs), consisting of all other combinations of non-standard forms of employment. Across Europe, approximately 83-84% of employees were in PVC jobs over the 2006-13 period (table 4.3). Of these, 71-72% of employees had a full-time permanent job and around 12% had a permanent part-time (voluntary) job. The remaining share, approximately 16-17%, were in TIC jobs, characterised by temporary full-time, temporary part-time (both voluntary and involuntary) and involuntary part-time permanent jobs.

A number of general trends can be identified at EU level. First, part-time employment increased from 17.4% in 2006 to 19.5% in 2013, with the most notable increase in part-time involuntary jobs, from 2.5% to 3.7%. Second, the proportion of full-time jobs –whether permanent or temporary– fell from

82.6% to 80.5%. Third, the proportion of TIC jobs increased from 16.2% to 16.9%, although increases in the proportion of some jobs (part-time involuntary permanent, part-time involuntary/temporary involuntary) are offset by decreases in full-time temporary jobs. Lastly, the trends in some job types are linear and therefore seemingly unaffected by the recession of 2008. For example, the proportion of jobs most at risk of precarity -part-time involuntary/temporary involuntary- increases fairly steadily from 2006 to 2013. In contrast, trends in other job types change from 2006 to 2009 but remain static from 2009 to 2013. This may suggest a recession-induced change. For example, the proportion of full-time temporary jobs declines from 10.7% in 2006 to 9.7% in 2009, with no change in the proportion of these jobs from 2009 to 2013. Overall, these patterns of change suggest an increase in part-time jobs, although there does not appear to be a consistent effect of the recession across all TIC job types.

Table 4.3. Job types by year (% and N) weighted, EU-27

Job types	2006	2009	2013	2006	2009	2013
Full-time permanent	71.9	72.1	70.8	128368	131132	125917
Part-time (voluntary) permanent	11.9	12.3	12.3	21205	22419	21842
Part-time (involuntary) permanent	2.5	2.8	3.7	4451	5054	6560
Full-time temporary (voluntary)	4.9	4.5	4.5	8801	8266	8021
Full-time temporary (involuntary)	5.8	5.2	5.2	10361	9492	9203
Part-time (voluntary) temporary (voluntary)	1.6	1.6	1.6	2852	2938	2871
Part-time (involuntary) temporary (voluntary)	0.4	0.3	0.4	640	628	680
Part-time (involuntary) temporary (involuntary)	1.0	1.1	1.5	1829	1969	2676
% of PVC jobs	83.8	84.4	83.1	149573	153551	147759
% of TIC jobs	16.2	15.6	16.9	28934	28347	30011

Note: PVC = permanent voluntary contracts, TIC = temporary and involuntary contracts.

Employee job types by demographic group and occupation

Regarding gender differences, men are more likely to have full-time permanent and full-time temporary jobs, whereas women are more likely to have part-time permanent and part-time temporary jobs. Trends for both men and women tend to reflect the general trends described above, e.g., a general decline in full-time jobs. As such, there were few gender differences in trends with regard to PVC and TIC job types (table 4.4). One exception was the increase in part-time (voluntary) permanent jobs amongst men (from 3.4% in 2006 to 3.8% in 2013), whereas for women the proportion of these jobs increased from 2006 to 2009 (from 21.7% to 21.9%) and then declined to 21.5% in 2013.

Regarding age groups, table 4.5 shows that at each time point the 15-24 years age group has a higher proportion of temporary jobs than all other age groups. Furthermore, the shift towards TIC jobs is more pronounced in the 15-24 years age group, where it increased by almost four percentage points from 42.5% in 2006 to 46.3% in 2013. This compares to increases of 0.8 to 1.6 points for the other age groups.

Table 4.4. Job types by gender, weighted, EU-27

	Male			Female		
	2006	2009	2013	2006	2009	2013
Full-time permanent	82.2	82.9	81.5	60.1	60.1	59.2
Part-time (voluntary) permanent	3.4	3.7	3.8	21.7	21.9	21.5
Part-time (involuntary) permanent	1.0	1.1	1.7	4.2	4.6	5.8
Full-time temporary (voluntary)	5.4	4.9	5.0	4.4	4.1	4.0
Full-time temporary (involuntary)	6.1	5.5	5.5	5.4	4.9	4.8
Part-time (voluntary) temporary (voluntary)	1.0	1.1	1.1	2.3	2.2	2.2
Part-time (involuntary) temporary (voluntary)	0.2	0.2	0.3	0.5	0.5	0.5
Part-time (involuntary) temporary (involuntary)	0.6	0.6	1.0	1.6	1.6	2.0
% of PVC jobs	85.6	86.6	85.3	81.7	82	80.7
% of TIC jobs	14.3	13.4	14.6	18.4	17.9	19.3
% of total/year	53.6	51.6	52.0	46.9	48.4	48.0

Table 4.6 shows differences by level of education. The proportion of TIC jobs is much higher for employees with the two lowest levels of educational attainment, namely a primary education or below (e.g., 23.6% in 2006) and a lower secondary education (23.3% in 2006). In contrast, the proportion of TIC jobs ranged from 12.5% to 16.2% at other educational levels. Furthermore, the increase in the proportion of TIC jobs was greater amongst employees with the two lowest levels of educational attainment, with an increase of almost 5 percentage points for employees with a primary education or below and three points among employees with a lower secondary education. This compares to changes ranging from -0.1 to 1.7 points for the other educational groups. It can also be noticed that the increase during 2006-2013 in the proportion of what might be deemed the most precarious jobs –part-time involuntary/temporary involuntary– was also greatest among workers with the two lowest levels of educational attainment, i.e., an increase of 2.2 points in primary and below, and an increase of 1.2 points in lower secondary.

Two other trends are also apparent. First, among employees with a post-secondary/non-tertiary education, the proportion of part-time voluntary permanent jobs increased by 3.5 points. This was far greater than the changes in other educational groups. Second, the general decline in full-time temporary jobs did not occur amongst employees with the highest level of education attainment, namely employees with a second stage tertiary education. In this group, the proportion of full-time temporary jobs increased.

Table 4.5. Job types by age group (%), weighted, EU-27

	15-24			25-34			35-44			45-54			55-64		
	2006	2009	2013	2006	2009	2013	2006	2009	2013	2006	2009	2013	2006	2009	2013
Full-time permanent	44.9	44.3	40.1	73.1	73.3	70.6	75.2	75.9	74.8	78.7	77.9	76.3	74.5	74.0	74.0
Part-time (voluntary) permanent	12.5	13.5	13.6	8.1	8.4	8.7	13.3	13.2	12.5	11.8	12.7	13.0	16.7	16.8	16.0
Part-time (involuntary) permanent	2.8	2.9	3.9	2.0	2.4	3.4	2.4	2.6	3.4	2.9	3.2	4.0	2.7	3.1	4.0
Full-time temporary (voluntary)	20.2	20.6	21.5	5.5	4.9	5.6	2.3	2.0	2.1	1.6	1.5	1.5	1.5	1.4	1.4
Full-time temporary (involuntary)	10.5	8.9	9.2	8.5	7.9	7.9	4.8	4.4	4.8	3.4	3.2	3.1	2.2	2.3	2.3
Part-time (voluntary) temporary (voluntary)	6.3	6.8	7.6	1.3	1.4	1.5	0.8	0.8	0.7	0.7	0.6	0.7	1.5	1.5	1.3
Part-time (involuntary) temporary (voluntary)	0.9	1.0	1.1	0.4	0.4	0.4	0.3	0.2	0.3	0.2	0.2	0.3	0.2	0.2	0.2
Part-time (involuntary) temporary (involuntary)	1.8	2.0	3.0	1.2	1.3	1.9	0.9	1.0	1.4	0.8	0.8	1.1	0.6	0.6	0.9
% of PVC jobs	57.4	57.8	53.7	81.2	81.7	79.3	88.5	89.1	87.3	90.5	90.6	89.3	91.2	90.8	90.0
% of TIC jobs	42.5	42.2	46.3	18.9	18.3	20.7	11.5	10.9	12.7	9.5	9.4	10.7	8.7	9.2	10.1
% of total/year	11.6	9.9	9.3	25.8	22.5	24.1	28.2	27.3	26.6	24.0	27.0	26.1	10.5	13.3	13.9

Table 4.6. Job types by educational level (%), weighted, EU-27

	Up to Primary			Lower Secondary			Upper Secondary			Post-Secondary Non-Tertiary			First Stage Tertiary			Second Stage Tertiary		
	2006	2009	2013	2006	2009	2013	2006	2009	2013	2006	2009	2013	2006	2009	2013	2006	2009	2013
	66.4	64.4	59.9	62.6	62.7	59.9	73.1	73.1	71.4	74.5	72.3	71.3	76.9	77.2	76.3	78.2	77.2	76.0
Full-time permanent	66.4	64.4	59.9	62.6	62.7	59.9	73.1	73.1	71.4	74.5	72.3	71.3	76.9	77.2	76.3	78.2	77.2	76.0
Part-time (voluntary) permanent	10.0	11.2	11.6	14.1	14.3	13.5	12.1	12.5	12.6	13.0	14.8	16.5	10.3	10.8	11.0	5.6	6.7	6.1
Part-time (involuntary) permanent	4.5	5.8	8.7	3.5	4.2	6.4	2.5	2.8	3.8	2.1	2.4	2.4	1.4	1.5	2.0	0.5	0.5	1.1
Full-time temporary (voluntary)	4.0	3.1	3.0	8.6	8.2	8.1	4.2	3.9	4.1	3.9	4.9	4.4	4.0	3.5	3.5	6.9	8.6	7.6
Full-time temporary (involuntary)	10.9	11.0	9.5	7.3	6.5	6.9	5.3	4.8	5.0	3.3	3.0	2.7	5.1	4.5	4.5	6.9	5.2	7.1
Part-time (voluntary) temporary (voluntary)	1.8	1.7	2.6	2.0	2.1	2.1	1.6	1.6	1.6	1.6	1.8	1.7	1.3	1.4	1.3	1.3	1.1	0.9
Part-time (involuntary) temporary (voluntary)	0.6	0.5	0.8	0.5	0.5	0.6	0.3	0.4	0.4	0.8	0.3	0.3	0.3	0.2	0.3	0.2	0.1	0.4
Part-time (involuntary) temporary (involuntary)	1.8	2.4	4.0	1.4	1.6	2.6	0.9	0.9	1.3	0.7	0.6	0.6	0.8	0.9	1.2	0.4	0.6	0.9
% of PVC jobs	76.4	75.6	71.5	76.7	77.0	73.4	85.2	85.6	84.1	87.5	87.1	87.8	87.2	88.0	87.3	83.8	83.9	82.1
% of TIC jobs	23.6	24.5	28.6	23.3	23.1	26.7	14.8	14.4	16.1	12.4	13.0	12.1	12.9	12.0	12.8	16.2	16.1	18.0
% of total/year	5.1	5.3	3.4	18.1	16.2	14.7	47.4	47.7	46.3	3.2	4.1	3.6	25.6	25.9	31.1	0.7	0.7	1.0

Table 4.7. Job types by occupation (%), weighted, EU-27

	High-Skill Clerical (ISCO 1-3)			Low-Skilled Clerical (ISCO4-5)			High-Skilled Manual (ISCO6-7)			Low Skilled Manual (ISCO 8-9)		
	2006	2009	2013	2006	2009	2013	2006	2009	2013	2006	2009	2013
Full-time permanent	78.8	78.7	77.9	61.3	61.4	61.4	81.4	82.6	81.3	53.2	53.4	47.9
Part-time (voluntary) permanent	10.2	10.5	11.0	20.2	20.4	18.6	2.8	3.1	3.2	18.0	18.8	19.0
Part-time (involuntary) permanent	1.2	1.2	1.4	4.0	4.3	5.7	0.9	1.1	1.4	7.1	8.6	11.8
Full-time temporary (voluntary)	4.2	4.2	4.1	4.9	4.6	4.6	6.1	5.4	5.6	4.1	3.1	3.1
Full-time temporary (involuntary)	3.5	3.2	3.3	5.2	4.9	4.7	7.6	6.8	7.1	11.3	9.7	9.9
Part-time (voluntary) temporary (voluntary)	1.2	1.3	1.3	2.6	2.4	2.4	0.6	0.5	0.6	2.6	2.5	2.9
Part-time (involuntary) temporary (voluntary)	0.3	0.2	0.2	0.5	0.5	0.6	0.1	0.1	0.2	0.8	0.7	0.9
Part-time (involuntary) temporary (involuntary)	0.6	0.6	0.8	1.4	1.5	2.0	0.5	0.4	0.7	2.9	3.2	4.5
% of PVC jobs	89.0	89.2	88.9	81.5	81.8	80.0	84.2	85.7	84.5	71.2	72.2	66.9
% of TIC jobs	11.0	10.7	11.1	18.6	18.2	20.0	15.8	14.3	15.6	28.8	27.8	33.1
% of total/year	37.1	37.1	40.1	27.4	27.5	28.5	25.0	25.2	21.0	10.6	10.2	10.4

Regarding occupational groups, the proportion of TIC jobs in 2006 was highest in low-skilled manual occupations at 29%. This compares to 11% in high-skilled clerical, 16% in high-skill manual and 19% in low skill clerical occupations (table 4.7). Moreover, the increase in TIC jobs during 2006-2013 was greater in low-skilled manual occupations (4 points) than it was in high-skilled clerical (no change), high-skill manual (less than half a point) and low skill clerical (one and a half points) occupations. The increases in TIC jobs for employees in low-skill manual occupations were particularly evident in part-time (involuntary) permanent jobs (from 7% to 12%) and in part-time (involuntary)/temporary (involuntary) jobs (from 3% to 4.5%

Employee job types by institutional regime and country

Table 4.8 reveals that the proportion of PVC jobs is highest in Liberal regimes (e.g. 93% in 2006) and lowest in Southern European regimes (e.g. 77% in 2006). However, there was variation between regimes in the extent to which PVC jobs consisted of full-time permanent jobs or part-time (voluntary) permanent jobs. For example, in Eastern European regimes, the proportion of part-time (voluntary) permanent jobs was 1.6%, whereas in Liberal regimes the proportion of these jobs was 20%.

With regard to trends in job types, the increase in TIC jobs was more evident in liberal (2.7 percentage points) and Eastern European regimes (one point), whereas the overall proportion of TIC jobs was fairly static in Nordic (0.1 point), Continental (-0.2) and Southern European (0.3) regimes. However, for Southern European regimes, while the overall proportion of TIC jobs did not change greatly, there were notable shifts within the different types of jobs. In particular, there was a shift away from 'voluntary' jobs to 'involuntary' jobs. For example, in Southern European Regimes, there was a decrease in the proportion of TIC jobs with a voluntary element of 3.6 points and an increase in the proportion with an involuntary element of 4 points.

The proportion of job types in each of the selected countries is broadly in line with the institutional regime of which they are a member (table 4.9), although the data indicate a degree of variation between countries within each regime type. For example, in comparison with other Eastern European regime countries, TIC jobs in Slovenia are mainly one type, namely, full-time temporary (voluntary), while Poland stands out as having a much higher proportion of full-time temporary (involuntary) jobs.

Likewise, although most country trends are in line with the type of institutional regime of which they are a member, there is some variation within institutional regimes. In Germany, for instance, there was an increase in PVC jobs of 2 points (largely as a result an increase in part-time voluntary jobs) but a general downward trend in Continental regimes as a whole. Another example comes from the Eastern European regimes, in which full-time temporary (involuntary) jobs increased by 1.5 points in the Czech Republic but decreased by 2.4 points in Poland.

Table 4.8. Job Types by Institutional Regime (%), weighted, EU-27

	Nordic			Continental			Southern European			Eastern European			Liberal		
	2006	2009	2013	2006	2009	2013	2006	2009	2013	2006	2009	2013	2006	2009	2013
Full-time permanent	69.6	70.2	70.4	65.6	64.8	64.6	71.4	73.3	71.2	85.3	85.4	84.2	72.9	73.2	72.5
Part-time (voluntary) permanent	15.3	15.8	15.1	17.2	17.8	18.7	5.1	5.3	4.8	1.6	1.9	1.7	19.9	20.5	17.6
Part-time (involuntary) permanent	3.0	3.3	3.5	3.7	3.7	3.4	2.4	3.7	6.8	0.7	0.6	0.8	1.8	1.6	4.4
Full-time temporary (voluntary)	3.5	2.9	3.1	6.9	7.2	6.6	5.3	3.5	2.5	3.2	3.1	3.7	2.0	1.6	1.6
Full-time temporary (involuntary)	5.0	4.1	4.5	3.1	2.6	2.7	12.3	10.8	10.0	7.9	7.7	8.0	0.9	1.0	1.3
Part-time (voluntary) temporary (voluntary)	1.7	2.1	2.0	2.1	2.4	2.5	1.2	0.7	0.4	0.6	0.7	0.7	2.1	1.8	1.6
Part-time (involuntary) temporary (voluntary)	0.4	0.4	0.4	0.5	0.5	0.5	0.4	0.4	0.6	0.1	0.1	0.1	0.1	0.1	0.2
Part-time (involuntary) temporary (involuntary)	1.4	1.2	1.2	1.0	1.0	1.0	1.8	2.3	3.7	0.6	0.5	0.8	0.3	0.3	0.7
% of PVC jobs	84.9	86.0	85.5	82.8	82.6	83.3	76.5	78.6	76.0	86.9	87.3	85.9	92.8	93.7	90.1
% of TIC jobs	15.0	14.0	14.7	17.3	17.4	16.7	23.4	21.4	24.0	13.1	12.7	14.1	7.2	6.4	9.8
% of total/year	5.8	5.8	5.3	38.5	39.1	44.7	22.0	21.6	20.4	18.8	19.3	19.3	14.7	14.2	10.2

Table 4.9.: Job types by selected countries, weighted, EU-27

	Nordic			Continental						Southern European		
	Denmark			Germany			France			Spain		
	2006	2009	2013	2006	2009	2013	2006	2009	2013	2006	2009	2013
Full-time permanent	71.1	68.5	68.6	63.3	62.7	63.6	72.1	72.0	70.4	61.9	67.5	67.3
Part-time (voluntary) permanent	18.4	20.8	19.6	17.9	18.5	19.9	10.1	10.5	9.7	4.6	5.3	4.5
Part-time (involuntary) permanent	2.6	3.0	4.0	4.4	4.5	3.2	3.5	3.6	4.6	1.5	3.1	5.5
Full-time temporary (voluntary)	3.5	3.8	3.7	9.4	9.9	9.1	5.0	5.1	5.3	7.9	3.8	2.5
Full-time temporary (involuntary)	2.4	2.1	2.7	1.6	1.2	1.0	5.7	5.1	5.6	18.9	15.4	13.4
Part-time (voluntary) temporary (voluntary)	1.0	1.0	0.6	1.6	1.9	2.3	1.6	1.6	1.6	2.1	1.2	0.7
Part-time (involuntary) temporary (voluntary)	0.2	0.2	0.1	0.7	0.6	0.4	0.4	0.6	0.6	0.6	0.4	0.5
Part-time (involuntary) temporary (involuntary)	0.9	0.6	0.7	0.7	0.7	0.5	1.7	1.6	2.2	2.5	3.2	5.7
% of PVC jobs	89.5	89.3	88.2	81.2	81.2	83.5	82.2	82.5	80.1	66.5	72.8	71.8
% of TIC jobs	10.6	10.7	11.8	18.4	18.8	16.5	17.9	17.6	19.9	33.5	27.1	28.3

Table 4.9. continued: Job types by selected countries, weighted, EU-27

	Eastern European									Liberal		
	Poland			Czech Republic			Slovenia			UK		
	2006	2009	2013	2006	2009	2013	2006	2009	2013	2006	2009	2013
Full-time permanent	70.7	71.8	71.0	89.6	90.1	88.6	80.3	80.3	80.0	72.5	73.1	72.6
Part-time (voluntary) permanent	1.9	2.2	1.9	2.2	2.3	2.7	2.6	3.4	3.7	20.3	20.9	18.1
Part-time (involuntary) permanent	0.9	0.5	0.8	0.6	0.4	0.6	-	-	-	1.8	1.5	4.2
Full-time temporary (voluntary)	5.4	6.0	7.5	1.7	1.2	0.6	13.3	11.7	12.6	2.0	1.5	1.5
Full-time temporary (involuntary)	18.4	17.3	16.0	4.7	4.4	6.2	-	-	-	0.9	1.0	1.2
Part-time (voluntary) temporary (voluntary)	1.1	1.2	1.3	0.9	1.3	0.9	3.7	4.5	3.7	2.0	1.7	1.6
Part-time (involuntary) temporary (voluntary)	0.2	0.1	0.2	0.0	0.0	0.0	-	-	-	0.1	0.0	0.2
Part-time (involuntary) temporary (involuntary)	1.4	0.9	1.3	0.3	0.3	0.5	-	-	-	0.3	0.2	0.5
% of PVC jobs	72.6	74	72.9	91.8	92.4	91.3	82.9	83.7	83.7	92.8	94	90.7
% of TIC jobs	27.4	26	27.1	8.2	7.6	8.8	17	16.2	16.3	7.1	5.9	9.2

Analysis of self-employed job types

Most of the self-employed work in full-time jobs either with employees (29% in 2006) or without employees (57% in 2006). From 2006 there has been a small decline of 1.4 percentage points in full-time self-employed workers and a corresponding increase in part-time self-employed workers; the largest increase has been amongst part-time (involuntary) jobs without employees (an increase from 2.7% in 2006 to 3.7% in 2013). The broad trend away from full-time work for employees is therefore mirrored for the self-employed.

Table 4.10. Job classes by year (% and N), weighted, EU-27

Job types	2006	2009	2013	2006	2009	2013
Full-time with employees	29.3	29.5	28.7	9103	9177	8598
Full-time without employees	57.1	56.5	56.3	17739	17567	16866
Part-time (voluntary) with employees	1.4	1.4	1.3	440	434	397
Part-time (voluntary) without employees	9.5	9.7	9.8	2953	3026	2953
Part-time (involuntary) with employees	.1	.1	.2	20	23	52
Part-time (involuntary) without employees	2.7	2.8	3.7	830	859	1117

Self-employed job types by demographic group

A number of gender differences are apparent amongst self-employed workers. Men appear more likely than women to have full-time jobs and less likely to have part-time jobs, particularly part-time jobs without employees (see table 4.11). For example, in 2013, 3% of men had part-time (involuntary) jobs without employees, while the figure for women was 5%. With regard to trends in the proportion of jobs, there were perhaps two noticeable gender differences. First, the proportion of part-time voluntary jobs fell by 1.3 points amongst women (from 23.4% to 22.1%) but increased among men by half a point (from 5.6% to 6.2%). Second, the increase in the proportion of part-time involuntary was greater for women (almost two points, from 3.8% to 5.6%) than for men (one point, from 2.2% to 3.1%). This suggests that the shift to more precarious forms of part-time self-employment has been greater for women than for men.

Table 4.12 shows that the likelihood of self-employed workers having a full-time job with employees increase with age, while the likelihood of having a full-time job without employees decreases with age. This is likely to be a result of the successful solo self employed gradually taking on other employees. Older workers also appear more likely to have a part-time job voluntarily and less likely to have a part-time job involuntarily, whether with or without employees. For example, in 2013, 10% of self-employed workers aged 15-24 years had part-time (involuntary) jobs without employees, while the corresponding figure for 55-64 years olds was 3%. Furthermore, trends occurring amongst 15-24 year olds were particularly different from those in other age groups. In particular, the trend away from full-time jobs without employees to part-time jobs without employees was greater among self-employed workers aged 15-24 years old. In the 15-24 year old age group, the percentage of full-time jobs without employees decreased by 8 points (from 65.0% in 2006 to 56.7% in 2013), while the percentage of part-time (voluntary and involuntary) jobs without employees increased by 9 points

(from 22.3% in 2006 to 31.7% in 2013). In comparison, in the 25-34 year old age group, the percentage of full-time jobs without employees decreased by around half a point (from 63.1% in 2006 to 62.5% in 2013), while the percentage of part-time (voluntary and involuntary) jobs without employees increased by more than 2 points (from 11.5% in 2006 to 13.9% in 2013).

Table 4.11. Job types by gender, weighted, EU-27

	Male			Female		
	2006	2009	2013	2006	2009	2013
Full-time with employees	32.7	33.0	31.8	21.3	21.6	21.8
Full-time without employees	59.5	59.1	58.9	51.4	50.7	50.5
Part-time (voluntary) with employees	0.6	0.6	0.7	3.3	3.2	2.8
Part-time (voluntary) without employees	5.0	5.0	5.5	20.1	20.6	19.3
Part-time (involuntary) with employees	0.0	0.1	0.1	0.1	0.1	0.3
Part-time (involuntary) without employees	2.2	2.3	3.0	3.7	3.9	5.3
% of total/year	70.1	69.8	68.6	29.9	30.2	31.4

The analysis of self-employed jobs by education (table 4.13) shows that the likelihood of self-employed workers having a full-time job with employees increase with educational attainment, whilst the likelihood of having a full-time or part-time (involuntary) job without employees decreases with educational attainment. Beyond these differences, there do not appear to be any strong trends across time in relation to the level educational attainment. For example, full-time jobs increase for some levels of educational attainment and decrease for others but these changes appear unrelated to the level of education.

Table 4.12. Job types by age group (%), weighted, EU-27

	15-24			25-34			35-44			45-54			55-64		
	2006	2009	2013	2006	2009	2013	2006	2009	2013	2006	2009	2013	2006	2009	2013
Full-time with employees	11.9	11.3	10.8	24.3	23.3	22.5	32.1	31.7	29.8	32.4	32.7	32.0	27.7	29.2	29.0
Full-time without employees	65.0	62.3	56.7	63.1	63.8	62.5	55.8	55.9	57.1	55.7	55.4	55.3	53.8	52.0	51.9
Part-time (voluntary) with employees	0.9	1.5	0.8	1.1	0.9	1.1	1.5	1.4	1.3	1.4	1.2	1.1	1.8	2.1	1.9
Part-time (voluntary) without employees	14.8	17.1	21.3	7.6	8.1	8.6	8.3	8.2	8.0	8.2	8.5	8.4	14.6	14.5	14.1
Part-time (involuntary) with employees	-	-	0.1	0.1	0.1	0.1	0.1	0.1	0.2	0.1	0.1	0.2	0.1	0.1	0.2
Part-time (involuntary) without employees	7.5	7.9	10.4	3.9	3.9	5.3	2.3	2.7	3.6	2.0	2.1	3.1	2.0	2.1	2.9
% of total/year	3.00	2.4	2.4	18.8	14.8	15.9	30.7	28.8	28.8	29.1	31.4	31.5	18.4	22.6	21.4

Table 4.13. Job types by educational level (%), weighted, EU-27

	Up to Primary			Lower Secondary			Upper Secondary			Post-Secondary Non-Tertiary			First Stage Tertiary			Second Stage Tertiary		
	2006	2009	2013	2006	2009	2013	2006	2009	2013	2006	2009	2013	2006	2009	2013	2006	2009	2013
	9																	
Full-time with employees	22.1	22.4	21.0	24.5	24.8	23.3	28.8	28.5	28.0	29.4	31.2	31.8	35.8	35.5	33.2	51.6	54.2	44.8
Full-time without employees	64.0	62.4	61.2	62.3	61.7	62.3	58.9	59.2	58.7	51.5	48.8	50.9	48.5	48.4	49.6	36.3	33.1	38.5
Part-time (voluntary) with employees	0.9	0.8	1.0	1.2	1.1	1.1	1.3	1.3	1.2	1.4	2.2	1.8	2.0	1.8	1.6	0.8	3.5	2.2
Part-time (voluntary) without employees	9.6	10.1	11.1	8.5	8.5	8.1	8.4	8.5	8.6	15.4	14.5	13.3	11.5	12.1	11.9	10.2	7.7	10.7
Part-time (involuntary) with employees	0.1	0.0	0.3	0.1	0.1	0.3	0.0	0.1	0.1	0.2	0.1	0.1	0.1	0.1	0.1	-	-	1.3
Part-time (involuntary) without employees	3.4	4.3	5.4	3.4	3.8	5.0	2.6	2.5	3.3	2.1	3.1	2.1	2.0	2.1	3.5	1.2	1.4	2.5
% of total/year	9.1	12.2	5.2	19.8	19.5	17.1	42.9	42.9	42.9	2.6	3.7	2.8	24.7	21.1	31.0	0.8	0.5	1.1

Self-employed job types by occupation

The distribution of self-employed job types differs across occupation and appears to vary as a function of both occupational skill level and task (table 4.14). For example, the proportion of full-time jobs with and without employees was typically higher in high-skill occupations. But within high-skill occupations, the incidence of full-time jobs with employees was greater in high skill-clerical occupations (39.6% in 2006) than in high-skill manual occupations (19.4% in 2006). Similarly, although the proportion of voluntary and involuntary part-time jobs without employees was higher in low-skill occupations, the incidence of *involuntary* part-time jobs without employees was lower in low skill-clerical occupations (e.g., 3.4% in 2006) than in low-skill manual occupations (e.g., 14.7% in 2006).

Table 4.14. Job types by occupation (%), weighted, EU-27

	High-Skill Clerical (ISCO 1-3)			Low-Skilled Clerical (ISCO4-5)			High-Skilled Manual (ISCO6-7)			Low Skilled Manual (ISCO 8-9)		
	2006	2009	2013	2006	2009	2013	2006	2009	2013	2006	2009	2013
Full-time with employees	39.6	39.5	37.8	23.0	23.7	28.7	19.4	19.9	19.1	6.8	8.5	7.9
Full-time without employees	47.1	46.8	45.8	54.5	54.7	55.4	70.4	69.6	69.9	59.5	58.3	53.8
Part-time (vol.) with employees	2.0	2.0	1.8	2.4	2.3	1.7	0.4	0.4	0.5	0.8	0.6	1.0
Part-time (vol.) without employees	9.5	9.8	11.3	16.8	15.9	10.5	6.9	7.4	7.0	18.2	18.0	18.4
Part-time (invol.) with employees	0.1	0.1	0.2	0.1	0.1	0.1	0.0	0.0	0.1	0.1	0.1	0.2
Part-time (invol.) without employees	1.6	1.8	3.1	3.4	3.3	3.6	2.8	2.7	3.3	14.7	14.5	18.6
% of total/year	49.3	44.6	43.4	9.0	9.2	18.4	38.1	42.7	35.1	3.6	3.5	3.0

The trends across occupational groups are similar to the general trends, with one exception. In particular, the general trend away from full-time employment towards part-time employment did not occur for low-skill clerical workers. Rather full-time employment increased from 78% in 2006 to 84% in 2013, and was accompanied by a decrease in voluntary part-time jobs. This may reflect technological changes that have enabled low-skill clerical work to be outsourced to self-employed workers.

Self-employed job types by institutional regime and country

Across institutional regimes (table 4.15), Nordic and Continental regimes had higher proportions of full-time jobs with employees (35% and 38% in 2006 respectively), Southern European and Eastern European regimes had the highest percentage of full-time jobs without employees (61% and 65% in 2006 respectively), whereas Liberal regimes had the highest proportion of part-time jobs (20%). The trends within regimes reflected general trends, except for those in Eastern European regimes, where there was a 2 percentage point increase in the proportion of full-time jobs which contrasts with the decreases in other regimes that ranged from 1 point in Nordic regimes to almost 3 points in Liberal regimes. Thus, the swing to part-time self-employed jobs was greater in Liberal regimes, particularly with regard to part-time involuntary jobs without employees that increased by 3 points. A similar increase of 3 points in part-time involuntary jobs without employees also occurred in Southern

European regimes but this was offset by decreases in the proportion of other part-time jobs, particularly, a decrease of 1 point for part-time voluntary jobs without employees. Overall, this does suggest a shift towards more precarious forms of self-employment in Southern European and Liberal regimes.

Analysis by specific countries once again suggests that, although most country trends correspond with those of the institutional regime of which they are a member, there is some variation within institutional regimes (table 4.16). For example, in the Czech Republic the proportion of full-time jobs with employees falls by 6 points, whereas for Eastern European regimes as a whole it increases by almost 1 point.

On the other hand, the fall in part-time voluntary with employees is shared by Continental, Southern European and Liberal countries and the growth in Part-time voluntary without employees is shared by all institutional regimes except Southern and Eastern European countries. Finally, the increase in Part-time involuntary with employees is focused in Continental and Southern European countries and the growth in Part-time involuntary without employees is especially high in Southern European and Liberal countries and is shared by Nordic and Continental countries.

The analysis of selected countries permits us to identify that the trend of fall in Full-time with employees is not shared by Germany and Poland and that the decrease in Full-time without employees is only shared by Germany and France. On the other hand, the fall in Part-time voluntary with employees is not shared by Germany and Slovenia and the increase in Part-time voluntary without employees is not shared by Spain, UK and Czech Republic. Finally, the growth in Part-time involuntary with employees is shared by France and in Part-time-voluntary without employees by is especially strong in Spain, the United Kingdom and France, it is shared by Denmark but is not shared by Germany, Slovenia, Poland and Czech republic.

Table 4.15. Job types by institutional regime (%), weighted, EU-27

	Nordic			Continental			Southern European			Eastern European			Liberal		
	2006	2009	2013	2006	2009	2013	2006	2009	2013	2006	2009	2013	2006	2009	2013
Full-time with employees	34.9	33.7	32.9	38.3	39.8	37.0	29.1	29.8	27.8	21.4	21.2	22.1	22.1	20.0	16.9
Full-time without employees	49.8	50.2	50.9	45.9	43.6	44.6	61.1	60.3	60.5	65.4	65.9	66.7	58.1	59.9	60.5
Part-time (voluntary) with employees	2.4	2.3	2.4	2.3	2.3	2.1	1.0	0.9	0.8	0.5	0.6	0.5	2.0	1.8	1.5
Part-time (voluntary) without employees	10.3	10.9	10.9	12.3	12.6	14.5	6.1	5.7	5.0	7.6	7.9	6.9	16.1	16.8	16.3
Part-time (involuntary) with employees	0.2	0.2	0.2	0.1	0.1	0.2	0.0	0.1	0.3	0.0	0.0	0.0	0.1	0.1	0.1
Part-time (involuntary) without employees	2.4	2.7	2.7	1.2	1.6	1.7	2.7	3.1	5.6	5.2	4.4	3.8	1.5	1.4	4.7

Table 4.16. Job types by selected countries (%), weighted, EU-27

	Nordic			Continental						Southern European		
	Denmark			Germany			France			Spain		
	2006	2009	2013	2006	2009	2013	2006	2009	2013	2006	2009	2013
Full-time with employees	46.4	43.0	38.0	39.8	42.6	41.6	40.0	42.6	39.9	32.4	34.9	30.5
Full-time without employees	42.3	46.0	51.6	41.5	38.7	38.8	52.3	48.1	47.2	59.4	57.0	60.4
Part-time (voluntary) with employees	2.7	1.7	1.4	2.2	2.1	2.4	1.6	1.8	1.5	1.5	1.4	0.9
Part-time (voluntary) without employees	6.8	7.2	7.0	14.6	14.0	15.7	5.3	6.7	9.0	5.4	4.9	4.0
Part-time (involuntary) with employees	-	-	-	0.1	0.1	0.1	0.2	0.0	0.5	0.0	0.1	0.1
Part-time (involuntary) without employees	1.8	2.1	1.9	1.8	2.5	1.4	0.6	0.7	2.0	1.3	1.6	4.1

Table 4.16. Continued: Job types by selected countries, weighted, EU-27

	Eastern European									Liberal		
	Poland			Czech Republic			Slovenia			UK		
	2006	2009	2013	2006	2009	2013	2006	2009	2013	2006	2009	2013
Full-time with employees	20.1	21.5	22.1	26.2	23.1	20.3	34.0	32.0	28.2	21.1	19.0	15.9
Full-time without employees	69.5	69.2	70.1	70.1	72.2	74.2	59.8	61.9	63.4	58.2	60.3	60.8
Part-time (voluntary) with employees	0.7	0.8	0.6	0.3	0.1	0.2	-	1.0	1.4	2.1	1.8	1.5
Part-time (voluntary) without employees	7.7	7.5	6.1	3.3	4.3	5.1	6.2	5.2	7.0	17.0	17.4	17.0
Part-time (involuntary) with employees	0.0	-	-	-	-	-	-	-	-	0.1	0.1	0.1
Part-time (involuntary) without employees	2.0	1.0	1.0	0.1	0.3	0.1	-	-	-	1.6	1.4	4.6

Summary

For employees in Europe, most jobs are permanent full-time or permanent part-time jobs. A smaller proportion of jobs fall into the classification of TIC jobs, namely, temporary and involuntary contracts. Such jobs are not equally distributed between genders, ages etc. In particular, the proportion of TIC jobs is higher among young workers (i.e., aged 14-24 years old), employees with a low educational attainment (i.e., below lower secondary), low-skilled manual occupations, and in countries with Southern European regimes. In addition, there are trends towards greater part-time work and more TIC jobs, and the trend towards more TIC jobs is most evident among young workers (i.e., aged 14-24 years old), employees with a low educational attainment, low-skilled manual occupations, and in countries with Liberal and Eastern European regimes.

For the self-employed in Europe, most jobs full-time with or without employees. The proportion of voluntary and involuntary part-time jobs (both with and without employees) is higher in self-employed workers who are female, young (i.e., aged 15-24 years old), have a lower educational attainment, in low-skill occupations and those who work in Liberal regime countries. As with employees, the trend for the self-employed is towards greater part-time work, particularly for those working without employees and for those for whom part-time work is undertaken involuntarily. The trend in part-time self-employment among men is towards part-time voluntary jobs whereas for women it is towards part-time involuntary jobs. In addition, the trend towards part-time work was more pronounced among young workers (aged 15-24 years) and in Liberal regime countries but was less pronounced for workers in low-skill clerical occupations

Chapter 4 Appendices: Labour Force Survey, EU-27

Table A1. Employees: Average weekly hours on main job

Job Type	2006	2009	2013
Full-time permanent	40.1	40.1	40.0
Part-time (voluntary) permanent	20.2	20.5	20.9
Part-time (involuntary) permanent	20.9	20.9	21.1
Full-time temporary (voluntary)	39.5	39.7	39.9
Full-time temporary (involuntary)	39.6	39.4	39.4
Part-time (voluntary) temporary (voluntary)	15.9	15.8	15.8
Part-time (involuntary) temporary (voluntary)	20.8	20.6	20.8
Part-time (involuntary) temporary (involuntary)	20.1	19.9	19.1
Total	36.5	36.4	36.1

Table A2. Self-employed: Average weekly hours on the main job

Job Type	2006	2009	2013
Full-time with employees	48.9	49.4	49.1
Full-time without employees	44.1	44.4	44.3
Part-time (voluntary) with employees	20.9	21.8	22.1
Part-time (voluntary) without employees	17.5	17.8	17.5
Part-time (involuntary) with employees	21.7	19.6	19.5
Part-time (involuntary) without employees	14.5	14.6	15.7
Total	41.9	42.1	41.7

Table A3. Employed: Unsocial hours by job type (%)

		No unsocial hours	Work weekends	Unsocial hours week	Unsocial hours week and work weekends
2006	Total	47.3	16.4	9.0	27.2
2009		52.2	16.0	7.1	24.8
2013		50.8	14.6	9.2	25.4
2006	Full-time permanent	46.6	15.8	9.5	28.2
2009		52.8	15.0	7.4	24.8
2013		51.0	13.4	9.9	25.7
2006	Part-time (voluntary) permanent	51.7	17.1	7.4	23.8
2009		54.2	17.0	6.3	22.5
2013		53.2	16.6	7.4	22.8
2006	Part-time (involuntary) permanent	44.3	23.3	6.9	25.5
2009		45.9	24.0	5.1	25.0
2013		48.6	22.1	6.0	23.3
2006	Full-time temporary (voluntary)	50.0	15.5	7.7	26.7
2009		50.0	17.5	6.1	26.4
2013		49.4	14.4	8.0	28.1
2006	Full-time temporary (involuntary)	46.7	19.4	9.0	24.8
2009		47.5	21.5	5.9	25.1
2013		46.3	18.3	8.6	26.8
2006	Part-time (voluntary) temporary (voluntary)	44.5	18.4	8.4	28.8
2009		40.4	20.4	7.3	31.9
2013		43.4	16.9	8.5	31.2
2006	Part-time (involuntary) temporary (voluntary)	47.6	21.2	8.9	22.3
2009		44.9	21.3	5.5	28.3
2013		49.4	19.4	7.5	23.7
2006	Part-time (involuntary) temporary (involuntary)	53.5	19.4	6.8	20.3
2009		52.2	20.7	4.9	22.2
2013		54.1	19.3	6.0	20.7

Table A4. Self-Employed: Unsocial hours by job type (%)

	No unsocial hours	Work weekends	Unsocial hours week	Unsocial hours week and work weekends
2006				
Full-time with employees	17.3	23.9	6.9	51.9
Full-time without employees	18.7	27.3	6.3	47.8
Part-time (voluntary) with employees	39.5	22.0	7.5	31.1
Part-time (voluntary) without employees	31.4	22.8	10.2	35.6
Part-time (involuntary) with employees	26.3	5.3	21.1	47.4
Part-time (involuntary) without employees	33.7	31.7	4.5	30.2
Total	20.2	25.9	6.8	47.1
2009				
Full-time with employees	21.5	26.5	5.2	46.8
Full-time without employees	19.9	29.5	4.7	45.9
Part-time (voluntary) with employees	43.2	21.4	6.1	29.3
Part-time (voluntary) without employees	33.0	28.6	6.3	32.0
Part-time (involuntary) with employees	39.7	28.3	6.4	25.6
Part-time (involuntary) without employees	35.0	32.1	3.8	29.0
Total	22.1	28.6	5.0	44.3
2013				
Full-time with employees	20.3	24.1	6.6	49.0
Full-time without employees	22.8	25.7	6.3	45.2
Part-time (voluntary) with employees	40.7	22.0	8.8	28.5
Part-time (voluntary) without employees	37.3	20.7	9.8	32.2
Part-time (involuntary) with employees	55.8	19.2	3.8	21.2
Part-time (involuntary) without employees	46.2	23.1	5.9	24.7
Total	24.7	24.6	6.7	44.0

Table A5: Job types by sex and age group (%) Employees Weighted

	15-24			25-34			35-44			45-54			55-64		
	2006	2009	2013	2006	2009	2013	2006	2009	2013	2006	2009	2013	2006	2009	2013
Male															
Full-time permanent	49.4	54.1	45.2	80.7	84.1	78.7	88.7	90.5	87.4	90.5	91.5	89.4	86.6	87.5	86.1
Part-time (voluntary) permanent	9.1	8.3	9.8	2.2	1.9	2.9	1.9	1.8	2.1	2.3	2.3	2.8	6.3	5.8	6.4
Part-time (involuntary) permanent	1.5	1.8	2.7	1.0	1.2	1.9	0.9	0.8	1.5	0.9	0.8	1.4	1.0	0.9	1.6
Full-time temporary (voluntary)	21.7	16.9	23.4	5.9	4.1	5.9	2.6	1.8	2.5	1.9	1.4	1.7	1.8	1.6	1.7
Full-time temporary (involuntary)	11.6	10.4	9.8	8.5	7.0	8.0	5.1	4.2	5.2	3.7	3.3	3.5	2.7	2.7	2.7
Part-time (voluntary) temporary (voluntary)	5.0	6.1	6.3	0.8	0.6	1.0	0.2	0.2	0.3	0.2	0.2	0.3	1.0	1.1	0.8
Part-time (involuntary) temporary (voluntary)	0.6	0.8	0.7	0.3	0.2	0.3	0.2	0.1	0.2	0.1	0.1	0.1	0.2	0.1	0.2
Part-time (involuntary) temporary (involuntary)	1.1	1.5	2.1	0.7	0.8	1.3	0.4	0.5	0.9	0.4	0.5	0.7	0.5	0.4	0.6
Non-Precarious	58.5	62.4	55	82.9	86	81.6	90.6	92.3	89.5	92.8	93.8	92.2	92.9	93.3	92.5
Precarious	41.5	37.5	45	17.2	13.9	18.4	9.4	7.6	10.6	7.2	6.3	7.7	7.2	6.8	7.6
Female															
Full-time permanent	39.6	41.9	34.2	64.1	68.7	61.5	59.9	68.3	61.1	65.9	72.6	62.9	59.1	66.0	60.8
Part-time (voluntary) permanent	16.6	15.5	17.8	15.1	12.2	15.3	26.2	19.2	23.8	22.2	17.1	23.3	29.9	22.9	26.5
Part-time (involuntary) permanent	4.4	4.6	5.3	3.3	3.7	5.0	4.0	3.8	5.5	5.0	4.2	6.7	4.8	4.4	6.5
Full-time temporary (voluntary)	18.3	13.1	19.3	5.0	4.2	5.3	2.0	1.6	1.7	1.3	1.1	1.3	1.1	1.3	1.1
Full-time temporary (involuntary)	9.3	9.6	8.5	8.5	7.4	7.8	4.5	4.5	4.4	3.0	2.9	2.8	1.7	2.1	1.8
Part-time (voluntary) temporary (voluntary)	7.9	10.1	9.2	1.7	1.4	2.0	1.5	0.9	1.3	1.1	0.8	1.0	2.2	2.0	1.8
Part-time (involuntary) temporary (voluntary)	1.3	1.8	1.6	0.5	0.5	0.6	0.4	0.3	0.3	0.3	0.2	0.4	0.3	0.3	0.3
Part-time (involuntary) temporary (involuntary)	2.7	3.3	4.0	1.8	1.9	2.6	1.5	1.4	1.8	1.2	1.1	1.6	0.8	0.9	1.1
Non-Precarious	56.2	57.4	52	79.2	80.9	76.8	86.1	87.5	84.9	88.1	89.7	86.2	89	88.9	87.3

Precarious	43.9	42.5	47.9	20.8	19.1	23.3	13.9	12.5	15	11.9	10.3	13.8	10.9	11	12.6
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Table A6: Job types by sex and educational level (%) Employees Weighted

	Up to Primary			Lower Secondary			Upper Secondary			Post-Secondary Non-Tertiary			First Stage Tertiary			Second Stage Tertiary		
	2006	2009	2013	2006	2009	2013	2006	2009	2013	2006	2009	2013	2006	2009	2013	2006	2009	2013
Male																		
Full-time permanent	75.8	79.2	70.6	74.3	77.6	71.5	83.9	86.8	83.0	85.6	88.0	84.3	86.2	88.2	86.0	83.5	85.7	82.4
Part-time (voluntary) permanent	3.6	3.4	4.8	3.5	4.1	4.3	3.3	2.8	3.6	4.0	3.9	5.2	3.4	3.4	3.5	2.9	3.6	2.8
Part-time (involuntary) permanent	1.5	1.5	3.6	1.5	1.5	3.0	0.9	0.9	1.6	1.4	1.0	1.3	0.7	0.7	1.1	0.2	0.4	0.6
Full-time temporary (voluntary)	4.9	2.8	3.7	9.7	6.4	9.2	4.5	3.4	4.4	3.8	2.6	4.8	4.1	3.1	3.8	6.4	4.3	7.4
Full-time temporary (involuntary)	12.1	10.3	12.0	8.6	7.2	8.2	5.6	4.7	5.3	3.0	2.8	2.6	4.2	3.3	3.9	5.5	4.6	5.3
Part-time (voluntary) temporary (voluntary)	0.9	1.0	1.9	1.3	1.8	1.5	1.0	0.9	1.1	1.2	1.0	1.3	0.8	0.7	0.8	1.2	0.8	0.4
Part-time (involuntary) temporary (voluntary)	0.3	0.3	0.5	0.3	0.3	0.4	0.2	0.2	0.2	0.6	0.2	0.2	0.2	0.1	0.2	0.1	0.1	0.4
Part-time (involuntary) temporary (involuntary)	0.9	1.3	3.0	0.8	1.0	1.8	0.5	0.5	0.8	0.3	0.5	0.4	0.5	0.5	0.8	0.1	0.4	0.8
Non-Precarious	79.4	82.6	75.4	77.8	81.7	75.8	87.2	89.6	86.6	89.6	91.9	89.5	89.6	91.6	89.5	86.4	89.3	85.2
Precarious	20.6	17.2	24.7	22.2	18.2	24.1	12.7	10.6	13.4	10.3	8.1	10.6	10.5	8.4	10.6	13.5	10.6	14.9
Female																		
Full-time permanent	52.0	55.7	46.5	47.5	53.3	44.8	60.0	67.7	57.4	65.5	69.4	60.9	68.0	73.3	67.8	68.1	75.2	66.2
Part-time (voluntary) permanent	19.9	18.4	20.2	27.7	23.2	25.5	22.8	16.9	23.3	20.3	17.9	25.7	16.8	14.4	17.4	11.0	9.6	11.0
Part-time (involuntary) permanent	9.0	9.3	15.2	6.1	7.0	10.7	4.5	4.1	6.4	2.7	3.3	3.3	2.1	1.9	2.8	0.9	0.4	1.9
Full-time temporary (voluntary)	2.8	1.9	2.1	7.1	4.1	6.6	3.7	2.9	3.7	3.9	2.4	4.1	3.9	3.0	3.3	7.6	5.8	8.0
Full-time temporary	8.9	8.6	6.4	5.7	5.8	5.2	4.8	4.5	4.5	3.7	3.3	2.8	5.9	4.6	5.0	9.6	6.7	9.6

(involuntary)																		
Part-time (voluntary)	3.3	2.2	3.5	3.0	3.4	2.9	2.2	1.9	2.2	1.9	2.1	2.0	1.8	1.3	1.7	1.4	1.2	1.8
temporary (voluntary)																		
Part-time (involuntary)	0.9	0.7	1.2	0.7	0.7	0.7	0.5	0.4	0.5	1.0	0.5	0.4	0.3	0.3	0.4	0.5	0.2	0.3
temporary (voluntary)																		
Part-time (involuntary)	3.3	3.1	5.1	2.2	2.4	3.5	1.4	1.4	1.9	0.9	1.2	0.8	1.2	1.1	1.6	0.9	1.0	1.2
temporary (involuntary)																		
Non-Precarious	71.9	74.1	66.7	75.2	76.5	70.3	82.8	84.6	80.7	85.8	87.3	86.6	84.8	87.7	85.2	79.1	84.8	77.2
Precarious	28.2	25.8	33.5	24.8	23.4	29.6	17.1	15.2	19.2	14.1	12.8	13.4	15.2	12.2	14.8	20.9	15.3	22.8

Table A7: Job types by sex and age group (%) Self-employed Weighted

	15-24			25-34			35-44			45-54			55-64		
	2006	2009	2013	2006	2009	2013	2006	2009	2013	2006	2009	2013	2006	2009	2013
Male															
Full-time with employees	12.5	13.0	11.4	26.5	26.7	25.0	36.0	34.9	33.0	36.0	34.4	35.7	31.4	29.6	31.7
Full-time without employees	70.1	67.7	63.7	66.3	66.9	65.9	58.5	59.9	60.1	57.4	59.7	57.1	55.8	58.0	54.4
Part-time (voluntary) with employees	0.6	0.6	0.6	0.3	0.3	0.4	0.4	0.4	0.5	0.6	0.5	0.5	1.2	1.3	1.2
Part-time (voluntary) without employees	10.7	11.1	15.8	3.8	3.0	4.4	3.0	2.5	3.4	4.0	3.4	4.0	9.8	9.2	10.2
Part-time (involuntary) with employees	-	0.1	0.2	0.0	0.1	0.1	0.0	0.0	0.1	0.0	0.0	0.1	0.0	0.1	0.1
Part-time (involuntary) without employees	6.1	7.5	8.2	3.1	3.0	4.2	2.0	2.3	2.9	1.9	2.1	2.5	1.7	1.9	2.4
Female															
Full-time with employees	10.8	8.6	9.6	19.0	18.8	17.3	23.1	22.6	23.0	23.9	22.9	23.6	18.1	18.9	22.6
Full-time without employees	54.9	60.6	43.8	55.8	60.2	55.6	49.7	55.8	50.7	51.6	56.7	51.2	48.7	53.2	45.8
Part-time (voluntary) with employees	1.3	1.3	1.2	2.8	1.7	2.3	3.8	2.9	3.1	3.3	2.1	2.4	3.3	3.1	3.5
Part-time (voluntary) without employees	22.9	20.5	31.2	16.5	13.3	17.2	20.3	14.5	17.7	18.0	14.5	18.1	27.0	22.3	23.7

Part-time (involuntary) with employees	-	0.1	-	0.2	0.1	0.3	0.1	0.1	0.4	0.1	0.2	0.3	0.1	0.1%	0.3
Part-time (involuntary) without employees	10.2	8.9	14.2	5.7	5.8	7.3	2.9	4.1	5.1	3.1	3.6	4.3	2.8	2.4	4.1

Table A8: Job types by sex and educational level (%) Self-employed Weighted

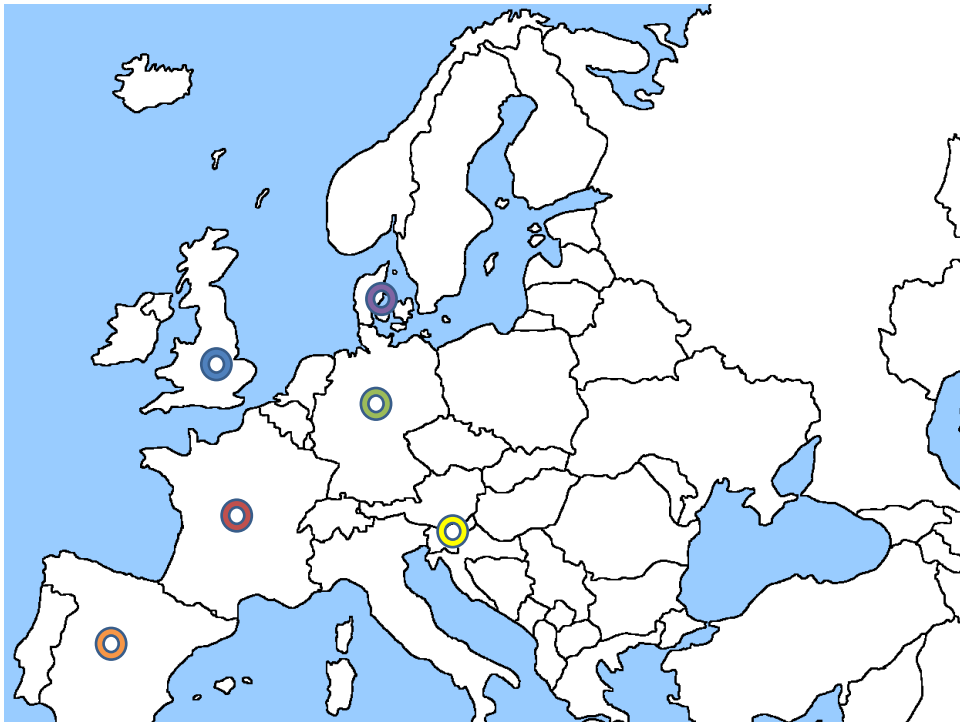
	Up to Primary			Lower Secondary			Upper Secondary			Post-Secondary Non-Tertiary			First Stage Tertiary			Second Stage Tertiary		
	2006	2009	2013	2006	2009	2013	2006	2009	2013	2006	2009	2013	2006	2009	2013	2006	2009	2013
Male																		
Full-time with employees	25.8	22.2	23.4	27.0	26.9	25.0	31.4	31.9	30.3	33.8	35.4	36.4	42.0	41.4	39.3	55.3	47.0	52.6
Full-time without employees	65.8	68.4	62.4	64.9	64.4	65.3	61.3	61.4	61.4	56.3	55.8	54.2	50.0	51.3	51.1	35.3	44.0	37.8
Part-time (voluntary) with employees	0.4	0.5	0.6	0.4	0.5	0.5	0.6	0.5	0.6	0.8	1.1	0.8	1.0	0.9	0.9	0.5	2.2	1.0
Part-time (voluntary) without employees	5.1	5.9	8.1	4.6	4.8	4.5	4.4	3.9	5.0	7.7	5.8	7.0	5.9	4.9	6.4	7.9	5.6	6.6
Part-time (involuntary) with employees	0.1	0.0	0.3	0.0	0.1	0.2	0.0	0.0	0.1	0.4	0.1	-	0.1	0.1	0.1	-	0.1	-
Part-time (involuntary) without employees	2.9	3.0	5.3	3.0	3.4	4.5	2.4	2.2	2.7	1.0	1.9	1.7	1.2	1.3	2.2	1.1	1.1	2.0
Female																		
Full-time with employees	13.8	11.0	15.3	17.8	17.5	18.5	22.3	22.8	22.3	21.6	22.2	24.0	24.0	25.4	23.0	41.5	27.2	32.0
Full-time without employees	59.9	63.0	58.4	55.3	58.4	53.9	52.5	57.5	52.1	43.2	53.0	45.3	45.8	50.1	47.2	38.5	47.5	39.3
Part-time (voluntary) with employees	2.0	1.1	1.5	3.2	2.3	2.6	3.2	2.5	2.8	2.4	3.9	3.7	4.1	3.1	2.9	1.5	2.9	4.1
Part-time (voluntary) without employees	19.4	20.2	18.6	18.9	16.6	18.1	18.6	13.6	17.7	28.7	16.7	24.3	22.4	17.6	21.1	16.9	18.3	18.0
Part-time (involuntary)	0.2	0.2	0.4	0.2	0.2	0.7	0.1	0.1	0.2	-	0.2	-	0.1	0.1	0.3	-	-	3.3

with employees																		
Part-time (involuntary)																		
without employees	4.7	4.6	5.8	4.6	5.1	6.2	3.3	3.4	4.9	4.1	4.0	2.7	3.6	3.6	5.6	1.5	4.0	3.3

Part 2

Comparing *Protective Gaps* in Six Countries

5. Employment rights gaps
6. Social protection and integration gaps
7. Representation gaps
8. Enforcement gaps



5. Employment rights gaps

The more that workers enjoy protections over their pay, job security and working time, whether fixed by legislation or collective bargaining, the less exposed they are to precarious conditions. A fully inclusive approach would set decent standards in minimum wages, employment protection rights, working time conditions and flexible working for all workers regardless of employment contract. In practice, countries have developed hybrid combinations of inclusive and exclusive features that defy over-simplified categorisations into regulated, dualist, or deregulated but more inclusive approaches as presented in some of the literature (see chapter 2).

Four observations are worth noting at the outset. First, decent protective standards for workers with open-ended, full-time contracts in many countries are also available to workers with part-time and short tenure contracts. Minimum wage rules for example do not discriminate by contract type or by length of employment service; they are strongly inclusive and it is for this reason they act as a strongly equalising function in contemporary labour markets. Employment protection rights also vary in the extent to which they include workers with short tenure with some countries establishing very little differentiation in the degree of protection by years of service, making for a more inclusive approach.

Second, a single piece of regulation may have both inclusive and exclusive features. A minimum wage for example may be fixed at a low level (exclusive) but defined with high coverage (inclusive). Employment protection rights may encompass workers with low job tenure but impose high differentiation in standards by length of employment service. And working time rights may provide guaranteed minimum hours per shift but then exempt many workforce groups who are most vulnerable to hours insecurity.

A third observation is that the interaction between forms of standard setting is important, especially between legislation and collective bargaining. In some countries, as we described in chapter 3, legislation operates in a relatively isolated fashion, in others it sets a minimum standard on top of which collective bargaining makes improvements, in others it is a benchmark around which collective agreements may pitch above or below and in yet others collective bargaining operates in a relatively isolated fashion.

Finally, policy efforts to address inequality among workforce groups may require an unequal, targeted approach. In the area of employment rights for example a country may improve protections for workers with non-standard contracts to a level beyond those with open-ended contracts. Something of this sort appears to be occurring in Spain where protections for temporary workers have been greatly strengthened in recent years in an effort to wean employers away from their excessive use.

Building on the introductory framework of countries' differing regulatory approaches presented in chapter 3, the aim of this chapter is to undertake a critical analysis of gaps in employment rights, focusing on minimum wages, employment protection, working time and flexible working.

Precarious work and employment rights protection

Minimum wage standards

Minimum wages matter for reducing precariousness in multiple ways. The most direct and obvious reason relates to the inclusiveness of minimum wage rules. While minimum wages generally apply from the first day and hour of paid employment they usually exempt a number of workforce groups, many of whom may be especially prone to precarity. For example, because self employed workers are not protected by minimum wage rules, higher minimum wages increase their relative status of precarity and at the same time potentially increase employer incentives to subcontract work to persons in either formal or bogus self employment. A second obvious reason relates to the relative level, or standard, of minimum wage in the country, which shapes the experience of wage precarity and risk of in-work poverty. Change in the hourly minimum wage is particularly relevant for short hours part-time and fixed-term workers for whom work may be allocated in fragmented parcels of minutes or hours, without the customary allowances for breaks and without the less rigid oversight over hours customary among many full-time salaried jobs. Abrupt change in the minimum wage level may also impact directly on the volume of precarious employment by for example reducing/increasing the cost imperatives that drive many business decisions to outsource/ insource low-wage services jobs.

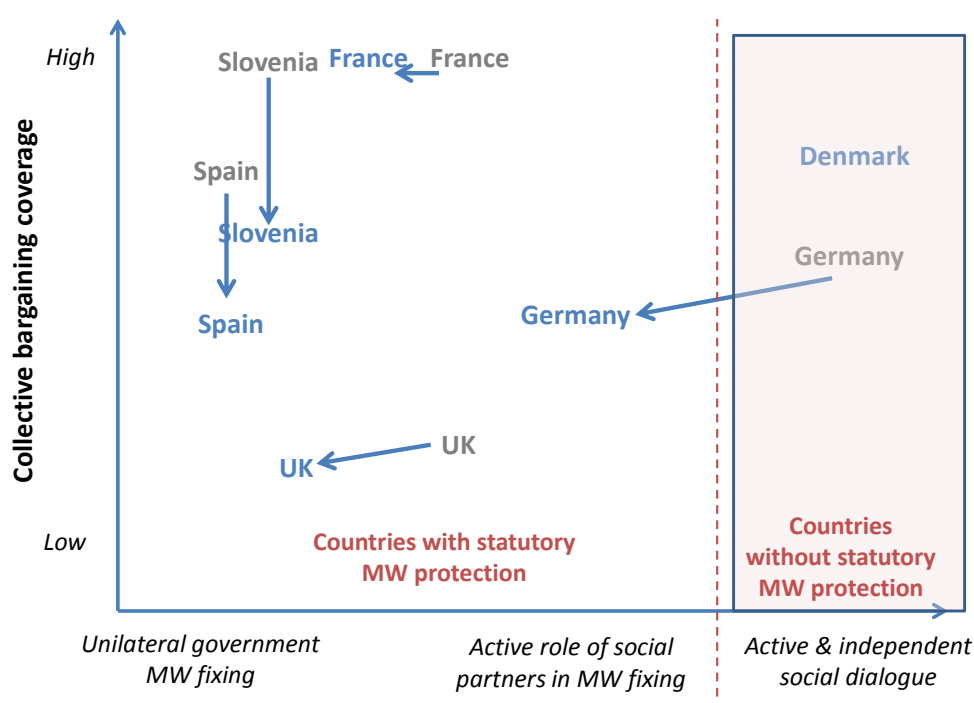
The interaction with collective bargaining is critical in assessing the risks for workers in precarious employment. In the five countries with a statutory national minimum wage (Denmark is the exception) it provides a necessary wage floor for workers outside collective bargaining coverage, but may also drive up (or hold back) wage standards in collective agreements. Because workers with non-standard contracts are more likely than those in full-time, permanent jobs to fall outside collective bargaining coverage they are more dependent on government's minimum wage uprating decisions. This section sets out the institutional context for consideration of these and other issues by comparing first each country's minimum wage fixing processes and second the way issues of coverage and levels relate to features of inclusiveness and protective gaps in each country system.

The fixing of minimum wages has country-specific peculiarities, which shape its operationalization as a wage standard and its effectiveness in protecting workers in precarious jobs against exploitative pay. A first differentiating factor is the role played by government both in fixing the minimum wage as a statutory rule and in its willingness to consult with employers and trade unions (figure 5.1). In Slovenia and Spain, the government acts in a relatively unilateral fashion (Fric 2016). In Slovenia the government proposes the minimum wage rate to social partners each year, with some reference to inflation, GDP growth and other measures. Similarly in Spain social partners are typically informed and consulted but not involved directly in its determination.

In France and the UK where there is a stronger tradition of independent minimum wage fixing involving social partners (subject to government approval), there is nevertheless evidence of governments exerting a stronger role in fixing annual changes in their statutory national minimum wages, restricting influence from social partners. These changes dilute the extent to which social partners can shape minimum wage settlements through detailed consideration of how changes might affect workers in precarious jobs. In France, the SMIC increases have been imposed '*at a political level and not by collective bargaining*' (Kornig et al. 2016: 40), while in the UK the

government has imposed a new minimum wage supplement for workers aged 25 plus and fixed its trend rise for the period 2016-2020. The UK reform has significantly diminished the remit of the independent and tripartite Low Pay Commission, which now only enjoys the power to independently recommend rates for workers aged 16-24 years old. Germany is illustrative of highly novel institutional change. After several years of making collectively bargained sectoral minimum wages legally binding the government introduced a new statutory national minimum wage in 2015. At the same time, however, Germany's minimum wage legislation purposefully encourages collective bargaining³⁰ in part to ensure the minimum wage is a standard against exploitation and not mis-used as a 'going rate' for low-wage jobs –a problem that has become quite extensive in the UK where the minimum wage is a relatively isolated wage-fixing instrument in the low-wage labour market (Grimshaw et al. 2014).

Figure 5.1. The changing context and process of minimum wage fixing in six countries, 2005-15



Notes: 2005 and 2013 data on collective bargaining coverage show no change in Denmark (84%), France (98-99%) and Spain (76-78%), while 2015 data suggest reduced scope of collective agreements in Spain, and a drop in coverage in Germany (65% to 58%), Slovenia (100% to 65%) and the UK (35% to 30%)

Source: ICTWSS data (Visser 2015) and national reports.

Denmark is the only country among our sample to fix minimum wages through collective bargaining independently of government, an approach shared with five other EU member states -Austria, Cyprus, Finland, Italy and Sweden –as well as with Germany until 2015. While raising the political status of social dialogue, to be effective this institutional form relies upon wide coverage of collective bargaining agreements. Problems of collective bargaining coverage caused unions

³⁰ The legislation is titled 'Act for the Strengthening of Free Collective Bargaining' (*Tarifaufonomiestärkungsgesetz*) and is intended to support and reinforce 'the self-regulatory capacities of social partners by making it easier for them to define higher industry minimum wages' (Jaehrling et al. 2016: 9).

(although not employer associations) in Germany to call for a statutory national minimum wage as a better way to protect workers in very low-paid and precarious jobs outside collective agreement protection. Denmark still enjoys high collective bargaining coverage, so that the bulk of workers in both standard and non-standard jobs are in fact protected by a collectively bargained minimum rate for the specific industry of employment and able therefore to enjoy relatively high levels of collectively bargained minimum rates of pay. Nevertheless, there are current discussions among social partners who, while opposed to statutory intervention (both unions and employers), recognise the possible need to extend collective agreements along supply chains, especially in the more cost competitive environments, in order to tighten coverage of workers in precarious jobs (Rasmussen et al. 2016). However, this is mainly on the fringes of the labour market; the lead organisations stated publicly in 2015 that extension mechanisms are not part of the Danish industrial relations model (Dølvik 2016).

Protections for people in precarious employment depend to a great extent on the inclusiveness of minimum wage rules. In the five countries with a statutory national minimum wage, minimum wages generally apply from the first day and hour of paid employment and therefore do not exclude workers on the basis of working hours or employment tenure as we find with other employment rights (table 5.1). In Denmark, collective agreements set the minimum wage for each industry. As with other employment rights the self employed are excluded in all countries, although particularly for the bogus self employed there are likely to be significant ‘light-house effects’ in the sense that formal wage standards ripple out to the informal and uncovered segments of the labour market (mirroring the evidence found for many developing countries, see Lemos 2004).

Table 5.1. Minimum wage rules and precarious employment

	Inclusive features	Exclusive features
Eligibility of:		
-Self employed	Included –partial hybrid categories ¹ possible ES, FR, UK	Excluded –all six countries
-Part-time work	No restrictions –all six countries	--
-Temporary work	No tenure restrictions –all six countries	--
Treatment of other workforce groups:		
-Apprentices/trainees	Covered –All six countries Separate rate, fixed % of adult MW –France, Spain	Separate rate, variable % of adult MW -UK
-Youth	Covered by single MW – Germany, Spain Separate youth rate, fixed % of adult MW –France; negotiated in CAs (Denmark)	16<18 years old excluded -Germany (without vocational qualification) Separate youth rate, variable % of adult MW -UK
-Student interns	Covered –None	Explicitly excluded – France (up to 2 months), Germany (up to 3 months), Slovenia, UK (up to 12 months)
-Other groups	--	Unemployed excluded –Germany (long-

		term for first 6 months in employment), UK (Work Programme job entrants) Subsidised jobs -France
Level of MW:		
-Relative to median earnings	High: France, Slovenia & Denmark (CA)	Medium: Germany, UK Low: Spain
-Relative to collectively agreed wages	Narrow gap & similar wage growth: France, Germany	Wide gap & laggard growth: Spain Possible crowding out of collective bargaining: Slovenia, UK

Note: 1. See chapter 12 for details of hybrid statuses; 2. data for Denmark based on standards specified in the largest collective agreements (CA).

Source: National reports and Grimshaw (2014: table 4.2).

The sampled countries make different provisions for young people in employment. There are various issues for the question of precarious work. First, two countries establish a single national minimum wage (Germany and Spain) while others fix sub-minima for young people (table 5.1). Second, some governments fix the sub-minimum rate for young people at a fixed ratio of the adult rate (as in France for example), while others allow it to vary, creating a risk that young people will be exposed to deteriorating wage standards. In the UK for example the 16-17 youth rate has fallen from 62% of the adult rate in 2005 to 54% in April 2016. Third, while all countries cover apprentices and trainees, four make explicit the exclusion of student interns from statutory protection. This is an especially significant issue in Slovenia, as we explore in our case study investigation, where internships typically last six to twelve months and future prospects are weakened by employer incentives to re-hire unpaid students rather than progress students into secure employment.

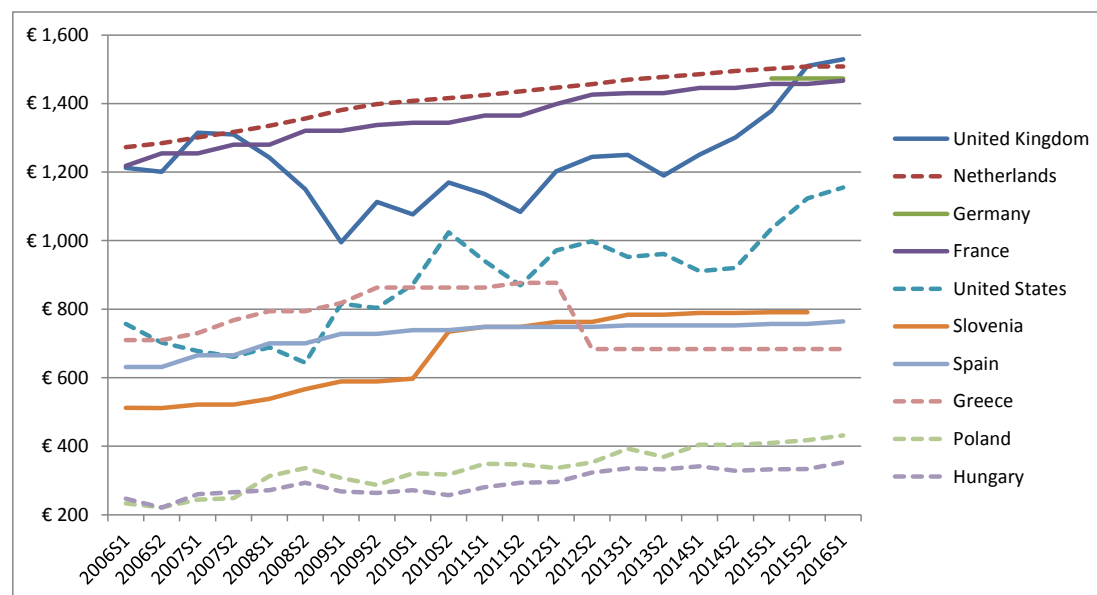
The extent of wage precarity experienced by low paid workers in all types of employment contracts is further shaped by the approach of government and/or social partners towards the frequency and generosity of minimum wage uprating. During the recent slow recovery from the economic crisis we witnessed divergent approaches reflecting conflicting economic and political principles about how minimum wages can promote job and real wage growth. Slovenia and the UK stand out as having governments eager to use the minimum wage to push up earnings growth to keep up with living costs (as well as to reduce pressures on a rising welfare bill), while the Spanish government halted a pre-crisis goal to raise the minimum wage despite falling living standards -arguably under indirect pressure from the European Central Bank³¹. Such interventions have dramatic consequences for the share of workers experiencing wage precarity.

Figure 5.2a plots the effects of these contrasting interventions. In Slovenia the government raised the monthly minimum wage by 23% in 2010 from €597 to €734 and subsequently sustained regular annual rises of 1-2%. The 2010 hike was accompanied by a tripling of the share of workers paid the minimum wage, from 3% to 9%, thereby both reducing wage precarity and extending the share of workers dependent (at least in part) on government interventions for a pay rise (Ignjatović and Kanjuo Mrčela 2016: 33).

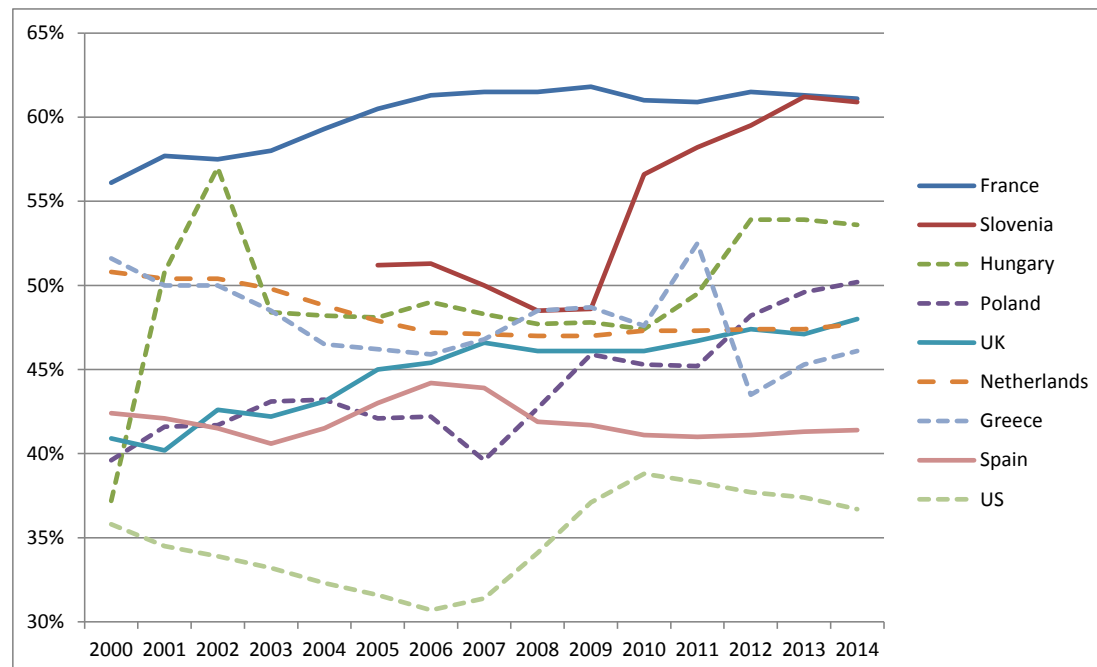
³¹ In 2012 for example the European Central Bank reported it expected a 'strong decline' in real wages in Spain to address in part the high unemployment among people aged 16-25 years old (*The Financial Times* 09-08-12).

Figure 5.2. Trends in minimum wage standards for selected countries

a. Monthly minimum wage trends –Euros



b. Minimum wage value relative to median earnings –hourly data



Source: a. Eurostat monthly minimum wages, euros, not adjusted for prices or purchasing power parity; b. OECD minimum wage database.

The UK's Low Pay Commission adopted a cautionary stance towards minimum wage upratings during 2008-2013 (1-2% per year) but then acted to raise the level by around 3% in both 2014 and

2015. From 2016, upratings will radically accelerate because the UK government has unilaterally obliged the Low Pay Commission to fix a new minimum wage premium for workers aged 25 and over and to raise the level to 60% of median earnings by 2020; the new 2016 rate represents a 7% rise. Combined with the rising value of sterling against the euro during 2013-2015, the UK's minimum wage ranked number one in Europe in early 2016, although it stands half-way in the rankings when assessed relative to the country's median level of earnings (figure 5.2b). Spain is the odd one out among our sample of countries as its minimum wage has stagnated for a long period, exposing many workers who fall outside of collective bargaining protection or whose collective agreement has expired to greater risk of wage precarity. A 2004 government goal to raise the monthly minimum to €800 petered out by 2008 and the 2015 rate stands at just €649, significantly lower than in Slovenia (without adjusting for purchasing power parity which would widen the gap further).

Employment protection standards

Compared with minimum wage standards, workers in precarious jobs face many more gaps in the statutory rules and collectively agreed conditions that cover employment security since most require workers to meet minimum job tenure thresholds. Employment protection rules have been a major focus of international policy attention (by the OECD and others) and all too often erroneously held up as the major cause of overly segmented or underperforming labour markets since it is claimed they divide workforces between a protected core and unprotected periphery (see chapter 2). Our detailed six-country focus suggests the reality is more complex and, in common with more than a decade of studies (e.g. Armour et al. 2009; Barbieri and Scherer 2009; Deakin et al. 2014; Esping-Andersen and Regini 2000), points to the societally specific functioning of employment protection rules which have indeterminate segmentation and labour market performance effects.

Employment protection rights in all six countries for the most part exclude the recently hired whether employed on permanent contracts, fixed-term contracts or temporary agency contracts (table 5.2). The one exception concerns workers who automatically transfer from one employer to another as part of a change in subcontractor, as a contract for outsourced activities changes hands. Such workers enjoy important protections under the European Acquired Rights Directive³²; we consider these issues further in chapter 12. The general exclusion of people with short tenure means many young people, people entering from inactivity or unemployment and many workers with temporary agency or fixed-term contracts are excluded from protection. The thresholds for tenure vary significantly, imposing wide-ranging penalties on the people with a short or temporary footing in an employing organisation -from six months in Germany up to 24 months in the UK (following an increase from 12 months in 2010). In Denmark, criteria also vary significantly by industry collective agreements and (still) by blue-collar (manual) and white-collar (non-manual) workers contrary to trends in European collective agreements to harmonise working conditions.

In Spain, the terms of eligibility are specified in the collective agreement but the law provides for entitlement after no more than three months (small firms) and six months (skilled workers –*técnicos titulados*). Spain is notable for its statutory rule that grants eligibility to employment protection after just one month's service to temporary workers with a contract of less than six months. Moreover, as

³² Each member state implemented the Directive in somewhat different forms. In the UK, the legislation is known as TUPE, the Transfer of Undertakings (Protection of Employment) Regulations, first implemented in 1981 and updated in 2006.

part of policy reforms to reduce the protective gap between workers on temporary contracts and those on open-ended contracts, the Spanish government has incrementally raised the days of redundancy compensation per year of fixed-term employment³³ from eight days in 2011 to 12 days as of January 2015 (Muñoz de Bustillo Llorente and Pinto Hernández 2016: figure 12). It would appear that despite having still the highest share of temporary employment in Europe, Spain also now has one of the strongest set of employment protection standards for these workers (op. cit.).

Table 5.2. Inclusive and exclusive features of employment protection rules

	Inclusive features	Exclusive features
Eligibility rules:		
-Months of tenure	Short tenure –DE (6m), SI (<6m), DK (some CAs for non-manual), ES (3-6m)	Medium-long tenure –DK (9m some CAs for manual), FR (12m), UK (24m)
-Hours of work	No requirement –DE, ES, FR, SI, UK	Minimum hours –DK (8 pw)
-Temporary workers	Reduced criteria –ES (1m)	No targeted criteria –DK, FR, DE, SI, UK
-Small firms	Mostly same rules: FR, SI, UK	Lower standards or excluded: DK (depending on CA), ES
Level of compensation:		
-Minimum standard ¹	High: DE, ES	Medium: FR, SI; Low: DK, UK
-Temporary workers	Targeted compensation –ES	No special condition: DK, FR, DE, SI, UK
Notice period¹:		
-Minimum standard	High: DE, DK (non-manual)	Medium DK (manual), FR, SI, UK; Low: ES
-Gap by job tenure	Small gap: FR, ES	Wide gap: DK, SI; Very wide gap: DE, UK
-Other relevant gaps	--	Wide gap by collective agreement: DK

Notes: 1. See table 3 below for details on severance pay and notice periods for individual dismissals by job tenure.

The implications of falling outside the scope of employment protection depend very much on the level of standards available. Among our six countries, the standards vary significantly (tables 5.2 and 5.3). For example, the notice period for collective dismissals varies from just three to five days in the construction industry collective agreement for manual workers in Denmark³⁴ to statutory maxima of 74 days (France), 80 days (Slovenia) and as much as seven months in Germany (approximately 213 days) although collective agreements can legitimately reduce this period. In all countries there are differences by job tenure, although there is no standard approach. In Germany, although protections apply after just six months, short job tenure workers receive far worse protection compared to longer serving workers –only two weeks notice is required to fire workers during their trial period for example compared to seven months notice for someone with 20 or more years service. By contrast France requires longer tenure to enjoy protection (12 months) but then applies far less differential

³³ This right applies to workers with ‘temporary contracts for employment promotion’, *contrato temporal de foment del empleo* (op. cit.: 22).

³⁴ The standard is higher in other industries –e.g. 21-90 days notice are required for workers with between one and ten years service in the collective agreement for manufacturing and transportation industries (Rasmussen et al. 2016: 16).

treatment –between 30 and 60 days notice periods for short and long tenure. Both countries therefore combine both inclusive and exclusive features.

Other countries, such as the UK, score poorly on all counts and combine multiple forms of exclusivity. Workers must have 24 months tenure to be covered, the standard of protection is low and short tenure workers face a large gap in protection, ranging from one to twelve weeks notice by job tenure. Denmark is distinctive since standards are fixed in separate collective agreements for manual and non-manual workers: manual workers require nine months' job tenure to be eligible and then enjoy a range of 21 to 70 days' notice as tenure lengthens, while non-manual workers enjoy protection from day 1 but face a wider variation in protection by job tenure from 14 days to six months days notice for tenure of zero to more than nine and a half years (OECD data based on main collective agreements³⁵).

Table 5.3. Summary of employment protection standards –statutory and/or collectively bargained

	Notice period for 'objective' individual/ collective dismissal	Definition of collective dismissal	Severance pay (value for 20 years tenure)	Compensation for unfair dismissal	Employer duty to inform or consult with workers?; Social plan for collective dismissal?
Denmark	3 days–6 months (by tenure, CA, blue-collar and white-collar)/ minimum 30 days	9% of workforce (min-max = 9-29)	Non-manual: 1 month's pay (12 yrs+ tenure), 2m pay 15 yrs+, 3m maximum (18 yrs+) (3m) Manual: Monthly salary minus 15% minus UB (effectively zero)	Manual: max 52 wks Non manual: 3-6m depending on tenure	Yes; Yes (transfers/retraining)
France	30-60 days/ 30-74 days ¹	10+ employees	1/5 of month's pay per yr of tenure plus 2/15 after 10 yrs tenure (5.4m)	6-24 months salary (2+ yrs tenure)	Yes; Yes (PSE, employment preservation)
Germany	2 wks-7m (6m to 20yrs tenure)/same	10% of workforce (min-max = 5-30)	½ month's pay per yr of tenure but not in firms<10 employees (10m)	Up to 18m	Yes; Yes (Social Plan)
Slovenia	15-80 days (<1 yr to >25 yrs)/ +30 days	10% of workforce (min-max = 10-30)	1/5, ¼, 1/3 of month's pay (<10, 10-20, 20+ yrs tenure) up to 10m (6.7m)	Up to 18m minus ordinary severance pay	Yes; Yes
Spain	None/ 15-30 days (by firm size)	10% of workforce (min-max = 10-30)	2/3 of month's pay per yr of tenure up to 12m (12m)	33 days per year of service up to 24m	Yes; Yes (training, counselling)
UK	1-12weeks/ 30-45 days (by number of dismissals)	20+ employees	½ wk to 1.5 weeks per yr of tenure up to 30 weeks and £464 per week (13.5 wks)	Up to £12,900 basic award, but higher for health&safety or whistleblowing	Yes; No

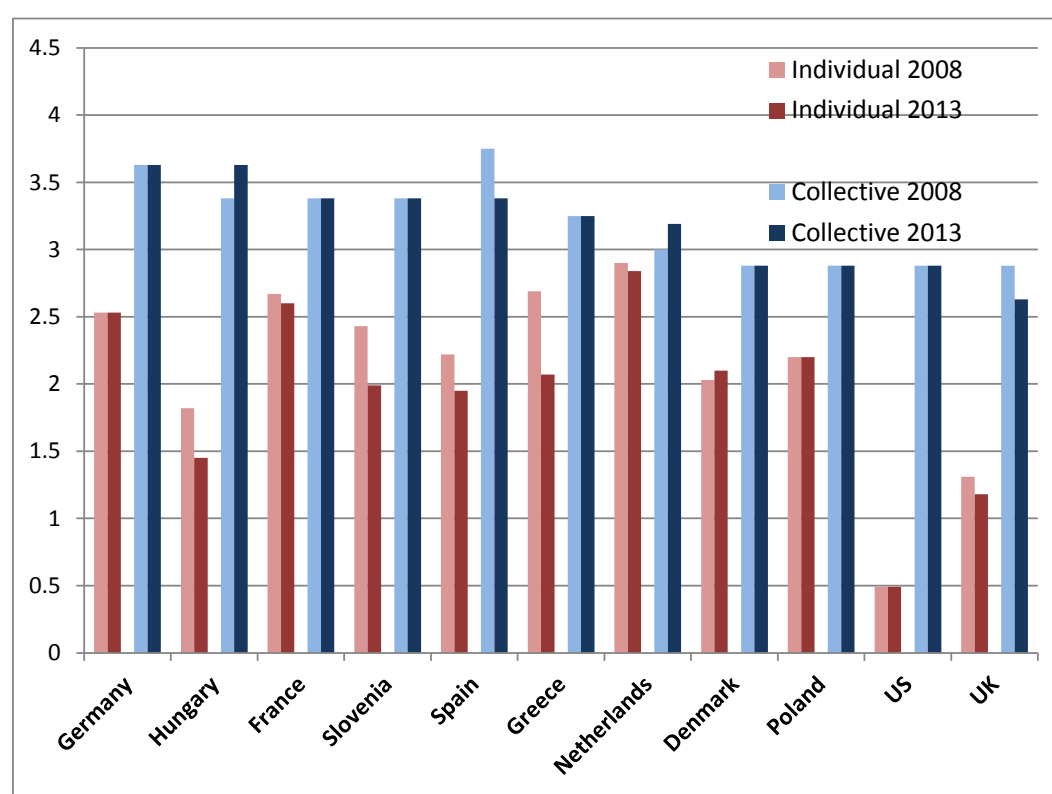
Notes: m=months, CA=collective agreement, UB=unemployment benefits; 1. Depending on employee tenure and firm size.
Source: National reports plus OECD country data for January 2013 (<http://www.oecd.org/employment/emp/oecdindicatorsofemploymentprotection.htm>).

³⁵ Sourced from <http://www.oecd.org/els/emp/Denmark.pdf> (accessed May 2016).

Similarly, the standard of redundancy compensation varies significantly –it is set at half a week’s pay per year of tenure for junior employees in the UK, a minimum of one fifth of a month’s pay per year of tenure for workers with few years of experience in France and Slovenia and a maximum of two thirds of monthly earnings in Spain for all workers. OECD estimates suggest that for a worker with 20 years tenure made redundant, severance pay is very low in the UK and Denmark –just 13.5 weeks and 3 months pay (for non-manual workers), respectively –and high at 12 months pay in Spain. Moreover, the UK is the only one of the six countries to set a maximum money cap to the severance pay formula at around the level of average earnings. In a context of low welfare benefits for the unemployed (unlike Denmark), job loss in the UK therefore imposes significant income precariousness for all workers regardless of employment contract.

These country differences are to some extent captured in the OECD’s employment protection indicator. Figure 5.3 ranks the six countries along with another four OECD countries for comparative purposes. Ranked by collective employment protection in 2013, Germany tops the group and the UK sits at the bottom, although the variation in scores is narrow –from 3.63 to 2.63. Among our six selected countries, two register a fall in this indicator since 2008, the UK and Spain. For individual dismissal protection the range of scores is wider –from 2.84 in the Netherlands to 0.49 in the US; here four countries register a fall –France, Slovenia, Spain and the UK.

Figure 5.3. OECD indices of employment protection for open-ended contracts, 2008 and 2013



Notes: the OECD includes 2014 data for Slovenia so these are included rather than data for 2013.

Source: authors’ compilation from OECD database <http://www.oecd.org/employment/emp/oecdindicatorsofemploymentprotection.htm>.

The statutory standards may of course be topped up by collective agreements, as well as by specific social plans negotiated once redundancies have been announced. In Germany for example, social plans may agree a monthly factor weighting of 1.5 rather than the statutory rate of 0.5³⁶ and in the UK one survey estimates that 40% of employers exceed the very low statutory minima.³⁷

The case of Denmark is interesting since collective agreements for manual workers typically did not agree any severance payments prior to 2010. Then, prompted by the waves of downsizing during the economic crisis and policy reforms that reduced unemployment benefits, trade unions moved successfully to introduce redundancy compensation (Klindt and Halkjær 2012). Collectively agreed conditions for manual workers now state that employers who dismiss staff must fill the gap between unemployment benefits received and 85% of the previous monthly earnings –paid for one, two or three months following dismissal, depending on tenure (zero to 18+ years’ service). Because of the cap on unemployment benefits, this means the lowest paid will typically not receive severance pay whereas high paid dismissed workers will receive a top-up to 85% of their previous earnings (Rasmussen et al. 2016). As such, it is the changing standards of welfare protection for the unemployed in Denmark combined with trade union concerns for income precariousness that have acted as the main driver of changing rules of employment protection, further illuminating the societally specific functioning of this particular labour market institution.

The trend in the standard of protection is mostly downwards, which means workers in ‘standard’ jobs face greater risk of precariousness. In Spain, for example, compensation for unfair dismissal (*despido improcedente*) was cut from 45 days per year of service up to a maximum 42 months down to 33 days and maximum 24 months. Also in the UK, the notice period for collective dismissals was cut from 90 days to 45 days. Nevertheless, standards of social dialogue –such that employers are required in all countries except the UK to develop a form of social plan with trade unions for redundant workers –have been resilient. Employers in Germany must draw up a social plan with the works council. Similarly in France, employers with more than 50 employees must develop an employment preservation plan (*plan de sauvegarde de l’emploi, PSE*) to limit redundancies and offer redeployment opportunities, as well as reorganise working hours. In Slovenia, the employer must submit a report on the union consultation to the employment service and respond to any proposals for remedial actions and in Denmark the collective agreements oblige employers and unions to negotiate plans for employee transfers and/or retraining wherever possible. Only Spain shows sign of change. Where more than 50 workers are fired, employers must liaise with employment agencies to put in place training and counselling actions. However, 2012 reforms removed the ‘administrative authorisation’, which was in practice achieved through joint negotiation. Nevertheless, the evidence for 2015 suggests limited change in practice: a government survey found 93% of collective dismissals were still negotiated by employers and union representatives in the first quarter of 2015 (Muñoz de Bustillo Llorente and Pinto Hernández 2016: 71).

The reduced standards in Spain and Slovenia are one part of a radical redrawing of the open-ended employment contract with the aim of reducing regulatory differences with the treatment of workers with temporary employment contracts (Muñoz de Bustillo Llorente and Pinto Hernández 2016: 20-1, 70-2; Ignjatović and Kanjuo Mrčela 2016: 20-27). In Spain, policy reforms in 1997 and 2001 created a

³⁶ According to the OECD’s 2013 country fact file -<http://www.oecd.org/els/emp/Germany.pdf>.

³⁷ <http://www.oecd.org/els/emp/United%20Kingdom.pdf>

new supplementary type of open-ended contract³⁸ with lower redundancy payments so as to incentivise employers to recruit specific workforce groups over-represented among the unemployed and to provide them with permanent rather than temporary contract security. Subsequent reforms gradually expanded the coverage of this alternative open-ended contract and then in 2012 this alternative contract form with its lower standard of protection was established as the new general standard (box 5.1). Similarly in Slovenia, the 2013 amended Employment Relationship Act reduced the maximum notice period for redundancies due to business reasons from 120 to 60 days (80 days for workers with 25+ years of tenure), reduced redundancy compensation, raised the minimum age (from 55 to 58 years old) of workers with special dismissal protection and introduced a new compensation rule for workers on ‘temporary layoff’ at 80% of their basic wage (while previously the custom was to pay the full wage).

Box 5.1. Radical reforms to employment protection legislation –the case of Spain

After the extraordinary period of policy reforms in the 1980s that generated the conditions for ‘the invention of modern temporary employment’ (Muñoz de Bustillo Llorente and Pinto Hernández 2016: 18), policy-makers more recently have acted in response to what was perceived as a problem of dualism –employment protections were too low for temporary workers but too high for workers with open-ended contracts. In response, government raised standards of redundancy compensation for temporary workers and reduced those for open-ended contract workers. This was achieved incrementally via the creation of a third type of open-ended contract with lower standards (1997 and 2001 reforms) which was eventually generalised in 2012. Table 5.4 details the varied standards.

Table 5.4. The changing standards of open-ended employment contracts in Spain: dismissal costs

Contract type	Unjustified dismissal	Justified dismissal
Ordinary open-ended labour contract	45 days per year, maximum 42 months	For all contract types: 20 days per year, maximum 12 months compensation
Labour contract to incentivise open-ended employment (1997, 2001 reforms)	33 days per year, maximum 24 months	
New open-ended contract to substitute the ordinary open-ended contract (2012)	33 days per year, maximum 24 months	The 2012 reform extends employer reasons to economic, technical or organisational conditions

Source: Muñoz de Bustillo Llorente and Pinto Hernández (2016: 70-71).

Working time standards

Working time standards have come to the fore in our understanding of the character of precarious work, as more and more research illuminates the contests over what is paid and unpaid working time, whether employers have a right to vary shift times without notice, whether workers have a right to a minimum number of hours per shift, what standards of maximum working hours are suitable, and whether there ought to be uniform rights to premiums for unsocial and overtime hours

³⁸ The new contracts were initially called ‘contracts to promote open-ended contracts’ (*Contrato de foment de la contratación indefinido*) and were encouraged for specific workforce groups including unemployed youth, unemployed women recruited to male-dominated sectors, long-term unemployed and workers with disabilities (Muñoz de Bustillo Llorente and Pinto Hernández 2016: 23).

work. Digitalisation of work, evidence of self employment with ambiguous connections to employing organisations, exposure of many vulnerable workforce groups to long working hours, and an increasing trend of short and irregular part-time hours of employment all raise questions about how standards of working time are designed, operationalised and enforced (Berg 2016; Moore 2016; Rubery et al. 2015).

On the one hand, the character of precarious work is shaped by access to working time protections – to paid holidays, maximum and minimum weekly hours or shift hours and wage premiums for overtime or unsocial hours. Part-time and temporary workers risk missing out on agreed wage premiums given the short and/or sporadic nature of their attachment to the employing organisation. On the other hand, some employers may seek to skirt around working time protections in order to reduce the costs of meeting changing demand conditions and instead hire workers on short hours or temporary contracts, or even set up self employment subcontracting relations, thereby fuelling the precarity of many jobs. We consider some of these implications in the following comparison of working time standards (table 5.5).

A first issue that has become very visible in the policy arena concerns whether or not a country establishes the right to a minimum number of hours of paid work per shift or per week. The growth of zero hours contracts (UK), short-hours mini jobs and ‘work on demand’ contracts (Germany) and so-called ‘reserves’³⁹ (Denmark) have been followed by trade union and civil society organisations’ campaigns for better protections. Among the six countries, only France and Germany set statutory rules requiring employers to fix a minimum number of hours of paid work. In France, legal reforms during 2013-2015 established a statutory minimum hours threshold of 24 hours per week. This appears to be a high minimum until one notices the various exceptions to the rule. The law does not apply to students aged under 26 years old, state subsidised jobs (*contrat aidés*), temporary contracts of less than seven days, employees who make a special request (for example to accommodate multiple part-time jobs), or employees hired by a temporary work integration enterprise (*entreprise temporaire d’insertion*), among others (Kornig et al. 2016: 89). Moreover, social partners are able to sidestep the minimum rule in collective agreements (op. cit.: 90).

Table 5.5. Inclusive and exclusive features in country standards of working time protections

	Inclusive features	Exclusive features
Minimum hours protections?	Guaranteed minimum per shift or week: FR (24pw), DE (oncall only have 3pd or 10pw), DK (CA 3-4pd)	No guaranteed minimum: ES, SI, UK Targeted lowering of standard: DK (hospitality CA)
-Eligibility conditions	Low	High: FR
Pay premiums?	High standard: DE, DK, FR	Low standard: ES, UK
-Eligibility conditions	Targeted conditions for part-timers: FR	Overtime premiums restriction to full-time hours
Maximum hours protections?	No opt outs allowed: DK Few opt outs or concessions: FR, DE, ES, SI	Many opt outs and concessions: UK

³⁹ These employment forms are found in restaurants, cleaning and social care and also referred to as ‘on-call temps’, *afløserne tilkaldevikarer mv.*

Notes: pd=per day, pw=per week, CA=collective agreement.
Source: National reports.

In Germany the law fixes minimum hours for ‘work on demand’ but this does not apply to many part-time workers in jobs not defined as ‘work on demand’. For on-call workers, unless otherwise specified in the contract the worker is entitled to a minimum of three hours per day and ten hours per week. Moreover, if the worker has worked more than ten hours per week in the past then the higher number is deemed to be agreed (Jaehrling et al. 2016: 23). Nevertheless, employers have continuously tested the legislation, resulting in legal disputes over whether the minimum can be averaged over multiple weeks and the extent to which the scheduling of set hours can be varied. One court ruled that a range of 25% is possible, but evidence from the retail sector for example found sales assistants employed on schedules that fluctuated from 2 to 40 hours per week (Absenger et al. 2012, cited in Jaehrling et al. 2016: 24). In Spain, part-time regulations in 2013 similarly fix a range for employer variation in weekly hours –a maximum change of ten additional hours per week, capped at 30% of usual hours (or as much as 60% if negotiated in the collective agreement); the legislation also reduced the required days of notice for changing hours from seven to three days (Muñoz de Bustillo Llorente and Pinto Hernández 2016).

Other countries include minimum hours thresholds in most or some collective agreements rather than via legislation. In Denmark, collective agreements covering temporary workers tend to guarantee a minimum of at least three or four hours per shift, while other agreements have clauses stipulating that part-time workers should be guaranteed a minimum of 20-28 hours per week (e.g. construction sector), although the commercial cleaning sector sets a lower minimum of 15 hours. In the hotels and restaurant sector, social partners appear to have negotiated collective agreements that accommodate a growing use of precarious jobs by allowing for example part-time hours as low as ten hours per week averaged over four weeks and use of ‘reserves’; *‘This means that in some sense the collective agreement in this sector legalises what is commonly considered precarious work where the collective agreements in other sectors protect against it’* (Rasmussen et al. 2016: 29). Nevertheless, the agreement also provides a range of protections that would not otherwise have been enjoyed by these workers including premiums for unsocial hours, access to pensions (after six months tenure), right to training and others (op. cit.).

In Germany only a limited number of collective agreements do this, a notable exception being the North Rhine Westphalia regional agreement for retail workers which sets a limit of four hours per day and 20 hours per week (Jaehrling et al. 2016: 22). In Spain, while it might be deduced from working-time rules for part-time workers that one hour is the standard minimum for all employment contracts, in fact there are cases where a worker has been employed for only 45 minutes (Muñoz de Bustillo Llorente and Pinto Hernández 2016). In the UK, where the vast bulk of workers in the private sector fall outside collective bargaining coverage, the absence of minimum hours statutory protection has fuelled the extreme irregularity of working time arrangements for workers with zero hours contracts.

A second issue concerns the extent to which employers extend pay premiums for working unsocial hours or overtime hours to workers in part-time or temporary contracts (table 5.6). Overtime pay is typically considered as work in excess of full-time hours rather than standard contracted hours and therefore discriminates against people working less than full-time hours who arguably have the

same right to compensation for agreeing to work additional non-contracted hours. In many cases, employees are offered time off in lieu rather than wage compensation. Only France, as far as we are aware, includes legislation that obliges social partners in those sectors where there is extensive use of part-time contracts to agree a 10% premium from the first additional hour of work (Kornig et al. 2016: 90). Where premium rules are not extended to part-time workers, employers may be incentivised to deploy more part-timers to cover fluctuations in hours demand as well as expensive weekend and night-time working.

Other than France the other five countries do not fix premiums via legislation. Instead we find a variety of standards negotiated in collective agreements. In Spain for example premiums tend to be only around 25% of basic pay for night work, while in the UK public sector there are examples of 50% premiums for night work and double time for Sunday working. Most countries report a deterioration of premium standards, as well as unpaid overtime, meaning that the protective gap has to some extent diminished as a result of levelling down of payment conditions for all workers.

A further problem connected with the narrow focus on overtime work only with respect to full-time hours is that where part-timers regularly work overtime it is not generally factored into the pro rata calculations for sickness pay or holiday entitlements (number of days and amount of pay). In Germany, there have been some improvements on this issue –with part-time and full-time workers able to level up their usual hours where they have regularly worked overtime (Bispinck 2014, cited in Jaehrling et al. 2016: 22).

Table 5.6. Summary of working time standards by country, 2015

	Denmark	France	Germany	Slovenia	Spain	UK
Minimum hours per shift/week	✓ CA	✓ 24 hours	✓ on-call	X	X	X
Unsocial hours premiums	✓ usual CA	✓ usual CA	✓ usual CA	✓ usual CA	✓ usual CA	✓ rare CA
Maximum weekly hours	✓ 48 averaged over 17 weeks	✓ 48 averaged over 17 weeks	✓ 48 averaged over 17 weeks	✓ 40 annual average	✓ 40 annual average	✓ 48 averaged over 17 weeks but extensive opt-out
Paid holidays¹	25-30 days ² CA	30 days ³	20 days	20 days	22 days	20 days

Note: 1. Excludes public holidays; 2. Entitlement to the collectively agreed ‘sixth week’ of paid holidays in Denmark usually requires nine months job tenure; 3. The law in France provides for 2.5 days per month worked, amounting to 30 days per year but this includes Saturdays whether or not it is usually worked so the equivalent figure may be considered 25 days. Source: National reports plus Eurofound analysis in Cabrita (2015).

A third issue concerns the exposure of workers in full-time employment to excessive hours of work, which can be interpreted as causing a deterioration in employment standards. In principle, all six countries apply either the rules on maximum weekly hours set out in the European directive (Denmark, the UK) or fix a lower threshold. In Spain, for example, the law sets a maximum limit of 40 hours per week averaged over the year, along with a maximum of 80 hours paid overtime over the year (excluding those compensated with time-off in lieu). In principle this amounts to significantly

less than the EU standard of 48 hours averaged over 17 weeks including overtime (2,160 and 2,496, respectively).

Standards of maximum working hours are also adapted –upwards and downwards -via collective agreements or employer practice in most of the six countries, which contributes significantly to the degree of inclusiveness of this standard. All countries except Denmark allow employers to make limited or significant use of opt outs from the legislation as well as concessions allowed for in collective agreements. Drawing on Cabrita's (2015: figure 2) EU analysis, it appears that the UK is home to a generalised use of the working time opt out⁴⁰, while France, Germany, Spain and Slovenia⁴¹ allow limited use. In the UK, the opt out is allowed for almost the entire workforce, enabling employers to disregard maximum working hours rules even where this has been 'agreed' with its workforce. National data from the Workplace Employment Relations Survey show that in 2011 one third of workplaces had some employees who signed an opt out, and in 16% of workplaces all employees were opted out (op. cit.). Moreover, several studies report evidence of employer pressure on individual employees to sign (BIS 2014).

Where countries allow for limited use of the opt out, this tends to be for workers in the hospital sector. In France, excess hours are allowed for doctors and pharmacists, and individual consent is not necessarily required. In Germany, opt outs are established via opening clauses that allow for collective agreements to adapt working time rules to industry conditions (*Tarifdispositives Recht*); for example, the hospital agreement allows for a maximum of 54-58 hours for doctors (Cabrita 2015: 8). In Slovenia, the opt out is in fact only used in principle in the health sector, although there is evidence of many employers flouting the law on overtime hours. In Spain also the opt out is designed to extend working hours of doctors and nurses to facilitate the organisation of on-call work (op. cit.). Denmark is the only country of our sample not to allow use of the opt out, although it is not alone among EU member states.

Flexible working standards

Our fourth standard is that of flexible working, which is related to working-time rules but stands apart due to its distinctive policy rationale. The right to reduce working hours while remaining in the same job potentially establishes a significant step towards less precarious part-time working (Hegewisch 2009). However, job tenure eligibility requirements mean many workers with short or temporary contracts miss out on this standard.

In Spain the right has not changed since first introduced in 1999. It is restricted to employees who wish to take care of dependent relatives and the size of reduction must be between one third and one half of the regular weekly hours. By contrast, in Denmark, Germany, and the UK, employees' rights to reduce working hours (or at least the right *to request* a reduction in hours as in Denmark and the UK) have expanded in scope over the last two decades, representing a considerable improvement in standards, although eligibility restrictions that exclude workers with certain non-

⁴⁰ The opt-out condition does not apply for workers in road transport, airlines and security workers responsible for vehicles carrying high value goods. The UK is joined in its general use of the opt out by four other member states - Bulgaria, Cyprus, Estonia, Malta (Cabrita 2015).

⁴¹ Along with seven other member states -Belgium, the Czech Republic, Hungary, Latvia, the Netherlands, Poland and Slovakia.

standard contracts remain (table 5.7). In Germany, collective agreements commonly negotiated this right during the 1990s and then in 2001 the new legislation on part-time and fixed-term work (TzBfG) secured the statutory right for *all employees* to reduce working hours in companies with 15 or more employees -although the tenure restriction is fixed at six months (Jaehrling et al. 2016: 21). The UK has followed a similar trajectory of policy extension from a narrow scope of working parents with dependent children to all employees. In addition to a six month job tenure requirement, the UK law also excludes workers earning less than the equivalent of 17 times the minimum wage per week.⁴²

Table 5.7. Flexible working standards in six countries

	Right to adjust hours:		Inclusiveness?		
	To reduce hours?	To return to higher hours?	Minimum job tenure?	Minimum earnings?	Exempt workforce groups?
Denmark	✓ Right to request				--
France	✓ Right to apply	Right to apply			Statutory right in public sector for family reasons & depending on CA in private sector
Germany	✓	Yes for parents; Under consideration for others	6 months with current employer	--	Workers in companies with <15 workers Can be rejected if no possibility of changing work organisation
Slovenia	✓ by 50% or less, child under 3	Yes			Must be parents of child under 3 or under 18 if disabled
Spain	✓ by 1/3 to 1/2 of usual hours	Yes			Must have dependent relatives
UK	✓ Right to request	No	6 months with current employer	Weekly wage of 17xMW	

Source: National reports.

The standards around flexible adjustment of hours tend to be one-way, downwards. This is a potential problem where working mothers may have reduced hours to fit with childcare demands say, but then wish to return to a full-time standard once their children reach school age. Only Slovenia, Germany and Spain appear to operate the right to return to the previously contracted hours (plus public sector workers in France), but this is done by placing a temporal limit on the period of reduced hours. In Germany, this right is restricted to parents (unlike the right to reduce hours), although the government is considering the merits of a proposal to extend the right to other employees in a similar fashion by agreeing a limit in the duration of a working time reduction in advance; of course this would exclude workers who began their employment in a part-time contract and therefore would not improve the precarious working hours situation of many part-timers who express a demand for more hours (Jaehrling et al. 2016: 22).

⁴² In 2014-15 the 'lower earnings limit' (gross, weekly) for entitlement to flexibility working (as well as other rights such as maternity pay and sick pay) was £111.

6. Social protection gaps

One of the main risks associated with precarious employment is that of being excluded from or having reduced access to social protection. The importance of these risks can be very great as precarious work also implies that employers are doing less to provide social protection; they are often providing lower earnings per hour, lower guarantees of income and continuity of work and are less likely to retain workers in a downturn in demand, whether related to variations in customer demand patterns by day, week or season or due to variations in aggregate demand. All of this implies that precarious workers would have greater needs for recourse to social protection than standard workers, while at the same time the system of establishing eligibility for social protection may remain geared towards standard employment relationships, making those in nsfe of all kinds less likely to be eligible. Thus the first question to be explored is whether or not social protection in the six countries is still geared towards the standard employment relationship and thereby generates gaps in protection for precarious workers.

However, the interactions between precarious work and social protection do not just apply at the level of risk for the individual workers. Precarious work reduces the guarantee that engaging in wage work provides sufficient income for social reproduction (or subsistence). If precarious work becomes the main or an important route out of unemployment the issue for the unemployed becomes not only obtaining a job but a job which provides sufficient and guaranteed income for it to be worthwhile giving up unemployment benefit support. This dilemma is leading many countries to developing more hybrid arrangements where there are incentives to work through retention of unemployment benefits or access to benefits not linked to unemployment. Thus our second question to explore is how far the six countries are moving towards these hybrids social protection systems, providing support for those in precarious work through in-work benefits or allowing or requiring those on unemployment benefits to seek supplementary or casual employment, thereby in some respects encouraging participation in precarious work and providing state support for precarious work. A final question to consider is the relationship between precarious work and the funding of the social protection system: precarious work may not lead to the same level of contributions to support the social welfare systems, which in turn may challenge the fiscal security of the system and different rates of contributions may also create incentives for the use or acceptance of precarious work, from the perspectives respectively of employers and workers. This applies even though the growth of precarious work may be leading to increased demands on the social welfare system.

In considering the social protection gaps it is obviously important to recognise that those undertaking precarious work may have access to, or be expected to rely on, other forms of income support beyond both wage work and social protection. The labour supply for precarious work is made up disproportionately of groups that are expected traditionally to seek support from other family members, namely adult women in couples and young people. Other forms of non-state support include access to savings from profits in the case of the self-employed that are generally

expected to smooth their own income flow ups and downs of demand. There are also other groups who undertake precarious work who are in practice receiving state subsidies -for example pensioners, those receiving unemployment benefits while taking on casual work and those working on low wages that are eligible for in-work benefits. These state subsidies can be viewed from different perspectives; for example the combining of unemployment benefits or in work benefits with low wages can be seen either a means of moving people off benefits and into work or as a means by which employers seek taxpayer subsidies to support the use of precarious work.

The prevalence of cross subsidies from families and /or the state to those in precarious work may lead to some dismissing precarious work as not a major problem. However this reliance on a norm of cross family subsidy means that some individuals are particularly exposed to risks, such as young people who are alienated from their families or who come from families without adequate funds to support young people. Indeed many young people may not appear to be in poverty because they have been forced to postpone the formation of independent households precisely because they cannot move out of precarious work. Likewise many women may find that the only jobs available to them are precarious even when they aspire to more continuous employment or when their partners are unemployed or in precarious work. Thus while families do step in to provide for shortfall in both wage income and social protection, this fails to provide adequate support for many individuals, hinders the pursuit of life stage aspirations for independence and family start-ups and hinders the access of women to high quality and more stable jobs.

These problems have been increasingly noted by policymakers and by advocates of reforms to social protection systems (Vosko 2010; Standing 2011; Rubery 2015). However, the problems identified give rise to more than one driver for change and may result in competing logics that may provide better protection for precarious workers in some directions but reduce protections in other directions. There is thus evidence of moves to make access to social protection more inclusive. This may be driven by social justice arguments or alternatively by desires to normalise non-standard forms of employment by granting them more equal access to social protection rights. Another motivation towards a more inclusive system could be to increase the responsibilities of employers or clients to all those engaged in work on their behalf -in a supply chain or on non-standard contracts- in order to reduce the burden on the state. Thus policies that extend protection and make it more inclusive can have a range of motivations. The core motivation for more exclusive forms of social protection is to reduce the cost to the state and this is a general tendency in all European countries. This is particularly evident with respect to pension entitlements but also applies to support for those out of employment. Policies to make access more inclusive- for example by giving childcare credits for pensions- may coexist with policies to increase the credits needed for a full pension. It is not therefore the case that countries can be classified according to the direction they are moving, but instead trends in both directions towards inclusivity and exclusivity need to be documented. It is also important in assessing inclusivity to recognise the impact of the levels of benefits: a system may be relatively inclusive with respect to non standard forms of employment workers but provide overall very low levels of benefits for those on the SER as well as non standard employment. Thus inclusivity needs to take into account both coverage and levels of benefits. In a similar vein we need to consider trends and policies towards increasing incentives for all to seek work while at the same time pursuing policies –such as enabling precarious work- that reduces the likelihood that work will meet subsistence needs. Again contradictory developments may be identified whereby efforts

apparently to reduce dependency on welfare leads to new forms of welfare dependency within wage work.

To clarify these arguments further we consider the three questions posed. First we look at access to social protection for precarious workers, focusing on three forms of benefits- unemployment support, maternity and parental leave and pensions. Second we look at the integration of employment and unemployment statuses and benefits systems and consider the implications for labour market trends and social protection systems. Thirdly we look at social contribution systems, including the incentives for employers to offer and for people to take up precarious jobs and the implied impact on fiscal security of the welfare system.

Precarious work and access to social protection

Support for the unemployed

The problems of inclusion or exclusion from unemployment benefits for those in precarious work first of all depend on the level and form of the benefits. The systems in our six countries in practice represent very different types and levels of support. The Danish system is based on the Scandinavian model of a trade union based insurance systems which is voluntary (although most insure themselves in practice) and pays high minimum benefits⁴³ at over 40% of the average wage. Four of the countries (Germany, Spain, France, and Slovenia) have contribution based earnings-related unemployment benefits but the levels of benefits vary markedly; three have minimum benefits at around a quarter of the average wage while Germany has no minimum benefit level. Maximum benefits are very high in France (over twice the average wage) and high in Germany at approximately 90% of the average wage. In Slovenia they exceed 70%, while Spain has a more compressed benefit structure with a maximum just over half the average wage similar to Denmark. Against all five the UK stands out in having a flat rate benefit only equal to about 10% of the average wage. The only point of comparison is with Germany where benefits could in principle fall even below this level. There are equal variations with respect to length of benefits -Slovenia has the shortest benefits at 3 months, followed by the UK at 6months. Denmark also has one length of benefit –but this is 2 years. The remaining three have variable benefit lengths: in Germany it varies from 6 months to one year (for those under 50) while France and Spain have strong variations from around 4 months to 2 years though one needs more contributions for the maximum period in France than Spain.

Due to diversity of systems and the variety of implications for precarious workers we have identified the different features under the principle of whether the characteristics of the system can be said to inclusive or exclusive with respect to precarious work – see table 6.1. The first set of characteristics relate to the level of benefits. For the low paid it is clearly advantageous to have a high minimum as in Denmark, in contrast to Germany with no minimum and the UK with a low flat rate for all. However the UK treats part-time workers relatively generously provided they earn enough to have exceeded the minimum earnings threshold for contributions; as long as they have the requisite contributions they receive the same benefit as full-timers (which are less than the lower earnings threshold for contributions and so will not exceed previous earnings). In contrast Germany pays benefits strictly proportional to earnings in contrast to other countries where part-timers benefit

⁴³ www.oecd.org/els/benefits-and-wages-policies.htm data refer to 2010 but national experts confirm that no major changes in level of benefits since then.

from a minimum benefit level (for example France and Spain). However, Denmark and Slovenia reduce benefits for those on shorter hours. In Denmark part-timers only receive a flat rate benefit but those working part-time can choose to insure themselves full-time and in Slovenia those working part-time due to reduced hours after maternity leave are treated as full-time insured.

Table 6.1. Precarious work and unemployment benefits

	Inclusive features	Exclusive features
Level of benefit	High minimum – DK	No minimum- DE Low flat rate- UK
Benefits for part-timers	Same as full-time- UK Opportunities to be insured full-time- DK, FR	Benefits reduced by hours worked- DK (part-time flat rate), SI
Length of benefits/ social assistance when benefits exhausted	Long benefits for all-DK New means-tested extension to contributory benefits-ES Social assistance similar to contributory benefits- UK	Short benefits- SI, UK Social assistance limited and variable- ES Means testing including housing/car assets-DK, DE
Reference period/ contribution requirements/ earnings thresholds/ adjustments for part-time work	Long reference and/or few contributions- DK, FR,ES Opt in to contributions –DE Adjustments for part-time work- ES	Short reference period/high number of contributions- DE,SI Earnings thresholds before contributions- UK, (DE)
Eligibility for self employed	Included –SI (registered businesses), DK (FT only) Voluntary opt in- ES,DE	Excluded-UK,FR
Treatment of voluntary quits	Lenient- DK	Moderate-DE,FR,UK Excluded-ES,SI

With respect to length of benefits there are potentially contradictory effects when viewed from a precarious work perspective. On the one hand, as precarious workers are more likely to find themselves unemployed, longer benefits are important particularly if they are unable to claim means-tested benefits. However, where benefits are long for standard workers it may mean that social assistance provisions for those who exhaust their contributory benefits or who were never eligible for contributory benefits are poor. This applies particularly in Spain where there is no national system and highly variable payments; consequently contributory benefits in the crisis have been extended for those exhausting their benefits. Also in Denmark the contributory benefits are long and relatively easily obtained but those who are not eligible face tough tests for means-tested assistance, having to sell assets such as cars or houses before being eligible. In contrast in the UK there is no difference in the level of means-tested benefits compared to contributory, though some will not be eligible on the basis of household income, and fewer stigmas attached to moving from contributory to means-tested benefits in part because of the absence of the notion of entitlement to contributory benefits in the UK system.

The next set of factors relate to eligibility criteria. Those who work intermittently or for short hours may find it more difficult to fulfil eligibility requirements. The higher the number of contributions required and the shorter period over which they can be accumulated the harder it is for precarious workers to build entitlements. Denmark has probably the easiest conditions for entitlement – the required hours worked over three years can be worked part-time to qualify for full-time insurance – and only need one year of contributions to qualify for a further two years of benefits. France and Spain also have relatively generous access to benefits (low numbers of days worked over a long period) although this is compensated by shorter durations of benefits unlike in Denmark where everyone has two years eligibility. Spain has made adjustments to its days of work required for eligibility for benefits by allowing part-time work concentrated on fewer than five days to be uprated by a factor of 1.4. In contrast Germany and Slovenia have restrictive requirements for contributions over a relatively short time period though Germany has been tightening eligibility⁴⁴ and Slovenia loosening it. The UK has moderately tight eligibility requirements with respect to number of contribution weeks but also combines this with a high minimum earnings threshold for eligibility to make contributions. This is similar to but higher than the mini jobs earnings threshold in Germany where again workers on mini jobs are excluded (but can voluntarily opt in unlike in the UK).

Another eligibility issue is access to unemployment support for the self-employed. These are excluded from the contributory benefit systems in the UK and France though this makes less difference in the UK where the contributory benefits are low. The self-employed can opt in to insurance in Spain and Germany. In contrast Slovenia has introduced compulsory insurance for the self-employed but only for those with registered businesses. Those working under work contracts and who have no official employment status in Slovenia are not included but those are said to currently account for a very small share of the population. Denmark also allows the full-time self-employed to join insurance schemes and provides partial unemployment benefit support on a transitional basis for those whose hours of work are reduced due to lack of trade.

A final characteristic of unemployment support considered is the consequences of voluntary quits or access to benefits. Given that those in precarious work can be considered to be more likely to be working under poor working conditions which might provide a reason for a voluntary quit, the harshness of penalties for voluntary quits may matter more to this group. Here Denmark again stands out as the most lenient with sanctions only lasting three weeks, compared to between 3 to 6 months for Germany, France and the UK and voluntary quits being ineligible for benefits in Spain and Slovenia.

Each system therefore has some positive and some negative impacts on social protection for precarious workers, both in absolute and in relative terms. It is also the case that reforms over recent years have moved towards both more inclusive and more exclusive forms of social protection for unemployment (table 6.2). Here we include as a move towards exclusivity general decreases in levels of benefits and social assistance for although precarious work may have more limited access to benefits, moves to reduce benefits of the unemployed- by definition hardly privileged insiders- cannot be considered beneficial for inclusivity.

Slovenia is the main example of a country that has taken steps to make its system more inclusive by raising the overall value of benefits and more specifically also raising the minimum benefits level. It

⁴⁴ But in 2016 Germany decided to loosen requirements again

has also loosened the requirements for eligibility for benefits although from a starting point of strict continuity requirements and short benefits. Spain is the only other country to report changes that can be considered positive for inclusivity, including the extension –albeit means-tested- of contributory unemployment benefits in part to compensate for the lack of a national social assistance programme in the context of the crisis and the likelihood of widespread exhaustion of benefits. There is more evidence of decreasing generosity in provision of benefits –with freezes or real cuts in benefits and social assistance. Germany has tightened eligibility (from 2008) and several countries have increased the use of sanctions particularly associated with social assistance. Thus the consideration of access for precarious workers has to be situated within a context of declining overall support for the unemployed, although the extent and impact varies across the six countries.

Table 6.2. Changes in unemployment benefits towards inclusivity and exclusivity

Towards more inclusivity	Towards more exclusivity
<ul style="list-style-type: none"> ○ Higher minimum benefit -SI ○ Higher overall benefits -SI ○ Higher eligibility –SI, FR ○ Extended support –ES (means tested) ○ Adjustment for part-time work -ES ○ Inclusion of self-employed -SI 	<ul style="list-style-type: none"> ● Decrease in benefits -DE, UK, ES ● Reduced eligibility 2008-DE (shorter reference period) ● Decreased social assistance/ more sanctions -DK, DE, UK

Maternity and parental leave

Workers in precarious jobs risk not having access to maternity or parental leave if this access depends upon employment status and contributions. As with unemployment benefits we need to consider the level of benefits available as well as issues of access to benefits. Table 6.3 presents the leave entitlements in terms of full-time equivalent weeks for a woman on the national average wage and in the total available weeks of leave. The closer the two figures are together –as, for example, in Spain and Slovenia- the implication is that the leave is paid at or close to 100% of previous earnings at the national average wage (most countries have a ceiling on the benefit but above the national average wage). Slovenia leads the others by some distance providing over 48 weeks of FTE paid leave followed by Germany at 34.7 weeks. The UK trails the table at 12 weeks. Moreover the gap with the other countries is even wider as to reach the 12 weeks FTE it is necessary to take the full 39 weeks of paid leave, giving a replacement rate of below one third while the other replacement rates range from around 50 % to 100%.

Table 6.3. Maternity and parental leave for mothers: paid weeks (full-time equivalent) and total paid weeks

	FTE paid weeks for someone on national average wage	Total no. of paid weeks
UK	12.2	39
ES	16	16
FR	20.8	42
DK	26.7	50

DE	34.7	58
SI	48.4	52.1

Source: OECD (2015) – 2014 data.

With respect to access to leave for precarious workers, France and Slovenia have compulsory insurance for the self-employed, Denmark includes the self-employed in its voluntary but mainly universal insurance schemes while in Germany and Spain there are opportunities for voluntary opt ins. The UK does not include the self-employed in statutory maternity pay but they are eligible for the maternity allowance that provides a low rate of benefits for 39 weeks but equal to the low rate payable for statutory maternity pay after the first six weeks (when 90% of earnings is provided), so that the gap for low paid workers who are employed or self-employed is not so great. In contrast in, for example Germany, those who are not insured which will include the self-employed who do not voluntarily make payments will only be entitled to sick pay at €200 per month compared to 67% of net earnings under the insured scheme for around one year, so that the gap is potentially huge.

Those who work intermittently or on short hours may also have difficulties accessing statutory maternity pay in the UK as they have to work 26 weeks continuously with the same employer immediately prior to leave and at earnings above the lower earnings limit. In contrast other countries provide more open eligibility for their much higher benefits. For example Denmark requires a mother to have worked 120 hours in the preceding 13 weeks but this can be with more than one employer and Spain only requires that someone has worked 360 days over their whole working life with further waivers for those aged under 26 who have had less time to build entitlements. France, Germany and Slovenia cover all employed women but in the UK to be eligible one must also earn above the lower earnings threshold.

Overall it seems that the more generous statutory schemes tend to provide relatively universal, inclusive coverage, although the self-employed in Germany and Spain are less likely to be covered along with mini jobbers in Germany (see table 6.4). The UK stands out for having the least generous system and is the most likely to exclude those in various forms of precarious work. However the maternity allowance for which many precarious workers will qualify provides benefits that are similar to statutory conditions after the first six weeks, underlining the meanness of the statutory provision. However, the precarious workers are also likely to be denied access to employer-specific schemes which are important in the UK context and which also tend to require a minimum of 26 weeks continuous employment with the same employer at earnings above the lower earnings limit. This exclusion from private sector benefits is thus perhaps the more significant exclusion in the UK due to low statutory provision.

Table 6.4. Precarious work and maternity pay protection gaps

Inclusive features	Exclusive features
<ul style="list-style-type: none"> ○ Short/flexible continuity requirements -all except UK ○ No or low earnings threshold –ES,FR,SI,DK,DE ○ Reduced contribution record for young -ES ○ Self-employed insured -FR,SI,DK ○ Maternity allowance (e.g. for self employed) 	<ul style="list-style-type: none"> ● Long/ rigid continuity requirements –UK ● Earnings threshold -UK ● Self-employed excluded -UK, or unless opt in- ES, DE ● Large gap between statutory maternity pay and non-insured maternity allowances -

close to statutory maternity pay -UK	DE,FR,ES
	• No maternity allowance -DK

Pensions

For those in precarious work, the key issues with respect to pensions relate to the level of pensions for low paid workers, the extent to which those on short hours, low pay or with intermittent work records qualify for pensions and the penalties for not qualifying and the treatment of the self-employed. In addition where second tier pensions are important, precarious workers may miss out due to the lack of access and eligibility and to variations in provision across sectors- with the sectors using more precarious work possibly making more limited second tier provision.

Table 6.5 shows the implied pension replacements rates based on statutory public pensions and on mandatory private provisions (Denmark only) for those on the average wage and half the average wage according to the 2012 rules and for those qualifying for a full pension. Due to staging of changes in pensions and differences in historical rules, the current situation for low paid (half average earnings) and those on average wages are likely to be different but as we are concerned with the prospects for current precarious workers not current pensioners this provides an indication of inclusion or exclusion for these groups.

Table 6.5. Implied pension replacement rates based on statutory public pensions and mandatory private pensions according to 2015 rules

Replacement rate for half average earnings	Replacement rate for average earnings
DK -107%	DK-68%
ES-82%	ES-82%
FR-57%	FR-55%
SI-44%	SI-38%
UK-43%	UK-22%
DE-38%	DE-38%

Source: OECD Pension at a Glance 2015 table 6.10 <http://www.oecd-ilibrary.org/docserver/download/8115201ec018.pdf?expires=1471294286&id=id&accname=guest&checksum=AD748694AC6FF95D98C6434D80885CA5>

Most of the countries have a higher replacement rate for the low paid due to minimum pension rules or higher replacement rates at lower wages for those with full contribution records, thereby providing some additional protection for the low paid; the exception is Germany with no minimum. Spain has the same replacement rate for the low and the average paid but this is due to the high minimum standard replacement rate and a declining level of wages. The very high replacement rate in Denmark reflects the strong provision of minimum pensions in both the public and private mandatory pension system; even if we only consider the public system the replacement rate for the low paid on half the average wage would be high at 56%. Slovenia and the UK have similar replacement rates for those on half average wages but the UK has much lower replacement rates for those on average wages as Slovenia has an earnings related system but with a high minimum while the UK has a mainly flat rate system.

Table 6.6 compares the inclusive and exclusive features of the pension system according to the dimensions we have identified of significance for precarious workers. A key characteristic of inclusion is where there is a right to a pension independently of employment record. This applies only in Denmark which has a citizen's pension to the value of around 17% of the average wage. In other countries access to the minimum pension is dependent upon meeting the contribution requirements often with pro rata decreases in the minimum according to contribution records. Only Germany does not have a minimum pension level so that the 38% replacement rate could still apply to very low earnings. Where pension entitlements are low in countries other than Denmark there is either provision for additional payments for dependants, which may be used to cover shortfalls in women's pensions- or means tested support.

As the self-employed also need to be able to retire it is relatively common to include the self-employed within the pension system on a compulsory basis. Slovenia has recently extended this requirement from only the self-employed who have registered businesses to those working on work contracts, even though this group does not have a formal employment status in Slovenia. However in Germany only some self-employed are required to join and only around a quarter are in mandatory schemes even though voluntary opt in is possible. Spain also allows the self-employed to choose to make lower contributions and thereby receive lower benefits. In Denmark the self-employed are not covered by the mandatory second tier pension and therefore subject to lower replacement rates. Inclusive change includes the Spring 2016 agreement by the union HK (National Union of Commercial and Clerical Employees) to set up an occupational pension scheme with a fund covering self employed (and employees) who fall outside collective agreement coverage.

Table 6.6. Precarious work and pension gaps

	Inclusive features	Exclusive features
Minimum pensions	<ul style="list-style-type: none"> ○ Citizens' pension-DK ○ Minimum full pension- all but DE ○ High replacement rate for low paid- DK, ES, 	<ul style="list-style-type: none"> ● No minimum full pension-DE
Treatment of self employed	<ul style="list-style-type: none"> ○ Compulsory insured- all but DE; ES lower option possible; DK not included in mandatory 2nd tier 	<ul style="list-style-type: none"> ● No mandatory insurance-DE- only c.25% SE insured
Contribution years	<ul style="list-style-type: none"> ○ No minimum- FR,DK ○ Years for full pension < 40-UK,ES 	<ul style="list-style-type: none"> ● Long minimum years-ES,SI ● Years for full pension>40-FR
Treatment of those on low earnings, short hours	<ul style="list-style-type: none"> ○ Compensation options for part-timers- SI, DK,ES 	<ul style="list-style-type: none"> ● Earnings or hours thresholds- UK,DE,FR ● Benefit reduced by hours worked- SI,DK
Care credits	<ul style="list-style-type: none"> ○ Long-UK ○ Medium-DE, FR 	<ul style="list-style-type: none"> ● Short-SI,DK,ES
2nd tier pensions	<ul style="list-style-type: none"> ○ Important but mandatory-DK, FR 	<ul style="list-style-type: none"> ● Exclusion of short tenure staff- DK ● Important but variable- DE, UK

Eligibility conditions include first of all the minimum years required to receive any pension and the number of years needed for a full pension. Some countries have no minimum years-France,

Denmark- in contrast to Spain and Slovenia that have a minimum of 15 years (down from 20 in Slovenia previously). Germany and the UK have a minimum of five years though the UK is about to increase this to 10. The UK requires the shortest number of years of contributions for a full pension- 30 about to rise to 35 having been recently reduced from 40 to 30 and Spain has the second shortest at 37. Others require 40 or more but with rising minimum pension ages, the notion of contribution years for a full pension is becoming less salient. Most reduce pension entitlements pro rata according to gaps between actual contribution records and those required for a full pension. The German system is more based on actual earnings which provide pension points (one for each year at average earnings).

Treatment of those on part-time, short hours or low earnings is highly variable. In Slovenia and Denmark pensions are reduced proportionately by hours worked although in Denmark part-timers can choose to insure as full-timers. Also in Slovenia those who work part-time as part of parental leave are insured as full-timers. In Germany and the UK those on low earnings are excluded from making contributions though Germany has a voluntary opt in for mini jobbers. However once part-timers earn enough to be included in the UK they receive the same flat rate pension as full-timers.

Even where contributions are due there are issues as to how many must be made to qualify for a contribution record. In France for example the records are by quarter and for a quarter to count a part-timer must work 150 hours in a quarter at the national minimum wage to be counted, which is around 11 to 12 hours a week, down from 200 hours previously. In contrast in the UK the lower earnings threshold exceeds 15 hours at the minimum wage and in Germany the mini jobs limit is around 12 hours at the new national minimum wage. In the UK there is an annual earnings threshold for the new auto enrolment pension savings scheme below which employers do not need to auto enrol staff though above another but lower threshold part-timers can ask to be enrolled and then the employer must make a contribution. On a more positive note Spain has abolished the requirement for part-timers to have longer minimum years of contributions for pension entitlements which removes a double penalty where part-timers are penalised for lower earnings and for lower recorded contributions.

One source of compensation for women working in precarious jobs tends to be pension credits for childcare. These vary considerably in generosity; the most generous by far is the UK, providing credits of up to 12 years per child but this is for the lowest pension entitlements. Medium levels of care credits are provided in Germany and France but in Slovenia and Denmark credits are limited where it is assumed that most women will be working over the life course. Spain stands out as a country where women have not traditionally worked after motherhood but where care credits have been only recently introduced and at a minimum level and do not count towards the 15 years minimum for a pension entitlement.

There are also major differences between the countries in the importance of second tier pensions. In Denmark these are extremely important and high but also mandatory. However those on fixed term contracts or temporary work may miss out as there are tenure requirements before joining of between 2 to 10 months. Nevertheless these generous second tier pensions coexist alongside generous public provision which will cover temporary workers. The UK and Germany are the other two countries where second tier pensions have significance though many of the occupational pension schemes have been closed down in the private sector in the UK and made much less

generous for future generations in the public sector. In Germany the second tier pensions are becoming more important but are highly variable by sector, with the outcome that many precarious workers may be excluded.

Reliance on social assistance to replace or top up pensions is increasing in some countries. There are particular concerns in Germany due to no minimum pension entitlements and the underinsurance problems among the self-employed. These problems are also present in the UK which has a means-tested pension's credit system similar to in-work tax credits and has faced difficulties in making the case for individuals to engage in private pension savings to replace the system of employer-based occupational pensions as few would receive sufficient to compensate for not receiving means tested benefits. UK governments have taken steps to re-incentivise savings with a new auto enrolment scheme albeit at a low level, a new high flat rate pension from 2016 thereby reducing means testing and liberalising rules on the use of private pension. Nevertheless means-tested top ups are likely to increase in importance as private occupational pension schemes decline.

Some pension reforms have been towards more inclusivity -for example Spain and France have reduced the penalties paid by part-timers (France reduced the quarterly minimum from 200 to 150 hours at the SMIC and Spain stopped requiring full-time years of contributions to build entitlement). Slovenia has reduced its minimum year's requirements from the high of 20 to 15 and Spain has belatedly introduced some care credits, albeit on the low side. Slovenia has plugged a gap in pension provision by requiring those employed under work contracts to be insured for pensions. Most countries have raised retirement ages, however, with implied increases in contributions for a standard or full pension and have done little to offset the effect of this increase on those in precarious work where establishing sufficient contributions over an even longer working life may be difficult.

Summary: Precarious work, social protection and the survival of the full-time standard employment model

This overview of the extent to which those in precarious work have access to social protection has found that the form of social protection that is most available to all forms of employment is maternity and parental leave. Eligibility requirements are limited except in the UK which also has the lowest benefits but those excluded may receive maternity allowance which is quite close to the statutory benefits for low paid workers.

Pension protection is also more widely available than unemployment protection if only because in five of the six countries the self-employed are required to be insured. Furthermore although most systems are earnings related (the exception is the UK) minimum pensions provide for partial compensation for low pay. However while in some countries part-time workers would be able to qualify for minimum benefits as contribution requirements do not require full-time work, in Slovenia full-time insurance is needed for the full pension benefit. This is also the case in Denmark though there are opportunities for part-timers to insure as full-timers. Exclusions from pension contributions due to earnings or hours thresholds are still issues in several of the countries- for example in UK and the Germany contributions are not paid until earnings reach a certain level and in France contributions do not count unless earnings reach a certain amount per quarter. Exclusions for second tier pensions matter more in Denmark, UK and Germany but although these are mandatory in Denmark there are exclusions for short tenure workers.

Unemployment benefits are the most exclusive benefits as most self-employed are not eligible except in Slovenia (registered businesses only) or Denmark (full-time self-employed only). Voluntary opt in exists in Spain and Germany but are not widely used. Minimum benefit levels are provided in all countries except Germany and support the low paid and part-time workers but benefits are reduced for part-timers in Slovenia. Spain, France and Denmark seem to have done most to allow those working intermittently to accumulate rights to unemployment benefits and these are particularly generous in Denmark as they last two years for everyone, while others provide much shorter benefits. Social assistance systems are important for precarious workers because they are in danger of not having or exhausting contributory benefits but these vary widely in their strictness and the level of benefits, with Spain standing out as not having a national system and having to extend contributory benefits (albeit on a means-tested conditional basis) to overcome this problem in the crisis.

What is striking from this review is the continued embeddedness of the full-time earner model in the social protection system. This applies even when allowances are made for non-standard employment as often these allowances are structured in ways that treat non-standard workers as if they were in standard employment. This is particularly interesting in the case of Denmark and Slovenia where the system is effectively based on women as well as men being engaged in continuous full-time employment and compensations are made against this standard model. In Denmark part-timers are effectively encouraged to insure themselves as full-time, in Slovenia those on reduced hours are treated as full-time workers and in both countries care credits for pension are short. This dominance of the full-time model is also found in the treatment of the self-employed who have to work full-time if they want to insure themselves for partial or full unemployment. Spain also upgrades part-time days worked to make them more equivalent to full-time and Germany gives care credits for mothers working part-time up to full-time work at the average wage- the basis for the points system in German pensions.

This focus on full-time work may stem in part from the assumed link between full-time work and meeting subsistence needs, such that only when one works full-time does one get access to full benefits providing for subsistence. In the UK where contributory benefits are residual and subsistence benefits only provided on a means tested basis, the focus is on exceeding an earnings threshold but not on working full-time. The tensions between precarious work, subsistence needs and social protection systems are explored further in the next section where we consider the increasing trend towards combining work and benefits.

Precarious work and the blurring of the out of work/in work divide

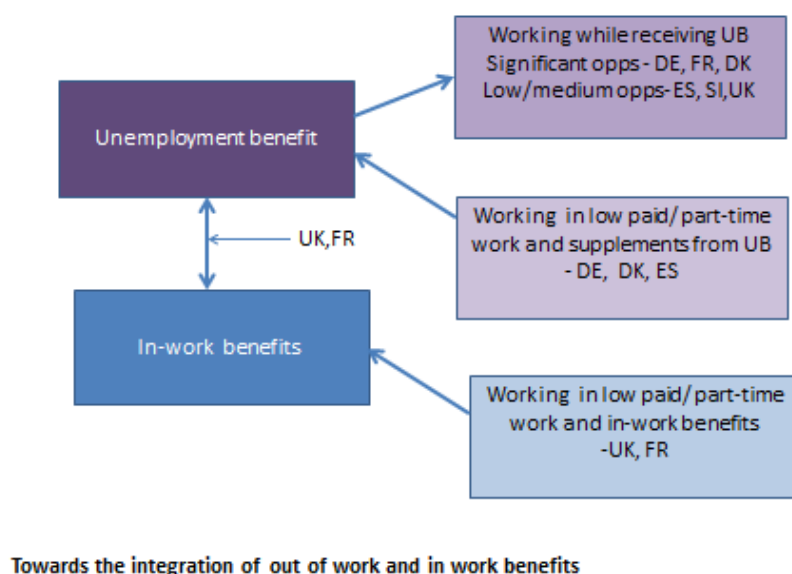
The rise of precarious work in all its forms- low pay, short and variable hours, outsourced, intermittent and temporary work, as well as bogus self-employment challenges the notion on which most welfare states have been founded, that social protection is only needed for those who do not have work since those in work were assumed to have jobs that provided for subsistence needs. However, precarious work is not only the cause of the increasing need to provide support for those in work, but is also the outcome in part of pressures on those who are not in full-time or stable employment to take up work, whatever its quality, on the grounds that any work is better than no work. These developments hark back to the Speenhamland system in the UK where those in the work house were required to undertake outside work and as a consequence undercut the wages

available to those needing to provide for the full costs of their subsistence and this increased the flow into the work house (Deakin and Wilkinson 2005).

In recent debates on flexibility and precarious work, the conflict between promoting the spread of precarious work that pays below subsistence, under the mantra of the efficiency and inclusivity of flexible labour markets, with the continuing political need for the state to provide a floor to minimum income has been under-researched and interrogated. The problem of the long term unemployed has been attributed to work shyness or lack of employability more than to the problem of the types of jobs now available for the unemployed. The burden of reconciling the development of below subsistence precarious work on the one hand with meeting needs for subsistence on the other has been passed primarily to both the individuals and the state without intervening assistance and responsibility accepted by the employing organisations who are benefitting from flexible and low paid work

These competing logics arise out of a need to guarantee subsistence in even neoliberal welfare systems such as the UK in the context of a neoliberal focus on all claimants being work active and work disciplined. The outcome has been a trend towards integration of both the status of unemployment and employment and of out-of-work and in-work benefits. These processes of integration are outlined in figure 6.1 and apply to each of the six countries although in different forms and to different degrees.

Figure 6.1. Towards the integration of out of work and in work benefits



Slovenia has perhaps moved least in this direction, but even here there has been a controversial move, opposed by trade unions to allow those claiming unemployment benefits to work up to 200 hours per years in casualised work. This is a limited level of engagement but in a country with a strongly embedded standard full-time employment model for all except student workers, this development may be consider the thin end of a wedge towards more flexible work.

Spain follows Slovenia in not providing in-work benefits for those on low paid work but has introduced two innovative arrangements induced by the crisis to allow the use of an individual's unemployment benefit fund to either enable an unemployed person to take a part-time job (by allowing the use of the fund to supplement income by up to one day a week) or to prevent redundancy by allowing the individual to use their unemployment benefit to fund work sharing or partial redundancy. These can be seen as allowing those who normally seek or 'need' full-time employment to work on a more part-time basis. Spain's relatively generous unemployment benefits system with relatively easy access to entitlements can also be seen as the means by which employers have been able to use short temporary contracts with many moving between wage work and unemployment on a regular basis. However, the severity of the crisis is putting this system in jeopardy and required the extension of unemployment benefits on a means-tested basis due to the increasing exhaustion of entitlements to contributory benefits.

The Danish flexicurity system is more explicitly recognised as requiring the state to take on a strong role in decommodification, with employers free to lay off their employees due to downturns in demand because they know their employees will receive significant support from the state. This relatively frequent movement between employment and unemployment and at similar income levels for manual workers may in some respects reduce distinctions between employment and unemployment status by income but employers have so far had to continue to provide jobs that provide relatively high and guaranteed wages. In other words, the only in-work benefits are subsidies for part-time employment or for full-time self-employed suffering from low trade and thus part-time work. These are seen as transitional support, only available for 30 weeks in a two year period.

Three countries have moved further towards an integration of benefit support for those in both employment and unemployment. In Germany this system has emerged out of policies to allow the unemployed claiming social assistance benefits (Hartz IV) to undertake increasing amounts of wage work with more limited clawbacks or tapers. This has merged into a form of in-work benefits with those working for low pay or on short hours also able to claim this benefit support (which is referred to as unemployment benefit even if some recipients may never have been unemployed). A parallel but more developed system of merger is taking place in France where those on long term unemployment benefits now have no limits to the hours of work or earnings they can undertake (their benefits may fall to zero but they remain within the system) and those in wage employment can also seek subsidies through the RSA minimum income system. There are now plans to merge these out of work and in-work benefits, as proposed by the OECD. The UK is also in the process of explicitly merging its significant in-work benefit system with its unemployment benefit system into a new system called universal credit. The UK has so far retained a restrictive position for those on unemployment benefit undertaking additional paid work and the unemployed have had to find jobs offering at a minimum 16 hours of work, sometimes higher, before moving from out of work benefits and into work. At the same time it has had an extensive system of in-work benefits to support the increasing share of low wage jobs in the UK. The new system should enable more pressure to be put on the unemployed to take whatever jobs are available including zero hours contracts. However, it might also enable employers to shift more of the risks of low demand back on to the state as it would provide a more seamless subsidy to those losing hours of work.

The cost of this system has, however, become a concern for the UK government, motivating two responses. First, it has implemented significant reductions in the generosity of the benefits including cuts in the earnings that individuals can obtain before facing very high clawback rates. Second, it legislated for the first time for a substantial rise in the national minimum wage in an effort in part to reduce pressures on the in-work benefits system and to shift more of the responsibility for subsistence costs to employers; from the perspective of the individual workers, however, the cuts to the in work benefits credit in the main exceed the gain from the higher minimum.

These changes in the UK raise the question of the sustainability of the precarious work systems in countries with some commitments to provide a minimum income floor but which are also committed to a low tax regime. In the UK the mismatch of the current policy agendas is exemplified by requirements on universal credit claimants to seek to work for at least 35 hours (if earning the national minimum wage) in order to reduce the cost of in-work benefits – and to spend their time in job search if they are not able to find 35 hours of work. There is however no requirement on employers to provide full-time work or to undertake not to sack their flexible workers if they take up work with a second employer and can no longer be completely flexible on shifts.

The implications of these trends for the future of precarious work are not fully clear. What is evident is the potential for clashes between welfare support and flexible labour market policies. So far there is a lack of effective ways of reconciling those conflicting needs, except perhaps in Denmark where its flexible labour market relies on acceptance of high tax rates (in a context of high wages). The integration of unemployment status with precarious work or low wage precarious work with benefit support on the one hand legitimises and supports the use of precarious work but on the other hand it also provides support for those who might end up in these forms of work without access to other sources of income support either from the state or the family. The dilemma continues over whether or not support for precarious workers normalises and promotes precarious work or is a necessary response to changed conditions.

Precarious work and social contributions

Precarious work may be promoted by contributions systems that favour low paid or irregular jobs. Alternatively governments may try to change employer behaviour by providing incentives, for example for permanent job hires. One strong incentive for precarious work is the posted worker directive that allows social security contributions to be paid in the home rather than the host country and according to home country rules, thereby considerably cheapening the costs of posted workers in countries with high levels of social contributions. The incentive to enter self-employment is also strongly dependent upon the insurance regimes, particularly where it is compulsory. Table 6.7 sets out the main ways in which the contribution systems may be likely to affect the incidence of precarious work in the six countries. Taking employees first, Germany has exempted employees on mini jobs from contributions, thereby providing incentives for people to enter mini jobs. However, employers face costs which are proportionately higher so that the main incentive for mini jobs was the absence of a minimum hourly pay rate prior to the 2015 national minimum wage.

In Denmark the main cost benefit for employers comes from the exclusion of short tenure workers from second tier mandatory pensions. The flat rate fees for the public pension system based on hours of work are regressive but set at a low level. In Spain and Slovenia the main variations in social

security contributions are designed to incentivise the offer of permanent jobs particularly for those moving out of unemployment. However despite the persistence of these schemes, so far there has been limited impact.

Table 6.7. The relationship between social contributions and precarious work

	Contribution rates for employers: Incentives/ disincentives for NSFE -employees	Contribution rates for employees: Incentives/ disincentives for NSFE- employees	Self-employment-incentives/ disincentives for employers to use	Self-employment-incentives/ disincentives for workers
DE	Disincentives for mini jobs	Incentives for mini jobs as not liable for SSCs	Contracting for SE does not include pension costs	Workers have to pay equivalent of employer plus employee contributions
DK	Employers do not have to pay 2 nd tier mandatory pensions for short-term staff	Some pension contributions (ATP) are flat rate based on hours - more expensive for low paid but low overall		Fees are similar to employee contributions
ES	Incentives for permanent contracts for the unemployed			Lower contributions for SE possible but with reduced benefits – but also possible to opt in to insurance
FR	Contribution reduction for jobs at SMIC level but phased out by 1.6 x SMIC; additional contribution for short-term contracts			Self-employed normally have to pay equivalent of employer plus employee contributions but new lower rate for category of auto-entrepreneur.
SI	Incentive for permanent/ disincentive for temporary hiring of the unemployed. Employer pays full-time contribution for reduced hours staff	Incentives for reduced hours for parents as employer pays full-time SSCs	Work contracts only have to include pension costs not other SSCs	Workers have to pay equivalent of employer plus employee contributions
UK	Incentives to provide part-time jobs to maximise benefit of no SSCs on earnings below lower earnings limit	SSCs not payable on low earnings but applies for all employees	Low SSCs for SE reduces outsourcing costs	Low SSCs for SE reduces costs for workers

Note: SSC = social security contribution; NSFE = non-standard form of employment

Both the UK and France have low social contributions for employers of those on low wages and this is extended to low wage employees in the UK. In the UK the lack of social contributions for employers on earnings below the lower earnings limit provides an incentive for part-time work as the social contributions on a full-time job divided into two or three part-time jobs would be much lower. For an employee the lack of social contributions provides a subsidy to low wages and may not

be a major concern for those who may receive not only free health care but also pension credits on grounds of childcare responsibilities (main carer up until the child is 12 years old). Overall the UK government has been pursuing a policy of taking low wage workers out of tax and national insurance; this has also reduced the tax take on higher paid workers as all receive the higher tax thresholds but the overall effect is to create a view that it is good for the low paid not to be contributing to the costs of social welfare or public services.

This approach is also followed in the UK with respect to the self-employed where their contributions are compulsory but at a low level, and do not compensate for foregone employer contributions. This is a hidden subsidy to employers making use of self-employed labour. Denmark also charges the self-employed the same as employees but in other countries if the self-employed is insured (compulsory everywhere but Germany) they pay rates equivalent to the employer and the employee contributions combined. Spain offers a lower contribution option with lower benefits which is often taken up.

Thus self-employment is a relatively cheap option for the individual workers in the UK, Denmark and to some extent in Spain and Germany though in the latter two cases at the risk of no or lower benefits. Slovenia has recently required firms offering work contracts to include pension contribution costs but this is not required for example in Germany where insurance is voluntary.

7. Representation gaps

Developments in the position of unions during recent decades have been shaped by a combination of structural, cyclical and institutional factors (Visser, 2006). Widely shared factors across countries include the rise in service employment, slower economic growth, processes of privatization, and the rise of flexible employment contracts. These factors have contributed to a general downward trend in union power and the decentralization of collective bargaining. At the same time, as we argued in chapter 3, institutional factors such as the existence of union-administered employment funds, the degree of union acceptance, and the prevalence of national and industry-wide bargaining contribute to uphold important differences between countries. In addition, social dialogue is still one of the four core pillars of the European social model and upheld in European Commission policy documents as necessary in shaping labour market and social policy.

The aim of this chapter is to investigate both the overall strength and the inclusiveness of representative structures for workers (unions and works councils) in the six selected countries. Following the framework of protective gaps introduced in chapter 2, three gaps can be defined concerning representation:

1. *Institutional gaps* such as a lack of unions or work councils and a lack of effective social dialogue in the firm, sector or supply chain;
2. *Eligibility gaps* whereby certain aspects of employment (e.g. employment status, type of contract, number of hours, location of employment) limit access to the different forms of representation;
3. *Involvement gaps* in situations where trade unions or other representative bodies are less likely, or less able, to include and represent certain groups of workers, as well as evidence of limited access to managers for such workers.

This indicates that we can broadly distinguish two major aspects in a comparative context. First of all, we need to define ‘institutional gaps’ by assessing the overall availability of representation as determined by several factors such as the position of the unions, employers’ organizations, other representative institutions such as works councils, and the overall climate of social dialogue. Secondly, we need to assess the varied inclusion of different workforce groups within these structures, either because of the existing regulation and structures in the labour market (‘eligibility gaps’) or because of the limited interest and attempts to include these groups (‘involvement gaps’).

This chapter investigates these gaps through a comparative analysis divided into two main sections. The first section addresses the prevalence of *institutional gaps* that face all workers. It discusses the structures of unions and presence of national consultation, the extent of organization and collective bargaining, and representative structures at the workplace including works councils. The second section critically assesses the inclusiveness of these representative structures, with a particular focus on workers in non-standard forms of employment who may be relatively poorly served either through structural challenges, such as the relative absence of unions in certain sectors and the

exclusion of certain employment types through regulation (*eligibility gaps*), or through differences in commitment to these groups (*involvement gaps*).

Institutional gaps in representation

Union structures

Table 7.1 lists the main characteristics of union structures in the six countries. When it comes to national confederations, the differences are illustrative of the diverse patterns within Europe. The UK stands apart with a single union confederation although the situation in Germany is somewhat similar because of the dominance of the DGB with over 80 percent of all union members. Denmark is representative of the pattern in Northern Europe with different confederations that are primarily organised according to occupational and educational differences and a rather strong unity among unions. France, Spain and Slovenia are representative of the most common European pattern whereby unions are traditionally organised on political or religious grounds.

Table 7.1. Union structure, dominant level of organization and national consultation

	National confederation(s)	National consultation	Dominant level of organization
DE	DGB as main federation (>80%)	Limited to rare occasions such as a national agreement on agency staff (2003) and 'crisis corporatism' after 2008	Industry
DK	Three confederations: LO (about 50%), FTF & Akademikerne. Strong growth 'yellow unions' (around 10% of all employees) ¹	Strong and representative social partners but dominance sector and company level	Industry - sector framework agreements define the scope for company bargaining
ES	Two main national confederations: CCOO & UGT, rather equal in size. Also regional federations (i.e. ELA/STV and LAB in the Basque Country, CIG in Galicia)	National level agreements on both non-pay issues and pay increases for lower-level bargaining	Industry – but new law gives precedence to company arrangements
FR	Five main confederations: CGT, CFDT, FO, CFTC and CFE-CGC	National level consultation of employers and unions for new legislation and negotiations on issues such as social security and industrial relations	Industry and company
SI	Fragmented union structure with seven confederations: ZSSS, KNSS, KSS Pergam, Konfederacija '90, Alternativa, Solidarnost and KSJS. ZSSS is clearly dominant	No national bargaining since 2005 but national agreements and discussion through the non-formal but important tripartite Economic and Social Council	Industry
UK	Almost all unions affiliated with TUC	Limited to rare occasions such as the introduction of the ICE and TAW directive	Company or local level

Notes: ¹ There is also an organisation for managerial and executive staff named Ledernes Hovedorganisation but it only has around 100,000 members.

Sources: based on national reports, additional national statistics and the ETUI webpages on industrial relations: <http://www.worker-participation.eu/National-Industrial-Relations/>

There are important differences in the prevalence of social dialogue at the national level. In the UK and Germany, social dialogue and bargaining at the national level is almost non-existent. However, in Germany there was some 'crisis corporatism' and rehabilitation of the social partnership model after 2008 (Jaehrling et al. 2016). There have also been agreements on the EU's information and consultation directive (2003) and agency workers directive (2008) in the UK (Grimshaw et al. 2016). National bargaining for the private sector in Slovenia ceased in 2005 as employers withdrew following changes in legislation. However, tripartite national agreements and discussion through the non-formal but important tripartite Economic and Social Council cover a range of economic and social issues (Ignjatović & Kanjuo Mrčela 2016). National bargaining continues to play a significant role in the other three countries. National level agreements, bipartite and tripartite, in Spain can cover both pay and non-pay (e.g. training, social security, gender equality, health and safety, attempts to reduce temporary and increase permanent employment) issues for lower-level bargaining (Muñoz de Bustillo Llorente and Pinto Hernández 2016). In France, national level bargaining has been strengthened through 2007 legislation which requires the government to consult employers and unions when developing legislation in industrial relations, employment and training. There are also national negotiations on issues such as social security and industrial relations (Kornig et al. 2016). In Denmark, an agreement between the largest confederation LO and the employers' federation DA covers the right to organise, rights on dismissal and industrial disputes. However, pay and other conditions are set at the industry level, with substantial room for negotiations at company level (Rasmussen et al. 2016).

The dominant level of organization in five out of six countries constitutes the sector or industry (AIAS-ICTWSS 2015). It is only in the UK that the local or company levels dominates. However, several countries have experienced processes of decentralization, because of a shared support for greater flexibility at the local level as in Denmark (Rasmussen et al. 2016), because employers have withdrawn from employers' organizations and collective bargaining as in Germany (Jaehrling et al. 2016) and Slovenia (Ignjatović & Kanjuo Mrčela 2016), and because legal changes have given a greater role to company bargaining as in Spain (Muñoz de Bustillo Llorente and Pinto Hernández 2016). This is discussed further in the next section on collective bargaining.

Unionization rates and collective bargaining

There are many different factors that determine the strength of unions. The unionization rate is an important factor but the relevance of unions is also illustrated by their role in alternative representative structures such as works councils (e.g. Germany, France, Spain) or their ability to mobilise workers (e.g. France). Similar considerations relate to processes of collective bargaining where a focus on bargaining coverage can ignore aspects of scope, impact and inclusiveness.

Table 7.2 provides an overview of the unionization rates across the countries. The average for the European Union as a whole is 23% but this is held down by relatively low membership in some of the larger countries.⁴⁵ Where available, table 7.2 presents separate data for the private and public sectors, full-time and part-time workers, men and women, and temporary workers. Denmark is representative of other Nordic countries with a high overall union density. This can be ascribed in part to the payment of unemployment and other social benefits through trade unions (the 'Ghent

⁴⁵ ETUI data 'Trade unions across Europe', <http://www.worker-participation.eu/index.php/National-Industrial-Relations/Across-Europe/Trade-Unions2>.

system') as well as to the strong social customs in Denmark, the high workplace presence of shop stewards, and broad trade-based union movement without strong political and religious differentiation. The other outlier is France with a unionization rate of 8% while unionization in the other four countries is not too dissimilar ranging from 18-25%. There are some important commonalities between at least some of these countries. The data illustrate the tendency for higher unionization in the public than the private sector.

Table 7.2. Unionization data in six countries, 2014

Country	Union density	Private	Public	Full-time	Part-time	Men	Women	Temporary
DE	18%	14.1% ¹	43.2% ¹	-	-	24.7% ²	12.9% ²	-
DK	68%	64.5% ²	83.4% ²	-	-	73.4% ³	68.5% ³	-
ES	19%	15.1% ³	33.0%	18.5%	13.7%	17.8	14.8	13%
FR	8%	≈ 5%	≈ 15%	9.5% ⁴	6.3% ⁴	9% ⁴	7.5% ⁴	2.4% ⁴
SI	22%	-	-	-	-	-	-	-
UK	25%	14.2%	54.3%	26.6%	20.6%	23.4%	28.7%	14.5%

Note: All data from 2014 except 1. 2010, 2. 2009, 3. 2008, 4. 2002.

Source: ILO database for labour statistics

Some countries have specific requirements for unions to be considered representative. For example, minimum levels of support for union representatives during works council elections are required in *France* and *Spain* for unions to be considered representative at the national, industry and company level (Kornig et al. 2016, Muñoz de Bustillo Llorente and Pinto Hernández 2016). The representativeness of unions in *Slovenia* constitutes an important requirement for the extension of agreements by the government (Ignjatović & Kanjua Mrčela 2016).

Data on collective bargaining coverage also show much diversity, varying from a mere 29% in the UK to 98% in France (table 7.3). At least four aspects characterize the differences in collective bargaining: the level of bargaining, the existence or absence of legal structures that increase coverage through extensions, the relationship between agreements, and the contents of agreements. A first explanatory factor concerns the dominant level of collective bargaining with bargaining at the national and to a lesser extent industry level contributing to a wider coverage. At the same time, national agreements can be limited in scope, detail and standards and may have little impact on employment and working conditions (see e.g. Visser 2006).

Table 7.3. Collective bargaining coverage

Country	Coverage	Levels of bargaining	Extensions? Use?	Derogation
France	98%	National, industry, company	Yes/High	Yes
Slovenia	90%	Industry, company	Yes/High	Yes
Denmark	84%	Industry, company	No	No
Spain	70%	Industry, company	Yes/Medium	Yes
Germany	59%	Industry	Yes/Low	Yes
UK	28%	Company	No	Yes

Source: data on collective bargaining coverage from Eurostat.

Bargaining structures can be rather uniform but also very complex (see also chapter 3).⁴⁶ Bargaining in the UK largely takes place at the level of the company or workplace, although industry level bargaining remains the norm for most of the public sector. Employers are not bound to industry level agreements where they exist, even if they are members of the employers' federation involved. In Germany and Slovenia industry level bargaining dominates. In Germany, agreements tend to be negotiated at the regional rather than the national level but the main elements and in particular pay increases tend to be similar across regions. The exception is East Germany where pay and other conditions still tend to be inferior. Denmark has negotiations at both industry and company levels with relatively clear articulation between levels such that industry agreements delegate conditions for negotiation at the company level, including pay. The main conditions are set through negotiations at the company level for 85% of employees in LO unions while industry bargaining is dominant in certain industries such as the transport, food and commercial cleaning sectors. In France, bargaining takes place across all three levels with national bargaining covering issues such as social security and industrial relations while industry and company negotiations cover more specific issues such as pay and working time. Spain has a complex structure below the national level with a combination of industry, regional, provincial and company level agreements. Most employees (just over half of those covered) are protected by provincial agreements. In recent years, legislative changes have promoted company-level agreements and they have often taken precedence even if higher level agreements are in place.

Another source of differentiation concerns the existence and use of legal structures for the extension of agreements. As illustrated by its low coverage, there is no extension in the UK. Neither is there extension in Denmark although all employees of members of the signatory employer organizations are covered in industry agreements, including those employees who are not union members (Rasmussen et al. 2016). The possibility to extend collective agreements has existed for a long term in Germany but lost importance during the 1990s through a blockade strategy by the confederation of employers' associations (BDA). However, legislative change allowed the declaration of generally binding industry minimum wages after the mid-2000s. In some cases the government made use of their newly established right to set generally binding industry minimum rates without the consent of the respective employer organisations but through approval by a specially appointed commission (see Jaehrling et al. 2016: 8). The introduction of the national minimum wage in 2015 did not bring an end to but has actually facilitated joint application by employers and employees for industrial minimum wages. Collective agreements are automatically extended to all employees in the sector in Spain but firms can opt-out when facing economic difficulties, a process facilitated by 2012 reforms (Muñoz de Bustillo Llorente and Pinto Hernández 2016). The extension mechanism is more regularly used in Slovenia and France. In Slovenia, many industry agreements are extended if the signatory union(s) is/are representative and the employers' association employs more than half the employees in the industry. In France, the frequent use of mechanisms together with the legal obligations for employers to engage in negotiations underpins its very high collective bargaining coverage, despite the low union density.

A third feature of collective bargaining concerns the relationship between agreements, either through a favourability principle and/or derogation clause. In the UK and Denmark the relationship

⁴⁶ The following assessment draws heavily on ETUI data and documentation available at [tp://www.worker-participation.eu/National-Industrial-Relations/Countries/](http://www.worker-participation.eu/National-Industrial-Relations/Countries/).

between agreements is not defined in law but dependent on the agreement between the contracting parties (AIAS-ICTWSS 2015). In Denmark, the sectoral agreement act as a framework for local bargaining and the rules and regulations of the sectoral agreements apply if social partners at the company level cannot reach agreement: for example, in weakly organised sectors, such as commercial cleaning, most wage conditions are fixed in the sector agreement (Rasmussen et al. 2016). The other four countries define the favourability of higher-order agreements in law, but all allow for derogation under certain conditions (AIAS-ICTWSS 2015). Lower level agreements in Slovenia, Spain, France and Germany are usually intended to improve on working conditions in higher level agreements, but specific provisions allow for lower conditions. In Slovenia and Spain, difficult business conditions can justify the fixing of lower standards in local agreements as illustrated by, for example, metalworking and banking in Slovenia (Marginson 2014). Something similar holds for France where legislation from 2004 allows company agreements to diverge if this is not specifically prohibited by industry agreements, although key issues such as minimum pay are excluded (Kornig et al. 2016). In Germany, opening clauses are now common in all important sectoral agreements but only used by a minority of firms. Keune (2010), who draws on the 2010 Institute of Economic and Social Research (WSI) works council survey, provides the following percentages: 16% of firms used opening clauses to set lower pay rates for job starters, 14% to reduce or suspend annual bonus payments, 13% to defer agreed pay increases, and 9% to cut basic pay. This decentralization was partly the result of political pressures to relax the '*Günstigkeitsprinzip*' (primacy of industry over company agreements).

Fourthly, there is the issue of content. Again, the UK stands apart as many negotiations are limited to a few issues, principally pay, with employers refusing to negotiate about many terms of employment (Grimshaw et al. 2016). In *all other countries* considered, bargaining tends to include a wide range of issues that may include pay, working time, sickness arrangements, job classifications, redundancy terms, training, dispute resolution, information arrangements, maternity, health and safety, and the treatment of older workers. In France there is a legal requirement for firms with a union delegate to negotiate on a set of 12 issues divided over three groups: i) pay, working time and the distribution of value added by the company; ii) gender equality and the quality of working life; and iii) only in companies with at least 300 employees, long-term staffing plans and career development (Kornig et al. 2016).

A final issue that concerns all these aspects is the process of decentralization with a reduction in the substantive content of higher level agreements since the 1990s. It has affected collective bargaining across all six countries (see national reports). This process of decentralization has not only moved issues for collective bargaining to the company level but has also negatively affected the articulation of bargaining content between levels (Marginson 2014). Marginson argues it has contributed to greater scope for workplace bargaining and less universally applicable standards, for example through intentional scope for variation in sectoral agreements, opening clauses, 'opt-out' clauses under difficult economic conditions, and incomplete framework agreements at the sectoral level. In northern European countries, decentralization has been organized by social partners and at times has included the reinforcement of multi-level bargaining. However, in the countries of southern Europe decentralisation has been relatively disorganised, in different ways, because of both weakly structured articulation mechanisms and massive macroeconomic pressures on labour costs caused

by government responses to the economic crisis and debt crisis. As Marginson (2014) puts it, '*in Southern Europe...a frontal assault on multi-employer bargaining arrangements is now underway*'.

Workplace representation

Representation at the workplace tends to take place through a combination of unions and/or works councils or similar representative structures.⁴⁷ Across the EU, we can distinguish four different situations that correspond to our sample of six countries⁴⁸:

- representation essentially through unions (Denmark)
- representation through unions but with new legal options for alternative forms (UK)
- representation through works councils with non-statutory role for unions (Germany)
- representation through a mixture of unions and works councils (Spain, France, Slovenia)

In spite of these differences, unions play an important role in workplace representation in all six countries, even when works councils are strongly established, since union candidates often dominate works council elections and take a majority of seats in Germany, France, Spain and Slovenia (see relevant national reports). Table 7.4 presents the main forms of workplace representation, the minimum number of employees that condition or trigger these structures, the rights in terms of information, consultation and co-determination, and whether these structures can play a role in collective bargaining. The subsequent discussion addresses these aspects in greater detail.⁴⁹

As mentioned, unions are responsible for workplace representation in Denmark. Local shop stewards, elected by members, are responsible for local bargaining and are members of the cooperation committee, the main information and consultation body. Most collective agreements provide the right to elect a trade union representative if there are more than five employees in the workplace, with one representative for every 50 employees. There are often several unions in a single workplace and thus several representatives who typically elect a joint representative. Cooperation committees are joint bodies with equal numbers of employee and management representatives and should be set up in companies with at least 35 employees if this is requested by the employer or a majority of employees. In response to the EU's ICE directive (see chapter 3), membership is now open to employees other than trade union representatives. The cooperation committee has several information rights, including on the financial position of the business, its future prospects, and changes or reorganizations. In addition, there are consultation rights on a variety of issues such as personnel policies, equal treatment and training. However, the cooperation committee cannot take a role in collective bargaining. In 2010 29% of companies had a co-operation committee, 56% a health and safety committee, and 27% a combined co-operation and health and safety committee (Rasmussen et al. 2016).

⁴⁷ Further representatives may be present within organizations. For example, workers' representatives in France can be designated by the union, elected by the workers, or elected and designated within the two main councils: the work council (CE) and the Health and Safety Council. In Germany, 12% (West) and 7% (East) of firms had other forms of collective interest representation.

⁴⁸ According to the ETUI (2014) 'Workplace representation across Europe', <http://www.worker-participation.eu/index.php/National-Industrial-Relations/Across-Europe/Workplace-Representation2>.

⁴⁹ The discussion draws on additional materials from the ETUI, available at <http://www.worker-participation.eu/National-Industrial-Relations/Countries/>.

Unions also remain the most common form of workplace representation in the UK where they can legally enforce recognition if they have sufficient support. The share of workplaces with union recognition is 22% but the percentage is much higher in public sector than private sector organisations.⁵⁰ There is no further legislation or agreement to define the number of union representatives, often known as shop stewards. They can perform different roles including the negotiation of pay and other conditions (with a right to information), issues of health and safety, and representation of individual members. Recognised unions also have the right to be consulted on redundancies and the transfer of staff in situations of outsourcing. In larger workplaces there is likely to be a shop stewards' committee. There are no general requirements to have employee representation although the ICE Regulations grant employees in organisations with 50 or more employees the right to request their employer for information and consultation arrangements. So-called joint consultation committees exist in one quarter of workplaces, both in those where unions are recognised and where they are not, but most non-unionised workplaces remain without representation in spite of the new legislation (Grimshaw et al. 2016).

Table 7.4. Main forms of workplace representation with minimum requirements and rights

Country	Main form of workplace representation	Minimum requirements	Works council / cooperation committee			
			Information rights	Consultation rights	Co-determination rights	Role in collective bargaining
Denmark	(1) Local union representatives, (2) cooperation committee	(1) > 5 employees, (2) ≥ 35 employees	X	X	-	-
UK	(1) shop stewards, (2) joint consultation committee ¹	(2) > 50 employees in case of ICE regulations	X (largely undefined)	X (largely undefined)	-	-
Germany	(1) Works council, (2) union representatives	(1) ≥ 5 employees, (2) nominated by the union or regulated by collective agreement	X	X	X	X (conditional)
France	(1) trade union section, (2) trade union delegates, (3) employee delegates, (4) works council, (5) regional bodies	(2) > 50 employees, (3) ≥ 10 employees, (4) ≥ 50 employees, (5) < 11 employees	X	X	-	X (in absence trade union delegate)
Slovenia	(1) union representatives, (2) works council	(2) ≥ 20 employees	X	X	X	-
Spain	(1) trade union delegates, (2) employee delegates, (3) works council	(1) > 250 employees, (2) 6-49 employees, (3) ≥ 50 employees	X	X	-	X

Notes: ¹ - Involving union or through ICE regulations

⁵⁰ The public sector accounts for the majority of all workplaces that recognise unions (52%) while only accounting for 12 per cent of all workplaces in the 2011 WERS survey (WERS 2014).

Sources: based on national reports and the ETUI webpages on industrial relations: <http://www.worker-participation.eu/National-Industrial-Relations/>

In Germany there are no statutory structures for union workplace representatives and works councils, which are full employee bodies, tend to provide the sole representation with substantial powers including a veto right on some issues. They can be set up in any workplace with 5 employees or more. Rules are relatively inclusive: agency workers with at least three months tenure are included among those entitled to vote; and the minority sex in the workplace must be represented in proportion to their share.⁵¹ Germany's works councils operate separately from unions but union members tend to play a major role through various mechanism. First, members of DGB unions tend to take the majority of positions in works councils (around three quarters in the 2014 elections). Secondly, works councils can invite union representatives to attend their meetings if at least a quarter of members are in favour. Thirdly, works councils members often attend training courses organized by unions. The works councils not only have important information and consultation rights, but also co-determination rights. The latter concerns a wide array of issues including working time, holiday arrangements, payment systems, bonuses and targets, and the organization of work. Rights tend to be weaker on economic issues, such as the economic situation and changes that negatively affect the workforce. In large workplaces (more than 100 employees) these issues are discussed by an alternative body, the economic committee, but this is partly or fully made up by works council members. There are also separate health and safety committees in all medium and large workplaces (50+ employees) and in some smaller workplaces but they include works council representatives. Under certain conditions (when its concerns improvements or when the collective agreement includes an opening clause), work councils can take part in negotiations over workplace-related working conditions or 'employment pacts', including pay (Jaehrling et al. 2016).

The remaining three countries have a dual system of workplace representation. Union representation in France can be through trade union sections and trade union delegates. Unions can appoint the latter in companies with more than 50 employees if they have sufficient support. In addition, there are several other representative bodies, including employee delegates, works council and a health and safety committee (CHSCT). Employee delegates can be elected in organisations with 10+ employees and works councils, which are joint bodies with employer and employee representatives that meet at least monthly, should be set up in firms with at least 50 employees. Companies with less than 11 employees can be covered by regional bodies with equal numbers of employer and union representatives. Larger organisations are legally required to set up various subcommittees on training, housing and economic affairs. Employee delegates are entitled to meet monthly with the employer. They are the most prominent form of employee representation, present in 87% of organisations with over 50 employees, although less in smaller firms (see next section). Management is required to listen to the views of employee representatives but not to act in accordance. Works councils need to be set up in firms with at least 50 employees and are present in 81% of all such firms. Union representatives tend to be closely involved in these structures as they normally attend works council meetings and employee delegates can ask for union representatives to attend meetings with management. Works councils have both information and consultation rights. Moreover, a works council can negotiate collective agreements if there is no trade union

⁵¹ This rule has only slightly increased the proportion of women in works councils from 23.4% in 2002 to 27.5% in 2014.

delegate. Information rights cover social (e.g. employment forecasts, reasons for using temporary employment, training) and economic issues (e.g. sales and profits, investments, changes to production methods, the use of sub-contractors). Consultation rights are also clearly defined, in particular on issues that directly affect the workforce (Kornig et al. 2016).

Slovenia also has dual workplace representation. Works councils can be established in workplaces with 20+ employees. In smaller workplaces, employees can appoint a workers' trustee. There is no formal relationship between unions and works councils but members of the latter are often union activists. Union representatives are responsible for collective bargaining in companies where this takes place and have information rights on various issues such as work organisation and redundancies. The works council has various information and consultation but also codetermination rights in some areas. Information rights cover, for example, the company's situation, changes in economic activities, and changes in technology and production. Consultation rights concern, for example, the sale or closure of the company or substantial parts of it, the need for and type of new staff, job classifications, pensions and other benefits, redundancies, and health and safety issues. Finally, there are issues where agreement is needed such as annual leave, performance assessment, and criteria for promotion (Ignjatović & Kanjuo Mrčela 2016).

Spain also has a dual form of workplace representation with unions and works councils, and formal and informal relationships between both. Trade union sections organise all the members of a certain union in the workplace and members can elect a delegate in workplaces with more than 250 employees. These delegates have the same information rights as works councils and have the right to be heard before the employer introduces change (while works councils can be informed afterwards). The union representatives do not play a formal role in the works council but they tend to constitute the majority of elected representatives and the success of unions in works council elections provides a major indication of their strength. Union delegates can conduct collective bargaining if they hold the majority in the works council. Work councils in Spain are employee bodies and exist at firms with 50 employees or more. However, the right to elect employee representatives also exists in places with more than 10 employees and even in workplaces with 6-10 employees if supported by the majority of employees. These representatives are called employee delegates but they have the same rights as works council members. The works councils have information and consultation rights only. Information rights concern, for example, sales figures and profits, the type and number of new employment contracts, and accidents at work. Consultation rights concern, for example, issues such as restructuring, working hours, payments systems and training. Finally, works councils can negotiate pay and other conditions in the company and the composition of works councils determines the right of unions to negotiate at the industry level (Muñoz de Bustillo Llorente and Pinto Hernández 2016).

The inclusiveness of representative structures

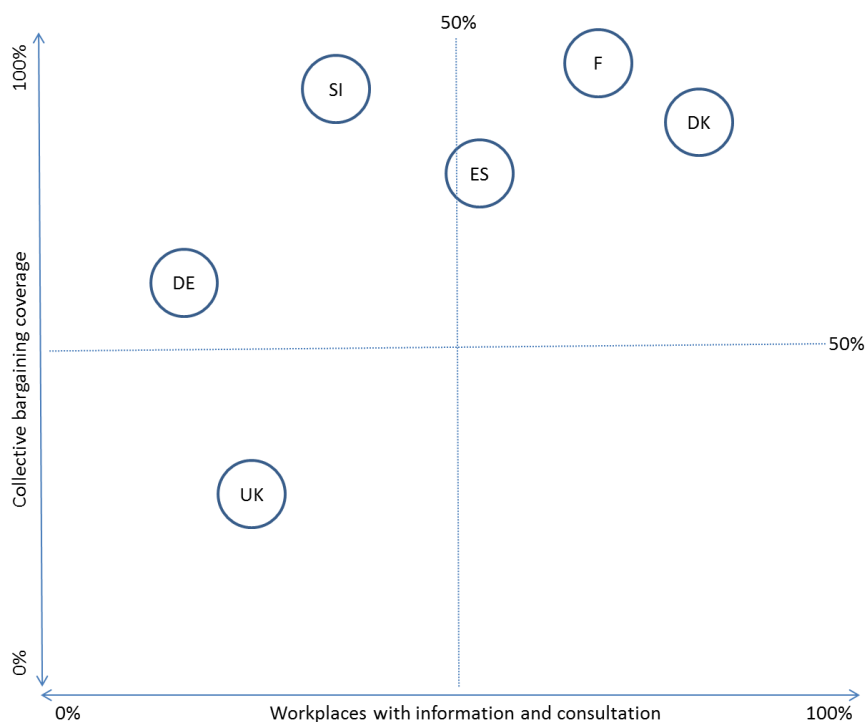
Building on the basic data on union density and bargaining coverage in chapter 3, this section considers the inclusiveness of the various representative structures with respect to i) all workers, ii) workers in different sectors and workplaces of different size, and iii) workers in non standard forms of employment. There are country differences in representation, including varieties of structures, described in the preceding section, regarding the roles, purposes and inter-relationships of works councils and unions. The complexity of arrangements is therefore not suited to a simple quantitative

comparison of the quality of representation across countries. Moreover, our focus is not only on the relative strength of representation but also on its inclusive or exclusive character.

If we focus on levels of workplace representation (figure 7.1) we find that the UK is an outlier. Collective bargaining coverage protects less than a third of the workforce and workplace representation is limited to a fourth of organisations. Moreover, even where present it grants limited rights (e.g. the limited rights as provided by the ICE regulations) and scope. Employee representation in the other five countries is much more widely available albeit with important differences between countries and distinctive trends. A key issue for inclusiveness concerns varied representation by organisation size and sector. In all countries where works councils are present, they are much less prevalent among smaller organizations, partly because the legislation exempts smaller organisations from the requirement to set up a representative structure. The comparison suggests four different representation outcomes:

- relatively inclusive along both dimensions (Denmark, France);
- high inclusiveness of collective bargaining coverage and moderate levels of workplace representation (Spain, Slovenia);
- moderate inclusiveness of collective bargaining with relatively weak coverage workplace representation (Germany); and
- low inclusiveness on both measures (UK).

Figure 7.1. Inclusiveness of collective bargaining and workplace representation (stylized presentation)



Notes: 1. Data for Slovenia refer to the share of workplaces with a union; 2. Data for France concern employee delegates. However, there is no definitive comparative data as our data is specified for different firm sizes and the positioning is therefore an estimate.

Source: ICTWSS data, National reports and the ETUI web pages.

All countries have specific groups that are under-represented, both because of structural factors in the economy and because of the commitment of those involved. As well as workers employed in small organisations and in certain industries and/or regions, it holds for many in non standard forms of employment. Table 7.5 lists important processes and challenges of exclusion across five of the six countries with a particular focus on workers in NSFEE.

Table 7.5. Country examples of 'exclusionary' processes

Country	Processes of 'exclusion'
Germany	<ul style="list-style-type: none"> • Aspects limiting the inclusion of precarious workers by unions such as difficult relationships between union representatives and worker activists (sociodemographic, attitudes) and the difference between 'co-management' and more conflictual attitudes. • Concerns about contribution unions to growing dualism (out of weakness) and little dialogue to question the segmentation which has developed over the last 2 decades. • Participation part-timers and mini-jobbers in works councils hampered by non-regular working hours. • Works councils represent agency workers and agency workers vote in elections of employee representatives after 3 months. However, half the placements finish earlier and agency workers have no passive voting rights. • For subcontracted workers, the works council only has the right to information concerning the closure of a contract. • Little evidence of union strategies towards mini-jobbers.
Denmark	<ul style="list-style-type: none"> • Potentially greater diversity between groups of workers because of the importance of collective bargaining for setting a wide range of working conditions (e.g. variation between collective agreements in terms of notice). • Workers at subcontractors are not covered by cooperation committees or shop stewards. • The majority of TAW workers is covered by collective agreements, either within the TAW industry or through user firms. But this has created ambiguity which agreement applies and explains how TAW collective agreements are now seen as a way to evade equality besides wage and working time. • TAW remains outside collective agreements in industries such as agriculture, cleaning, etc. • No collective agreements for self-employed workers but it can be agreed that their conditions are similar to 'others' in a firm.
Spain	<ul style="list-style-type: none"> • Structures in industry (small firms), the labour market and the character of employment types as an explanation of low representation NSFEEs rather than union strategies.
France	<ul style="list-style-type: none"> • Union density lower among fixed-term contracts and TAW workers because: (1) they are often used in sectors where unionization is low; (2) fear for joining a trade union or waiting for a permanent contract; (3) limited possibilities organization because conditions of employment (short placement, several firms, mobility). • Concerns among unions that defending precarious workers is defending precariousness
UK	<ul style="list-style-type: none"> • Lower unionization among low-paid workers. • Little unionization in certain sectors because of weak union presence. • Difficulties to reach fragmented workforces.

Source: National reports.

Our comparative assessment of the situation in the selected six countries reveal five key issues which shape the patterns and experiences of under-represented groups and the challenges and complexities in representing them:

1. There are few cases where unions consider part-timers a precarious group, although there are still problems of under-representation as in the UK (Grimshaw et al. 2016). In Denmark there are no major gaps in membership, coverage and workplace representation but part-timers tend to work in some

sectors with low coverage and it is not clear whether their interests are always well represented in local bargaining;

2. One needs to distinguish between the representation of those in non-standard employment and attempts to move away from these contracts. For example, in France company level agreements have been concluded to restrict the use of fixed-term contracts and to improve the induction of young workers (Kornig et al. 2016). Another example concerns the explicit inclusion of agency work as a topic of consultation in works councils in France and Spain (Kornig et al. 2016, Muñoz de Bustillo Llorente and Pinto Hernández 2016).
3. This links to the dilemma that many unions face: to defend workers in more precarious (non-standard) contracts implies an engagement with these types of contracts that can be seen as justification of the secondary employment conditions (see e.g. Kornig et al. 2016, Jaehrling et al. 2016, Rasmussen et al. 2016).
4. Relative weakness of representative structures and positions can complicate the position and strategies by unions in particular. For example, they can cause outsourcing to industries with much lower collectively agreed wages (if any) as in Germany (Jaehrling et al. 2016). There is also the challenge to agree collective agreements in industries with weak representation. This is well illustrated by the Danish case where the agreements in the hotel and restaurant sector provide certain rights (rules of tenure, unsocial hours payment) but also include provisions that reflect and can be said to legitimize the precarious character of employment (e.g. so-called reserves – zero-hour contract) (Rasmussen et al. 2016); It informs discussions as to whether such developments are ‘normalising’ or trying to curb precariousness.
5. The latter examples illustrate how the limited success of representing precarious workers is more an outcome of structural aspects (weakness unions, absence of unions in certain industries and among certain employment types) than a lack of commitment. It confirms how within the precarious environment, the trade-union activities are often precarious themselves.

Initiatives to close involvement gaps

In accordance with the various structural challenges, there have been a limited number of successful strategies to increase the inclusion of the representative structures, in particular the inclusion and representation of workers in NSFE by unions. Table 7.6 presents some predominantly anecdotal data from three of the six sampled countries; more concrete examples are provided in Part four of this report with respect to case study findings.

Table 7.6. Inclusion initiatives

Country	Inclusion initiatives
Germany	<ul style="list-style-type: none"> • Several unions launched campaigns modelled after the ‘organizing approach’ with some success in terms of new members and collective wage rises. • Union support for inclusion young workers in the labour market, e.g. by negotiating minimum quota for new apprenticeships. • Campaigns to organize agency workers (e.g. a broad campaign for equal pay and treatment in 2008 and initiatives by the service union Ver.di20 and the chemical and energy workers’ union Union21). These campaigns (1) put pressure on government to improve legislation, (2) offered practical support for agency workers, and (3) approached user companies where trade unions tend to have a stronger position. • IG-Metall concluded more than 1,200 workplace agreements over 4 years and between November 2012 and 2013 new collective agreements on TAW were concluded in 11 sectors and branches. • IG BAU has attempted to organize and represent posted workers. The DGB has also established 6

	<p>‘fair mobility’ service centres in large cities.</p> <ul style="list-style-type: none"> • An in-house collective agreement for posted workers at the Meyer Werft. • Efforts to represent self-employed workers like ‘Mediafon’ by the services union for solo self-employed, which offers practical and individual help.
Denmark	<ul style="list-style-type: none"> • Unions – especially from LO – have tried to organize migrant workers who often are employed outside the collective agreements under less favourable employment conditions. • The unions in low-skilled areas (3F) and in construction have several foreign union officers that speak e.g. Polish.
UK	<ul style="list-style-type: none"> • A limited number of cases of successful organizing of agency and self-employed workers such as Justice for Cleaners, a GMB campaign to organise members in the Polish community in Yorkshire, the campaign by the University and Colleges Union (UCU) to organise and represent fixed-term contact and hourly paid workers, and the representation of performing artists by Equity (Simms 2010)

Source: national reports.

Discussion and conclusions

As argued, there is no straightforward way to assess the quality and relevance of representative structures. The position of unions is not just illustrated by the unionization rate but also by the extent of social dialogue at the national and industry level, their acceptance in society, their involvement in various bodies, and their inclusiveness to different workers and employment types. The importance of collective bargaining is also shaped by a complex of factors, including the coverage, the level, the existence or absence of extensions and derogation, and the contents of agreements. Workplace representation is shaped by the role of and potential relationship between unions and/or works councils, the share of workplaces and workers covered, the representative rights, and the inclusiveness of these structures. The complexity of these systems makes it almost impossible to clearly assess the differences in representation between countries but we can draw some general comments at this stage of the report.

First, there is a clear difference in ‘representation regimes’, in particular between countries that largely depend on collective bargaining and countries where other types of employee representation such as works councils play a major role. Denmark and the UK are in the former group, albeit with important differences because of the respectively strong and weak position of the unions in comparative context. Non-union representative structures play an important role in the other four countries, albeit that they operate in combination with separate channels for union representation at the workplace in France, Spain and Slovenia. Germany holds a specific position as works councils constitute the only form of workplace representation with statutory status and strong rights but limited prevalence. In all these four countries there are important formal and/or informal relations between unions and works councils.

Second, all countries and structures face similar challenges of representation, with substantial groups of workers in smaller firms, certain industries and with non-standard forms of employment excluded from representation. As such, all countries show patterns of segmentation, albeit with important differences in the overall working conditions and the size of groups with better and lesser working conditions. At the same time, overall strong representation can positively shape the conditions of those that could be considered ‘outsiders’. This implies that issues of dualism should be considered secondary to the overall strength or weakness of representative structures. Yet all six

countries face a similar challenge of how to improve representation in precarious labour markets. Key questions for workers and unions include:

- How to prevent precarious employment meaning precarious representation?
- What risks do unions face in legitimizing precarious employment? In particular, how can unions uphold existing standards while simultaneously embracing inclusivity in industries where unions are weaker and non-standard employment types more pervasive?
- What are the dangers of simple labour market dualism caused by unequal access to representation?
- How to minimise the practice of regulatory arbitration by employers (e.g. outsourcing to evade collective agreements)?

Third, the country findings suggest that exclusion is strongly dependent upon legislation (e.g. no works councils at smaller firms, restrictive legislation towards unions) and the structures of the labour market (e.g. limited union presence in certain industries) rather than union strategies. As such, the prospects for better inclusion within representative structures seem limited under the current situation. Tendencies in many countries raise further concerns about the quality of representation, in particular among those with non standard forms of employment but also for many with a standard employment relationship. Processes of decentralization have weakened the ability of unions to strengthen working conditions. Non-union structures such as works councils cannot fully compensate for this decline, especially as their functioning often depends on strong union involvement and legislations tends to exempt smaller organisations. The rise in non-standard employment further weakens the position of unions and thus their abilities to organize and represent workers. A particular issue that illustrate these challenges, but also complicates progress, is the existence of an ‘information gap’ for certain employment types and industries, also in comparatively well-regulated countries. The multiplication of employment types has created important blind spots in representation to the extent that detailed knowledge of working conditions is often missing. This limited knowledge appears constitutive to the rise in non standard forms of employment as it creates leeway for firms to potentially lower working conditions.

Finally, the relatively rare but positive examples of inclusive union strategies as presented in table 7.6 illustrate how unions have been able to organize those in non-standard forms of employment and/or strengthen their working conditions. Hyman subscribes that unions can overcome the challenge to align their interests with those in standard forms of employment as they have always displayed a ‘dual character’ or ‘two faces’:

‘negotiating with the existing socio-economic order, and striving to transform it; representing the immediate interests of a narrow constituency, and fighting for the rights of the vulnerable and excluded. These contradictory perspectives and purposes always coexist; the question is, which is dominant’ (Hyman 2015: 12)

This offers the possibility that unions are not destined to solely represent ‘insiders’, as argued by critics like Standing (2011), but can build new collective identities. However, it cannot be denied that union strength has suffered from the rise in non-standard employment and the structural challenges it poses. As such, the question how unions and collective bargaining can become more inclusive may be secondary to the assessment that the strong rise in flexible employment has weakened the ability of the unions to represent all types of workers. A similar conclusion may hold for other

representative structures such as works councils as their regulation may pose inherent weaknesses when dealing with more flexible employment types, self-employment, and processes of outsourcing.

8. Enforcement gaps

The system of worker rights within a particular country is crucial to understanding the prevalence and nature of ‘precarity’ and how this shapes the specific experiences of workers. These rights may be enshrined in individual legal protections against discrimination, exploitation and unfair or arbitrary management power, or through mechanisms of joint regulation between social partners which help to set, upgrade and enforce minimum standards in the workplace. However, the presence of specific worker rights, along with rules and regulations which govern the behaviour of employers does not necessarily translate into an effective system of protection if these minimum standards are not properly enforced or considered legitimate. Employers may seek opportunities to reduce the cost and administrative burden of complying with minimum standards set down in law or in collective agreements. This may create various distortions in the economy and labour market by creating the scope for employers to undercut competitors on labour costs, and to exercise undue power over workers by withholding information, and blocking access to channels of justice and legal redress. More broadly, those employers operating at or beyond the margins of the regulated economy may use the threat of dismissal and the withholding of payment to prevent workers from raising concerns with the authorities. Non-compliance or gaps in the enforcement of rights can take a number of forms (figure 8.1).

Figure 8.1. Enforcement gaps

3. Enforcement gaps			
Mechanism gaps (gaps in access, process, inspections, sanctions, whistleblower protection)	Awareness gaps (gaps in knowledge about rights, gaps in transparency)	Power gaps (fear of loss of job or residency, fear of exclusion from unemployment support, lack of access to employer)	Coverage gaps (extent of unregistered workplaces, informal and illegal employment)

Gaps in the mechanisms or apparatus of enforcement are perhaps the easiest to measure (e.g. size and remit of inspection agencies, staffing levels, budget), along with the adverse outcomes of non-compliance (e.g. the number of accidents at work, size of fines). This indicates the likely ‘reach’ and power of inspectorates to monitor investigate and penalise firms. Awareness and power gaps often rely on survey data of individual workers, or proxy measures of worker bargaining power such as fear of unemployment. In terms of coverage, enforcement should be ‘inclusive’ in that it should not vary between different sectors and industries or across different employment types (as once rules are set on health and safety and minimum wages they should be adhered to) but in practice, certain groups are more at-risk of working for employers who do not comply with minimum standards owing to their weak bargaining position in the labour market, and limited mechanisms of collective worker voice. Coverage gaps may relate to the variable presence of collective agreements; there may be some sectors where standards are generally upheld whereas others are relatively exposed owing to low levels of collective bargaining coverage and limited trade union presence.

This chapter begins by investigating the nature of non-compliance and the role of enforcement in both preventing and correcting for non-compliance. It then reviews the various ways in which labour inspectorates operate across different countries and the implications for tackling different forms of 'illegal work'. It will then assess the interaction between enforcement mechanisms and broader systems of social dialogue, and the risks to these models posed by changes in the industrial relations landscape and budget cuts to labour inspectorates since 2010.

The nature of non-compliance

Those employer behaviours which are considered 'non-compliant' or illegal will vary from country to country partly as a function of cultural and linguistic differences, but also the remit of the labour inspectorate to consider broader issues such as adherence to the substantive content of collective agreements and employers' contributions to social security schemes alongside basic working conditions and health and safety procedures. The issues which are considered priorities may also reflect the varying power and influence of social partners, 'vested interests' such as business confederations and the behaviour of individual employers.

There is evidence of enforcement gaps in relation to minimum standards, employee rights and non-discriminatory practices. Gaps may reflect the limited size and scope of regulatory bodies and agencies, and their limited powers to apply fines or other sanctions to employers in breach of standards. Gaps may arise where options are limited for both individual and collective recourse to legal proceedings in cases where standards have not been upheld, and may reflect the limited willingness and ability of workers to challenge unscrupulous employers or alert authorities to non-compliance or discriminatory practices. Enforcement gaps vary in both nature and severity, and also by the type of standards under discussion. 'Hard' forms of non-compliance arising from poor enforcement may be relatively easy to identify (e.g. non-payment of minimum wages, illegal deductions from wages, health and safety breaches), whereas other 'soft-forms' of non-compliance (e.g. bullying and harassment by managers, excluding pregnant women from career progression opportunities, the failure to make workers aware of their entitlements to holiday or sick pay) are more difficult to detect unless workers themselves raise complaints. The process of escalating complaints in turn is shaped by the legal system and the options available to workers to pursue claims against their employer, and the likelihood of sanctions being applied to employers. Low levels of fines and the relative inability to close firms down (and prevent them re-appearing under a different name somewhere else) may not serve as an effective deterrent for others who see gains to be made by avoiding the rules.

Common issues arising in terms of non-compliance relate to minimum wages, discrimination, and occupational health and safety. However, the structure of the economy and labour market in different countries, along with the specific interests of social partners (e.g. employers and unions) may give rise to varying priorities (Table 8.1).

For example, social dumping and the enforcement of rights for posted workers is more of an issue in Denmark, Germany and Slovenia where construction workers may be supplied by overseas firms through long and complex supply chains (Ignatović and Kanjuo Mrčela 2016; Jaehrling et al. 2016; Rasmussen et al. 2016). Tackling undeclared and informal work is a priority issue in France and Spain

particularly in agriculture and tourism where small family firms predominate and migrant workers are commonly used (smaller firms may also be exempted from certain legal rules) (Kornig et al. 2016; Muñoz de Bustillo Llorente and Pinto Hernández 2016). The non-payment of minimum wages is an issue in the UK, along with undocumented work in agriculture and food preparation (connected to immigration and border controls), and anti-discrimination protections are well established through employment tribunals although the number of cases being brought has dropped sharply since the introduction of fees in 2013 (Grimshaw et al. 2016).

Table 8.1. Outline of priority issues for enforcement across the six countries

	Government and employers	Unions
DE	Occupational health and safety, minimum wages, social dumping	Discrimination, sub-contracting and posted workers, minimum wages (collectively agreed and statutory)
DK	Social dumping, informal work (migrants), non-payment of minimum wages (and undocumented hours), occupational health and safety	Non-payment of collectively agreed minimum wages (and undocumented hours), discrimination (gender predominantly), ability to support individual legal challenge
FR	Informal employment, occupational health and safety	Informal employment, problems arising with weakening of labour law and responsiveness of courts
ES	Informal employment, occupational health and safety, social security contributions	Social security contributions, non-payment of wages
SL	Occupational health and safety, sub-contracting in construction	Minimum wages, sub-contracting
UK	Occupational health and safety, minimum wages, informal work (migrants)	Minimum wages, discrimination, ability to support individual legal challenge

Source: National reports.

Minimum wages

Minimum wages are set in law in France, Spain, Slovenia and the UK, although in France the statutory minimum wage is ‘activated’ through sector level collective agreements which use the legal floor as the basis to restore differentials. Minimum wages are set through sector level collective agreements in Denmark, Germany has something of a dual system in that minimum wages for certain unionised sectors are set through collective bargaining, but since 2015 this has been bolstered by a national statutory minimum wage of €8.5 per hour.

The monitoring of minimum wages in each country reflects the different modes of wage setting, but generally speaking, compliance with minimum wages is relatively good. For example it is difficult to breach the essence of a collective agreement in Denmark, Germany and Slovenia, and trade unions are expected to monitor compliance with pay and conditions, and raise queries or breaches with employers. The statutory minimum wage in France, Spain and the UK is generally regarded as ‘legitimate’ by employers and workers are usually aware of minimum wage rates and payslips show hourly rates of pay. The non-payment of minimum wages (whether they are fixed through collective agreements or in law) typically results from the incorrect calculation of working hours, and/or unjustified deductions from wages. An emerging issue in Spain is the non-payment of minimum wages in the informal economy (largely in hospitality, agriculture and construction) where migrant and seasonal work is found and contracts of employment may not exist. In France the minimum

wage is enforced by the labour inspectorate who may then refer the case to the labour courts which can then demand that employer's pay the wages due, plus a small fine (450 euro). In the UK the minimum wage is monitored and enforced by HM revenue and customs (on behalf of the Department for Business Innovation and Skills). The public naming and shaming of employers who do not comply has been used as a tactic to promote compliance, and since late 2015 the HMRC can issue sanctions of 200% of the missing wages plus a fine of up to £20,000 per worker.

Discrimination

Anti-discrimination protections are emerging as a key priority across all six countries for both government and social partners and many companies now publish some form of equal opportunities policy, although the precise areas of discrimination, and the sanctions applied to non-compliant firms vary markedly. For example, gender pay discrimination appears to be a high priority, and France, Germany, and the UK have taken steps to ensure that individual companies publish data on the internal gender pay gap. However, the ability to force employers to take proactive steps to reduce the gender pay gap is somewhat limited to reputational pressure.

Across all countries there are options for individuals to pursue anti-discrimination cases against employers through the courts (usually through labour courts of specific employment tribunal system), the ability of marginalised and discriminated against groups to raise and pursue a case is highly variable. Where trade unions are heavily involved in bringing cases to the labour courts, the decision to pursue a case may rest on the likelihood of success, and whether the ruling in an individual case can be used as the basis for a broader collective claim which strengthens the position of all workers. In the UK the introduction of fees to lodge a claim through the employment tribunal system has seen the number of discrimination cases relating to unfair treatment or dismissal on grounds of age, gender, race, and disability drop sharply. This raises serious questions about the denial of justice to the most vulnerable workforce groups even in a system where individual rights are notionally well-established.

Occupational Health and Safety (OHS)

Health and safety in the workplace is a key priority across all countries studied here, and is generally well embedded in the approach of social partners to managing labour issues. This apparent consensus however belies slightly different instrumental motivations on the part of government, employers and unions. While the basic safety of workers is no doubt important, poor compliance with OHS standards is a risk for government as they can contribute to accidents and injuries at work which can increase pressure on health services and welfare (where workers are absent) while also acting as a drag on output and productivity. For employers the risks associated with poor safety are similar in that workers who are off sick cannot be put to productive use, and need to be replaced at additional cost. The financial liability of companies for the health and safety of workers (including individual criminal liability of directors for negligent behaviour) is also a strong motivator for engagement with the OHS agenda.

For the trade unions (and workers more broadly), health and safety rules can be traced back to some of the fundamental issues of worker wellbeing around which organised labour galvanised in the 19th century such as the 8 hour working day. Modern OHS protections are clearly important for maintaining a decent working environment, but in addition the duty on employers to consult with

employees (either through information sharing channels or through designated health and safety representatives) can create a space for engagement and involvement even in those sectors and firms which would otherwise be resistant or hostile to trade unions and collective worker representation. The presence of safety representatives from a recognised trade union has been linked with fewer and less severe accidents in the workplace (TUC 2015⁵²).

The ability of labour inspectors to properly monitor and enforce basic safety standards is variable. Health and safety regulations are enacted in EU law as well as national law which notionally protect workers against unsafe working conditions (or at least sanctions for employers who do not comply). This includes appropriate signage and labelling, and the general prevention of exposure to physical hazards through to specific regulations on working with chemicals and other hazardous materials. There is provision in a number of directives for more general ‘worker wellbeing’ protections such as manual handling, visual displays and working time, although the ability of individual member states to opt-out of EU directives (such as the UK’s opt out of the maximum working time directive of 48 hours per week) gives employers scope to push workers close to or beyond the limits of what might be considered ‘safe’.

Much depends on the definition of ‘working conditions’ within a specific country or industry, and the remit of labour inspectors to monitor a range of dimensions in regard to safety and wellbeing. For example, in Spain labour inspectors have a broad remit to monitor the physical working environment, as well as checking the correct payment of wage rates set down in either law or collective agreements, along with employers’ financial contributions to social security schemes. In Denmark, the remit of the labour inspectorate is limited to issues of health and safety, but this is a relatively broad definition and includes elements in the working environment which could contribute to stress and psychological distress. In the UK the Health and Safety Executive is generally well respected and has made significant strides in reducing the exposure of workers to the most dangerous working conditions, but this does not extend to the general psychological wellbeing of workers, or the pay and conditions set out in law or in individual employment contracts.

The role and scope of enforcement mechanisms

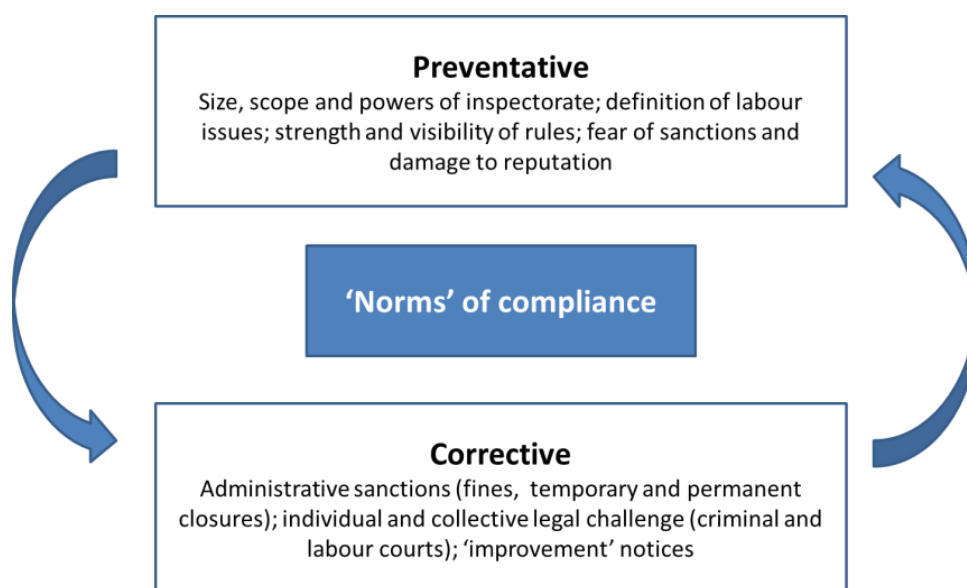
There are two mutually reinforcing roles for the enforcement authorities which help to shape ‘norms of compliance’ within a particular country or labour market context (figure 8.2). The first is a preventative role which relates to the reach of enforcement agencies and the range of issues which fall within their remit. This is bolstered (or undermined) by the extent to which employment rules and regulations are ‘visible’ and valued or respected. The ability of enforcement agencies to apply sanctions to deviant employers may have a preventative or deterrent effect where fines are high enough, or where the damage to a firm’s reputation is severe enough to discourage non-compliance. Similarly the specific liability of employers and individuals such as company directors for ensuring the health and safety of workers can help to create a norm of compliance as the likely penalties may proceed through criminal as well as labour courts.

The second is a corrective role which relates to the ability of enforcement agencies to monitor, investigate and take action against specific examples of non-compliance at the level of organisation,

⁵² <https://www.tuc.org.uk/sites/default/files/BrownBook2015.pdf>.

this may be through the powers vested in the enforcement agencies themselves to impose administrative sanctions such as fines or stoppages, or by instigating legal proceedings through criminal, civil and labour courts. These may ultimately result in financial penalties also, but there is scope to penalise individual employers or managers for breaches or non-compliance. A lesser category of sanction such as improvement notices or follow-up inspections may be implemented where breaches are not a serious risk to 'life and limb'. The ability of enforcement agencies to apply sanctions and the relative level at which administrative sanctions such as fines are set can in turn contribute to the preventative dimension if the likelihood of breaches being detected is sufficient, and the financial burden is significant. Conversely if enforcement agencies are perceived as being ineffective in detecting breaches and applying penalties then the incentive to comply may be reduced.

Figure 8.2. The role of enforcement in shaping the 'norms of compliance'



Labour inspectorates

Broadly speaking, the enforcement of health and safety measures makes up the bulk of the work of labour inspectors across many countries, although undocumented work is a growing concern for many EU countries where the movement of labour brings additional pressures to properly document contracts, visas and working hours. The non-payment of minimum wages either by making illegal deductions or under-recording working hours is recognised as a problem although the diffusion of responsibility for investigating minimum wage breaches across the labour inspectorate, tax and customs offices and trade unions in some countries makes this problematic.

The highest level of government department with responsibility for labour issues varies across countries: for example, in Denmark, France, and Germany there is a Ministry of Labour or Employment which coordinates the management of labour market. In Slovenia and Spain the labour inspectorate has a general remit to monitor and enforce labour standards. In the UK, there is no overarching ministry of labour, and the responsibility for monitoring employment conditions is fragmented across a number of agencies such as the health and safety executive, revenue and

customs, and agencies with a specific remit for agriculture and food preparation (the Gangmaster's Licensing Authority). There is also some scope for regional and local tiers of government to monitor and enforce labour standards, and there may be joint work with police and border control where specific issues of undocumented labour are raised.

The ability of labour inspectors to monitor and enforce standards, and sanction employers for non-compliance is summarised in table 8.2. The total number of inspectors ranges from less than 100 in Slovenia to nearly 3,000 in Denmark. The number of workers per inspector ranges from around 5,000 in Denmark to 20,000 in the UK. The number of inspections can difficult to estimate across countries as inspections may relate to simple spot checks of worker documents and information sharing site visits through to serious incident investigations. So as not to undermine their preventative power, labour inspectorates are also sometimes reluctant to publish precise details of the number and frequency of visits. Fines and sanctions for OHS breaches can range from around 25,000 euro in Germany (in total for any one incident) to potentially unlimited fines in the UK. The ability to issue spot fines for minor breaches (e.g. out of date documentation or failure to provide wage slips) can reduce the time taken to address problems, but also increases the scope for low level corruption. Conversely, a more formal process for administering sanctions through labour courts narrows the scope for inspectors to 'turn a blind eye' but the time taken to actually enforce fines and the low level at which they are often set reduces the deterrent effect. The net result of the size, scope and sanctions of labour inspectors, and the perceived legitimacy of the rules they attempt to enforce is that fatal accident rates vary markedly between countries from 0.51 per 100,000 workers in the UK to high of 2.94 in France (much higher than the EU 28 average of 1.3).

Table 8.2. The size, reach and impact of labour inspectorates

	Inspectors	Ratio	Inspections	OHS fines and other sanctions	Fatal accidents per 100,000 (EU28=1.3)
DE	2,750	13,500	≈500,000	Up to €25,000, total = €5m. 3 years imprisonment for undeclared labour	0.81
DK	500	5,000	-	-	1.12
FR	2,000	8,500	≈2m	Fines administered by courts (slow) but also 3 year imprisonment for undeclared labour	2.94
ES	1,800	10,500	≈700,000 workplaces	Total = €700m for OHS, discrimination cases = €500k	1.55
SI	<100	11,300	≈200,000 H&S violations	-	1.64
UK	1,500	20,000	≈100,000	OHS 'unlimited', total = €23m. Tribunals (e.g. unfair dismissal) = €34m	0.51

Source: EPSU 2012

Labour courts and legal challenge

All six countries operate some form of labour courts or tribunals specially designed to deal with employment and labour issues. However, the ability of workers to bring legal challenges against their employers for non-compliance with minimum standards, or for discriminatory practices is

heavily constrained by resources and bargaining power. For example, individual workers may not have the time, money or inclination to bring an individual case against their employer, and even if no legal challenge is brought, this can have a spill-over effect in that 'whistle blowing' is discouraged. Employees who are afraid of losing their job or being singled out for unfavourable treatment are less likely to raise legitimate concerns about wages, working conditions or safety.

Cases may be settled 'out of court' (or before reaching a final judgement) with a financial payment to affected workers (rather than reinstatement as is the case in Germany), or through conciliation and arbitration mechanisms (commonly used in France). The willingness and ability of trade unions to bring collective claims may also vary. In France, reforms of labour law in 2016 in order to 'increase labour market flexibility' (referred to as the '*El Khomri law*' after the French Minister of Labour, Myriam El Khomri) seek to extend the normal working week to a maximum of 46 hours, along with the introduction of a ceiling on employer fines for unfair dismissal, and restrictions on strike action. We do not know at the time of writing its precise form of implementation but it has already provoked a strong response from trade unions since they perceive an unfair trade-off between attempts to reduce unemployment and a weakening of worker protections and bargaining strength. The trade unions would not normally file claims on behalf of employees in individual cases but they may escalate complaints through the courts where the essence of a collective agreement has been breached and lower level negotiations had failed to resolve the dispute (Kornig et al. 2016).

Where unions are present in the UK, they can file a collective claim against employers over issues such as unfair dismissal, non-payment of wages, and discriminatory practices (as seen in the proliferation of equal pay claims in UK local government in the 1990s and 2000s⁵³). More common however is for individual workers to challenge employer behaviour such as claims for discrimination or unfair dismissal through the employment tribunal system. While by no means perfect, this system had been historically relatively successful at addressing issues of discrimination in the workplace (particularly gender and disability discrimination), with employers either choosing to settle out of court (instead of disputing an employee's claim), or the court handing down (albeit often small) fines to non-compliant employers to be paid to aggrieved workers. However the introduction of fees to initiate a tribunal case in 2013 has seen a significant drop in the number of tribunals being heard. This was ostensibly to reduce the frequency of 'vexatious' employee claims, but this raises serious questions about workers' access to justice, and significantly reduces the pressure on employers to either engage in mediation or settle out of court (Grimshaw et al. 2016).

In Germany, customs deal with the monitoring and enforcement of statutory minimum wages, but in the event of non-payment, individual workers have to raise a claim in the labour courts that can compel employers to pay the missing wages and apply small fines (but this is relatively rare). The failure to pay social security contributions and undeclared work however is subject to criminal law and therefore employers can be imprisoned for non-compliance. Trade unions cannot file collective claims on behalf of employees although they may represent individual workers in a labour court and provide guidance to individuals or groups of workers about the routes to legal redress (and the likelihood of success) (Jaerhling et al. 2016). In Spain, the trade unions can file collective claims through the labour courts (*Juzgado de lo Social*) (Muñoz de Bustillo Llorente and Pinto Hernández

⁵³ Although the slowness of the unions to fully pursue equal pay claims on behalf of women led to the increasing involvement of no-win no-fee lawyers in taking cases to employment tribunals.

2016), and in Denmark, it is only organisations which can file legal claims and present evidence in the labour courts (e.g. employers and unions), and this largely relates to the substantive content of collective agreements (Rasmussen et al. 2016). The labour courts in Slovenia have a wide remit to adjudicate over issues arising in respect of individual employment contracts, and the content of collective agreements, and can impose financial penalties and recommend arbitration (Ignatović and Kanjua Mrčela 2016).

The inclusiveness of enforcement regimes

Beyond the ability of labour inspectors to monitor issues of compliance and to take corrective action, the way in which the ‘norms of compliance’ are established and enhanced (or undermined) are largely a product of the wider system of employment and labour market regulation. It appears that enforcement gaps are in a large part driven by the complex relationship between legal protections and systems of social dialogue in different countries and in different sectors. That is to say the enforcement of minimum standards is shaped by a number of factors including: the extent to which enforcement is aligned with the system of social dialogue; the powers invested in social partners to regulate employment conditions; the extent to which the state is central or peripheral in regulating the employment relationship; whether the view of labour standards extends beyond just safety at work to broader ‘social’ issues; and the extent to which legal rules help to offset the weakness of social dialogue.

Across the six countries studied here, three broad types of enforcement regime can be identified (figure 8.3). The first is where enforcement is embedded within the system of social dialogue (Denmark, Germany and Slovenia). The second is where enforcement mechanisms are complementary to the system of social dialogue (France and Spain). The third is where enforcement is a counterweight to the weakness of social dialogue (UK). Differences in enforcement regimes give rise to particular problems within countries such as awareness gaps, power gaps, and coverage gaps.

Figure 8.3. Enforcement regimes



Embedded regimes

In countries with strong or coordinated systems of social dialogue (e.g. Denmark, Germany and to an extent Slovenia), minimum standards are typically regulated through collective agreements, with responsibility for monitoring and investigating breaches shared between employers and unions. Labour inspectorates have a relatively narrowly defined role (e.g. health and safety), and there may be few other organisations with a remit to check working conditions, or to take legal cases on behalf of workers. Trade unions and works councils may often be the primary means of raising awareness among workers, and providing advice and guidance on legal matters in respect of working conditions and employer behaviour. Issues here relate largely to coverage gaps. The number and coverage of collective agreements is important here. Although the system of joint regulation helps to offset awareness and power gaps, those in non-covered sectors or occupations are disadvantaged on multiple levels as they do not benefit from strong collectively agreed minimum standards, nor the fall-back position of a strong legislative system. Those employed 'at the margins' may also be excluded from social protections where they frequently move in and out of paid work, or do not accrue sufficient earnings over a particular reference period to draw down unemployment benefits. Sectors not covered by collective agreements are likely to have the lowest share of workers engaged on permanent or open-ended full-time contracts, and are likely to have higher shares of potentially vulnerable workers such as women in search of flexible and part-time work, younger workers, and migrant workers.

Complementary regimes

State-centred systems (e.g. France, Spain) may combine both elements of social dialogue in establishing 'norms', with a clear role for state agencies in monitoring and enforcing standards. In contrast with Denmark, Germany and the UK, labour inspectorates in France and Spain are 'generalist' in that they have responsibility for enforcing a wide range of standards including: health and safety, working time, equal treatment, wages, and restructuring measures. This however does not mean inspectorates are efficient or sufficiently powerful to prevent or penalise bad practice. For example labour inspectors generally issue notice of compliance or a warning to address breaches but these can have a long period of implementation, and may only then be followed by another warning. The size of the informal economy in these countries (and the reliance on seasonal and migrant labour in small family-run firms in agriculture, hospitality and tourism) can create significant awareness and power gaps, as workers may not know the rights to which they are entitled, and may have no formal contract of employment. Workers in the informal economy by definition do not have a permanent or open-ended contract, and are highly unlikely to pay formal social security contributions which would insure them against job loss or reduced hours/earnings.

Counter-weight regimes

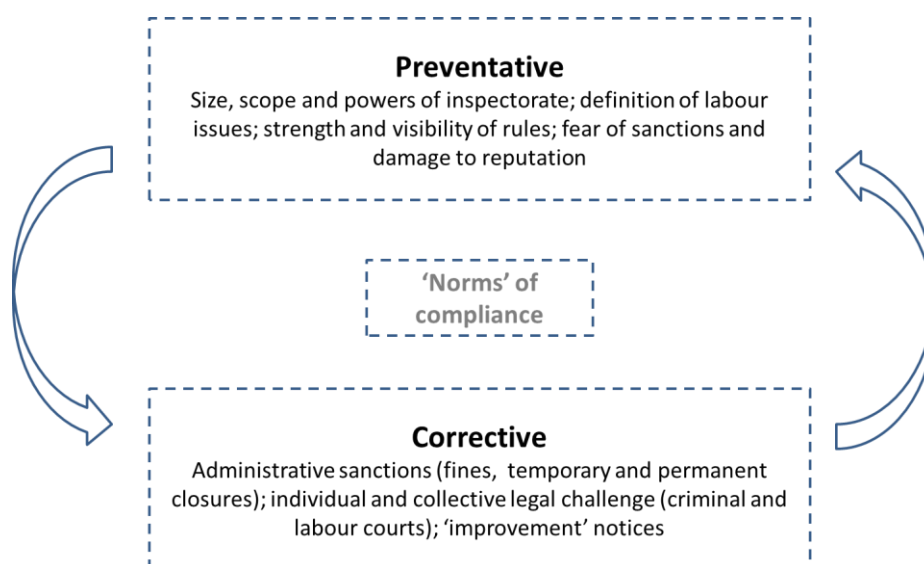
Countries where the social dialogue regime is weaker and more fragmented (e.g. UK), the law may play a greater role. Much depends on size, scope and remit of agencies, and the 'bite' of minimum standards (e.g. the relative value of minimum wages), standards may be well enforced but at a low level. Compliance with standards relies to an extent on employer goodwill and 'business case' approach to self-enforcement in order to prevent unfair competition from rogue employers. Employer-focused legislation (where breaches are obvious) is much more tightly enforced (e.g. health and safety regulations which carry implications for employers in case of injury/death) than employee-focused such as minimum wages and non-discriminatory practices which rely on workers

raising complaints. The distribution of responsibility for monitoring and enforcement of worker rights and employment standards across several agencies creates significant mechanism gaps and means those at risk of multiple forms of exploitation (e.g. underpayment of wages, long working hours, bogus self-employment) do not fall within the remit of one single organisation. Power gaps in the UK reflect the fact that individual legal challenges over mistreatment, underpayment or discrimination are severely constrained by the resources and knowledge needed to construct a case, and recently introduced charges to take to a tribunal (since 2013). This has seen cases relating to non-payment of wages, underpayment, unfair dismissal and discriminatory employer practices drop sharply. No employees (regardless of the terms of their employment contract) can bring an unfair dismissal claim if they are fired within the first two years of their employment (and the employer does not have to give a detailed justification), and claims for unfair dismissal or discrimination must be filed within three months of the event occurring. In practice this means workers who see little prospect of being reinstated or receiving compensation for unfair treatment are less likely to bring a case (no matter how strong it is).

The changing focus of enforcement

It can be argued that the general reliance on corrective rather than preventative measures means a typically non-systematic ex-post facto approach to dealing with breaches. For example, thorough inspections of companies or workplaces may occur after a serious incident instead of committing resources to raising awareness among workers and sharing information and best practice among companies which may help to avert accidents. Moreover, cuts to budgets and staffing levels within labour inspectorates following the financial crisis is a key risk identified across all countries studied here and threaten the ‘norms of compliance’ in two ways (figure 8.4).

Figure 8.4. ‘Norms of compliance’



First, the probability of breaches being detected and investigated, and the probability of employers being sanctioned are reduced which lessens the perceived need to comply with regulations (as there is less chance of being caught). The cost burden of compliance and using formal or ‘legal’ labour encourages non-compliance, and workers may not have the time, resources, inclination to raise concerns on their own, and may not be part of a union who could take their case. Second, reducing

the number of inspectors/inspections in order to cut costs from the public wage bill undermines the perceived legitimacy of the rules/regulations in a more general sense (as it sends a message that issues such as working time, minimum wages, and health and safety are less of a priority for government than they may have been in the past).

Although the number of inspectors has increased in France and Spain (in order to deal with social security checks and investigating undeclared labour) the number of inspectors is widely believed to have declined in Denmark (especially so in recent years), Slovenia, and the UK (although reliable data for trends over time are difficult to find). Despite the continued rhetorical commitment to preventing discrimination and exploitation, the weakening of enforcement mechanisms may in turn dissuade individual workers from raising concerns with managers or with external inspectors if there appears to be little likelihood of corrective action being taken. One way which all countries have sought to address this is by increasing the size of fines for specific breaches of workers' rights, minimum wage payments, and health and safety law. The shock of higher fines along with greater individual legal liability of individual managers or directors may be an effective way to increase compliance, although without a minimally effective inspectorate, firms may be increasingly tempted to take a chance that breaches will not be detected or reported by workers. Those companies operating in the black or grey economy by definition fall outside the formal system of regulation and enforcement but even 'legitimate' firms may fail to document working time and wages correctly which further undermines issues of compliance.

Part 3

Comparing Protective Gaps for Four Types of Precarious Work

10. Resilience or erosion in the standard employment relationship? Precarious full-time, permanent work
11. What protective gaps for part-time and variable hours work?
12. What protective gaps for temporary work?
13. Precarious subcontracted work: varied forms, varied gaps



9. Resilience or erosion in the standard employment relationship? Precarious full-time, permanent work

The spread of atypical employment such as fixed-term, casual and temporary agency work has raised concerns that the Standard Employment Relationship (SER) is under threat, with a potential negative impact on working conditions, wages and social protections (Strauss and Fudge 2014). The SER is generally defined by full-time hours and a permanent or open-ended contract of employment, and as a mode of employment was arguably the cornerstone of labour relations between employers, trade unions and the state for much of the twentieth century in Europe. For some, the shift away from standard contracts reflects both a material and symbolic break with the past: *'it is unlikely that these trends can be reversed anytime soon or that we can reinstate the standard employment contract and the worker-friendly regulatory regimes that were built upon it'* (Stone and Arthurs 2013: 5). Others have observed that the SER remains the main form of employment relationship in many European countries (Bosch 2004) even in liberal market economies such as the UK where atypical and precarious work is perhaps thought to be most pervasive (Adams and Deakin 2014).

Nevertheless, the weakening of labour market institutions, such as collective bargaining, and the fragmentation of production through outsourcing has left many workers even in full-time permanent employment at risk of low wages and limited career prospects which raises the question of how best to regulate the employment relationship (Blyton et al. 2014). It has been argued that current regulatory models rely heavily on outdated notions of the contract of employment and the legal framework must provide an alternative to the standard employment model to regulate all forms of work through global supply chains (Brodie et al. 2016). On the one hand the protection afforded to 'core' workers through the SER arguably creates greater incentives for employers to replace the SER with more atypical work, whereas a lowering of protections around the SER can widen the scope for the creation of higher quality flexible work, which allows marginalised groups to access the labour market. The problem is that 'insider-outsider' debates within mainstream economic thinking and government policy making are often used as justification for the further de-regulation of labour markets and a lowering of social welfare protections and ignores the question of employer obligations (see Chapters 1 and 2). What this highlights is the need to think more broadly about labour market regulation and the integration of social and economic policy in order to make labour markets more inclusive for all (Crouch 2014; Rubery 2015).

This chapter addresses three inter-related issues. First we look at the definition of the SER and how different country models of the SER have evolved. Second we explore recent trends in the standards associated with the SER and assess evidence of greater precarity among SER workers. Third we consider opportunities to reduce precarity and make labour markets more inclusive for all.

Defining the SER

The traditional standard employment relationship (SER) has been defined as a *'stable, socially protected, dependent, full-time job . . . the basic conditions of which (working time, pay, social transfers) are regulated to a minimum level by collective agreement or by labour and/or social security law'* (Bosch 1986: 165). There are a range of benefits associated with the SER:

'the full-time nature of the job, its stability, and the social standards linked with permanent work are the key elements in this definition', and it follows that, *'only full-time employment guarantees a family wage and an adequate level of social protection while a stable job places the relations between employer and employee on a long-term footing'* (Bosch 2004: 619).

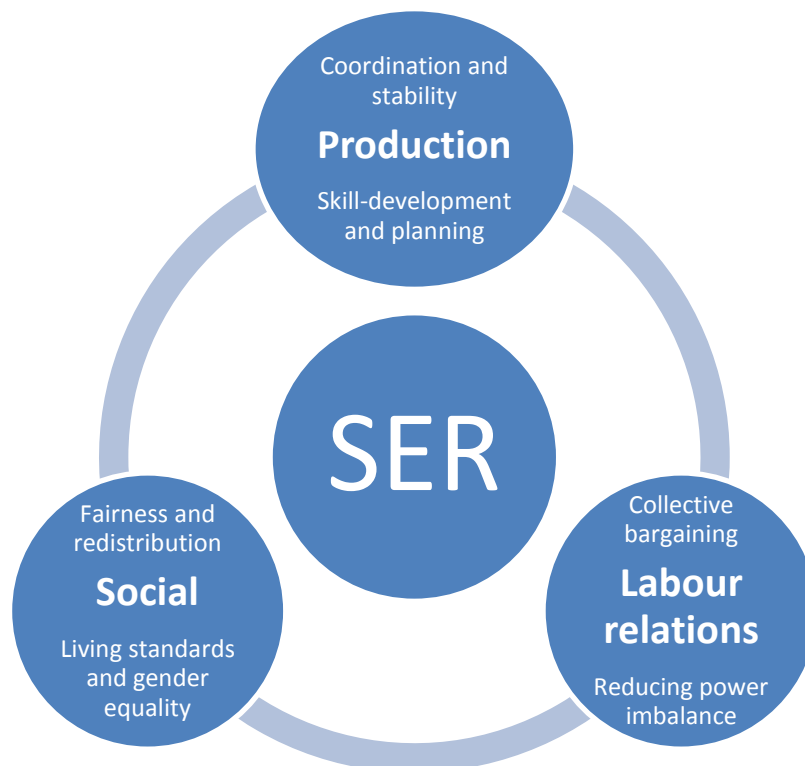
Furthermore, a standard eight-hour working day set acceptable boundaries between work and rest time (with unsocial hours working attracting additional premiums), and a 40 hour working week offered the scope for workers to earn a family wage (Berg et al. 2014). Although the SER may have a formal legal definition which specifies the terms under which each individual employment contract is agreed, the SER as a normative construct shapes what are considered the acceptable parameters of the employment relationship within a particular society.

Thus the SER is defined not only by its temporal and physical attributes (i.e. that it is an ongoing relationship with mutuality of obligation between employer and employee), and the conditions of employment to which workers are entitled as part of the contract, but also the fundamental structural nature of the exchange between parties where a worker sells abstract labour power to an employer (who appropriates the surplus) in return for wages (Adams and Deakin 2014). The SER is a cornerstone of the welfare state and provides the basis for employers and unions to negotiate over pay and working patterns (framed by the conventions of a long-term relationship and full-time hours), but also allows employers and unions to engage with policy makers in negotiations over output and productivity, alongside labour market, economic and social policies (framed by the conventions of acceptable living standards and national competitiveness) (Strauss and Fudge 2014). The SER is therefore dependent on three key institutional anchors (figure 9.1).

Adams and Deakin (2014) argue that the SER is associated with the emergence of vertically integrated systems of mass-production, along with the establishment of codified legal protections and juridical arrangements protecting property rights and freedoms of association; and the acceptance of voluntarist institutions of labour market regulation such as collective bargaining (as opposed to casual or day labour associated with earlier forms of production in agriculture, heavy industry and shipping). The SER allowed employers and employees to plan for the long-term by entering into a stable and open-ended employment relationship with mutual obligations clearly specified, and on a broader level firms benefited from the coordinated standards which were laid down by the SER during a period of stable economic growth and mass production in the post-war era (Bosch 2004). A standard working day and week also aligned with the application of 'scientific management' techniques and encouraged the efficient use of machinery as standardised production expanded (Berg et al. 2014).

The SER is a point of reference in the construction of systems of labour market regulation and labour law and as such it mediates the relationship between labour and capital in the system of production at a point in time (Adams and Deakin 2014). For example, by engaging in a long-term relationship where workers are paid for both productive and unproductive time (e.g. breaks, holidays, sick periods) in return for commitment to a single organisation, and the development of firm-specific human capital. The benefits associated with the SER were institutionalised through collective bargaining agreements, and the 'norm' of regularised employment allowed the risks associated with the business cycle to be shared between employer and employee. Thus the SER offers a means for employers to reconcile the dual problems of securing workers' cooperation and a surplus product (Nolan 1983).

Figure 9.1. The 'institutional anchors' of the Standard Employment Relationship



Source: adapted from Bosch (2004, figure 2: 633), Rubery (2015, figure 1: 7), Adams and Deakin (2014).

The partial decommodification of labour achieved through the SER theoretically shields workers from the vagaries of the market (to a greater or lesser degree), allowing workers to earn a family wage which is not contingent on the fluctuating demand of employers for labour (Bosch 2004). Furthermore the distribution of welfare entitlements is fundamentally anchored to the SER in that the social wage bolsters or offsets the limits of paid employment to support the household regardless of the precise working hours or the duration of the employment contract per se (op. cit.). The SER is therefore an important social construct in that it symbolises a general commitment to the continuity of employment in return for loyalty to an employer, while also protecting minimum acceptable standards of living within a given society at a point in time. The high level of compensatory policies such as pensions, unemployment insurance and medical coverage associated with the SER are particularly noteworthy since in combination with the existence of the standard

employment contract, they have historically incorporated a degree of regularity and durability in employment relationships, protected workers from socially unacceptable practices and working conditions, established rights and obligations and provided a core of social stability to underpin economic growth (Rodgers and Rodgers 1989: 1).

The SER therefore had broad ranging effects across the economy, the labour market, and society as a whole, contributing to a degree of stability at a time when production in many European countries was expanding relatively quickly. In addition, the pay and conditions associated with the SER were important for the evolution of our understanding of fair reward and redistribution as labour markets became increasingly heterogeneous. For example, the entitlements of those in non-standard employment relationships (such as part-time work) to a certain level of pay and conditions or social protections are often pro-rated directly from the entitlement of full-time workers, and measures of wage inequality such as the gender pay gap are also typically referenced to the earnings of men in full-time roles. More broadly the SER was effectively a compromise in which employers obtained powers of coordination and control over workers in return for ceding to them a guarantee of the basic conditions of existence (Supiot 2001). The SER allowed for a compromise between the interests of employees, firms and societies as a whole (Bosch 2004). Further, social inequalities within the developed European welfare states were reduced, workers were protected against major economic and social risks, and companies were able to develop highly productive forms of work organisation within the framework embodied in the SER (Bosch 2004; Marsden 1999).

The evolution of the SER in social Europe

The SER was arguably the dominant employment form across Europe for much of the twentieth century which was consolidated in the post-war era as economic production and welfare states expanded. However, as Adams and Deakin (2014: 783) note:

‘there is no single story of the SER; its evolution has been shaped by country-specific paths of industrialization and political development throughout the course of the nineteenth and twentieth centuries’.

Thus the specific features associated with the SER such as wages and working time and the way in which they are institutionalised through legal protections, collective bargaining and systems of social welfare varies markedly between countries. Table 9.1 presents a stylised summary of the context in which the SER historically operated in different countries.

The SER in **France** is a full-time open ended contract with a high level of stability within the firm, and pay increases within the firm are linked to productivity and seniority, underpinned by a minimum wage, which acts as a guarantee of the purchasing power of workers (Kornig et al. 2016). For those in the ‘regulation school’, the employment/wage nexus was a kind of social compromise, linked to the Fordist system of production developed during the ‘30 glorious years’ of post-war growth. However this approach has been criticised for overstating the uniformity of the SER linked with the dominance of large firms, the benefits of which (e.g. good wages, protections against dismissal) were only fully ‘institutionalised’ towards the end of the 30 glorious years, at which point the system of mass production and consumption began to falter and unemployment rose (op. cit.). France famously has very low trade union membership density but high collective bargaining coverage which gives the unions a level of political power which far outstrips their ‘coercive’ power (Berg et al

2014). The state takes a dominant role in setting minimum standards such as the legal minimum wage but there is a clear role for the unions in leveraging the minimum wage to negotiate increases throughout the wage distribution (a long reach ripple effect) (Grimshaw 2014).

The welfare system in France has its roots in systems of social insurance which were contribution-based and linked explicitly with employment status, and despite relatively high female participation rates (both formally and informally) this created problems for certain groups of women such as new entrants and out of work single-parents who were largely excluded from social protections owing to low (or no) past contributions. The system has become more universal in nature over time with provisions such as state pensions, and elements of healthcare available to all and paid for (partly) through general taxation rather than direct employee contributions, although changes to the rate at which in-work benefits are ‘tapered’ with increases in working hours have arguably created an inactivity trap for some women (Kornig et al. 2016).

Table 9.1. Historical SER context in the six selected countries

	Regulation of SER	Male breadwinner ‘norm’	Labour market flexibility for permanent workers	Gaps in standards between employment forms
Denmark	Voluntarism	Weak	High (but with strong social wage)	Moderate
France	State-centred voluntarism	Moderate	Low	Moderate
Germany	Hybrid	Strong	Low	High
Slovenia	State-centred voluntarism	Weak	Low	Low
Spain	State-centred voluntarism	Strong	Moderate	High
UK	Employer-led voluntarism	Moderate/strong	High (but without strong social wage)	Low/moderate

Source: National reports.

The standard employment relationship in **Denmark** is an open-ended contract with conditions primarily determined in collective agreements (the regulated sectors), but even in unregulated sectors (i.e. those without collective agreements) full-time and open ended contracts are the ‘norm’ and even small firms may broadly follow the minimum standards set through collective bargaining without formally signing up. Temporary contracts can only be renewed where it is clearly justified within certain sectors (such as teaching and scientific work) and only two renewals can be issued before the fixed-term contract is either terminated or converted into an open-ended contract (Rasmussen et al. 2016).

Denmark arguably institutionalised the benefits associated with the SER (e.g. job security, decent working conditions) following the agreement reached between employers and unions referred to as the ‘September Compromise’ of 1899 without ever formally adopting a legal entity which could be recognised as the SER (Stone and Arthurs 2013). For example, individual legal rights at work are fairly limited, and pay and conditions are largely regulated through sector level collective agreements (Rasmussen et al. 2016). Relatively generous unemployment benefits and active labour market policies are used to balance out the embedded principles of labour market flexibility such as relatively low severance payment and protections - forming the basis of the well-known ‘flexicurity’ model which transmits the protections conventionally associated with the SER to a wide range of

'non-standard' workers (assuming they are working in sectors covered by a collective agreement) (Rasmussen et al. 2016), and state policy actively encourages female participation in the labour market (Adams and Deakin 2014).

The notion of a legal contract of employment in **the UK** emerged around the turn of the twentieth century, and provided the basis for social legislation around workplace accidents, unemployment insurance and pensions and opened the way for collective negotiations between employer and unions over pay and working time (Adams and Deakin 2014). The historically voluntarist system of labour market regulation saw a strong role for collective bargaining in setting pay and conditions, and the continuity of employment was seen as important to minimise conflict (although not always successfully as indicated by periodic but bitter strikes). The post-war 'social wage' in the UK was relatively comprehensive (although at a relatively low level of 'value' supplemented by employer-based benefits such as pensions) and was built around local government housing and social services, income protections in the form of unemployment and sickness benefits, and a national health service free at the point of delivery, all of which broadly encouraged labour market participation (although this system was largely agnostic towards the specific needs of women).

This underwent significant reform during the 1980s and 1990s with a much greater emphasis on the narrowing of welfare entitlements (as part of an overall reduction of the size of the state in order to compel rather than just 'encourage' labour market participation), although in-work welfare payments for low earners were actually strengthened during the 1990s and 2000s, which effectively transferred the cost burden of compensating a shortfall in the minimum standards associated with the SER (e.g. to provide a living wage and a decent pension) away from employers and back onto government and households (McIlroy 2009).

The 1980s and 1990s also saw British central government take a more direct role in reducing employment protections ostensibly to increase labour market flexibility, while also reforming the institutions of trade unions and collective bargaining, which contributed to the dramatic decline in union membership density and the decentralisation of bargaining in the private sector. The UK employment system now provides a relatively low floor of statutory employment rights so that, in the absence of joint employer-union bargaining (at least in the private sector), employees in full-time permanent jobs are strongly reliant on either the conscientiousness of an employer or their own individual bargaining power to establish top-ups to their rate of pay, protections for sickness and maternity/paternity leave, and deferred benefits such as pensions (Grimshaw et al. 2016).

The emergence of a codified standard employment contract in **Slovenia** is a more recent phenomenon aligned with the shift to a coordinated market economy (considered 'exceptional' among the former communist states of central-eastern Europe) with a strong role for sector level collective bargaining (Crowley and Stanojevic 2011), although open-ended contracts were the norm within the state sector prior to independence in 1991, with some provisions for temporary and occasional work in agriculture (Konèar 1999). However, it was a degree of conflict and mass labour mobilisation rather than cooperation between employers which helped to translate the emergent legal framework into collective agreements. Moreover, waves of strikes in the early 1990s were instrumentally important in unfreezing wages and securing (albeit limited) concessions over the privatisation of state industries (Crowley and Stanojevic 2011).

The majority of contracts in Slovenia are referred to as ‘employment contracts’ and fall under the rule of the Employment Relationship Act (most recently revised in 2013). The amended Act grants workers a wide range of employment and social rights with a strong focus on permanent work rather than temporary or fixed-term contracts. Gender equality is strong in Slovenia, with one of the lowest gender pay gaps in Europe and a high female (as well as working mothers) employment rate (Ignatović and Kanjuo Mrčela 2016).

Along with France and Slovenia, **Spain** is broadly characterised by an active role of the state in extending protections through statutory provisions coupled with relatively high coverage of collective bargaining, which is described as being at the core of its employment relations (Muñoz de Bustillo Llorente and Pinto Hernández 2016). Open-ended contracts were the dominant form of employment relationship for much of the twentieth century (broadly aligned with a strong male breadwinner model of household subsistence) with pay and conditions largely regulated through collective agreements in the post-Franco era, although this model came under significant pressure during the 1980s as temporary work grew sharply (ostensibly in response to the strength of protections for full-time and permanent workers) (Muñoz de Bustillo Llorente and Pinto Hernández 2016).

The Spanish Labour Code of 1980 paved the way for the creation of temporary work (which had formerly only been permitted in exceptional circumstances), and effectively ‘normalised’ temporary work as a means to achieve labour market flexibility. Reducing the burden on employers was seen as important to lessen the over-protection of permanent (and largely male) employees thus increasing opportunities for the unemployed to access the labour market leading to a rapid growth in temporary work (Muñoz de Bustillo Llorente and Pinto Hernández 2016). In turn, in the late 1990s a new policy approach sought to increase the use of open-ended contracts by both increasing the cost of temporary contracts and creating a new open-ended contract with lower redundancy payments for specific groups of workers overrepresented among the unemployed.

Female labour market participation in Spain grew rapidly pre-crisis from previously a relatively low level and although it has declined since, the gap between male and female employment rates has narrowed. Employment among mothers is lower than in the other five countries but the gap between that for mothers of young children and non-mothers is lower than in Germany, the UK and even France. The main problem for women’s employment is demand not motherhood although there are few policies that actively promote gender equality or facilitate the balancing of family responsibilities with paid work.

The legally defined employment relationship in **Germany** is known as a ‘work contract’ (*arbeitsvertrag*) and emerged in the final decades of the nineteenth century along much the same lines as in the UK in order to codify the rights and obligations on employers and employees within an increasingly standardised system of manufacturing (Adams and Deakin 2014). The work contract means that the employer is in the position of giving orders to the worker and that the worker is in a dependent position, although the Dismissal Protection Act (*Kündigungsschutzgesetz*) covers workers who have a work contract with an employer for more than six months (Eurofound 2015).

The ‘hybrid system’ of employment relations in Germany means that collective bargaining both institutionalises legal requirements, but at the same time can offer significant scope for derogations from legal rules and commonly agreed standards through both sector and local levels of collective

bargaining and consultation. Nevertheless, employment protections against both individual and collective dismissal for permanent workers remain high (OECD 2016). The historically 'corporatist' model of welfare in Germany meant an explicit link between past social security contributions and unemployment benefits which vary with income levels (Jaerhling and Wagner 2015), which although not directly discouraging of female participation in the labour market, means women may be channelled into atypical work in order to maximise their personal tax allowance and to preserve certain social security entitlements that are derived from the full-time male breadwinner (Adams and Deakin 2014; Bosch 2004).

Historically the inadequate provision of care facilities for children under the age of 3 and morning-only schooling are key reasons why women with children in Germany (as in the Netherlands also) have sought part-time employment, exacerbated by tax disincentives to second earners in Germany (Bosch 2004). Care facilities and leave are being improved but the tax disincentives remain. In addition the 'Hartz IV' reforms (2002-2004) saw cuts in unemployment benefits ('sanction and support') and attempts to deregulate the labour market by creating a greater space for atypical work in the form of temporary work, and the well-known experiment with 'mini-jobs' which permit short working hours and exemptions from certain employment protections on the one hand and tax and social security contributions (for employees only) on the other. This was justified on the grounds that women and younger workers struggled to gain access to SER jobs in male-dominated unionised industries, but there is evidence to show that stepping stone function of mini-jobs is very limited, and a large share of women working part-time either get stuck in mini-jobs or exit the labour market altogether (Wippermann 2012 cited in Jaerhling et al. 2016).

Is the SER still the 'default' employment relationship?

It is generally recognised that long-term employment and job security have declined in many industrialised economies since the 1970s, while non-standard or atypical forms of employment relationship have increased (Stone 2013). For some the situation is bleak. For example it has been argued that the use of contingent contracts allows employment relationships to '*be initiated and terminated at will*' and transfers '*the risks associated with demand fluctuations*' on to the workforce who shoulder the cost of non-productive time (Peck and Theodore 2014:26).

Further, the fragmentation of employment relations has weakened the mutual ties between employer and employee, and flexible 'on-demand' modes of production no longer require permanent and full-time workers paid all year round which has resulted in a growing 'class' of vulnerable workers referred to by Standing (2011) as the 'precariat'. The issue is blurred somewhat by processes of outsourcing and subcontracting, which can lead to an erosion of job security, status, and pay and conditions without formally changing the label of the employment contract, as well as by the absence of reliable estimates of contingent and precarious contract forms such as zero hours contracts and bogus self-employment (Grimshaw et al. 2016). However, others have argued that the SER remains the dominant form of employment relationship across Europe (Adams and Deakin 2014; Bosch 2004). A summary of key data on employment types for 2006 and 2015 across the six countries can be found in table 9.2.

Table 9.2. Workers engaged in different employment relationships, 2006 and 2015

		Economically active (million)	Dependent employees %	Self- employed %	Full-time %	Part-time %	Invol. Part- time %	Temp. %	Perm. %	Invol. temp. %
Denmark	2006	2.88	92.3	7.7	77.1	22.9	15.2	9.0	91.0	48.3
	2015	2.86	92.2	7.8	75.3	24.7	15.7	8.0	92.0	43.5
France	2006	27.37	89.8	10.2	82.9	17.1	30.8	14.1	85.9	57.2
	2015	29.12	88.9	11.1	81.7	18.3	43.8	15.7	84.3	59.7
Germany	2006	40.87	89.5	10.5	74.8	25.2	23.1	14.2	85.8	25.4
	2015	41.12	90.5	9.5	73.2	26.8	13.8	13.1	86.9	-
Slovenia	2006	1.00	89.4	10.6	92.0	8.0	6.1	16.4	83.6	85.6
	2015	0.99	87.8	12.2	89.9	10.1	13.0	16.2	83.8	90.6
Spain	2006	21.63	84.2	15.8	88.4	11.6	33.8	33.3	66.7	50.3
	2015	22.77	83.7	16.3	84.3	15.7	63.2	23.6	76.4	59.5
UK	2006	30.05	87.7	12.3	75.8	24.2	9.5	5.5	94.5	-
	2015	31.65	86.5	13.5	74.9	25.1	17.9	6.0	94.0	-
EU 28*	2006	231.70	85.6	14.4	82.6	17.4	22.7	13.9	86.1	61.5
	2015	238.34	85.9	14.1	80.3	19.7	29.2	13.6	86.4	62.3

Source: Labour Force Survey 2006 and 2015, Eurostat, authors' own compilation. *Self-employed data and temp/perm data for 2006 = EU27.

Across the EU, the number of working-age people registered as economically active increased between 2006 and 2015. Among our six selected countries this is also the case except for Denmark and Slovenia which remained relatively stable. The share of those who are economically active in a dependent employment relationship (i.e. not self-employed) ranges from over 92% in Denmark to just under 84% in Spain (where self-employment is comparatively high). Whereas self-employment has remained low in Denmark since 2006, and even decreased in Germany, it has become an increasing part of the labour market in the remaining four countries (France, Slovenia, Spain and the UK). This indicates a shift away from dependent employment relationships (of any kind), and self-employment has been a key feature of the slow economic recovery in countries such as the UK accounting for around half of the net employment increase during 2008-2015.

Overall, however, across the EU, and across all six countries under analysis here, full-time hours and permanent employment remain the dominant forms of contractual relationship between employer and employee. For example, more than 70% of dependent employees are engaged on full-time working hours in all six countries under analysis (ranging from 90% in Slovenia to 73% in Germany), and more than 75% are on a permanent contract (ranging from 94% in the UK to 76% in Spain). The share of employees who are full-time decreased slightly in all countries between 2006 and 2015. However, the share who are on a permanent contract was not adversely affected by the 2007-08 financial crisis. In fact all countries (with the exception of France and the UK which saw very marginal decreases) saw an increase in the proportion of workers engaged on a permanent contract (Spain saw a particularly sharp increase of nearly ten percentage points though the actual numbers so employed declined).

The proportion of part-time workers working on this basis involuntarily (i.e. would like full-time hours but cannot find it in either current or other job) ranges from 13% in Slovenia (with a slightly weaker full-time orientation among men) to 63% in Spain (with a slightly weaker full-time orientation among women). With the exception of Germany, all countries have seen an increase in full-time orientation since 2006. The full-time orientation increased more strongly among men in Denmark, Spain and Slovenia, and more strongly among women in France and the UK. The proportion of temporary workers who would prefer permanent work is markedly higher (62% across EU28 countries). Rates of involuntary temporary work are lowest in Denmark and highest in Slovenia (data for the UK are not available), and rates increased between 2006 and 2015 in France, Spain and Slovenia, and decreased in Denmark (data for Germany in 2015 are not available).

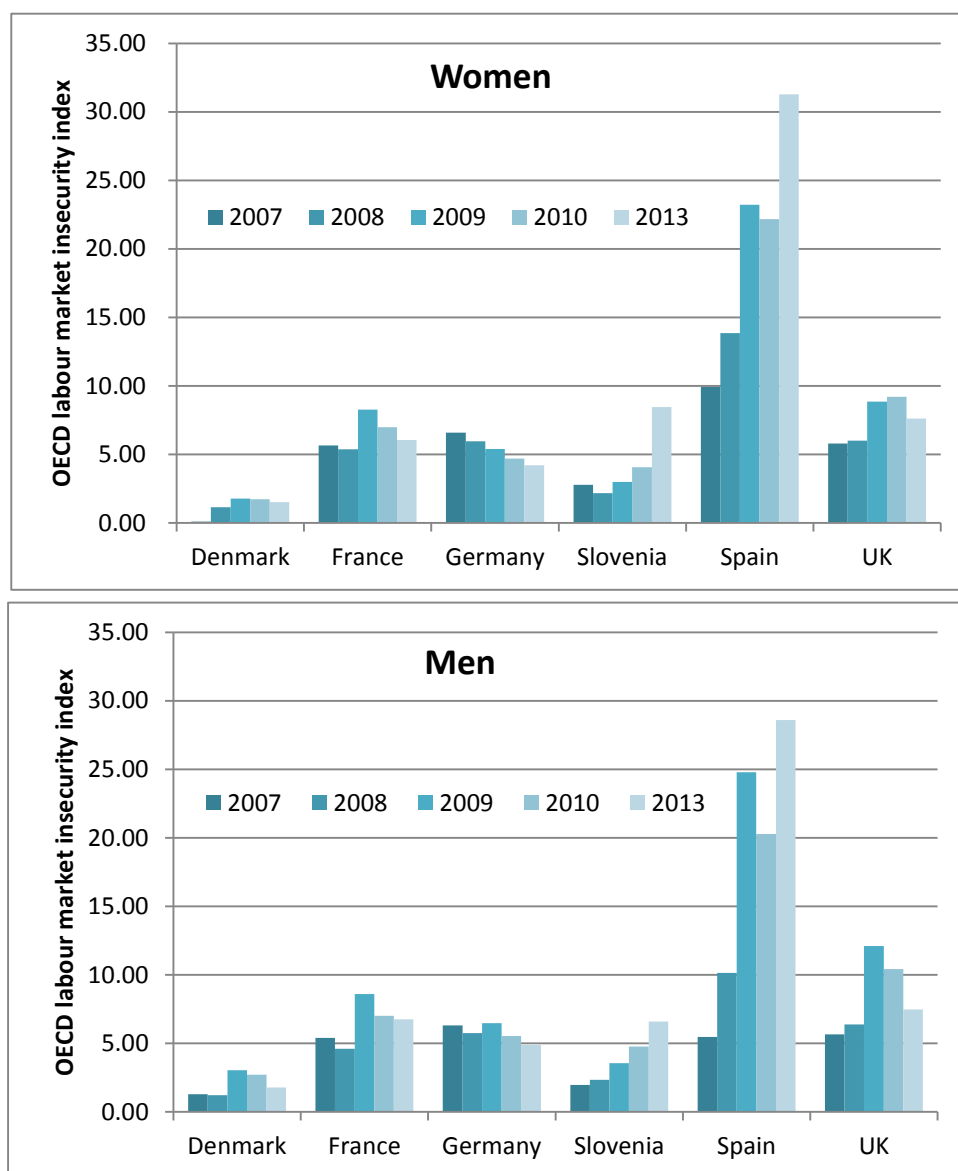
The hollowing out of the SER

Where change has arguably been more marked is in respect of the standards historically associated with the SER such as job security, wages and working time. On the one hand this can be seen as a reflection of the weakening of bargaining power of workers and the ability to secure economic rents from employers associated with the decline of trade unions and fragmentation of collective bargaining. On the other hand the lowering of standards around the SER may be a product of welfare and labour market policies ostensibly designed to encourage labour market flexibility and reduce dualism between different workforce segments. It is important to explore both the relative and absolute position of SER workers within a particular context as the ability of the SER to offer job security, decent pay and conditions, and a reasonable retirement pension are important reference

points for those in non-standard forms of employment also. Where entitlements for part-time or temporary worker are either derived or pro-rated from full-time permanent entitlements, a fall in their value affects a wide range of workers.

This section explores secondary data on the SER across the six European countries in terms of four key dimensions: job security; working time; wages; and pensions and unemployment benefits⁵⁴. Data are presented for full-time and permanent workers where available, although comparisons between full and part-time, and permanent and temporary workers are shown where appropriate.

Figure 9.2. Labour market insecurity by sex, 2007-2013



Source: OECD data; authors' compilation from 'Labour market insecurity by sex', <http://stats.oecd.org/Index.aspx?DataSetCode=JOBQ#>.

Job security

⁵⁴ Worker voice and social protections are covered extensively in other chapters and are therefore not discussed in detail here

Prior to the crisis, OECD measures of labour market insecurity (a combination of the risk of unemployment and the level and coverage of unemployment insurance), suggest that insecurity was by far the lowest in Denmark for men and women, followed closely by Slovenia, and highest in Spain for women and yet similarly high in Spain, France, Germany and the UK for men (figure 9.2).

However, all countries saw an increase in labour market insecurity following the 2007-08 crisis (as unemployment levels increased). Levels of insecurity in Germany and Denmark dropped again fairly quickly and continued to decline through to 2013. Labour market insecurity in the UK had dropped by 2013 but not quite back to pre-crisis levels, and in Slovenia and France insecurity continued to rise steadily through to 2013. Spain saw the biggest deterioration with sharp increases in 2008 and 2009, and levels have remained high since then. This largely reflects the rapid increase in unemployment rates which reached 26% in 2013 (with youth unemployment rates peaking at nearly 60% in 2014).

Working time

As table 9.2 shows, full-time employment generally makes up between 75% and 85% of all employment, across the six countries with the exception of Slovenia where nearly 90% of all dependent employees work full-time. Rates of full-time employment among men are similarly high from 85% in Denmark up to 93% in Slovenia but for women rates are generally lower and vary more markedly. For example, only 54% of women work full-time in Germany (reflective of the trend of women becoming 'trapped' in marginal part-time work) whereas 86% of women work full-time in Slovenia. Actual average weekly working hours for full-time workers are longest in Slovenia at 39.3 hours per week and shortest in Denmark at 33.5 hours. LFS data from Eurostat⁵⁵ also shows that average weekly hours also decreased slightly since 2006 in all six countries under analysis here – ranging from a 5.1% reduction in Denmark to a 0.5% reduction in the UK. France already saw a reduction in full-time working hours to 35 hours as a result of legislation introduced in the year 2000. Average actual weekly working hours for part-time workers have decreased in Denmark, Spain and France, but have increased in Germany, Slovenia and the UK.

Wages

A key benefit of the SER is the provision of a stable full-time wage, at a level sufficient to live in modest comfort. Although there are debates about the gendered construct of a family wage, earnings for SER workers when combined with the 'social wage' would have gone some way to preventing undue hardship and in-work poverty (for the household). Isolating wage data for SER workers is problematic, but Eurostat data for 2006-2010 suggest that median hourly earnings grew more quickly for full-timers in France, Germany and Spain, and more quickly for part-timers in Denmark and Slovenia (wage growth for both full and part-timers in the UK was negative). Similarly, wage growth was stronger for workers on 'indefinite' contracts in Germany and France, whereas growth was stronger for fixed-term workers in Denmark, Spain and Slovenia (wage growth as above was negative in the UK).

However it is not just the wages associated with full-time and permanent contracts per se, but the wage effect of trade unions in sectors where SER workers are concentrated. The union wage effect is threefold. Firstly, unions attempt to redistribute income from capital to labour by securing a share of the economic 'rents' when productivity and profitability are high. Second, by leveraging significant

⁵⁵ See lfs-ewhuis.

bargaining power through the mechanism of coordinated collective bargaining unions may be able to appropriate a higher share of rents than workers in non-unionised sectors or firms – referred to as the union ‘wage premium’. Third, unions tend to reduce wage inequality by compressing the wage structure, which is a result of action to raise the wage floor combined with an emphasis on the ‘rate for the job’ as opposed to individual performance or market worth.

Turning first to the issue of economic rents, table 9.4 shows that median annual wages for all workers (purchasing power parity adjusted in \$US at 2014 prices) range from \$33,068 in Slovenia to \$49,589 in Denmark. Wage growth prior to the crisis (2000-2007) was comparatively low across the six countries, from 0.0% in Slovenia to 2.0% in the UK. The direction of wage growth after 2007 varied among the six countries: it halved in Denmark and fell to around one negative point per year on average in the UK, while in Germany average annualised wage growth increased significantly. Unit labour costs however typically grew more slowly than wages across the entire period 2000-2014 (with the exception of Spain 2000-2007 and Germany 2007-2014) suggesting that underlying productivity growth was relatively strong.

Table 9.4. Growth in median wages 2000-2014 (US\$PPP)

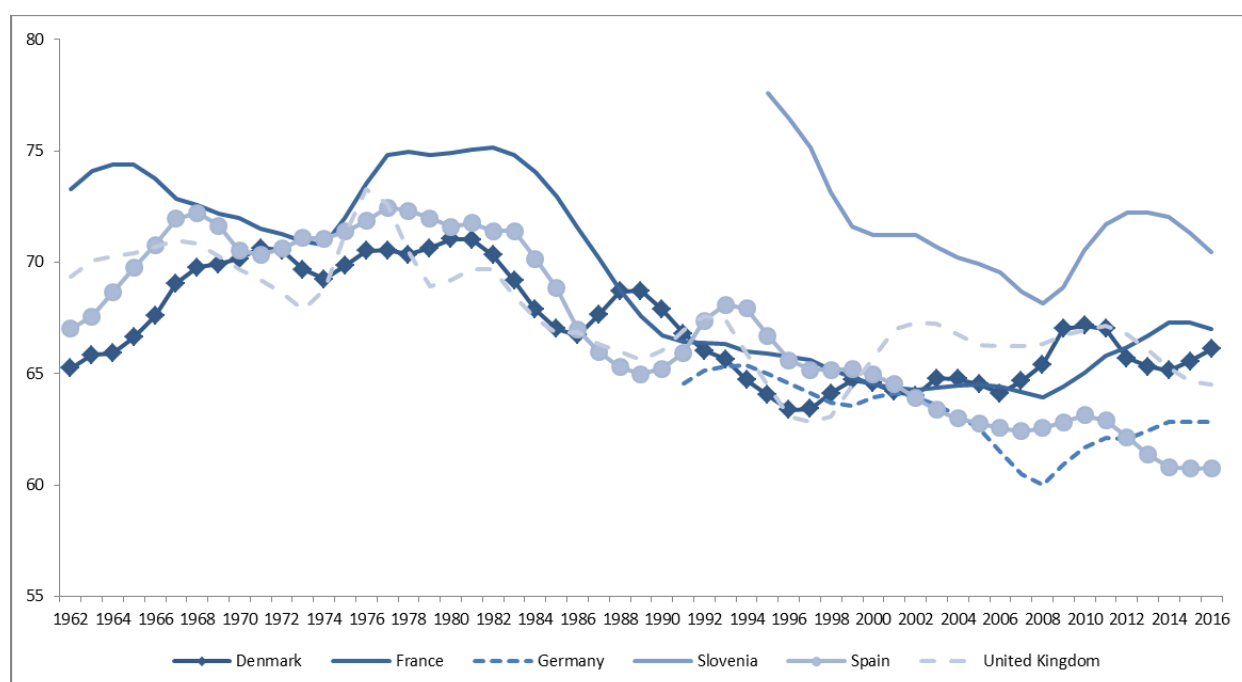
	Average wages in 2014 in USD PPP	Annualised growth rates, percentages			
		Average wages		Unit labour costs	
		2000-07	2007-14	2000-07	2007-14
Denmark	49,589	1.8	0.7	1.1	0.3
France	40,828	1.2	1	0.1	0.7
Germany	43,872	0.1	0.9	-1.9	1.1
Slovenia	33,068	0.0	0.4	-0.3	-0.2
Spain	36,013	0.1	0.4	0.5	-1.5
United Kingdom	41,659	2.0	-0.9	0.7	-1
OECD	44,982	1.1	0.4	-0.5	-0.2

Source: OECD employment outlook 2015, statistical annex.

Looking at long-run wage growth however, the story is even less positive. It has been estimated that the ‘wage share’ of GDP in advanced OECD economies fell by about ten percentage points between 1970 and 2010, which has been attributed to the effects of ‘financialisation’ (e.g. short-termism and prioritising shareholder interests), along with the weakening of trade unions and welfare state retrenchment which has shifted the balance of bargaining power away from workers (rather than the mainstream economic explanation of technological change) (Piketty 2013; Stockhammer 2013). It may be tempting to make a straightforward causal link between the decline in collective bargaining coverage and falling wage shares, and this is arguably the case in the UK where membership density has contracted since the 1970s and collective bargaining has grown increasingly fragmented (Brown 2009). However, as Bengtsson (2014) notes the wage share has also decreased in several Nordic countries where union membership and collective bargaining coverage remain high. Bengtsson argues that this is partly a result of ‘corporatist’ centralised bargaining which sees a trade-off between continued political legitimacy for the unions in return for wage moderation, driven by the increasingly monetarist policies of central banks which see wage inflation as highly problematic.

Figure 9.2 shows long-run trends in the wage share across the six countries. Although there are short-run fluctuations, the data show a clear overall downward trend in all countries which generally 'bottomed out' around the time of the crisis, before a slight recovery through to 2016.

Figure 9.2. Wage share of GDP 1960-2015, at factor cost, 3 year moving average



Source: European Commission annual macro-economic database (AMECO) 2016, authors' own compilation

The average wage share across the whole period 1960-2016 was highest in France at 69%, but there was a sharp fall from the early 1980s onwards: declining from a peak of 75% in 1981 to 64% in 2007, before increasing again to 66% in 2016. The UK had the next highest average wage share at 68%, but with significant peaks and troughs aligned with the changing fortunes of the UK economy and the trade unions. The wage share was comparatively low but stable during the 1960s which rapidly increased during the 1970s (as wage inflation and strikes became increasingly common); peaking at 75% in 1975 before dropping back to 69% in 1979 and decreasing throughout the 18 year period of Conservative government, reaching a low of 63% in 1997. Following the election of New Labour in 1997 the wage share recovered to 68% in 2001 and has remained fairly stable at between 65-67% since then. The average wage share for the period 1960-2016 in Denmark was 67% and followed a similar trend to that of the UK, decreasing from a peak of 72% in 1979 to a low of 63% in 2000, before recovering slightly to 67% in 2016. In Spain the average wage share for the period 1960-2016 was 67% but decreased steadily across much of the period, down from a peak of 74% in 1967 to a low of 61% in 2014. Data for Germany (from 1992 onwards) show a low average across the period 1991-2016 (63%) but with only a modest decrease from 66% in 1992-94 (immediately post-unification) to 59% in 2007, before a slight recovery to nearly 63% in 2016. In contrast, data for Slovenia across the later period 1995-2016 show a very high average (71%) but with a relatively steep decline from 78% in 1995 (following independence) to 68% in 2007, followed by a further peak of 73% in 2012 and a decline through to 2016.

The ability of unions to leverage wage gains for their members is a key goal, but empirical evidence on the union ‘wage premium’ reveals an ambiguous relationship between membership density and the size of the union premium (Bryson 2014). The famous example is France where the union wage premium is very low (around 3%) which Bryson argues is a result of the encompassing nature of wage setting through the automatic extension of collectively bargained wages to all workers within a sector even though union membership density overall is low. Similarly collectively agreed rates in Germany set the pace for earnings in uncovered sectors meaning that the wage premium is similarly small (4%). In Spain the wage premium is moderate at around 7%, which is partly a result of less encompassing sector level agreements (i.e. fewer sectors are covered which means bigger gaps between sectors), but this is offset by plant level bargaining which tends to compress wages between low paid workers (typically union members) and middle and high earners (who are more likely to be non-members). In Denmark the wage premium is much higher at around 16%, which is a product of encompassing sector agreements which are supplemented by plant level wage drift which raises average wages for union members. The segmentation of union representation and collective bargaining coverage between the public and private sectors in the UK means that the union wage premium is still high at 17% (even though a low proportion of workers benefit).

The relationship between centralised collective bargaining and a narrow wage distribution is also not straightforward. Recent analyses of the distribution of wages point to a widening of top to bottom wage dispersion in many OECD countries including a number of European countries (ILO Global Wage Report 2015). Certainly where collective bargaining coverage is low, wage dispersion tends to be high, and the risk of low wages is also high (Fernandez-Macias and Vacas-Soriano 2013), but the data in table 9.5 shows that wage inequality (measured by the Gini coefficient) widened in all countries between 2006 and 2015 with the exception of the UK (where inequality was already high).

Table 9.5. Gini coefficient 2006-2015, all workers

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Denmark	0.237	0.252	0.251	0.269	0.269	0.266	0.265	0.268	0.277	0.274
Germany	0.268	0.304	0.302	0.291	0.293	0.29	0.283	0.297	0.307	0.301
Spain	0.319	0.319	0.324	0.329	0.335	0.34	0.342	0.337	0.347	0.346
France	0.273	0.266	0.298	0.299	0.298	0.308	0.305	0.301	0.292	0.292
Slovenia	0.237	0.232	0.234	0.227	0.238	0.238	0.237	0.244	0.25	0.245
UK	0.325	0.326	0.339	0.324	0.329	0.33	0.313	0.302	0.316	0.324

Source: Eurostat, Gini coefficient of equivalised disposable income - EU-SILC survey

In-work poverty

A specific concern for this report is the ability of the SER to protect against in work poverty and the extent to which poverty risks are segmented by working time or contractual status. Table 9.6a shows that the risk of in work poverty (i.e. the proportion of workers who have below 60% median disposable income after taxes and state transfers) is lower for full-time workers than part-time workers in all countries. The risk of in-work poverty for full-time workers is below the EU 28 average (7.7%) in all countries except Spain where the rate is 10.2%. The risk of poverty increased for full-time workers in all countries between 2007 and 2014 (with the exception of Denmark where there

was no change), and in fact increased at a faster rate than for part-time workers in Germany, Slovenia and the UK. In Denmark, France and Spain it increased at a faster rate for part-time workers.

Table 9.6a. Risk of in-work poverty by working time

	Part-time workers								Full-time workers							
	2007	2008	2009	2010	2011	2012	2013	2014	2007	2008	2009	2010	2011	2012	2013	2014
Denmark	5.1	7.0	9.1	10.0	8.6	6.0	7.9	8.5	3.7	4.5	5.2	5.1	5.3	4.4	4.2	3.5
France	10.9	10.5	11.2	11.2	13.7	13.0	13.1	13.3	5.3	5.3	5.3	5.2	5.9	6.6	5.9	6.3
Germany	10.1	10.8	10.0	11.2	10.5	11.3	13.4	14.9	6.1	5.4	5.1	5.4	6.1	5.7	6.3	7.5
Spain	14.6	22.2	21.1	19.3	19.0	21.2	18.7	22.9	9.7	9.4	9.6	9.2	9.3	8.7	8.9	10.2
Slovenia	10.8	8.1	7.2	7.4	10.7	10.2	13.4	13.0	4.0	4.7	4.3	4.6	5.4	5.6	5.8	5.5
UK	12.0	11.9	11.9	11.4	12.3	14.3	13.6	16.1	5.8	6.4	4.9	5.3	5.5	6.6	6.2	5.7

Source: Eurostat, In-work at-risk-of-poverty rate by full-/part-time work - EU-SILC survey [ilc_iw07]

Table 9.6b shows that the risk of poverty is far lower for permanent workers than for temporary workers in all countries, and the risk of poverty for permanent workers is broadly at or below the EU 28 average (5.9%) in all countries with the exception of Germany where the risk is 8.0%. However, the risk of poverty for permanent workers increased between 2007 and 2014 in all countries except Slovenia, and increased at a faster rate for permanent workers in Denmark, Germany, and the UK. In France, Spain and Slovenia it increased at a faster rate for temporary workers.

Table 9.6b. Risk of in-work poverty by contract type

	Temporary workers								Permanent workers							
	2007	2008	2009	2010	2011	2012	2013	2014	2007	2008	2009	2010	2011	2012	2013	2014
Denmark	-	-	-	-	9.7	4.6	16.6	6.2	2.3	3.3	4.4	4.8	4.4	3.6	3.2	3.9
France	11.2	14.2	12.5	11.7	13.8	13.6	14.9	14.8	3.8	4.0	4.3	4.3	4.7	5.2	5.0	4.8
Germany	12.7	14.8	14.2	16.2	15.3	16.1	17.0	17.5	6.2	5.8	5.4	5.7	6.2	5.8	6.6	8.0
Spain	12.2	21.2	17.8	15.2	15.9	17.6	17.5	22.9	4.8	6.0	6.0	5.5	5.4	5.4	5.4	5.9
Slovenia	8.0	8.8	4.2	7.5	10.1	11.4	8.1	14.6	3.2	3.3	3.7	3.0	2.9	4.1	3.9	3.3
UK	9.0	-	1.5	6.5	11.0	9.2	8.0	12.5	5.0	-	5.2	5.4	5.8	6.4	5.9	6.0

Source: Eurostat, In-work at-risk-of-poverty rate by type of contract - EU-SILC survey [ilc_iw05]

It appears that while those in full-time or permanent work are less likely to experience in-work poverty than those in part-time or temporary work, SER workers are not immune from a growing risk of poverty following the crisis. In fact, although there is some evidence of increasing dualism in France and Spain where part-time and temporary workers have fared particularly badly since 2007, it appears that SER workers in Germany and the UK are particularly exposed to the erosion of standards. Changes in poverty risks for all workers in Denmark were fairly marginal, and in Slovenia there were mixed effects across standard and non-standard workers, although full-time and temporary workers did badly part-time and permanent workers were less affected by the crisis.

Pensions and unemployment benefits

State pensions and unemployment benefits made up an important element of the post-war 'social contract' in many EU countries. Net replacement rates⁵⁶ for statutory pensions (and mandatory

⁵⁶ Which allows for high effective tax and contribution rates paid on wages compared to pensions

private pension in Denmark) for median and low earners were detailed in chapter 6. With the exception of Denmark and Spain, all countries here have net replacement rates at a lower level than the EU28 average. However, most countries offer some extra protections for low earners by providing higher replacement rates for those workers earning half the median, although this effect is more pronounced in Denmark and the UK for both male and female workers.

A particular concern is Germany's decreasing level of pension entitlements for low and median earners. For example even 45 years of full-time employment on the level of the current minimum wage of €8.50 are not sufficient to build up pension entitlements at the level of the means-tested 'basic allowance for the old-aged and disabled' for a single person which is equivalent to around €700/month (Jaehrling et al. 2016).

New forms of precarious SER?

The secondary data presented in this section suggest that the SER is a complex and evolving institution, with a number of somewhat contradictory outcomes. At first glance the data does not give unequivocal support for the prognosis of Stone and Arthurs (2013) that the SER is in terminal decline; full-time and permanent work is still the main form of employment relationship across the EU even in liberal market economies such as the UK. Although there has been a growth in self-employment in Slovenia, Spain and the UK, more people are in work (even after the financial crisis) underpinned by steady growth in female participation rates (with the exception of Denmark).

However, it appears that even though the share of the workforce engaged in an SER contract has remained relatively stable across the six countries, the norms of fairness, redistribution, and job security associated with the post-war social contract (through which the SER was realised) have to an extent been hollowed out. Furthermore, the 'feminisation' of the workforce in many countries in response to changing social dynamics, supply-side interventions to increase labour market activation and the weakening of the welfare state has arguably 'normalised' the principle of employment flexibility (and the attendant risks of low wage and short-working hours) to the detriment of employment standards across the labour market (Rubery 2015; Vosko 2010). At the same time, there is also evidence that the SER can and does adapt, with the boundaries around standard and non-standard employment becoming increasingly 'blurred'. For example, the temptation to make a clear distinction between full-time workers in the primary labour market and part-time and other atypical workers in secondary labour markets in a UK context does not necessarily translate to other European countries where the distinction between full and part-time workers is minimal both in terms of status and working hours (Bosch 2004). In Sweden it is possible for part-time workers to be engaged on 'annualised' hours which allows for a closer fit between working time and personal needs or preferences across the year (as opposed to a fixed number of hours in a day or week) (Berg et al. 2014). A reduction in full-time working hours in France in 2000 (from 40 to 35) was designed to protect against long working hours and support an even balance between work and family life, which was partly made possible by adjustments to in work welfare (Berg et al. 2014).

The way in which such trends are manifested across the six countries is mediated by the interaction of economic, social and labour market policies combined with the strength and encompassing nature of wage setting.

For example, job security is high in **Denmark** (bolstered by strong social protections) with a relatively large core of SER workers in sectors with strong coordinated collective bargaining (which to an extent sets the pace elsewhere). However ‘precariousness’ also tends to follow the contours of collective agreements with concentrations of precarious SER workers (typically migrants and women) in sectors such as hospitality where collective bargaining coverage is patchy and the lack of a statutory minimum wage can mean significantly lower wages. In **Germany**, there are growing concerns about low wages and pensions for those covered by collective agreements, and the drag effect of non-standard work such as mini-jobs on wages for SER workers. Furthermore, the tendency of larger organisations (in the public and private sector) to outsource work creates a hidden form of precarity where workers are engaged on open-ended contracts but with limited job security from contract to contract. In the **UK** low levels of job security and employment protections means SER workers can find themselves in a precarious position, and reflecting the fragmentation of wage setting there is a comparatively high share of low wage workers in the labour market. This is compounded by the relatively low value of pensions and unemployment benefits.

There is a very high share of SER workers in **Slovenia** who have seen relatively strong wage growth over the last decade or so, but in comparative terms wages are still low and working hours are long (leaving little scope to reconcile work with home life). In **France** working hours have decreased and encompassing wage setting means a wide range of workers benefit from collectively agreed wages but wage growth was badly affected by the crisis, and employment protections also suffered slightly. Although SER workers have experienced growing levels of in-work poverty, there appear to be widening gaps between those in standard and non-standard work. The relative position of SER workers in **Spain** has tended to fluctuate over time as successive waves of government policy have weakened and strengthened SER protections. For example the creation of temporary employment contracts was seen as a way to overcome the rigidities of the SER (and the relatively high standards associated with the male breadwinner model) but then a new form of open ended contract with limited redundancy protections in order to reduce unemployment. More recently although gaps in standards between employment types have increased, there are comparatively high rates of in-work poverty across all employment types as a result of the crisis.

Box 9.1 Precarious work in the public sector

The benefits of the SER such as job security and steady wage growth were historically strong across the public sector in many European countries, which also had a positive spillover into the pay and conditions of non-standard employment types. For example the public sector tended to offer high quality part-time work which was of particular benefit to women. However public sector cuts (driven in part by monetarist fiscal policy) have exerted significant downward pressure on employment standards including those on SER contracts. This has a particular impact on women as they constitute a much higher share of public services employment than men (Rubery 2013, Grimshaw et al. 2012).

Those countries with high sovereign debt saw the heaviest cutbacks: austerity measures in Italy took a heavy toll on local government (Bordogna and Neri 2014) and the conditions attached to Troika bailouts for Spain, Portugal, Ireland and Greece led to the significant restructuring of collective bargaining (Koukiadaki et al. 2014). However, even coordinated market economies with a lower debt to GDP ratio such as Denmark also adopted some ‘market-based’ policies such as the raising of eligibility criteria for welfare payments and a reduction in the top marginal tax rate as a means to ‘stimulate growth’ (Hansen and Mailand

2013), and the decision to link movements in public and private sector wages also effectively meant a pay freeze for public servants in 2011 and 2013 (Mailand 2014).

The Slovenian public sector experienced wage freezes as a result of the crisis (Ignatović and Kanjua Mrčela 2015) and in France the norm of job security for those on open-ended contracts in the public sector has been weakened by an increase in terminations (Insaurato et al 2015). Job losses and outsourcing in the German public sector actually pre-dated the crash, but since 2010 the increasing share of the (albeit comparatively small) public sector in Germany classified as civil servants or 'Beamte' (who have no rights to collective representation) gave central government greater scope for unilateral decision making over employment relations (Bosch et al. 2012). While public sector employers in the UK may have sought to avoid the practice of compulsory redundancy in the past, the scale of post-2010 austerity spending cuts has changed behaviour and whittled away job security norms enjoyed by the SER workforce. Alongside heavy job losses and outsourcing, UK central government unilaterally imposed a two year wage freeze (2011-13) followed by six years (2013-19) where pay is capped at 1% meaning that real wages for public sector workers have fallen behind the rest of the economy (Grimshaw et al. 2015).

Conclusion

There is clearly a balance to be struck between flexibility and security to suit the changing preferences of employers and employees, but effectively regulating different employment contracts without widening gaps between segments of the labour market or arbitrarily levelling down standards remains problematic (Bosch 2004). On the one hand changing social norms such as shifts in the household division of labour, along with changes in modes of production and the impact of globalization on the regulatory capacity of the state have led to higher levels of labour market participation overall, but at the same time there is evidence of growing segmentation between workers with stable working relationships and those with non-standard and precarious arrangements (Adams and Deakin 2014). Others have noted that non standard employment forms which were once closely associated with 'secondary' labour markets (where marginalised groups such as women, young workers, ethnic minorities and migrants were historically concentrated) has become the new normal even in primary sectors (Fudge and Vosko 2001). Changing social norms such as the household division of labour, and women's increased participation in paid employment have reduced the significance of the male breadwinner model (earning a family wage), but the persistent gender pay gap suggests that women (particularly in part-time roles) still struggle to access 'good jobs' in the labour market. The limited obligations placed on employers to fulfil their side of the 'social contract' means limited investment in the workforce, and at a more fundamental level some employers have effectively abdicated their responsibility to protect living standards in the knowledge that the state will pick up the shortfall of providing a 'living wage' through in-work welfare payments. Rubery (2015) proposes that instead of focusing on the relative merits of extending the benefits of the SER to workers in non standard jobs, what is required is a closer integration of economic and social policies which make labour markets more 'inclusive' for all: supporting workers to match work with family life; to earn reasonable wages and build up pensions; and contribute to the running of the workplace through systems of employee voice. This would create greater opportunities for a wide range of workers to move into secure well paid work (with a strong compensating social wage).

10. What protective gaps for part-time and variable hours work?

A cornerstone historically of the standard employment relationship was the notion of standard full-time hours which both served to divide personal time from work personal time and provided an implied guarantee of work and income on a weekly basis likely to meet subsistence needs of either a single adult or a family. Employment for less than full-time hours challenges these functions of the SER by suggesting that one definition of standard hours was not appropriate given the diversity of lives and commitments among labour market participants, once employment is not the reserve of male prime age breadwinners. Furthermore, by introducing work that is less than standard hours, there is potential for flexible scheduling over the day and week without additional remuneration as hours may not extend beyond the standard hours limit, the customary point at which compensation for interference with non work time was negotiated. Indeed if part-time work is used to fragment work time in order to maximise work intensity, it may also have significant impacts on the wage-effort bargain implicit in the SER. These challenges to the SER exemplify the dilemmas faced in determining strategies to reduce precariousness within part-time work. The challenge to the male breadwinner model is a reminder that the SER acted to exclude some groups from the labour market which constitutes one form of precariousness as it leaves people without independent income and possibly under pressure to work in the informal economy. At the same time part-time work may also put in jeopardy core notions of the SER, such as employers paying for non productive time within the working day and compensating for work undertaken in unsocial hours (Rubery 1998).

These challenges to the SER have been well understood by trade unions in Europe, resulting in varying strategies of inclusion or exclusion of part-time work from standard employment arrangements; the inclusion strategies that have been pursued primarily act to sustain the notion of a standard employment relationship, albeit with a part-time variation on a short or long term basis. Exclusion strategies have tried to limit the spread and extent of part-time work, with the consequences that this form of work becomes marginalised and segmented. These strategies have been pursued not only through employment rights and employee representation but also within the social protection systems. However, exclusion strategies have been broken down in large part through the influence of EU legislation. This section therefore explores where the current set of arrangements sit on the spectrum of inclusion and exclusion, that is the extent to which part-time has been effectively integrated into standard employment relationships, with or without the effect of contributing to the erosion of protection associated with the SER.

However, the precariousness associated with part-time work takes on a different significance if part-time is used as a standard model of wage work integration for women over the main part of adult life than when it is primarily used for a student or young people's transitory involvements in labour markets. This is not to deny that even apparently short term transitions may carry high risks for the individual, particularly where either they become prolonged due to recession or where some

individuals or groups also become trapped in marginalised work over the longer term. Moreover, part-time work may itself be segmented, with some part-timers more integrated into stable and decent work while others are in more segmented and precarious employment. Thus strategies of inclusion and normalisation may act to create new divides within non standard employment (Vosko 2010), particularly where the work still excluded from protection is used to meet the flexibility needs of employers rather than employees.

These issues are explored in the following sections. First we use available data from Eurostat to identify the core differences in the extent and form of part-time work across the six countries. Second we explore the protective gaps for those working less than full-time and variable hours, drawing on the analyses in chapters 5 to 8. Third we draw together the two sections on the incidence of form of part-time work and the extent of protection gaps to describe the varieties of part-time work regimes in the six countries. Finally we summarise the role of social dialogue to date in reducing precariousness and the scope for future progress.

Extent and form of part-time work in the six countries

Employment at less than full-time hours takes on different forms and significance across the six countries under consideration. Taking the Eurostat self-definition of part-time, the six can be divided on the basis of the overall share of part-time in total employment into three high part-time countries, Germany, UK and Denmark (24.7% to 26.8%), two medium France and Spain (18.4% and 15.6%) and one low Slovenia at 10.1%. Most of those working part-time are employees with non employees accounting for only between 4% and 10% in four countries but the UK has a higher incidence at 14.5% and Slovenia a much higher rate at 28.8%. Due to the overall low share of part-time workers in Slovenia, this does not represent a significant share of the overall work force.

If we consider the incidence by gender in 2015 we find four countries have a low incidence of male part-time (7% to 9.3%) the UK's share enters double figures at 11.2% but Denmark registers much the highest rate at 15.6%. For the female incidence Germany leads the field at 46.6% followed by the UK at 41.1%. Denmark's share is now closer to the medium range countries- at 34.7% compared to 30% for France and 25.1% for Spain while Slovenia continues to register a low incidence at 13.7%.

Figure 10.1. Trends in part-time as a percentage of total male employment

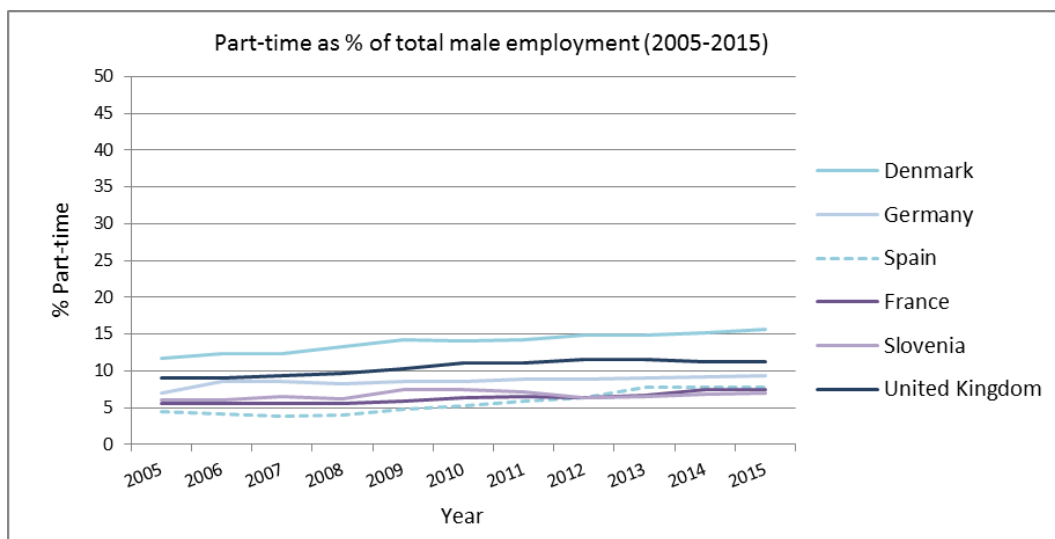
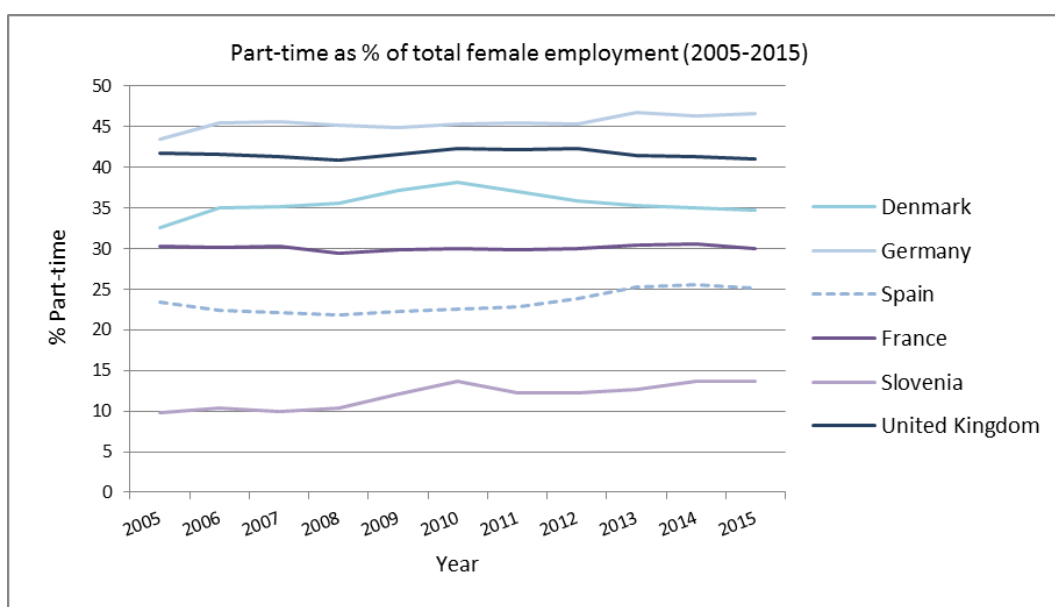


Fig. 10.2. Trends in part-time as a percentage of total female employment



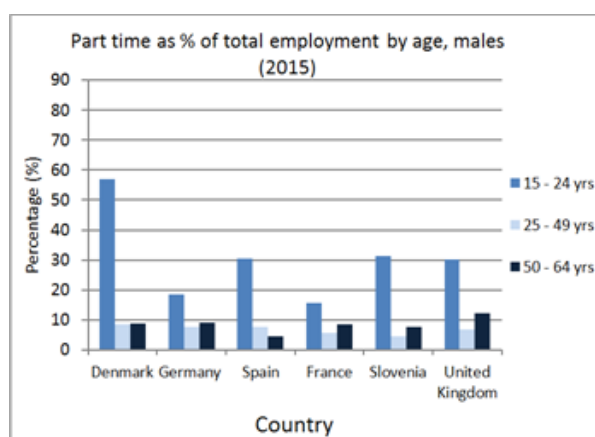
Source: Eurostat: *lfsa_eppga*

Trends in the incidence of part-time work for women have been relatively stable over the 2006-2015 period, particularly in France and the UK. Germany has had a slight upward trend while in Denmark and Slovenia the share rose in the crisis and then declined, though in 2014/15 the trend remained down in Denmark but was rising again in Slovenia. The only country to register a strong upward trend is Spain. In contrast there was a marked upward trend but from a low base point in the incidence of part-time work for men in all the countries except Germany where it remained relatively stable and Slovenia where the incidence rose at the height of the financial crisis but then declined again. The UK is the only country to show a rising incidence of part-time employment among the non employed, especially for women (France shows a rise but associated with a break in the series).

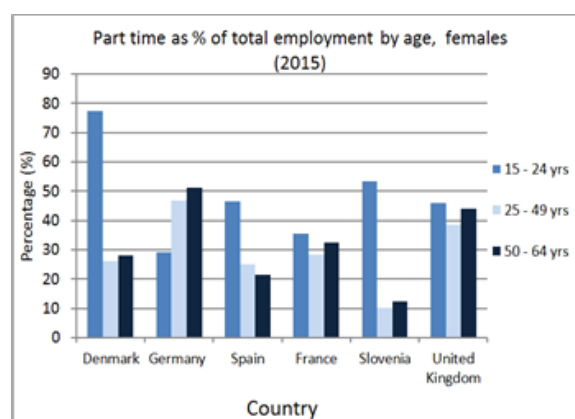
Figure 10.3. Part-time as share of total

Figure 10.4. Part-time as share of total

employment by age, males



employment by age, females



Source: Eurostat: *lfsa_eppga*.

When it comes to who works part-time, there are strong differences between the countries as to whether part-time is mainly an issue for women in mid and later life or whether it is more a phenomenon of the youth labour market. The highest incidence of part-time working is found for young females in Denmark where over three-quarters of those in employment work part-time, with Slovenia at 52% and Spain and the UK at 46% also registering high incidence for young women. However, although Germany and France have lower incidence rates for young women at around 30 to 35%, these exceed the rates for young men in their countries by some margin (at around 19% and 16% respectively) and are similar to those for young men in Spain, the UK and Slovenia with only Denmark registering a high rate at 57%. For mid and older ages part-time incidence is low for men in all six countries, only rising to double figures for older men in the UK.

In contrast for mid-age women the incidence is particularly high in Germany and the UK at 47% and 39% and is clustered around 25 to 28% for Spain, France and Denmark with Slovenia the exception at the other end with a rate of 10.3%. The incidence rates for older women are higher by factor of between 2 and 6 percentage points in five of the countries with Spain the exception in registering a lower incidence by over 3 percentage points for older women workers indicative of the more recent growth of part-time work in Spain.

If we look at demographic groups as a share of all part-time workers we find Denmark stands out for the share of young people- accounting for two fifths of all part-time workers (52% of male and 35% of female part-time work), followed by Slovenia at 27.4% (30% male, 26% female) and the UK at 19.2% (33% male, 15% women). The other three countries have much lower shares at between 6% and 9% for women and 17% to 19% for men. The concentration of young people has been in part reduced, particularly in Spain and Slovenia, by the very steep falls in young people's employment over the crisis in these two countries. Mid age and older age men account for around 15% to 27% of all part-time but still account for between 48% (Denmark) and 83% (Spain) of all male part-time work. The high incidence in Spain in part reflects both the low youth employment shares as it has a relatively high incidence of part-time work especially among young people in employment and the growth of part-time for men of all ages after the crisis.

Figure 10.5 Concentration of part-time by age group males (2015)

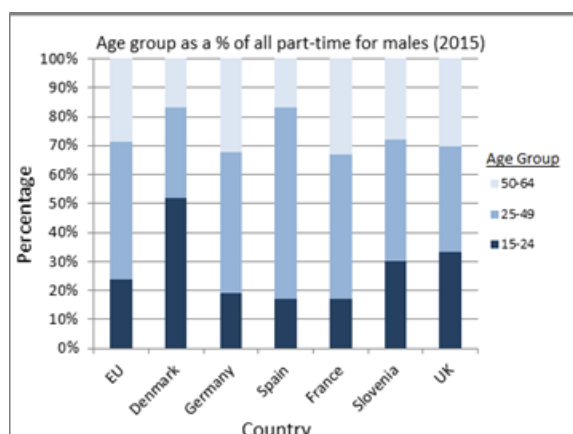
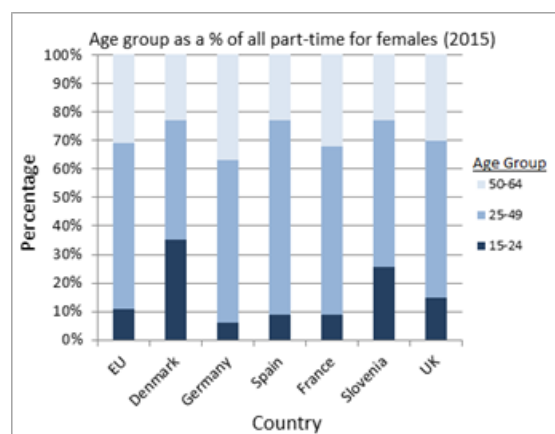


Figure 10.6. Concentration of part-time by age group females (2015)



Source: Eurostat: *lfsa_epgaed*

In contrast mid-age and older women account for 65% or more of all part-time workers in four countries but only 46% in Slovenia and 43.5% in Denmark. As a share of female part-time work the mid-age range accounts for between 52% and 68% in five countries with Denmark registering the lowest share at 42%. Germany has the highest concentration of older women among female part-timers at 37%, followed by France and the UK at 32% and 30%, the others registering a 23% share.

Even stronger differences between countries in the role of part-time work for mothers is revealed by data on the employment rates and part-time incidence comparing mid age women (25-49) who have no children, 2 children or a child under age six. In five countries employment rates for all mothers with two children are relatively high at around 74% to 86% but Spain registers by far the lowest rate at under 63%. However, this is only a six percentage points lower rate than that for women without children so that the main explanation lies in the lower overall employment rates. Denmark and Slovenia have in fact higher overall employment rates for mothers than women without children indicating the absence of a motherhood impact on employment integration, France has a only slight downward effect while the UK and Germany register motherhood declines of around 11 to 12 percentage points. However, the impact of the presence of a young child is greater, with both Germany and the UK registering fall of over 20 percentage points and France and Spain showing falls of 14 and 7.6 percentage points respectively.

Table 10.1 Employment rates for women aged 25-49 with no children, 2 children and at least one child under 6 and share working part time (2015)

	Total Employment Rate (%)			% Working Part-Time		
	No Children	2 Children	At Least 1 Child Under 6	No Children	2 Children	At Least 1 Child Under 6
EU28	77.6	71.0	63.6	19.9	38.8	38.8
Denmark	77.5	86.2	79.9	26.9	23.8	24.8
Germany	85.9	74.0	63.9	25.6	73.9	66.8
Spain	69.2	62.8	61.6	20.9	28.8	28.7
France	79.4	77.8	65.5	18.5	34.1	35.8
Slovenia	74.9	84.3	79.4	10.7	10.2	14.7

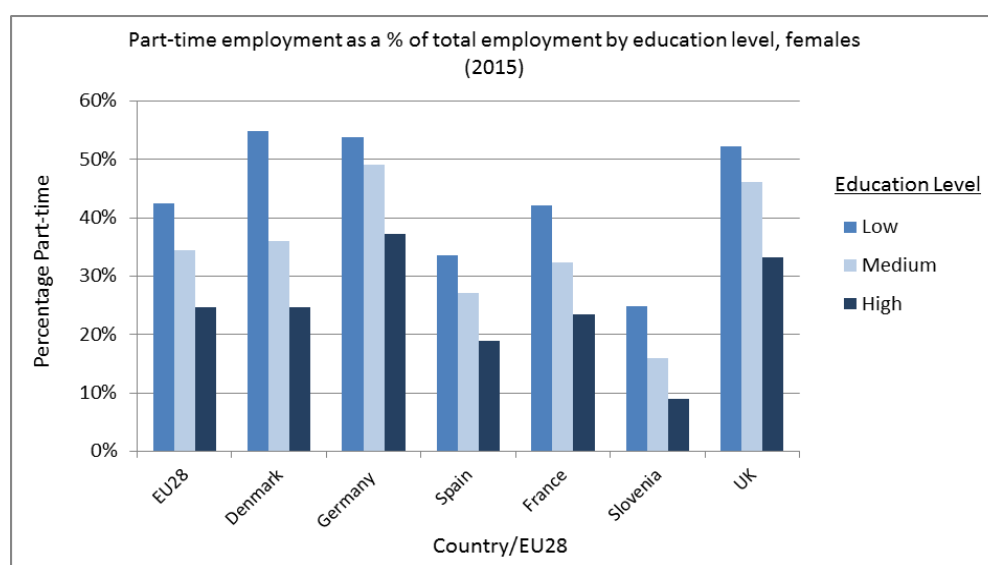
UK	85.1	73.8	64.8	16.0	58.0	55.3
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Source: Eurostat: *lfsa_hhptechi*

When the incidence of part-time is taken into account, not only is the fall in women's employment integration associated with motherhood increased but the country differences are further intensified as the UK and Germany show mothers of young children have part-time rates as high as 55% and 66% respectively. The next highest incidence in France at 35.8%, followed by Spain and Denmark at 28.7% and 24.8% while Slovenia again comes in last at only 14.7%. Comparable patterns are found when one measures motherhood by women with two children, but for women with no children the rates only vary from around 11% in Slovenia to 27% in Denmark. This emphasises that for some countries, but by no means all, part-time is strongly associated with women's role as mothers. An overall country effect is evident, for example in the low rates in Slovenia whatever demographic category of women beyond young age is considered.

We can also see that although having higher education reduces the incidence of part time work compared to the total incidence in each country, the differences are only of the order of 6 to 10 percentage points in all six countries. This means the higher educated women still follow the overall country rankings by part-time shares, with Germany and the UK at the top followed by Denmark, France and Spain and then Slovenia.

Figure 10.7 Part-time employment as share of total employment by education level (2015)



Source: Eurostat: *lfsa_epgaed*

Not being a citizen in the reporting country is associated with a higher incidence of part-time working in most countries and for both genders. Slovenia is the exception for men and the UK the exception for women. For the four countries with consistently higher incidence rates, the rates were higher by between 2 and 8 percentage points for both men and women except for France with a 12.2 percentage points rise for women. For men these gaps emerge from a lower base and thus constitute a higher overall percentage rise in part-time working, but all still record part-time for non citizens as below 18% of total employment (with the highest rate in DK but the largest gap between citizens and non citizens in Germany). For women the highest incidence for those with foreign citizenship is in

Germany at 53.1%, 7.1 percentage points higher than for those with German citizenship but the largest gap is in France.

Figure 10.8 Part –time as a share of total employment by citizenship in reporting or foreign country, male (2015)



Figure 10.9. Part-time as a share of total employment by citizenship in reporting or foreign country, female (2015)



Source: Eurostat: *lfsa_eppgan*

Information on reasons for taking part-time work in part confirm the demographic issues already identified: Denmark and Slovenia have the highest share of both genders giving education and training as the main reason, with Germany and the UK also having shares for men above 20% but not for women due to the higher share of older women in the overall part-time workforce. Women in the UK are by far the most likely to say they are working part-time due to child care at 40.1% with the next highest, Germany only registering 28.6% of women with this response. However if we combine response 'looking after a child' with 'other family reasons', Germany has the highest share at 48% followed by the UK at 45.4% and France at 42.3%. Family reasons account for 26% or less in the remaining three countries for women and much less for men.

Figure 10.10. Reasons for working part-time as a share of all reasons. Females, 2015

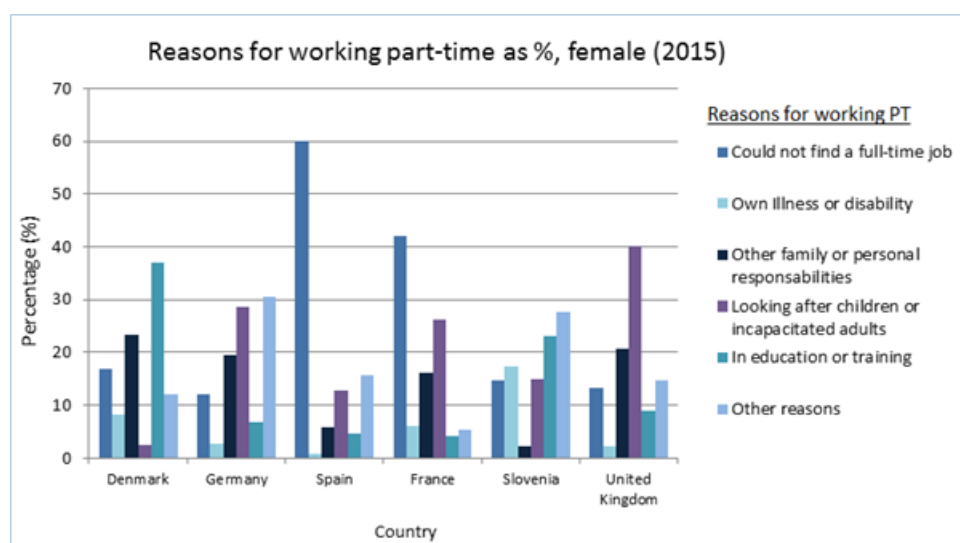
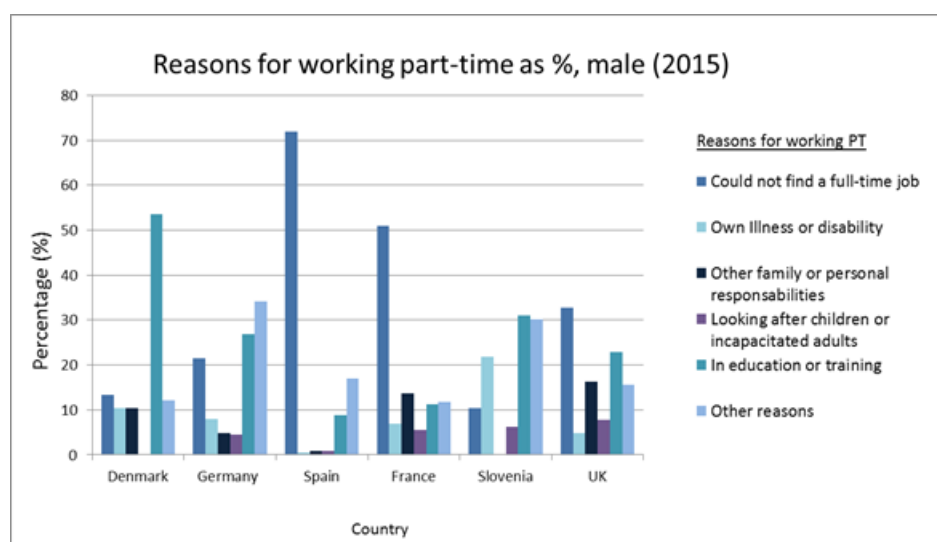


Figure 10.11. Reasons for working part-time as a share of all reasons. Males, 2015



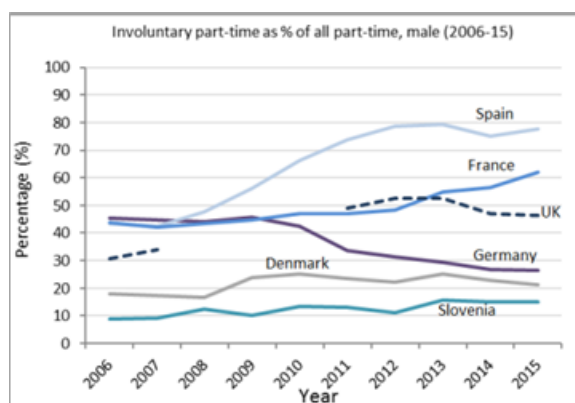
Source: Eurostat: lfsa_epgar

However, the total range of main reasons include not being able to find a full-time job, associated with whether part-time work is voluntary or not, and here two countries stand out from the rest, Spain and France. Using the data on trends in involuntary work we can see that by 2015 even among women the share giving this answer are remarkably high at 61.5% and 39.7% respectively, with all the other countries having shares among females of 22% or lower. For men the shares of involuntary part-time are higher in all countries except Denmark and Slovenia, and reach 77.6% for Spain and 62.0% for France and even 46.3% for the UK. Trends in the shares of Involuntary part-time are particularly steep for men in Spain, with more moderate rises in France and Denmark (breaks in series in Germany and UK and unreliable data for Slovenia). There is also a marked rise in involuntary part-time for women in Spain and France and a slight upward trend in Denmark and Slovenia but no evident trend in Germany (break in series for UK).

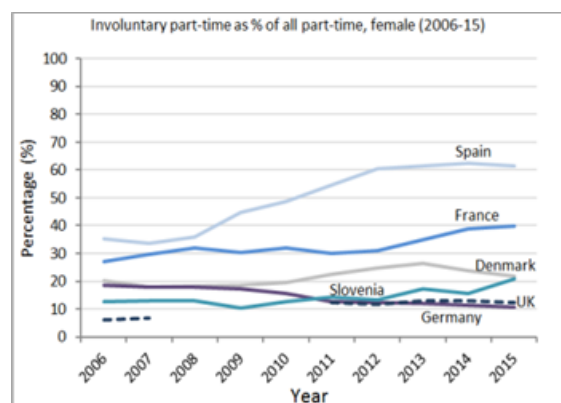
Figure 10.12 Involuntary part-time as % of all

Figure 10.13. Involuntary part-time as % of all

part-time, male trends



part-time, female trends



Source: Eurostat: *lfsa_eppgai*

Average hours of part-timers are clustered for both men and women between 18 and 20 hours; the exceptions are shorter hours for men in Denmark and Germany, the former probably reflecting high incidence of students among male part-timers. At the other end of the spectrum is France which has the highest average hours for men at 21.3 and significantly longer hours for women at 23.3, reflective, as we will see, of regulation on minimum hours for part-timers in France.

Table 10.2. Percentage of part-time workers working short hours by age group, M/F (2014)

	Age Group 15-24		25-54		55-64	
	M	F	M	F	M	F
Denmark	48.8	65.6	3.9	7.3	3.6	6.8
Germany	13.5	19.9	3.2	17.5	5.9	21.6
Spain	13.9	23	2.2	8.9	1.9	0.3
France	6	12.3	1.7	7.2	4.8	14.6
Slovenia	8.7	21.5	0.6	0.9	2.2	3
UK	19.1	29.7	2.1	14.6	5.5	20.6

Source: OECD: <https://stats.oecd.org/Index.aspx?DataSetCode=ANHRS>

Drawing on OECD data we can identify the tendency for Denmark not only to have a primarily student part-time labour market but also one based on short hours of work: 48.8% of men and 65.6% of women aged 15-24 work under 20 hours a week. The UK has the next highest concentrations of short hours among young people at 19.1% of young men and 29.7% of young women working under 20 hours. The incidence of short hours working among those in prime age 25-54- is under 4% for men in all six countries while the rates are more variable for women- from under 1% in Slovenia, to 14.6% in the UK and 17.5% in Germany. The other three countries record rates of between 7 and 9%⁵⁷. Among older workers aged 55-64 the rates are low again for men, all below 6% but highest in the UK and Germany. For older women the rates are higher than for prime age women in all countries except Denmark with the rates in France being twice that for prime age at 14.6% compared to 7.2%. The UK and Germany still have the highest rates at over a fifth of women in employment.

⁵⁷ The relatively low share of marginal part-time work among adult women is confirmed for these three and Slovenia even if we look at women in key childbearing age groups of 25-29 and 30-34 (although the share is high in Denmark at 20.3% for those 25-29 but reflecting the age effect as rates for men in this age groups are also still relatively high at 12.6%).

Sector and occupation

There are quite marked sectoral differences in the concentration of part-time work across the six countries. Germany and Slovenia have the highest shares in manufacturing and construction- 11.3% to 14.1% compared to 7.4% or below in the other four. Shares in the two key private services- retail and accommodation and food are clustered at around a quarter but Denmark and particularly Spain have higher shares, the high rate in Spain potentially linked to low shares in public sector services. France stands out as having a much lower share at 20.4% possibly linked to longer average weekly working hours. Four of the six have high concentrations of part-time in public services- ranging from 32.7 to a high of 44.2% in France, but Spain and Slovenia stand out for having low shares at only 19.8% and 15.4%, indicating that part-time is not yet a widely accepted form of working in the public sector. This is also the case for the private sector in Slovenia but in Spain the expansion of part-time seems to be concentrated in the private sector.

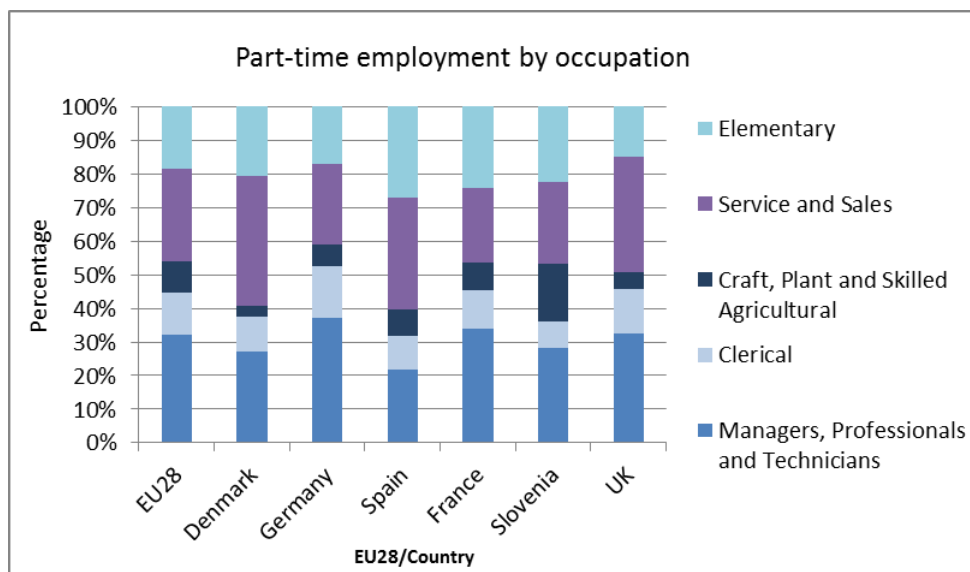
Table 10.3. Part-time by industry as a percentage of all part-time NACE employment

GEO/TIME	Industry and Construction (B-E+F)	Consumer Private Services (G-I)	Business Services (J,K,L,M,N)	Public Services (O-Q)	Arts (R-U)
EU28	8.8%	27.3%	16.3%	32.7%	9.8%
Denmark	6.6%	33.2%	12.6%	38.0%	7.8%
Germany	11.3%	26.9%	17.6%	35.4%	7.7%
Spain	7.4%	35.3%	16.6%	19.8%	19.0%
France	6.8%	20.4%	14.8%	44.2%	10.9%
Slovenia	14.1%	29.9%	12.9%	15.4%	7.3%
UK	5.9%	31.8%	15.7%	36.9%	8.3%

Source: Eurostat: *lfsa_epgana*

The occupational distribution also differs by country. Unsurprisingly the shares of higher level jobs among part-timers are lower in the three countries which have either a high share of young people among part-timers (DK and SI) or where part-time work is not fully accepted as a standard employment form- for example in the public sector (SI and ES), or both (SI). The higher shares in the other three countries – (32.3% to 37% compared to 21.4 to 27.4%) – for managers, professionals and associate professionals combined, reflect rather different concentrations of these three categories. Germany and France have relatively high shares of associate professionals while the UK has higher managerial and professional shares . These differences reflect issues of the classifications of key jobs such as nursing and the fact that the UK has a high overall share of managers in its occupational structure. At the other end of the spectrum it is Denmark and Spain that have the highest concentrations in relatively low skilled work- classed here as sales and service and elementary jobs at around three fifths in both cases with the remaining four countries recording shares between 40% and 50%. Manufacturing-type jobs- craft and plant operatives- account for less than 7% in five countries, only rising to 11.5% in Slovenia where overall part-time working is in any case low.

Figure 10.14. Concentration of part-time by occupation (2015)

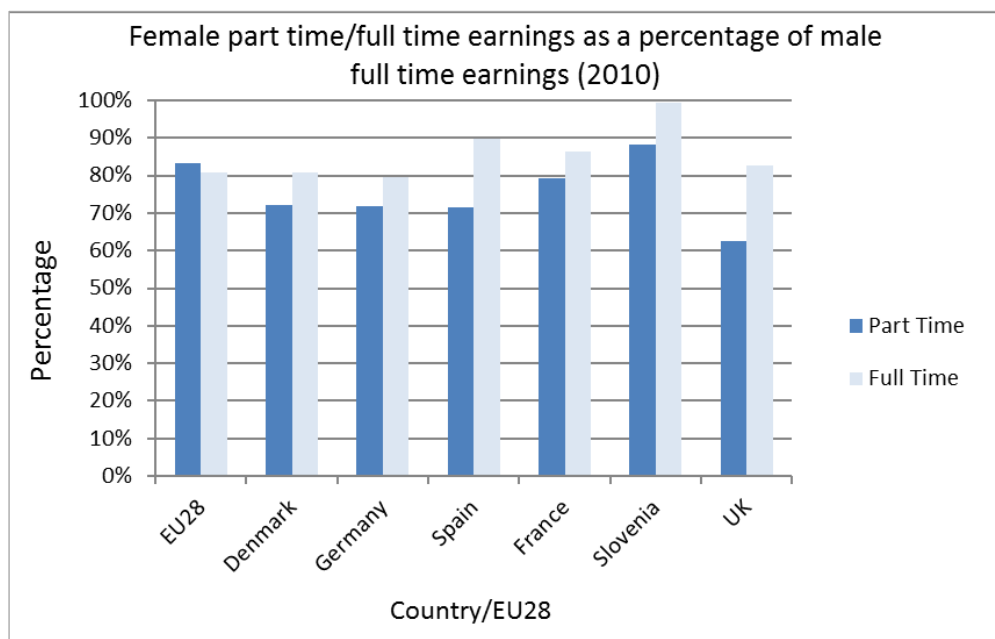


Source: Eurostat: *lfsa_epgais*

Using the structure of earnings data which covers all sectors except public administration, we find that part-time pay is generally lower paid but the size of the gaps vary markedly across countries. Specifically we find that female part-time ratios to male full-time pay level are around 8 to 9 percentage points lower than those for female full-time earnings in Denmark, Germany and France and 11 percentage points lower in Slovenia (but note that female full-timers earn almost the same hourly earnings as male full-timers in Slovenia). However Spain and the UK reveal the largest drops in relative pay at 18 percentage points and 21 percentage points respectively.⁵⁸ However the actual ratio for female part-time to male full-time reaches by far the lowest level in the UK at 62 % while in Spain the ratio is 72%, close to that found in Germany, but reflective of the higher ratio of female full-time pay in Spain. Germany and the UK have the largest overall gender pay gaps due to the large share of female part-time workers but the gap between full and part-time wages is much higher in the UK, while in Germany the pay for female full-timers is somewhat lower relative to men's full time pay.

Figure 10.15. Female part time/full time earnings as a percentage of male full time earnings (2010)

⁵⁸ Male part-time pay is found to be higher than female part-time pay in all countries but particularly so in Spain, followed at some distance by France and for both these countries male part-time pay exceeds female full-time pay by some margin, and also by a few cents in Germany, while in the remaining three female full-timers on average receive significantly more on average than male part-timers.



Source: Eurostat: *earn_ses_hourly*

Employment rights gaps & social protection gaps

Table 10.4 identifies the key risk associated with working less than full-time hours with respect to our four types of protective gaps. We first discuss employment and social protection gaps, followed by representation and enforcement gaps.

Now that part-time work should in principle be treated equally with full-time work, part-timers are largely covered by minimum legal rights and by collective agreements where these are present in the workplace. Denmark sets an 8-hour threshold for short part-time workers to access employment rights and many, not all, collective agreements, meant to curb someone seeking to work or be employed less hours a week. Four kinds of gaps in employment and social protection particularly affect those working part-time or variable hours below full-time.

The first relates to earnings or hours thresholds before workers can contribute to or benefit from employment or social protection rights (for example in the UK and Germany many part-timers are excluded from redundancy pay, unemployment benefits, maternity benefit (UK only) and pensions). The second relates to insufficient and unstable income due to variable hours, tendencies for part-timers to be underemployed and for contractual hours to be set below actual hours. This suggests that those who do not want to or are not able to work full-time hours are not necessarily able to work the number of hours they wish or with the kind of guarantees that tend to accompany full-time work. Indeed in Germany not only would 64% of female mini jobbers like to increase their working hours by an average of 9 hours compared to contracted hours to reach 20.8 hours per week on average but even 45% of women with a regular part time contract would like to increase their working hours by 4 hours on average. Insufficiency of income also extends into social protection, for although social protection is supposedly aimed at meeting minimum needs and part-time workers have the same minimum need – for example as pensioners-, they may only receive pro rata or

reduced provision. The third problem relates to working time scheduling, with implications for both remuneration and for work life balance; as part-time and less than full-time hours are defined as non standard they may be scheduled more flexibly and cancelled or changed at short notice, involve potentially more unpaid breaks, fewer or no unsocial hours premiums and may result in intensification of work, thereby reducing the wage to effort bargain. The fourth problem is simply that part-time work may still be treated as 'other' that is not integrated into standard employment arrangements. This may be in part due to specific tax and employment rights regimes related to those on low earnings (UK and DE) or may be because part-time is concentrated on temporary non permanent contracts (ES) or on very short hours work for non permanent members of the workforce such as students (DK and SI) or concentrated in particular sector or types of firms. The outcomes can include a lack of opportunities for progression whether based on training and skill development or pay progression for experience.

Table 10.4 give examples both of the countries where such gaps are intensified through the form of regulations and practices and of countries where some steps have been taken to mitigate the potential or actual problems of protective gaps. The most severe problems of not meeting thresholds apply both where these thresholds are set at relatively high levels- such as the UK and Germany- and where the hours and earnings of staff can be manipulated to reduce rights to benefits. This applies particularly in the UK where zero hours contracts allow hours to be reduced in the run up to redundancy or maternity leaves in order to reduce eligibility for benefits. These problems can and may be mitigated in a number of ways; for example Denmark not only sets a low threshold for access to benefits but also only requires a contribution record over a three years period and that does not have to be at a high or continuous level immediately preceding a benefit claim. It also provides a citizen's pension. Germany regulates minimum shifts and working hours for on call workers (three hour shifts ten hours work per week or more to reflect recent actual work patterns) and Spain has low contribution requirements for unemployment benefit and also for maternity leave entitlement, even waiving these in large part for those under 26 due to problems of securing employment so that even those who have only worked part-time are likely to be eligible.

With respect to the need for sufficient income both in work, through more hours or more guaranteed hours, some collective agreements are found in Germany, for example the retail agreement for North Rhine Westphalia, that require contractual hours to be adjusted upwards to actual hours after a period of regularly working longer and sets minimum weekly hours of 20 unless the employee prefers fewer. France has introduced minimum working hours of 24 per week and this regulation is reflected in the longer average working hours for part-timers but there are still many exceptions, particularly for students under 26, those working part-time in subsidised jobs, those hired by households those who request to work fewer hours for personal reason or in order to work on multiple contracts and where collective agreements allow for some derogation from the minimum. There are therefore concerns in France about the potential effectiveness of the reform, particularly over employers' scope to use employees' personal constraints to legitimise shorter hours and because collective bargaining agreements can make some exceptions to the threshold. In addition four countries –Germany, France, Slovenia and Spain- allow for part-timers on reduced hours to return to full-time work. Nevertheless, time related underemployment for part-timers remains a major problem.

Table 10.4. Gaps in protection for part-timers: examples of risks and policies to mitigate risks

Employment rights gaps	Risks	Country examples	Mitigation of risks and country examples
Minimum wage	Exclusion from coverage	DK- those on <8 hours a week excluded from employment contracts in some CAs SI- many part-timers are students who are excluded	<i>Extend coverage</i> DK- extended due to EU law DE- NMW covers mini jobbers- often excluded from CA minimum wages
Wage level	Lower coverage by CAs Concentration in low grades	DE- minijobbers excluded	<i>Extend coverage</i> DK- PT now have same coverage as FT- hours threshold reduced
Overtime pay	Premium only after exceed FT hours	DE-usually no premium	<i>Premium below FT threshold</i> FR- minimum 10% premium and obligation to bargain over premium
Holiday pay, sick pay etc.	Contractual not actual hours determine pay	DE-linked to contractual hours	<i>Establish high minimum hours</i> FR- 24 hour minimum but with exceptions
Employment protection and security	Exclusion from protection Concentration on insecure contracts	UK- zhc staff at risk of no redundancy etc. as hours can be reduced before closure ES- 58% PT on temporary contracts	<i>Right to work reduced hours within full-time permanent jobs</i> See below <i>Rights to minimum guaranteed hours</i> See below
Minimum hours and shift periods	No minimum contractual hours No maximum unpaid breaks (number and length) No minimum shift periods	DK, ES, SI, UK- no guaranteed minimum hours DE- no minimum hours or shift periods in law for PT but minimum for on demand workers FR- some exemptions from minimum 24 hours	<i>Minimum hours or shift periods set legally or through CAs</i> DE- for on demand workers minimum of 3 hours per shift/10 hours per week plus rights to actual hours worked in past- but CA opening clauses. Some CAs set minimum hours and shift periods. FR- minimum of 24 hours set legally but with many exceptions including those in subsidised jobs; obliged to bargain over minimum duration of part-time work and number and duration of activity interruption periods DK- CAs often set minimum hours of 20-28 hours
Volume of hours	Insufficient hours Too many hours	DE- 65% mini jobbers and 45% regular PT would like to increase hours ES- majority want FT work FR- 80% wish to work longer hours	<i>Mechanisms to increase contractual hours</i> DE-Some CAs require contractual hours to be adjusted upwards to actual hours after a period of regularly working longer. ES-part-time regulations in 2013 allow a maximum of ten additional hours per week, capped at 30% of usual hours (or up to 60% if negotiated in the collective agreement)
Scheduling of hours	Irregular/inconvenient hours Requirement to be available No rights to notice re	UK- no rights re scheduling or notice: Only 1 in 3 firms have a policy re notice.50% of ZHC workers	<i>Legal or CA restrictions on change to schedules</i> FR- obliged to bargain over length of notice required for changes in working schedule DE- employer should notify four days in advance of a demand for work

	scheduling of hours	said they have no notice and shifts may be cancelled after reporting for work .	ES- 3 days' notice for change but reduced form 7 prior to 2013 <i>Restrictions on availability clauses</i> UK- exclusivity clauses for zhcs no longer allowed
Rights to reduce hours/ return to full-time	No or restricted rights to reduce hours No right to take part-time/flexible arrangements to another employer No or restricted rights to return to FT	DK, UK- only right to request UK, FR, DE- right to request or reduce hours limited to those with 6months to 1 year prior employment with employer DK, UK, - no right to return to full-time hours DE- only parents have right to return/ other PTs have preference over outsiders	<i>Rights to reduce hours</i> DE, ES, FR,SI- rights to reduce hours for care reasons <i>Rights to return to FT</i> FR, DE (parents only), ES, SI- <i>Protection of right to request</i> DK- anyone requesting to work PT is protected from dismissal <i>Preferential treatment of PT</i> DE- PT staff have preference if a job with longer hours available, plus may be able to fix in advance when reduced hours end.
Integration with full-time staff	No or limited access to training No or limited access to job security No or limited access to progression (pay or promotion)	UK-zhcs are the norm in some sectors such as care	<i>Training for PT</i> DK-84 % PT have access to education and training in the job compared to 91 % of FT. 56 % PT participated in workplace education and training during the last year compared to 61 % FT <i>Reduced hours working and rights to return to full-time</i> SI,DE,ES and FR by providing rights both to reduce hours and to return to FT provide for part-time work to be accommodated within the standard FT model.
Social protection gaps			
Unemployment benefit	Failure to meet hours or earnings thresholds for inclusion No minimum benefit-proportional to hours or earnings	UK, DE- many part-timers earn less than the earnings limit for contributions DE – no minimum benefit SI pro rata by hours DK- lower flat rate	<i>Minimum benefits for PT = to minimum for FT</i> UK, FR, ES – provided meet eligibility conditions <i>Option to be voluntary insured</i> DE- minijobbers can voluntarily insure themselves <i>Option to be insured as FT</i> DK- can be insured FT even if working PT, SI- reduced hours contract treated as FT
Maternity benefit	Failure to meet eligibility criteria	UK - earnings limit	<i>No or low earnings threshold</i> ES, FR, SI, DK.DE
Pensions	Failure to meet hours or earnings thresholds for inclusion No minimum benefit-	UK, DE- many part-timers earn less than the earnings limit for contributions DE – no minimum	<i>Citizens' pension</i> DK <i>Minimum full pension</i> all but DE

	proportional to hours or earnings Risk of non coverage by 2 nd tier	benefit SI reduced by hours worked DK- lower flat rate UK, DE- variable coverage in private sector- less likely to be covered ,	<i>High replacement rate for low paid</i> DK, ES <i>Insurance as FT</i> SI-compulsory for reduced hours, DK voluntary, FR- possible in some CAs <i>High or medium care credits</i> UK, DE, FR <i>Compulsory 2nd tier</i> DK 87 % of pts covered compared to 94 % FTs
Representation gaps			
Representation and participation	Less likely to be in trade unions or covered by CAs Excluded from active participation TUs/CAs act to restrict PT contracts/ do not seek to organise or represent some types of PTs	DK- 58% PT union members in 2008 compared to 68% FT DE- no specific campaigns to organise minijobbers and not active at national level in opposing minijobs as beneficial as second jobs ES 13.7% of PTs are union members compared to 18.5% of FTs. SI- PTs sometimes excluded from voting rights UK- 20.6% in trade union membership compared to 26.6%	<i>Extend coverage</i> DK- 79 % of part time employees are covered by collective agreements compared to 74 % of full time employees <i>Public sector coverage</i> UK-45.4% of pts in the public sector are unionised compared to 15.7% FTs in private sector. <i>Include in works councils</i> DE- minijobbers and PTs included in calculating works council mandates but only pro rata and meetings not held at times when minijobbers likely to attend
Enforcement gaps			
Enforcement and awareness gaps	Lack of awareness of rights especially for short hours or on demand workers Low paid less able to access legal rights	DE, UK- problems of lack of payments of sick pay and holiday pay UK- problems of underpayment of nmw for zhcs when work involves travel time e.g. in care work. New fee regimes for access to employment tribunals is flat rate- disincentive for low paid to seek redress	<i>Enforcement through CAs</i> DE-enforcement more effective when legal rights also included and clarified in CAs

Source: National Reports, OECD policy summaries.

With respect to benefits, most of the countries except for Germany do set a minimum benefits level and France, UK and Spain effectively pay higher relative benefits to part-timers provided they meet the threshold requirements. This can be considered in line with the redistributive function of social protection: for example in France a part-time job offering 150 hours of work every three months confers the same entitlement to the basic minimum pension as a full-time job. This reduces the gap

in pensions particularly at the SMIC level but for higher paid occupations there may be a wider pension gap that can also be reduced through employers paying additional contributions for part-timers which can be negotiated under a collective agreement. A more favourable pension regime for part-timers was also introduced in Spain in 2013 as a result of social dialogue involving changing the rules to help part timers to meet the required minimum years of contribution to social security to qualify for retirement and other types of pensions. In contrast in Denmark and Slovenia benefits are reduced pro rata but in the case of Denmark those working part-time can opt to insure themselves as full-timers and in Slovenia those who reduce hours for care needs are insured compulsorily as full-timers. Since 2003 in Germany mini-jobbers can opt-in to pay contributions for the statutory pension and thereby also receive state subsidies for additional personal pension schemes (Riester) but few take up this opportunity as there is limited chance of building up substantial pension entitlements. Another way to compensate in the benefit system for low earnings is to value unpaid work: while available in all countries this compensation is most generous in the UK, Germany and France and limited in the other three.

The issue of work scheduling applies particularly to part-time or variable hours work designed to meet employer needs. However, in some contexts those seeking to work less than full-time to meet personal needs may still be required to accept work scheduling that is either variable or that interferes with rights to family life or that leads to an intensification of work. Part-time workers are particularly vulnerable to work that requires flexible scheduling. For example in Germany 13% of mini jobbers had a work-on-demand contract compared to 7.5% for regular part-time workers and 3.7% for full-time workers (Schultz and Tobsch 2012) and informal types of work on demand may be even more widespread. In the UK average hours for zero hours contract workers are around 22 per week. In Spain the low use of part-time work until recently can be attributed in part to the frequency of split shifts among full-timers and one possibility is that the move away from a long siesta break for full-timers may be increasing employer interest in part-time contracts.

France is doing the most to address working time issues by not only setting a minimum working week but also requiring collective bargaining in sectors using a high level of part-time work over issues such as minimum duration of part-time work, number and duration of activity interruption periods and length of notice required for changes in working schedule. It also sets a minimum premium of 10% for the first extra hour above actual hours that is worked but with collective bargaining charged with further development of policy on premiums. Spain also sets limits on the extent of extra hours that can be worked above contracted hours and sets a notice period of three days of change to schedules (but down from seven prior to 2013). Denmark often sets minimum hours of between 20 and 28 in its collective agreements. Germany has established legally fixed minimum shift periods and weekly hours for work on demand but allowing collective agreements to seek opening clauses to derogate away from these standards with the paradoxical result that where there is collective bargaining, standards may be lower. The UK in contrast has only sought to ban exclusivity clauses whereby employers of those on zero hours contracts cannot require someone not to work for another employer, but this does nothing to prevent work being taken away from anyone who is not available when the employer calls. Furthermore there is a strong culture of not providing notice for schedules, with half of zero hours staff saying in a survey they received no notice and only one third of organisations having a policy on notice (CIPD 2013). Fragmented work scheduling can also lead to loss of income in the UK. Although it is not legal to ask staff to clock off and not be paid if they are

required to stay on or near the premises waiting for work, it is legal to cut short shifts and send staff home without pay. Particular problems apply in domiciliary social care where it is not clear if it is legal to allow frequent unpaid breaks between clients; these may be spent waiting for work but not on the company's premises. Travel times between clients apparently should be included in calculations of whether the legal minimum wage is paid but this requirement is frequently flouted (Bessa et al. 2013, Rubery et al. 2015).

The issue of differences or segmentation between part-time and non standard or full-time work takes on different forms in the six countries. In Spain it is manifest in a very high share of part-timers being on temporary contracts (58%). In Slovenia and Denmark it is manifest in the student part-time work systems, involving marginal hours work particularly in Denmark. In Germany it is focused around the specific category of mini jobs with its tax exempt status and associated with a particular gender regime where women are primarily dependants. A similar pattern is found in the UK where many part-timers earn below the earnings thresholds for inclusion in employment and social rights; most of these may be in permanent jobs but with the poor protection that implies in the UK and the majority also earn very low wages. Alongside the large cohort of permanent part-timers with guaranteed hours there is also an increasing number of part-timers on zero hours contracts. Furthermore, some jobs may be constructed as 'part-time' in order to save costs: for example those employed as teaching assistants or support staff in schools are treated as part-time workers who are not entitled to pay or full pay over the vacation time in contrast to qualified teachers who are treated as full-time (Gilbert et al. 2012)

France has done most to try to integrate part-time work through regulation but the rights to minimum weekly working hours also include many exemptions so only part of the part-time workforce is being integrated into the SER through the minimum hours and requirements for collective regulation of working time. There also appears to be widespread general problems of limited progression for part-timers. A recent study in the UK focused on lack of progression opportunities in retail and hospitality where much part-time work is concentrated (Devins 2014). In addition a recent survey on work life balance found that 32% (28% women, 37% men) agreed or strongly agreed that those who worked flexibly were less likely to get promoted (BIS 2012: table c4.14) and part-time work opportunities are limited in high paying/ high level jobs due to expectations of very long and flexible working hours. These conditions together act to exclude part-timers from the upper echelons of the employment spectrum.

The most common practice to provide some greater integration of part-time work in the standard employment relationship is to develop the right to reduce hours or to request to reduce hours within full-time employment. Five of the countries have this right –France, Germany, Slovenia and Spain as a right (except under severe business problems in Germany)- and the UK has a general right to request. Denmark only has a protection against dismissal for anyone requiring to work part-time but there may be rights established through collective agreements. These rights do provide opportunities for those who need for care reasons to work flexibly to continue with their career without changing occupations or indeed employer. However, there are also two main problems with this approach in some of the countries. First the right to return to full-time work does not apply in the UK, Denmark or Spain though in the latter preference is given to existing part-timers for full-time vacancies. Furthermore rights to reduce hours in France, Germany and the UK only apply to employees who have served 6 months (UK, Germany) or 12 months in France with their current employer. This

means not only that insecure workers will often not gain this right but also that flexible working rights cannot be transferred to another employer, leaving many of those who have opted for flexible working trapped with their current employer. Slovenia and Spain seem to provide the rights independent of employment service. In Slovenia a part-time contract is a right for one of the parents who cares for a child up to three years of age or for at least two children until the end of the first grade of primary school for the youngest child but this is accompanied by right so insurance as if full-time and by rights to return to full-time hours at the end of the care period.

Representation and enforcement gaps

The tendency to segment part-time work from other work- whether by organisation, occupation or contract type – has implications for representation of part-timers within social dialogue, measured by both membership and uptake of members' issues. The gap in TU memberships between full and part-timers have been closing and the relatively high rates of part-time membership in sectors such as the public sector (45% in the UK for example) suggest it is the nature of the work rather than part-time status per se that leads to representation gaps. Part-timers have been increasingly recognised in representative structures- for example they now count pro rata in calculating works council mandates in Germany. However, in Slovenia there are still problem in ensuring part-timers have voting rights on works councils. The interest in mobilising and organising part-timers also appears to be patchy; in the UK forms of new union activity- such as community unionism – mainly favours part-timers and part-timers also benefit from other forms of social dialogue such as the campaign for living wages. Furthermore Heery and Conley (2007) (quoted in Heery 2011:351) argue that trade unions have made significant adaptation and describe the 'development of bargaining and legal policy on behalf of women part-time workers ' as non trivial. This contrasts with other more critical perspectives on gender and democracy in trade unions (McBride 2001).

However the lack of interest in or strategy for organising and representing part-time workers, particularly mini-jobbers seems to be greater in for example Germany according to trade union interviews leading the German team authors to comment, *'Put differently, mini jobs are not a 'hole' in the well-organised core (=manufacturing industries), where strong unions and works councils are able to advocate the rights of atypical employees, but a 'hole in the margins' of the labour market, where these basic structures of representation are missing'*.

Representation does not ensure that the interests of part-timers are necessarily pursued through social dialogue and collective bargaining, however. European legislation requiring equal rights has had an impact on social dialogue in some countries; for example in Denmark trade unions dropped their opposition to and exclusion of part-time workers from collective agreements and UK trade unions have been active in using European court cases to end exclusion of part-timers from pension systems and others rights in the 1990s. In France social partners have been mandated to bargain on working time issues of direct interest to part-timers. In Germany there have been some positive developments with respect to collective agreements clarifying and reinforcing rights of part-timers to be given preference for full-time vacancies or defining the circumstances under which rights to work part-time can be refused. Some also set constraints on working time practices: for example the regional retail industry collective agreement for North Rhine Westphalia (NRW) stipulates that employees are entitled to an increase of their contracted working hours if their actual working hours continuously exceed their contracted hours by more than 20% over a period of 17 weeks (Bispinck

2014) and in the airport security industry where employees with a contract for 80 hours worked 120 hours on average have now secured a collective agreements which stipulates their contracted working hours should increase to the number of hours actually worked on average in the previous year.

However, despite some positive developments, it can be argued that collective regulation to secure minimum working hours and rights to increase working hours is only an emergent issue in working time regulation even though part-time workers face high risks of very large gaps between contracted hours and maximum possible hours. Moreover, collective bargaining can have some potentially negative implications due to the possibility of opening clauses: for example, there are possibilities for agreements on 'on demand work' to provide less good protection than the legal minimum due to these clauses. There are also issues of whose interests are being represented; one German trade union interview suggested that not all trade unions were active in opposing mini jobs as these were favoured as second jobs by many male trade union members, while the main problems were for female workers where this constituted their main job.

Enforcement gaps are particularly severe for some groups of part-time workers. This applies to mini jobbers in Germany and zero hours contract workers in the UK. Surveys in Germany repeatedly document widespread non observance of rights in area such as sick pay and paid holidays (see table 10.5) and there may also be problems in not applying equal pay laws but instead paying mini jobbers according to their contract status not their occupation. This practice is sometimes condoned by employee representatives and to some extent the mini jobbers themselves due to the favourable tax treatment.

Table 10.5 Survey results on fundamental worker entitlements in mini-jobs

Responses by	Paid Holidays		Sick Pay		Pay for Public Holidays	
	Not Possible	No Answer	Not Possible	No Answer	Not Possible	No Answer
Employees	41.5%	26.1%	38.7%	34.6%	43.3%	36.3%
Companies	31.3%	11.1%	25.6%	10.7%	40.3%	13.3%

Source: Weinkopf 2014 based on RWI 2012.

However, in general, collective agreements in Germany assist in compliance with laws by reconfirming and specifying the legal requirements, such as in the case of the rights of employees to reduce their working hours or to be treated preferentially when a full-time position becomes available.

There is also evidence of a lack of compliance on basic matters such as holiday pay when it comes to zero hours workers in the UK. In a survey in 2013 21% of employers said the ZHC staff were not entitled to any benefits and only 59% of organisations employing ZHC staff said they believed them to be entitled to annual paid leave (and only 46% of the ZHC staff believed they were entitled to annual paid leave (CIPD 2013). ZHC staff may also be particularly at risk of underpayment of the NMW due to ambiguities over the payment of travel time, a particular problem for social care workers. Further problems of enforcement of employment rights for zero hours contracts staff are due to ambiguity over their employment status, lack of awareness of rights, and the ability of

employers to manipulate the employment relationship to minimise rights for example to redundancy pay or maternity leave even for staff who were regular and continuous workers before the issue of redundancy or maternity arose.

There is also a general problem of enforcement in the UK due to the high fees for employment tribunals. As the fees are flat rate this imposes a higher burden on part-time workers, particularly as most also receive low hourly pay. The system of fee remission for employment tribunals is based on joint income and earnings of the household and is therefore not linked to the likely size of financial reward if the case is proven. This household-based means testing could be considered to undermine individual rights in a job and make it essentially a household decision whether to contest unfair deprivation of rights in the job to one household member.

Conclusions: Varieties of part-time work regimes in the six member states and the role of social dialogue

In this concluding section our aim is to identify the key differences among the six countries not only in the size, type and consequences of part-time work but also in the extent to which social dialogue and regulation has mitigated risks of precariousness and labour market segmentation. We also pay attention to the forms of segmentation and difference within the part-time labour market in each country, particularly between voluntary and involuntary part-time work, between part-time work which is reduced hours working within standard jobs and part-time work in jobs defined as part-time and between part-time jobs with regular hours, possibly assisting with worklife balance, and less than full-time work associated with on demand work to meet employer-led demand fluctuations.

The six countries can be considered in pairs, due to some distinctive characteristics, though they do not match on all dimensions. The first pair, Germany and the UK have the strongest similarities in that both have a high incidence of part-time work, mainly concentrated among adult women reinforced by distinctive tax and social security arrangements. Part-time work is normalised in the senses that it is mainly voluntary but much of it is precarious in the sense of offering only low pay, particularly in the UK, poor progression, and with risks of exclusion from benefits and employment rights.

Denmark and Slovenia stand at the opposite ends of the spectrum in terms of overall incidence of part-time work but both share the characteristic that part-time work is primarily associated with young people. These are also the two countries where it is most clearly taken for granted that women in prime age will normally be in employment and will normally be working full-time. In Slovenia there are rights to reduce hours during peak care times but all are expected to return to full-time work when children are of school age, while in Denmark there is more of a choice but those who choose part-time can also opt to be insured as full-timers, thus reinforcing also the full-time model. Due in part to a high incidence of students among part-timers, most part-time work is in fact voluntary.

The final pair Spain and France share the characteristic of having a very high share of involuntary part-time workers, indicating a lack of acceptance of part-time work within these two countries. Spain is at the higher extreme and in the Spanish case most part-time work is temporary, low paid and concentrated in private rather than public sector. Spain along with Slovenia are the two

countries where part-time work does not seem to have been fully accepted within public services, except probably in the form of reduced hours within full-time work. France meanwhile has retained its high share of involuntary work along with Spain despite having integrated normalised part-time work in many respects, including protecting social rights, establishing minimum working hours and obliging social partners to bargain over working time arrangements.

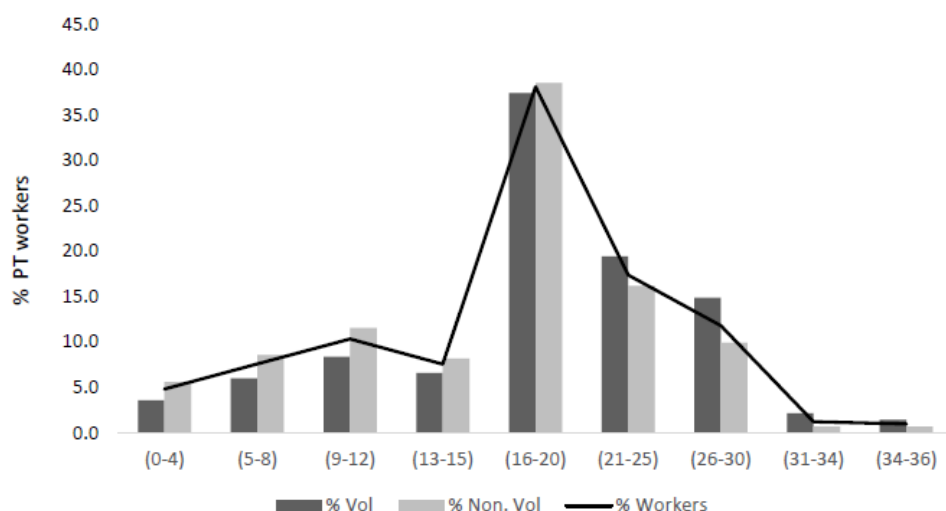
The six country cases reveal some of the tensions and contradictions in efforts to improve conditions for part-time workers through social dialogue and legal regulation. The process of normalising and integration of part-time work at least for non student adults has perhaps proceeded furthest in France and Denmark, where more part-timers are now covered by a collective agreements than full-timers. In Germany there are patchy efforts to use collective agreements to improve protection but these exist alongside the large mini job segment where specific rules apply and compliance with employment rights are low. Spain also integrates part-time workers in collective agreements but part-timers in Spain are disproportionately concentrated in temporary work and low paid private services. The UK has certainly normalised part-time work but within a context of limited rights and social dialogue and as we have already argued, part-time work other than parent-related reduced hours is hardly evident in Slovenia beyond the student market. Most countries have established rights to reduce hours and even to return to full-time work but this only protects a minority and also, due to eligibility requirements, traps those opting for flexible work in jobs with their current employer, unable to transfer the right to flexible work elsewhere.

Beyond the divide between reduced hours and standard part-time jobs there are other major cleavages within the part-time markets. This applies particularly to the conditions for those employees involuntarily in part-time work compared to voluntary part-timers in the two countries with high rates of involuntary work Spain and France. Figure 10.16 shows that involuntary part-timers in Spain tend to work in more short hours jobs while table 10.6 shows that voluntary part-timers in France tend to be in better jobs with longer tenure. However, this differentiation of conditions and status does not apply in cross country comparison as there are many negative aspects of part-time work in countries such as Germany and the UK where involuntary part-time for mid and older age women is low. All this suggests is that attitude towards undertaking part-time work are not solely conditioned by the realities of the work experience but are also strongly influenced by wider issues such as the gender and welfare regime, the overall level of protection and the historical attitudes among social actors to part-time work. However, the evidence of variable acceptance of poor working conditions does not in itself mean that there are not important reasons to reduce the protective gaps associated with part-time work.

In Germany a major divide is between those in mini jobs and those in regular part-time work and in the UK between those with regular hours contracts and those on zero hours contracts. In France some are covered by the minimum hours regulations and some excluded including those on subsidised placements linked to active labour market policies. Moreover part-time workers represent more than 50% of workers eligible for the RSA scheme (“revenue de solidarité active”, a low-income benefit for those at risk of poverty). Indeed the welfare system is involved in promoting and creating various forms of precarious work; for example in Spain, Denmark, Germany and the UK there are various forms of subsidy available to enable those in need of higher incomes than a part-time job offers to bridge the gap at least on a temporary basis. In the UK the tax credit system in part funds the gap between part-time earnings and income needs provided the part-time job guarantees at

least 16 hours a week of work but a new tax credit system will require those currently on out of work benefits to consider taking a zero hours contract job. The extension of these welfare reforms and the blurring of divides between in and out of work benefits may thus create new sub-categories of part-time work and potentially undermine efforts to extend SER type protections to part-time workers within the employment relationship.

Figure 10.16. Weekly working hours of voluntary and involuntary part-timers in Spain



Source: copied from Munoz de Bustillo Llorente and Pinto Hernández (2016: figure 21).

Table 10.6. Voluntary vs involuntary part-time work: employment conditions (%)

Type of contract	Proportion in part-time	Proportion in involuntary part-time	Proportion in involuntary part-time
OEC or civil servant	78.7	62.7	87.1
FTC or TAW	18.3	28.6	10.9
Subsidised contracts	4	8.8	1.9
Previous Experience of Unemployment in the past year			
At least 1 month	11.1	23.7	5.1
Length of service in company			
Less than 1 year	16.2	28.9	10.4
1-5 years	28.7	38	24.4
5-10 years	16.1	14.4	16.9
10 years plus	39.1	18.6	48.4
Access to training in the last three months			
yes	8.8	6.4	10
All	100	100	100

Source: INSEE enquête Emploi 2011 (calculations DARES).

All this suggests that the range of issues that social dialogue needs to engage with to reduce precarious work is potentially very large, covering the social protection and welfare benefit systems, the gender and care regime, the system of employment contracts and protection, procurement regulations and the working time regulations, to mention only a few. There has undoubtedly been some progress in trade unions and collective bargaining in recognising the need to organise and represent the interests of part-time workers but there is still limited recognition of the range of institutional arrangements that need to be addressed to mitigate risks.

11. What protective gaps for temporary work?

This chapter discusses how temporary employment tends to be characterized by important gaps in regulation, social benefits, representation and enforcement. In five out of six countries this predominantly tends to concern those on fixed-term contracts and in temporary agency work (TAW). The main exception concerns Spain where TAW never developed as an important type of employment. In some countries (i.e. Denmark, France, Slovenia) these employment types are still considered as an exception and need to be justified (e.g. as cover for a temporary increase in activity in France). In the other countries, such a justification is not necessary.

In discussing the employment gaps for those in temporary employment, we can distinguish two important aspects. First of all, how the specifics of temporary employment such as status, the potentially limited number of hours, and the often short duration and instability of the employment relationships shapes employment rights, social benefits, representation and enforcement. Across all six countries, there is equality of treatment in accordance with the EU Directives on fixed-term work (1999/70/EC) and TAW (2008/104/EC). These Directives introduce the principle of equal treatment with comparable permanent workers, defined as those ‘with an employment contract or relationship of indefinite duration, in the same establishment, engaged in the same or similar work/occupation’ (1999/70/EC). However, the Directives also provide significant leeway to justify different treatment. The Directive on fixed-term contract explicitly states that differentiation may be ‘justified on objective grounds’ and allows social partners to conclude ‘agreements adapting and/or complementing the provision of this agreement in a manner which will take notice of the specific needs of the social partners concerned’ (Ibid.). The Directive on TAW includes three explicit exemptions. First of all, an exemption regarding the equality of pay is possible for those workers who have a permanent contract with the temporary work agency and are also paid between assignments, something that has become known as the ‘Swedish derogation’. Secondly, collective agreements may agree alternative arrangements concerning the working and employment conditions of temporary agency workers. Finally, the Directive explicitly allows the social partners to agree a qualifying period for equal treatment. The different ways in which countries have institutionalized the Directives including these exemptions have major implications for the actual equality of working conditions.

A second major aspect that defines temporary work concerns the specific rights for fixed-term and agency workers and their enforcement. This, for example, concerns provisions on the renewal and duration of fixed-term contracts and placements for temporary agency workers. Again, these issues are covered in the respective Directives. To prevent abuse from the use of successive fixed-term contracts, member states are required to define (a) objective reasons justifying the renewal of contracts, (b) the maximum duration of successive fixed-term contracts and (c) the maximum number of contract renewals. However, the Directive provides no further specification on these issues and this again allows for important differences between countries. This holds even stronger for the Directive on temporary agency work which merely states that ‘[m]ember states shall take

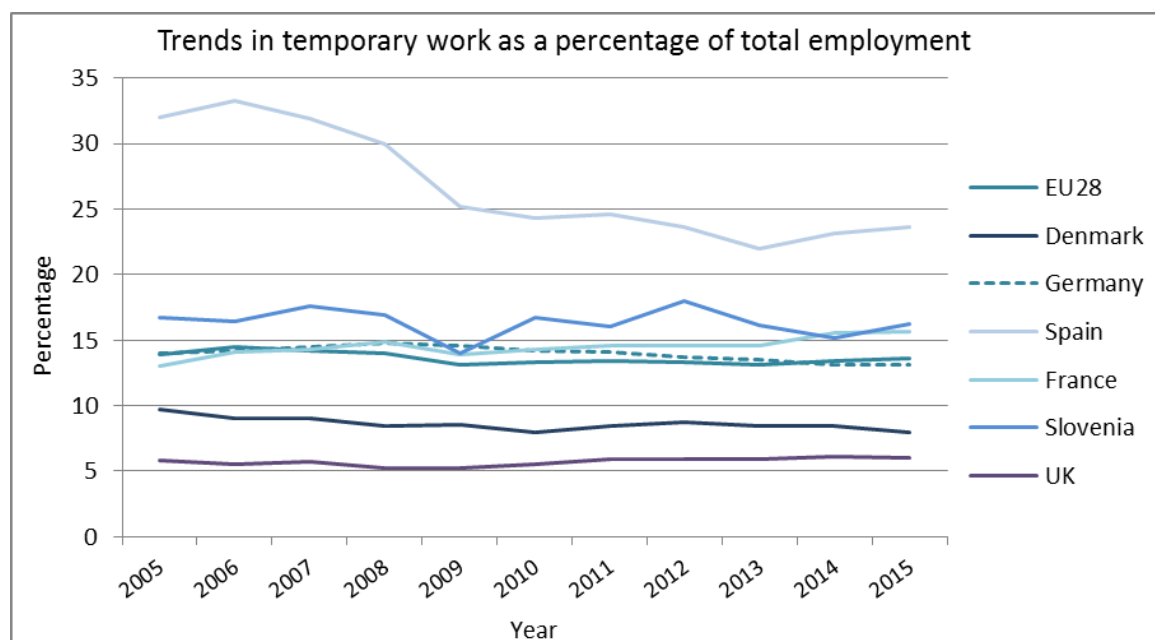
appropriate measures...with a view to preventing misuse..., and in particular, to preventing successive assignments' (2008/104/EC), without further specifying the character of such arrangements.

This chapter is structured as follows. The next section presents comparative data on the prevalence and character of temporary employment in the EU28 and the six countries of this study. This is followed by four sections on the various employment gaps in and the main similarities and differences across the six countries. The chapter ends with a summative section on the precarious character of temporary employment and some concluding thoughts.

Prevalence and character of temporary employment

Important differences exist in the prevalence and trends of temporary employment across the six countries. Figure 11.1 shows the share of temporary employment since 2005. It confirms the high share in Spain (23.6% in 2015) in spite of a strong decline in recent years. The shares in the UK (6%) and Denmark (8%) remain relatively modest while temporary employment accounts for about 15% of all employment in Germany (13.1%), France (15.7%) and Slovenia (16.2%). The share of temporary employment in most countries has been remarkably stable over the 2005-2015 period although France has seen a modest increase from 13.0% in 2005. There is no comparative data on the prevalence of fixed-term contracts and temporary agency work across the six countries. However, table 11.1 provides the data as available from the country reports. It confirms the dominance of fixed-term contracts over agency work in all six countries. The data for Germany included here concern the share of fixed-term contracts among those over 25 years and thus tend to exclude apprentices that are included in the Eurostat data. In Spain TAW is largely non-existent.

Figure 11.1. Temporary contracts as percentage total employment 2005-2015



Source: Ifsi_pt-a or Ifsq_etpga (Eurostat)

Table 11.1. Fixed-term contracts and temporary agency work as % of total employment (2015)

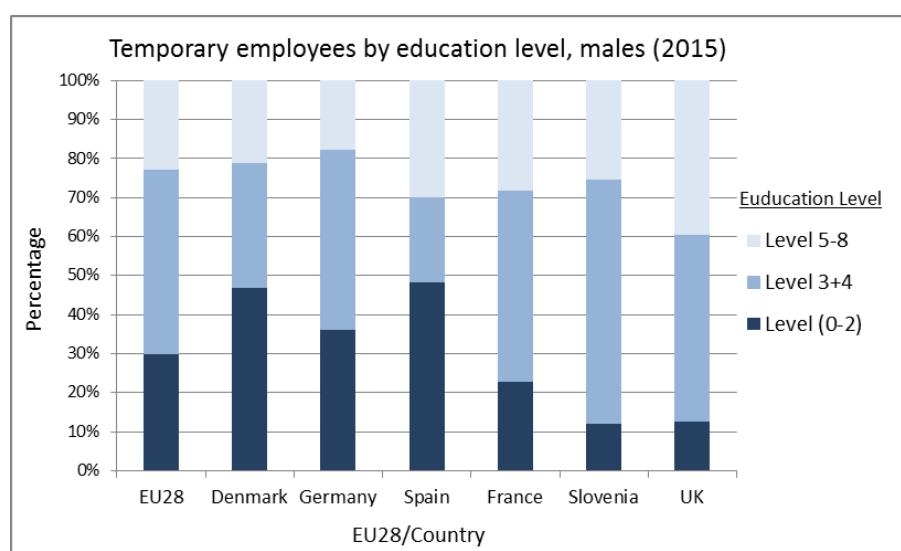
	DE	DK	ES	F	SI	UK*
Fixed-term contracts	2.5%	8.7%	23.1%	8.5%	11.7%	2.5%
TAW	3%	0.9%	--	≈ 2%	1.7%	1.2%

Notes: * The data for the UK are for July-Sept 2015 and calculated from ONS: EMP07 Temporary Employees

Source: National Reports and country statistical offices.

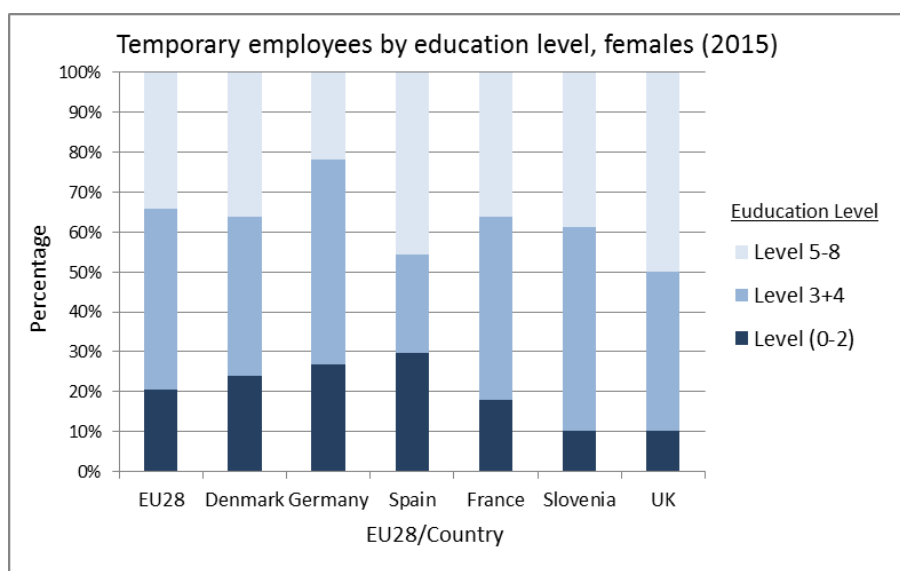
The subsequent figures capture different aspects of the character of temporary employment. Figures 11.2 and 11.3 show the educational attainment among respectively men and women. They illustrate the relative absence of workers at level 0-2 in the UK and Slovenia and the relative prevalence of workers at level 5-8 in Spain and particularly the UK. Figure 11.4 shows how temporary employees are dispersed across industries. It indicates how a relatively high share of temporary workers are employed as managers, professionals and technicians; up to 40% in Germany and the UK.

Figure 11.2. Temporary employees by educational attainment, males (2015)



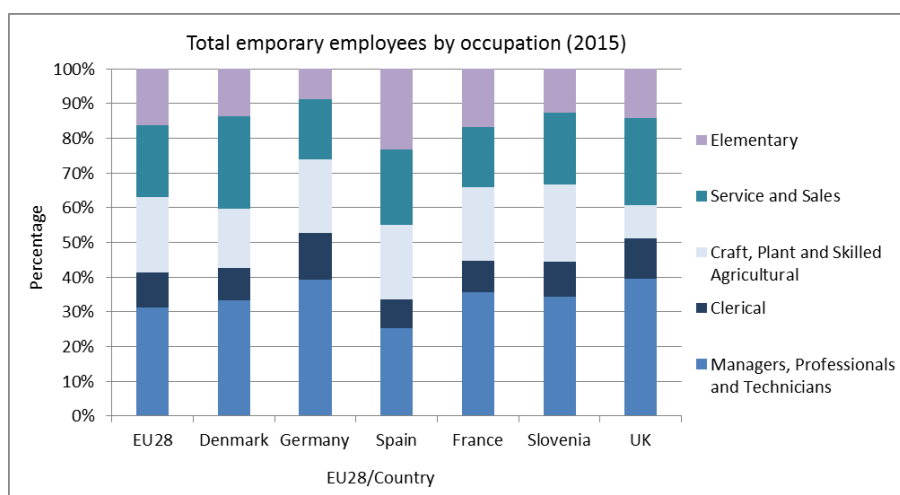
Source: Ifsq_etgaed (Eurostat)

Figure 11.3 Temporary Employees by educational attainment, females (2015)



Source: lfsq_etgaed (Eurostat)

Figure 11.4. Temporary employees by occupation (2015)



Source: lfsq_etgais (Eurostat)

There are important differences in the duration of contracts (table 11.2). Spain has many contracts of short duration with almost three quarters of all fixed-term contracts up to six months. This is followed by Slovenia (50%) and France (39%) while the share of these contracts is substantially lower in the other countries (Denmark 25%, Germany 15%); the UK data are unusable because more than half of survey responses are missing for this question. Germany and Denmark have a substantial share of fixed-term contracts over 1 year (55% and 50%, respectively) and over 2 years in duration (41% and 30% respectively) while such contracts are relatively rare in the other four countries. Overall Germany and Denmark stand out for their spread of fixed-term contracts of different duration, with the greater prevalence of fixed-term contracts over two years likely to be linked to the typical duration of apprenticeships for vocational training. The majority of contracts in the other four countries tend to be one year or less. This can have important implications for the employment continuity of workers and may negatively affect their qualification for social benefits. There is a relative absence of data on the number of working hours per week among temporary workers across

countries. However, data from Spain shows that part-time employees are over twice as likely to be in temporary employment as those in full-time employment (43% versus 20%).

Table 11.2. Temporary employees by contract duration (2015)

	<1m	1-3m	4-6m	7-12m	13-24m	25-36m	>36m	No response
EU-28	4.9%	15.3%	14.2%	25.6%	11.1%	9.6%	7.9%	11.5%
Denmark	3.2%	7.4%	14.6%	19.8%	19.9%	11.4%	18.3%	5.7%
Germany	--	3.3%	11.4%	27.7%	14.5%	27.8%	12.7%	2.5%
Spain	5.2%	50.0%	16.5%	16.7%	1.1%	1.1%	3.7%	5.7%
France	13.5%	13.0%	12.8%	22.2%	16.3%	6.4%	3.2%	12.5%
Slovenia	3.3%	24.2%	21.9%	29.8%	11.7%	2.2%	6.8%	--
UK	1.7%	2.9%	6.7%	14.3%	11.4%	3.5%	5.2%	54.3%

Source: online Eurostat data ('lfsq_etgadc'); authors' compilation.

There are also important similarities and differences between countries in temporary employment across industries (table 11.3). In almost all countries, most temporary employees are employed in public services, consumer private services and/or industry and construction. The only exception is the UK with more temporary employment in business services than in industry and construction. At the same time, there are important differences in the actual distribution of temporary workers with, for example over 40% of all temporary workers in Denmark in public services compared to about 20% in Slovenia. There are also differences in the significance of industry and construction, which employs over 30% of all temporary workers in Slovenia compared to around 15% and 13% in respectively Denmark and the UK.

Table 11.3. Temporary employees by economic activity (2015)

	Industry Construction (B – E + F)	& Consumer private services (G – I)	Business services (J – N)	Public services (O – Q)	Arts (R – U)
EU28	22.4 (3)	25.0 (2)	13.2 (4)	28.0 (1)	6.5 (5)
Denmark	> 15.1 (3)	23.2 (2)	> 9.1 (4)	41.5 (1)	> 6.5 (5)
Germany	23.4 (2)	22.5 (3)	14.4 (4)	34.3 (1)	4.5 (5)
Spain	20 (3)	28.5 (1)	11.9 (4)	23.3 (2)	8.9 (5)
France	> 18.2 (2)	18 (3)	12.4 (4)	38.6 (1)	> 8.1 (5)
Slovenia	> 30.4 (1)	27.5 (2)	> 11.9 (4)	20.6 (3)	> 5.2 (5)
UK	12.8 (4)	23.9 (2)	15.2 (3)	38.6 (1)	> 7.3 (5)

Note: in between brackets the ranking of industries by share total temporary employment

Source: lfsq-etgan (Eurostat)

Foreign born workers are overrepresented among temporary employment in all countries, albeit with important differences (table 11.4). The overrepresentation of foreign born nationals holds in particular for women and men in Slovenia (respectively by factor 2.27 and 1.83), for men and to a lesser extent women in the UK (respectively by factor 1.90 and 1.64) and for men in Spain (by factor 1.78). The overrepresentation is lower in Germany (by factor 1.52 for both men and women) and in particular Denmark (by factor 1.26 for men and 1.36 for women) and for women in Spain (by factor 1.36).

Table 11.4. Temporary workers as percentage of total employees by citizenship, 2015

	Male		Female	
	Foreign Country	Reporting Country	Foreign Country	Reporting Country
EU28	19.7	13.3	18.9	14.3
Denmark	9.7	7.7	12.4	9.2
Germany	18.8	12.4	19.3	12.7
Spain	41.4	23.2	33.0	24.3
France	24.2	15.3	27.0	17.0
Slovenia	29.8	16.3	41.3	18.2
UK	9.7	5.1	10.0	6.1

Source: Ifsa_etpgan (Eurostat)

An important issue concerns the voluntary or involuntary character of temporary employment. Recent data are not available for all countries and both genders but table 11.5 illustrates that temporary employment is an involuntary choice for the majority of workers concerned. A majority of temporary workers in Spain, France and Slovenia could not find a permanent job. This also holds for male workers in the UK.

Table 11.5. Main reasons for taking temporary employment, 2015

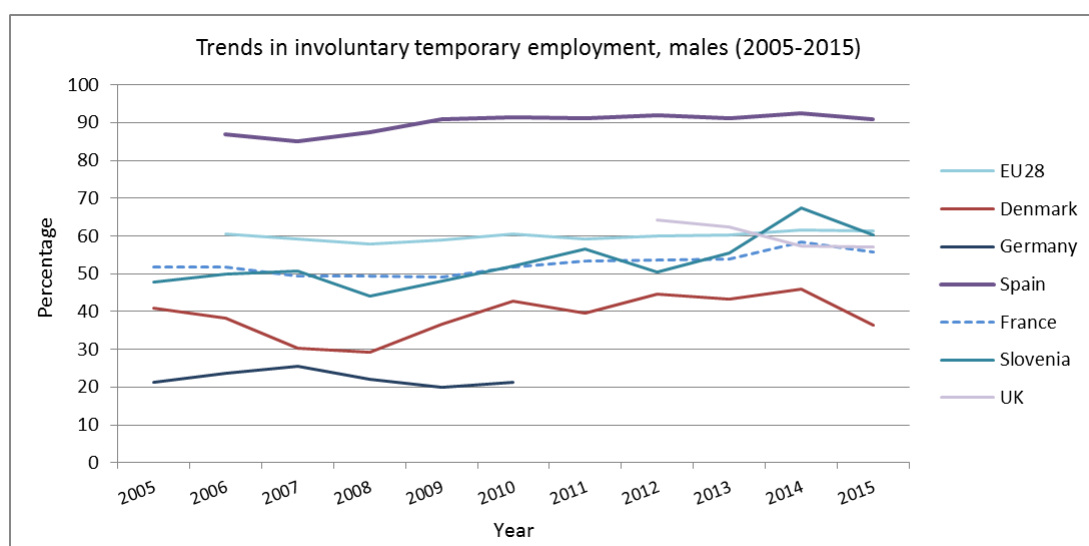
	Males				Females			
	Could not find permanent job	Did not want a permanent job	In education or training	Probationary period	Could not find permanent job	Did not want a permanent job	In education or training	Probationary period
EU28	61.4	11.2	18.4	9.1	63.1	12.2	16.5	8.2
Denmark	36.5	12.8	48.2	2.6	49.9	17.4	30.5	2.3
Germany	21.2	2.4	60.4	16.0	28.0	3.4	57.7	10.9
Spain	90.9	2.8	5.4	0.9	90.3	3.4	5.5	0.7
France	55.8	21.1	20.2	2.9	63.2	18.6	16.2	2.0
Slovenia	60.2	30.3	2.9	6.6	58.9	34.4	2.3	4.5
UK	57.2	28.1	9.2	5.4	--	--	--	--

Note: data for Germany are from 2010 (male) and 2007 (female) as later data are not available because of low reliability. Data for female workers (and for all workers) in the UK are not available.

Source: Ifsa_etgar (Eurostat).

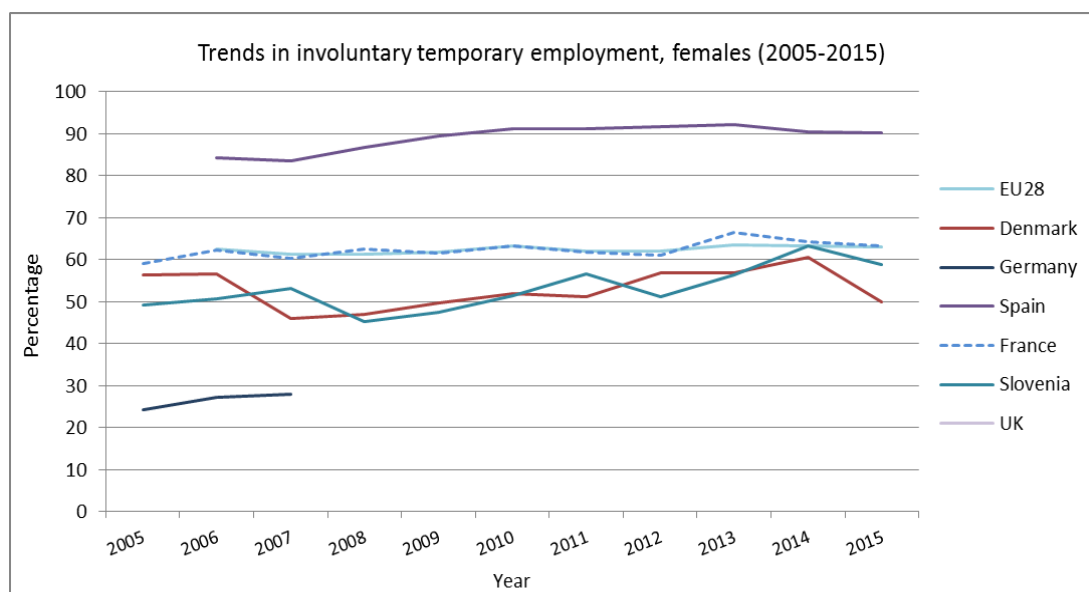
The data for Denmark and Germany suggest greater satisfaction among temporary workers as a much smaller share of workers were in temporary employment because they could not find a permanent job. However, the lower percentages seem the result of a greater share of workers who combine temporary employment with education or training. Both the share of employees who did not want permanent employment and the ratio between those who could not find and those who did not want a permanent job do not suggest a greater preference for temporary employment. If we take this consideration into account, the similarities between countries are striking. The one exception is Spain where 9 out of 10 temporary workers could not find permanent employment. Figures 11.5 and 11.6 show how the involuntary character of temporary employment has been rather stable or has increased since 2005 for both men and women.

Figure 11.5. Involuntary character temporary employment (couldn't find perm job), males 2005-2015



Source: Ifsa_etgar (Eurostat)

Figure 11.6. Involuntary character temporary employment (couldn't find perm job), females, 2005-2015



Source: Ifsa_etgar (Eurostat)

A final issue concerns the difference in earnings between those in temporary and permanent employment. Table 11.6 compares the hourly and monthly earnings of temporary and permanent workers. All six countries experience an 'earnings penalty' for male and, to a lesser extent, female workers in temporary employment, probably the result of lower wages for females compared to male workers in permanent employment. France is an exception only recording a limited difference by gender. The percentage share of hourly wages varies from 69% for men in Germany to 99% for

women in Denmark. Denmark stands out for the relative small differences in earnings between temporary and permanent employees on an hourly basis.

Table 11.6. Hourly/monthly earnings of temporary workers as percentage of earnings of permanent workers (2015)

	Hourly Earnings			Monthly Earnings		
	Total	Males	Females	Total	Males	Females
Denmark	91%	83%	99%	84%	77%	92%
Germany	72%	69%	79%	74%	71%	81%
Spain	81%	76%	88%	80%	75%	86%
France	82%	83%	84%	80%	81%	84%
Slovenia	74%	71%	77%	74%	71%	76%
UK	81%	74%	92%	81%	74%	92%

Source: earn_ses_hourly (Eurostat)

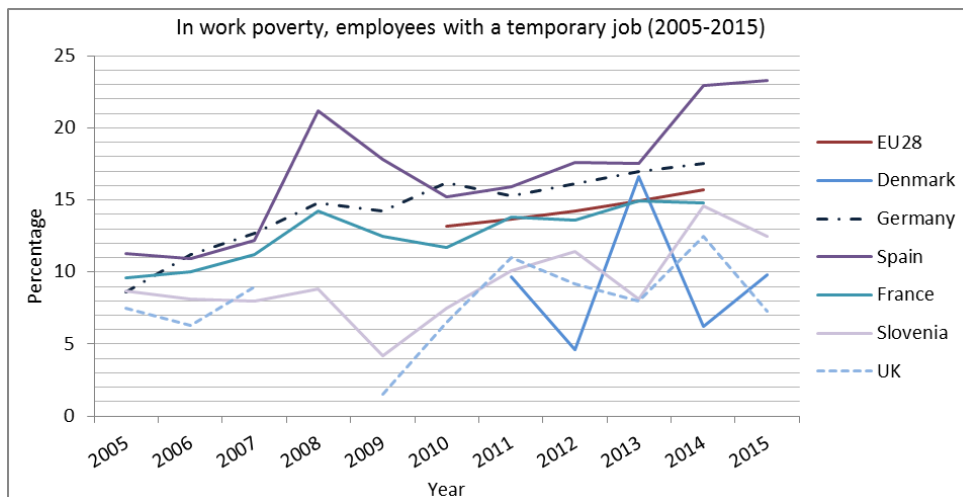
Figures 11.7 and 11.8 show the prevalence of in-work poverty, defined as below 60% of national median income, for both those in permanent and temporary employment. The in-work poverty rates among permanent workers have been relatively similar across countries and relatively stable since 2005 at around 5%, albeit that they have risen in most countries and especially in Germany. The situation of temporary workers is very different. In-work poverty has remained rather stable in the UK and Denmark but has risen in the other four countries. This holds in particular for Spain and Germany where in-work poverty has more than doubled to respectively 23.3% and 17.5% (2014 data).

Figure 11.7. In-work poverty, employees with a permanent job (2005-2015)



Source: ilc_iw05

Figure 11.8. In-work poverty, employees with a temporary job (2005-2015)



Source: ilc_iw05

The data in this section confirm important differences in temporary employment between countries, for example concerning the share of temporary employment and the educational level of temporary workers. There are also important differences in contract duration and the background of workers although shorter contracts are often prevalent and foreign born nationals are over-represented in all countries. Finally, there are important similarities in the prevalence of a wage penalty and a higher share of in-work poverty than among permanent workers.

Employment rights gaps

As mentioned in the introduction, all countries apply the principle of equal treatment for those in temporary employment. This holds in particular for the minimum wage which generally applies from the first day and hour of paid employment and does not exclude fixed-term contract and agency workers. A specific position is taken by Denmark where sectoral minimum wages are set through collective bargaining in the absence of a statutory minimum wage. This can negatively affect temporary workers as they may be prevalent in industries with lower levels of unionization and collective bargaining such as agriculture, cleaning and hotels and will thus be negatively affected. These aspects already confirm how precariousness in Denmark is not so much linked to specific employment types but to the existence and strength of union representation in the sector.

All countries also have specific requirements for the equality of pay and other conditions in accordance with the European Directives. In France and Slovenia, the equality of treatment, including pay, holds as general rule for both employees on fixed-term contract and agency workers. The same holds for fixed-term contracts in Spain. The UK, on the other hand, takes advantage of the Directives' exemptions. A less favourable treatment of fixed-term contract workers may be objectively justified when there is a good business reason to do so. Moreover, agency workers must have worked continuously with the same client organization for 12 weeks before they enjoy equal treatment on pay, holidays and working time, and the right to equal treatment does not hold if the agency worker is directly employed by the agency (the so-called 'Swedish derogation'). Germany has full equal pay for those on fixed-term contracts but a potential exception for agency workers through an agreement of lower wages in TAW collective agreements. Unions supported this potential exception because they estimated that it would help them to organize the TAW sector. However, the strategy

backfired when an agreement on low wages was reached between a small employers' organization and a small trade union. With this agreement in place, it was no longer possible for other unions to enforce the equal pay principle by refusing collective negotiations. These developments have inspired several union campaigns for equal pay and some important regulatory changes in recent years. First of all, a sectoral minimum wage was introduced in 2012. In addition, agency workers are now entitled to equal pay and treatment with regular employees at the same user company from the ninth month of their assignment without any scope for this to be weakened by any collectively agreed arrangement. Finally, in accordance with the discussion of the minimum wage, equality of pay in Denmark was fully dependent on collective bargaining. However, since 2003 the Act of Fixed-Term Contracts stipulates that fixed-term workers are entitled to equal treatment including access to vocational training on the same terms as permanent employees and to be informed about vacant positions in the company. Since 2013 the Act on Temporary Agency Workers also requires the same treatment of agency workers as would apply if they were recruited directly by the user firm to occupy the same job in those cases where they are not covered by a collective agreement (and the latter cannot deviate from equal treatment in wage and working time).

In spite of these arrangements, temporary workers often suffer from lower levels of pay in comparison to those in open-ended contracts. Table 11.6 and Figures 11.7 and 11.8 in the previous section have already shown the lower hourly/monthly earnings of temporary workers and the greater prevalence of in-work poverty. The country reports illustrate this with some further data. For example, the low-pay incidence among agency workers and fixed-term contracts in Germany is respectively 67.7% and 33.5%, much higher than the 10.8% among those in permanent employment. At the end of 2013 an agency worker received on average 57.4% of the remuneration of a regular employee (BA 2014) and two thirds of the temporary agency workers (67.7%) earned very low wages in 2012 (Kalina and Weinkopf 2014). In Slovenia, the in-work risk of poverty is 3.3% for those in permanent employment but 14.6% for those with fixed-term contracts and 49.3% of fixed-term contracts are in the lowest two income deciles. Temporary workers in Spain earned on average 63.4% of the wages for those on open-ended contracts (2013 data), a decline since the crisis from 68.8% in 2008. An analysis of wage data from 2010 indicates that only around one fifth (19.8%) of the wage difference is explained by differences in the objective characteristics of permanent and temporary workers. In the UK, one-in-three (35%) workers in temporary or casual employment were low paid compared to one-in-five (20%) permanent employees (Low Pay in Britain 2015). In France, median annual earnings for all types of atypical contracts (i.e. self-employed, temporary and part-time) are about 60% of the median for the standard worker. Studies in Denmark also show significant wage differences between fixed-term and permanent workers: analysis of 2000 data found the monthly wage for permanent employees to be 6-7 % higher than the wages for fixed-term employees when controlled for a number of background variables (Eriksson and Jensen 2003: 13, 22). Table 11.7 provides an overview of these indications of low pay.

There is an even greater diversity in employment protection and redundancy payments. Not only is this explicitly constrained in many cases but rights tend to be dependent on thresholds of employment duration and minimum hours and differences in tenure. These aspects will affect temporary workers as they are less likely to pass the thresholds and to build seniority rights. On the other hand, some countries provide explicit redundancy rights to those in temporary employment.

Table 11.7. Indications of low pay for temporary workers

Low pay for temporary workers	
Germany	Temporary agency workers earn on average only 58.1% of the median of monthly wages of all employees (2014)
Slovenia	In-work risk of poverty is higher among fixed-term contracts (14.6%) than permanent employment (3.3%); 49.3% of fixed-term contracts are in the lowest two income deciles.
Spain	Temporary workers earn on average 63.4% of the wages for open-ended contracts
UK	35% of temporary or casual employees were low paid compared to 20% permanent employees
France	median earnings for all atypical contracts are about 60% of those for standard workers
Denmark	Monthly wages for permanent employees are 6-7% higher than those for fixed-term employees.

Source: National Reports.

There appear to be no specific statutory rules for the (early) termination and redundancy payments of fixed-term contracts and/or temporary agency workers in Denmark and that is also true for fixed-term contract workers in the UK who have the same low rights as those on open-ended contracts (that is, at one week's notice if employed between one month and 2 years and 1 week per year if employed more than 2 years up to a maximum of 12 weeks). The qualification period to claim for unfair dismissal has been raised from 1 to 2 years of employment so that open-ended contracts during the first two years are de facto fixed-term contracts, reducing the regulatory gap for fixed-term contract workers but fully at the expense of those on open-ended contracts. For agency workers continuity of employment is limited to the 'Swedish derogation' or 'Pay between Assignments' model. Here the pay between assignments must be the highest of 50% of the pay on the last job or the national minimum wage for the hours worked on the last job, and the contract cannot be ended till at least four weeks have passed since the last job. Stronger rights exist in France in the case of an unjustified dismissal. Those on fixed-term contracts are due their salary till the end of the contract. Those in TAW should be offered a new placement within three days or be offered salary till the end of their contract. Fixed-term contracts and TAW hired to stand in for an absent employee or contracted for a specific purpose (engineers and managers, if an agreement provides for this) are entitled compensation for precariousness at the end of contract. This concerns 10% of total gross remuneration paid to employee (6% if a collective agreement provides for vocational training measures). In accordance with the EU Directive, there are a few exceptions to this rule, namely when it concerns a contract with a young person over the holiday period, when the employee declines an open-ended employment contract, and when the contract is terminated early because of serious misdemeanour or force majeure.

Slovenia also requires severance pay for fixed-term contracts. In the case of contracts up to one year, the right to severance pay equals one fifth of the average worker's monthly wage for full-time employment in the last three months of work or during the period prior to the termination of the employment contract for a fixed period. In the case of contracts over 1 year, the employee is entitled severance pay for the first year of employment (1/5 of the average monthly salary) and the proportionate share of severance pay depending on length of service (1/12 from 1/5 of the average monthly salary for each month of service). On the other hand, this obligation is absent in the case of transition from a fixed-term contract to a permanent contract to provide an incentive for employers

to offer open-ended contracts. Spain also offers redundancy payments in an attempt to balance the differences between open-ended and temporary contracts and to reduce the temporary employment rate. Here temporary workers receive compensation at the end of their contract from 8 up to 12 days of earnings per year worked. Employees on fixed-term contracts in Germany cannot be dismissed before the end of the contract duration, albeit there are some exceptions (e.g. 'exceptional reason' like firm closure or when the option of early termination is included in the individual contract or collective agreement). There are no specific statutory rules for the (early) termination and redundancy payments of fixed-term contracts and/or temporary agency workers in Denmark.

As already mentioned, another issue concerns those rights which depend on seniority within the firm such as additional holiday entitlements or training provision and thus disadvantage fixed-term workers who are less likely to develop such rights for obvious reasons. This holds in particular to rights beyond statutory requirements as agreed in collective agreements. In Denmark this for example may concern the right to certain paid holidays, the possibilities to participate in education and training and certain bonuses. Moreover, seniority also influences rights to be elected as trade union representatives, the rights to additional sickness pay (typically given after 9 months of seniority in a company) and the right to pension. France has acknowledged that temporary workers may lose out on training because of seniority rights and has implemented compensatory measures in the case of agency workers. The mandatory social contribution for training by employers is 1.3% of the payroll for agency workers rather than the 'standard' 1%. This could suggest that agency workers therefore profit from greater investments in training but, as a matter of fact, the training they receive is often to adapt to the new work and not develop skills and abilities.

Other rights that exist for permanent employees are not applicable or tend to be unregulated for those in temporary employment. Examples include rights for minimum hours, shifts, scheduling and reduced hours. These issues will therefore not be discussed any further in this section. On the other hand, all countries recognize certain rights solely applicable to temporary workers. This holds in particular for the maximum number and duration of contracts for both fixed-term contracts and TAW in accordance with the EU Directives, albeit with important differences between countries. In the UK, fixed-term contract workers with the same employer automatically become a permanent employee after four or more years, unless the employer has a good business reason not to do so or a collective agreement removes the automatic right in line with the EU directive. There are no such rights for TAW. In Spain, since 2006 those workers employed with 2 or more fixed-term contracts during more than 24 months for the same job in the last 30 years will be considered permanent workers. Moreover, since 2010 the duration of temporary contracts can be no longer than 3 years (or up to 4 years if agreed as such in a collective agreement). If this is exceeded, the worker is once more considered to have an open-ended contract in line with the EU directive. In Denmark, a fixed-term contract can only be renewed due to certain objective criteria and in some sectors (e.g. teaching and scientific work) only two renewals can be issued before the fixed-term contract must terminate or an open-ended employment has to be offered. There are no such requirements for TAW. In France, the use of fixed-term contracts and TAW is restricted and the same fixed contract can only be renewed twice and for a maximum of 18 months. Moreover, TAW is only allowed under certain conditions as to replace an absent employee, a temporary increase in activity and for posts that are inherently temporary. It is not allowed to replace workers on strike, for dangerous jobs, and following

redundancy. Fixed-term contracts, on the other hand, have come to define the de facto entry into the labour market for the majority of workers in France.

Germany reintroduced a maximum hiring period for agency workers by the end of 2015, namely 18 months. The German Act on Part-Time Work and Fixed-Term Contracts differentiates between fixed-term employment contracts for which there is and there is not a substantive reason. An example of the former would be to replace an employee who is temporarily absent or if there is only a temporary need for the work to be performed. If there is no substantive reason, a fixed-term contract may not exceed a period of two years and, if shorter, may only be extended a maximum of three times within the limit of two years. Finally, Slovenia limits the use of successive fixed-term contracts for the same work to a maximum of two years (except for some explicitly determined cases). TAW is limited in both content and scope. Firstly, agency work is not admissible if it is to replace workers on strike, if the client company terminated employment contracts to a larger number of workers in the last 12 months, and in the case of risky jobs. There appears no maximum duration for a specific agency placement at a single client firm.

Table 11.8. Employment right gaps temporary workforce

Employment right gaps	What risks?	Country examples	Examples successful mitigation risk	Country examples?
Minimum wage	Absence of statutory minimum wage or collective bargaining	Denmark	1)Introduction statutory minimum wage 2)extension or high collective bargaining	1)Germany 2)Denmark
Equality of pay & other conditions	Exemptions as permitted through EU directives	UK, Germany, Denmark	No or strict exemptions	France, Slovenia, Spain
Employment protection & redundancy payments	Thresholds of employment duration and minimum hours	All countries	Specific regulation for temporary employment	UK, France, Spain, Slovenia, Germany
Maximum number & duration of contracts	Temporary employment as 'permanent' labour market status	All countries	More stringent requirements duration and number contracts; objective justification for use temporary employment	Denmark, France, Slovenia

Social protection gaps

One can argue that temporary workers are in greater need of social protection because they often have a more precarious position in the labour market. However, they are likely to lose out because of their status and because various thresholds in terms of hours, employment duration and exceptions from contributions result in lower benefits. The discussion in this section focuses on three core forms of social protection: unemployment benefits, maternity and paternity leave, and pensions. All three aspects have important thresholds and exemptions that may result in significant gaps.

Unemployment benefits are of fundamental importance to those in temporary employment given their often lower employment security and higher chances of unemployment. For example, the risk of being unemployed in Germany is five times as high for temporary agency workers than for regular employees (Bundesagentur für Arbeit 2014b). However, as discussed in greater detail in chapter 6, the actual benefits are lower in all countries.

A first issue in the UK concerns the fact that TAW in the UK are often treated as self employed which is not the case in most other countries (CBR index p.753). TAW would be treated as 'workers' and thus eligible for some employment rights such as minimum wages and holiday pay but the same does not apply to social protection. Moreover, the status determines the type of national insurance contribution, with employees paying 'Class 1' and the self-employed paying 'Class 2' contributions. 'Workers' may pay either Class 1 or Class 2 contributions. Those in Class 2 have no access to the contribution-based Jobseekers' allowance. To be eligible for this contribution-based jobseekers' allowance, one must also have paid contributions for approximately half the weeks in the previous two tax years. All these aspects mean that those in temporary employment may not qualify. However in all six countries those in temporary work may not qualify because of requirements for some continuity of employment to reach minimum thresholds (see chapter 6). These thresholds vary in strictness. The UK and Germany have strong requirements for continuity. In the UK one must have worked for 6 months in the past two years and in addition either have been an employee or registered as unemployed to gain credits. In Germany one must work 12 months within two years tightened from three years, though in 2016 it is now relaxing it again to three years. Slovenia also has a tight restriction of nine months' service in the last 24 months but this is looser than its previous 12 out of 18 months. Requirements in Denmark, France and Spain are more generous with Spain only requiring 360 working days in last 6 years, as it adjusts social protection to the realities of high levels of temporary work. However, some groups in the labour market cannot claim full unemployment benefits as their contribution is limited because of contracts and or working hours. They are particularly likely to be excluded from supplementary schemes and seniority rights as provided through collective agreements.

A second important social benefit concerns maternity and paternity leave and pay. Here the thresholds for access are lower than for unemployment benefits although in the UK temporary workers face a double obstacle in so far as the self employed do not qualify even for leave and to qualify for statutory maternity pay even employees. In the UK an individual must have at least 26 weeks of continuous employment with the same employer and pass the aforementioned earnings threshold which may be difficult for temporary staff. In contrast the thresholds for employment records are much lower in the other five countries (see chapter 6). Slovenia and Germany only require the person to be employed while France, Denmark and Spain have relatively low thresholds for eligibility and in Spain these are further loosened for those 26 and under in recognition of the prevalence of temporary and insecure work. Three countries –Slovenia, France and Denmark (on a voluntary basis)- also cover the self employed but this would be most helpful in the UK where TAW can be treated as self-employed. Temporary workers are likely to have more limited access to employer-specific schemes in all countries.

The third main social benefit concerns pensions. There are two important issues here: the thresholds that may limit access to contribution-based pensions, both statutory and additional schemes, and to

what extent pensions are earnings-dependent and thus lower for temporary workers with low income. In the UK, the aforementioned earnings threshold also holds for pension contributions and rights. However there are generous credits for childcare in the UK pension system, together with credits for the unemployed which may mitigate the risk of not gaining entitlement to the standard state pension which is in any case extremely low. Due to the low flat rate state pension many (52%) rely on occupational or personal pensions but those in precarious jobs are less likely to have access to employer occupational pensions or to have the funds to take out an individual private pension. All these aspects can mean that temporary workers may be excluded. In Slovenia fixed-term workers have equal rights but the shorter duration of employment can put these workers in a less favourable position than permanent employees. In France, contributions to pension benefits are proportionate to the amount of time worked. Moreover, as the retirement pay is calculated over the best-paid 25 years of a career, the low pay of many temporary workers may lower their benefits entitlements. Temporary workers in Spain are also likely to experience holes in their employment contributions and thus lower pension entitlements because of more frequent spells in unemployment. Entitlements from the statutory pension insurance in Germany are closely related to the earnings during the working life. Low earnings and periods without employment entail a particular high risk in Germany as even 45 years of full-time employment at the level of the current minimum wage (€ 8.50) is not sufficient to build up pension entitlements at the level of the means-tested ‘basic allowance for old-aged and disabled’ for a single person. It confirms the importance of supplementary occupational, company and personal pension schemes but employees in low-wage jobs and industries are much less likely to accumulate these supplementary entitlements. In Denmark eligibility for mandatory second tier pension schemes may be contingent on minimum periods of employment, for example 6 months in the hotel and restaurant sector. Scheuer (2011) found that only 64 % of persons employed in contracts that terminate at a certain date and 31 % of persons employed in contracts that terminate by the completion of a certain task participated in savings for labour market pension in 2010 compared to 93 % of all employees on open-ended contracts. However, the percentage of those with contracts that terminate by the completion of a certain task had actually declined by 23% since 2000. Similar problems hold for agency workers.

Temporary workers may profit from the higher replacement rates for the lowly paid or minimum pension rules that exist in many countries (see chapter 6 for an overview of these variations). However although Slovenia, the UK and Denmark have notably higher replacement rates for those on half average earnings to those on average earnings, the former group is in fact better protected in France and Spain together with Denmark with its citizens pension due to higher overall replacement rates.

Table 11.9. Social benefits gaps temporary workforce

Social benefits gaps	What risks?	Country examples	Examples successful mitigation risk	Country examples?
Unemployment benefits	(1) Status differences	(1) UK	(1) Reduced thresholds	(1) e.g. Slovenia, France
	(2) Contribution thresholds	(2) All countries	(2) High minimum benefits	(2) e.g. Denmark
	(3) No minimum benefits	(3) Germany		
Maternity/	Qualification thresholds	Low or none existent	Remove/lower	e.g. Spain for those

paternity pay		in all countries except UK	thresholds	26 and under
Pensions	Contribution thresholds	All countries except Denmark with citizens pension	Minimum pensions and/or higher replacement rates for lower paid	All countries except Germany

Representation gaps

All countries acknowledge gaps in representation for temporary workers, in terms of unionization and collective bargaining as well as through other structures for workplace representation. Representation is complicated for various reasons, both related to the character of employment and the industries concerned. This holds in particular for representation by unions. First, the short duration of placements across different firms and possible sectors limits their possibilities to organize these workers. Secondly, the precarious character of much temporary employment means that workers may hesitate to speak to unions out of fear that it may negatively affect their existing and future employment opportunities (see e.g. Belkacem et al. 2015 for France). There is also the problem that many temporary workers tend to work in relatively under-organized industries. A fourth challenge holds in particular for TAW and concerns the ambiguity where to organize workers and to engage in collective bargaining, either in the TAW industry through collective agreements with TAW employers or at client firms. All these issues also raise doubt to what extent unions can successfully represent these workers even if organization proves successful. A fifth issue concerns the ambiguity that has long existed among unions whether to engage with non-standard types of employment as it could legitimize more precarious working conditions. ‘Exclusion’ strategies have become less prevalent over time but unions continue to debate the best way to represent temporary workers. Controversy remains whether unions are more concerned about defending the rights of existing members than about the organization and rights of those in more precarious forms of employment. The remainder of this section assesses to what extent these issues have affected the developments in the different countries, as well as how workplace representative structures, in particular works councils, can offer representation to those in temporary employment. Some of the issues that hinder union representation, such as the short duration of employment and the ambiguous locus of representation, are relevant here as well.

There are various examples of relatively successful attempts to organize temporary workers (see table 8.7) but both the unionization and collective bargaining coverage are lower among those in temporary employment. Temporary workers in the UK are less organized than permanent workers (14.5% versus 25.7%) and less likely to be covered by collective bargaining compared to the national average (20.5% versus 29%). Temporary workers in France are less unionized than permanent employees, even taking into account the very low overall unionization. This is not just linked to the employment types themselves but also their prevalence in sectors where overall unionization is weak. With collective bargaining coverage close to 100%, temporary workers are likely to be covered. In Spain (2010 data), 13% of temporary workers were affiliated to a union versus 23% among those with open-ended contracts. However, it appears that the lower seniority at the firm is the explanatory factor here rather than their position as temporary worker (Cilleros 2011, as referred to

by Muñoz de Bustillo Llorente and Pinto Hernández 2016). Earlier data from the Survey on the Conditions of Working Life found that a mere 3.9% of non-affiliated workers agreed with the statement that ‘trade unions only defend permanent workers’ while 49% completely disagreed.

There are no data on the unionization and coverage of collective bargaining among temporary workers in Slovenia but the perception prevails that unions are predominantly the representatives on those workers on open-ended contracts (Ignjatović & Kanjuo Mrčela 2016). The data are also absent for Germany albeit that unions have developed several initiatives such as a broad campaign for equal pay and treatment for agency workers in 2008 and attempts to represent posted and self-employed workers. Finally, temporary workers in Denmark are relatively well covered by collective bargaining. This particularly holds for those on fixed-term contracts: 86% of those in contracts ending by a specific date and 72% of those in contracts that end with the completion of a certain task are covered by collective agreements (Scheuer 2011). This is 84% among all employees. Union membership is also rather widespread among fixed-term employees (59 %) albeit at a lower level than among full time employees (68 %) (Larsen & Navrbjerg 2011:183). There is no data on the unionization of agency workers but 62% are covered by a collective agreement (Scheuer 2011). It suggests that widely supported unions are able to present those in temporary employment and to overcome the danger of labour market dualism between permanent and temporary contracts. To the extent available, table 11.10 compares the data on unionization and collective bargaining and confirms the lower levels among temporary employment.

Table 11.10. Unionization rates and collective bargaining coverage (2015)

	<i>DE</i>	<i>DK</i>	<i>ES</i>	<i>FR</i>	<i>SI</i>	<i>UK</i>
Union density all workers	18	68	19	8	27	26
Union density temporary workers	--	--	13	2.4 ¹	--	15
-union density fixed-term	--	59	--	--	--	--
-union density TAW	--	--	--	--	--	--
Collective bargaining coverage	62	80	70	98	90	29
CB coverage temporary workers	--	--	--	--	--	21
-CB coverage fixed-term	--	74/86	--	--	--	--
-CB coverage TAW	100 ²	62	--	--	--	--

Note: 1. 2002 data; 2. As collective agreements for German TAW allow for deviations from the equal pay principle, almost all TAW companies follow the agreed pay rates in the collective agreement (with a high proportion of temp agency workers paid at the lowest collectively agreed levels).

Sources: Eurostat and National reports.

These findings are illustrative of the challenges posed when organizing and representing those in temporary employment. Almost all countries provide illustrative examples in this respect. For example, there are the failed attempts by unions in Germany, already referred to in the section on Employment rights gaps, to agree lower than equal pay through collective bargaining as a means to support the organization of the TAW sector. Unions in Germany have seen a debate whether to strengthen their own organizing power by continuing to conclude collective agreements that suspend the equal pay principle or to fully implement equal pay by not concluding collective agreements any longer. This controversy was particularly played out in the run-up to the new TAW collective agreement in 2013. Another illustration from Germany concerns the union policies in

response to the economic crisis when a new type of 'crisis corporatism' (Urban 2010) primarily protected core workers and resulted in the mass dismissal of temporary agency workers, leading Dribbusch and Birke (2014: 18) to conclude that 'safeguarding core workforces at the expense of employees with more precarious terms of employment was a key instrument in stemming the crisis'.

Denmark provides further illustrations in spite of the greater achievements in the organization and representation of temporary workers. A first example comes from the collective agreements in more precarious industries. This holds, for example, for the hotel and restaurant sector characterized by seasonal work, evening and night shifts, very long and very short shifts, and thus a strong need for temporary work to cover peak situations. The current agreement allows for part-time work as low as 10 hours a week and stipulates how so-called reserves (a sort of zero-hour contract) can be used. These outcomes are clearly inferior to other collective agreements but have been accepted as the agreement secures other rights such as rules for tenure, payment for unsocial hours, sickness pay, and terms of notice. Another specific challenge in the Denmark concerns the ambiguity created by a multitude of collective agreements that may apply to agency workers. Unions in the UK stressed the importance of structural challenges with little unionization in sectors with large numbers of precarious workers and fragmented workforces. It informed the conclusion by the TUC (2008: 67) that 'the characteristics of the average trade union member are almost the opposite to those of many vulnerable workers'. Something similar holds for France where unionization of temporary workers is hindered by the short duration of contracts, fear among workers to speak to the union, and an ambiguous attitude of unions towards precarious types of employment. Unions are also less likely to organize successful opposition to fixed-term contracts when they are seen as the (only) port of entry towards open-ended contracts. As mentioned, unions in Slovenia are still predominantly seen as representing those on open-ended contracts and there are few examples of the challenges that confront the inclusion of temporary workers. The situation in Spain is different as few considered unions as solely representing those on open-ended contracts. However, seniority continued to be an important source of lower unionization among temporary workers (Muñoz de Bustillo Llorente and Pinto Hernández 2016).

The data on unionization and collective bargaining are to an important extent reflected in the data on workplace representation, albeit that the existence of works councils can add an important and at times dominant complement. The lack of detailed provisions as part of the ICE regulations means that the position of temporary workers remain ambiguous in defining both the requirements and responsibilities of consultation forums. In Germany, works councils tend to constitute the only formal representation in the workplace and there are some specific provisions concerning the position of agency workers. Those who have been in the workplace for at least three months are included in the numbers employed and are entitled to vote. However, they cannot sit on the works council and it is questionable to what extent works councils feel responsible for agency workers because they are normally not part of the workforce it has mandate to represent. The dual workplace representation through union representatives and works councils in France, Spain and Slovenia creates a more inclusive potential. However, there is little further data to what extent these bodies are able and willing to present those on temporary contracts. This also holds for the so-called 'cooperation committee' which constitute the dominant form of workplace representation in Denmark.

In summary, we find important distinctions between countries in terms of representation. The case of Denmark, with relatively high unionization and collective bargaining coverage among temporary workers, illustrates that unions do not have to be a cause of labour market dualism. However, this requires a strong position within society and across industries and the prevalence of unions is far from complete. Unions in other countries have also been successful in organizing temporary workers. However, the discussion confirms how challenges in representing temporary workers are widely shared. The opening paragraph of this section listed important challenges and the subsequent discussion has provided further illustration. It suggests that in the case of temporary employment, union activities are also in danger of being precarious and this raises serious questions about their ability to improve working conditions. It confirms how the impact of unions can be twofold. In the case of overall strength, unions can be in a position to positively affect overall standards including those in employment forms that are often considered more precarious. However, without such a position unions can indeed struggle to successfully organize and represent more precarious workers and be seen to contribute to increased labour market dualism. But it seems misplaced to ascribe the latter outcome to union intentions as they are clearly secondary to the structural challenges posed by the conditions in the labour market.

Table 11.11. Representation gaps for the temporary workforce

Representation gaps	What risks?	Country examples	Examples of successful mitigation of risks	Country examples?
Unionization	1) Short tenure employment 2) Industries and workplaces with low organization 3) Precarious position workers 4) Exclusive and ambiguous union strategies 5) Acceptance of temporary employment as 'port of entry'	(1) All countries (2) All countries (3) All countries (4) All countries (5) E.g. France	1) -- 2) Organising strategies 3) Better regulation More inclusive 'organising' strategies 5) --	(1) -- (2) All countries (3) e.g. France, Slovenia (4) All countries
Collective bargaining	1) Industries with poor coverage 2) Lower quality collective agreements		1) Extension mechanism 2) broad campaigns 3) Representation at user firms (TAW)	(1) France, Slovenia (2) Germany (3) Germany
Workplace representation	Ambiguous position of temporary workers	All countries	More inclusive provisions	E.g. Germany

Enforcement gaps

There are few indications of specific enforcement gaps for temporary workers when it concerns some general and basic rights such as the minimum wage. However, enforcement challenges may be aggravated by both the character of temporary employment and the specific industries in which temporary employment tends to be prevalent. In this respect, the efficacy of specific regulatory

bodies such as the Gangmasters' Licensing Authority (GLA) in the **UK** is crucial. It aims to protect vulnerable workers in the shell fish, agriculture, food and food packaging sectors by managing a licensing scheme that regulates agencies, labour providers and gangmasters to ensure they meet the statutory employment standards. The GLA performs a crucial role but is limited to the aforementioned industries. Critics have argued that its remit should be extended to cover other sectors where there is evidence of employment agencies and labour providers operating illegally, such as in hospitality, social care, domestic work and construction (Craig et al. 2009). Moreover, its efficacy has been challenged further by an estimated cut to its funding by one fifth during 2010-2015. Another illustration that the control on temporary employment may be weak comes from **Spain** where only 1.9% of all inspections was related to temporary contracts.

Particular challenges are posed by the enforcement of the specific legislation on equal working conditions and the duration of fixed-term contracts and placements. There are several examples across countries that this legislation offers important loopholes that raise serious questions about their enforcement. The section on employment rights already discussed how the rights for equal pay have not prevented a majority of temporary workers in low-pay positions. The UK probably offers the strongest illustration of loopholes that hinder enforcement such as the 12 week qualification period and the Swedish derogation for agency workers. For example, job placements can be terminated before these twelve weeks, also by assigning a 'substantively different role' or including a break for more than six weeks. Moreover, further enforcement challenges are created by the pay-between-assignment contract under the Swedish derogation. There are requirements for the level of pay between assignments and continued employment if no new placement can be found. In addition, several stipulations exist against avoidance strategies such as the movement of workers around a series of roles within the same firm or around different subsidiaries within the same organisation. However, many enforcement problems have been brought forward. For example, an agency may 'invent' jobs as it does not have to pay the employee if a new job is found within one week. Agencies can also not force workers to sign a pay between assignments contract but it can be conditional for an employee to be offered work. A 'zero hours' contract does not count as a derogation contract, but *'it seems from the BIS⁵⁹ guidance that contracts of greater than "one hour" per week may provide a sufficient amount of mutuality of obligation to meet the requirements of the derogation contract (BIS, 2011)'* (Forde and Slater 2014: 15). All these aspects strongly suggest that the current legislation cannot be successfully enforced (Grimshaw et al. 2016). Another example of the potential enforcement challenges is offered by the loophole in Germany to negotiate lower wages through collective bargaining. This has become less pressing with the introduction of the minimum wage but the proposed 9 month threshold for equal pay still leaves many agency workers with shorter contracts uncovered and leaves room for evasive strategies by employers (Jaehrling et al. 2016).

The enforcement of the regulation on the duration of employment contracts does not appear to be a problem in itself. However, there are serious concerns whether this regulation successfully achieves its objective of promoting the transfer to open-ended contracts. There are few indications that this has been successful in the countries considered as many temporary jobs are rather short and few transfer to open-ended contracts (see Table 13.3). Only a small share of short-term TAW jobs in

⁵⁹ Department for Business Innovation and Skills; replaced by the Department for Business, Energy and Industrial Strategy in July 2016

Germany end because the worker is offered a permanent job at the user company. This indicates that one of the main intentions of the deregulation of TAW – to make it a stepping stone into permanent employment – has largely failed. The situation in France suggest that temporary employment has become a necessary but far from sufficient stepping stone to an open-ended contract. In 2012, less than 10% of newly hired workers received an open-ended contract while all others were under some form of temporary employment including fixed-term contracts and TAW (Dares 2014 as referred to by Kornig et al. 2016). However, there are few guarantees that temporary contracts provide a port of entry into permanent employment. The recurrence of fixed-term contracts has increased with 86% of new fixed-term contracts in 2010 concerning a contract renewal compared to 30% in the early 1980s and the rate of transition from fixed-term to open-ended contracts without recurrence declined from 60% in 1982 to 25% in 2011. Further confirmation comes from Spain which probably presents the most detailed data confirming that temporary contracts are often a dead-end for many workers during long periods of their working life. As in France, temporary employment constitutes a necessary step towards an open-ended contract with only 1.18% of permanent contracts signed by workers not employed in the previous year. Güell and Petrongolo (2007) find that the transition from temporary into permanent contracts is highest for workers employed for 2 to 3 years (the maximum time allowed by law for a temporary contract) but even then only a fifth of workers obtain a permanent job. They also estimate that the transition rate has decreased from 18% in 1987 to 6% in 1997 and only increased slightly since then. Data from the UK confirm that a substantial share of those in temporary employment risk to be stuck between temporary and no employment. A TUC (2008) study on vulnerable employment observed that *‘those in vulnerable work are unlikely to leave it’* but risk to be stuck in ‘low pay, no pay’ cycle as they move between low-paid temporary jobs and unemployment. This was confirmed by more recent studies (Shildrick et al. 2012, Wilson et al. 2013). There are no data on this for Denmark and Slovenia.

Enforcement is also hindered by the often limited awareness of rights among temporary workers. The complexity and at times ambiguity of the specific regulations on equal working conditions and the duration of temporary contracts contributes to these awareness gaps. For example, a recent survey of agency workers in the UK (ACAS 2015c: 2) found that many were *‘unaware of their rights, particularly around holiday pay, notice periods and, critically, the “twelve week threshold”’*. The situation in the UK can be considered to be particularly complex, also because of the ambiguity created by the distinction between ‘employees’ and ‘workers’, but it is likely that similar awareness gaps exist in the other countries. For example, employers in Denmark have been able to circumvent collective agreements and employ foreign workers at lower wage levels and more flexible working conditions because the migrants were not aware of their rights. There is no further information on the other countries in this respect. .

Thirdly, the ability of temporary workers to claim their rights is often weaker than for those in open-ended contracts. The previous discussion has already stressed the potential power gaps because temporary employees may fear for their existing and future employment opportunities. Temporary workers may also have fewer resources to demand their rights and potential costs involved such as tribunal fees may provide a greater barrier. The potential pay-out may also be limited and many workers may prefer ‘exit’ over ‘voice’ given the rather precarious character of the employment relationship in the first place. Again the UK probably provides the most explicit example because of the high fees for employment tribunals. One could therefore argue that the current system is not in

line with the precariousness of temporary employment, especially when these issues are aggravated by the aforementioned awareness gaps (Grimshaw et al. 2016).

All these gaps in regulation, awareness and power contribute to and explain various examples of temporary workers not enforcing their rights. For example, interviews in Denmark indicate that employers do not always comply with the limitations on contract renewal and there are examples of fixed-term employees working in certain parts of the public sector who have had their contract renewed too many times (they have subsequently brought their case to the Labour Court). Another example comes from Germany where there are concerns about the ambiguous demarcation between TAW and subcontracting with so-called bogus subcontracting actually constituting TAW arrangements. Some studies have shown how agency workers in France are not always reported as required by law, for example by agencies that open for a few months and close before being controlled. However, the most striking illustration of poor enforcement probably comes from the prevalence of low pay among temporary workers and the poor transition to open-ended contracts across all countries.

Table 11.12. Enforcement gaps temporary workforce

Enforcement gaps	What risks?	Country examples	Examples successful mitigation risk	Country examples?
Enforcement general rights	Poor enforcement because of character employment and/or industries	All countries	Special enforcement agencies	E.g. UK
Enforcement of specific legislation	Exemptions (loopholes) in equal rights legislation Difficult enforcement legislation to promote transfer to open-ended contracts	E.g. UK, Germany All countries	Less/no exemptions Need to justify the use of temporary employment, promote open-ended contracts through financial incentives	France, Slovenia, Spain, Denmark France, Slovenia, Denmark; Slovenia
Awareness of rights	Additional complexity specific legislation	All countries	Better information by state or unions (campaigns)	E.g. Germany
Power gaps	Weak labour market position Limited resources and potential gains	All countries	Less/no exemptions Strengthened position Better access to enforce rights	France, Slovenia, Spain, Denmark

The character of temporary employment

The discussion has shown how the position of temporary workers is a complex interplay between regulation, representation, enforcement and the availability of social benefits. This complexity not only challenges simply theories of dualism but also means that countries face different outcomes

across the various gaps and cannot be ranked easily in accordance with the disadvantaged position of their temporary workers. It is therefore important to start out by comparing the specific gaps.

On the issue of employment rights, the UK stands out for the weakest position for temporary workers. There is limited employment protection for both fixed-term contracts and temporary agency workers: the notice periods for early termination is limited for fixed-term contracts (and for so-called permanent contracts) and absent for agency workers, the maximum period for fixed-term contracts is highest in comparative perspective, and there are various constraints and loopholes in the legislation for equal pay. Neither those on fixed term nor permanent contracts are eligible for redundancy pay until they have been employed two years. This contrasts in particular with Spain, Slovenia and France that offer severance pay to those on fixed-term contracts from the very start of employment. France probably offers the strongest attempt to regulate temporary employment with those on fixed-term contracts due their salary till the end of the contract in the case of unjustified dismissal. Similarly, those in TAW should be offered a new placement within three days or be offered salary till the end of their contract. As mentioned, fixed-term contract and agency workers who are hired to stand in for an absent employee or are contracted for a specific purpose are also entitled to compensation for precariousness at the end of contract. Finally, together with Slovenia and Denmark, France also requires justification for the use of temporary employment.

When it comes to social benefits, temporary workers are mostly affected by two aspects: thresholds for the access to (contributions to) benefits and the extent to which benefits are proportionate to contributions. Most countries offer thresholds for access to unemployment benefits but they are quite different. The UK not only sets income requirements but also requires workers to have paid contributions for approximately half the weeks in one of the previous two tax years and to have paid or be credited with contributions for most of the two tax years. The requirements in terms of working days are also relatively strict for Germany and Slovenia but weaker for France, Spain and Denmark.

The UK is the only country with a flat rate of benefits at about 10% of the average wage while benefits are earnings-related in the five other countries but with minimum benefits at about a quarter of the average wage in Spain, France and Slovenia and at over 40% of the average wage in Denmark. Thresholds also exist for maternity benefits but are generally low. Again, the requirements in the UK (26 weeks of continuous employment at a single employer) are most strict. The requirements in other countries are lighter as illustrated by 200 hours per quarter year in France and a total of 360 days in Spain with even lower requirements for those 26 and under. The second aspect of benefits being proportionate to contributions is particularly important for pensions where, with the exception of the UK, there are important differences in the pension rights that workers acquire with temporary workers in a disadvantaged position. Across the various benefits, the UK thus stands out in terms of higher thresholds for qualification but also a flat rate of benefits that could be argued to reduce the gaps between (temporary) workers with lower pay and (permanent) workers with higher pay. At the same time, benefits remain at a very low level and the smaller gap is therefore a manifestation of the poor benefits for those in open-ended contracts rather than a stronger position for those in temporary employment.

Other differences characterise representation. Here the complexities are even more pressing and complicate a straightforward interpretation, without a clear correlation between union strength or weakness and the position of temporary workers. For example, the rather weak unions in the UK have achieved some significant successes in organizing and representing temporary workers albeit that they have struggled to extend these successes beyond local and specific campaigns. The country that stands apart when it concerns the unionization of temporary workers is Denmark, with 59% unionization among those in fixed-term contracts (compared to 68% of all employees). Collective bargaining coverage is also relatively high: 86% among those in contracts ending by a specific date, 72% among those in contracts that end with the completion of a certain task, and 62% among agency workers. Collective bargaining coverage is supported by specific agreements for the TAW industry in Germany and France and the extension of agreements in France, Slovenia, and Spain. At the same time, there are concerns about the quality of these agreements. In addition, there is little indication that those on fixed-term contracts and agency workers are well served through workplace representative structures such as works councils. Overall, one could argue that temporary workers are best served in Denmark because of the relatively high levels of unionization and the contribution this offers to collective bargaining. At the same time, there is the possibility that workers are not or poorly covered because of limited working hours or because they work in industries with no collective agreements or agreements with relatively poor working conditions. In this respect even Denmark confirms how unions without a strong positions struggle to successfully represent temporary workers.

When it comes to enforcement, the specific position of temporary workers is mostly shaped by the existence of monitoring and enforcement agencies, the complexity and enforceability of regulation, and the position of workers to claim their rights. In particular the enforceability of regulation to promote the transfer to open-ended contracts through maximum duration for temporary employment appears very weak. Again, the UK probably offers the most precarious conditions. We find the secondary status as ‘worker’ for agency workers, the most extensive qualification period for agency workers, the possibility to deviate from equal pay among agency workers through the Swedish derogation, the overall complexity of regulation, and the challenges for temporary workers to enforce their rights through an employment tribunal. But the inability to enforce individual rights exists across countries. This means that workers will depend on the efficacy of monitoring and enforcement agencies and the strength of collective bargaining and union representation. The latter suggests the potentially greater enforceability in Denmark although this will differ substantially between organized and unorganized industries and workplaces.

When we look across the four gaps, we can draw a number of important conclusions. The UK performs poorly across all four gaps and UK temporary workers are in a particularly precarious position. Even if the gap with those in open-ended contracts may be limited, this is mostly a reflection of the poor conditions for the latter. At the same time, this assessment requires a crucial caveat. In-work poverty among temporary workers is lower in the UK than in the other countries (with France as a relatively close second) and this illustrates the important contribution of the national minimum wage and the in-work benefits. The position of temporary workers is stronger in the other five countries, albeit with important differences. France and Denmark provide particularly interesting illustrations. France probably goes furthest in its attempts to address the balance between temporary and open-ended contracts by increasing the quality and costs of temporary

employment. This, for example, includes the requirement of a higher employers' contribution by firms making heavy use of temporary workers, a 'precarious bonus' to be paid monthly to agency workers, and a higher mandatory employer contribution for training in the case of agency workers. In addition, there are relatively strict restrictions on the use and renewal of temporary contracts and relatively strong requirements for severance pay in case contracts are terminated prematurely. The success of these strategies is debatable but they at least constitute an attempt to address balance between permanent and temporary employment. More modest attempts towards 'flexicurity' have been implemented in Slovenia and Spain. Denmark provides the strongest example what can be achieved if unions maintain a strong position in society. At the same time, there are still concerns, in particular for industries that are not covered or where unions are relatively weak, albeit that the relatively generous welfare state offers a de facto minimum. Moreover, to the extent that unions achieve seniority-based rights, temporary workers are destined to lose out unless those rights can be transferred between firms and industries.

Concluding thoughts

The discussion has shown the complex character of temporary employment in terms of regulation, social benefits, representation and enforcement. This complexity cannot be captured in a simple or complete assessment. However, the following considerations capture some of the important findings. The first and most crucial assessment concerns the character of temporary employment. The differences across countries cannot hide the fact that fixed-term contracts and TAW are, indeed, inherently temporary in character. This appears to provide an admittedly flexible but nevertheless crucial limit to what can be achieved in improving working conditions. Across the six countries we see that requirements to equal pay cannot prevent the predominance of poor pay, constrained or precarious representation, unenforceable transition to open-ended contracts, and a lack of seniority rights. There is a vicious circle where the temporary character of employment implies the absence of a continuous employment relationship and little mutual investment or the ability and incentive to enforce better employment conditions. The disadvantaged position of temporary employment is well-illustrated by the data on its largely involuntary character and earnings penalty as presented at the beginning of this chapter. Secondly, and in accordance, the outcomes confirm the challenges to improve working conditions through legislation and representation, whereby the latter can both strengthen and weaken the impact of the former. A frequent problem in the absence of collective representation is that minimum standards become a ceiling as employers limit provision to what is required by law. This is, for example, illustrated by the national minimum wage becoming the going rate for much employment. The problem in the presence of weak collective representation is that unions struggle to upgrade conditions and may even sign opt-out agreements in return for other rights.

The outcomes also allow for some more methodological conclusions. First of all, they confirm the need to distinguish between relative gaps and actual standards, between relative versus absolute findings. One could argue that the 'precariousness penalty' for those in temporary employment is smallest in the UK. But that is largely beside the point if actual working conditions often compare negatively to those in other countries. This awareness shows that dualism arguments are secondary to the overall quality of working conditions. Secondly, the findings suggest the existence of, for lack of a better word, 'information gaps'. It is striking that there are so many unknowns when it concerns temporary employment, for example concerning enforcement, the actual presentation of temporary

workers by unions or works councils, and the extent to which temporary workers with infrequent employment and limited hours are covered by social benefits. These information gaps not only complicate analysis but also appear constitutive to the rise in temporary employment. Limited knowledge makes actual conditions partly invisible and therefore allows the persistence of inferior working conditions. This can be linked to the 'temporary employment as stepping stone' argument which also continues to justify lower conditions. For example, it means that temporary workers in France may not engage with unions in the hope to qualify for an open-ended contract. At the same time, the data suggest that this transition has become increasingly unlikely (e.g. low pay-no pay cycle in UK, temporary employment as dead end in Spain, less transition in France) and has become tenuous as justification for temporary employment.

This informs a final conclusion. The ambition to limit temporary employment by the regulation on a maximum number and duration for contracts and placements is commendable. However, this proves very difficult if not impossible to enforce. It suggests the need for an alternative approach whereby flexibility comes at a cost to employers or mutual benefits to employers and employees. This explains the flexicurity initiatives in Slovenia, Spain and in particular France. Without such initiatives, standards for open-ended contracts may contribute to more precarious employment forms. For example, the demand for temporary employment may increase when changes in the level of the minimum wage increase cost imperatives, when differences in working time protection (e.g. premiums for overtime) promote temporary work for unsocial hours, and when tax and social contribution incentives are provided to firms when hiring employees at low wages.

12. Precarious subcontracted work: Varied forms, varied gaps

The phenomenon of ‘precarious subcontracted work’ captures alternative employment forms that are associated with management actions to reduce their costs and commitments to a directly employed workforce by instead managing a subcontracted workforce. Here, we are concerned explicitly with what we refer to as ‘cost-driven subcontracted work’. We recognise that some forms of subcontracted work are not precarious and indeed may be associated with improved working conditions and better opportunities to fulfil creative capabilities. Moreover, there are multiple factors that drive subcontracting of production activities, including a search for specialist skills, technologies and management capabilities. Our focus is on situations where subcontracting can be identified as largely motivated by a strategy to cut costs, which may be closely related with a desire to access labour more flexibly, to avoid trade unions and to place workers in a more subordinate position of control (Perraudin et al. 2014). Research on cost-driven subcontracting shows it tends to induce precarity in employment experience, particularly in sectors and occupations where skills required for jobs tend to be undervalued, such as agriculture, call centres, commercial cleaning, construction, security services, and social care for example (Cunningham and James 2009; Harvard et al. 2009; Jaehrling and Méhaut 2013; Weil 2014), and where there is sometimes a strong correlation with presence of migrant workers (Refslund and Thörnquist 2016).

This section considers three types of precarious subcontracted work, each of which may overlap to some degree but are separated here for the purposes of exposition:

- i) *Subcontracted employees*: involves direct employment with a subcontractor organisation (such as outsourced cleaners employed by the multinational company Sodexo for example);
- ii) *Posted work*: involves migrant workers employed by a company that is headquartered in the sending country; and
- iii) *False self-employment*: where the worker is formally treated as self-employed but is economically dependent on the contracting organisation and may be treated in practice as a subordinate employee

Further definitions and issues are set out in Box 12.1. In all three cases the boundaries that define worker rights and employer responsibilities are blurred, potentially resulting in considerable protective gaps, ambiguities in legal status, questions about who is the employer, and risks to the worker of exploitation.

Box 12.1. Defining alternative forms of precarious subcontracted work

i) Subcontracted employees. This encompasses all jobs that are managed as part of an outsourcing contract between two organisations, a client and a supplier, and the supplier is the direct employer of the subcontracted employee. Unlike other forms of direct employment, research shows that the job of a subcontracted employee is peculiarly shaped by the conditions of the outsourcing contract: conditions of job security are hampered by the short-term nature of many outsourcing contracts and the risk to the supplier

of contract loss; training and career development prospects may be impaired by a tendency for outsourced work to generate narrower, specialised job categories so that performance can be more clearly monitored between client and supplier organisations; and pay prospects may be dampened where contract competition prioritises cost minimisation.

ii) **Posted work** refers to jobs filled by migrant workers who are employed by a company or an employment agency that is registered in the migrants' home country and is part of a chain of cross-border subcontracting. The definition and patterns of use are strongly interconnected with the legal protections established in each country in accordance with the Posting of Workers Directive (PWD) introduced in 1996. This provides minimum protections for paid holidays, wage rates, rest breaks, health and safety and maternity support, among others, and for social security contributions paid by the company and worker in the sending country.

The PWD was drafted in response, initially, to pressures from several (old) member states about social dumping and the scope of foreign firms to avoid collective agreements (especially Germany and the Nordic countries). However, it also responded to other conflicting EU objectives, specifically to encourage transnational provision of services and cross-border competition while minimising 'disruptive' limitations. Throughout the drafting of the PWD, Denmark in particular expressed concerns about how protections of employment conditions would apply in a country that relied mainly on collective agreements that were not extended and made legally binding (as in France), while the UK argued for the opportunity for foreign firms to escape from such restrictions. Interpretations of the PWD have been controversial with shifting opinions from the European Court of Justice (Viking, Laval, Rüffert, etc.) about whether host countries can impose above-minimum standards on posted companies, ring-fence those services deemed to be in the public interest, and engage unions and employers alongside national governments in shaping standards.

iii) **False self-employment** has been the object of serious policy concern across Europe at least since the Supiot report (2001), especially among segments of low skilled and casualised subcontracted workers who are most at risk of losing vital protections provided by labour law and social security. The risk is that workers are contracted for an activity and considered on the one hand as self-employed but on the other maintained in a strongly economically dependent relationship with the contractor organisation –that is, in 'subordinate employment disguised as autonomous work' (Frade and Darmon 2005: 111). As self-employed, the person is generally made responsible for their social security (pension, unemployment insurance, maternity protection, and so on) and is unlikely to benefit from any of the standard employment rights despite having a continuous and dependent relationship with the contractor. This can be described as a likely situation of 'fraudulent self-employment', which moreover causes wider problems of unfair competition in the labour market and is a drain on social security revenues, recognised 15 years ago in the well-known Supiot report (op. cit.: 5-9). Indeed, the examples cited in Supiot's review have flourished after the economic crisis spurred along by the digital restructuring of employment relations: wage-earning delivery drivers are being replaced by drivers who own or lease the vehicles and take on most of the business risk; care work is being 'put out' to independent self-employed persons; and construction work remains a major grey area of employment forms that offer many workers limited protections (Haidinger 2015; Moore 2016).

In this report, while the specificities of false employment vary between countries, we identify the following general features as relevant:

- absence of employment contract with an employing organisation;
- significant share of revenue derived from the same client;
- continuity of relationship with a single client organisation; and
- no direct employment or other form of control, of employees.

By way of comparison we are also interested in differences in the employment and social protection rights afforded to the genuine self-employed person in the six countries investigated, as well as forms of representation and patterns of enforcement.

Source: Eurostat (2003); Evju and Novitz (2015); Marchington et al. (2004); Muñoz de Bustillo Llorente and Pinto Hernández (2016).

What patterns and trends in precarious subcontracted work?

European labour market data enable us to track key indicators of trends and patterns in two of the three selected forms of cost-driven subcontracted work –posted work and ‘own-account’, or solo, self-employment. There are no harmonised data on the volume of workers employed in organisations where subcontracting accounts for the bulk of their business revenue; national data provide some clues –for example, in France the business of almost one in five firms with 20 or more employees (18% in 2011) depended exclusively on one contractor (Kornig et al. 2016: 71). Nor are there reliable data on numbers of false self-employed since by definition this employment form is difficult to capture in official survey or tax records data. It is also worth noting that there are likely to be considerable shifts between these three categories of precarious work as employers and agencies seek to deploy labour and minimise costs. It is feasible for example that posted workers may be substituted by migrant ‘own account’ self-employed workers, depending on visa conditions among other factors. Table 12.1 provides a summary of key patterns and trends for the six countries.

Table 12.1. Summary of patterns and trends in six countries –posted work and self-employment

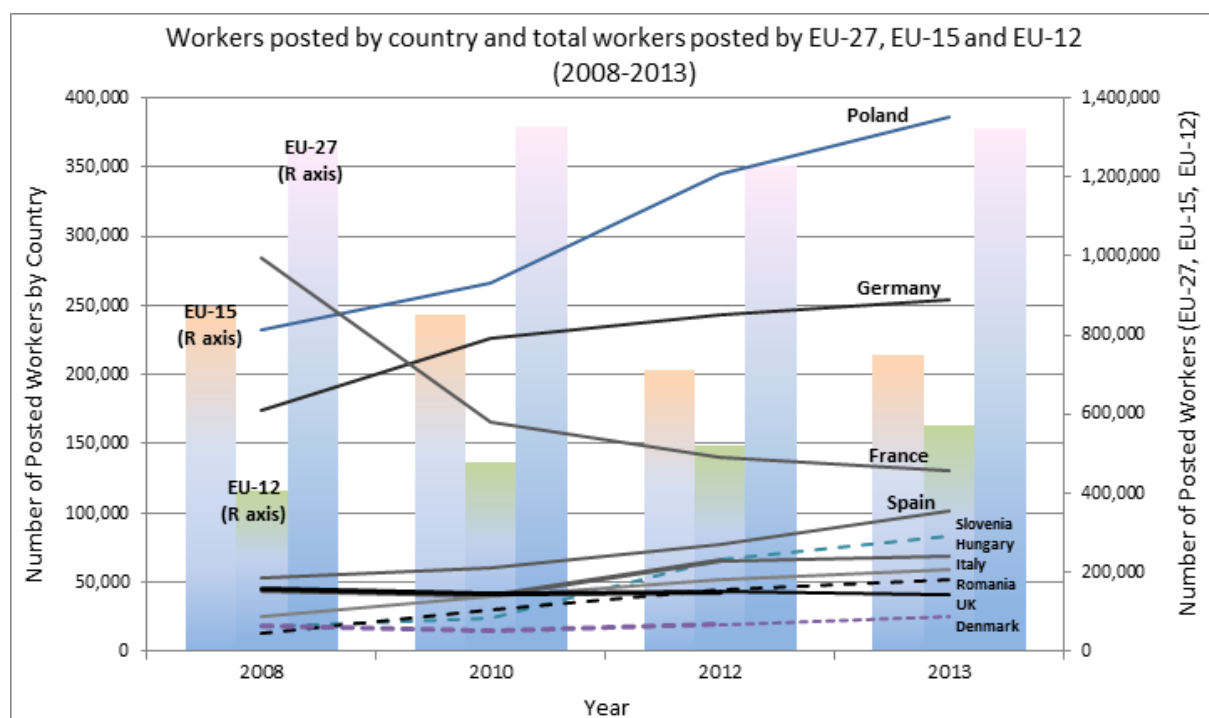
	Denmark	France	Germany	Slovenia	Spain	UK
Posted work:						
-Post-crisis trend in sending posted workers	small rise	large fall	rise	large rise	large rise	stable
-volumes sent	low	high	high	very high	medium	low
-volumes received	low	very high	very high	very low	medium	low
Self employment:						
-Post-crisis trend	stable	rise	fall	large rise	rise	large rise
-‘Own account workers’ (share of total SE)	low	low	low	average	average	very high
-Gender difference	wide	wide	wide	narrow	narrow	narrow

Beginning with posted work, the data since the crisis show a stable overall trend in numbers of posted workers at around 1.3 million across the EU.⁶⁰ A key change however is the shift from old member states (EU-15) to new (EU-12): in 2008 old member states accounted for two thirds (68%) of all posted workers sent, but by 2013 this had dropped to less than three fifths (57%). However, this shift is not reflective of uniform trends within old and new regions. In fact it is almost entirely explained by a halving of the issuing of posted worker applications in France since the crisis, from around 280,000 in 2008 to 130,000 in 2013. Conversely, in several other old member states we see a rise, particularly in Germany, Italy and Spain (figure 12.1). Among old and new EU countries, Germany and Poland have pulled away from the pack and, incredibly, accounted for around half (48%) of all posted workers sent across the EU in 2013. Other countries are also over-represented (given their size) in the share of posted workers sent around Europe, namely Spain and Slovenia: Spain doubled the numbers of posted workers sent to more than 100,000 in 2013 and Slovenia quadrupled its issuing of posted workers, from 1.4% to 6.4% of all issues in the EU during 2008-13.

⁶⁰ The data are captured by the issuing of ‘portable documents A1’, the only available data for numbers of posted workers.

Slovenia ranked fifth in 2013, above other far larger Central and Eastern European countries such as Hungary and Romania, which is extraordinary.

Figure 12.1. Trends in the sending of posted workers, selected countries

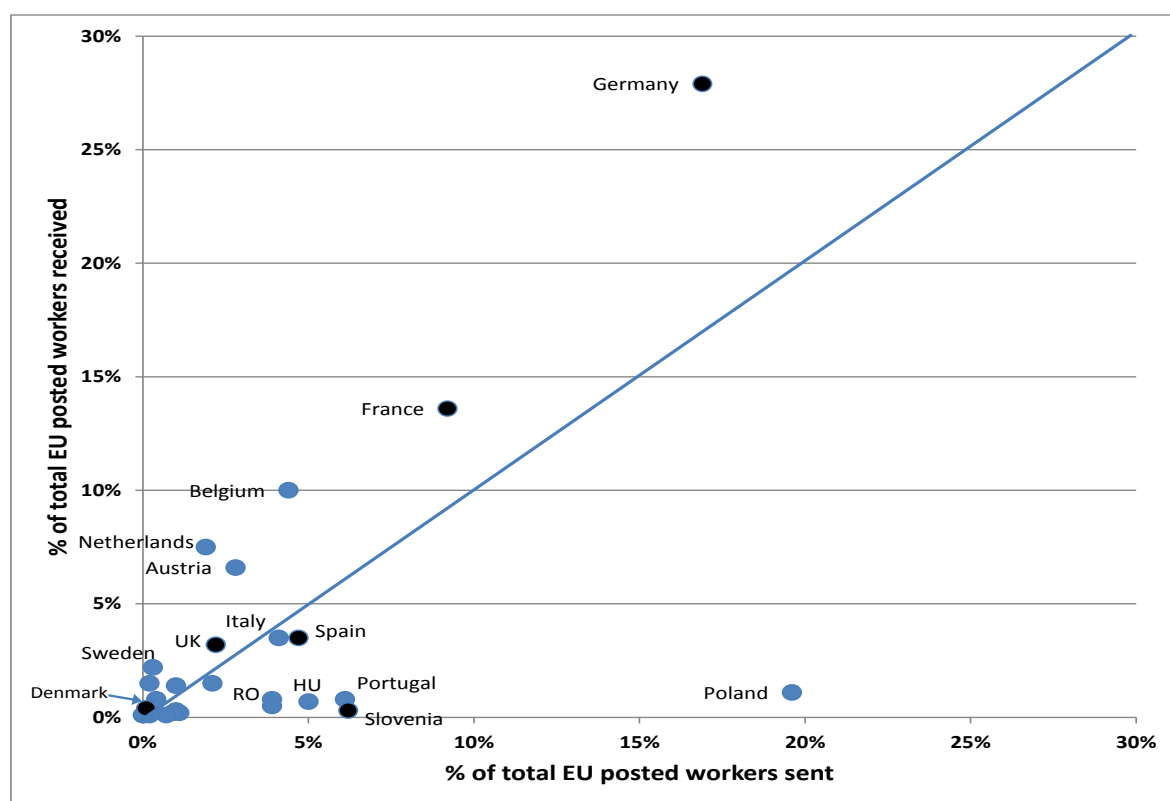


Source: Administrative data PD A1 (2012, 2013) and E101 (2008, 2010) published in European Commission reports; authors' original figure using data for 'total posting and other A1/E101' including issues for employees and self-employed.

Figure 12.2 shows the well-known divide between net-sending and net-receiving countries in Europe. While Poland and Germany are the main sending countries in Europe, Germany also receives large volumes of posted workers, while Poland does not, resulting in a massive drain on the country's pool of human resources. Poland is representative of many other CEE countries of which Slovenia is also typical, accounting for 6.2% of all posted workers sent and just 0.3% of those received in 2013. Around half of posted workers from Slovenia head to Germany and a little more than a quarter to Austria. France is the second largest recipient of posted workers in Europe and the trend has increased significantly since the crisis, with numbers received doubling from around 100,000 to 200,000 during 2008-2013 (Kornig et al. 2016: 79).

With regard to sectors of employment, the major sector where posted workers are deployed is construction -42% of all postings across the EU in 2014 (Voss et al. 2016: table 2). Other significant sectors are manufacturing (around a fifth of all postings, 22%) and health, education and social work (around one in seven of all postings, 14%) (op. cit.). National data for Denmark show two thirds of all registered posting firms were involved in the construction sector, with two thirds headquartered in a CE country (Rasmussen et al. 2016: 57).

Figure 12.2. Share of EU posted workers sent and received by country, 2013

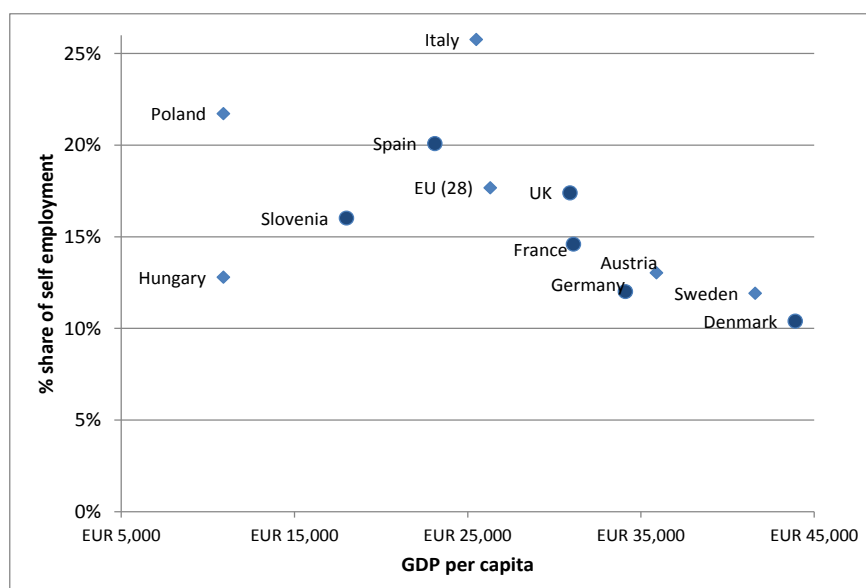


Source: Administrative data PD A1 (2013) published in European Commission reports; authors' original figure using data for 'total posting and other A1/E101' including employees and self-employed.

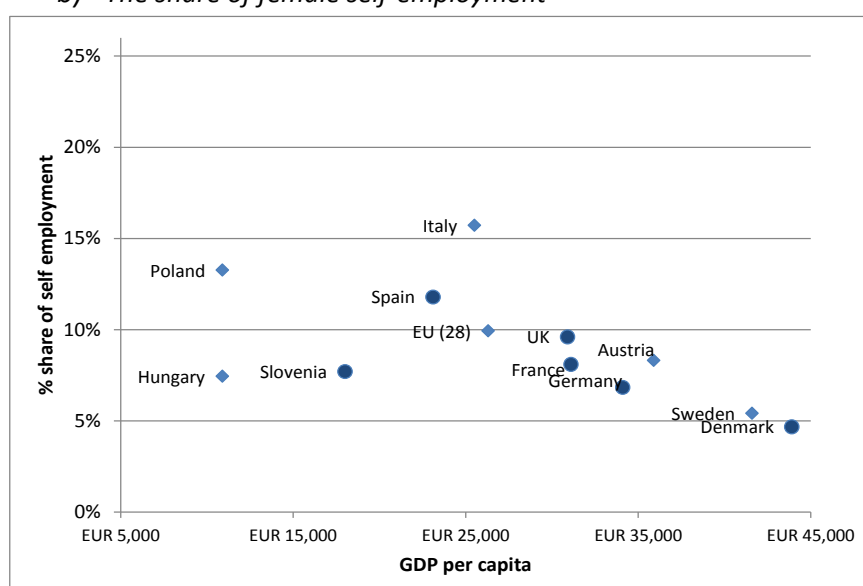
Turning to patterns of self-employment, while long-run trends point to a strong negative association between a country's level of economic output and its share of self-employment, several factors disrupt this pattern including financial crises, gendered employment relations, new information and communication technologies, active labour market policies, employer practices and regulatory changes. For example, the UK registers a higher share of male and female self-employment than France and Germany despite roughly similar levels of GDP per capita (figure 12.3a). Similarly, Slovenia (and even more so Hungary although outside our six country focus) registers a lower than anticipated share of self-employment, comparable to levels found in France despite having less than two thirds the level of GDP per capita. A key similarity is that in all six countries self-employment is higher as a share of total employment among men than women, particularly in Denmark and Slovenia where male self-employment is more than twice that of female self-employment.

Figure 12.3. GDP per capita and shares of self-employment by sex, 2015

a) The share of male self-employment



b) The share of female self-employment



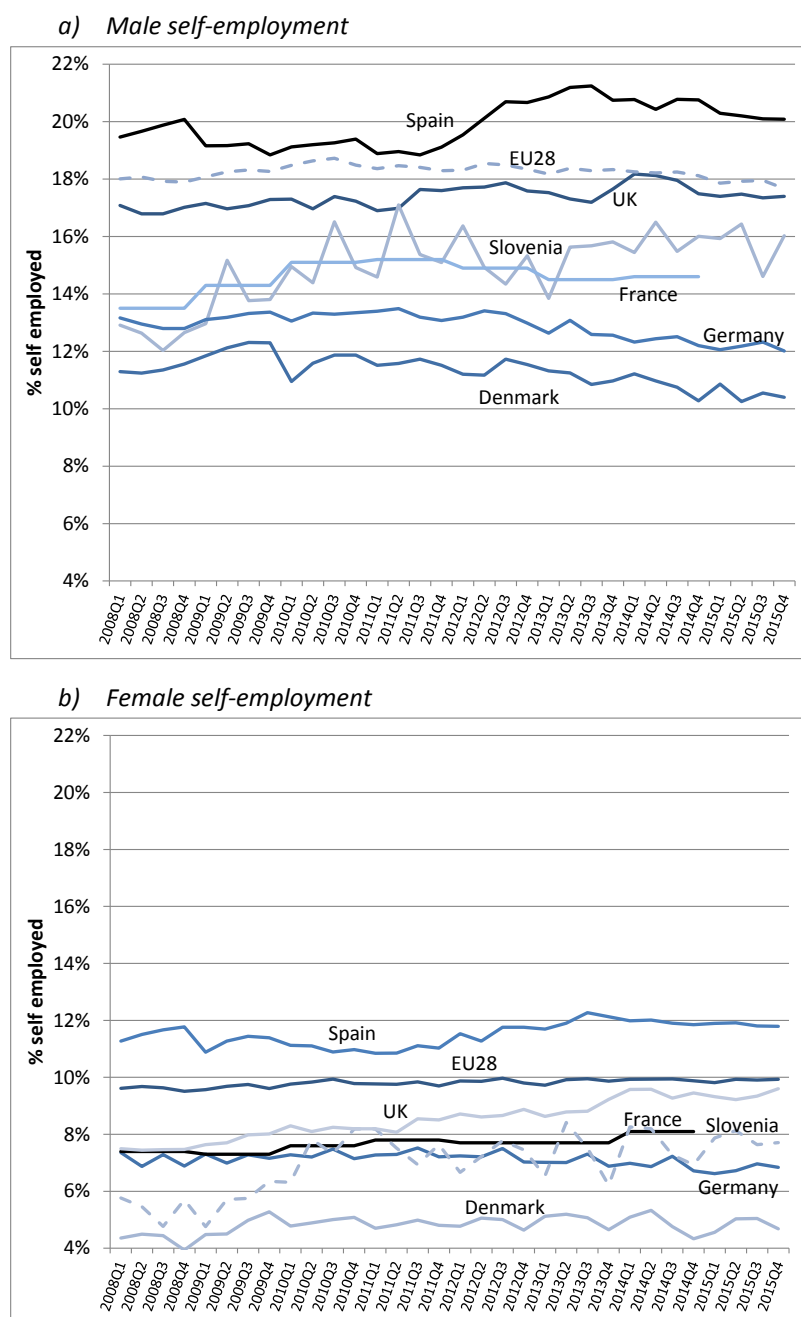
Notes: Eurostat self-employment data missing for France so World Bank 2014 data used; 2015 real GDP per capita (2010 chain linked volumes); seasonally adjusted employment data.

Source: Eurostat data, authors' compilation.

Countries' use of self-employment did not adjust uniformly to the economic crisis. One might expect a short-term rise during an economic crisis, especially where active labour market policies press the unemployed into self-employment, and then a fall as employers resume hiring during the jobs recovery. There is some evidence of this kind of adjustment at EU level (among men not women), yet we find diverging trends among our sample countries (figure 12.4). During and immediately after the crisis (2008-2011) Slovenia witnessed fast rising self-employment, Germany and France saw a rise among men only, Denmark and the UK a rise among women only, and Spain registered no net change. Then after 2011 the pattern changes with Spain showing a major rise in self-employment especially among men (taking it well above the EU average), the UK acceleration in the rise among women, Slovenia and France stable and Germany and Denmark a notable fall for men. Only Germany

and Denmark therefore appear to reflect the kinds of labour market responses forecast by economic theory.

Figure 12.4. Trends in the share of self-employment, 2008-15



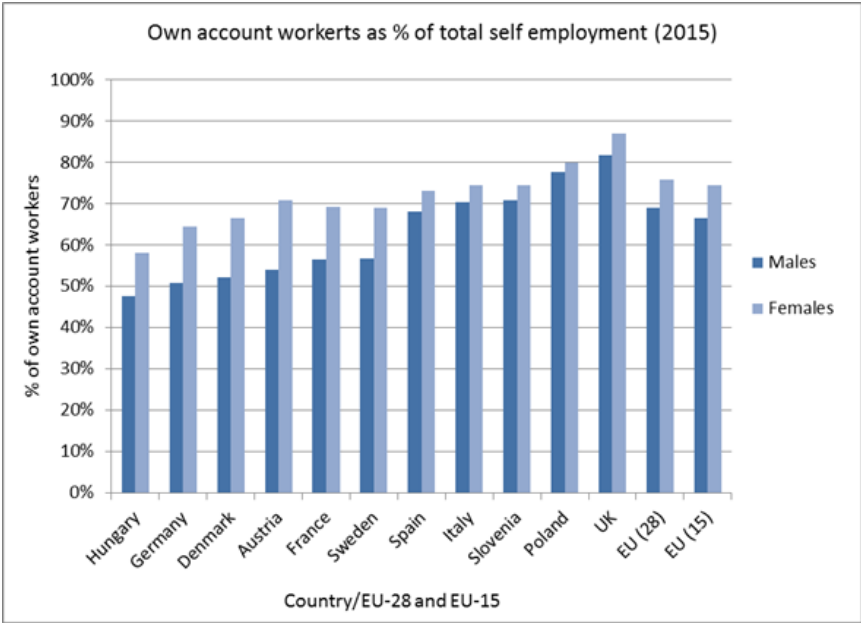
Notes: Eurostat self-employment data missing for France so World Bank annual data used; seasonally adjusted employment data.

Source: Eurostat data, authors' compilation.

The officially recorded category of self-employment most relevant for our focus is the 'own account worker', namely the self-employed with no employees, since they are at risk of falling into the category of false self-employment. Across Europe, more than two in three self-employed are registered as own account workers and it is more common among women than men. Our sample

divides between very high use of this particular form in the UK with nearly all female self-employed registered this way (87% in 2015) and very low in Germany and Denmark especially among men (figure 12.5). Also, while there is strong gender differentiation in usage in Germany, Denmark and France this is less notable in the other three countries. There is strong concentration of own account self-employment in particular sectors, such as construction, agriculture and tourism. The case of the German construction sector is described in box 2.

Figure 12.5. Share of ‘own account workers’ in total self-employment by sex, selected countries, 2015



Source: Eurostat data, authors’ compilation.

Data on registered own account self-employment as opposed to employee status reveals a growing divergence among our six sampled countries since the slow jobs recovery from the crisis (recorded at EU level since 2010) (table 12.2). Figure 12.6 divides the sample into three pairs. A first pair – Denmark and Germany– had high ratios of employees relative to own account self-employment in 2010 and then during 2010-15 the change in the volume of wage-earners was positive while numbers of own account self-employed shrunk; in Denmark for example, numbers of own account self-employed reduced by 8% compared to 2010, marking an abrupt reversal in its pre-2010 growth. The opposite scenario prevailed in Spain and Slovenia: both show a low ratio of employees to own - account self employed and this has shrunk further since 2010 with substantial growth in own account self-employed and a diminished size of the wage-earning workforce, although in both cases it is worth noting that the overall employment effect (that is, change in employees plus own-account self employed) is negative. France and the UK both share the characteristics of a) positive growth in own-account self employed and employees and b) higher growth in the former over the latter, especially exaggerated in the UK which registered the highest growth in own-account self-employed among our sample of six countries. However, France still has a relatively high ratio of employees to own-account self employed and the UK a low ratio.

Table 12.2. Trends in numbers of own account self-employed and employees, 2010-15 (thousands)

2010:	2015:	% change 2010-15:
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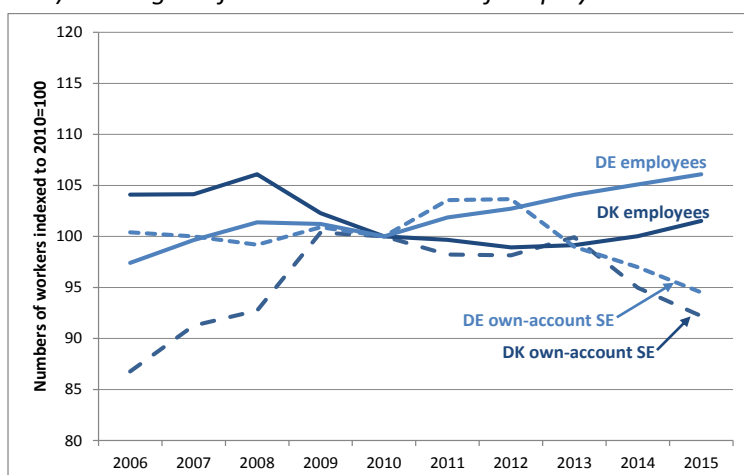
	Own-account SE	Employees	Ratio	Own-account SE	Employees	Ratio	Own-account SE	Employees
EU	21,713	178,017	8.2	21,786	182,698	8.4	0.3%	2.6%
Denmark	129	2,425	18.7	119	2,462	20.6	-7.8%	1.5%
France	1,617	22,705	14.0	1,733	23,160	13.4	7.2%	2.0%
Germany	2,186	33,264	15.2	2,066	35,292	17.1	-5.5%	6.1%
Slovenia	74	796	10.8	77	764	9.9	4.6%	-4.1%
Spain	1,895	15,522	8.2	2,054	14,711	7.2	8.4%	-5.2%
UK	2,963	24,461	8.3	3,402	25,704	7.6	14.8%	5.1%

Notes: all persons aged 15-64 years old; employees and self-employed without employees (own account SE). The ratio shows the number of employees for every one own account self employed person.

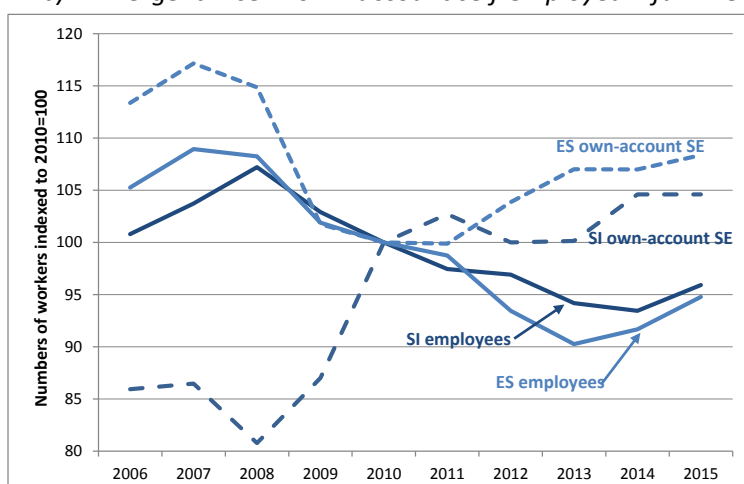
Source: European LFS.

Figure 12.6. Varied trends in own-account self-employment and employees, 2006-2015, indexed to 2010=100

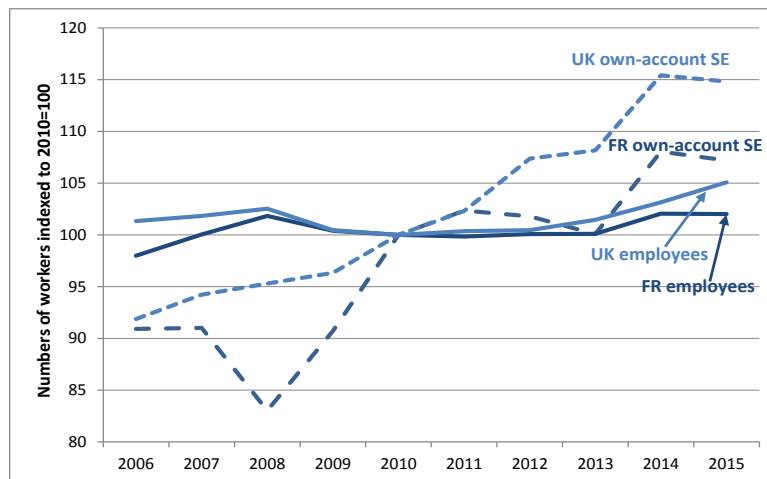
a) Divergent: fall in own-account self-employed + rise in employees



b) Divergent: rise in own-account self-employed + fall in employees



c) Unbalanced positive growth



Source: Eurostat: *lfsa_egaps*

Box 12.2. Precarious subcontracted work in Germany's construction sector

The construction industry in Germany plays host to a multiple layering of types of precarious employment, of which posted work and solo self-employment are significant. Since the crisis, numbers of posted workers to the construction industry, predominantly from CEE countries, have steadily increased from a low point of around 51,000 in 2009 up to 98,000 in 2014. At the same time, Germany's construction industry has witnessed a proliferation of workers registered as 'solo self-employed'.

Part of the reason lies with the relaxation in 2004 of rules requiring construction business owners to hold the Master Craftsman (*Meister*) qualification. In the specialist business tiling for example, numbers of registered companies increased from 12,000 to 68,000 during 2004-2012, with more than a quarter registered in Eastern Europe; IG BAU, the construction workers' union, alongside the Central Association of German Building Trades (ZDB) are now calling for the reintroduction of this qualification requirement to stop the spread of false self-employment. Another obvious reason for the rising numbers of solo self-employed from Eastern Europe is that as posted workers they are not subject to the minimum employment protections established by the Posting of Workers Directive. This provides clear cost incentives for German companies seeking low-cost subcontractors:

'...the creation of a single person company has emerged as a legally permissible method of avoiding the sectoral minimum wages. ... For [German] construction companies, it is often rather attractive to hire individuals with self-employment status as they do not have to pay either the minimum wage or social security contributions (Haubner 2014)' (Jaehrling et al. 2016: 37).

Source: Jaehrling et al. (2016: 35-38).

Contradictory and complementary dynamics: triggers, protective gaps and responses

All six national reports emphasise the continuous interplay between pressures and triggers that spur greater use of subcontracted work, actions by employers and governments, and counter-actions and responses by various parties. Rather than a series of straightforward shifts from one employment status to another, the picture appears closer to a recurring cycle of pressures, actions, protective gaps and responses, leading to further pressures, actions and so on.

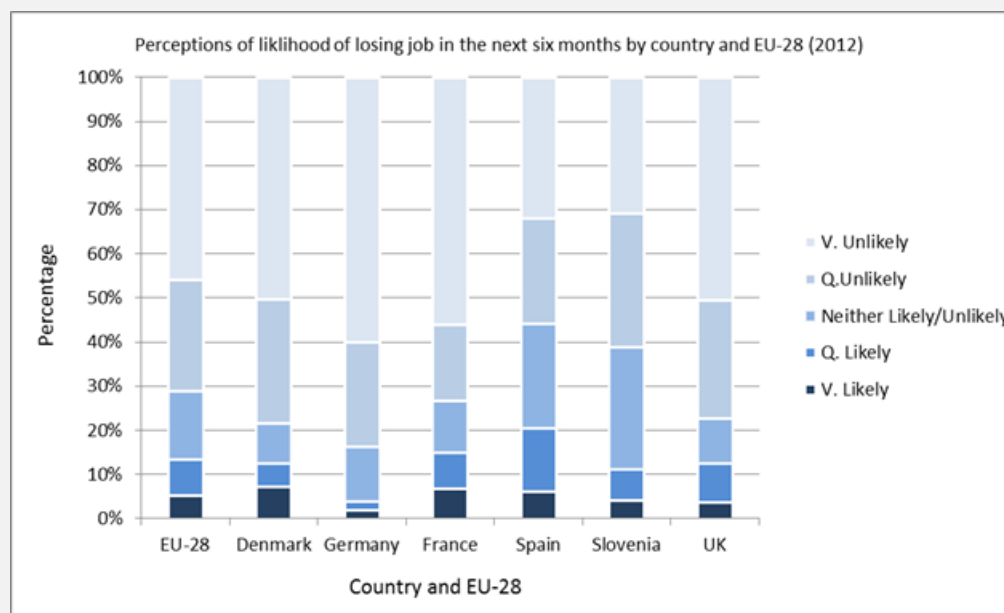
Employer policy and practice constitutes a key trigger for explaining patterns of use of all three types of precarious subcontracted work. For the employer interested in cost-cutting, there are considerable incentives to contracting with workers hired by a subcontractor or by a posting

company, or with a self-employed workforce rather than a directly employed workforce. In all cases, the business can reduce costs by setting up a process of competitive bids for the contracted activity. In addition, a posting company may offer reduced costs where rules on social security contributions for its posted workforce in the sending country are lower and where employment standards supplementary to the minimum statutory levels can be avoided. And in the case of self-employed workers, because they are bound by civil law not employment law, it is possible for the employer to reduce or even escape altogether contributions to social security, as well as liabilities for employment rights such as unfair dismissal compensation or redundancy compensation. In the UK, a new market of ‘payroll companies’ has emerged in construction and other sectors to assist business in switching their workforce from employee to self-employed status. Such cost incentives may encourage some employers to outsource many activities of work –whether to domestic subcontractors or foreign posting companies –or to dismiss employees and rehire them as independent subcontractors. For their part, workers may be too fearful of losing their job to fight over the deterioration of status and protection –a concern raised in all six national reports for this project (see box 12.3).

Box 12.3. Perceived risk of job loss among European workers

Data collected by the European Foundation for the Improvement of Living and Working Conditions reveal significant cross-country variation in workers’ attitude towards the chances of job loss. Among our six selected countries, the problem is especially severe in Spain where around one in five workers report the likelihood of losing their job as quite or very likely. Germany by contrast appears to reflect extremely strong job security with less than 5% of workers perceiving any risk of their employment (figure 12.7). Unions in all six countries expressed concerns about such fears being concentrated among workers in precarious subcontracted work. Moreover, research in France using workplace data shows that fear of job loss is 40% higher, holding other factors constant, among subcontractor employees than other employees (Kornig et al. 2016: 73).

Figure 12.7. Workers’ perceptions of likelihood of job loss in next six months, 2012



Source: *European Quality of Life Survey, 2011-2012.*

The aggregation of many thousands of employers responding to such incentives may not, however, have the desired effect from the point of view of society. Governments at national and pan-national levels may therefore be expected to respond by establishing better protections for workers in precarious subcontracted work. Important examples are the European Acquired Rights Directive, which grants protections to workers transferring from one employer to another as part of subcontracting, and the Posting of Workers Directive, which protects posted workers. Aside from the shifting legal opinions articulated in European Court of Justice cases, both Directives are implemented in varied forms in member states in part reflecting the different industrial relations models. For example, there are examples of supplementary statutory adjustments to limit use of posted workers. In Slovenia the new Employment Relationship Act (effective from 2013) established a quota for all types of agency work such that it cannot exceed 25% of the workforce. Other government policy responses include establishing statutory responsibilities of the (often more powerful) contractor organisation for any observed exploitative working conditions among its supply chain operations, as in France and Germany.

At the same time, government policy may also play its part in unintentionally promoting precarious work. In the case of false self-employment, governments in Slovenia and the UK impose stringent conditions on the unemployed to seek paid employment of any form regardless of the individual's past business experience, business acumen or access to skill development. In Slovenia, a scheme during 2008-2014 paid the unemployed €4,500 if he/she remained self-employed for 24 months. While possibly creating some positions of genuine self-employment such strategies risk placing higher shares of workers into precarious relationships with companies and discarding employer and statutory responsibilities for employment and social security protections. Slovenian unions criticised the welfare scheme for encouraging false self-employment, particularly in the construction industry. Moreover, the high mortality rate of micro-enterprises means individuals face a high risk of returning to unemployment and, without access to social security protections, into poverty (Ignjatović and Kanjuo Mrčela 2016). The problem is that such schemes are still activated in many countries without governments having laid the foundations in law so that individuals can exercise the freedom to move between employment statuses without losing continuity of employment and social protection rights and entitlements (see also Supiot 2001: 9).

A further important response in the dynamic cycle of pressures, gaps and reactions involves unions, as well as broad coalitions of social actors acting across policy spheres. For example, trade unions may collaborate with government Labour Inspectorates to improve systems of enforcement of employment rights, with each bringing alternative areas of expertise and capabilities. Slovenia is illustrative; representatives from the Labour Inspectorate and the Free Trade Union Association are cited as being in agreement that 'appropriate systemic solutions are needed' (Ignjatović and Kanjuo Mrčela 2016: 42). The case studies in Part IV provide rich illustrations of effective coalitions of organisations that seek to reduce precarious subcontracting work. The problem of course is that many workers in precarious work are not adequately represented: outsourced workers may no longer benefit from the collectively agreed conditions in their previous employer; trade unions may be slow to extend representation to posted workers; and all forms of subcontracted work suffer from having to negotiate employment conditions in the absence of the contractor organisation which is often in charge of the key financial decisions.

Employment rights gaps and social protection gaps

This section compares protective gaps experienced by each of the three types of subcontracted work, focusing on employment rights gaps and social protection gaps.

Subcontracted employees

Unlike other employees, subcontracted employees face a set of risks associated with the inter-organisational (client-supplier) contract for outsourced activities. Because job security is contingent on contract security subcontracted employees face a high risk of job loss with the transfer or loss of each contract. Moreover, during the period of a given contract, job security is shaped by financial pressures flowing from the client and the changing cost-revenue margins of the outsourcing contract (Grimshaw and Miozzo 2009).

Against this context, the European Acquired Rights Directive provides certain protections for employees transferring from one organisation to another as part of the initial outsourcing and subsequent transfers of production activities (table 12.3). Amended in 2001, the directive specifically includes part-time and fixed-term temporary employees (EC 2001: Article 2). It protects employment conditions at the point of transfer, such that the transfer cannot constitute grounds for dismissal, it grants trade unions information and consultation rights, and it makes provisions for on-going validity of the collective agreement applied by the ex-employer. However, these latter provisions are narrowly drawn:

‘Following the transfer, the transferee [the new employer] shall continue to observe the terms and conditions agreed in any collective agreement on the same terms applicable to the transferor under that agreement, until the date of termination or expiry of the collective agreement or the entry into force or application of another collective agreement. Member States may limit the period for observing such terms and conditions with the proviso that it shall not be less than one year’ (EC 2001: Article 3, 3).

There is a variety of country forms of implementation of this directive. In all six countries, its application is found in a similar range of sectors, including contract cleaning, elderly care, construction and security services, where outsourcing is common. All six provide for a 12-month period of continuity of conditions; thereafter like any employee a transferring worker can be fired for the usual economic, technical or business reasons. The role of collective bargaining in shaping the application of rules varies. Those countries with high coverage among the low and mid-wage workforce groups targeted for outsourcing, namely all except the UK, incorporate rules in collective agreements –referred to as ‘subrogation clauses’ in Spain for example. It is worth noting that specific protections are found in the UK’s public sector collective agreements (e.g. hospital ancillary services outsourcing). In general in these cases, employees transferring to a new subcontractor organisation are covered by their old collectively agreed pay and conditions, including worker representative status, but only until the agreement has to be renewed. Thereafter the employee is either placed on the different conditions of the new collective agreement or falls outside of collective bargaining coverage altogether in some cases, as often occurs in Germany. In both cases, the result tends to be deterioration in pay and other employment conditions.

Table 12.3. Employment rights gaps and social protection gaps –subcontracted employees

What risks?	Country	How to mitigate	Country examples
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		<i>examples</i>	<i>risks?</i>	
Employment rights gaps:				
Employment security & stable employment conditions	Recurrent contracting & client financial pressures induce instability	<i>All six countries</i>	EU Acquired Rights directive establishes minimum protections Extended or coordinated CAs Restrictive CA clauses Social clauses in public services contracts	<i>All six countries</i> <i>UK</i> –public sector 2-tier code <i>Spain</i> –many examples <i>Denmark, Germany, UK</i>
Social protection gaps:				
Unemployment, pensions, maternity/paternity leave	Reduced tenure with change of employer affects entitlements Reduced pension conditions	<i>All six countries</i> <i>All six countries</i>	EU Acquired Rights Directive protects tenure but does not cover pensions	<i>All six countries</i>

Notes: CA = collective agreement.

Source: National reports.

Despite the legal limitations, there are three examples of unions and employers negotiating supplementary protections in collective agreements that mitigate the risks of subcontracted work. The first concerns restrictive clauses. In Spain, additional clauses are added in certain collective agreements. Three key types explicitly seek to close protective gaps by:

- restricting the types of activities exposed to subcontracting (e.g. at Sony, Michelin);
- prohibiting unqualified practices (*intrusismo*) and compelling contractors to monitor subcontractor social security contributions (e.g. in construction and some provincial agreements); and
- Extending health and safety protections from in-house to subcontracted workers.

The second concerns the extension of the collective agreement that covers the contractor workforce to subcontracted employees. In the UK public sector this occurs in many public sector agreements via the insertion of a so-called ‘two-tier code’ in a local collective agreement that extends conditions to all employees who provide services to the public sector contractor. The code was abolished in 2010 but lives on in many agreements due to the long-term duration of many contracts (up to 30 years) (Grimshaw 2009).

And a third, major innovation involves the practice of social dialogue to introduce social clauses in public services subcontracting in order to raise minimum standards among the subcontracted workforce. We find examples in Denmark, Germany and the UK, despite apparent obstacles present by past ECJ rulings (Koukiadaki 2014).

Posted work

Among the selected six countries, the issue of how posted work is regulated in the host country labour market is especially relevant for France and Germany, simply because of the scale of between country transfers. Denmark also offers an interesting country case in light of its strongly inclusive legislative reforms, but numbers of posted workers have been declining recently (from around 12,500 to 9,500 between 2012 and 2014). All six countries have implemented the Posting of Workers Directive (PWD, 1996) which provides minimum protections.

The case of posted work is an extreme example of multiple inequalities and risks in rights to employment standards and social security protections (table 12.4). A first inequality concerns protection of employment standards compared to non-posted workers since the PWD prioritises minimum statutory protections rather than equality with collectively agreed conditions, establishing a particular threat to social models in the Nordic countries where standards rely on collective agreements rather than individual rights (Refslund 2015). This was made clear in the infamous Laval ruling, summarised in the thorough analysis of Evju and Novitz (2014: 81) as follows:

‘The approach [supported by Laval] is alien to Scandinavian legislative traditions, but the end result is clear. To leave norm-setting to collective bargaining without explicit state regulation is not acceptable. This is simply another illustration of étatism taking precedence over collective autonomy.’

A second inequality concerns the lack of protections in the destination country to basic social security provision such as sick pay and pensions. All social security contributions are paid by the employer in the sending country. This provides a major cost incentive for businesses in countries with high social security contributions, such as France and Germany, to seek out posted workers from CEE countries where contributions tend to be lower.

Table 12.4. Employment rights gaps and social protection gaps - Posted work

	What risks?	Country examples	How to mitigate risks?	Country examples
Employment rights gaps:				
Employment protection, Minimum wage, Working time	Patchy legislative protection	Germany –legal protection only in selected sectors	PWD	All six countries – minimum paid holidays & rest periods, minimum pay, maximum working hours, health & safety, maternity provision, non-discrimination
	Minimum statutory protection only since excluded from CA conditions	All six countries (ECJ rulings)	Extend PWD to all sectors	Denmark
			Strengthen national labour laws	Denmark –new powers for industrial action against posting firms
Social protection gaps:				
	Equality with sending country not host country	All six countries –social contributions	Extend host country social protection	--

Notes: CA = collective agreement; PWD = Posted Workers Directive.

Source: National reports.

Third, the operationalization of the PWD in each country does not necessarily encompass all sectors of economic activity, creating inter-sectoral distortions. In Germany, sector coverage has expanded slowly from the construction sector (the cause of a great deal of concerns among unions and German-owned business worried about social dumping) to the care sector, security and most recently in 2014 the meat processing sector. Posted workers in sectors outside protection may in principle earn very low rates of pay, equivalent to statutory rates in their home (sending) country, although there is now of course a national statutory minimum wage in Germany which constrains this kind of exploitative pay practice.

Once again, there are specific examples of supplementary actions to mitigate risks and encourage greater inclusiveness of employment standards. In Denmark, national legislation was strengthened in response to the Laval rulings. The amendment grants unions new powers to take industrial action against posting firms to force them to sign a collective agreement and ensure equivalent wages for posted work; the powers were recently verified in the Hekabe case in the Danish labour court (Rasmussen et al. 2016: 56).

False self-employment

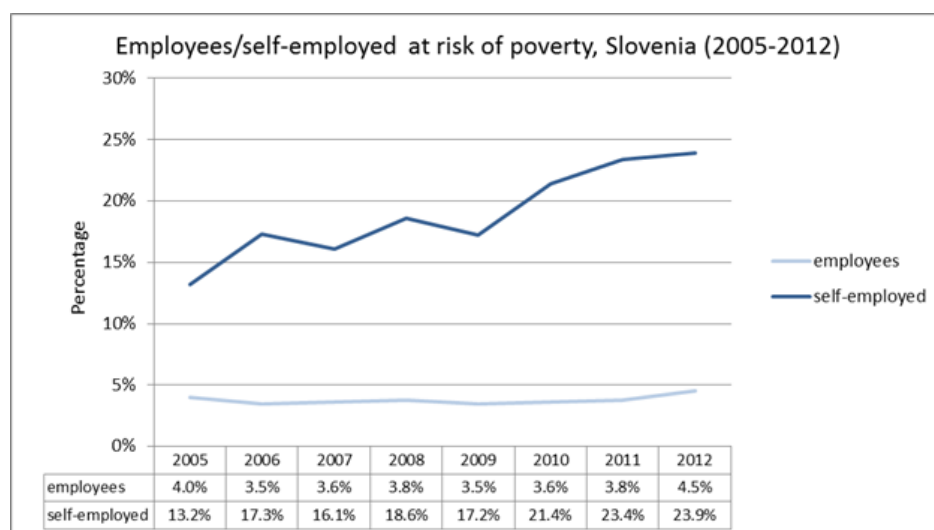
Unlike our other types of subcontracted work, false self-employment has a very different meaning in our six countries largely due to variations in the extent and nature of legal interventions to define criteria that extend the scope of certain protections to workers who fall in the grey area between employee and self-employment status. In response to Supiot (2001) and other European policy initiatives many European countries have sought to recognise specific forms of economic and sometimes personal dependence of a worker on a contractor organisation with the objective of extending certain employment and social protection rights. A key variable used in legal reforms is the notion of dependence and this often underpins the specific form of country intervention. Other studies provide details on the legal specificities of 'dependence' in different countries (e.g. Eichhorst et al. 2013). Our interest here is in particular with the scope of new hybrid worker statuses for employment and social protection rights.

In all six countries as we saw in Part II, the widening of protective gaps associated with moving from employee to traditional self employed status is significant. Unlike employee status, it is civil law not employment law that defines the contractual rights and obligations on both parties to a contract involving a self-employed person. Although the conventional self employed do not enjoy employment rights they may be protected under discrimination law and health and safety law. A major gap concerns the potential loss of social protection rights, caused by the adoption of voluntary rather than compulsory opt-in arrangements (Buschoff and Schmidt 2009). Given the choice, many self-employed simply do not opt in, or opt in at the minimum level of contribution. The evidence for Spain, for example, where the self-employed can opt into a special unemployment fund, found only

one in five chose to do so in 2012⁶¹. Moreover, given a choice of contribution level, four in five of those contributing opted for the lowest level (Muñoz de Bustillo Llorente and Pinto Hernández 2016: 59-61; see also chapter 6).

Among our sample of countries, however, two –Denmark and Slovenia- go further than the others in providing social protection rights to the self-employed. In Slovenia, people working under ‘work contracts’⁶² enjoy partial social security protection since client businesses are obliged to contribute 8.85% of the gross earnings in social security contributions (around half the standard level of contribution). It is nevertheless the case that the self-employed in Slovenia, as in our other countries except Denmark, are poorly protected in their access to both decent income and protection during periods out of work, although there have been some recent improvements in Slovenia. Figure 12.8 shows the worrying upward trend in the share of self employed at risk of poverty in Slovenia since the crisis, reaching around a quarter in 2012.

Figure 12.8. At risk of poverty rates for employees and self-employed in Slovenia



Source: copied from Ignjatović and Kanjua Mrčela (2016: chart 7.4).

One of the major problems of allowing employers to subcontract to the self-employed under weak employment protection rules is that it risks becoming associated with the most vulnerable workforce groups in society. Immigration controls, in particular, place migrant workers at risk: conditions of entry (e.g. entry as ‘own account self-employed’) and stay (ability of employer to withdraw ‘sponsorship’ of work permit holders at any time) make migrant workers more likely to be compliant. In his European assessment, Cremers (2009) sums up the risks as follows:

‘A strategy based on the use of labour-only subcontracting with the aim of fixing reduced prices carries the risk that sooner or later undeclared labour and illegal foreign work enter the market. Groups of undeclared workers are recruited via post-box companies, advertising and informal networking. The lower stratum is then an irregular supply of cheap labour via agents or gangmasters and distortion of the labour market is substantial’ (Cremers 2009: 205).

61 The low rate is likely due both to difficulties of winning compensation (since four in five applications were rejected in 2012 due to a perceived failure to prove involuntary termination of activity) and the sub-standard level of compensation (op. cit.: 60-61).

62 In Slovenia, as in other CEE countries, the term ‘work contract’ is commonly used to refer to employment forms protected by civil law.

Table 12.5 sets out the key issues concerning a raft of different hybrid legal categories of employment statuses that are likely to cover at least some of the false self-employed in each country and go some way towards mitigating the risks of protective gaps. None of the six countries yet appears to have developed a legal definition that extends protections to all types of false self-employment equivalent to those enjoyed by employees, despite the warnings of Supiot more than 15 years ago. However, some offer more protections than others. Denmark is the only country where no hybrid categories between employee and genuine self-employed have been introduced. A person is either an employee or self-employed.⁶³ However, this needs to be interpreted in the context of relatively generous, universal social protections which are mostly extended to all self-employed persons through a similar contributions system. This means anyone in a situation of false self-employment will still enjoy universal rights to sickness and maternity protection, social and supplementary pensions, and even (following evaluation by a social worker) social welfare if not insured (Eichhorst et al. 2013: Annex 1).

Table 12.5. Hybrid categories pertaining to dependent self employment

	Hybrid categories?	Types	Scope	Employment protection rights?	Social protection rights?
Denmark	No	--	--	No	Yes (as SE)
France	Yes	Option of special occupational protections Auto-entrepreneur	-specific jobs (e.g. artists, journalists, models) treated as employees -growing coverage (1/5 of all SE, 2014)	Yes (potentially)	Yes (potentially)
Germany	Yes	Free service contract workers	-narrow coverage	No	Yes (partial - pensions)
Slovenia	Yes	'Work contract'			Yes (low level)
Spain	Yes	TAED (<i>trabajador autónomo económicamente dependiente</i>)	-coverage	Yes (significant)	Yes (low level)
UK	Yes	Encompassing 'worker' status	Employees plus other workers who do not meet all conditions of employee status	Yes (fewer)	Yes (partial)

Notes: SE = self employed.

Source: National reports; Eichhorst et al. (2013: 32-43).

The other countries all have certain legal provisions which extend some protections to particular sub-groups of the dependent self employed, although in practice it is difficult to see how the law is applied. In France, there is the possibility for self-employed artists, journalists and other specific occupations to be treated as if they were employees since the law assumes them to have a subordinate element. Also, the category of 'auto entrepreneur' (since 2008) has seen growing coverage but average incomes are very low, as is registered activity, reflecting in part the fact that

⁶³ Indeed, the formal legal notion of dependent self-employed does not exist; as Eichhorst et al. (2013: 36) observe the Danish word for self-employed, *selvstændig*, means independent.

one third of this category are also wage earners; average monthly incomes in 2014 were just €460 compared to €3,100 among other self-employed persons (Insaurato et al. 2015: 74-75). The hybrid status in Germany is that of ‘free service contract workers’, but they are mainly considered a small step-up from self-employed status and only enjoy pension insurance coverage, with no employment protections (Eichhorst et al. 2013: 39).

The country with possibly the most potential for narrowing the protective gaps is Spain. Spain is illustrative of a targeted new legal status with its explicit recognition of economically dependent self-employed, known as TAED (*trabajador autónomo económicamente dependiente*), introduced in 2007. Subject to qualifying criteria, it grants several protections including: 18 days annual leave; a specific limit (30%) to additional working hours beyond the level initially agreed with the contractor; and compensation for termination of contract without just cause (Muñoz de Bustillo Llorente and Pinto Hernández 2016: 55-56). Moreover, low level social protection is also provided, including unemployment benefits (*Prestación por Cese de Actividad*), made on a compulsory contributory basis since 2014 for workers aged over 30 years old (op. cit.: 60; see chapter 6). Trade unions –notably the largest union CC.OO –were involved in consultations prior to the legislation but subsequently expressed concerns over a) the generally low level and scope of standards and b) the risk that it legitimated the transfer of workforces from standard employment contracts to TAED status (op. cit.: 56). The intricacies of this particular example are taken up in one of the Spanish case studies presented in Part IV and in the Spanish national report.

Finally, the UK is a distinctive case in that rather than having a targeted approach it has introduced a third statutory category of ‘worker’, in line with the wider coverage of EU directives, to function as a wider, umbrella category. It encompasses all employees along with other employment forms such as agency workers, casual workers and some dependent self-employed (Freedland 2003); in other words, all employees are workers but only a sub-set of workers are employees. The status of worker, if proven, provides a narrower range of employment protections: it includes the minimum wage and conditions provided by the working time regulations for example but excludes unfair dismissal and flexible working among others. Social protection is also reduced, including weaker rights to maternity/paternity/adoption leave and payments, although employer contributions to workplace pensions are compulsory while the worker may opt out (under a new automatic pension enrolment scheme being rolled out during 2012-18).

There are examples of novel targeted approaches outside of legal reforms involving joint employer-union actions. These concern efforts to improve and/or extend conditions established via collective agreements. In Spain, a new form of agreement designed to encompass the false self-employed (see representation gaps below) has proved successful in the handful of cases negotiated. The first was signed in 2009 between own account delivery workers and the bakery company, Panrico, which was seeking to cut costs. Another agreement in the bakery sector, with the Mexican company Bimbo, granted protections for 360 delivery workers made redundant and rehired as own account workers; conditions included a minimum annual income of €22,900 for the first year and compensation for contract termination (45 days per year capped at 32 months).

Representation gaps and enforcement gaps

Problems of representation gaps and enforcement gaps for the three target groups of workers – subcontracted, posted and false self-employed – are perhaps more endemic and increasing at a quicker pace than the other forms of precarious employment investigated in this report. All three forms are very often at risk of a disappearance of employer liability and transfer of risk to the individual worker, resulting from complex chains of subcontracting, cost-competitive procurement processes, murky interlacing of company ownership structures, offshore transfer of liabilities, and other such corporate and financial practices. Recent years have nevertheless witnessed some interesting developments, often involving coalitions of actors within and across countries to address the protective gaps and collective bargaining on new procurement rules; table 12.6 summarises the issues. While each employment form often overlaps with the other, for the sake of exposition the below text considers each in turn.

Subcontracted employees

A first problem is the fragmentation of representation caused by subcontracting. Subcontractor workers generally do not enjoy extended rights of representation from the contractor organisation where collective representation may be stronger. In Germany, works councils from the contractor have few rights to represent subcontracted workers and subcontracted workers are constrained from interacting with the works council (Däubler 2011, cited in Jaehrling et al. 2016: 37). In low skill sectors in Denmark, such as horticulture, workers in subcontracted organisations often fall outside pools of representation meaning that labour standards are not protected by collective agreements (Refslund and Thörnquist 2016). And in the case of France, Germany and the UK, other studies identify a close correlation between subcontracted employee status and share of migrants, leading to problems of low awareness of rights, poor language skills and under-representation (e.g. Descolonges 2011, cited in Kornig et al. 2016: 72).

A key statutory instrument to address enforcement of employment rights and social protection benefits is the imposition of contractor liability. Germany leads the way here with statutory requirements in place in construction since 2002 and with respect to enforcing the minimum wage among subcontractors since 2015. Nevertheless, as with all countries, workers in subcontractor organisations may be fearful of voicing complaints both because their job is likely to be precarious and they may well be in a vulnerable position because of their migrant status (and therefore risk losing their residence permit), ethnicity, and so on. There are no studies of the overall economy-wide effectiveness of contractor liability in Germany but there are nevertheless successful examples of company cases, one of which (Thyssen steel company) was investigated as a case study (see Part IV).

Another example includes policy efforts to tackle the well-known observation that risk of exploitative practices tends to increase and to be harder to detect the further along the subcontracting chain one looks. The 2006 reform in Spain is therefore notable since it limits chain subcontracting in construction to three tiers (with exceptions for specialist skills); we investigate this issue further in one of the detailed Spanish case studies in Part IV.

A third practice to mitigate risk is joint action by employer and union on procurement conditions, encouraging the client organisation to require a higher minimum standard of employment among subcontractors competing for the outsourced activity. This strategy is closely associated with many living wage campaigns in the UK (especially for subcontracted commercial cleaning in Greater London –Lopes and Hall 2015).

A potential enforcement gap in all six countries concerns use of statutory rules associated with the Acquired Rights Directive to protect employment security for transferring workers. The UK evidence suggests even public authorities use strategies of ‘fragmentation’ to reduce the likelihood a group of incumbent staff is identified with the activity to be subcontracted and therefore protected under the UK’s TUPE rules (Grimshaw et al. 2016).

Table 12.6. Representation gaps and enforcement gaps: all types of subcontracted work

	What risks?	Country examples	How to mitigate risks?	Country examples
Representation gaps:				
Collective representation	Weak or absent representation & fragmented from contractor workforce representation	<i>All countries</i>	Union mobilisation New representative bodies	Spain -coalition agreements between mainstream unions and unions for SE; Denmark –new law to bolster union power to strike against posting firms; Spain - several new trade unions for SE in wake of 2007 law; UK –union alliances with CSOs, union mobilisation of SE in construction, media sectors
			Full codetermination rights to subcontracting decision	Germany –union campaigns (unsuccessful to date)
CA coverage	Excluded from/unaware of country rules	<i>All countries</i> – posted workers	Information awareness services	Germany –unions lead;
	Limited or absent	<i>All countries</i>	New forms of CA	Spain –innovative ‘Professional Interest Agreements’ signed between SE own-account workers and client organisations
			Integrated CA	Germany –ad hoc examples of CAs for posting firms in construction
Enforcement gaps:				
Enforcement of employment rights	Low visibility of posting firms	<i>All countries</i>	Penalties for non-registered posting firms	Denmark, France –increased penalties
	Workers fear to bring case	<i>All countries</i>		
	Extended chains obscure protective gaps	<i>All countries</i>	Statutory duty on contractor liability	Germany –General contractor liability fixed by law; France –concerning posted workers and unacceptable housing
	Clients evade rules protecting outsourced workers	<i>All countries</i>	Statutory limit to number of subcontracting tiers	Spain –legal limit of 3 tiers in construction

Notes: CA = collective agreement; SE = self employed; CSO = civil society organisations.
Source: National reports.

Posted workers

Representation of posted workers raises similar problems of fragmentation with the added complication of cross-border inequalities in statutory requirements. In Germany the Co-determination Act does not extend to subcontractor companies registered outside Germany. Trade unions have in response developed cross-border strategies as well as information dissemination campaigns that target posted workers. IG BAU the construction workers' union provides information to posted workers on construction sites and advises on legal cases, and the Confederation of German Trade Union, DGB, has established 'Fair Mobility' service centres in many cities to advise on employment rights and social security protections with the goal of empowering foreign workers, albeit with limited success for membership recruitment (Jaehrling et al. 2016: 37). In France, the government's Labour Administration office provides information in various languages and unions have conducted campaigns among posting companies (Kornig et al. 2016: 81).

The situation is also monitored in sending countries. Slovenia has recorded increasing numbers of violations associated with shell companies registered in Slovenia solely with the purpose of being able to undertake the bulk of their business abroad in order to deploy posted workers from Slovenia. Moreover, there are examples of cross-country coalitions designed to chase up problems of enforcement. In Slovenia, the Free Trade Unions Association helps posted workers working in Germany to access resources and advice from unions in Germany. A key problem concerns the false issuing of A1 forms. In Slovenia, union representatives suggest around half of all forms issued place the person at risk of human trafficking, largely the fault of a failure by the government social security department responsible for issuing the forms to run checks on the employer making the request (Ignjatović and Kanjuo Mrčela 2016: 60).

While empowering foreign workers in posting firms is one route, another is to empower unions to take on posting firms as a direct way to improve standards. In Denmark, new legislation empowers unions to take positive strike action where necessary to bring posting firms into line with standards agreed in the collective agreement for the sector. Also, recent French reforms empower unions acting in the Labour Tribunal system.

Another route is to tighten legal procedures for registration of posting firms and impose penalties on those seeking to operate informally. In a wide-ranging reform welcomed by unions, France passed tighter rules in 2015 (Savary Law and March Decree), including also a new penalty of €500,000. Denmark acted earlier with its 2010 reforms to increase fines and to extend the net of registration to one-person posting firms in response to union information in the construction sector where contractors were found to be subcontracting to one-person posting firms to bypass collective agreements. In fact, the registration data is used by unions in the Danish construction sector to identify companies and pressure them to sign collective agreements. The evidence suggests that while exploitation of posted workers in multi-person companies is a reduced problem among the commercial construction sites, it is an on-going issue where one-person companies are involved, both in commercial sites and private residential operations (Rasmussen et al. 2016: 56-58). Here, the issue turns to a problem of false self-employment which we address below.

With the exception of progress in Denmark, fragmentation of collective bargaining coverage between contractors and posting companies is the norm across the other five countries with only limited exceptions. In Germany, the deaths of two Romanian posted workers on the shipyard site, Meyer Werft, lead to an innovative collective agreement between the contractor Meyer Werft and IG Metall covering working time, health and safety and adequate housing, as well as participation rights of the works council in subsequent subcontracting decisions involving posting firms. Reformed rules in France now also provide for contractor liability in the case of unacceptable housing for posted workers.

False self employed

Representation gaps among the false self-employed have been partly filled in some countries. Spain has seen the establishment of five representative trade unions, as well as special sections for dealing with TAEDs' employment issues within the larger unions, such as CC.OO, and partnership agreements between some of the main unions and the specialist unions for TAEDs. Union campaigns in the UK have been especially notable in the construction and media sectors; in media for example, two in five members of the main union BECTU are freelance workers, a subset of whom are likely to be false self-employed.

While employer practices typically increase the exposure of workers to the precariousness of false self-employment, there are very interesting cases of collective agreements designed to channel representation of these workers and improve protections. In Spain, initiatives have emerged in response to the 2007 legislation that established a new foundation of statutory rights and in reaction to company restructuring practices following the crisis. The legislation explicitly recognised the possibility for own account workers and client organisations to collectively negotiate terms and conditions via so-called 'Professional Interest Agreements' (Acuerdos de Interés Profesional). The first was signed in 2009 and proved relatively effective (see above).

Enforcement gaps nevertheless remain a major concern. In Slovenia, a primary cause of violations in the field of employment relations concerns mis-use of 'work contracts' (i.e. employment under civil law). The number of detected violations quadrupled during 2009-2014 up to 237 cases (Ignjatović and Kanjua Mrčela 2016: chart 3.9). The UK case highlights the problem of austerity measures that have shrunk the number of site inspections. In construction for example the number of compliance reviews fell from around 1,200 in 2009/10 to a little over 400 in 2011/12; detailed research reveals a sense of exasperation at the persistent problem of contractor evasion of duties to their workforce:

'... the case of one very large site in the London South East region, with 1500 manual construction workers of which 900 are self-employed, 350 of these migrant, is perhaps the most striking evidence of the evasion economy. It is not as if it is hidden – everyone knows what is going on. The sheer scale of the illegality and the tolerance of it by employers and taxation authorities alike is a demonstration of how entrenched and normalised tax evasion and deprivation of employment rights have become' (Harvey and Behling 2008: 20).

Part 4

Case Studies: How can Social Dialogue reduce Precarious Work?

- 13. Introducing the case studies
- 14. Summaries of 21 case studies
- 15. Thematic analysis



13. Introducing the case studies

Part four of this comparative report focuses on the core research question, namely, how can social dialogue reduce precarious work? In line with our analytical framework, the aim was to investigate this question by drawing on empirical evidence from a variety of country, sector and organizational contexts and by seeking to understand the ways diverse forms of social dialogue can reduce the extent and severity of protective gaps identified in Parts two and three of this report. The research design prioritized the collection of qualitative data (interviews, focus groups and observations) since this is advantageous for the critical understanding of complex causal relationships, as well as the identification of novel mechanisms not revealed in the extant literature on social dialogue and forms of precarious work. This chapter introduces the 21 case studies completed across the six countries. The following chapters present brief one-page summaries of each case (chapter 14), thematic analysis of key findings (chapter 15) and recommendations for policy and practice (chapter 16).

Selection of case studies

In each country, the selection of cases for detailed investigation was discussed at two project meetings (Duisburg, Ljubljana) in order to establish a degree of congruence across research teams regarding the focus and purpose of research design. The method of case selection followed the principles of ‘purposive sampling’ (or ‘criterion sampling’), whereby *‘the sample units are chosen because they have particular features or characteristics which will enable detailed exploration or understanding of the central themes and questions which the researcher wishes to study’* (Bryman 2012, cited in Ritchie et al. 2014: 113). The aim was to represent the key themes for analysis among the different cases as well as to ensure that for each criterion sufficient diversity was included so that the nature and consequences could be adequately explored. Because this was not a quantitative method of data collection, the sample of cases was not intended to be representative of a wider population either in the sense of statistical representativeness or by virtue of scale.

Three analytical criteria underpinned the selection of cases, namely that each case ought to represent: i) a specific type of precarious work, characterized by the intersection of employment form and protective gap(s), ii) a form of social dialogue, including ‘narrow’ (traditional employer-union) and ‘wide’ forms (including other organisations such as government agencies or civil society bodies), and iii) a change involving the improvement or attempted improvement of conditions facing workers in precarious work. With these criteria in mind each country team proposed a specific sample of cases, which reflected various salient characteristics that differed to some extent by country. There is some overlap in coverage of sectors of employment and occupational groups but this was not selected as a primary criterion for selection. Table 13.1 presents the 21 case studies and includes data on the sector, coding, and basic information on the employment form, protective gaps and social dialogue actors, each of which motivated their selection. Many of these ‘case studies’ involve the study of more than one organisation, whether because of a focus on two organisations

from different sectors or different sizes, or because of their inclusion in a supply chain lens of enquiry.

Table 13.1. Summary characteristics of 21 case studies

Case study	Code	i) Employment form?	ii) Protective gaps?	iii) Social dialogue actors?
Denmark:				
Local government procurement	DK-1	Subcontracted work (cleaning, construction)	Employment rights & Enforcement gaps	3-way between unions, employers & public sector clients
Migrants in fishing & construction	DK-2	Low-wage migrant work	Employment rights & Representative gaps	Unilateral union actions
Manufacturing TAW	DK-3	Temporary agency	Employment rights	3-way: unions, clients, TWAs
France:				
Seasonal work in Languedoc-Roussillon	FR-1	Casual/ seasonal	Employment rights, Social protection & Enforcement gaps	‘Wide’: public authority lead, plus employers, unions and Labour Inspectorate
Domiciliary care work	FR-2	Low-wage (and often involuntary), Part-time	Employment rights, Enforcement gaps	‘Wide’: state & regional gov’t agencies, unions, employers
Part-time retail work	FR-3	Low-wage, Part-time	Employment rights, Social protection gaps	Employer-union (multi-level)
Contract cleaning	FR-4	Subcontracted work	Employment rights, Representation gaps	Small firm: informal employer communications with workforce; Medium firm: union-employer
Germany				
Posted work in meat processing	DE-1	Subcontracted Posted work	Employment rights, Enforcement gaps	Employer-union (multi-level)
Local government procurement in Bremen	DE-2	Subcontracted work	Employment rights, Enforcement gaps	3-way between employers/subcontractors, unions and public sector clients
Sustainable sourcing in steel industry	DE-3	Subcontracted work	Enforcement, Representation gaps	3-way between client, unions and subcontractors
Mini jobs in the retail sector	DE-4	Short part-time work	Enforcement, Social protection gaps	Unions, employers, women’s groups & charities
Slovenia				
Youth mobilisation	SI-1	Student work	Employment rights, Social protection gaps	Unions, employers, government
Media journalists (RTV Slovenia)	SI-2	Freelance (false self employed)	Social protection, Enforcement gaps	Employer, unions, Labour Inspectorate
Retail work	SI-3	Variable hours, False self employed	Employment rights, Enforcement gaps	Employer, unions
Spain				
Self employment in food manufacturing	ES-1	Economically dependent self employed (TAEDs)	Employment rights, Social protection gaps	Employer, unions
Chain subcontracting in construction	ES-2	Subcontracted work	Enforcement gaps	Unilateral union action (leading to change in legislation)
Subcontracted catering services	ES-3	Subcontracted work, Variable part-time work	Employment rights, Social protection gaps	Employers, unions
UK				
Zero hours contracts in local government procurement	UK-1	Variable hours care work (zero hours contracts)	Employment rights, Social protection, Enforcement gaps	Employers, unions, local authority client
Temporary agencies in logistics	UK-2	Agency work	Employment rights, Representation gaps	TWAs, clients

Casual work in food manufacturing	UK-3	Agency and casual work	Employment rights, Enforcement gaps	Employer, union
Higher education casualisation	UK-4	Casual work	Employment rights, Enforcement gaps	Employer, union

Interview data

In each case study, members of the research team conducted semi-structured interviews with a range of persons selected on the basis of their experience, expertise and relevance to the area of enquiry. This tended to involve at a minimum key managers from the employing organisation (with responsibilities for human resource management or industrial relations), representatives from the employers' association and a selection of workers and union representatives (at national, regional and branch levels). Then, depending on the character of the case study, further interviews were conducted with some of the following: managers from client organisations (in cases of subcontracted work), managers from various government departments and government agencies (such as Labour Inspectorates and public training bodies for example) and managers at temporary work agencies. Each case therefore represents at least two points of view on the question of precarious work and the role of social dialogue in reducing its presence and/degree of precariousness.

The bulk of interviews were undertaken during January–August 2016. The total number of interviews across the 21 case studies was 144, consisting of Denmark 42, France 26 (some as part of a focus group), Germany 28, Slovenia 12, Spain 13, and the UK 23, plus additional focus group meetings in most countries. All interviews were recorded where possible and many were transcribed.

Data from interviews were further triangulated by reference to a range of sources of documentation. These include documents from the various organisations about relevant areas of policy and practice, media reports, collective agreements, local labour market data and in some cases past research studies. Each country research team was responsible for the initial analysis of case study evidence, with full details published in each National Report, as well as a one-page summary reproduced in the following chapter.

14. Summaries of 21 case studies

The aim of this chapter is to provide a brief snapshot of all 21 case studies completed across the six countries. Each one-page summary was produced by the respective country team and is designed to provide key details about the specific conditions of precarious work investigated, the organizational and production context, the channels for social dialogue and the evidence of reduced precarious work.

Each case is considered here one by one, and is introduced using the label and code described in chapter 13. A comparison of case study findings is the focus of the following chapter in which we consider five key themes for analysis with implications for policy and practice.

Denmark

DK-1: Local government procurement

This case study analyses the implementation and application of labour clauses in Denmark by using Copenhagen municipality as an empirical example. Public procurement from private providers is an important aspect of the public economy, with substantial shares of public tasks being handled by private operators through outsourcing, sub-contracting and direct purchases. There has been a growing emphasis on these tasks and services – and not least the implications for employment and employment relations in the procured jobs.

In Denmark, attention has been growing over the recent years not least following a number of incidents where it has been found that workers performing publicly procured activities have had to put up with low wages and poor working conditions. The cases that received most attention, from the public, media and politicians, occurred within public cleaning –in particular in the municipalities, where often migrant workers faced dire working conditions. In some incidents this even included direct exploitation, and there have been several law suits, where employers or middlemen have been sentenced to jail for exploiting workers. However there were also examples from the construction sector, as well as other areas including transport, with precarious conditions such as under-payment and excessively long working hours.

While Denmark had signed the ILO's Convention 94 on labour clauses in 1949, the judicial stance was in fact unclear at least until 2014 when the regulation of the use of labour clauses in public procurement was updated. Following this ruling, the municipality of Copenhagen, which had been somewhat in limbo on the matter, acted to update its labour clauses and to put in place a control unit for the purposes of enforcement. The control unit is operated by an auditing firm, which Copenhagen municipality has hired to control for breaches of the labour clauses. The auditing firm has quite wide-reaching competences in regards of the firms it oversees.

The implementation of the labour clauses in Copenhagen municipality has to a large extent been driven by the political actors, not least the Social Democratic mayor, who has put the issue on the

agenda in the local elections, but also by the left-wing majority in the city council. However the unions in for example construction have also actively tried to affect the agenda, while the employers on the other hand are generally not very positive towards the use of labour clauses.

The labour clauses mean that the companies winning the public tenders must have wages and working conditions similar to the ones in the most representative national collective agreement. This also applies to subcontractors, so the labour clauses have de facto established a chain liability. The companies do not have to sign a collective agreement, but in some cases this is the easiest solution for the company. The labour clauses also state it has to be the most representative collective agreement, which means that the companies cannot choose some inferior agreement, such as an agreement with an ideological alternative union like the Christian unions, but have to follow the main Danish union movement's agreements.

Based on the findings it appears that there are only few and typically minor problems with the labour clauses. The subcontractor companies generally appear to adhere to the collective agreements, and most interviewees highlighted the preventive and normative effect of the labour clauses.

DK-2: Migrants in fishing and construction

This case study scrutinizes two different examples of unions' efforts to organise labour migrants in Denmark. We know from previous research that labour migrants in general are more exposed to precarious working conditions, and this is strongly influenced by the lower degree of union membership among labour migrants especially in the a high union density setting. The lower unionisation rate also results in a lower collective agreement coverage rate in Denmark. Especially in Denmark - where there is no statutory minimum wage or any extension of collective agreements - organising labour migrants can be seen as an important way to reduce labour market precariousness for this exposed group. Both the inflow as well as the impact of labour migrants has increased dramatically in the recent years in Denmark. In particular the inflow of intra-European labour migrants mainly from the Central and Eastern European countries following the European Union's Eastern Enlargement has been significant.

While Danish unions have adopted a much more proactive approach towards labour migrants, they still face difficulties in organising labour migrants. The two cases can hence help us to understand some of the dynamics behind these challenges.

The main union in Denmark for manual workers (3F) has had some successes in organising labour migrants, mainly Romanians, in the fish processing industry in Northern Jutland. However in the main case company the initial contact between the migrants and the union was initiated by the labour migrants themselves. A group of migrants approached the union because they felt their working conditions were so bad, they needed to do something about it. After the initial contact a long process of building a trusting relationship between the migrants and the union began. The union also started negotiating with the company employing the mainly Romanian migrants, but little progress was made until the union started a media campaign. After this the company signed the collective agreement with the local union branch, and a majority of the Romanian workers have joined the union, and later also elected a Romanian shop steward.

The other case is a more coordinated effort in the confederation of construction unions, where the confederation has employed 15-20 union organisers in various locations mainly in large construction sites. Through classic union work and worksite presence they have increased their recruitment among foreign workers.

Both cases have elements of success, although the fish processing factory is a more 'clear-cut' success. Both cases show how trust is vital when trade union representatives approach labour migrants. Many of the labour migrants have a negative perception of unions, and are not sure they can trust the unions. Elements of more community based unionism are also important for the migrants: for example, they may like the union to provide information not only on industrial relations, but also other labour market related issues such as social security and taxation.

DK-3: Manufacturing temporary agency work

Social partners within Danish manufacturing have increasingly dealt with the challenges arising from the increased usage of temporary agency work (TAW) by developing joint responses through the collective bargaining system at sectoral and company levels. Their joint initiatives cover a series of responses aiming to improve the wage and working conditions of TAWs and thereby implicitly address the risks of precariousness. The initiatives have often been spurred by unions and their representatives; and the employers –the user company, TWAs and/or their employers' associations– have then to varying degrees engaged in such forms of social dialogue not only at sectoral level, but also at company level. In some instances, this form of collaboration has spurred relatively novel ways of social dialogue at company level with examples of companies having set-up workplace committees with representatives from the unions, TWAs and the user company to address the various challenges related to TAW at the company.

Whilst social partners at sector level have developed various joint responses related to TAW, relatively little is known about their effects at company level. This case study explored the implementation of one of the most recent initiatives by social partners within manufacturing – namely, a joint task force that aimed to assist social partners at company level with information on the various options for flexibility within the collective agreements, including the usage of TAW. Very few companies to date have exploited the services offered by the joint task force, indicating that the arrangement to some extent has failed. However, when digging a little deeper and exploring the situation at company level, the picture changes slightly. Unawareness partly accounts for the limited take-up rate, but the main reason as to why shop stewards and local management have not contacted the joint task force for assistance was that they preferred to solve the issues at hand without involving outsiders such as social partners at sectoral level. Indeed, many considered the joint task force as a last resort to solve potential deadlocks at company level. In the few instances, where manufacturing companies have drawn on the services of the joint task force, the experiences have been mixed. In some instances, the task force has paved the way for new ideas regarding working time flexibility and how further training and employees' holiday entitlements offer alternative ways to create flexibility at the workplace and thereby served as inspiration on possible ways to move forward, although the visits of the task force rarely had solved the various deadlocks dominating the local bargaining process.

Although only few companies have relied on the services of the joint task force, TAW has been high on the bargaining agenda of social partners at company level and have resulted in various company based responses ranging from informal local agreements that offer temporary agency workers a permanent position after three to six months employment to lowering the thresholds of social benefits along with local agreements ensuring that temporary agency workers between jobs are able up-grade their skills through further training courses and that the work clothes of temporary agency workers follow health and safety regulations, etc. In addition, some TWAs also collaborate closely with the user companies, local job centres, unions and their representatives to coordinate user companies demands for TAW services vis-a-vis recruitment of potential TAWs among the pool of unemployed.

All in all, the various sectoral and company based initiatives within Danish manufacturing are examples of fruitful forms of social dialogue, where social partners – representing TWAs, user companies, unions and temporary agency workers come together and find joint solutions to different challenges arising from TAW and the associated risks of precarious employment. However, even if social partners have launched a series of initiatives to ensure TAWs' pay and working conditions through collective bargaining at sectoral and company level, these employees continue to face a greater risks of precariousness than their peers in full-time permanent positions, particularly in terms of their wages, social benefits, job and employment security.

France

FR-1: Seasonal work in Languedoc-Roussillon

The *Maison du Travail Saisonnier* is a case of territorial social dialogue on seasonal work, generally involving short fixed-term contracts. This case study promotes a 'non rule-making' approach. All the actions are forged on a voluntary basis, mainly aiming on the one hand to provide services both to employers and to workers, and on the other hand to develop information campaigns on topics such as health and safety.

In terms of sectors of economic activity, the use of seasonal work is fairly diversified in France. The sectors where it is especially over-represented are those linked to tourism, mainly in the summer, and primarily involving catering and accommodation (mainly hotels and campsites).

The employees in this sector are often younger than average. But there are also changes with fewer young people and students and a higher proportion of older unemployed people, even pensioners seeking additional income. There are also more workers from other European countries who are sometimes on the margin of illegal employment and seem to compete with the local labour force.

Where legal rules are applied, these seasonal workers ought to have a (classical) short fixed-term employment contract (with maximum of a few months). The problem, however, is that there is a lot of illegal work. As such, there are many protective gaps. There are problems of housing, of illegal work, difficulties of enforcing rights and poor representation of workers' interests in the many small firms. There are also low wages, sometimes paid entirely or partly in cash, long working hours and health risks related to working conditions, among other conditions.

This case study reveals a very interesting unique experiment of 'extended social dialogue', which began in 2003 and aims to place social dialogue at the centre of its activity, around employees *and*

employers. It arose from a 'regional employment conference', which brought together numerous and varied actors who engaged in collective thinking on seasonal work. It is a form of 'quadripartism' (also developing now in some other domains) that involves representatives of the state and the local authorities alongside representatives of the social partners. Other actors also take part in the steering committee of the *Maison du Travail Saisonnier*, delineating an extended social dialogue (a form of soft law). The levers are essentially information campaigns for employers and employees, mediation services and assisting in the matching of labour supply and demand.

Several positive outcomes are observed. There are some housing solutions, more continuous fixed-term contracts (e.g. two-seasonal work), some evidence of a shift from illegal to grey work, and potential contributions to the development of the legal framework. There are more information and awareness services and, finally, fewer cases go to the Labour Court (*Prud'hommes*).

Problems are also outstanding. There is a risk of free-rider employers, problems of a non rule-making process, lack of enforcement, sensitivity to political changes and to representatives' individual weaknesses. The idea of a 'label of good practice' for firms has not materialised. There also remains the difficulty of constructing spaces of 'close social dialogue', such as for example the creation of a territorial joint employment committee, or an inter-firm health and safety committee. These weaknesses are especially prevalent in this world of very small businesses.

FR-2: Domiciliary care work

'IRIS SAP' is a case of territorial social dialogue aiming to professionalise and secure the career paths of employees working in home help (domiciliary care) services. It aims to train and secure employees in their career paths, by building bridges with social and medical-social occupations. IRIS SAP represents the IRIS programme in the Provence-Alpes-Côte-d'Azur region in the personal services sector.

This action focuses on the non-profit home help sector. Personal services, and especially home help, are a rapidly expanding sector, because of increased life expectancy in France. This sector comprises activities performed in the homes of what are called vulnerable groups (old people, the handicapped, families in difficulty), enabling them to continue living at home in the best possible conditions. This is a sector where public procurement is the rule and where firms are middle sized.

The employees are often low skilled women, who tend to be older than the average for other sectors. These activities, previously performed unpaid and informally by women in their own homes, remain largely restricted to the domestic sphere, marked by the affective, interpersonal and informal character of the activity. The majority of workers are employed on open-ended contracts but work predominantly part-time. They often work at weekends and evenings. On average, they work five hours a day, corresponding to 3.1 daily visits to different premises.

In terms of protective gaps, there are a lot of skills gaps, health and safety risks (since these jobs are particularly strenuous and risk-laden, with much drudgery), enforcement gaps and unemployment risks. These activities performed unpaid and informally by women in their own homes, remain largely restricted to the domestic sphere, marked by the affective, interpersonal and informal character of the activity.

The type of social dialogue fits with France's classical industrial relation system, but with the addition of the regional level and the public authority. The regional council was the initiator and financial backer of this collective undertaking. It then counted on Regional centres for innovation and solidarity-based economic development of the sector, with which it had already been cooperating on strategic workforce planning and training, and also on the regional agency for the improvement of working conditions and the 'accredited joint collecting agencies' for the sector. While the interests of the employees are easy to understand, the employers for their part have an interest in sending their employees on training courses because of the frequency of incapacity to work and burnout in this particularly demanding sector. The levers are training and workshops and it's a rule making process, but for volunteer employers with public funding and training fund

The case study reveals several positive outcomes. There is some training for low skilled workers, increased working time (thus higher pay), better working conditions, better sectoral organization and improved cross-sectoral mobility (by constructing bridges for the employees, again with a view to securing career paths). In all, the actions involved a total of 72 firms and 3,000 workers. Finally, this project improved social dialogue in the sector.

Actors highlighted several persistent problems. Small firms were excluded from these actions (because of the complexity of identifying them). The unemployed were excluded too, even if one axis of the project concerned them directly. Finally, for some workers there is a physical threshold for this kind of work which constrains their ability to work the desired number of hours; some employees expressed a desire to return to part-time hours because of fatigue.

FR-3: Part-time retail work

This case study focused on part-time work in the retail sector. The cross-industry and sector agreements were studied, and a particular focus was placed on a large-scale retailing chain. This is emblematic of long part-time hours in the French labour market. It provides an insight into multi-level bargaining from the state-led decision down to the firm level. It shows how bargaining at the level of a large-sized firm can potentially establish more protective rules for part-time workers, but also how opt-out clauses can be exploited by franchised firms.

The part-time retail workforce is three fifths women (two thirds in the category of 'Assistants, manual workers, delivery'), although less than one third (28%) among managerial staff. One woman in three in large-scale retailing is employed part-time compared with less than one in ten men. They are rather low skilled and younger than the average for all sectors. In terms of the employment relationship, retail employers tend to recruit workers on to open-ended contracts. Retailing is one of the sectors that makes most use of part-time work in order to adapt to the fluctuations of footfall, mainly concentrated in the evenings and weekends.

The main protective gaps are associated with the nature of part time work, namely low pay, limited social security protection, unsocial hours and difficulties in reconciling work and personal time. The working conditions are difficult, starting with irregular and unsocial schedules.

The social dialogue studied here can be regarded as 'classic' –that is, negotiation between social partners with a view to an agreement. The social partners negotiate at cross-industry, sector and firm level. Employers and employees highlight the quality of the social dialogue. The levers are used

to increase working time and changes in work organization (involving modulation of working time over the year, and forms of 'polyactivity'). It is a model of rule-making that moves from the national inter-sector agreement to a sector agreement and then to firm level.

There are several positive outcomes. Negotiations at different levels have led, on some points, to a clear improvement in the situation of part-time employees: a minimum working week of 26 hours, shorter gaps in the day, grouping of hours in the week, etc. They have *'made it possible to organise part-time work, to imagine being able to ask for a half-day or a day off, which was inconceivable before'*. And there are other positive outcomes for working conditions (such as for example integrating into the annual budget the report of an ergonomist for each renewal of furniture or the purchase of additional equipment to simplify shelving operations and reduce physical exertion).

Some problems remain. First, there are significant problems with franchisee stores, which are not required to apply the firm agreements, and where everything depends on the manager. In three quarters of them, there are no employee representatives and no union. Second, the agreements are less well applied in small stores, where union presence is weaker and the managers have less room for manoeuvre with a small staff. Finally, the possibility of individual opt-outs from long working hours puts pressure on employees to oblige. Furthermore, polyactivity is badly received by the employees, who experience it as a form of deskilling, which brings less autonomy, a loss of 'their' product section, which can lead to reduced motivation, sometimes reflected in work being less well done or increased absenteeism.

FR-4: Contract cleaning

This fourth case differs in part from the previous ones since it does not single out a specific situation or action involving social dialogue. It rather aims to present, at the level of a region, various themes and spaces where forms of social dialogue have developed, sometimes formalised, sometimes not, sometimes conflictual, sometimes not. It is located more in the register of 'restricted dialogue', mainly involving the classic actors of the industrial relations system.

The cleaning sector here mainly covers firms that provide subcontracted cleaning services for physical premises: offices, shared parts of buildings, shops, hospitals, and other facilities open to the public such as airports, schools, and so on. The bulk of employees are unskilled (86%), although this proportion has been declining. Most are women, and in the geographical area of this case study, many are migrant workers. The average monthly wage is around €750, making the employees of this sector 'poor' workers.

Employment is open-ended, involving short and fragmented part time work. Cleaners often contract with several employers. The protective gaps are associated with the nature of the part-time work, involving low pay, problems with social protection, unsocial hours, and risks of health and safety. Housing problems are frequently mentioned by workers' representatives.

The social dialogue is of a classical, multi-level form, with a national collective agreement and effective social dialogue in the large-sized firms, although not in smaller ones. There are information campaigns (for example on health and safety). Also, an innovative levy fund (involving employers' compulsory contributions, as stated in the collective agreement) is developing many positive actions

in the areas of health and safety, training (for qualifications), transitions to full-time, social hours campaigns, apprenticeship, and others.

Several positive outcomes can be observed. There are some changes from part-time to full time working hours, including greater attention to social hours. Social hours are included in public procurement. Other changes include improved health and safety, more training opportunities and the development of apprenticeships. The case also highlights the success of an active bipartite commission for mediation in case of individual conflicts between an employee and employer (frequently linked to the French equivalent of the TUPE).

One problem concerns the relative weakness of a trade union movement split into several organisations. This means it often lacks the means to act on behalf of employees belonging to the most deprived fringes of the population, so that enforcement of already weakly established norms is a serious problem. Public authorities are also very often clients of subcontracted cleaning and yet often try to push down prices, in spite of the welfare clauses that are sometimes written into the invitations to tender.

Germany

DE-1: Posted work in meat processing

Working conditions and wages in the German meat processing industry have been attracting criticism for years. In particular, the conditions for employees of Eastern European companies posted to Germany have been decried in numerous media reports. The main areas of concern have been excessively long working times, extremely low hourly pay rates and the poor quality of much of the accommodation made available by the meat processing companies. In recent years, there has been strong political pressure to improve working conditions and eliminate wage dumping, both within Germany and from several neighbouring countries that have complained to the European Commission about conditions in the German meat processing industry.

The case study focuses on a number of measures taken by the social partners in the industry and politicians since 2013 with the aim of improving the industry's image and employees' working conditions. They include the introduction of an industry minimum wage which came into force, after long and controversial negotiations, in August 2014. Moreover, two voluntary commitments made by the employers were concluded in 2014 and 2015. The first, a voluntary code of conduct, pledges companies to take steps to implement and monitor minimum working conditions and to provide suitable accommodation for posted workers. The second voluntary commitment stipulates, furthermore, that the employers stop using posted workers by July 2016 at the latest and from then on will conclude subcontracts with German firms or German subsidiaries of foreign companies only. This means that migrant workers will be employed only on the terms and conditions stipulated in German social insurance law. The signature companies have also committed themselves to increase the proportion of core workers. This second voluntary commitment came about on the initiative of the Ministry of Labour.

Available data and our interviewees' assessments suggest that the most important change in terms of an improvement of working conditions has been the industry-wide minimum wage. It also applies explicitly to employees from Eastern European companies who are working in Germany. Following

the introduction of the minimum wage, the average hourly wages of workers in the meat processing industry have risen by more than the average increase across the economy as a whole. However, there are still considerable gaps in both representation (weak organisation on both the employers' and employees' sides, small number of collective agreements and works councils) and enforcement in the industry. With regard to the voluntary commitments, the transformation of posted work into direct dependent employment in German subcontracting firms has improved the situation for migrant workers. However, the code of conduct and, particularly, the voluntary agreement to improve working conditions have to date been taken up only by the large companies in the industry, although it has to be said that they do account for a high share of employment and turnover.

It therefore remains to be seen whether more companies will sign up to the voluntary agreement and what effects it will actually have in practice. So far, the companies did not honour their commitment to increase the share of the core workforce as one year later there was only a minimal increase from 44.8% to 46% of core workers. Therefore, trade unionists and works councillors are sceptical that the *voluntary* nature of the agreement without specific targets and applicable only to a few, even if big players, in the industry will lead to substantial changes.

DE-2: Local government procurement in Bremen

The European Court of Justice's *Rüffert* judgement in 2008 led to the abolition of prevailing wage laws in Germany. However, several federal states (*Länder*) revised their procurement laws with a view to limiting wage competition among public contractors nevertheless, most importantly through the introduction of procurement-specific minimum wages, ranging between €8.50 and €9.18 per hour in 2015. Moreover, in the years following *Rüffert*, trade unions and employers' organizations in several industries jointly requested the Federal Ministry of Labour to declare the lowest pay grade in their collective agreement generally binding for the whole industry. These industry specific minimum wages subsequently became reference points for the new procurement laws at *Länder* level, thereby giving the commissioning authorities an additional lever to control and enforce them. In the case of Bremen, this was further supported by the establishment of labour inspection procedures by the city state.

Both models – pre-*Rüffert* and post-*Rüffert* – can be characterized as 'hybrid' wage-setting systems in which, besides the social partners, the state assumes an important role. A very recent reform in Bremen, introduced in 2016, reinstates pre-*Rüffert* prevailing wage laws for the construction sector that make the higher collectively agreed wage levels in these industries obligatory for public contracts, albeit restricted to certain value thresholds, and only as an option. At the same time the introduction of the national minimum wage in 2015 has raised the question of whether it renders procurement-specific minimum wages at *Länder* level redundant. The Bremen government finally decided to suspend its own minimum wage which so far sets the lowest pay level for public contracts in those industries that are not covered by a higher industry specific minimum wages.

The case study report analyses experiences with the post-*Rüffert* regulations in Bremen and sheds light on the question how the most recent changes affect the wage setting model. Over the last two-year period (2013-15), 116 inspections were carried out and sanctions imposed in 19 cases. In most cases, the penalty was less than €10.000, but amounted to €465,000 in one case. Moreover, the fined companies were usually excluded from public tenders for a period of between 6 and 15

months. According to our interviewees' assessments, the city states' own labour inspection procedures have improved the enforcement of minimum wages in particular in the construction sector, whereas it was estimated to be of lower importance in the cleaning sector, due to less widespread non-compliance. Both employers and employee representatives from the construction sector however see a need to considerably increase the bite of the sanctions and the frequency and depth of inspections. Moreover, they are much in favour of returning to the pre-Rüffert rule, as otherwise companies covered by collective agreements stand little chance to successfully participate in public tenders.

For the catering industry, interviewed trade unionists emphasized the symbolic value of the procurement specific minimum wage, as a signal to employers and employees that the public sector at least does not engage in wage dumping and is ready to take on a lead role in determining wages and working conditions. They therefore deplore the decision of the Bremen government to suspend the regional minimum wage. But they also aim to maintain a hybrid wage setting system by making use, jointly with the employers association, of the facilitated option (since 2015) to have collective agreements declared generally binding.

Hence, despite recent changes, social partners in industries affected by low-wage competition obviously continue to support the general trend towards hybridized wage setting systems.

DE-3: Socially Sustainable Sourcing in the Steel Industry

As in other sectors, the use of subcontracting has become an increasingly contentious issue in the German steel industry. Subcontracts have existed for a long time following the outsourcing of services such as catering and machinery cleaning. In a more recent development, activities that are part of firms' core business are increasingly being outsourced as well. According to reports by trade unions and works councillors, firms are also making increasing use of subcontracts instead of temporary agency work, which has been more strongly regulated since 2010.

Against this background, a number of measures in which the intensity of use of subcontracts and working and employment conditions in contracted companies have been the object of negotiations over the last decade:

1. Trade union strategies for increasing coverage by collective agreements and plant-level codetermination in contracted companies.
2. A 'Collective Agreement on Subcontracts' was concluded between IG Metall in North Rhine-Westphalia and the steel industry employer's association in 2014. It stipulates that, whenever possible, employers should enter into contracts for services only with firms bound by collective agreements. At the very least, subcontractors should agree in writing to comply with statutory norms such as the national minimum wage and working time regulations.
3. Supplementary company-level measures (illustrated in the case study at the example of one large steel company) intended to promote the socially responsible management of subcontracts and to monitor contracted firms' compliance with health and safety regulations and labour law.

Our findings suggest that all three measures are complementary approaches that have helped to narrow the pay and protection gaps between the core workforce and contract workers. Work related accidents have been strongly reduced, and trade unions have often successfully concluded collective

agreements and established works councils at subcontracting firms. In the case of the steel company under study, one favourable factor was the fact that the position of 'Human Resources Director' (*Arbeitsdirektor*), which exists because of the steel industry's particular co-determination regulations, constitutes a firmly established intermediate institution within company management structures. Additionally, legal reforms such as the introduction of the national minimum wage, as well as public debates about a reform aimed at restricting the misuse of subcontracts as a means to circumvent collective agreements and regulations on temp agency work have been an important external force capable of driving the development of strategies for the socially responsible management of subcontracts.

For the most part, the measures do not create any new rights but create new monitoring and sanctioning mechanisms governed by private law - such as the right to unannounced site inspections. The effectiveness of monitoring procedures and sanctions depends of course on their design and on the resources devoted to them. However, once outsourcing has reached a certain level and contractual relationships in subcontracting chains have attained a certain degree of complexity, the findings justify doubts as to whether all approaches to the regulation and monitoring of working and employment conditions in contracted companies will come up against certain limits, regardless of how they are organised and implemented. Thus from the point of view of ensuring 'fair' employment conditions in such companies, strategies that aim to reduce the excessive use of subcontracts seem to make sense.

DE-4: Mini-jobs in the retail sector

This case study investigates the long-running dispute over mini-jobs, which since the end of the 1990s have been the object of some very controversial estimates of the extent of individual precarity, economic utility and social consequences associated with them. Mini-jobs constitute a specific form of short part-time work in Germany, one that is particularly widespread. They offer employees an opportunity to earn up to €450 per month without deductions for taxes and social insurance contributions, while employers value them as a particularly flexible and cheap employment form. The number of mini-jobs has increased substantially over the last decade, reaching almost 7.4 million in June 2015 (either as the main job or as a second job).

Judging by the material security offered by mini-jobs, this employment form can clearly be classified as precarious work. This is related to several issues: the low level of earnings, exclusion from the social security system and widespread non-compliance with statutory rights. Although mini-jobbers, like all other German employees, are legally entitled to holiday and sick pay and other employment rights, in many cases they are paid only for the hours they work. Hourly wages are frequently very low: In 2013, around two thirds of all mini-jobbers earned less than € 8.50 per hour, and almost one quarter earned even less than €5. Mini-jobbers are also more exposed to work on-demand than other workers; and finally, mini-jobs by no means constitute a short period in (women's) employment histories. According to a survey among persons who had been employed as mini-jobbers, they remained in such jobs for 79 months on average.

Nevertheless, mini-jobs remain popular with many employers and employees, because of the immediate benefits for employees (no deductions) and employers' ability to flexibly adapt working hours to variable workloads. Concern with the interests of the electorate and the hostile attitude of

the employers' associations must largely explain why there have been no serious political initiatives since the 1998/99 reform to restrict marginal part-time employment, despite repeated demands from trade unions, women's rights associations and charities. Instead, policy makers and the labour administration have concentrated their efforts on supporting transitions into insurable employment and informing mini-jobbers of their rights. This is partly supported by information campaigns directed by employers' associations, e.g. by the employers' association in the retail sector (where the largest group of mini-jobbers is employed). There are only limited campaigning efforts from trade unions targeting mini-jobbers. Part of the explanation seems to be that mini-jobbers represent an – albeit large – minority in most service sector industries and that the representation gaps in these industries are so great even among 'core workers' that trade unions' primary concern is firstly to establish the basic structures for interest representation, such as collective agreements and works councils. Put differently, unlike in the case of temporary agency work, mini-jobs are not a 'hole' in the well-organised core (i.e. manufacturing industries), but a 'hole in the margins' of the labour market, where the basic structures of representation do not exist.

The introduction of the national minimum wage in 2015 has in particular contributed to raise the hourly wage of mini-jobbers, and has also led to an unusually sharp increase of transitions from mini-jobs into regular employment. Thus while the abolition of mini-jobs has not featured on the political agenda for a long time, changes in the general regulatory environment can help to improve mini-jobbers' employment conditions. Still, the material risks associated with mini-jobs remain very important and justify a more systematic restriction, for instance to limit them to students and pensioners.

Slovenia

SI-1: Youth mobilisation

Slovenian youth labour market shares the fate of the entire Slovenian labour market (particularly as regards the impact of economic trends, trends in employment and unemployment), but, on the other hand, has some important features, that have impact on the situation of young people in the labour market and in society in general. Their great flexibility regarding employment (fixed-term and part-time, various forms of student work, and temporary or occasional work), affects the frequency of transitions between jobs and the incidence of unemployment, which significantly affects their full economic and social independence. Young people are specific labour force, which is characterized by lack of work history and experience. At the same time they are often carriers of new skills from the educational process, and a number of social (and technical) skills and competencies.

Regardless to that advantages, the current economic situation and employers' demand transformed predominantly into flexible forms of employment and work are making youth's transition from education to work and its life in such world more difficult. According to the interviews made, Slovenian youth feels insecure and does not see clear future in Slovenian society. Thus, many of young people are prolonging their studies at the university level, waiting for better times and better opportunity in the labour market in the future. At the same time, they are taking advantage of the student work (reserved only for students and pupils). Thus they are forced to postpone future planning and structuring of the private and professional life. For those already involved in student work, there is another disappointment – which they are sometimes earning more as waitresses or

waiters than in their future professions. Some of them are thinking of leaving Slovenia in order to find more secure and better jobs. Those lucky enough to have job already in Slovenia are reporting different forms of exploitation (low wages, extensive hours, bad working conditions) and with that related health problems and burnout. The majority of young people does not have any response to such circumstances. They are resigned, pragmatic and usually use short term survival strategies – taking any job available without any resistance and not thinking about any collective resistance strategies.

On the other hand, there is much smaller group of proactive young people that are trying to address precarity issues through collective action on the national level. Three associations appeared in the recent period, established by young people that are addressing abovementioned issues: Movement for Decent Work and Welfare Society, Trade Union Mladi plus (Youth Plus) and Trade Union of Precarious Workers (established on 7.10.2016).

SI-2: Media journalists (RTV Slovenia)

The area of Slovenian media is not exempted from the overall processes of precarization of Slovenian labour market. As in the other parts of the Slovenian labour market there are several factors that are affecting the field of journalism: privatization and commercialization of the media from the beginning of the 21. century, continuing pressures on labour costs, technological changes and with that related changes in ways the work is done, structural changes, and the processes that affect the entire economy (economic crisis).

The case of Slovenian journalists is probably most visible, but there are many other occupations (editors, cameramen, directors etc.) in the field that are affected as well. The main issue regarding those occupations and professions is changes in the employment contracts they receive and with that related changes in their social security. Changes in the ownership structure of Slovenian media have brought different power structure in those media and with that higher pressure on managers to increase production and lower the labour costs. Since the labour rights for regularly employed are collectively and individually relatively better regulated than for those in civil work contracts, there is a constant pressure on managers to reduce the number of regularly employed and increase the number of freelancers that are employed under civil work contracts (copyright contracts).

The existence of different types of employment (regular employment for permanent or fixed-term duration) and work contracts in Slovenian (freelancers, independent and self-employed journalists) media means that there are also producing several gaps between them: social protection, enforcement and representation gap as most important ones.

One of the most important consequences of the abovementioned trends of increasing precarization of Slovenian media space is further de-professionalization of all professions related to this activity as well as increased individualisation among journalists accentuated by the inability to make collective lawsuit against the employers. Trade unions can offer some legal support but individuals have to endure lengthy (usually few years), stressful and money consuming trials on their own.

Journalists in RTV Slovenia, which is public service of special cultural and national importance, are treated as state employees. On the other hand, RTV Slovenia treated its journalists as any other media house, increasing the share of precarious workers (journalists, cameramen, editors, directors) with civil work contracts. Many of them are working in such contracts for a decade or two without

any signs that their contract would be changed into employment contract soon. In September 2007 the Section of contractual (independent and freelancers) journalists was established operating within the Slovenian Union of Journalists, with objective to improve their status in all editorials.

After relatively long time of avoiding the issues related to precarious workers in RTV Slovenia, and partly forced by the activities of trade unions' associations, the top management signed the agreement on the employment of part-time employees of RTV Slovenia with three trade unions at the RTV Slovenia and the Slovenian Union of Journalists. The agreement stipulated that RTV Slovenia should give regular employment to more than 250 of its workers that were employed until now with civil work contracts regardless to the determined existing elements of the employment contract. Until January 2016 RTV Slovenia employed 150 such workers and until the end of 2016 it will employ 100 more.

SI-3: Retail work

The retail sector in Slovenia has been characterized by the fast growth of private companies due to privatization of former socialist-run companies as well as the entrance of foreign commercial chains from 1991 on. The sector's rate of collective bargaining coverage is 100% and the social partners (two trade unions and three employer organizations) all evaluated sectoral social dialogue in 2009 as quite successful.

However, representatives of the sector's main trade union were also critical of the low wages within the sector and the huge differences in working conditions between different employers, where laws and collective agreements are not carried out. Wages in the retail sector are lower than the average wage in Slovenia, and differ considerably by gender.

In the retail sector, there is a high level of precarious employment, the long working hours, and the work intensity built into the organizational culture in retail organisations. Main forms of flexible employment practices are: part time work, fixed-term contracts (students, agency workers and foreign workers), forced self-employment, shift and Sunday work).

Part-time work (as a very intense form of work) has been introduced by foreign retail employers in order to accommodate need for flexible organisation of work. For workers employed for 25-30 hours per week many of whom work on unpredictable schedules and often also overtime this work organisation causes negative short and long-term consequences. Namely, the part time employment is connected with partial social security contributions i.e. retirement basis. Trade union representatives reported on much longer working hours of these workers who are formally employed on part-time contracts and on existence of double or triple evidences on working time (one real for workers, the other for managers and third for inspectors).

Based on findings of the presented analysis we could conclude that in the retail there exist enforcement gaps connected to the divergence between the relatively high standards of the Slovenian labour legislation and regulation on one hand and practice on the other.

Our analysis showed that increasing precarity in the retail in Slovenia encompass both decrease of quality of work of regularly employed workers (more of different work tasks, longer working hours, breaches of rights regarding rests, working time, etc.) and proliferation of precarious forms of employment and work (part-time work, student work, agency and migrant work being the most important).

Reactions of the trade unions on the increased flexibility and decreased standards of working conditions in retail sector could be seen as innovative in a certain sense as they replace the traditional representation and fight for workers interest with “mending” strategies aimed to mitigate the consequences of the precariousness.

Some efforts to mitigate negative consequences of precarious work are done in collaboration with employers and their associations. An example of that are numerous training and information projects/programmes dealing with health and safety e.g. stress at work, but mainly oriented to individuals. Employers and trade unions are thus supporting individual coping strategies with working conditions that are consequence of erosion of working standards – previously existing secure jobs and decent wages.

One of the recently organised trade union events – a conference on working time in retail - was an opportunity for social partners to discuss the problems regarding working time most of which are connected to breaching of the existing regulation. The conclusions of the conference envisaged education activities and joint work of social partners on explanation of the regulation (Collective agreement). This form of collaboration of social partners in retail could be seen as positive. However, it is questionable whether direct violations of existing legislation should be treated as a problem that is to be solved by education.

Spain

ES-1: Self employment in food manufacturing

For several years there has been growing concern about self employed individuals working *de facto* as employees, with the loss of important rights related to the standard employment relation such as paid holidays, contributions to social security and unemployment benefits. In 2007, after extensive consultation with social actors, a newly enacted *Self-employment Labour Code* developed a new form of quasi labour relation to address this issue, denominated as ‘Economically Dependent Self Employeeed’ (TAED in the Spanish acronym). The new legal concept improved the working conditions of economically dependent self employed by granting TAEDs certain worker entitlements such as: the right to an interruption of their annual activity for a minimum of 18 working days, limits to the realization of activity for a time greater than that agreed contractually, compensation for the damages and prejudices caused in case of the termination of a contract without just cause, or right of justified interruptions of professional activity. TAEDs can also negotiate a ‘Professional Interest Agreement’ (AIP) in order to regulate their relationship with clients. These AIPs can be considered as the commercial equivalent of collective agreements.

The process and implications of this new form of labour relation is illustrated by the conversion of employees into TAEDs that took place in the bread-making company, Bimbo, in 2011 in a context of bankruptcy of the firm, and also in the company Panrico, in the context of transformation of self employed into TAEDs that took place in 2009. Analysis of the AIPs signed by the companies, and comparison with employees of the company with a standard employment relationship show the extent to which workers improve their working conditions when transitioning from self employed to TAED status (the Panrico case), although such improvements still leave a significant protective gap compared to standard employees. To illustrate, TAEDs at Panrico are entitled to 18 days of (unpaid) vacation, compared to none for self employed and 22 paid days for employees.

The regulation of TAEDs introduces a clear labour policy dilemma. On the one hand, the new labour relation implies an improvement of working conditions of the self employed, recognising certain rights when they work mostly (or solely) for a single customer that the self employed do not have. On the other hand, it implies the legitimization of a hybrid form of employment with lower rights. In any case, the Spanish experience shows that firms (and workers?) are reluctant to use this new form as the registered number of TAEDs is well below the estimated existing number of economically dependent self employed. As in other areas of labour relations, problems of enforcement abound.

ES-2: Limiting chain outsourcing in construction

For several years now, the outsourcing of so-called non-core productive or ancillary activities is one of the stylized facts of the organization of firms. Construction is one of the sectors of economic activity where outsourcing has become the norm, driven in large part by the great potential for unbundling activities into a raft of different trades.

Until the crisis, Spain enjoyed a major boom in construction. In the 1980s, it was associated, among other conditions, with the upgrading and new development of large infrastructures co-financed by the EU Structural Funds and especially two major events –the World Fair in Seville and the Olympics in Barcelona in 1992. However, the construction boom was also associated with a significant increase in fatal labour accidents, which has been linked to the high use of subcontracting. In order to counter such developments, in 1998 one of the major Spanish trade unions, CCOO, started a campaign to address this issue by proposing a maximum limit on the number of successive times a given constructive activity could be subcontracted ('chain subcontracting') as a means to improve safety.

With that aim, the CCOO presented for the first time in Spain a 'Popular Legislative Initiative' dealing with labour issues to the Spanish Parliament and backed by 600 000 firms. In doing so, the union demonstrated how innovative forms of collective action could be pursued when the more traditional mechanisms were not viable (due to the existence of differences among unions in their priorities, for example). Although the progress of the initiative was frustrated by the opposition of the Popular Party (conservative) then in power and with a parliamentary majority, the campaign was not abandoned. In March 2001, a General Strike was called by major unions to protest against the government's refusal to regulate chain subcontracting. The campaign was re-launched in 2004, this time with the backing of the other major trade union, UGT, and with supported by demonstrations across Spain. The change in government in 2004 finally facilitated the proposal's approval. The following year a meeting of trade union delegates in the House of Congress demanded the speeding up of the new legislation. Finally, in September 2006 the Congress approved the 'Law for Regulating Subcontracting in Construction', made effective from April 2007. The resulting text, in the words of the then General Secretary of the construction federation of CCOO, FECOMA, Fernando Serrano: *'while not the text that the trade union would have approved, it has very positive elements to start rationalizing the construction sector'*.

The new law restricts chain subcontracting in construction to three levels. Moreover, it establishes explicit criteria that subcontractors must meet in order to operate in construction, including employing a minimum share of employees on open-ended contracts, and registering with the 'Register of Credited –Subcontracted- Firms'. The law also recognizes information rights for employees' delegates regarding subcontracting firms and established the principle of shared

responsibility of contractor and subcontracting firm in case of non-fulfillment of the above mentioned requirements.

Ten years after the enactment of the new regulation the results have been dampened by the crisis of the construction sector associated with the recent economic crisis and the growth in the share of very small firms in the sector where compliance with regulations is much lower. In the words of the General Secretary of the Federation of Construction and Services, CCOO:

'Those areas out of reach of the trade unions and the Labour Inspectorate are like the jungle, and now a much more dangerous jungle as such construction projects often rely on contracting with own account workers. ... We think the law is good, but the problem is the lack of resources to guarantee a high level of compliance.'

ES-3: Subcontracted catering services

The third case study for Spain focuses on the role of traditional social dialogue, namely collective bargaining, in addressing some of the new sources of precariousness such as low (involuntary) working hours, a relatively recent source of precariousness in Spain.

In 2016, for the first time ever, the representative trade unions, CCOO and UGT, signed a national collective agreement for 'catering services supplied to collectives' (*l Convenio Estatal de Restauración Colectiva*). This is important in itself as the new regulation of collective agreements was intended to incentivise firm level collective agreement, a road not taken by the signatories who considered it more convenient for their interests to fix the rules governing labour relations in the sector at the national level. Moreover, article 9 of the collective agreement emphasizes that firm level agreements should not 'play a destabilizing role' nor be used as a 'formula to lower working conditions'. This collective agreement is also important as it was signed after a long period of stalemate in collective bargaining and in a context that has not been at all auspicious for social dialogue due, among other things, to the unilaterally approved labour reforms of 2011 and 2012.

Although the collective agreement covers different categories of workers, from cooks and waiters to cleaning and administration personnel, the feature of the agreement we would like to highlight is the increase in minimum weekly hours of workers employed as 'monitors' (employees in charge of the organization of meals at schools, as well as supervising the children). Before the agreement was signed, monitors often worked nominally as little as 45 minutes per day. The new agreement sets a minimum of 10 hours per week, which represents for many monitors a doubling of their take home pay. This is a major improvement in a context, such as Spain, where involuntary part-time work affects as many as three in five part-time employees. It is also a measure with an important gender impact, as most monitors are women. Within the context of a moderate low wage increase, the collective agreement also considers higher wage increases for monitors: 1.5% for 2016 (compared to 1%) and 2.5% for 2017 and 2018.

The collective agreement also includes interesting references to the general hiring principles that should inform firms' hiring policy and ought to combat another of the major sources of precariousness in Spain, temporary employment. These principles include the promotion of open-ended employment and the transformation of temporary contracts into open-ended contracts, as

well as the promotion of a proper use of the different types of contracts available. The collective agreement also recognizes the need to apply the negotiated conditions to posted workers.

Altogether this case shows how social dialogue can improve working conditions of some of the worst off employees, even in a non-favorable context.

United Kingdom

UK-1: Zero hours contracts in local government procurement

Local government is the lowest paid part of the UK public sector, and significant budget cuts since 2010 have placed additional pressure on pay, terms and conditions. The local government sector also makes extensive use of outsourced labour, typically to provide low paid services such as cleaning, catering and care services; work which is largely performed by women in part-time roles. Strict value for money considerations in the procurement of such services typically means low wages with few enhancements, leading to long hours and a risk that workers do not achieve the legal minimum wage. There is however evidence that despite a drastic slowdown in sector level social dialogue in recent years, individual local authorities are increasingly willing to use their positions as 'buyers' to improve employment standards among 'first tier' suppliers in care services, through the use of specific procurement clauses such as living wages, while also redesigning contracts to allow for travel time.

Against this context, in 2012 a UK public sector trade union launched a voluntary 'charter' for care commissioning which set out a number of key principles of compassionate care, and a range of underpinning business and employment standards to be embedded locally through dialogue between commissioners, union branches and providers. Interviews with union officers, along with local authority commissioning managers and a care provider show that while only 13 out of 375 councils have formally adopted the charter nationally, where there is the political will local authorities can achieve 'social ends' such as reducing precarious and low paid work through better procurement. This was achieved at one large local authority in the north of England by: increasingly the hourly fees paid to external contractors (costing an additional £2.7m per year); stipulating specific conditions of employment for contracted workers (including a 'local' living wage of £8.01 per hour); and consolidating contracts in order to reduce the number of providers and increase the volume of work (thus stabilising incomes and working patterns for providers).

The findings also suggest that behind the political rhetoric, the commissioners of social care services are very clearly pragmatists: they want best the standards available within the available budget; but recognise that the lower pay and conditions across much of the private and independent sector (compared with directly employed staff) is one of the main drivers for outsourcing in the first place. Commissioners engaged tactically with providers to agree 'sustainable' fees, and as might be expected, providers in turn appeared to respond positively to this 'high-road' form of contracting. At the same time, the provider interviewed still accepted work from 'low road' authorities, and simply allowed differential levels of pay and conditions to emerge between internal workforce 'groups' organised along geographical lines. The local union branch was largely focused on the uprating of pay among contractors (which they saw as an important lever to reduce the incentive for further outsourcing), but the local living wage of £8.01 per hour was seen as a 'stepping stone' to achieving a

full living wage of £8.25 per hour. The union locally planned to use the offer of training as a means to engage with providers and to recruit care workers, however the union nationally recognised that such a resource intensive approach could not be replicated across 3,500 private sector providers. The monitoring of individual contracts is potentially an issue over the long term. For example, while the quality of care may be a high political priority within the local authority, the limited resources available for planned and 'spot' checks means that large numbers of contact hours could be commissioned before breaches were spotted. Similarly the greater reliance on a smaller number of providers potentially blunts the 'competitive mechanisms' of the market in driving up standards and exposes the council to greater risk should any of the external contractors fail.

UK-2: Temporary agencies in logistics

The continued growth of temporary agency work in the UK arguably points to a continued degradation of the standard open-ended employment relationship as more workers find themselves engaged on short-term assignments through labour market intermediaries. Moreover, as temporary agency workers (TAWs) in the UK do not share the same legal status as 'employees' they are not entitled to certain minimum employment rights such as maternity leave, notice periods and protection from unfair dismissal. Long-term 'strategic sourcing' partnerships between agencies and clients offer some scope for an upwards restructuring of employment relations, however the limited reach and bargaining power of trade unions in sectors such as food preparation and warehousing means there are few opportunities for the coordinated upgrading of pay and terms and conditions.

The current research seeks to explore the nature and substantive features of 'strategic partnerships' and whether it leads to positive outcomes for workers, or whether clients largely dictate pay and conditions. The case study data are drawn from ten interviews, involving two senior managers at two employment agencies (GlobalAgency and EuroAgency) and a 'nested case' within EuroAgency involving interviews with management at a large client retail company (PharmaCo) plus three agency workers, two directly employed staff and a union representative.

The findings suggest that in the UK temporary agency work has become increasingly 'normalised' as both a route into employment, and as a legitimate form of ongoing employment relationship. The legal floor of rights relating to issues such as health safety and statutory minimum wages is seen as important to prevent undercutting by 'rogue' agencies, but the pay and working conditions offered to agency workers in many cases mirror those on offer to directly employed staff (with the benefit of additional flexibility for the client to adjust staffing levels and working hours in response to changing demand). Social dialogue within the sector is generally limited and rather patchy in coverage, but even where trade unions are recognised locally, agency workers are not necessarily well incorporated into the union membership base (Heery 2004). Something of a vicious cycle in that TAWs are perceived to be difficult to recruit owing to temporary status and ties abroad, and are therefore not necessarily a high priority, even though some TAWs may work at same client for four years. In turn TAWs only make up a small fraction of the membership base, and it is difficult for the union to create a persuasive 'offer' for prospective TAW members.

In terms of managing employment relations and the labour process, agencies have certainly assumed a greater share of the responsibility for sourcing, deploying and managing staffing issues: described by Peck and Theodore (1998) as the 'day-to-day hassles' of the employment relations. But the

evidence from this case study suggests that temporary agency work, and agencies themselves fulfil three additional roles. **First**, the increasing share of agency workers in some sectors provides the opportunity for client firms to level down pay and conditions across the wider workforce. **Second**, the use of temporary agency workers on an ongoing basis serves as an effective 'screening device' which replaces the traditional (and expensive) external recruitment process followed by a probationary period for permanent staff. **Third**, by taking over all recruitment activities (both temporary and permanent) agencies are increasingly acting as both 'gatekeepers' and managers of the internal labour market. It appears that rather than being 'freedom work', some workers clearly have limited alternative choices and the 'prize' of permanent work serves as an important management device to foster commitment and compliance.

UK-3: Casual work in food manufacturing

Despite the internationalisation of production systems in many parts of manufacturing, the restructuring of supply chains has paradoxically strengthened the position of 'the plant' as the locus of employment relations. On the one hand this gives management potentially greater control over work organisation as relatively isolated individual plants are pressured to compete with each other for investment, and agree concessions on productivity and staffing flexibility in return for guarantees over jobs (Martinez Lucio and Weston 1994; Mueller and Purcell 1992). On the other hand, the long tradition of active shop stewards in manufacturing means there is scope for local resistance, and there are signs of growing 'inter-plant solidarity' in the UK food production sector in order to build bargaining strength and protect against the spread of precarious work.

The case study is focused on one large food manufacturer 'BreadCo', and explores the ways in which management imitated the 'divide and conquer' strategy of multi-national companies to decentralise bargaining over pay, staffing levels and productivity and attempted to dilute employment standards through the use of temporary agency work and zero hours contracts at two sites in the north west of England. The two local branches of the national baker's union used different strategies to challenging management around pay, contracts and working practices at a turbulent time for both the sector and the firm. Whereas the union branch at the 'North West' plant took on management over the use of agency work and built solidarity by calling a strike of permanent workers which brought in pickets from other plants, the union branch at the 'Yorkshire' plant (despite higher membership density) struggled to mobilise workers locally for collective action and was largely focused on representing individual workers in grievance procedures and employment tribunals, and attempting to secure favourable severance payments.

In-line with the earlier work of Mueller and Purcell (1992) and Martinez Lucio and Weston (1995), the results of the case study suggest that management at BreadCo had a clear strategy of decentralising pay bargaining to the plant level, while also attempting to leverage competition between plants for resources in order to achieve changes to work organisation and staffing levels. However, instead of plants competing to improve productivity and efficiency in order to secure future investment, plants were competing with each other to survive as management looked for cost savings across the UK. This took place gradually over a period of nearly 20 years, and by isolating individual plants and different segments of the workforce, management attempted to use local deals to set a precedent to make other plants 'fall in-line'. On the one hand this was designed to link pay

with plant level (rather than national level) productivity and profitability, but at the same time it was also mechanism through which local level tensions and hostilities between management and the unions were played out. The resulted in individual plants, union branches and unionists being 'punished' for deviant behaviour either with redundancies, victimisation, or ultimately plant closure.

UK-4: Higher education casualisation

Trade union density within the UK higher education remains high, but despite this there are growing concerns about the spread of casual and 'atypical' work such as fixed-term, hourly paid and zero hours contracts. The University and College Union (UCU) has campaigned nationally against the casualization of the sector by drawing attention to the numbers of staff in both academic and non-academic roles engaged on atypical contracts, and attempting to negotiate with management at individual establishments to transfer workers into standard open-ended contracts.

The case study data are drawn a comparison of two higher education establishments in the north of England and a total of six in-depth interviews with: a UCU representative from each establishment; three HR managers; and a senior academic engaged on an atypical contract. The focus of the case study is to understand both the drivers and consequences of casual work within the UK higher education sector, and the ways in which trade union activity at local level can both reduce the share of casual work, and mitigate the adverse consequences on workers.

The findings show that the UCU have attempted to bargain with employers over creating more permanent posts and supporting staff to build a business case to convert fixed-term posts to permanent ones, but a lack of good data on the use of atypical contracts within and between establishments is a significant impediment to the systematic reduction of precarious work. A proportion of lecturing staff with skills and experience which are in demand may be happy to remain on an hourly paid casual contract, but it appears that a considerable share of post-doctoral teaching staff are channelled into hourly paid work in the hope that a permanent job may eventually open up. In the meantime these highly skilled workers find themselves in a weak bargaining position and are at real risk of low and variable earnings.

15. Thematic analysis⁶⁴

A key part of the current research was to explore the ways in protective gaps can be reduced through social dialogue, and how actions of social partners contribute to both inclusive and exclusive forms of labour market regulation. Figure 1.1 in Part one of this report sets out a schematic illustration of narrow and wide forms of social dialogue which broadly aligns with the European social model. Narrow social dialogue refers to ‘traditional’ forms of engagement between worker representatives and employers at national, sector or workplace level. Wide social dialogue encompasses the more fluid and diffuse networks of actors and institutions through which labour standards may be discussed, improved and monitored. The case studies from across the six countries explore the dynamic and evolving nature of social dialogue in Europe, and how different modes of employer-worker interaction adapt to close protective gaps (albeit some more successfully than others).

The following five themes summarise the empirical evidence from 21 detailed case studies conducted in all six countries, and follow from the comparative analysis of protective gaps in Parts two and three above.

The themes are:

- integrating social protections for part time and variable hours workers;
- addressing ambiguities in employment status;
- closing enforcement gaps;
- value chains and protective gaps; and
- giving voice to vulnerable workers.

The data from the case studies (summarized in chapter 14) are drawn from the National Reports, where the full details of the case studies can be found. Throughout this chapter we apply the case study coding set out in chapter 14. A schematic outline of how the 21 case studies map onto the analytical themes can be found in table 15.1.

Table 15.1. Selection of case study issues by theme

	Social protections	Employment status	Enforcement	Value chain	Voice
Denmark		DK-3	DK-1	DK-1	DK-2
France	FR-2, FR-3, FR-4		FR-1	FR-2, FR-4	FR-1
Germany	DE-4	DE-4	DE-1	DE-1, DE-2, DE-3	DE-1, DE-3
Slovenia	SI-3	SI-2	SI-2		SI-1
Spain	ES-3	ES-1	ES-2	ES-1, ES-2, ES-3	
UK	UK-1	UK-2, UK-3	UK-4	UK-1	

⁶⁴ This chapter was co-authored with Karen Jaehrling.

Integrating social protection for part-time, casual and variable hours workers

Systems of welfare and social protection are arguably one of the foundational characteristics of the Standard Employment Relationship (SER) but workers on less than full-time hours, or on other forms of casual and variable hours contract where earnings are low or fluctuating may have only restricted access.

Gaps in social protection are found where eligibility is explicitly linked to employment status and the duration and continuity of contributions, or where 'conditionality' criteria are set such as monthly hours or earnings thresholds. On the other hand, as non-standard work becomes increasingly 'normalised', social protection systems may adapt to close these gaps.

Coordinated policy efforts are needed to harmonise standards and to bolster the earnings and welfare entitlements of individual workers (independent of the household). Evidence from the case studies suggests that localised action through social dialogue can strengthen social protections indirectly by increasing wages and stabilising working hours, with an important effect on outsourced services (where low wages and variable hours are a particular problem). This helps ensure that workers reach earnings thresholds for in-work welfare payments, and qualify for out-of-work unemployment benefits by increasing the level and duration of contributions to social security systems. It also ensures better social protection during key lifestage events (Verd and Andreu 2011).

These initiatives have generated positive impacts across three key sectors where low wages and short-hours contracts are common: care of the elderly; retail; and catering.

Social care for the elderly

In **the UK**, a major public sector trade union launched a campaign to draw attention to a critical but chronically underfunded service area, largely staffed by women in part-time roles, that is social care for the elderly (UK-1). This initiative was in response to entrenched problems of low pay, insecure working hours, inadequate terms and conditions of employment, and limited scope for training and career development, all of which could be traced back to problems in the commissioning of social care services. Thus at the heart of this campaign was the promotion of a voluntary 'charter' for care commissioning which set out a number of key principles of compassionate care and a range of underpinning business and employment standards which commissioners and providers should aspire to embed locally through engagement with locally-recognised unions and the social care workforce. This case study of one local authority which adopted the charter in 2015 revealed an interesting three-stage process of 'social dialogue' at local level which was critical to the adoption and implementation of the charter. The first element was the trade union lobbying of politicians to establish the charter as a blueprint for care commissioning. The second element was the pragmatic engagement of commissioners with external providers over contract redesign. The final element was the monitoring of the charter, and the emerging role of the unions and commissioners collaborating with providers to sustain good practice (which cannot be fully assessed yet). In collaboration with the local trade unions, commissioners engaged tactically with providers to agree higher 'sustainable' fees, which allowed for an agreed profit margin of 3%, and an increase in basic pay for staff to £8.01 per hour (which was branded as a local living wage), and allowances for paid travel time between clients (which had not explicitly been included previously). Furthermore, a reduction in the number

of providers and the expansion of geographical zones offered some guarantees over contract volumes which allowed providers to offer guaranteed hours contracts instead of zero hours contracts. Cumulatively these improved standards offer higher and more stable earnings for a largely female workforce, and potentially increase the level and duration of social security contributions to better protect workers in periods of unemployment or retirement.

A crisis in recruitment and retention and ‘hidden precarity’ among care workers in the south of **France** (*Provence Alpes Côte d’Azur*) provoked a politically-led initiative by the regional government together with social partners which uncovered a range of poor working conditions including: unpaid working time related to travel time between visits; very low rates of pay; and high-risk and strenuous work (FR-2). The regional council established emergency training funds in 2009 to secure enhanced protections for workers vulnerable to the economic crisis and this was applied to the non-profit domiciliary care sector, covering some 32,000 workers in the region. The initiative brought together a diverse range of stakeholders including regional agencies responsible for promoting economic development, training bodies, public employment services, the health insurance fund, trade unions, employers and local government to negotiate a regional cooperation agreement in 2010. This agreement had funding to achieve three specific objectives: i) to reduce involuntary part-time work (and address unpaid travel time via smarter spatial distribution of the workforce); ii) financial assistance for training and professional pathways, and iii) opportunities for job seekers to the sector to acquire qualifications. A fourth objective was added in 2014, that of securing pathways into other healthcare jobs. The agreement thus combined economic development with quality of work and better social protections. During 2012-14 3,700 care workers benefited from increased hours and higher pay (an extra €320 per month) and improved training and development opportunities. This in turn helped improve social protection as a result of higher earnings and working hours. Moreover, this agreement has improved social dialogue in this sector, building ‘a genuine arena for negotiation’. More still needs to be done, however, to improve working conditions in part-time roles as many women were unable to step up to full-time hours because of fatigue and burnout.

Retail

Despite 100% collective bargaining coverage in the retail sector in **Slovenia**, unions have raised concerns about low wages across the sector and a persistent gender pay gap (SI-3). Furthermore, the relatively weak bargaining position of a largely female workforce has meant that poor working conditions, including long working hours (often undertaking physically demanding tasks without paid breaks) and the non-payment of overtime have gone unchallenged. Where workers are part-time, they are often expected to compress a full-time work schedule into four or five hours per day, or work beyond their paid hours in order to get the job done. Although some retailers pay reasonable wages for part-time work, many of those employed for 25-30 hours per week on variable schedules make only limited social security contributions which creates a risk of poverty in retirement. The trade unions have campaigned against low standards, but the freedom for individual firms to agree specific rates of pay and work schedules at a local level means that there is significant scope to undermine standards set out in collective agreements and even in legislation.

Weak mechanisms of social dialogue in the French contract cleaning sector (FR-4) mean that the unions (and to an extent works councils) have been only partly successful in tackling the problem of low wages, whereas in the French retail sector, social dialogue operates at sector and local level, and

in response to concerns about short working hours and low wages the trade unions have achieved significant outcomes in recent years (FR-3). This has resulted in a minimum working week of 26 hours, with greater stability in rotas over the day, week and year, with improved scope for holiday periods. Increased wages and working hours in turn increase social security contributions and retirement pensions. The issue is that while large retailers where union representation is well established are more willing to negotiate greater guarantees about working hours, smaller franchise retailers are not formally bound by higher level agreements and local managers are more likely to set working hours and rotas unilaterally.

Short working hours in the form of mini-jobs are common in the retail sector in **Germany** and are supported by employers as a flexible employment form which offers workers an untaxed second income or a stepping stone into the labour market. However, not only do they do not have to pay any income tax on their earnings either (up to 450 euro per month but they are also fundamentally disconnected from the system of social security as employees in mini-jobs are exempt from the general obligation to pay social insurance contributions (although they can voluntarily opt to pay them).

The absence of tax and social security contributions allowed employers to offer low hourly pay rates and variable hours and although mini jobbers had legal entitlements to sick pay and holiday pay these were often unpaid as both employers and workers claimed to be unaware of these rights. In this context in 2012 the DGB (German trade union confederation) adopted a stance that mini-jobs should be abolished despite having tacitly endorsed mini-jobs in the past as a means to shield (largely male) SER workers (DE-4). This change of position could be considered partly a response to growing pressure from women union members and a recognition that the male-breadwinner model is increasingly outdated. However, due to their popularity among those attracted by the tax advantages, the unions proposed that mini-jobs should be reintegrated into systems of welfare by making earnings taxable, and harmonising the social security contributions of both employers and employees over time rather than abolishing them altogether. Furthermore, a number of local level projects supported by the Federal Employment Agency have been supporting benefit claimants in their efforts to convert their mini-jobs into insurable employment. Employers' representatives are also supportive of separate taxation for spouses, but nevertheless so far these proposed policy reforms have yielded limited results, and the focus of the DGB union has switched to political lobbying in the run up to the 2017 parliamentary election. Perhaps most importantly the national statutory minimum wage introduced in 2015 through a major exercise of social dialogue has had a significant impact in both increasing earnings per hour among mini-jobbers and in converting mini-jobs into 'insurable' jobs (i.e. which pay tax and social security contributions) as many workers moved above the 450 euro threshold, and employers had less scope to undercut on wages by engaging mini-jobbers. Nevertheless, the tax system in Germany still discourages longer working hours for some women, which is a major barrier to stronger regulation around mini-jobs and reduces the pressure on employers to replace marginal part-time work with full-time work.

Catering

Rapid job growth in the tourism and hospitality sector in **Spain** (even during the crisis) relied on the extensive use of self-employment and (often involuntary) part time contracts with low hours, with a corresponding impact in lowering the take home pay of the (largely female) labour force. Despite the

presence of sector-wide collective bargaining, the outsourcing of activities such as catering has resulted in poor working conditions with working time highly contingent on client demand. Nevertheless, some differences between firms can be identified with the larger catering firms more likely to offer good pay and stable working hours (linked to long-term contracts with clients), when compared with small firms where labour costs are a major source of competitive advantage, and family run firms catering for small local events who often resort to undeclared labour. Outsourced catering (for clients of all sizes) has grown rapidly since the late 1990s which creates a risk of downward pressure on earnings, although the general shift towards larger firms creates some scope for the stabilisation of working hours.

Social dialogue initiatives within the catering industry helped increase working hours which had a corresponding positive impact on earnings and social security contributions (ES-3). This was largely achieved through the signing of a new sector-wide collective agreement in early 2016 which set out a common stance between employers and unions on the need to harmonise conditions to prevent undercutting, and set out an explicit commitment that firm level negotiations would not be used to undermine sector standards. In terms of specific conditions the new agreement included a wage increase of 1.5% (far higher than most other sector agreements at the time) and crucially guaranteed a minimum weekly working time of 10 hours, with any 'overtime' hours in one month banked as paid time off the following month. This was a major improvement considering that some workers in the sector (nine out of ten of whom are women) had contracts with very short hours, as few as 45 minutes per day). These included for example school dinner supervisors who are tasked with organizing and supervising the distribution of lunches in schools. In reality, these staff often needed more time to complete their work schedules and thus the hours that staff worked were often far longer than the hours they were actually paid for. Given the low wages and cost competitive nature of the sector (even in large firms), this collective agreement was seen by the unions as a hugely important development in social dialogue, although the trade off at the airline catering firm Gate Gourmet was that management took greater control of working schedules across the year in order match seasonal demand with the outcome that workers potentially have less control over holiday periods.

Conclusion: the direct and indirect effects of social dialogue on social protections

Social partners only have an indirect role in reducing the consequences of precarious work for social protection as by definition these rules are set by the state in most countries (with Denmark a partial exception due to the role of trade unions in the social protection system). If social partners wish to improve social protection for groups of workers their most direct actions can involve taking steps to ensure that the workers are in fact eligible for social protection through rising pay, guaranteeing hours, changing employment status or providing more continuity of contracts. In the cases reviewed most of the focus was on guaranteeing hours to enable workers to meet eligibility thresholds or on raising hourly pay, again boosting access to social protection (FR-2, FR-3, SI-3, ES-3, UK-1) although this was only partly successful in the French contract cleaning case (FR-4). In some cases social partners pursued policies to enable workers to work more hours that were beyond the capacities of the workforce to take full advantage of these new opportunities. This suggests that problems of precarious work also lie in the availability of, for example, care support services and policies that simply aim to close the gap with full-time work are not adequate to address the reasons why people become trapped in precarious work.

Social partners can also act together or separately to lobby government to make changes in social protection regulations or in labour market regulation which impacts on access to social protection. The case study on mini jobs in Germany (DE-4) reveals the important indirect effects of the new national minimum wage in Germany on moving many mini jobs to regular employment status, thereby including the workers in the social protection system, and also in reducing incentives to create new mini jobs that lie outside social protection. Not only was the minimum wage only accepted by government after trade unions and some employer associations became converted to the need for a legal minimum and lobbied for the change but it was also the actions of the social partners in embedding the minimum wage in the collective bargaining system that has meant that it is more likely to reinforce rather than undermine the collective regulation system in Germany.

The gender segmentation of the labour market remains a problem, and it is feminised sectors such as social care, retail and catering where the main issues remain in terms of social protection. However, traditional modes of industrial relations offer a means to strengthen social protection indirectly, within a mixture of localised and coordinated sector wide action. The challenge is finding ways in which these innovations could be used as a model for other sectors where low wages and short working hours are problematic such as food production, cleaning and hospitality.

Addressing ambiguities in employment status

As technologies and production systems evolve, we are observing rapid changes in employment relationships that test customary practices about what constitutes an ‘employee’ or ‘self employed’ and challenge countries not only to clarify employment status but also to provide more equality of rights across employment statuses. Segmentation of workers by employee, agency worker and self employed status impacts directly on entitlement to employment rights and social protections. In addition, ambiguities in legal status of many workers deemed to be self employed present employers with significant scope to transfer risks onto workers or to the state (due to reduced social contributions) .

Evidence from the country case studies suggests that social dialogue can reduce the scope for employers to exploit ambiguities in employment status, but unions have approached the issue in a number of different ways. In some cases unions have focused on the preservation of the SER and providing support for workers in non standard forms of employment to move into permanent employment. In other cases social dialogue has been instrumental in raising employment standards among non standard jobs. A further approach (which is the most ambitious) involves strengthening the regulation of non standard employment forms in order to reduce ambiguities.

Resisting the spread of precarious work

In **Slovenia** around 250 freelance media workers at the state owned broadcaster RTV were transitioned onto permanent contracts following a management-union agreement (SI-2). This was achieved with significant union support from the Slovenian Labour Inspectorate, combined with financial pressures on the employer from legal compensations paid to workers who challenged the use of commercial rather than employment contracts for a large share of professional workers. A similar story is found in the **UK** higher education sector where unions have been successful at supporting workers with temporary contracts to move into permanent contracts, while also imposing ‘flexibility costs’ in the form of enhanced severance packages and redeployment opportunities on

employers who continue to use a high share of fixed-term contracts instead of permanent contracts (UK-4).

Despite high levels of labour market flexibility in the UK, temporary agency work makes up a relatively large share of the workforce, and as TAWs do not share the same legal status as 'employees' they are not entitled to certain minimum employment rights such as maternity leave, notice periods and protection from unfair dismissal. Temporary agency work is often promoted as an entry route to the labour market for the unemployed but there is however a trade-off between the availability of job opportunities for less skilled and experienced workers, and the intense cost competition in those sectors where agency work is prevalent such as construction and warehouse work which keeps wages low. Evidence from the UK logistics sector suggests that while agencies shape the supply of labour, they also increasingly help shape the labour demand of clients by providing an expanding range of services to screen workers and reassign those who are not deemed to be a suitable 'fit' (UK-2). Although agencies may support temporary workers to move into permanent employment where possible, the long term nature of agency placements means that there are few incentives for client firms to increase the overall share of directly employed workers. Furthermore, despite the presence of a two-tier collective agreement over pay and conditions, trade unions were unable to prevent the local downgrading of pay for permanent workers which meant that the harmonisation of pay for agency workers was achieved in a context of 'levelling down'. A similarly mixed picture is found in **the UK** case study of the food production sector where trade unions at two sites pursued different strategies of resistance to the use of agency work (UK-3). One plant actively resisted the introduction of agency workers which was seen as both a direct threat to directly employed staff while also setting new lower benchmarks for pay and conditions. Following a two week strike management backed down and converted agency contracts to permanent contracts, and limited the use of agency work to 'emergency' situations. However, the positive gains were short-lived as management closed the entire plant less than two years later with the loss of over 100 permanent jobs. Conversely, another plant which made concessions over the use of agency workers has seen the total workforce expand, but at the expense of reduced pay and conditions for all workers.

Raising standards for workers in precarious forms of employment

In contrast with resistance strategy seen in the Slovenian and UK cases, social dialogue in Denmark has been important in improving standards for temporary agency workers. To an extent, both unions and employers see TAW as a buffer which helps protect the jobs of SER workers at times when demand is low, but at the same time, the lower pay and conditions for agency workers is a potential threat to standards across the entire workforce. Although take-up has been patchy, a joint union-employer task force for the manufacturing sector (since 2014) has assisted social partners at local level to close protective gaps facing temporary agency workers (DK-3). The regulation of TAW is complex, with some workers covered by collective agreements for agencies themselves, whereas others are covered by agreements for a specific sector such as construction, or a combination of the two. Some agencies and client firms also operate outside of collective agreements which means TAW rely on basic legal protections derived from EU law (e.g. the right to equal pay after 12 weeks and opportunities to apply for permanent jobs). Even if the labour law and the collective agreements covering the manufacturing sector in principle ensure them similar rights as comparable employees in full-time permanent positions, many Danish temporary agency workers experience high levels of

job insecurity, low wages and career prospects, and restricted access to social benefits. In response unions in construction have pressed employers to reduce the share of TAW rather than try to improve their working conditions relative to directly employed workers. A change of direction came in 2014 when the social partners established a task force with employers through which issues of employment flexibility and the balance between SER and TAW can be discussed (pay and conditions are still handled through collective agreements).

In this particular Danish case study, job security has been strengthened by the ability to move into to a permanent position after 3-6 months, which the unions supported, and employers were keen to adopt in order to reduce potential conflicts in the workplace, and to retain the best workers beyond the completion of a temporary assignment. There have also been attempts to harmonise working standards between temporary and permanent workers by providing the same uniforms and safety equipment, and the provision of training between assignments helps to professionalise the TAW workforce while offering individual workers a chance to develop their skill set. However, the task force has only been used by a small number of firms which may be due to many being unaware of its existence or due to a preference to negotiate issues of flexibility directly with locally recognised unions. Despite the presence of both collective agreements and the joint task force, TAW still face an increased risk of low wages and limited job security.

Strengthening regulation to reduce 'grey areas' in the labour market

In **Spain**, self employment has long been a feature of the labour market, and reforms of the 1970s and 80s failed to deal with the issue of dependent self employment (where a self employed worker receives all of their work from a single client but no mutual ongoing obligations are set out in a contract of business or employment). In many cases these dependent self employed workers undertook the same tasks as employees but received lower rates of pay and conditions, which was compounded by limited job security from contract to contract. In this legal grey area, workers also often did not enjoy the freedom and flexibility of genuine self employed workers in that they had limited control over working routines and hours. Further legal reform in 2007 created a new category of dependent self employment (TAED⁶⁵) which in principle clarified the distinction between employees and self-employed workers, and reduced the scope for employers to exploit ambiguities in legal status in order to reduce costs and transfer risks onto those in dependent self employment (ES-1).

However there is evidence that TAED workers have similarly low levels of autonomy over their work. Although the majority of TAED workers choose to work in this way in order to develop their careers or to balance work and family life, 37% ended up in a dependent self employment relationship involuntarily as a result of having lost a permanent job (and not being able to find another) or because of employer restructuring which replaced direct employment with TAED (some of which was a result of the financial crisis). In contrast with self employment in the latter part of the twentieth century which was typically in the transport sector (e.g. delivery drivers), TAED workers are largely found in professional occupations such as the media, education, specialist services and ICT.

⁶⁵ TAED refers to *trabajador autónomo económicament dependiente*, defined in the 2007 Labour Code for the self employed.

Whether this new hybrid category represents a strengthening of protections for formerly highly precarious workers or opens up yet another means for employers to substitute permanent employment contracts is open to debate. In the case of two bread production firms, both arrived at the use of TAED workers driven by two very different managerial goals. In the case of Panrico (a large domestic firm) self employed delivery and restock workers had their commercial contracts converted into TAED contracts which offered greater stability of employment and a marginal improvement in pay and conditions. This was achievable owing to the fact that terms and conditions for directly employed workers were relatively low. In contrast, in the case of BIMBO (a multi-national firm), the comparatively high level of pay and conditions for directly employed workers led management to dismiss all their delivery drivers and re-hire them as TAED workers in order to reduce labour costs.

Conclusion – levelling up or down?

The scope for employers to exploit ambiguities in employment status either to lower labour costs or to transfer risk onto vulnerable workers is a product of the interrelationship between the legal rules within a country, embedded mechanisms of social dialogue, and the differential bargaining power of workers who find themselves engaged in different contractual relationships with employers. Ensuring workers are aware of their rights is an important mechanism to prevent employers avoiding basic standards, and union advice and guidance can be critical to ensure that individual workers can move into an SER contract (where possible and where workers choose to). However, as important is the capacity to collectively organise and mobilise workers to narrow gaps in employment standards between contract types. The problem is that even where trade unions are present in those sectors where non-standard employment forms such as temporary agency work, sub-contracting, and self-employment are typically found, they may struggle to ‘level up’ standards to that of SER workers. In this situation, unions may have to trade off the degree of inclusivity in terms of the scope and coverage of certain standards (such as wages, working hours, job security and social protections) with the overall level at which these standards are set.

Closing enforcement gaps

The system of worker rights within a particular country is crucial to understanding the prevalence and nature of ‘precarity’ and how this shapes the specific experiences of workers. These rights may be enshrined in individual legal protections against discrimination, exploitation and unfair or arbitrary management power, or through mechanisms of joint regulation between social partners which help to set, upgrade and enforce minimum standards in the workplace. However, the presence of specific worker rights, along with rules and regulations which govern the behaviour of employers does not necessarily translate into an effective system of protection if these minimum standards are not properly enforced or considered legitimate. Employers may seek opportunities to reduce the cost and administrative burden of complying with minimum standards set down in law or in collective agreements. This may create various distortions in the economy and labour market by creating the scope for employers to undercut competitors on labour costs, and to exercise undue power over workers by withholding information, and blocking access to channels of justice and legal redress. More broadly, those employers operating at or beyond the margins of the regulated economy may use the threat of dismissal and the withholding of payment to prevent workers from raising concerns with the authorities.

One way in which all countries have sought to address the problem of enforcement is by increasing the size of fines for specific breaches of workers' rights, minimum wage payments, and health and safety law. The shock of higher fines along with greater individual legal liability of individual managers or directors may be an effective way to increase compliance, although without a minimally effective inspectorate, firms may be increasingly tempted to take a chance that breaches will not be detected or reported by workers. Those companies operating in the black or grey economy by definition fall outside the formal system of regulation and enforcement but even 'legitimate' firms may fail to document working time and wages correctly which further undermines issues of compliance.

Case-study evidence shows that social dialogue operates in multiple ways to ensure that rules and regulations are properly enforced along increasingly complex supply chains. There is evidence of an increasing role for novel forms of regulation in the form of voluntary codes of conduct and labour clauses in public procurement. Initiatives led by the trade unions have broadly taken one of two main forms: the 'activation' of individual rights through highly localised negotiations with employers over the use of different contract forms; and the monitoring and enforcement of collective rights through sector and supply chain initiatives aimed at promoting compliance with basic standards.

The activation of individual rights

In the **UK** higher education sector, the University and College Union (UCU) has been instrumental in 'activating' individual rights and entitlements by supporting workers to transition from fixed term and casual contracts into permanent employment (UK-4). Although atypical employment such as fixed-term contracts is well established in the sector, partly linked to grant funding for research, there is growing evidence that such contracts are being manipulated by management to transfer risk onto employees and to evade the obligation to convert fixed-term and casual roles into permanent posts. For example there is evidence that even teaching-only posts are being offered on a fixed-term basis where candidates are not thought to be of a high enough calibre to merit a standard open-ended contract. Fixed-term posts for under two years' duration may also be created by employers specifically to avoid the additional rights to severance pay and unfair dismissal protection that accrue after two year's continuous service. This however gives fixed-term staff little chance to develop skills as they do not enter a probation period with the same level of support and supervision as a permanent employee. Furthermore, the extensive use of fixed-term contracts may do little to improve the reputation of higher education establishments when recruiting externally, and may offer few incentives for promising early career researchers to remain loyal.

The UK's University and College Union (UCU) have attempted to bargain with employers over creating more permanent posts and supporting staff to build a business case to convert fixed-term posts to permanent ones, but a lack of good data on the use of atypical contracts within and between establishments is a significant impediment to the systematic reduction of precarious work. A proportion of lecturing staff with skills and experience which are in demand may be happy to remain on an hourly paid casual contract, but it appears that a considerable share of post-doctoral teaching staff are channelled into hourly paid work in the hope that a permanent job may eventually open up. In the meantime these highly skilled workers find themselves in a weak bargaining position and are at real risk of low and variable earnings.

Unions in the media sector in **Slovenia** have been successful at ensuring a wider range of workers benefit from the rights and standards set down in the SER by pressing employers to reduce the share of non-standard contracts (SI-2). Concerns have been raised about the growth of involuntary freelance work, which can be insecure and leaves workers with limited social protections. For some trade unions representatives this growing share of freelancers is actually a sign of growing number of “forcedlancers” that cannot choose voluntarily their type of employment, but were forced into it.

The blurring of the boundaries between civil work contracts, independent journalism, and economically dependent self employment means that establishing the mutuality of obligation between employer and employee is difficult, and many workers are not aware of their rights (and are afraid to challenge substandard pay and conditions). Many workers may formally be engaged under a freelance civil work contract but work for the same client in the same workplace for long periods (which implies regular employment relationship) but this kind of grey employment confers few formal employment rights. Young part-time workers engaged on civil work contracts (who may be students or recent graduates) are particularly vulnerable owing to the fact that both media firms and unions have few provisions for legal support for students should their work be challenged.

In 2005 the collective agreement for professional journalists clarified both the concept of freelance journalism, along with the specific rights of freelance workers. This agreement stipulates that rates of pay for freelancers cannot be lower than that for ‘comparable’ directly employed workers. However, this agreement does not fundamentally challenge the existence or widespread use of freelance contracts, and leaves open the determination of contract types, and the choice of ‘comparable’ roles to local negotiation. This creates significant scope for the localised use of atypical contracts, and for the downgrading of pay comparisons to reduce labour costs. Labour inspections in 2007 uncovered the widespread use of freelance work, even for roles which would typically be regarded as ‘core’ such as the operation of cameras and sound equipment and editors. In response the trade unions have attempted to raise the professional profile of media workers and in particular freelance workers, but the greatest scrutiny of employer non-compliance has been driven by the inspection of individual firms, and lawsuits brought by workers themselves (the unions tend not to bring legal challenges on behalf of groups of workers).

The monitoring and enforcement of collective rights

In **Germany**, voluntary agreements which commit clients at the top of meat supply chains to improve working conditions and enforce basic entitlements such as the minimum wage among subcontractors have seen a reduction in employers’ use of non-standard work and posted workers that had been providing a means of evading obligations (DE-1). The German meat processing industry was long regarded as a prototype low-wage industry in the manufacturing sector, and because of the absence of industry-wide minimum wage standards and the increasing use of contract labour companies, particularly from Eastern Europe, the industry became the exemplar for wage dumping strategies. In response to competitive pressures, many German firms resorted to the use of posted workers from Eastern Europe whose pay and social security contributions were determined by the country of origin (and not the host country), which gave employers scope to significantly reduce labour costs. This damaged the industry’s reputation and created the impetus for improving working conditions across the sector, which would both improve the public image of the sector and prevent unfair competition. The introduction of an industry minimum wage in 2014 has generally

been effective at raising wages without leading to job losses, and there is good evidence that employers view the wage rate as a legitimate means of preventing undercutting. In addition, the development of voluntary codes of conduct increases the commitment of firms to improving working conditions throughout the supply chain, and sets out the responsibility of those at the top of the supply chains to properly monitor and enforce standards among suppliers including labour contractors. Works councils and unions broadly see voluntary codes of conduct as a step in the right direction, but feel there is still a need for an industry-wide binding legal solution that restricts the use of contract workers. Increasing the pay and conditions of atypical workers was important to prevent unfair competition, but at the same time it was argued that individual firms which moved quickly to comply with the codes of conduct would suffer an economic disadvantage in the short-term which was a risk to jobs overall.

In **Spain** a new legal limit placed on the number of subcontracting tiers is designed to maintain a stronger link between the top and bottom of the construction supply chain and ensure that health and safety issues are properly addressed by contractors at each level (ES-2). Accidents in the workplace are a growing concern for social partners and workers, but the 'chain' subcontracting of work to smaller firms can mean that working conditions and safety standards are not maintained at all tiers of the supply chain. In response one of the major Spanish construction unions started a campaign to address this issue by proposing the limitation in the number of successive times that a given constructive activity could be subcontracted (chain subcontracting) as a mean to improve safety. In turn this was also a means to collectivise the voice of thousands of citizens through legislative reform. The union presented the requisite 500,000 signatures for a Popular Legislative Initiative (ILP) to the Spanish Parliament in 1998 under the campaign banner '*Nos va la vida*' or 'we risk our lives'.

Progress was however frustrated by the incumbent conservative (Popular Party) government who rejected any attempts to interfere in 'free' market economics. Growing cross-union support for the initiative and a general strike did little to sway parliament, but a change of government in 2004 to the socialist party saw broad agreement of the principles in the ILP, and resources committed to speeding up the implementation. The Law for Regulating Subcontracting in Construction (LRSC), was made effective from April 2007, and alongside provisions for a minimum share of 30% of permanent employees among contractors and mechanisms of information and consultation, the law clearly set out a shared liability for employment standards and health and safety between contractor and client, and crucially that work could only be sub-contracted to a maximum of three levels. Although work could transfer horizontally between firms an unlimited number of times, reducing the vertical fragmentation of work was expected to ensure greater transparency and control over working practices among different levels of the supply chain. Evaluating the success of the legislation is difficult owing to the dramatic decline in construction jobs across the sector as a result of the financial crisis, and a restructuring away from larger firms towards smaller firms (who are more likely to circumvent rules and use informal/illegal labour) and self-employment. Although the unions felt compliance with the law is good among large firms where trade unions are likely to be present and dedicated resources may be available for monitoring of health and safety, smaller firms and self-employed workers "out of reach of the TU and the labour inspectorate are like the jungle".

The inclusions of labour clauses in public procurement in **Denmark** has become an important mechanism for raising employment standards among the sub-contracted workforce, and also

establishing a principle of chain liability for enforcing standards at each tier of the supply chain (DK-1). This was largely in response to the growth of public procurement and outsourcing of public services to private contractors, where wage and working conditions can be far below the labour standards outlined in the Danish collective agreements. Although labour clauses are only mandatory for governmental organisations, most Danish municipalities – 90 per cent - have also applied labour clauses in public procurement and outsourcing when considered appropriate. However, concerns have been raised about the ability and willingness of municipalities to properly enforce standards throughout the supply chain (particularly where they are highly reliant on private contractors to deliver services such as cleaning, catering and care services).

Evidence suggests that compliance in the Copenhagen municipality is relatively good which is largely due to the appointment of an external auditor: only seven percent of the risk-based inspections conducted by the independent auditing unit led to further investigation and infringement cases. Violations of the labour clauses typically entailed private subcontractors' failing to pay sufficient pensions contributions or holiday entitlements, over-time payments and sick pay – issues that often were solved through dialogue with the involved parties and resulted in the private contractor paying the outstanding amounts to the employees. Only in few instances had the municipality of Copenhagen cancelled – or not renewed - the contract with the private contractor as a result of non-compliance. However, without knowing the frequency and depth of inspections, and what mechanisms are in place for workers themselves to raise concerns, it is not clear whether the low level of breaches is due to good compliance or a lack of proper scrutiny. In areas such as subcontracted cleaning where many migrant workers are found, many workers may not be aware of the rights and standards set down in collective agreements or in labour clauses.

Labour clauses are an important mechanism to raise material employment standards among subcontractors, and can operate as a form of quasi-labour market regulation by setting a de facto 'benchmark' of working conditions within those sectors and industries where collective agreements are weak or absent. At the same time, the social partners have expressed some concerns about the threat to embedded forms of social dialogue from the spread of labour clauses which are typically seen as a complement to existing systems of joint regulation in the Danish context. Furthermore, where independent audit mechanisms are not used (as is the case in many municipalities), labour clauses are seen by the unions as a means to protect the reputations of political and business interests as opposed to a genuine attempt to enforce better standards throughout the supply chain.

Efforts to tackle informal and illegal work in tourism in the south of France (FR-1_ were partly successful in that employers, unions and government representatives were brought together to discuss issues surrounding seasonal work, but issues remain where workers are engaged by smaller family run and beach side traders, who may not declare all earnings.

Conclusion: closing enforcement gaps as a means to create a level playing field

Social partners across a number of countries have attempted to reduce the share of non standard employment forms used by firms and sectors in order to ensure a wider range of workers benefit from the highly codified standards which SER workers are typically entitled to, while also seeking to counter employer efforts at evading basic entitlements. The unions have leveraged their local working relations with both employers and employees to build a business case for individual staff to

move into permanent work, but are also increasingly using public campaigning to highlight issues of precarity among both low wage and professional workers (UK-4, SI-2).

The monitoring and enforcement of employee rights whether set down in collective agreements or legislation is an important mechanism of labour market regulation, and one which social partners are actively engaged in as labour inspectors are stretched thinner (DK-1, DE-1). In some cases this is largely a bureaucratic role (e.g. checking paperwork, working time and pay slips), and can rely on the knowledge of individual workers to detect breaches and raise concerns with their union and employer (FR-1). Unions are also increasingly involved in developing and monitoring voluntary codes of conduct which set higher standards for a whole sector or industry. In some low wage sectors where migrants and posted workers are found, employers are receptive to voluntary codes of conduct (as an alternative to more binding conditions in collective agreements or labour law) in order to improve the tarnished reputation of the industry while also reducing the scope for unfair competition from rogue firms.

However, while binding rules such as minimum wages are generally well observed by firms and viewed as legitimate instruments to regulate competitive markets, some employers appears to circumvent rules on payment for holidays, overtime and working hours through undeclared labour and unregistered paid hours. Similarly, the fragmentation of work across a complex network of subcontractors and labour providers can disperse responsibility for checking and enforcing standards across a wide range of actors. Although the sanctions available to labour inspectors and other government bodies have generally increased, those firms operating on the margins of the economy are still unlikely to comply with the rules wherever they can establish competitive advantage in the market through non-compliance.

Fragmenting work: value chains and protective gaps

Outsourcing of public services and subcontracting within the private sector have immediate consequences for social dialogue, as it moves parts of the workforce out of reach of those institutions and actors that had previously been responsible for determining their working conditions. Even if the contracted companies remain covered by a collective agreement or negotiate working conditions with employee representatives at the establishment level, the resulting terms and conditions usually do not provide the same level of protection as those prevailing in the public sector or at the contracting (client) company. This fragmentation of industrial relations and the associated protective gaps have become an issue of increasing public and political concern, not least as a result of a growing use of outsourcing by employers as a means, in part, to circumvent established labour standards and of reports about cases of extremely exploitative forms of work at subcontractor companies. A number of case studies in our sample explore the role of social dialogue initiatives in addressing the fragmentation of work along the value chain, discuss the issues and challenges at stake, and analyse the preconditions as well as potential limits with regard to the goal of reducing protective gaps. They thereby add to the emerging body of literature on industrial relations stretching beyond organisational boundaries, which complements evidence of the vertical disintegration of firms and the increasing importance of production networks, including cross-border chains (Marchington et al. 2005; Deakin and Koukiadaki 2009; Brown and Wright 2013; Grimshaw et al. 2015; Jaehrling 2015; Deinert and Helfen 2016; Refslund and Wagner 2017).

What role for social dialogue? An overview of measures at national and local level

A number of statutory and non-statutory instruments of social dialogue seek to impose limits on the extent of degradation of working conditions at lower levels of the value chain. They can address the contractor, the subcontractor company or both (see table 15.2).

Table 15.2. Overview of the main types of provisions addressing protective gaps in subcontracted work

Rules addressing the public or private contractor	Rules addressing the subcontractor company
<ul style="list-style-type: none"> Provisions imposing limits on contractors' freedom to award contracts and to freely choose subcontractors (e.g. by defining quantitative and qualitative conditions) 	<ul style="list-style-type: none"> Provisions obliging or pressurising subcontractors to recruit employees from predecessors and/or to observe certain minimum standards <i>(e.g. through TUPE or pay clauses in public procurement)</i>
Rules addressing both contractors and contracted companies	
<ul style="list-style-type: none"> Provisions forcing or incentivising the different entities (contractor + subcontractor) to cooperate (e.g. on matters of health and safety or on working time issues) 	
<ul style="list-style-type: none"> Provisions determining how responsibility for working conditions should be shared between contractor and subcontractor (e.g. through joint and multiple liability schemes). 	
<ul style="list-style-type: none"> Monitoring and sanctioning tools, demanding contractors and/or subcontractors to follow transparency rules, set up own internal monitoring/compliance systems and to cooperate with external agencies 	

The national and local level regulations in our six countries differ of course, not least with regard to the role played by actors and instruments of social dialogue. Firstly, the **provisions themselves** can be either laid down in legislation or in agreements between employee and employers' representatives and possibly other parties. For example, alongside statutory regulations in public procurement legislation (DE-2, DK-1, ES-1), the examples in our case studies include:

- a *unilateral self-commitment* by employers in the German meat industry to improve working and living conditions of posted workers (DE-1), and a *unilateral voluntary charter* on care commissioning developed by trade unions and to be signed by local authority commissioners in the UK (UK-1), in order to improve pay and other working conditions of care workers;
- *bi-lateral collective agreements between trade unions and employer representatives* in the German meat and steel industries (DE-2, DE-3), the French cleaning industry (FR-4), and in the Spanish catering industry (ES-3), by which the contracting companies commit themselves to improve working conditions of employees working for their subcontractors (DE-3) or by which the subcontractor companies commit themselves (ES-3, FR-4), or are obliged to do so through extension of the collective agreement (DE-2);
- a *bi-lateral agreement between an employers' association and a public authority* at the regional level in order to include a social clause for 'day/continuous work' in public tenders for cleaning work (FR-4);

- a *multi-lateral cooperation agreement* between trade unions, employer associations and regional public bodies to set up a fund providing training and securing occupational pathways of employees in the personal services sector (FR-2).

Secondly, even where the rules are laid down in legislation, collective actors, and in particular trade unions, may be a decisive driving force in the **decision-making process leading up to the adoption of the respective provisions**. For instance, the trade unions launched a campaign ultimately leading to the adoption of a law in 2006 in Spain that limits subcontracting in construction to three vertical levels (ES-1). Also, it is not coincidental that the adoption of advanced practices of socially-responsible procurement in Bremen (DE-2) and Copenhagen (DK-1) was strongly promoted by local governments led by the Social Democratic Party, with their traditionally strong ties to the trade union movement. In the Danish Case, trade unions have also pushed for better control mechanisms, not only through lobbying but also via their participation in various collaboration committees. It is noteworthy too, that in the German case, part of the social clauses were also responding to concerns raised by employers' organisations, while in the Danish case employer organisations took a rather critical stance and tended to regard the labour clauses as an illegitimate and unwelcome intrusion in the field of collective bargaining since they clashed with the traditionally voluntaristic model of industrial relations.

Thirdly, the provisions can attribute a greater or smaller role for industrial relations actors in the process of **implementing and monitoring the agreed measures**. Where collective actors have unilaterally set up or bilaterally agreed on certain rules, it is evidently primarily up to themselves to watch over the proper implementation and monitoring of the provisions. For instance in the UK case of care commissioning, it required substantial efforts and resources from the local trade unions to encourage the local authority to sign up to the voluntary (national) charter, and subsequently to engage with care providers in order to support the implementation. In a similar vein, the collective agreement in the case of the German steel industry (DE-3) encourages steel companies to subcontract preferably with those companies covered by a collective agreement. Its implementation hinged essentially on the trade unions' successful efforts to organize employees in subcontractor firms and to conclude collective agreements with their employers. In the French cleaning industry (FR-4), union representatives participate in a mediating committee that deals with employee/employer conflicts which often relate to a provision in the collective agreement defining employees' rights in cases of a change of contractor. In the Danish Case on public procurement (DK-1), the municipality also formalised the involvement of social partners by setting up industry-specific social dialogue forums in the construction and the cleaning industry, as a means to inform and consult employers and employee representatives over issues relating to the implementation and monitoring process, such as the specific content of clauses in the public contracts or the organisation of the inspection procedures.

Overall, as we can see, these initiatives extend the responsibility for protecting workers' rights in subcontracting processes to organisations other than the direct employer only, thereby **stretching the scope of social dialogue across organizational boundaries**. This mirrors the production and contractual interdependencies of companies in the value chain and the fact that several actors, including public authorities in several cases, de facto influence working conditions in subcontractor firms. As we can also see, these examples do not conform with classical typologies of industrial relations systems (see, for example, European Commission 2009: 45-49), opposing for instance the

‘state-centred’ model (represented by France and Spain in our sample) and the ‘organised corporatism’ cluster (represented by Denmark), with their varying strength and bargaining autonomy of collective actors and the different degree to which the state intervenes in this field. Rather, a common feature of these initiatives is that there is a **close intertwining of legal and collective regulations**, in various ways:

- Firstly, as is well known, legal regulations (or even discussions about legal reforms) on matters relevant to subcontracting can cast a ‘*shadow of hierarchy*’ (Scharpf 1991) that may induce employers to take action in order to avoid more far reaching re-regulation through the law. This is a general feature stimulating the conclusion of collective agreements in France (Kornig et al. 2016: 72), but also a factor stimulating employers’ engagement in some of the cases studied (e.g. DE-1, GER 3).
- Secondly, legislation such as pay clauses and chain liability rules can *increase costs and risks* associated with the use of cheap subcontractors, thereby impelling firms to engage more strongly in monitoring and improving employment conditions in subcontractor firms or to negotiate on alternative employment forms (DE-1, DE-3, DK-1, UK-1).
- Thirdly, there are examples of *combinatory regulations*, where collectively agreed norms duplicate statutory rules (DE-3), or vice-versa, where statutory rules such as pay clauses are based on collectively agreed norms (DK-1, DE-2), or where agreements involving state agencies follow up on norms developed by social partners (FR-4, UK-1), all with a view to extending the scope and improving the enforcement of these rules and making them a concern of more actors.
- Finally, there may also be a *complementary relationship*, in the sense that the enforcement of, for example, pay clauses is facilitated by trade unions’ support for migrant workers employed in subcontractor firms (DE-1) or where pay clauses facilitate trade unions’ efforts to force subcontractor companies to sign a collective agreement (DK-1).

Another common feature of many of these initiatives is that they are based on **negotiations on behalf of third parties**, where at least one of the two parties principally affected – employees and employers of the companies whose working and employment conditions are the object of the negotiations – do not themselves have a seat at the negotiating table (Jaehrling et al. 2016: 49). As we shall see, this configuration implicates specific challenges for the implementation and monitoring process.

These mixed and hybrid forms of ‘industrial relations’ across the countries in our sample certainly do not generally challenge the well-known industrial relations typologies mentioned above, given their limited scope and the fact that they are often identified as ‘best practices’ or ‘atypical’ examples by the actors themselves. Nevertheless, they indicate that across the different clusters of industrial relations systems, the traditional forms of social dialogue are obviously regarded as insufficient to solve the problems relating to the fragmentation of work along the value chain. This in turn also does not mean that the examples studied here are antecedents or proto-types of an emerging model of industrial relations on which all national models will more or less converge over the long term. They remain, as our case studies show, deeply embedded in the general national and industry specific industrial relations systems, including their strengths and weaknesses. But they reveal some of the issues at stake, as well as the challenges, potential successes and limits of these extended forms of

social dialogue associated with the fragmentation of work. The following section considers these issues.

What protective gaps, what solutions, what challenges?

The protective gaps targeted by these initiatives are very broad, including issues that are not specifically tied to the subcontracting process, such as the **low level of wages**. In the case studies where pay is a priority issue (UK-1, DK-1, DE-1, DE-2), the initiatives are mainly aimed at the introduction and enforcement of hourly wages that are defined as a decent minimum for a region or an industry; with the exception of the Danish case the proposed pay standards mostly remain substantially below what can be termed 'equal pay' - with collectively agreed wages covering the public sector (in case of public procurement) or the main contractors. Still, where successful, the pay uprating often constitutes a substantial improvement for the employees benefiting from them. This tells us a lot about the ex ante status quo, which remains the status quo in many other firms and regions outside the scope of these initiatives.

A further gap is that they mostly target *hourly* wages, whereas in some industries the issue of the **low number of working hours** and the resulting low monthly income is at least as pressing a problem. Some of the initiatives, however, make this fragmentation of working time a key issue –for example, in outsourced cleaning (FR-4), catering (ES-3), home help (FR-2) and care work (UK-1). Offering jobs with a higher volume of hours and a more continuous work day (without split shifts or frequent interruptions not counted as working time) is an ambitious task in particular for the subcontractor companies themselves as it requires not only diligent staff planning, but also requires them to make contact with the clients on whose sites or on whose behalf the work is performed in order to convince them to accept different working hours – in a very competitive environment. In the French cleaning industry case (FR-4), this commitment on hours meant for one of the cleaning companies that they had to specialize on certain clients and stay away from various client markets (hotels and even public tenders) where clients were unlikely to accept these constraints.

The issues targeted by the initiatives also include a number of gaps that are specifically caused or accentuated by the fragmentation of work along the value chain. For instance, one important issue across case studies is health and safety. This is partly related to the nature of the work, as many of them are manual occupations. But subcontracting seems to intensify the associated risks. For instance, as the report on the Spanish construction industry notes (ES-2), the fact that workers are more often employed on temporary contracts means that they have shorter experience in the firm and are therefore more exposed to work-related accidents which usually happen in the first weeks of work. A lack of communication and cooperation between subcontractor and the main contractor on whose sites works or services are carried out might also contribute to a responsibility void in terms of health and safety matters. Finally, and probably most importantly, the strong pressures on prices - that tends to increase with the length of the subcontracting chain - can lead subcontract firms to cut down on expenses for health and safety related equipment and paid time (see FR-4) and to increase workloads to levels that are damaging to employees' health and safety. All these reasons are likely to contribute to the high accident rates in subcontract firms that are reported in four cases (see ES-2, DE-2, DE-3, FR-4), or the high incidence of incapacity to work and burnout (FR-2). In two cases (ES-2 and DE-3) it was primarily these issues that were the bone of contention triggering initiatives aimed at improving health and safety – e.g. by limiting subcontracting and requiring subcontractors to

employ a certain share of employees on open-ended contracts (ES-2) or by intensifying cooperation, monitoring and control of health and safety measures (DE-3).

Another protective gap specific to the subcontracting process is a lack of **job stability and stability of employment conditions**, which is related to the frequent change of subcontractor companies on the same site and undertaking the same task -in particular in cleaning (FR-4), catering (ES-3) and care work (UK-1). Several initiatives include provisions aimed at enforcing or even upgrading the minimum requirements defined by the national laws implementing the European Acquired Rights Directive. As the French (FR-4) and the UK (UK-1) examples illustrate, however, the character of the jobs often means that employees are either not eligible for the protective rights (because of a too short duration of contracts or too limited volume of hours for the same client) or that these rights signify very little (because of the uniformly low level of wages across the industry).

Among the challenges for these initiatives, one that could be expected to arise is that **interest aggregation across organizational boundaries** is particularly problematic within the employee camp, due to diverging insider/outsider interests: employees in the main contracting company might, for example, tacitly acquiesce in their employers' strategy to lower costs through the use of subcontractor firms. On the other hand, (migrant) workers might tacitly acquiesce in their employers' undercutting strategy, thereby potentially clashing with the interests of the main contractor's employee representatives who want to protect their own clientele against 'social dumping' (cf. also Bernaciak 2014: 25). However, as several of our case studies illustrate (DK-1, DE-2, DE-3), it is absolutely possible to push such divergences into the background and develop trade union positions and strategies that take into consideration the interests of both sides as part of a more inclusive approach. Yet these examples also make clear that a successful interest aggregation across organisational boundaries should not be taken for granted, and is the result, rather than a precondition, of clearly defined initiatives that explicitly seek to bridge gaps among workers in the fragmented value chain.

Limited monitoring resources vs. unlimited use: Enforcement mechanisms and enforcement gaps

The most important task, and also the most important challenge, in almost all our case studies is the monitoring and enforcement of the agreed provisions. This is also due to the specific configuration of subcontracting: it often requires the actors to **monitor and enforce standards across organizational boundaries, sometimes also national boundaries** (in the case of cross-border subcontracting). The initiatives therefore have to develop suitable mechanisms to generate detailed and truthful information from companies that have not necessarily voluntarily committed themselves to this kind of policies (as these are often a result of negotiations on behalf of third parties, see above).

The case studies present a variety of instruments in addition to the traditional state inspections, including both **external and internal monitoring systems** – 'internal' refers to cases where the contractor itself carries out the controls among subcontractors. Controls by external units – such as in the Danish public procurement case where risk-based spot checks are done by Bureau Veritas (DK-1), or in the German Meat Processing industry (DE-2) where annual checks are carried out by chartered accountants – probably have the advantage of being more independent and therefore reliable. On the other hand internal compliance systems such as those deployed in the case of the German Steel industry (DE-3) at least have the potential advantage of relying on more detailed and

more continuous information. An obvious conclusion is that combining both types would be the ideal way. In both cases, there are however certain **legal difficulties standing in the way of obtaining information and enforcing sanctions across organizational boundaries**. This is well-documented and certainly most pronounced in cases of cross-border subcontracting, where cooperation and information exchange between administrative, inspection and enforcement bodies of different member states is known to be sluggish and makes prosecution often impossible (Jorens et al. 2012). But even within a country, legal rules – or at least dominant (and potentially biased) interpretations of what the law allows and what it does not – impose limits on the ability of control units and also trade unions to verify if companies are compliant with the provisions (see DE-3).

Another important problem is the **proliferation of small establishments and the temporary nature of commercial contracts which render control and enforcement almost impossible**. This problem was particularly noted in cases dealing with construction (ES-2, DE-1 and DK-1), but also in the French case on the cleaning industry (FR-4). In the Spanish and Danish cases, the proliferation of small establishments or even own-account workers with no employees was a result of the economic crisis; and in the Spanish case this meant that the law limiting subcontracting chains had a much reduced scope of coverage as it was primarily effective in large firms.

The problem quoted most frequently by our interviewees is the problem of **limited resources** or the massive **imbalance of resources in relation to the unlimited use of subcontracting**: *“We think the law is good, but the problem is the lack of resources to guarantee a high level of compliance”* (trade unionist, quoted in the Danish case DK-1). This quote captures the views expressed by many employee representatives and even some of the interviewed employers in our case studies (see in particular FR-4, DK-1, DE-1, DE-3). However, this also raises the question as to whether or not the general problem of limited impact of these initiatives can be solved by simply throwing ever more resources at monitoring, or if the case studies do not rather suggest the need to re-focus attention more strongly on further steps, namely the need to question to what extent it is the companies’ freedom to subcontract that should itself be more strongly constrained.

Giving voice to vulnerable workers

While precarious work can be found among many diverse sectors and occupations in the economy, certain workforce groups tend to be over-represented in precarious employment types for example young workers; those with few formal qualifications; women; and migrant and posted workers. Although institutional gaps such as low union membership density and collective bargaining coverage in principle affect workers of all types, there are structural features of the economy and labour market, along with structural limitations of the unions themselves which can make organising among the most precarious and vulnerable workers difficult. For example certain groups of workers such as migrant or seasonal workers may be highly mobile, and those on short-term and irregular hours contracts may not be at the same workplace for very long. Certain sectors and industries such as agriculture, food production and hospitality (where vulnerable workers tend to be clustered) are notoriously difficult to organise owing to the dispersion of workers across work sites, the complexity of labour supply provision through agencies and gangmasters, and the high churn of both formal and informal labour within small and ‘family firms’.

There are other barriers to representation. For example, migrant workers may not speak the language of the host country and therefore may not be aware of their rights, or of the positive role

which unions can play. Nevertheless, a criticism of trade unions in the past has been the failure to engage with workers in peripheral labour markets ('outsiders') in order to better represent the interests of those in core labour markets ('insiders'). The fear of legitimising precarious employment by attempting to represent the issues faced by workers engaged on such contracts may also result in unions only engaging in a superficial way. However, in recent years there is growing evidence that unions are attempting to reach out to a wider spectrum of workers. On the one hand this is perhaps an instrumental means of shoring up membership levels and prevent the further dilution of employment standards among SER workers. On the other hand it also reflects the gradual restructuring of mechanisms of worker representation away from large workplaces in vertically integrated industries, and the genuine efforts to include marginalised groups underpinned by the clear articulation of diversity and equality issues in the core aims of trade unions (Frege and Kelly 2003). Reaching out to vulnerable workers may be through traditional modes of workplace 'organising', but given the limitations of this approach in the past, unions may also make use of more fluid channels of engagement beyond the workplace which are rooted in local communities and reflect the interests of specific groups such as migrant worker communities (Wills 2006; Marino 2012). Unions may also leverage the concrete success of single issue campaigns such as the fight for living wages and action on social dumping to highlight the plight of vulnerable workers prior to more general organising.

Case studies from across the six countries investigated social partners' efforts to close institutional gaps by building bargaining strength across the whole workforce, and to close involvement gaps in representation for specific vulnerable groups. There is also evidence of actions to promote compliance with legal and collectively agreed standards, and to strengthen the rights of vulnerable workers to both employment and social protections.

The case-study data point to actions to strengthen representation for three main groups: migrant workers; young workers; and workers (typically women) in marginal part-time and variable hours roles.

Migrant workers

Efforts to extend the benefits of union protection to migrant workers are proving fundamental in many European countries. In **Denmark**, despite the rapid expansion of the EU migrant workforce from 10,000 in 2004 to 90,000 in 2014, union membership is very low among migrant workers, with estimates ranging from 12% among Polish workers living in Denmark, to as little as 6% among posted workers from Germany and Poland. The trade unions have tried in the past to extend collectively agreed pay and conditions to migrant workers but with limited success. Although wages for migrant workers are perhaps reasonable by international standards, they can be as much as 30% lower than for Danish workers and there are reports of employers routinely withholding pay and holiday entitlements.

There are specific approaches to improving representation which reflect both the organisation of production itself, and the dynamics of the migrant workforce. For example, some groups of workers move between countries and industries to find seasonal work in agriculture and tourism with the intention of returning home at the end of the season once they have earned enough money. Also, some workers in construction may 'commute' back and forth between the home and host country for a few weeks at a time as working schedules allow. In these two situations, unions may attempt to

organise workers in the workplace and strengthen standards but face the problem of membership attrition when workers leave again. Other groups of workers may work in a range of sectors but plan to settle permanently in the host country which gives the union greater scope to forge stronger links with migrant communities. Transient and commuting migrants are more difficult to organise than settled migrants by virtue of their movement between locations and employers, but may also be more suspicious of ‘institutions’ such as trade unions particularly those working in the informal economy. Building trust is therefore a key element of any organising efforts.

A positive case study of a fish processing company in Northern Jutland, Denmark found that despite fears of being fired by their employer, Romanian workers approached the trade union (3F) with a view to establishing a collective agreement over pay and conditions (which were far lower for migrant workers than Danish workers covered by collective bargaining), and started a lengthy process of building trust with local union representatives (DK-2). Although the actions of the workers themselves were instrumental in opening a dialogue with the union, once trust had been established a subsequent union media campaign highlighted the modern slavery conditions in the company and the union issued an industrial action against the company. This eventually resulted in the signing of a collective agreement with pay and conditions which followed industry norms, increased union membership density among the Romanian workforce to 70%, and the election of a Romanian shop steward. In contrast, the attempt to include migrant workers in the construction sector tended to flow from established mechanisms of organising, but with a focus on social, cultural and linguistic sensitivity to build links between Danish and migrant workers.

The living and working conditions of posted workers and migrant workers in the meat processing sector in **Germany** has become an increasing concern, with reports of low pay, long hours and substandard accommodation provided by labour contractors. This in turn has led to accusations from other EU countries of German firms achieving an unfair competitive advantage through ‘social dumping’. Low union density across the sector reflects a ‘structural’ representation gap, and the lack of coordinated employer representation at a sector level meant that the responsibility for regulating employment standards was dispersed across regions and firms. In response the unions pursued a multi-level strategy to tackle poor employment conditions (DE-1). The first level was an industry-wide minimum wage agreement signed in 2014 (prior to the adoption of a statutory minimum wage for the whole economy in 2015) which set out a timetable for a phased increase in base rates over a three year period. The second level was a voluntary code of conduct for meat processing firms which placed additional responsibilities on larger firms for regulating living and working conditions among sub-contractors who relied heavily on migrant workers. The final element was a voluntary agreement to improve working conditions and to integrate labour contractors into existing systems of social dialogue and worker representation. These measures combined were a significant achievement in improving standards for migrant workers, and firms were generally receptive to the notion of better basic standards to both level the playing field and improve the tarnished image of the sector, but implementation proved difficult owing to the fragmentation of social dialogue within the sector.

An effort to improve representation in **France** involved the formation of a ‘social space’ for cooperation and dialogue among social partners and local elected officials to address poor housing conditions and improving awareness of rights among seasonal migrant workers in the Languedoc-Roussillon region (FR-1). The CFTD union had struggled to organise seasonal workers (particularly those engaged in informal and illegal work through transient firms such as street and beach traders),

but the shift in the composition of the workforce from younger workers and students to the retired and long-term unemployed combined with the desire of local employers to develop 'quality' tourism and professionalise the seasonal workforce (which included migrant workers from Spain and Eastern Europe). This led to the establishment of the *Maison du Travail Saisonnier* – a 'Centre for Seasonal Work' in 2003/04 which combines elements of traditional social dialogue between employers and unions, with broader representative structures such as directly elected worker representatives, and officers from the local municipality. The main aims of this collaborative work were to stabilise employment for seasonal workers by joining up work across seasons (e.g. beach and winter resorts), to promote enforcement by making both employers and employees aware of their rights, and to improve accommodation for workers during the summer. Although positive gains were made in stabilising formal employment for small numbers of workers, the non-binding nature of the agreement between stakeholders meant that improvements were limited in coverage or short-lived.

Young workers

Young workers have also been a specific focus of union activity. In **Slovenia**, a great deal of public debate and collective action has focused on the increasingly precarious situation of young people who have historically been engaged on lower pay and conditions, or atypical contracts on the basis that they were working part-time while studying or were gaining labour market experience in entry level jobs. However, the growing problem of unpaid internships and unregulated freelancing (false self employment) have been a catalyst since 2010 for several new representative organisations to take up the challenge of articulating the problems faced by young workers such as The Movement for Decent Work and Welfare Society, and the Trade Union of Precarious Workers (SI-1). The largest new organisation is *Mladi Plus* (Youth Plus) which has around 3,000 members (and growing), and campaigns on unemployment, youth housing, career counselling and law counselling for their members.

Workers in marginal part-time and variable hours contracts

In **the UK** the care sector for older people (where vulnerable workers such as women in part-time and variable hours contracts and migrant workers are found), trade unions have struggled to follow members into the private sector following the outsourcing of local authority services, and the fragmentation of work across smaller firms makes organising difficult. This means that despite high levels of union membership and collective bargaining coverage among the directly employed workforce, voice and representation in the private sector remain low. This in part explains the significant gap in pay and conditions between the public and private sector, with recent reports highlighting issues such as workers not being paid for travel time (so that hourly rates are effectively below the statutory minimum wage) and the extensive use of zero hours contracts. The efforts of the public sector union UNISON to establish the living wage as the base rate of pay for contracted workers represented a significant step forward in improving standards for precarious workers, and the union hoped to leverage the localised success of the ethical care charter as a springboard to engage in dialogue with private sector care providers over training and development, and ultimately to organise workers in order to strengthen representation (UK-1).

The strong regulation of temporary agency work in **Germany** has arguably contributed to the spread of precarious work through labour supply contracts which are largely 'unregulated' either in law or through collective agreements (DE-3). The unions historically saw both agency work and labour

supply contracts as a threat to the core workforce but due to the low union membership density in those sectors where they are commonly found, efforts to organise tended to focus on the whole workforce rather than specific ‘peripheral’ groups. For example, low membership density across the meat processing sector was seen as a key driver of low standards, but the difficulties in organising posted and migrant workers combined with a lack of works council influence over the use of labour supply contracts meant that some highly vulnerable workers were not effectively represented (DE-1). Similarly low union membership density in sectors such as cleaning and retail where (mostly female) mini-jobbers are found, and the perceived limited power of mini-jobbers in terms of strike action, led the unions typically try to organise across the whole workforce at a plant or firm level (DE-4). However, this has produced mixed results. Employers continue to defend the use of mini-jobs, and despite union campaigns to properly regulate mini-jobs in the same way as TAW, the policy response has largely been limited to supporting the movement of mini-jobbers into insurable employment (e.g. which accrues unemployment benefits). In contrast, local strike action has been effective at raising wages and organising workers in sectors such as cleaning. On the one hand there are clearly structural representation gaps, namely low trade union membership and collective bargaining coverage, in certain sectors such as retail and cleaning, but on the other hand there are specific trade union, employer and workforce dynamics which help explain limited representation. For example, union organising efforts in the cleaning sector have proved to be more successful than in construction owing to the fact that workers (largely women in marginal part-time work) tended to be more receptive to the criticism levelled at employers for perpetuating mini-jobs and persistently low wages, whereas in construction posted and migrant workers were more suspicious of trade unions and were sometimes complicit in wage undercutting by employers in order to protect jobs.

Conclusion: Organising vulnerable workers -inside out or outside in?

Strengthening mechanisms of voice and representation for vulnerable and precarious workers remains a significant challenge for social partners across Europe. Although in the past unions have struggled to organise workers in the periphery (and in some cases have failed to engage with these workers in order to prevent a further erosion of standards for core workers), the case studies reveal innovative forms of social dialogue designed to bring in vulnerable workers such as migrants, seasonal workers, young workers, and those in marginal and variable hours contracts (typically low paid women).

One of the main issues which remains is whether to try and tackle institutional representation gaps that are primarily driven by the structural features of the sector or industry and which may for example mean that overall union membership density is low, or whether it is more important to tackle involvement gaps which may be more the product of specific workforce characteristics and the ability/willingness of unions to engage with workers, especially from vulnerable groups, in non standard forms of employment. Workplace organising offers potential ‘quick wins’ if workers can be persuaded to mobilise against localised employer practices, but the transience of certain parts of the workforce and the seasonal nature of work in some sectors can mean that these successes are difficult to sustain and replicate across a wider area (DK-2). On the other hand, attempting to organise across an entire sector takes considerable time and resources.

Organising among vulnerable workforce groups such as young workers and migrants requires both an adaptation of existing union structures and processes in order to reach out to marginalised groups

(e.g. cultural and language sensitivities), as well as an exploration of new ways to engage with workers through broader social channels in order to build relationships and trust with groups who may be suspicious of formal labour market 'institutions'. Although these 'top-down' organising strategies may yield results, unions have to be careful not to reduce the capacity for workers to self-organise. For example the industry minimum wage in the German meat processing sector, which helped strengthen wage standards, was achieved largely as a result of negotiations between unions and employers to try and reduce unfair competition in the sector. It remains to be seen how well represented posted and migrant workers will be in future discussions about the enforcement of minimum wages and voluntary codes of conduct. Conversely, the localised action to tackle slavery conditions in Denmark was largely initiated by the migrant workers themselves, which the union was then able to escalate through existing channels of social dialogue.

A final challenge is whether social partners should focus on specific groups of workers (e.g. migrant workers, young workers, women) or the type of contracts and working conditions which they typically experience. This partly comes down to a discussion about whether worker voice is seen as important in and of itself as a fundamental democratic principle in the workplace and labour market, or whether worker voice is a means to an end, that is to leverage the bargaining power of the workforce to challenge substandard and discriminatory employer practices.

Concluding thoughts: the dynamics of social dialogue across Europe -between innovation and tradition?

The data in this chapter underline the important symbiotic relationship between innovative forms of social dialogue and traditional or 'classic' structures of collective bargaining and works councils. In isolation, neither of these mechanisms are perhaps sufficient to close protective gaps, but there is good evidence that a positive mutually reinforcing effect can be achieved where organizations and actors are flexible and willing to learn from the experiences of others engaged in parallel processes to raise standards, organize workers, and promote local compliance (figure 15.1).

There is also a dynamic relationship between national/sectoral channels of social dialogue and local level partnerships between employers and unions. The data from across the six countries suggest that on the one hand, social partners have responded to and adapted to the fragmentation of product markets and labour market regulation by pursuing localised initiatives which prevent the spread of precarious work and improve standards for precarious workers, but at the same time trade unions and employers continue to provide a strong coordinating force for the adoption of progressive employment standards which are to the benefit of all.

There is certainly scope for innovative local level initiatives to produce tangible positive impacts for workers in terms of increasing wages and regulating working time which in turn have a clear impact on social protection. This was most clearly illustrated in the French case of care workers (FR-2) and large retailers (FR-3), and in the Spanish case of catering workers (ES-3). However, successful social dialogue also typically operates from within and is transmitted throughout existing sectoral and industry structures such as encompassing collective agreements. Furthermore, local level partnerships between employers and worker representatives are difficult to both sustain and 'scale up' where these coordinating structures are weak or absent (as in the case of small French retailers and sub-contracted cleaning, FR-4, in the Slovenian retail sector, SI-3, and in the UK case of older

people's care, UK-1). Similarly, collaborations between wide groups of stakeholders such as government agencies, civil society and campaigning organizations over specific issues and labour standards are arguably most effective when they are developed as a complement to existing structures of social dialogue as opposed to a surrogate for traditional joint regulation (DK-1, DE-1, DE-2).

Figure 15.1. Innovative forms of social dialogue



Nevertheless, voluntary schemes and codes of conduct implemented and monitored by social partners can be instrumental in focusing attention on specific gaps in rights and enforcement, and helping to addressing participative gaps by giving voice to marginalized workers who may not know their rights and who might not otherwise engage with trade unions. Furthermore, trade unions are increasingly responding to these wider social dynamics, and making efforts to reach out to ‘outsiders’ such as young workers, women and migrants. Where the adaptation of democratic and participative structures does not proceed quickly enough, new self-organised representative structures and groups may arise which reflect the increasing heterogeneity of the workforce.

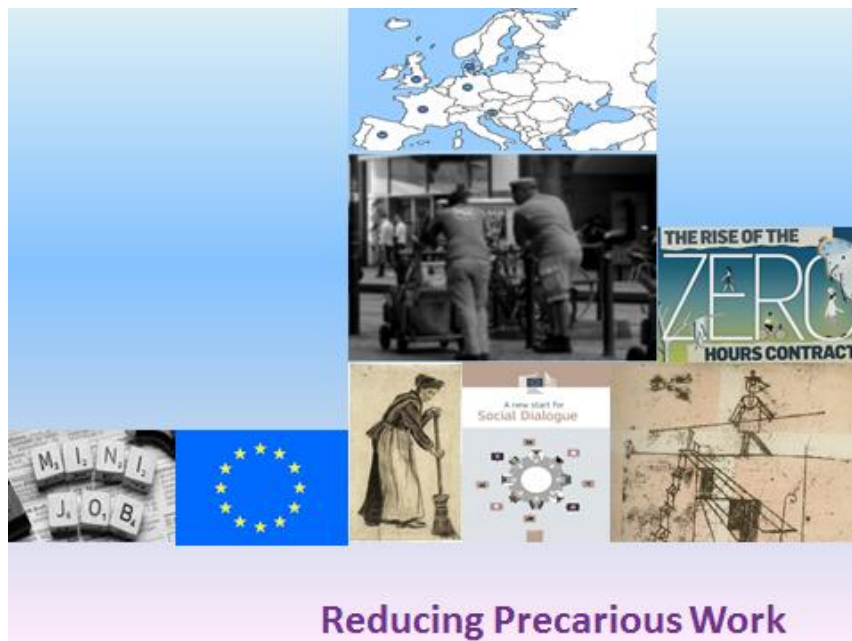
The data also show that although country models of industrial relations are important in shaping both the process and outcomes of social dialogue, it is clear that cross-national sector comparisons are increasingly important to understand mechanisms of joint regulation and the changing power relations in the labour market. This reflects not only the segmentation of the workforce along sectoral lines (e.g. the clustering of women in low paying roles within health and social care) but also the fact that changing systems of production are increasingly relevant to our understanding of both protective gaps and the ways in which they can be closed. For example, representative gaps in the UK are partly the result of de-regulated labour markets and legal restrictions on trade union activity, but are also a function of the vertical disintegration of production through outsourcing and offshoring that requires unions to organize workers in dispersed locations and along complex supply chains.

This in turn generates new opportunities to leverage mechanisms such as labour clauses in procurement processes (across both the public and private sector) to develop inclusive standards which protect workers in the most marginal parts of the labour market (evidenced by the number of cases of social dialogue which fall within the value chain theme -DK-1, FR-2, FR-4, DE-1, DE-2, DE-3, ES-1, ES-2, ES-3, and UK-1). Employers have proved to be largely receptive to such innovations where higher standards set new benchmarks within an industry or sector, and prevent unfair competition from either overseas firms who are not bound by the same rules and rogue companies operating at the margins of the economy. Similarly in the case of public procurement, firms have (perhaps unsurprisingly) been positive about the moves of municipal councils to increase funding for both the delivery and monitoring of services. In this way, even non-binding codes of conduct operating in 'the shadow of hierarchy' can be a motivator for companies to engage in social dialogue as an alternative to further legislation, thus preserving and strengthening the voluntaristic foundations of joint regulation.

Part 5

What lessons for reducing precarious work?

16. Recommendations for policy and practice



16. Recommendations for Policy and Practice

This report on reducing precarious work through social dialogue has aimed to contribute in four ways to the wide ranging debates on how to promote less precarious and more decent work. First by adopting an innovative approach to defining precarious work, through identifying and analyzing protective gaps, we move beyond its association simply with non standard forms of employment and reveal the range of risks to which workers may be exposed in all forms of employment including the eroded forms of protection in some types of full-time permanent work. Second by recognizing the complexity of employment divisions by both employment form and types of protective gap, we also move beyond the simplified notion of labour market dualism or insider/outsider models and recognize the many directions in which re-regulation of labour markets may lead, from levelling down or polarisation to harmonisation and ultimately the goal of more inclusive labour markets.

The third contribution of this report is to extend the analysis of the role of social dialogue by including new and innovative forms of social dialogue that go beyond the boundaries of the core social partners and which embrace new and innovative forms of organisation and protection on the margins of the core workforce. This extension of social dialogue is matched by a recognition of its limitations in a world where there are increasing opportunities for employers to evade regulations and for states to cut back on enforcement.

Finally we consider the likelihood of pressure towards reversing the trends towards more precarious work and the need to create more inclusive labour markets. Although European states have been active in promoting flexible labour markets and precarious and low paid forms of work, the costs of these policies are also becoming evident in the form of high demands for state support to counter in-work poverty, fewer opportunities for younger generations to form stable and self sufficient households and expectations fueled by the media that states still have responsibility for abuses of basic human rights or breakdowns in the quality and reliability of key services due to problems of high turnover and low commitment workforces. The overarching contribution of the report is to point to the inconsistencies and tensions in the current trends towards more precarious work and to argue that stable employment on decent wages is essential to underpin the future of both productive labour markets and strong welfare systems.

The value of a protective gaps approach to understanding precarious work

Exploring precarious work through the framework of protective gaps enabled us to shed new light on the nature of protective work in five main ways. First it enabled us to focus on the problems of precarity along four dimensions thereby expanding the range beyond the standard employment rights approach to include social protection, representation and enforcement of rights.

Second by not only identifying four types of protective gaps but also focusing on layers of problems within these gaps - for example under employment rights considering not just eligibility and benefit levels but also upgrading of rights and integration into the core workforce- we could identify the many diverse ways in which protective gaps arise linked to specific societal rules and arrangements. The outcome is that although precarious work is perceived as a universal challenge not only does the degree of precariousness vary across countries but also the form in which the additional risks become manifest. The consequence is that due to diverse societal intersections there is no uniform solution to universal challenges.

Third, by defining precarious work by gaps rather than by employment form we were able to compare and contrast precariousness associated with apparently similar employment forms across countries as well as comparing the protective gaps associated with specific non standard employment forms to those that may be arising for workers in debased forms of the standard employment relationship, associated with outsourcing and other forms of cost-based competition. This approach enabled us to highlight the extent to which gaps are linked to the employment status (direct employment versus self employment), the guarantees attached to work (guaranteed versus variable or short hours, permanent versus temporary duration) and the availability of protection and enforcement via collective or legal regulation.

Fourth, the focus on social protection in particular provided a perspective on the lifetime and life course potential consequences of precarious work and the variations across countries in the anticipated role of intra family support and subsidies on the one hand or the moves towards a more individualized approach to protection on the other hand. Employment trajectories are increasingly complex and varied. Some temporary and precarious jobs are in practice a springboard to stable employment while in other cases workers experience multiple, uncertain stepping stones from one temporary job to another with limited prospects of enjoying career and/or pay advancement.

Fifth, the analysis also revealed the specific characteristics of precarious work in the six countries. In some cases it is associated with specific workforce groups -by age, gender and migrant status for example- while in others it is the specific trends in the organization of the productive economy that matter, for example towards the use of posted workers, more informal employment or non standard employment forms, more extensive or reduced use of outsourcing and competition between employment forms on the basis of wages or guaranteed hours, between the use of directly employed or self employed labour and between subsidized and non subsidized employment forms. Indeed welfare systems that provide in-work benefits or subsidised jobs blur the distinctions between being in work and on benefits and promote the involvement in precarious work for those who are no longer in standard employment relationships.

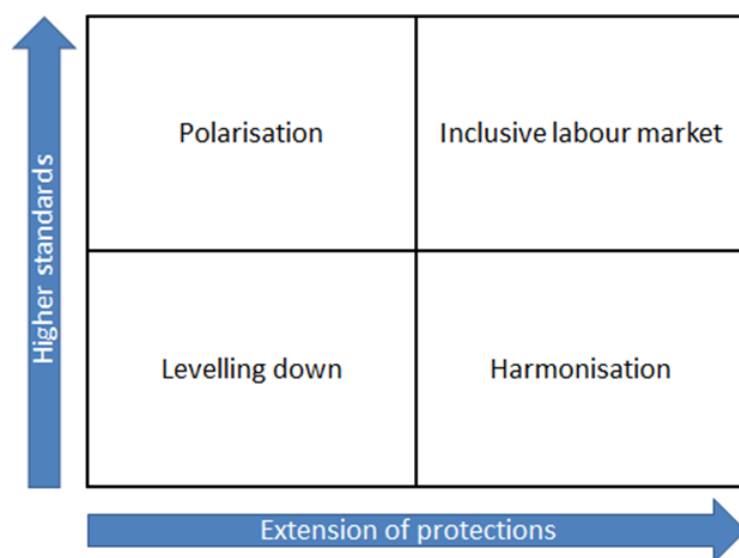
What direction for re-regulation?

The counterpoint to precarious work, and the basis for our conceptualization of problems of insecurity, poor treatment and commodification, is the standard employment relationship (SER). For our research team, the challenge for our investigation was to ask under what circumstances we could envisage a revitalization of the SER and what would be the respective roles of social dialogue, intertwined with the wider regulatory regime and changing national and global production structures. This a-priori position was in part a response to recently published work that claims

evidence of the inevitable decline of the SER faced with its inability to encompass growing shares of workers who experience precarious work of one form or another. Stone and Arthurs (2013) make this claim but in fact go on to call for policy-makers and advocates to learn from the many small-scale experiments around the world in improving job security, strengthening collective representation and extending labour standards. Similar to our approach in fact they call for interest groups ‘to seek out constructive solutions to the challenges of labour market regulation in their own time, place and circumstances’ rather than prescribe new uniform regulatory formulas (2013: 11). The difference, however, is that they reject the possibility of a more inclusive approach rooted in norms of standard employment and instead offer ‘the more plausible’ hope of a patchwork of locally won improvements. A key problem with this approach is that it provides insufficient guidance as to the direction (upwards or downwards) of employment standards over the medium and long-term.

In a given context of diverse country starting points, our empirical evidence suggests four possible scenarios or trajectories of re-regulation. These are described in figure 16.1 as levelling down, polarization, harmonization and inclusion. The two left-hand scenarios represent strategies that are exclusive in nature: standards may be levelled down to the lowest comparators or there may be a polarisation of standards between different sectors or workforce groups, reinforcing the differential bargaining power of workers. The right-hand strategies are more inclusive through extending protections. When achieved through harmonisation, but without an overall increase in standards, it is likely to involve winners and losers. Inclusive labour market changes, via government policy and/or the efforts of social partners, extend protections to workers in precarious employment and raise standards for all.

Figure 16.1. Four paths towards re-regulating labour markets



The **levelling down** of standards is the path that most clearly responds to current mainstream economics doctrine that calls for a particular form of labour market flexibility (requiring a combination of employer prerogative and cost and contract flexibility) in order to support job growth and economic growth. It is sometimes justified by a need to avoid rigidities associated with ‘insider-outsider’ labour markets, as often claimed in the cases of France, Spain and Italy for example. The problem however is that this policy position fails to keep up with the empirical evidence: Crouch

(2015: 188-203) finds only a weak correlation across countries between employment protections for permanent workers and the proportion of the workforce covered by these protections. The UK is symptomatic of the levelling down trajectory since it has in a sense achieved very high levels of inclusiveness alongside low employment protection but in practice ‘inclusiveness’ in the UK means all workers are similarly exposed to weak protections against the risk of job loss. For example, legal reform in 2010 extended the period of continuous employment necessary for rights to redundancy protection and to claim unfair dismissal from 12 to 24 months and thus placed temporary and permanent workers in a similarly vulnerable position until this threshold is reached. Certain patterns can also be detected among high protection countries also. In Germany, the regulatory gap between employment forms described as SER and marginal part-time work has to some extent created a ‘suction effect’ that exerts a downwards pressure on core standards (Bosch 2004).

The trajectory of **polarisation** reinforces problems of dualisation of labour markets and reflects narrowly defined actions by government and social partners to prop up the SER. It may also involve partial attempts to extend standards to other forms of employment –for example, by opening up opportunities for workers in temporary jobs to move into permanent work- but in the absence of strategies to reduce precarious conditions in other forms of employment this is likely to be insufficient to counter dualism. The danger of pursuing a path of polarisation is that standards between different sectors or workforce groups, such as between men and women, or young and core age, is likely to reflect (and strengthen) the differential bargaining power of workers, and also reinforce biases in a country’s system of social security, for example by favouring entitlements for full-time male breadwinners over women in part-time roles. Despite strengthened defenses for the SER, the resulting fragmentation of protections and joint regulation in the economy leaves many workers highly exposed to unilateral management decision-making over pay and conditions. For example, in Slovenia since the crisis there is evidence of a polarisation between SER and non-SER workers evident from a lifecourse analysis that recognises the deteriorating position of young workers and those in positions of involuntary self employment. Slovenia’s broadly redistributive model of social welfare was historically successful at keeping relative and absolute poverty levels low, but since 2008 the risk of in-work poverty has increased sharply for part-time and temporary workers, and specifically for women, while full-time and permanent workers were relatively unaffected (Ignatović and Kanjuo Mrčela 2016).

Specific efforts by government and social partners to **harmonise** standards can reduce dualism by balancing out reductions for one group with improvements for another. In other words, ‘standards’ are extended but with no necessary net improvement. Such trade-offs may cause frictions if one group is perceived to have ‘lost’ the protections and rights built up over a number of years in the name of expediency to improve the working conditions of others. For example, in Spain the creation of a hybrid ‘disposable’ SER contract for the unemployed was designed to complement strengthened protections for temporary employees in order to balance out the gaps in regulation between employment types. However, the new lower standard was subsequently generalised to all open-ended contracts, involving for example the removal of any requirement for administrative authorisation for collective dismissal (although unions and employers still tend to follow the pre-existing norms despite change in the statutory obligations) (Muñoz de Bustillo Llorente and Pinto Hernández 2016).

The fourth trajectory requires the greatest amount of coordination, negotiation and determination among government, social partners and other bodies with specific interests (explored further below). Pursuing a path towards a more ***inclusive labour market*** requires the strengthening of standards and the narrowing of protective gaps for workers in all types of employment, whether standard or non standard forms. Inclusive labour market policies reflect multi-level and multi-actor efforts to extend protections to workers in precarious employment relationships, and to raise standards for all. For example the blurring of part-time and full-time work in Denmark creates the scope to reconcile work and family life without necessarily sacrificing the decent standards and status associated with the SER. Similarly the innovative embedding of labour clauses in procurement contracts (witnessed now in several countries) spreads standards enjoyed by workers in client organisations down the supply chain to workers employed by subcontractors who are often in a more precarious situation. However, given the need for concerted actions involving all social partners, our research focused specifically on the strengths and limitations of different forms of social dialogue.

The power of social dialogue

Our empirical evidence contributes to a growing body of evidence that points to the power of social dialogue, in its many diverse channels and constellations of actors, in contributing to the raising and extending of employment standards (e.g. Adams and Deakin 2004; Berg 2016; Ebisui 2012; Haipeter 2013; Keune 2013; Pedersini and Pallini 2016; Simms 2015; Vosko and Thomas 2014). Like these studies, this report demonstrates that social dialogue is often versatile and adaptable –far from the simple caricature of vested interests rigidly defending a fixed position. In some instances we found social dialogue operating in the traditional channels of union-employer collective bargaining, while in others the evidence revealed novel networks of collaboration (involving for example government agencies, civil society organisations, regional and local government and training bodies), the adoption of alternative mechanisms for regulation (such as allying with employers against client organisations to negotiate improved standards of procurement), and a determination to win a targeted strategy (e.g. to mobilise migrant workers or abolish zero hour contracts) and to fix new standards based on the actual experience of workers in precarious jobs (such as housing solutions for seasonal workers for example).

This versatile quality of social dialogue underpins the empirical evidence of diverse constellations of actors. A first approach is unilateral, characterized by a single actor (employer or union) pressing for or responding to change. The evidence from Denmark showed how one union's unilateral response to exploited migrant workers who had approached the union was a galvanizing force. Supported by the union, the migrant workers pressured their employer to negotiate a collective agreement, and ultimately was effective in challenging employer non-compliance with sector-level collectively agreed conditions. Similarly in Spain the construction trade union persisted in its unilateral strategy of seeking legal reform of subcontracting practices which ultimately contributed to improving health and safety standards in the industry.

A second approach is the more 'classical' bipartite union-employer approach and covers various forms of joint initiatives conducted at national, industry and local levels to reduce precarious work. In some cases these traditional forms have spurred novel forms and content of social dialogue, such as establishing workplace committees in companies to manage use of agency workers (as in one of the

Danish case studies) and fixing minimum weekly hours in Spain's nation-wide sectoral agreement for catering services.

A third approach is tripartite, involving negotiation of issues among three parties. All cases of supply chains and temporary work agencies uncovered attempts at improving precarious work via triangular social dialogue via unions, employers and the client or user organisation. This flexible response is essential in light of evidence that fragmented production structures have opened up significant gaps in representation and enforcement of standards with similarly skilled workers' experience more strongly shaped by their employer's position in a value chain rather than their contribution to value-added (e.g. Perraudin et al. 2014). The evidence from our case studies of public procurement demonstrate how public authorities, despite experiencing severe budget cuts, could nevertheless lead in improving standards among suppliers of public services thereby spreading decent employment conditions enjoyed by public sector workers. In this fashion, especially at local and regional levels, public bodies can be said to be acting as 'anchor institutions'. Whether hospitals, municipalities or universities, the idea (from urban studies research) is that public bodies willingly seek to exert a strong positive impact on the development of their local economy and therefore exploit opportunities to improve employment standards via public services supply chains. The municipality of Copenhagen took this a step further by also institutionalizing an independent audit of its supply chain to ensure proper use of labour clauses negotiated in procurement contracts. In both public and private supply chains, we therefore are witnessing the potential for cross-class coalitions, although not in the sense of Busemeyer (2011) where it blocks counter-responses to growing dualisation, but rather in a form that combats growing segmentation and diffuses employment standards (Jaehrling et al. 2016).

A further form of extended social dialogue involves the informal mobilization of multiple actors. This was explored with particular depth in the study for France where different cases revealed organisations joining, and even leading, unions and employers in a determined effort to reduce precarious work. Such organisations tended to be bound by regional or local interests and also brought a key area of expertise and/or possible funding for example to finance training provision, information networks and administration expenses. Unions and employers were observed to be acting 'outside their standard frames of bargaining' but nevertheless bringing considerable expertise and lending legitimacy to the extended social dialogue (Kornig et al. 2016).

The adaptability of social dialogue was especially revealed by the many examples of targeted trade union strategies, often devised jointly with employers and other interested organisations, which could achieve short-term gains and also deliver a likely sustainable impact for the workers concerned, as well as creating improved conditions for a strengthening of social dialogue. The varied targeted successes represented among the 21 case studies are detailed in figure 16.2. Many of the targeted gains focused on a particular employment form, such as posted work, seasonal work, variable hours work, subcontracted work, or false self employment. Also, while some gains clearly targeted the closing of a specific protective gap –such as the right to decent social protection or collective representation- other gains achieved multiple wins in terms of closing two or more protective gaps. For example, social dialogue in one of the bread manufacturing case studies in Spain formalized suspected false self employment and thereby delivered improved employment rights, a new claim to collective representation and better social protection. Also, the carefully negotiated agreement on socially sustainable sourcing in the German metal industry case both improved

standards of employment conditions and, via trade union presence, the enforcement of these standards.

Figure 16.2. Targeted successes of social dialogue in reducing precarious work



The fact that many of the cases involved targeted strategies ought not to be conflated with the notion that this implies only a patchwork of local, workplace level gains. In fact the cases were selected on the basis that they reflected strategies to reduce precarious work at multiple levels, involving varied degrees of coordination among unions and employers, in order to test whether gains were also being made across sectors and wider networks of employing organisations (see table 16.1). The 21 case studies spanned the entire range from inter-sectoral social dialogue with subsequent sector and local dialogue (the French case of part-time standards in the retail sector which followed key agreements set out in the 2013 *Accord national interprofessionnel*) to cases of isolated local social dialogue (the Spanish case of regulating false self employment and two of the British cases relating to use of agency work in the warehouse operations of a major retail company and industrial action by a trade union at a bread manufacturing company against casualization).

Local actions implemented in line with re-negotiated rules in the framework of either sectoral or regional social dialogue describe seven cases across five countries (none from the UK). These are of interest since they signal innovations within the traditional or classical arena of industrial relations that describe these countries, namely two-tier structures of sector-local bargaining, in an effort to make the designated labour markets more inclusive through varied measures. The examples cover improved standards for part-time workers and extended protections for subcontracted workers, all symptomatic in principle and practice of efforts to raise standards for otherwise marginalized workforce groups.

Other social dialogue actions appear more isolated and at a greater distance from more coordinated social partner efforts to combat precarious work. The case of SI-2 is of interest since the sector agreement for journalists has lost much of its influence in the wake of most media employers pulling out. In fact, the selected the case-study organisation, the public service RTV Slovenia, remains, but nevertheless relies for change on local action. The evidence suggested unions were able to force through a better company agreement (with the financial threat of costly lawsuits against RTV and support of the Labour Inspectorate) and improved conditions for freelancers in particular.

Table 16.1. Using social dialogue at multiple levels to reduce precarious work

Level(s) of social dialogue	Case studies
Inter-sectoral national agreement, sector agreement and local action	FR-3 (retail part-timers)
National sector level agreement combined with local implementation	DK-1 (labour clauses in public procurement) FR-4 (medium cleaning firm) ES-2 (chain subcontracting in construction) ES-3 (subcontracted catering services) SI-3 (retail work)
National sector level with limited/no local action	FR-4 (small cleaning firm)
National sector level initiative/ taskforce with local implementation	DK-2 (TWA in manufacturing) DE-1 (posted work in meat industry) UK-1 (zero hours contracts in local government procurement) UK-4 (high education casualization)
National/ sector level initiative/campaign but no obvious local action	SI-1 (youth mobilization)
Regional inter-sectoral/ sectoral agreement with local implementation	DE-2 (Bremen municipality procurement) DE-3 (sustainable sourcing in steel)
Local actions that feed into & strengthen existing sector agreement	DK-2 (migrants in fishing),
Local actions that spur wider sector (or regional) interest in raising standards	FR-1 (seasonal work) FR-2 (domiciliary care) SI-2 (media journalists, RTV Slovenia)
Local actions mostly isolated	ES-1 (self employment in food manufacturing) UK-2 (TAW in retail) UK-3 (casual work in food manufacturing)

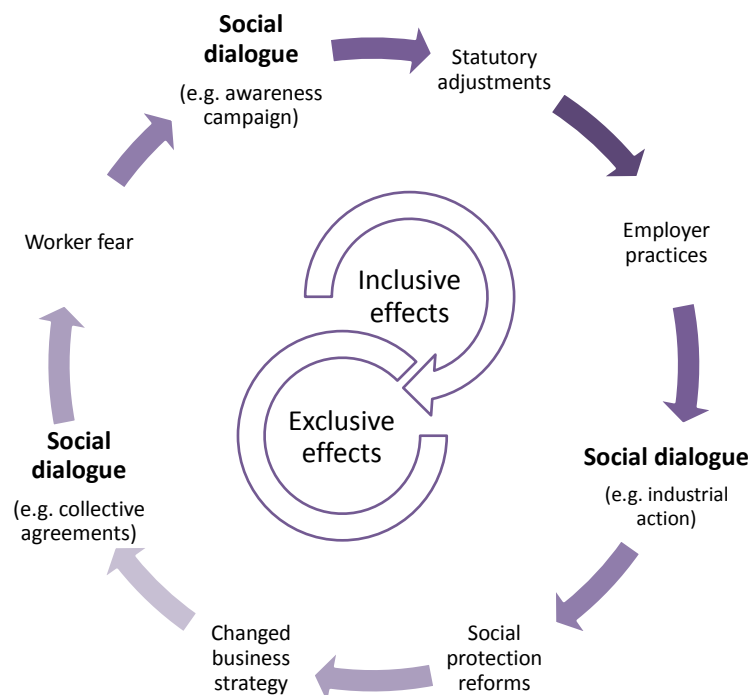
A further hallmark of social dialogue revealed in many of the case studies is its powerful role in monitoring and enforcing employment standards, both those jointly negotiated and those set by law. The French examples of contract cleaning firms showed how unions worked with union representatives on the health and safety committees of client firms. In the Danish and German studies, the increasing role of standards set by law has to some extent generated a shift in roles of union representatives and a greater understanding of the need to monitor employer compliance with statutory obligations. The German cases on procurement emphasise also the need for new training in tasks of monitoring (internal management and contractual procedures) and relationships with government agencies. The close involvement of employee representatives and their access to

and understanding of company information means unions can play a very effective role in rooting out non-compliant employer behavior.

The limits of social dialogue

The 21 case studies also reveal certain limitations of social dialogue as an instrument to reduce precarious work. Three specific issues were highlighted. A first limitation is the sense, articulated by many of the union and employer representatives we interviewed, that social dialogue is chasing the tail of precarious work rather than leading change. There appears to be a continuous interplay between pressures and triggers that spur greater use of precarious work and downgrading of standard employment, followed by counter-actions and responses by unions and other parties, then further actions by employers and governments. Rather than a series of straightforward shifts from one static balance of employment forms to another, the picture appears closer to a recurring cycle of pressures, actions, protective gaps and responses, leading to further pressures, actions and so on (figure 16.3). A good deal of the problem is caused by weaknesses in national and sector level structures of beneficial constraints (Streeck 1997), such that employers experiment with new and increased use of precarious work and also resist efforts by unions and possibly other employers in promoting improved employment standards. The Danish public procurement cases highlighted the resistance of employers to labour clauses despite obvious gaps in the traditional voluntarist mechanisms for extending collective bargaining coverage. The UK food manufacturing case typified the problems experienced in many private companies (in the United States also) where management are responsive to short-term financial targets rather than building company investment and workforce commitment.

Figure 16.3. The recurring cycle of pressures, actions, inactions and social dialogue counter-actions



A second limitation concerns the potential problem of generalizing from local, region or sector successes to the wider labour market. Two of the UK case studies typify the well-known problems of the British industrial relations model such that its overly decentralized and fragmented system undermines trade union efforts at replicating local success, even from one plant to another within the same company. Similarly, while two of the French cases highlight the kinds of conditions and resources required to underpin the levelling up of standards for workers, they also appear somewhat isolated cases, albeit with early signs that lessons may be fed into discussions among social partners at higher levels.

A third limitation remains the key problem of enforcement, reflecting the need for social dialogue instruments to be complemented by a firmer commitment of governments to resourcing their Labour Inspectorates. Several case studies highlight the issues of how to extend protections to small firms operating in the sector, as illustrated for example in the retail, contract cleaning and contract catering sector case studies in France and Spain. Others highlight the difficulty of identifying conditions of precarious work in firms operating in the informal economy. The Danish study of migrant workers in the fishing industry showed how unions learned quickly following the approach of Romanian workers who highlighted their poor working conditions; however, many other migrant workers will not have the courage or perhaps awareness to approach a union, or citizen rights body for example, especially in a context of perceived persecution of foreigners in many European countries with the worrying shift of political sentiments.

Responding to societal and international pressures for more inclusive labour markets

An over-riding lesson from our research is that precarious work -and inequality in employment and society more generally- is not a residual effect of changing economic and industrial relations conditions, observable only on the peripheries of economic activities, but a core feature of labour markets across Europe. Precarious working conditions fuel problems of low pay, gender inequality, job insecurity, low fertility, alienation and low work commitment, and contribute to a growing sense that development in many of the advanced capitalist countries is stuck in a phase of low growth, stagnant and even falling living standards and unresolved problems of poverty (Kenworthy 2004; Wade 2013). There is an urgent need therefore for social partners and governments to consider more carefully the different ways in which labour markets mutually shape the type of long-term economic development and with it the stability and security of society for all its citizens. Labour markets have both allocative and distributive functions and the evidence from this report suggests that the former is failing, since too many workers are in second choice jobs with insufficient hours, pay or opportunities for skill development, and the latter is generating a highly segmented pattern of work experiences with risks concentrated on women, low educated, ethnic minorities, young, disabled and migrant workers.

The interplay of social protection and employment protection rules highlights the need for social partners and policy-makers to acknowledge many of the perverse interaction effects that may be worsening conditions of precarious work. European research on 'work-first' active labour market policies shows that they alter the institutional configuration of labour markets by heightening market discipline among the workforce and incentivizing employer discrimination (Greer 2016). There are

also deeper questions about who pays for the costs of decommodification in a post-crisis Europe characterized by several countries seeking (with and without pressures from international creditors) to roll back from their welfare state responsibilities (Rubery 2015). Our research in this report identifies multiple possible contradictions and tensions between welfare, employment and tax policy frameworks, generating unproductive incentives for employers to promote precarious work, which is likely in turn to undermine the fiscal base for welfare expenditures. Rather than seek to take out as many workers as possible from the system of social security contributions and income tax contributions, our research supports calls for a more integrated system with a progressive scale of contributions and stronger protections for job and income security, which would provide a fairer balance of incentives to employers and workers.

The research did highlight several cases where public attention to problems of precarious work, via the news or social media, has assisted social partners in improving employment standards. Evidence of human rights abuses, high levels of workplace accidents and opportunistic or discriminatory employer behavior can be communicated easily and it is vital that governments and social partners respond quickly and effectively. Union campaigns about high rates of fatalities in construction work in Spain took around a decade before the needed legislation was introduced, and adequate resources for enforcement are still needed, and the UK government's response to the explosion in use of zero hours contracts only ruled out employer's practice of forcing workers to sign exclusivity clauses but did nothing to rule out their power in changing a worker's hours from zero to whatever from one day to the next. A delayed response also characterizes Germany's 2015 introduction of a national statutory minimum wage after many years of evidence showing workers paid extremely low hourly wages as a result of falling outside of collective bargaining coverage in workplaces with no worker representation. If regularly updated (and the rules suggest this ought to happen) Germany's new minimum wage may have wider knock-on effects. Our research raises questions as to whether it will reduce cost competition in subcontracting chains, leading to a clearer focus on quality among competing subcontractors as well as re-internalisation of many of the so-called peripheral activities, and also reduce the cost attractiveness of mini jobs where much of the wage exploitation was found pre-2015.

Ongoing efforts to root out exploitation are needed, and quite rightly receive strong media attention. At the same time, pressures for more inclusive labour markets also demand a clearer conceptual consideration of rights to minimum standards (via harmonization of existing standards for workers with full-time, permanent contracts) and rights to additional compensation for putting up with insecurity and instability at work. On the one hand, pursuit of minimum standards for workers in all types of employment forms establishes a fair, non-discriminatory approach to access to employment protection, social protection and representation rights (e.g. for part-time workers with few hours to be enrolled in the social insurance system for example). On the other hand, as Jaehrling et al. (2016) argue, this does not address or counterbalance the growing tendency of employers to invent precarious employment forms nor the inability of workers to seek alternative, less precarious employment. Instead what may be required is a new approach that appreciates the unequal risks of precarious work with targeted compensatory measures. France for example obliges employers to pay a wage supplement to temporary employees, Germany requires employers to pay higher than average social security contributions for mini jobbers, and the German meat processing industry case study found that companies had to finance housing for migrant workers.

While politicians may be responsive to public concerns and evidence of disjunctures between social and economic needs and labour market opportunities, it is more likely that the social partners, via mechanisms of dialogue at multiple levels, are better equipped to devise longer lasting resolutions to problems of precarious work. The fundamental role of social dialogue has been restated in the EU's 'New start for social dialogue' alongside a notable commitment to Europe's 'social market economy' and a need to promote 'competitiveness and fairness'. The President of the European Parliament affirmed this commitment, *'I am convinced that everyone benefits from strong and equal social partners, that social dialogue is essential to make reforms possible, sustainable and effective.needed to reverse adverse reputation of interventions in southern Europe'*.⁶⁶ The EU must therefore support efforts at country, sector and supply chain levels to reduce precarious work through social dialogue, and also lead efforts on the necessary legislative reforms that ensure equality of employment standards and systems of penalties on employers for using and exacerbating precarious work.

Recommendations for policy and practice

Our research findings underpin the need for all stakeholders a) to be more aware of the extensive protective gaps across European labour markets and b) to design and implement effective policy and practice (via legal reforms and/or collective agreements) that will close gaps and reduce the pervasiveness of precarious employment. Our high-priority recommendations addressing all four protective gaps and drawing lessons from the 21 case studies analysed in this report are as follows:

- ❖ **Establish minimum hours guarantees** accompanied by greater employee control over work schedules
- ❖ **Use levies and funds to compensate for risks encountered by workers in non-standard employment** such as targeted training subsidies or tax penalties to employers
- ❖ **Make collective agreements more inclusive**, including greater use of extension mechanisms
- ❖ **Improve capacities for social partners to perform socially responsible bargaining**, including on gender equality issues
- ❖ **Extend employment rights and social security protections to the self employed** especially health insurance and pension provision
- ❖ **Extend rights to flexible working within standard employment** and from at the point of recruitment
- ❖ **Make social security protection more inclusive** to provide for high minimum benefits and facilitate access for workers in non-standard employment
- ❖ **Strengthen works councils' rights to act on reducing excessive employer use of non-standard employment forms**
- ❖ **Include workers on non standard contracts in workplace systems of representation**

⁶⁶ Opening remarks by Martin Schulz, <http://ec.europa.eu/social/main.jsp?catId=88&langId=en&eventId=1028>, Brussels March 2015.

- ❖ **Continue to develop strategies to mobilise migrant workers** especially in unregulated sectors
- ❖ **Commit additional resources to the monitoring and enforcement of labour standards**
- ❖ **Encourage (via legislation or industry agreements) the diffusion of good practice ‘social value procurement’ to reduce precarious work among subcontractors**

Our investigations also reveal new opportunities made possible through multi-faceted forms of social dialogue that engage a wider group of stakeholders and extend the traditional remit of industrial relations issues. Our evidence suggests this **‘extended social dialogue’** (formal and informal) generates a better understanding and diagnosis of the issues relating to precarious employment. However, while often effective at local level we find little evidence of effective diffusion of mutual gains, suggestive of the need for increased capacities for trade unions in particular to coordinate strategies across regions, sectors and supply chains.

References

- Absenger, N., Ahlers, E., Bispinck, R., Kleinknecht, A., Klenner, C., Lott, Y., Pusch, T. and Seifert, H. (2014) *Arbeitszeiten in Deutschland: Entwicklungstendenzen und Herausforderungen für eine moderne Arbeitszeitpolitik*. WSI Report 19/2014. Düsseldorf: WS.
- ACAS (2015c) 'Three sides to every story: the impact of the Agency Worker Regulations Employment Relations', Comment ACAS London
- AIAS-ICTWSS (2015) 'Database on Institutional Characteristics of Trade Unions, Wage Setting, State Intervention and Social Pacts', Version 5, <http://archive.uva-aias.net/207f>.
- Armour, J., Deakin, S. Lele, P. and Siems, M. (2009) 'How do legal rules evolve? Evidence from a cross-country comparison of shareholder, creditor, and worker protection', *The American Journal of Comparative Law*, 579-629.
- Barbier, J.C. and Lindley, R. (2002) 'Precarious employment in Europe', *Quatre pages du Cee*, Septembre (53):1-4.
- Barbier, J.C. (2011) 'Employment precariousness in a European cross-national perspective. A sociological review of thirty years of research', Document de travail du Centre d'Economie de la Sorbonne.
- Barbieri, P. and Scherer, S. (2009) 'Labour market flexibilization and its consequences in Italy', *European Sociological Review* 25(6): 677-692.
- Belkacem R., Kornig C., Nosbonne C., Michon F. (2014) 'Mobiliser, défendre les intérimaires. Les difficultés de l'action syndicale', *La Revue de l'Ires* 4(83): 3- 28.
- Berg, J. (2015) 'Labour market institutions: the building blocks of just societies', in J. Berg (ed.) *Labour Markets, Institutions and Inequality*, Cheltenham/Geneva: Edward Elgar/ILO.
- Berg, J. (2016) 'Income security for crowd workers', Presentation at the 'Precarious Work: Causes, Consequences and Counter-measures' conference, University of Manchester, April.
- Bernaciak, M. (2014) 'Social dumping and the EU integration process'. ETUI Working Paper 2014.06. Brussels
- BIS. (2014) 'The impact of the working time regulations on the UK labour market: A review of evidence,' BIS Analysis Paper, No. 5, UK Department for Business, Innovation and Skills, London.
- Bispinck, R. (2014) 'Tarifliche Arbeitszeitregelungen zwischen betrieblichen Flexi-Ansprüchen und individuellen Arbeitszeitoptionen: Eine Analyse ausgewählter Tarifbereiche, Reihe: Elemente qualitativer Tarifpolitik, Nr. 79. Düsseldorf: WSI.
- Bosch, G. (2015). 'Shrinking collective bargaining coverage, increasing income inequality: A comparison of five EU countries'. *International Labour Review*, 154 (1): 57–66.
- Bouffartigue, P. (2008) 'Précarités professionnelles et action collective', *Travail et emploi*, no. 116, octobre-décembre: 33-43.
- Bryman, A. (2012) 'Sampling in qualitative research', *Social Research Methods*, 4, 415-429.
- Bundesagentur für Arbeit (2014b) *Leiharbeitnehmer und Verleihbetriebe in Deutschland*. Version from 22. July. Nurnberg.

- Buschoff, K. S. and Schmidt, C. (2009) 'Adapting labour law and social security to the needs of the "new self-employed": Comparing the UK, Germany and the Netherlands', *Journal of European Social Policy*, 19(2): 147-159.
- Busemeyer, M.R. and Trampusch, C. (2012) *The Political Economy of Collective Skill Formation*, Oxford: OUP.
- Busemeyer, M. R. (2011). Varieties of Cross-class Coalitions in the Politics of Dualization: Insights from the Case of Vocational Training in Germany. *MPIfG Discussion Paper*, (11/13).
- Cabrita, J. (2015) 'Opting out of the European Working-Time Directive', EuroFound, Luxembourg: Publications Office of the European Union.
- Carlin, W. and Soskice, D. (2009) 'German economic performance: disentangling the role of supply-side reforms, macroeconomic policy and coordinated economy institutions', *Socio-Economic Review*, 7 (1): 67-99.
- Cella, G. & Treu, T. (2001) 'National Trade Union Movements', in R. Blanpain and C. Engels (eds.) *Comparative Labour Law and Industrial Relations*. Boston: Kluwer.
- Cilleros R. (2011) 'Las consecuencias de las nuevas características del trabajo en la afiliación sindical', *Encrucijadas. Revista Crítica de Ciencias Sociales*, 2(1): 28-50.
- Cingolani, P. (2005) *La Précarité*, Paris: PUF.
- Cingolani, P. (2014) *Révolutions précaires: essai sur l'avenir de l'émancipation*, Paris: La Découverte.
- Craig, G., et al. (2009) *Turning the Tide: Migrant Workers and Gangmasters' Licensing Authority*. Oxford: Oxfam.
- Cremers, J. (2009) 'Changing employment patterns and collective bargaining', *International Journal of Labour Research*, 1(2): 201-217.
- Crouch, C and Farrell, H. (2002) 'Breaking the Path of Institutional Development? Alternatives to the New Determinism'. EUI Working Paper SPS No. 2002/4.
- Crouch, C. (1993) *Industrial Relations and European State Traditions*. Oxford: Oxford University Press.
- Crouch, C. (2015) 'Labour market governance and the creation of outsiders', *British Journal of Industrial Relations*, 53(1): 27-48
- Cunningham, I. and James, P. (2009) 'The outsourcing of social care in Britain: What does it mean for voluntary sector workers?', *Work, Employment and Society*, 23(2): 363-375.
- DARES. (2014) 'Entre 2000 et 2012, forte hausse des embauches en contrats temporaires mais stabilisation de la part des CDI dans l'emploi', *Dares analyses*, no. 56.
- Deakin, S., Fenwick, C. and Sarkar, P. (2014) 'Labour law and inclusive development: the economic effects of industrial relations laws in middle-income countries', in M. Schmiegelow and H. Schmiegelow (eds.) *Institutional Competition between Common Law and Civil Law*, Springer Berlin Heidelberg.
- Deakin, S. and Koukiadaki, A. (2009) 'Governance Processes, Labour Management Partnership and Employee Voice in the Construction of Heathrow Terminal 5', *Industrial Law Journal* 38(4): 365-389.
- Deeg, R and Jackson, G. (2007) 'The State of the Art: Towards a more dynamic theory of capitalist variety', *Socio-Economic Review*, 5 (1): 149-179.

- Deinert, O. and Helfen, M. (2016) Entgrenzung von Organisation und Arbeit? Inter-organisationaler Fragmentierung als Herausforderung für Arbeitsrecht, Management und Mitbestimmung. *Industrielle Beziehungen*, 23(2): 85-91.
- Descolonges, M. (2011) *Des Travailleurs à Protéger: L'action Collective au Sein de la Sous-Traitance*, Paris: Hermann.
- Dølvik, J.E. (2016) 'The Danes' Uneasy Relationship Between Collective Bargaining and Legislation in Implementing EU Workers' Rights – The Case of Minimum Wage Setting, in A. Ilsøe A and T. P. Larsen (eds.) *Den Danske Model set udefra - Komparative perspektiver på dansk arbejdsmarkedsregulering*, Copenhagen: Djøf/Jurist-og Økonomforbundet.
- Dribbusch, H. and Birke, P. (2014) 'The DGB trade unions since the crisis: developments, challenges, strategies', Berlin: FES, <http://library.fes.de/pdf-files/id-moe/10742-22042015.pdf>.
- Ebisui, M. (2012) 'Non-standard workers: Good practices of social dialogue and collective bargaining', ILO DIALOGUE Working Paper No. 36, Geneva: ILO.
- EC (2013) *Employment and Social Developments in Europe*, European Commission.
- EC (2009) *Industrial Relation in Europe 2008*, Brussels: European Commission.
- EC (2001) 'Council Directive 2001/23/EC of 12 March 2001', Official Journal of the European Communities, L/82/16-20, <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32001L0023&from=EN>.
- Eichhorst, W. and Marx, P. (eds.) (2015) *Non Standard Employment in Post Industrial Labour Markets, An occupational perspective*, Edward Elgar: Cheltenham.
- Eichhorst, W. (coordinator) and 14 authors (2013) *Social Protection Rights of Economically Dependent Self Employed Workers*, Report for DG Internal Policies, European Commission.
- Emmenegger, P. (2009) 'Barriers to entry: insider/outsider politics and the political determinants of job security regulations', *Journal of European Political Policy* 19 (2).
- Emmenegger, P., Häusermann, S., Palier B. and Seeleib-Kaiser, M. (2012) 'How we grow unequal', in Emmenegger, P., Häusermann, S., Palier B. and Seeleib-Kaiser, M. (eds.) *The age of dualization: The changing face of inequality in deindustrializing societies*, Oxford: OUP.
- Eriksson, T. and Jensen, P. (2003) 'Tidsbegränsade anställningar – danske erfarenheter', Working Paper 03-15, Department of Economics, Aarhus School of Business.
- Esopo (2005) 'Precarious employment in Europe: a comparative study of labour market related risks in flexible economies', ESOP Final Report, Luxembourg: European Communities.
- Esping-Andersen, G. and Regini, M. (eds.) (2000) *Why deregulate labour markets?*. Oxford: OUP.
- ETUI (2014) 'Collective Bargaining Germany', <http://www.worker-participation.eu/National-Industrial-Relations/Countries/Germany/Collective-Bargaining>
- ETUI (2014) *Benchmarking Working Europe 2014*, Brussels: ETUI.
- Eurostat (2003) 'The European Union Labour Force Survey: Methods and definitions 2001', Luxembourg: Office for Official Publications of the European Communities.
- Evju, S. and Novitz, T. (2014) 'The evolving regulation: Dynamics and consequences', in S. Evju (ed.) *Regulating Transnational Labour in Europe: The quandaries of multilevel governance*, Oslo: Institutt for privatrett.

- Frade, C. and Darmon, I. (2005) 'New modes of business organization and precarious employment: towards the recommodification of labour?', *Journal of European Social Policy*, 15(2): 107-121.
- Freedland, M. (2003) *The Personal Employment Contract*, Oxford: OUP.
- Fric, K. (2016) 'Statutory minimum wages in the EU 2016', EuroFound, www.eurofound.europa.eu/sites/default/files/statutory_minimum_wages_in_the_eu_2016.pdf. from 22. July 2014. Nurnberg.
- Gash, V. (2005) 'The Labour Market Outcomes of Non-standard Employment in Ireland and Denmark', Working paper Series 05/03, Dublin: Combat Poverty Agency.
- Gautié J. and Schmitt, J. (eds.) (2010) *Low Wage work in the Wealthy World*, Russell Sage Foundation, New York.
- Gilbert, K., Warhurst, C., Nickson, D., Hurrell, S. and Commander, J. (2012) 'New initiative, old problem: classroom assistants and the under-valuation of women's work', *Industrial Relations Journal*, 48: 22-37.
- Glassner, V. (2013) 'Central and eastern European industrial relations in the crisis: national divergence and path-dependent change', *Transfer* 19(2): 155-169.
- Greer, I. (2016) 'Welfare reform, precarity and the re-commodification of labour', *Work, Employment & Society*, 30(1): 162-173.
- Grimshaw, D. (ed.) (2013) *Minimum Wages, Pay Equity and Comparative Industrial Relations*, London: Routledge.
- Grimshaw, D. (2009) 'Can more inclusive wage-setting institutions improve low wage work? Pay trends in the United Kingdom's public-sector hospitals', *International Labour Review*, 148(4): 439-459.
- Grimshaw, D., Johnson, M., Keizer, A. and Rubery, J. (2016) *Reducing Precarious Work in Europe through Social Dialogue: the case of the UK*, Report for the European Commission, European Work and Employment Research Centre, University of Manchester, available at <http://www.research.mbs.ac.uk/ewerc/Our-research/Current-projects/Reducing-Precarious-Work-in-Europe-through-Social>.
- Grimshaw, D. and Miozzo, M. (2009) 'New human resource management practices in knowledge-intensive service firms: the case of outsourcing and staff transfer', *Human Relations*, 62 (10): 1521-1550.
- Grimshaw, D. and Rubery, J. (2005) 'Inter-capital relations and the network organisation: redefining the work and employment nexus', *Cambridge Journal of Economics*, 29(6): 1027-1051.
- Grimshaw, D., Rubery, J., Anxo, D, Bacache-Beauvallet, M., Neumann, L. and Weinkopf, C. (2015) 'Outsourcing of public services in Europe and segmentation effects: the influence of labour market factors', *European Journal of Industrial Relations* 21(4): 295-313.
- Grimshaw, D., Rubery, J. and Ugarte, S. (2015) 'Does better quality contracting improve pay and HR practices? Evidence from for-profit and voluntary sector providers of adult care services in England', *Journal of Industrial Relations*, 57 (4): 502-525.
- Güell M., and Petrongolo B. (2005) 'How binding are legal limits? Transitions from temporary to permanent work in Spain', *Labour Economics*, 14: 153-183.

- Haidinger, B. (2015) 'Organizing peripheral workers in parcel delivery and postal services', in J. Drahokoupil (ed.) *The Outsourcing Challenge: Organizing Workers across Fragmented Production Networks*, Brussels: ETUI.
- Harvey, M. and Behling, F. (2008) 'The Evasion Economy: False Self Employment in the UK Construction Industry', UCATT report, <http://ucatt.infobo.co.uk/sites/default/files/uploaded/publications/Evasion-Economy-UCATT.pdf>.
- Hassel, A. (2014) 'The Paradox of Liberalization – Understanding dualism and the recovery of the German political economy', *British Journal of Industrial Relations*, 52(1): S. 57–81.
- Havard, C., Rorive, B. and Sobczak, A. (2009) 'Client, employer and employee: Mapping a complex triangulation', *European Journal of Industrial Relations*, 15(3): 257-276.
- Hegewisch, A. (2009) 'Flexible Working Policies: A Comparative Overview', *Equalities and Human Rights Commission Research Report No. 16*, Manchester EHRC.
- Hyman, R. (2015) 'Three scenarios for industrial relations in Europe', *International Labour Review*, 154: 1, 5-14.
- Ignjatović, M. and Kanjuo Mrčela, A. (2016) *Reducing Precarious Work in Europe through Social Dialogue: the Case of Slovenia*, Report for the European Commission, University of Ljubljana, available at <http://www.research.mbs.ac.uk/ewerc/Our-research/Current-projects/Reducing-Precarious-Work-in-Europe-through-Social>.
- Jaehrling, K. (2015) 'The state as a 'socially responsible customer'? Public procurement between market-making and market-embedding', *European Journal of Industrial Relations* 21 (2): 149-164.
- Jaehrling, K. and Méhaut, P. (2013) 'Varieties of institutional avoidance': employers' strategies in low-waged service sector occupations in France and Germany', *Socio-Economic Review*, 11(4): 687-710.
- Jaehrling, K., Weinkopf, C. and Wagner, I. (with G. Bosch and T. Kalina) (2016) *Reducing Precarious Work in Europe through Social Dialogue: the Case of Germany*, Report for the European Commission, Institute of Work, Skills and Training, University of Duisburg-Essen, available at <http://www.research.mbs.ac.uk/ewerc/Our-research/Current-projects/Reducing-Precarious-Work-in-Europe-through-Social>.
- Jorens, Y., Peters, S. and Houwerzijl, M. (2012) 'Study on the protection of workers' rights in subcontracting processes in the European Union', Study commissioned by the EU DG-Employment, (Project DG EMPL/B2 - VC/2011/0015). Brussels.
- Kalina, T. and Weinkopf, C. (2014) 'Niedriglohnbeschäftigung 2012 und was ein gesetzlicher Mindestlohn von 8,50 € verändern konnte', *IAQ Report* 2014-02. Duisburg: Institut Arbeit und Qualifikation.
- Karamessini, M. and Rubery, J. (eds.) (2015) *Women and Austerity*, London: Routledge.
- Keizer, A. B. (2011) 'Non-regular employment in the Netherlands', in *Non-regular Employment—Issues and Challenges Common to the Major Developed Countries*, JILPT Report: 141-178.
- Kenworthy, L. (2004) *Egalitarian capitalism: jobs, incomes, and growth in affluent countries*. Russell Sage Foundation.

- Keune, M. (2013) 'Trade union responses to precarious work in seven European countries', *International Journal of Labour Research*, 5(1): 59-78.
- Keune, M. (2010) Derogation clauses on wages in sectoral collective agreements in seven European countries, <http://dare.uva.nl/document/2/124631>
- Kornig, C., Louit-Martinod, N., Méhaut, P. (with V. Insarauto) (2016) *Reducing Precarious Work in Europe through Social Dialogue: the Case of France*, Report for the European Commission, Institute of Labour Economics and Industrial Sociology, CNRS, Aix Marseille University, <http://www.research.mbs.ac.uk/ewerc/Our-research/Current-projects/Reducing-Precarious-Work-in-Europe-through-Social>.
- Kornig, C. and Michon, F. (2011) 'Survey on non regular employment in France: a profile', Working paper of Centre d'Economie de la Sorbonne (Université de Paris 1, CNRS), 2010.82.
- Koukiadaki, A. (2014) 'The far-reaching implications of the Laval Quartet: The case of the UK living wage', *Industrial Law Journal* 43(2): 91-121.
- Larsen, T. P. and Navrbjerg, S. E. (2011) 'Tidsbegrænset ansatte og deltidsansatte- outsiders med rettigheder', in Larsen, T. P. (ed) *Insidere og outsiders- den danske models rækkevidde*, København: Jurist- og Økonomforbundets forlag.
- Lemos, S. (2004) 'The Effects of the Minimum Wage in the Formal and Informal Sectors in Brazil', IZA DP No. 1089. Bonn.
- Lindbeck, A. and Snower D. (2002) 'The Insider-Outsider Theory: A Survey', Discussion Paper No. 534 IZA Bonn July 2002
- Lindvall, J. and Rueda D. (2014) 'The Insider–Outsider Dilemma' *British Journal of Political Science*, 44(2): 460-475.
- Lopes, A. and Hall, T. (2015) 'Organising migrant workers: The living wage campaign at the University of East London', *Industrial Relations Journal*, 46(3): 208-221.
- Marchington, M., Grimshaw, D., Rubery, J. and Willmott, H. (eds.) (2005) *Fragmenting work: Blurring organizational boundaries and disordering hierarchies*. Oxford University Press.
- Marginson, P. (2014) 'Coordinated bargaining in Europe: From incremental corrosion to frontal assault', *European Journal of Industrial Relations*, 1-18.
- McKay, S., Jefferys, S., Paraksevopoulou, A., Kels, J. (2012) *Study on Precarious work and social rights*, Report produced for the European commission, ec.europa.eu/social/BlobServlet?docId=7926&langId=en.
- Meardi, G. (2004) 'Modelli o stili di sindacalismo in Europa?', *Stato e Mercato*, 71: 207-235.
- Moore, S. (2016) 'Removing 'unproductive' working time: Zero hours contracts, 'self employment' and precarious pay.' Presentation at the 'Precarious Work: Causes, Consequences and Counter-measures' conference, University of Manchester, April.
- Muñoz-de-Bustillo Llorente, R. and Pinto Hernández, F. (2016) *Reducing Precarious Work in Europe through Social Dialogue: the Case of Spain*, Report for the European Commission, University of Salamanca available at <http://www.research.mbs.ac.uk/ewerc/Our-research/Current-projects/Reducing-Precarious-Work-in-Europe-through-Social>.
- OECD (2011) *Divided We Stand*, Paris: OECD.

- Palier, B. and Thelen, K. (2010) 'Institutionalizing dualism: complementarities and change in France and Germany', *Politics & Society* 38(1): 119–148.
- Paugam, S. (2000) *Le salarié de la précarité: les nouvelles formes de l'intégration professionnelle*, Paris, PUF.
- Paugam, S. (2005) *Les Formes élémentaires de la pauvreté*. Paris, PUF.
- Pedersini, R. and Pallini, M. (2016) 'Exploring the fraudulent contracting of work in the EU', Report for EuroFound, 1639.
- Perraudin, C., Petit, H., Thèvenot, N., Tinel, B. and Valentin, J. (2014) 'Inter-firm dependency and employment inequalities: Theoretical hypotheses and empirical tests on French subcontracting relationships', *Review of Radical Political Economics*, 46(2): 199-220.
- Pontusson, J. (2011) 'Once again a Model', in Croonin J., Ross G. and Shoch J. (eds.) *What's left of the left?* Durham, N.C. Duke University Press.
- Rasmussen, S., Refslund, B., Sørensen, O. H. and Larsen, T. P. (2016) *Reducing Precarious Work in Europe through Social Dialogue: the Case of Denmark*, Report for the European Commission, Aalborg University and Copenhagen University, available at <http://www.research.mbs.ac.uk/ewerc/Our-research/Current-projects/Reducing-Precarious-Work-in-Europe-through-Social>.
- Refslund, B. (2015) 'Adjusting the Danish industrial relations system after Level: Recalibration rather than erosion', *Transfer: European Review of Labour and Research*, 21(2): 247-251.
- Refslund, B. and Thörnquist, A. (2016) 'Intra-European labour migration and low-wage competition: Comparing the Danish and Swedish experiences across three sectors', *Industrial Relations Journal*.
- Refslund, B. and Wagner, I. (2017) 'Different possibilities for workers' solidarity in the Danish-German transnational slaughterhouse industry', in Doellgast, V., Lillie, N. and Pulignano, V. (eds.) *Reconstructing solidarity: Labour unions, precarious work, and the politics of institutional change in Europe*. Oxford : Oxford University Press.
- Reich, M., Jacobs, K. and Dietz, M. (eds.) (2014) *When Mandates Work: Raising Labor Standards at the Local Level*. Berkeley, Los Angeles: University of California Press.
- Ritchie, J., Lewis, J. Elam, G., Tennant, R. and Rahim, N. (2014) 'Designing and selecting samples', in J. Ritchie, J. Lewis, C. McNaughton-Nicholls and R. Ormston (eds.) *Qualitative Research Practice*, Sage.
- Rubery, J. (2015) 'Re-regulating for inclusive labour markets', Geneva: ILO.
- Rubery, J. (2013) 'Public sector adjustment and the threat to gender equality', in D. Vaughan-Whitehead (ed.) *Public Sector Shock: The Impact of Policy Retrenchment in Europe*, Edward Elgar.
- Rubery, J. (1998) *Equal pay in Europe?: closing the gender wage gap*. St. Martin's Press.
- Rubery, J. (1978) 'Structured labour markets, worker organisation and low pay', *Cambridge journal of Economics*, 2(1): 17-36.
- Rubery, J. and Grimshaw, D. (2003) *The Organization of Employment: An International Perspective*. Basingstoke: Palgrave Macmillan.

- Rubery, J., Grimshaw, D., Hebson, G. and Ugarte, S. M. (2015) “‘It’s all about time’: Time as contested terrain in the management and experience of domiciliary care work in England”, *Human Resource Management*, 54(5): 753-772.
- Rueda D. (2005) ‘Insider-Outsider politics in industrialized democracies: The challenge to social democratic parties’, *American Political Review*, 99(1): 61-74.
- Rueda D. (2006) ‘Social democracy and active labour market policies: Insiders, Outsiders and the politics of employment promotion’, *British Journal of Political Science* 36: 385-406.
- Rueda, D. (2007) *Social Democracy Inside Out: Partisanship and Labor Market Policy in Industrialized Democracies*, Oxford: OUP.
- Scharpf, F. W. (1991) ‘Die Handlungsfähigkeit des Staates am Ende des zwanzigsten Jahrhunderts’, *Politische Vierteljahresschrift* 32 (4): 621-634.
- Scheuer, S. (2011) ‘Arbejde på risikovilkår - Fleksibilitet og manglende tryghed’. In Scheuer, S. (ed.) *Atypisk ansatte på det danske arbejdsmarked*, LO-dokumentation nr. 1, København: LO.
- Schömann, I. (2014) ‘Labour law reforms in Europe: Adjusting employment protection legislation for the worse?’, ETUI Working Paper 2014.02.
- Simms, M. (2015) ‘Sectoral regulation of precarious work in four sectors: the UK situation’, BARSORIS report.
- Simms, M. (2010) ‘Trade union responses to precarious work: UK report’ Bargaining for Social Rights (BARSORI) report.
- Standing, G. (2011) *The Precariat: The New Dangerous Class*, London and New York: Bloomsbury Academic.
- Supiot, A. (2001) *Beyond Employment: Changes in Work and the Future of Labour Law in Europe*, Oxford: OUP.
- TUC (2008) *Hard Work, Hidden Lives: The Full Report of the Commission on Vulnerable Employment*, http://www.vulnerableworkers.org.uk/files/CoVE_full_report.pdf.
- Vaughan-Whitehead, D. (ed.) (2015) *The European Social Model in Crisis: Is Europe Losing its Soul?*, Edward Elgar.
- Verd, J. M. and Andreu, M. L. (2011) ‘The rewards of a qualitative approach to life-course research. The example of the effects of social protection policies on career paths’, *Forum: Qualitative Social Research* 12(3).
- Visser, J. (1996) ‘Traditions and transitions’ in J. Van Ruysseveldt and J. Visser (ed) *Industrial Relations in Europe*. London: Sage.
- Visser, J. (2006) ‘Union membership statistics in 24 countries’, *Monthly Labor Review*, January, pp. 38-49.
- Vosko, L. F. and Thomas, M. (2014) ‘Confronting the employment standards gap: Exploring the potential for union engagement with employment law in Ontario, Canada’, *Journal of Industrial Relations*, DOI: 10.1177/0022185613511562.
- Voss, E., Maack, W., Faioli, M. and Lhernould, J.-P. (2016) *Posting of Workers Directive: Current Situation and Challenges*, DG for Internal Policies, IP/A/EMPL/2016-07, Brussels: European Parliament.

- Wade, R. (2013) 'How high inequality plus neoliberal governance weakens democracy', *Challenge*, 56(6), 5-37.
- Weil, D. (2014) *The Fissured Workplace*, Harvard: Harvard University Press.
- WERS (2014) The 2011 Workplace Employment Relations Study: First Findings, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/336651/bis-14-1008-WERS-first-findings-report-fourth-edition-july-2014.pdf.
- Wright, C. F. and Brown, W. (2013) 'The effectiveness of socially sustainable sourcing mechanisms: Assessing the prospects of a new form of joint regulation', *Industrial Relations Journal* 44 (1): 20-37.