



Reducing Precarious Work

Protective Gaps and the Role of Social Dialogue in Denmark

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A European Commission project (DG Employment, Social Affairs and Equal Opportunities VP/2014/004), November 2016



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Overview

This research briefing highlights the project findings from Denmark in terms of identifying, addressing and reducing precarious work in Denmark. There are various forms of precarious work in the Danish labour market. However, these are mainly related to non-standard forms of employment, which in general relates to jobs that are not covered by a collective agreement, although there can also be elements of precarious work related to jobs covered by collective agreements. Overall the comparative project has identified four 'protective gaps', which include gaps in: *employment rights; social protection and integration; representation; and enforcement.*

While the project has identified several examples of precarious work in Denmark, it is also clear from the project that the incidence of precariousness is generally speaking comparatively lower in Denmark, which can be explained by encompassing labour market institutions and the high coverage and value of social welfare and unemployment benefits.

This briefing summarises the key findings in Denmark by first discussing the protective gaps in the Danish labour market along the four dimensions identified overall in the project. Then we highlight the types of precarious work, where workers are more exposed to precarious working conditions in the Danish labour market, including temporary workers, part-time workers, labour migrants and employees in cost-driven subcontracted work. Finally, three case studies investigate how social dialogue can help mitigate precarious work.

Identifying 'Protective Gaps' in Denmark

This research has developed the novel framework of 'protective gaps' in order to capture the multi-layered experiences and meanings of precarious employment, its variety in different sector and country contexts and associated prospects for labour market inclusion. Drawing on expert interviews and secondary data, the research traced the character of four interlocking protective gaps in Denmark.

i) Employment rights gaps

In Denmark, most standard employment rights, including wages, are determined through collective bargaining between autonomous social partners (unions and employers' associations), which tend to secure a comparatively high wage level. Most terms and conditions are still settled at the sector-level¹ through multi-employer bargaining, although with significant room for adjustments at company level (framed by the boundaries of the higher-level agreement). In view of high union representation at workplace level this strongly restricts the possibilities for local concession bargaining².

Despite a largely voluntarist approach to joint regulation, there are important employment rights that are regulated by legislation including holiday entitlements, maximum working hours, equal treatment and non-discrimination. The Danish system of labour market regulation thus results in few 'employment rights gaps' for workers covered by collective agreements; however workers without collective agreement coverage are more exposed to these gaps, especially since there is no statutory minimum wage. Recent figures suggest that around 84 % of the Danish workforce is covered by a collective agreement. Yet another group are covered by the law on Salaried Employees, which secure

¹ Vartiainen, 2011

² Iisøe, 2012.

them a rather high level of working conditions. However, there are significant differences in collective agreement coverage rates between sectors with industrial cleaning, retail and agriculture having below average rates. Although non-standard workers are included in collective agreements, the absence of automatic extension mechanisms as seen in other European countries leaves unorganised workers in these sectors in a vulnerable position.

There are also gaps in the level of the conditions set down in collective agreements, including wage levels, access to training, pension schemes, maternity/paternity leave, notification terms and other important aspects. Different collective agreements within a sector tend to follow each other closely, but this in turn reinforces wage gaps between sectors. These 'gaps' between collective agreements do not necessarily result in precarious conditions, and some of the differences such as terms of notice reflect industry 'norms' and negotiated trade-offs such as where workers with shorter terms of notice may have easier access to education.

ii) Social protection and integration gaps

The Danish social protection system has traditionally been described as a universalistic welfare system which in a European context is comparatively generous and comprehensive. However entitlement to unemployment benefits are contingent on hours worked and on contribution to unemployment schemes. Likewise eligibility and requirements for re-qualifying for a new period of unemployment benefits has been tightened over recent decades. These settings make it harder for non-standard workers such as the self-employed, temporary and other types of short-term workers to qualify for unemployment benefits. Social assistance has also been reduced slightly for younger people as integration in the labour market is given a high priority.

Pensions are usually labour market schemes regulated in collective agreements which can produce some inequality among pensioners who worked in different sectors. However people can make their own pension contribution if they are not covered a labour market pension scheme. Furthermore there is still a universal old-age pension scheme - 'peoples' pension' – so that old age pensioners without pension savings are eligible for the public pension, which combined with various supplements e.g. housing and heating support can provide a decent living in old-age.

iii) Representation gaps

In order for the unions and employers' association to have the necessary legitimacy to negotiate collective agreements they need a certain share of members in the associated industries or companies. If there are low unionisation rates either in certain industries (such as agriculture and hotels and restaurants) or in companies it becomes more difficult for the social partners to negotiate collective agreements, but the union can negotiate collective agreements in companies without unionised workers, although this is not very common. Although unionisation has declined somewhat over the last decades and there has been an increase in 'alternative' or non-ideological unions, who do not negotiate collective agreements, union membership density remains comparatively very high at around 68%³.

Employees in small companies are more likely to experience representation gaps owing to lower collective bargaining coverage, limited membership of employers' associations and lower workplace representation in terms of shop stewards⁴. Furthermore, non-standard workers and migrant workers often have lower workplace representation as well as lower access to the local union branch officials,

³ DA, 2014.

⁴ Larsen and Navrbjerg, 2010; Mailand and Larsen, 2014

which often de facto are the one handling the negotiations especially in smaller firms without shop steward representation. Low-wage sectors like agriculture, horticulture, hospitality and catering have lower levels of representation compared with 'core' sectors like manufacturing, and unorganised workers are not protected by statutory rights or automatic extension mechanisms. The enforcement of rights is highly contingent on union presence, as they have the resources and knowledge to intervene when workers experience problems or breaches of rights or collective agreements. The current research has shown that while Danish unions have increased their attention to organising vulnerable groups in the labour market such as migrant workers by hiring union workers who speak foreign languages (e.g. Polish, Italian and Portuguese), there still are significant gaps in unionisation rates between workforce groups.

iv) Enforcement gaps

Some of the representation gaps discussed above are translated directly into enforcement gaps since unions, shop stewards and union representatives (typically employed in a local union branch office) are responsible for dealing with the enforcement of the standards set out in collective agreements. However, union representatives also have a role in seeking out more basic breaches of individual rights based on legislation such as maximum working time or non-discrimination. This again means that workers with low representation may also experience increased risks of enforcement gaps, and workers in a weak bargaining position may be reluctant to report breaches.

Public enforcement agencies such as The Working Environment Agency (WEA)/Labour Inspectorate have an important position when it comes to inspecting health and safety, but they do not regulate pay and conditions as set down in collective agreements. The WEA has had a particular impact on migrant workers' working conditions, but the WEA have had their budget cut rather dramatically in recent years, which could widen the enforcement gap. Investigations by agencies such as the WEA still rely on trade unions notifying them of potential problems. The police also enforce breaches of individual rights, but these are only related to severe breaches of individual rights, so in practice the police play a minor role regarding precarious and vulnerable workers.

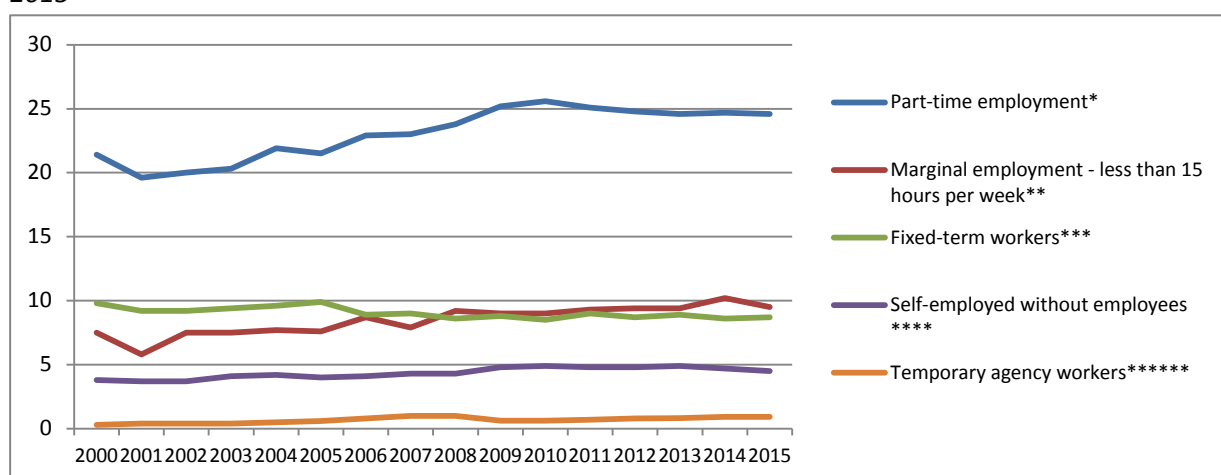
Types of Precarious Work

Non-standard employment

The incidence of non-standard- and precarious employment is comparatively low in Denmark, but some non-standard employment types have become more widespread in recent years. For example, although fixed-term contracts have remained stable, part-time work, temporary agency work, subcontracted work and solo self-employment has all become more common (see figure 1). The prevalence of non-standard- and precarious employment varies greatly across sectors in Denmark, and there are examples of workers (particularly migrant workers) in sectors such as industrial cleaning, construction and temporary agency work suffering wages and working conditions way below the standards outlined in the collective agreements. This risk is heightened further where subcontracting is common. Even where collective agreements are present, those in non-standard contracts face a greater risk of dismissal, low pay, restricted access to social security benefits (including sick pay, paid parental leave entitlements, occupational pensions), and access to training compared to their peers in full-time open-ended contracts⁵.

⁵ Larsen and Mailand, 2014

Figure 1: Employment types as a percentage of the workforce aged 15–64 years in Denmark, 2000–2015



Source: Eurostat (2015a)*; **Statistics Denmark (2015a); ***Statistics Denmark (2015b) ****Eurostat(2015b); *****Arbejderbevægelsens Erhvervsråd (2009); Statistics Denmark (2015c).

Part-time work and marginal part-time

Part-time work, and even marginal part-time work (i.e. with few weekly working hours, is relatively widespread in Denmark, with part-time workers often engaged on open-ended contracts. In 2015 one in four Danish employees – slightly more women - held a part-time position and one in ten worked less than 15 hours per week. Rates vary across sectors with 47 per cent of retail employees working part-time in 2013, whilst 64 per cent held a part-time position within hotel and restaurant sector and 44 per cent were part-timers within industrial cleaning⁶. Although most employees have voluntarily opted for a part-time positions for various reasons, nearly one in five have involuntarily taken up a part-time job and in some sectors the rise in part-time work seem to be driven by employers' demand for flexible work. Part-time work including involuntary part-time work is not necessarily precarious, but those with relatively few weekly working hours may face greater difficulties to accrue rights to unemployment and experience lower occupational pension contributions as they are calculated as a percentage of their monthly wage.⁷

Fixed-term work and Temporary agency work

Temporary agency work is a fairly recent employment form in Denmark and has become more widely used since 1990, when law changes allowed private companies to provide TAW services. By contrast, fixed-term work is a relatively well-established employment form in Denmark and has remained fairly stable since the mid 1990s⁸. Nine per cent of Danish employees hold a fixed-term contract, whilst less than one per cent is temporary agency workers. Whilst no figures are available regarding temporary agency workers, recent statistics by Eurostat indicates that 50% of fixed-term workers in Denmark have involuntarily hold such a position and 24% held a contract of less than six months in 2013⁹. The findings of this research suggest a small number of Danish employees also hold a position as so-called “on call temps” with no guaranteed weekly working hours, but who can be called in when acute needs arise perhaps for a few days or weeks. All short-term workers face a greater risk of precariousness in that it is difficult to accrue rights to the social benefits outlined in the collective agreements and the

⁶ Ilsøe, 2016; Larsen and Mailand, 2014

⁷ Larsen and Mailand (2014)

⁸ Larsen 2008; Statistics Denmark 1995;2016

⁹ Eurostat 2016

labour law (despite being covered in principle). Likewise, the nature of their employment contract also entails higher risks of job insecurity and difficulties in securing a stable income¹⁰.

Self-employment and subcontracted work

Solo self employment and subcontracted work, although slightly different, have also become more common in recent years. The number of solo self-employed has increased from 3,8 per cent of the workforce in 2000 to 4,5 percent in 2015, and both public and private companies have outsourced service tasks to independent subcontractors, which could be small-, medium- and large size companies, temporary work agencies and/or solo self-employed. These groups of employees face increased risks of precariousness. Danish solo self-employed workers often have limited if no rights to social benefits and no guaranteed income due to their status as self-employed. In addition, collective agreements and labour law do not cover solo self-employed as they are considered 'companies'.

Subcontracting often is associated with intense cost-competition which can exert downward pressure on wages and working conditions. For example, when public authorities outsource services to private contractors, the transferred employees are no longer covered by the collective agreements of the public sector. Their wages and working conditions are instead regulated by the arrangements and practices of the private contractor, which may not necessarily be at the same level (or may not be covered by a collective agreement at all). In addition, in some areas of public contracting such as industrial cleaning, contracts are relatively short (two or three years) and there is a tendency for cleaning firms to terminate the contract of their employees when they bid for new contracts (even if they rehire the same workers shortly afterwards)¹¹.

Case Studies of reducing Precarious Work

The Danish research team selected three case studies across five distinct sectors (industrial cleaning, construction, local government and temporary agency work sector and fishing industry) and aimed to explore how different forms of social dialogue – unilateral actions by unions, bipartite collective bargaining and tripartite consultation - may help to prevent precarious work along with identifying the various challenges associated with non-standard and precarious employment within the particular sectors. The case studies deals with different aspects of various protective gaps and explores how social partners have handled such challenges through distinct forms of social dialogue (see table 1). The findings reveal three main points in terms of multiple roles of social dialogue.

i) Exchange of good practices – potential spin-off effects of local successes?

The framework for collective bargaining in Denmark is outlined by sector agreements, and close collaboration takes place between trade unions, employers' organisations and the public authorities regarding employment and social policy, whilst local bargaining increasingly determines the implementation and interpretation of these agreements and policies. This process of coordination at national, sectoral and local levels enables key stakeholders to develop joint responses to address issues such as non-standard and precarious employment. The first case-study of labour clauses in public procurement within the municipality of Copenhagen has in some instances created a positive spin-off effect on other municipalities and also private companies who have used labour clauses as

¹⁰ Larsen and Mailand, 2014; Larsen, 2008

¹¹ Larsen and Mailand 2014; Witt Olsen, 2014

benchmarks for their outsourced employment practices. Likewise, the second case study on how social partners within manufacturing deal with TAW also revealed the exchange of good practice across Danish manufacturing companies due to the close collaboration between unions and employers at sectoral and company levels. Also in the third case study regarding the efforts of one union site to organise migrant workers, the union were able to draw on their past experiences at local level, as well as the experience of other sites and unions.

Table 1. Summary features of case studies 1-3

	1. Local government outsourcing	2. Temporary agency work (TAW)	3. Union's organising migrant workers
Sector/occupation	Industrial cleaning Construction	Manufacturing	Construction Fishing industry
Types of protective gaps	Low pay Working conditions beyond labour standards outlined in collective agreements Limited or ineffective follow-up procedures to ensure compliance with existing rules and regulations	TAW a screening tool High job insecurity Restricted eligibility to social benefits outlined in collective agreements Regulatory gaps	Low union density Low pay Working conditions below labour standards outlined in collective agreements Lack of enforcement Unawareness of social and employee rights
Forms of social dialogue	Tripartite consultations btw. local authorities, unions and employers associations	Bipartite collective bargaining Novel tripartite consultation btw. User-companies, unions and temporary work agencies	Unilateral actions by unions
Initiatives	Public procurement practices Follow-up procedures	Set-up of joint task force New rights for TAW Company based responses	Organising efforts Industrial actions
Positive outcomes	Greater compliance with existing rules and regulations Monitoring subcontractors' wage and working conditions Some spin-off effects throughout the supply chain	Local agreement to move TAW on to permanent position after 6 months employment New social and employment rights for TAW Local agreements on removal of threshold for accruing social benefits such as occupational pension,	Collective agreement coverage Rising union density Greater awareness of social and employment rights
Issues remaining	High risk of job insecurity Part-time work incl. marginal part-time work being widespread High levels of self-employed without employees Thresholds for accruing rights to some social benefits remain high	Thresholds for accruing rights to some social benefits remain high High risks of job insecurity Collective voice of TAW limited	Low paid jobs, although within the collective agreements Some employee groups being difficult to organise

ii) Social dialogue an important tool to address precariousness

All three case studies include examples of social dialogue actions where social partners – individually or jointly have developed responses to address the increased risks of precariousness associated with specific forms of employment. In the first case study, through tripartite consultation the social partners developed joint responses to address precarious employment in outsourced public services, and local government working with trade unions and employers associations worked to ensure the implementation and enforcement of labour clauses. The second case study also revealed how social partners worked to improve the wages and working conditions of TAW at sector and local level, as well as novel collaborations between user companies, TAWs and trade unions to reduce job insecurity by offering a permanent position after 6 months employment and offering training for TAWs between jobs. Also the risk of limited access to the social benefits outlined in the collective agreements was addressed through social dialogue by social partners agreeing to lower the eligibility criteria for

occupational pensions and extra holiday entitlements. Likewise in the third case study, unions attempted to improve the wages and working conditions of migrant workers through union organising, and ensuring that workplaces were covered by a collective agreement. This process involved collaboration with the local employers at company level as well as some industrial action.

iii) Social dialogue systems to regulate labour relations

The Danish case studies indicate that strong systems of social dialogue underpinned by high union density and employers' association membership is an important tool to set and enforce the wages and working conditions set out in collective agreements, which in turn helps reduce precarious employment among workers. Conversely, in sectors such as industrial cleaning and parts of the construction sector, where union membership density, collective agreement coverage and shop steward presence are comparatively low, we find increased risks of low wages and precarious employment. In addition, our case studies reveal that even in some of the more densely regulated areas of the Danish labour market we find examples where non-standard employees face increased risks of precarious employment, often because they have restricted access to social benefits despite being covered in principle by the labour law and/or collective agreements¹². Therefore, although social dialogue can be considered an important mechanism to address precarious employment and Danish social partners have developed joint responses through social dialogue, our findings also suggest that Danish social partners continue to face a series of challenges regarding precarious employment.

Challenges for future social partner initiatives

Our research findings indicate several challenges regarding precarious employment that will continue to represent challenges for social partners in the years to come. Issues to be considered include:

- **Harmonise eligibility thresholds for social security between different types of employment**
- **The use of automatic extension mechanisms to increase collective bargaining coverage**
- **Include self-employed workers in sectoral collective agreements and labour law**
- **Promote enforcement of labour clauses and standards set out in collective agreements**
- **Improve the collective voice of non-standard and precarious workers in unregulated sectors without a strong union presence at the workplace**

Information and acknowledgements

The Danish research team: Bjarke Refslund and Ole Henning Sørensen, Centre for Industrial Production, Aalborg University, Copenhagen, Stine Rasmussen, Department for Political Science, Aalborg University and Trine Pernille Larsen, Employment Relations Research Centre (FAOS), Copenhagen University.

Acknowledgements: We would like to thank all those who were interviewed as part of this research, including the experts on employment and labour market issues as well as managers and employers, workers, employers' associations' representatives and union representatives in the case studies. We are also grateful to the European Commission for financing our research.

For more information please visit the project website: <http://www.research.mbs.ac.uk/ewerc/Our-research/Current-projects/Reducing-Precarious-Work-in-Europe-through-Social>

¹² Larsen and Mailand, 2014