Mitigating labour market dualism: Single Open-Ended Contracts and Other Instruments

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Abstract
This Policy Department A study prepared at request of the Employment and Social Affairs Committee examines the incidence of temporary forms of working in Europe, transitions to permanent work and the types of reform options that could help to mitigate labour market dualism. It explores labour market reforms aimed at combating dualism in eight Member States. On this basis, it concludes that overall, further evaluation and recalibration of employment policy, taking into account post-reform experiences, would be advisable; better communication from could governments help overcome employer hiring reluctance; and human-capital oriented ALMPs should complement any strategy to tackle segmentation.
Mitigating labour market dualism

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ALMP  Active labour market policies
SOEC  Single open-ended contract

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EXECUTIVE SUMMARY

In terms of temporary working (defined here as fixed-term contracts and temporary agency working), this study shows that temporary employment is an important feature of European labour markets (>15% of all workers in Poland, Spain, Croatia, Portugal and the Netherlands).

While the gender composition of temporary work is quite balanced, a disproportionately high share of low-skilled, young people, migrants and workers in low- and medium skilled service sector occupations are disproportionately work on temporary contracts. Thus, 23.7% of those in elementary occupations across the EU28 are employed on a temporary basis, compared with 15.8% of clerical, service and sales workers, 15.2% of skilled agricultural workers, craft and trade workers, and machine operators and assemblers and 10.2% of managers, professionals and technicians. The differences between these groups also vary by country. University graduates are often employed on a temporary basis in some Southern European countries.

Looking at the drivers of temporary work, this study finds that workers tend to take up temporary contracts when no permanent job is available. Only in a few countries with strong vocational training systems such as Austria, Germany and Denmark do educational reasons play a substantial role via fixed-term apprenticeship contracts.

Survey data on working conditions for fixed-term workers show lower satisfaction with job quality compared to workers with permanent employment (lower perceived job stability, a higher low pay share, less worker representation, limited training and career prospects).

There is some evidence that transition rates from temporary to permanent work are falling and some countries show a relatively low transition rate (10% in France, 12% in Spain, 12.3% in the Netherlands, and 12.6% in Greece, against an EU average of 22.8%). In some countries and sectors, average durations of fixed-term contracts are quite short (lasting at most 12 months), implying chains of fixed-term contracts. In a number of countries, the duration of many temporary contracts lies between one and three months only (e.g. BE, FR, HR, LT, LV). By age, transition rates are lowest in the 20-29 year age group (18.2%) and the 60+ age group (17.6%). Transition rates rise with educational level.

Further, the study finds that institutions, in particular governments imposing labour market regulation, are main factors in shaping labour market dualism. In a number of countries that have strongly segmented labour markets, proposals to replace the dual system of permanent and fixed-term contracts by a single open-ended contract (SOEC) have been made, especially in Spain, France and Italy. There are at least two versions of a SOEC: a uniform contract (implying the same dismissal protection for all workers, i.e. abolishing fixed-term contracts) and a differentiated SOEC (with continued differentiation of dismissal protection based on seniority).

In theory, a SOEC could help to narrow the gap between temporary and permanent contracts. In a dual system, most redundancies affect employees on a fixed-term contract with low seniority; under a SOEC, dismissals will be more evenly spread over employees with varying degrees of seniority, since dismissal costs vary less with tenure. Under a SOEC, workers with short tenure will have a larger probability of staying in the same job for a longer period, whereas workers with longer tenure run a greater risk of being dismissed. The number of hirings will probably fluctuate more strongly over the business cycle. The effects of a SOEC on the employment rate and the unemployment rate are uncertain, but probably small. However, it is important to stress that a SOEC does not exist yet in any
country. Moreover, the effects of a SOEC will vary depending on the specific type of SOEC used.

There are alternative mechanisms of protection against labour market dualism, such as active labour market policies and unemployment benefits. However, little is known about the effectiveness of alternative measures to overcome the divide between non-standard and permanent employment. Most alternative measures also have some downsides that have to be weighed against the advantages. For example, measures to increase income security of non-standard workers, such as easier access to social insurance, may act as an unintended subsidy to employers who hire workers on non-standard contracts.

A dedicated EU Directive on fixed-term contracts (1999/70/EC) does not fully aim to reverse the trend of deregulation and there are a number of loopholes in its formulation, according to research. This study also presents lessons from eight case studies of countries with strong employment protection and high shares of temporary employment (DE, NL, SI, PL, ES, FR, PT, IT). Typically, these exhibit low or moderate transition rates to permanent jobs unless temporary contracts are used for educational purposes. Over the past 10 years, there has been in all these countries significant and unprecedented reform activity to reduce the regulatory gap between contract types, in particular by reducing employment protection (e.g. IT, ES, PT). Reforms have eased the justification for dismissals, simplified dismissal procedures and lowered severance pay. However, none have introduced a unified SOEC. Labour market reforms also include financial incentives: strong hiring subsidies (e.g. in Slovenia) might help transitions to permanent contracts, but they are expensive and difficult to sustain fiscally. A number of countries have introduced tighter regulation of fixed-term work (e.g. limits on the total duration or number of fixed-term contracts in the Netherlands and Poland) or strengthened active labour market policies (ALMP) in order to increase sustainability of activation (e.g. in France). However, ALMP play a minor role in countering segmentation. In some cases unemployment benefit coverage has been slightly extended. Despite all these reform efforts, fixed-term contracts are still used widely in the most dualised labour markets, due to long-standing hiring routines.

Overall, it would appear that flexibility is increasing on the whole, as dismissal protection for permanent contracts is lowered and the incidence of temporary contracts is increasing, while employment security is arguably being eroded. It would seem that the re-regulation of temporary work appears to be the main way in which dualism is being mitigated.

Based on the reviewed evidence, it is not (yet) possible to identify a best-practice model when it comes to lowering labour market dualism. Policy experimentation and its systematic evaluation will need to continue. The debate on a more balanced regulatory model of European labour markets has a long tradition in EU-level discourse and policy strategies and it would appear that, based on this study, the search for best practice will continue in the coming years.

Policy recommendations

- Re-regulation of temporary contracts to make temporary employment more expensive. Introducing unemployment insurance experience rating imposes higher payroll tax rates on firms that have dismissed more workers in the past. As result, the costs of flexible HR practices can no longer be externalised. Policies combining this with an expansion of unemployment benefit coverage and generosity would take the idea of flexicurity more seriously.
• **Communicating and enforcing existing rules properly.** In the absence of industrial relations traditions that fulfil this role, this would require **investment in labour inspectorates.** Given the budgetary situation of some of the countries studied here, this is an area where the European Union could take a strong role. It is also advisable to **communicate newly-established dismissal protection rules** more clearly and consistently to market actors so that the real costs of dismissals can be more in line with perceived costs of dismissals.

• **Building human capital-oriented ALMPs.** Even if it is **not easy for public employment services to influence upward transitions,** targeted training of unemployed people according to labour market needs may improve employment trajectories in the longer run.

• Governments that are determined to lower segmentation should **start with hiring practices in the public sector** as there is no justification for highly precarious chains of temporary contracts.

**Further research** is necessary to examine in more depth the drivers behind labour market dualism in a wider range of EU Member States and to analyse the effectiveness of a range of policy responses.
1. INTRODUCTION

Dualism is a widespread phenomenon of today’s European labour markets. A major divide lies between permanent, open-ended contracts and a variety of so-called non-standard forms of employment, in particular different forms of temporary work such as fixed-term contracts and temporary agency work. This study therefore includes a focus on fixed-term contracts and temporary agency work, as this represents a major area of labour market dualism (with the caveat that some temporary agency workers have permanent contracts with their temporary agencies). While there is also a firm-level logic establishing a division between internal and external labour markets, institutions add a crucial element to the dualism of employment systems.

In the European context, non-standard employment, and fixed-term contracts most notably, has emerged as a response to the deregulation ‘at the margin’ of the labour market, legalising and liberalising the use of temporary types of work over the last decades. This has fundamentally altered the functioning of European labour markets, in particular where there is now a segment characterised by relatively strict dismissal protection for permanent workers on the one hand and a more or less deregulated segment of flexible contracts on the other. While this may have helped create additional jobs and entry into the labour market (without questioning the protection of permanent workers), there is now growing awareness of the side-effects of labour market dualism.

First, transitions to permanent positions are not always easy, as temporary workers might be confined to a segment characterised by instable employment and limited career prospects. Second, and related to this, the quality of temporary jobs tends to be inferior to permanent jobs regarding dimensions such as pay, access to social protection, training or health.

Against this backdrop, policy makers have tried to address the issue of labour market dualism by

- questioning established patterns of ‘asymmetrical’ employment protection and
- addressing some of the quality issues related to non-standard forms of employment.

Through these reforms, access to permanent employment should be eased, and the working conditions of those in non-standard work should be improved. While dismissal protection for permanent workers was not a core issue on the political agenda of EU Member States for a long time, after the 2008/09 crisis, in a situation of extremely high unemployment, some countries with strict employment protection have started to lower dismissal protection, sometimes also re-regulating temporary forms of work. In some countries, these reform steps were inspired by policy proposals in favour of a single labour contract designed to overcome the divide between permanent and temporary employment. In some countries this has also been combined with steps to improve social protection of labour market entrants and those on temporary contracts or in (solo) self-employment.

The debate about a more balanced regulatory model of European labour markets has a longer tradition in EU-level discourse and policy strategies. Replacing strict employment protection for some by a more even model of labour law, and in combination with more universal access to unemployment benefits and active labour market policies, most notably training, has been a core pillar of the ‘flexicurity’ approach. It is also referred to in the debate around the “European Pillar of Social Rights” and “Inclusive Growth” at the European level. Furthermore, the EU has devoted some of its regulatory capacities on establishing regulatory standards applicable to different forms of non-standard employment, e.g. the Fixed-Term Work Directive of 1999 and the Agency Work Directive of 2008.

Against this backdrop, the main aim of this study is to inform the EP in an independent and balanced manner about the currently available evidence on temporary work, employment
protection reforms and other instruments to reduce labour market dualism in the EU. Most notably it focuses on efforts regarding better access to social protection, active labour market policy programmes and training so that the disadvantages of temporary employment are reduced and transitions to permanent jobs are enhanced. In the understanding of this note, temporary employment primarily means fixed-term contracts and temporary agency work. When relevant in the national context, other segments of casual work such as project-based, formally self-employed work are included in the analysis.

The note aims to compile and assess the currently available empirical evidence on these topics. To achieve this goal, the briefing note takes into account analytical literature, quantitative data and qualitative information gained from interviews with experts. It provides an empirical picture of labour market dualisms and an up-to-date review of policy proposals and reforms aiming at reducing dualism in the labour market, both in the realm of employment protection and in complementary areas.

Hence, this note aims at answering three main questions, two more analytical, one more policy-oriented:

- Which patterns and trends of temporary work exist across the EU?
- What are the consequences of temporary contracts for individuals in terms of working conditions and career prospects?
- What are the potential policy approaches to move beyond a dual labour market characterised by a divide between temporary and permanent jobs?

With respect to potential solutions aiming at reduced labour market dualisms we ask what is the role of single labour contracts compared to other policy approaches at EU and at national level. We review and discuss the pros and cons of different reform options and assess what works and what does not work, taking into consideration relevant EU Directives. In addition to general observations, this note also assesses the experience with single open-ended contracts and related reforms in a sample of selected EU Member States.

This study brings together pieces of evidence from different sources and methods. First, it relies on descriptive insights from European data on the labour market and on institutional developments to establish a broad picture of temporary employment in Europe. Second, regarding driving forces of temporary employment, its consequences and potential policy solutions, it includes a systematic review of the relevant research literature. Thirdly, this is combined with expert interviews to better understand the concrete development, institutional changes and their impact in a sample of selected EU Member States with significant labour market dualisms and reforms on the one hand and at the European level on the other hand.

The subsequent section will try to answer the three main research questions asked above in turn. Section 2 will address trends, patterns, causes and consequences of temporary employment in the EU while the remainder of the briefing note will discuss potential policy options (section 3) and case studies with actual reform experiences (section 4).
2. AN OVERVIEW OF TEMPORARY EMPLOYMENT IN THE EU

KEY FINDINGS

Temporary employment is an important feature of European labour markets, however, fixed-term contracts are more widespread than temporary agency work. In countries such as Poland, Spain, Croatia, Portugal and the Netherlands more than 15% of all workers are on temporary contracts, and in Slovenia, the Netherlands, Spain, France and Austria more than 2% of all workers are engaged in temporary agency work.

While the gender composition of temporary work is quite balanced, temporary working disproportionately affects certain categories of individual, such as young people (44%), migrants (5.5 percentage point gap with EU-born workers) and workers in elementary occupations (23.7%). University graduates are often employed on a temporary basis in some Southern European countries.

Temporary contracts are often taken up when no permanent job is available. Only in a few countries with strong vocational training systems such as Austria, Germany and Denmark educational reasons play a substantial role via fixed-term apprenticeship contracts.

The typical pattern is that survey data on working conditions for fixed-term workers show lower satisfaction with job quality compared to permanent employment. This is associated with lower perceived job stability, a higher low pay share, less worker representation and limited career prospects as well as training.

Furthermore, some countries such as France, Spain, the Netherlands, Greece, Portugal and Italy exhibit a low transition rate to permanent position, and in some countries average durations of fixed-term contracts are quite short, implying chains of fixed-term contracts.

In this section, we explore the extent on temporary employment in the EU, examining its share of employment in EU Member States. We also examine its extent on a sectoral basis and by factors such as gender, education and age. We examine working conditions and job quality for temporary workers, the drivers for temporary working, the role of institutions, and review the debate on transitions from temporary work into more permanent forms of employment. We focus on fixed-term contracts and temporary agency work. This section also includes some information on seasonal and posted work, although these forms of temporary working are not a focus here. It should be noted that there is a distinction between work on fixed-term contracts, which are concluded directly between an employer and an individual, and temporary agency work, where the relationship is triangular, between an individual, an employment agency and a user company.

Besides the atypical, but relatively widespread employment relationship based on a temporary basis, there are other so-called ‘new forms of employment’ emerging across Europe. According to Eurofound (2015a), there exists for instance employee sharing, meaning the joint hiring of an individual worker by a group of employers, and the concept of job sharing, characterising a single employer hiring two or more workers to jointly fill a specific job. A third new employment relationship is voucher-based work, where a worker’s status is between that of an employee and a self-employed person. New forms of work as noted by Eurofound also include work patterns of interim management, casual work, ICT-based mobile work, crowd employment, portfolio work and collaborative employment (Eurofound 2015), although these are not a focus of this study.
The following sections in this chapter give an overview of main features regarding temporary employment in the EU, focussing on fixed-term contracts and temporary agency work. The overview includes the incidence of temporary employment, its forms, an examination by sector and occupational group, a profile of temporary workers by gender, age, education and origin, an examination of working conditions of temporary workers, the effects of temporary work on health, the reasons for temporary employment, transitions to permanent forms of work and the role of regulation and institutions.

In terms of definitions, it can often be difficult to define what exactly is included in the category of temporary work. Temporary work for the purpose of this study covers fixed-term contracts and temporary agency work. As noted above, there is a distinction between work on fixed-term contracts, which are concluded directly between an employer and an individual, and temporary agency work, where the relationship is triangular, between an individual, an employment agency and a user company.

2.1. Incidence of temporary employment varies according to Member State

In this section, we present an overview of temporary work, covering both these forms of contracting, before looking in more detail at temporary agency work and then exploring temporary contracting by sector, occupational group, gender, age and citizenship.

Figure 2.1 below shows temporary contracts (temporary agency work and fixed-term types of work) as a percentage of total employment in the EU28 and the change between 2006 and 2016. The range is from Romania (around 1%), Lithuania, Latvia and Estonia at the lower end of the scale, to Portugal, Spain, Croatia and Poland (22%) at the top end. Thus the labour markets of those at the lower end could be classified as less segmented than those at the top end of the scale. The incidence of temporary working is above the EU28 average in a total of 11 EU Member States.

In terms of trends, temporary work fell between 2006 and 2016 in Spain, Latvia and Lithuania and increased in Croatia, Slovakia, Malta, Denmark and Cyprus.

![Figure 2.1: Temporary contracts in EU Member States](image-url)
2.2. Temporary agency work plays a relatively minor role in the labour market

Temporary agency work is distinct from employment on fixed-term contracts in that at its heart is a triangular relationship between the user company, the worker and the temporary work agency. A common feature of temporary agency work is that it often relies on particular labour market groups, such as young workers, and especially for jobs with low training costs. Formally, however, temporary agency work can either be on a permanent or a fixed-term contract.

Overall, compared to fixed-term contracts, temporary agency work plays a minor role, in terms of the share of the labour market, in all European countries, with an average 1.5% of total employment (European Parliament 2016). In the Netherlands and Slovenia the share is twice this, while it is very low in Greece, at 0.2%.

Figure 2.2 below shows temporary agency workers as a percentage of total employment in the EU and the change in percentage points between 2006 and 2016. The range is from over 5% in Slovenia and just under 4% in the Netherlands to below 1% in Hungary, Greece and the UK. There was a significant downward trend in Latvia, and a smaller downward trend in Denmark, Spain and Slovenia. There was an increase in Luxembourg, Lithuania and the Netherlands.

Figure 2.2: Temporary employment agency workers.

Source: Eurostat, [lfsa_qoe_4a6r2]. Note: Temporary employment agency workers as percentage of total employment.

Box 2.1: Seasonal and casual work

It is sometimes hard to distinguish between fixed-term contract work and seasonal work as not all countries make such a distinction (European Parliament 2016). Further, many of the issues that are relevant to seasonal work overlap with those that are relevant to the use of fixed-term contracts. For example, it can be argued that seasonal work can give young and unemployed people invaluable work experience and act as a stepping stone into full time employment. However, the majority of seasonal work is low skilled, and as such seasonal work is also, by nature, low paid. Broughton et al (2010) found that many seasonal workers are classed as persons on ‘very short’ fixed-term contracts, as national statistics in most countries do not differentiate between very short (fixed-term) work and casual/seasonal work, and EU statistics does not cover this explicitly.
There is no legal definition of a casual worker and so they can be classed as employees, workers or self-employed people. Casual working is also found in docklands work in some EU Member States. In Denmark, for example, labourers can be hired on a casual daily basis in the Port of Esbjerg, although this practice is dying out. In France, casual workers are employed in agriculture and tourism and in entertainment and the audiovisual sector (Broughton et al, 2010). Casual work is closely related to seasonal work and the workers engaged in this type of work are faced with some of the same risks of precarity as those engaged in seasonal work. There is also a strong link to zero hours contracts in countries such as the UK and Ireland.

2.3. **Temporary employment highest in agriculture, forestry and fishing**

Figure 2.3 below shows the share of temporary employees in total employees by sector in the EU28 in 2016 and 2008. Agriculture, forestry and fishing have the highest proportion of temporary employees, followed by accommodation and food service activities and arts, entertainment and recreation. The sectors with the lowest proportion of temporary employees are electricity, gas, steam and air conditioning supply, financial and insurance activities and mining and quarrying. In terms of trends, the proportion of temporary workers has increased in sectors such as agriculture, forestry and fishing, accommodation and food service activities, arts, entertainment and recreation, and transportation and storage, while it has declined in sectors such as activities of households as employers, construction, information and communication and activities of extraterritorial organisations and bodies. This supports Eurofound’s (2015) finding that the likelihood of holding a temporary contract is higher for those working in agriculture and certain service sectors.

**Figure 2.3: Temporary employees by sector in EU28.**

Source: Eurostat, [lfsa_etgan2] and [lfsa_eegan2]. Note: Share of temporary employees in total employees in respective sectors in EU28.
Mitigating labour market dualism

According to the European Commission (European Commission, 2014), the occupational groups most commonly hired through temporary employment agencies are plant and machine operators and assemblers, those in elementary occupations and craft and related trades workers. There is also a high incidence of temporary agency workers who are young and relatively low-skilled, in manufacturing and other industries.

Temporary agency working is low in all sectors, at between 0% and 3%. Thus, the incidence of temporary working is 3% in manufacturing, 2% in non-manufacturing industries, 1% in retail and trade, transport and accommodation, in ICT, real estate, financial and professional services, in public administration, health, and other services, and 0% in agriculture, fisheries and forestry and education.

Seasonal work has a strong sectoral dimension, being prevalent in sectors such as agriculture and tourism. Other sectors of the economy where seasonal work and short fixed-term work can be found include textiles, education and construction. Seasonal and casual workers are often engaged in low-paid and low-skilled occupations, such as agricultural labouring jobs.

2.4. Temporary work also high in elementary occupations

Figure 2.4 and table 2.1 below show temporary employment by occupational group in 2016 by EU Member State. Elementary occupations feature most highly in most countries, particularly in Slovakia, Hungary and Cyprus. Clerical workers, service and sales workers also feature in Slovenia, Poland, the Netherlands, Denmark and Sweden. Skilled agricultural, craft and trade workers and machine operators and assemblers feature in France, Austria, Germany, Spain and Poland, whereas managers, professionals and technicians are in general at the lower end of representation among temporary works in all countries, with the exceptions of Germany and Austria. Hence, occupational hierarchies and skill profiles matter in determining the extent of temporary employment.

Figure 2.4: Temporary employees by occupational group
### Table 2.1: Temporary Employment shares in main occupational groups, 2016.

<table>
<thead>
<tr>
<th>Share 2016</th>
<th>Managers; professionals; technicians</th>
<th>Clerical workers; service and sales workers</th>
<th>Skilled agricultural; craft and trade workers; machine operators and assemblers</th>
<th>Elementary occupations</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Latvia</td>
<td>1.74%</td>
<td>2.85%</td>
<td>4.21%</td>
<td>9.03%</td>
<td>3.68%</td>
</tr>
<tr>
<td>Estonia</td>
<td>2.03%</td>
<td>4.77%</td>
<td>4.32%</td>
<td>7.39%</td>
<td>3.72%</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>1.10%</td>
<td>3.99%</td>
<td>3.23%</td>
<td>15.61%</td>
<td>4.07%</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>4.84%</td>
<td>7.25%</td>
<td>4.23%</td>
<td>10.00%</td>
<td>5.95%</td>
</tr>
<tr>
<td>Malta</td>
<td>6.29%</td>
<td>8.94%</td>
<td>6.61%</td>
<td>9.80%</td>
<td>7.50%</td>
</tr>
<tr>
<td>Ireland</td>
<td>5.73%</td>
<td>10.52%</td>
<td>7.26%</td>
<td>12.05%</td>
<td>8.12%</td>
</tr>
<tr>
<td>Luxembourg</td>
<td>7.01%</td>
<td>11.84%</td>
<td>9.69%</td>
<td>14.29%</td>
<td>8.83%</td>
</tr>
<tr>
<td>Austria</td>
<td>9.31%</td>
<td>8.89%</td>
<td>9.55%</td>
<td>6.65%</td>
<td>8.99%</td>
</tr>
<tr>
<td>Belgium</td>
<td>7.00%</td>
<td>10.50%</td>
<td>9.49%</td>
<td>14.15%</td>
<td>9.14%</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>6.15%</td>
<td>11.42%</td>
<td>9.36%</td>
<td>25.27%</td>
<td>9.72%</td>
</tr>
<tr>
<td>Hungary</td>
<td>2.93%</td>
<td>6.46%</td>
<td>6.73%</td>
<td>43.26%</td>
<td>9.73%</td>
</tr>
<tr>
<td>Slovakia</td>
<td>3.38%</td>
<td>8.78%</td>
<td>6.28%</td>
<td>44.89%</td>
<td>9.95%</td>
</tr>
<tr>
<td>Greece</td>
<td>8.12%</td>
<td>11.19%</td>
<td>11.96%</td>
<td>23.33%</td>
<td>11.21%</td>
</tr>
<tr>
<td>Germany</td>
<td>12.04%</td>
<td>14.05%</td>
<td>13.16%</td>
<td>13.82%</td>
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Source: Eurostat, [lfsa_etgais] and [lfsa_eegais]. Note: Table depicts the share of temporary employees in total employees aged 15-64 in 2016. Due to partly lacking data for 2016, the used number of temporarily employed for Estonia (Technicians and associate professionals) refers to 2015, the number for Bulgaria (Clerical support workers) refers to 2014, temporarily employed in Belgium and Luxembourg (Skilled agricultural, forestry and fishery workers) refer to 2015 and for employees on a temporary basis in Latvia (Skilled agricultural, forestry and fishery workers) data from 2014 are used.
2.5. No marked gender difference in temporary working

According to the European Parliament (2016), there is no marked gender difference in levels of temporary and fixed-term work. Using European Labour Force Survey data from 2014, this study finds that 1% of male and female workers are employed on a temporary work agency basis and that 7% of male and female workers are employed on a fixed-term contract.

Figure 2.5 shows the share of temporary employees in total employees by gender in the EU28 in 2016. There is a relatively even split between the genders in most countries, with a bias in favour of a greater share of women. The exceptions are Cyprus and Finland, where the share of women is significantly higher than that of men. The countries in which the share of men is higher than that of women are Romania, Lithuania, Latvia, Estonia, Bulgaria (although the overall proportions are very low) and Portugal.

![Figure 2.5: Temporary employees by gender](chart)


2.6. Young workers over-represented among temporary workers

Younger workers are over-represented among the category of workers on temporary contracts. Data from the 2016 European Parliament report shows that 16% of young Europeans between 15 and 24 years of age work on the basis of a fixed-term contract (compared with the EU average of 7%), and 3% undertake temporary agency work (compared with the EU average of 1%). The 2016 European Parliament report also showed that for workers aged 25-54, average levels of temporary working were 1% and average levels of fixed-term contracts were 7%. This falls to 1% and 3% respectively for those aged 55 and above. A 2015 Eurofound study (Eurofound 2015) also found that the likelihood of having a temporary contract was higher among younger employees, although it also noted that while age is an important factor in predicting the incidence of temporary employment, it appeared to be less relevant as a determinant in Central and Eastern European countries than elsewhere.
Figure 2.6: Temporary employees by age in EU28 in 2017

Figure 2.6 shows the number of temporary workers by age category in the EU28 in 2017, as a percentage of the total number of employees. The highest proportion of temporary workers is seen among those aged between 15 and 24 (just over 44%), followed by those aged 25 to 34 (just under 19%). Temporary workers accounted for only 11% of those aged 35-44 while only just under 7% of those aged 55-64 are temporary workers.

It should be noted, of course, that one of the reasons that young people fall into the category of temporary and fixed-term work is that relatively large numbers of under-25 year olds are employed on apprenticeship or training contracts. The European Parliament (2016) estimates that 14% of young people have an apprenticeship/training contract. Apprenticeships and training contracts are a key part of the labour market for young workers, enabling them to gain skills and work experience at the start of their career.

Other studies have charted developments relating to young workers and temporary forms of work. Eurofound (2014) notes that young people were especially affected by the recession that hit Europe from 2008 onwards. Using European Labour Force Survey data, it found that 42% of those aged 24 and under were employed on some form of temporary contract, compared to 10% of workers aged 25-64. It voiced concerns that while temporary forms of employment can be a stepping stone in the transition from education into work, they can also trap young people in insecure jobs (see the section below on transitions). In terms of trends, over the three years from 2009 to 2012, the proportion of young people in work with temporary contracts of employment rose in 20 out of the EU28 countries. The increase was particularly large in countries that were most affected by the crisis, such as Ireland, Slovenia, Spain and Italy.

2.7. Young workers account for largest proportion of temporary workers

Figure 2.7 below shows temporary employees as a share of total employees by age group in 2016. In all countries, without exception, workers between the ages of 15 to 24 make up the largest proportion of temporary workers, mostly by some margin. Those from 25 to 49 make up the second-largest group in all countries except Portugal, although the margin is very low in countries such as the UK, Croatia and Ireland. The smallest group of temporary workers in all countries except Portugal is made up of those aged between 50 and 64.
Mitigating labour market dualism

2.8. Complex picture in relation to educational level and temporary work

Educational level and temporary employment is a complex picture. While workers with lower educational levels are more likely to work on a temporary basis compared with those with higher levels of education, when looking at the total number of temporary workers, those with upper-secondary and post-secondary non-tertiary education make up the largest proportion.

2.8.1. Those with lower educational levels more likely to work on a temporary basis...

Accordingly, the 2016 European Parliament report examines temporary working (fixed-term contracts and temporary agency work) and educational attainment. It finds that 2% of those with low educational attainment worked on a temporary basis and 8% on a fixed-term contract, compared with 1% and 7% with medium and high educational attainment. Thus, those with lower levels of education are more likely to be working in a temporary or fixed-term employment relationship. Eurofound (2015) also found that the likelihood of holding a temporary contract was higher for employees with lower educational attainment.

Seasonal workers are more likely to be young people and those in full-time education, who engage in, for example, fruit or vegetable picking in order to earn money during holidays. However, seasonal workers can also be people who earn their living through this type of work, following the availability of work around as needed. Indeed, a large proportion of casual workers are very young: 42% are between 16 and 19 years old and 24% are between 20 and 24 years old. (European Parliament 2016). This means that the workforce is relatively young, engaged in summer jobs and Christmas jobs, with little knowledge of working environments and potentially relatively easy to exploit. Whilst fewer individuals working in seasonal jobs hold degrees than those in permanent or agency work (14% hold degrees), this is most likely explained because a large proportion of people working in this sector are below the age of a typical graduate.

Figure 2.8 below shows temporary employees by education, as a proportion of total employees in the EU28. The largest share of temporary employees has less than primary, or primary and lower secondary education, in all countries with the exception of Portugal, Malta and the UK. In the majority of countries, the next largest proportion of temporary workers
has upper secondary and post-secondary non-tertiary education. The exceptions are Cyprus, Portugal (where this group is the largest among its temporary workers), Austria (where it is the lowest) Luxembourg, Malta and the UK. Overall, temporary workers with tertiary education form the smallest group of temporary workers in most countries, with the exception of Austria, Portugal, Luxembourg, Malta and the UK.

**Figure 2.8: Temporary employees by education.**

Source: Eurostat, [lfsa_etgaed] and [lfsa_eegaed]. Note: Figure depicts temporary employees in total employees aged 15-64 by education in 2016.

2.8.2. ... but those with secondary education make up largest proportion of temporary workers

If the total number of temporary workers are examined, those with upper-secondary and post-secondary non-tertiary education make up the largest proportion. Thus, Figure 2.9 below shows the percentage of temporary employees by educational attainment level in the EU28 in 2017. Those with upper secondary and post-secondary non-tertiary education make up the largest proportion (almost 46%). The remainder is split relatively equally between those with tertiary education (just over 28%) and those with less than primary, primary and lower secondary education (just under 26%).
2.9. **Foreign-born workers more likely to be temporary workers**

In 2016, the gap between the share of native-born and foreign-born employees working on a temporary basis in the EU-28 countries was 5.5 percentage points (see figure 2.10). The share of temporary employees with foreign citizenship is especially high in Poland (53%), Croatia (44%) and Portugal (40%), whereas the Baltic and Anglo-Saxon countries have the lowest shares. Countries with a wide gap between foreign and native-born employees with a temporary contract seem to coincide with countries showing higher total shares of temporary employment. From the Eurostat data, there is almost no difference between temporarily employed men and women born outside the EU.

**Figure 2.10: Temporary employees by citizenship.**

Source: Eurostat, [lfsa_etpgan]. Note: Figure depicts temporary employees as percentage of the total number of employees by citizenship in 2016.

The next section looks at working conditions, job quality and mobility issues for temporary workers.
2.10. Working conditions and job quality often less advantageous for temporary workers

According to the European Parliament (2016), using data from the European Working Conditions Survey 2010, the working conditions of fixed-term workers are far below the EU-28 average with respect to job security due to the limitation of their contracts. This is true in the case of virtually all working conditions: presence of a works council, training, career opportunities, job security, share of low pay, satisfaction with pay and working conditions, and physical demands. However, those on fixed-term and temporary agency contracts reported lower psycho-social demands than full-time permanent workers.

In terms of pay, Eurofound (2015) found that on average, temporary employees in the 19 Member States with complete Structure of Earnings Survey coverage (2006 and 2010 waves) earn wages that are 19% lower than those of permanent employees. Temporary employees sustained a negative wage gap in all of those countries, with the exception of Estonia. The wage gap was over 30% in Luxembourg, Poland, the Netherlands, Portugal and Hungary. Another key finding of this study was that the wage gap was larger in countries with higher temporary employment rates, suggesting a deeper labour market segmentation. Further, the negative wage gap borne by temporary employees was highest at the bottom of the wage distribution but narrowed as wages increase, and even became positive among highly paid employees. When controlling for other factors that determine pay (such as educational attainment and economic sector), the European average for the adjusted wage gap disfavouring temporary employees fell to 6%.

There is further evidence to support the view that workers on open-ended contracts earn more than those on temporary contracts. For example, Dias Da Silva and Turrini (2015) found that after controlling for individual and job characteristics, workers on permanent contracts earned on average around 15% more than similar workers on fixed-term contracts. They also found that the permanent contract wage premium is higher for men, workers at middle age and with middle education, and in non-elementary occupations. They also used the European Structure of Earnings Survey to analyse wage differences between permanent and fixed-term contracts across EU countries.

In the case of fixed-term and temporary agency work, perceived job security is seen as lower among those with these types of contracts. For fixed-term contracts, the main risks in terms of risk of precariousness in relation to working conditions, are low pay, social security, labour rights and job insecurity. These are the findings of Eichhorst and Tobsch (2017), who, using data from the European Working Conditions Surveys 2010 and 2015, examine risk of precariousness of a range of types of employment contract and changes over time between 2010 and 2015. Overall, the authors found that fixed-term workers experience much lower levels of job security than those in permanent employment, which they interpreted as indicating that fixed-term contracts are not being used as a stepping stone to more permanent forms of contracts. In addition, perceived job security slightly decreased at between 2010 and 2015.
rather objective training

subjective training

have lower levels of job satisfaction. They used logistic regression models to analyse a panel

However, did find that seasonal workers and those employed in other forms of casual work

Bardasi and Francesconi (2003) found that atypical forms of employment were not associated


Table 2.2: Working conditions of fixed-term contracts, 2010-2015.

work council training received share of low pay (low) physical demands (low) psycho-social demands (low) career opportunities job security satisfaction with pay satisfaction with working conditions general health

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Source: Eichhorst, Tobusch (2017), Table 4, EWCS 2010, 2015, weighted results.

In the case of temporary agency workers, Eichhorst and Tobusch (2017) found that the main risks were low pay, labour rights, career development and training, and low levels of collective rights. The share of low pay of temporary agency workers slightly increased between 2010 and 2015, as did the levels of stress reported by this group. Further, there was a decrease in perceived job security and overall working conditions between 2010 and 2015 in respect of temporary agency workers.

Those who carry out seasonal and casual work are at a relatively high risk of precariousness, particularly in terms of pay and working hours. Further, this form of working may be linked to informal or undeclared work. They may have unpredictable, low levels, or irregular working hours. Further, if they do not have a formal contract, they are more likely not to have access to certain types of employment rights and social security coverage. The quality of work that they carry out may be low and they are less likely to face many other types of workers to be covered by trade union representation, due to the fact that they may not be linked to any one workplace and even if they are, they do not form part of the core workforce (European Parliament, 2016).

Bardasi and Francesconi (2003) found that atypical forms of employment were not associated with adverse health for men or women. However, did find that seasonal workers and those employed in other forms of casual work have lower levels of job satisfaction. They found that atypical forms of employment were not associated with adverse health for men or women. However, did find that seasonal workers and those employed in other forms of casual work have lower levels of job satisfaction. They used logistic regression models to analyse a panel of almost 7 000 men and women from the first 10 waves of the British Household Panel Survey (BHPS) 1991-2000.

-1.15 Negative, outside 75% 0.00 Inner 25% 0.68 Positive, outside 50%
-0.68 Negative, outside 50% 0.32 Positive, within 50% 1.15 Positive, outside 75%
-0.32 Negative, within 50%
Box 2.2: Casual work and fraudulent contracting of work

In European countries, especially self-employment, fixed-term work and the posting of workers appear to be most affected by fraudulent usage. Eurofound (2017a) finds that in over half of the countries (16 out of 29 countries or 55%), the fraudulent use of fixed-term employment was cited. According to Eurofound (2017a), the unclear definition of requirements for fixed-term employment is the main factor enabling fraudulent use. Eurofound (2015a) understands casual work as being neither equal to ‘standard’ part-time nor ‘standard’ fixed-term jobs, it rather has elements of both. There is some indication of the growing importance of casual work in Europe. Especially in Belgium, Croatia, France, Hungary, Italy, Romania, Slovakia and Slovenia intermittent work, involving an employer approaching workers on a regular or irregular basis to conduct a specific task, is found. On-call work, a second form of casual work, involving a continuous employment relationship maintained between an employer and an employee, but the employer does not continuously provide work for the employee, is an increasing phenomenon in Ireland, Italy, the Netherlands, Sweden and the UK. Fraudulent contracting of work also has a cross-border dimension, involving cross-border employment and contractual relations between companies. Cross-border employment bears the risk of failure to apply the proper wage rates and other working conditions and national regulations and by universally applicable collective agreements. In the Czech Republic especially cross-border temporary agency work seems to be significantly affected by fraudulent use (Eurofound 2017a).

2.11. Over half of those on fixed-term contracts would like permanent work

The extent to which temporary forms of working are to be considered problematic depends, among other things, on whether or not this type of working is undertaken voluntarily. Data from Eurostat (European Parliament 2016) shows that 53% of those on fixed-term contracts would like a permanent contract.

Figure 2.11: Employees with a temporary job by reason.

Source: Eurostat, [lfsa_etgar]. Note: Figure depicts employees with a temporary job in 2016 by reason in percent. In some countries non response rates are significant, so percentages in the graph should be treated with caution (on previous page)
The share of involuntary fixed-term employment is much higher in some countries (for example, 94% in Cyprus and 89% in Romania) and extremely low in others, such as Austria (9%), Germany (13%), Estonia (25%), where apprenticeships and trainees account for half of all fixed-term workers.

Another way of finding out whether or not temporary working is voluntary is to look at the reasons given by the workers who chose to work on a temporary basis. Figure 2.11 above shows the proportion of temporary employees by reason in 2016 in the EU28. The most common reason in most countries was that the respondent could not find a permanent job. In Austria, however, the most common reason was that the respondent was in education or training. The next most common reason was that the respondent did not want a permanent job. This reason was commonly given in Austria, Slovenia, Sweden, Slovakia, Denmark and the Czech Republic. Respondents commonly said that they were on a probationary period in Estonia, Latvia, Malta and Romania.

**Figure 2.12: Temporary employees by duration of the contract.**

Source: Eurostat, [lfsa_etgadc]. Note: Figure depicts temporary employees by duration of the contract in 2016. In some countries a large share of durations is unknown, so percentages in the graph should be treated with caution.
Figure 2.13: Change in the share of fixed-term contracts with a duration of 1-3 months

According to statistics from Eurostat,¹ there was a strong increase in the share of temporary contracts with a short duration (lasting at most 12 months) during the financial crisis. The composition of temporary employees by duration, Figure 2.12, shows that in 2016 the largest share of temporarily employed individuals had a contract from four months to at most one year. Temporary contracts with very short durations are especially an issue in Belgium, France and Sweden. Lithuania, Belgium and Croatia are the countries with the largest shares of relatively short contracts of up to three months. Countries that have an outstanding large proportion of long-duration contracts are Germany, Austria and Denmark.

Figure 2.13 shows that the use of temporary contracts with a relatively low duration of 1 up to 3 months has considerably increased in the Baltic region between 2006 and 2016. Also France, Portugal and Italy exhibit increases of 0.02, 0.04 and 0.05 percentage points respectively. This goes in line with the developments described in the Case Studies below. Except Hungary with a decline of 0.18 percentage points, the countries with decreasing shares of relative short duration contracts in temporary employment contracts show off moderate changes in magnitude.

Concerning the segments of the labour market and the socioeconomic characteristics of workers particularly affected by temporary contracts with a very short duration, Felgueroso et al. (2017) recently find that in Spain, the short-duration contracts of less than a week are concentrated in the accommodation and foodservice sector and mostly concern low-educated workers. Bourieau (2014) use data for France and reveal that the average duration of fixed-term contracts has become less from 2000 to 2013. The cut in the duration is not distributed evenly among the economic sectors. In the tertiary sector the majority of fixed-term contracts last for 8 days in 2013. In the industry, the average durations are 62 days, in the construction sector 90 days in the same year, showing that the overall drop in the duration of fixed-term contracts in France is primarily attributed to developments in the tertiary sector.²

¹ Please note the large shares of missing information in the survey data which reduced the reliability of this piece of information.
² Compare sections 4.6 and 4.7 for details.
The correlation between institutional variables and the average job tenure for temporary employees is estimated by the European Commission (2017). The regression results provide evidence for stricter regulation of permanent contracts in order to shorten the duration of temporary contracts. For further findings of a more stringent EPL, also compare Figures A 5 and A 6 in the Annex. A one unit increase in the overall EPL index for permanent contracts reduces the duration of temporary contracts by about 3 to 3.7 months. This confirms that strict regulation for permanent contracts deepens the segmentation between permanent and temporary jobs.

2.12. EU average transitions from temporary to standard contracts decreasing

Figure 2.14: Transitions from temporary employment to permanent employment.

Source: Employment and Social Developments in Europe, 2016. Note: AT, BE, ES and FI are for 2014; all others are for 2013. European Parliament 2016. Note: Figure depicts the share of temporary employees in year t who transit to a permanent job in year t+1.

Overall, the debate on transitions examines whether fixed-term contracts and temporary agency work can act as a stepping stone into more regular and permanent forms of employment or whether it is a dead-end in terms of career progression. There are those that argue that this form of employment offers experience and contact with employers, acting as a pathway to more secure employment, particularly for low-skilled, young and unexperienced individuals.

Figures for transition rates for all types of temporary employment are contained in the European Parliament’s 2016 report on precarious work (European Parliament 2016) and are shown in Figure 2.13 above. They show that the EU average in 2013 was 22.8% of temporary employees transiting to a permanent job within a year, a figure that has decreased compared with the 27.3% recorded in 2007. By country, the Member State with the highest transition rate was Estonia (65%), followed by the UK (62.7%), Lithuania (54.9%) and Latvia (54.6%). The countries with the lowest transition rates were France (10%), Spain (12%), Netherlands (12.3%) and Greece (12.6%).
Figures 2.14 and 2.15 give a breakdown of transition rates by age and education. By age, transition rates for all age groups fell between 2006 and 2012, with those in the 20-29 years (from 27% to 18.2%), 30-39 years (from 29.2% to 20.7%) and 40-49 years age groups (from 28.2% to 21.6%) falling most sharply. In 2012, by age group, the lowest transition rates were in the 20-29 year age group (18.2%) and the 60+ age group (17.6%).

**Figure 2.15: Transition rates by age group**

![Transition rates by age group](image_url)

Source: Eurofound 2015, based on EU-SILC.

Figures relating to transitions by educational level show that transitions have decreased between 2006 and 2012 in all three categories (low, medium and high). Overall, as might be expected, the level of transition increases with educational level, rising from 16.3% for those with low levels of education, to 20.5% for those with medium levels of education and 22.2% for those with high levels of education.
Figure 2.16: Transition rates by education

While there are no European data on repeated or recurrent fixed-term employment episodes, the data on the distribution of temporary contract duration and on the transitions to permanent employment suggest that in some countries such as France or Spain chains of fixed-term employment are quite widespread.

There is a large body of literature that deals with the issue of transitions and which complements the information shown in Figure 2.11. For example, Broughton et al (2010) note that temporary agency work can potentially act as the first step for many unemployed individuals making their way back into the labour market and in to permanent work. However, Voss et al (2013) are more qualified: they found that temporary agency work facilitates transitions from temporary to permanent work, but only under specific conditions: results from relevant studies differed according to methodology and the profiles of temporary agency workers in areas such as individual employability. Similarly, Houseman (2014) argues that in some cases, temporary agency work may act as a stepping stone to other parts of the labour market, although these instances are limited to groups such as immigrants, giving them an opportunity to demonstrate their ability.

Positive findings on the stepping stone effect of temporary agency work with regard to unemployed workers in Denmark were reported by Jahn and Rosholm (2010). They also found that the effect was even more positive in tight labour markets, where firms use agency employment to screen potential candidates for permanent posts, and for non-western immigrant workers. Their results also suggested that agency employment may improve subsequent match quality in terms of wages and job duration. However, this effect, according to Salladarre and Hlaimi (2014), depends very much on national settings. They did find, however, that temporary work is more prevalent among younger workers (27.9% among those aged between 15 and 24 and 23.2% among those aged between 25 and 34, compared with 8.9% among those aged between 55 and 65, using the first wave of the European Social Survey), which would support the stepping stone theory.

The stepping-stone function of fixed-term contracts depends on larger country-specific circumstances as analysed by Gash (2008). Barbieri and Cutuli (2015) state that the stepping stone effects of temporary contracts depend on the type of labour market. Their results show that the probability of accessing stable employment is extremely cluster-specific: where an advantage of being previously on a fixed-term contract with respect to an experience of unemployment can be detected (as in Southern Europe), this is due to the presence of strong
barriers to enter into secure employment for the previously unemployed. They conclude that although fixed-term contracts are far from being a stepping stone in Southern Europe, they are less penalising than unemployment.

However, the literature that paints a negative picture of temporary work in terms of the dualisation of the labour market mainly relies on analysis of the Spanish and French labour markets, in the view of Faccini (2014). He found relatively high mobility rates into permanent employment for most European countries and that the risk that two-tier reforms might create dual labour markets have only materialised in a few cases, such as Spain and possibly France. Looking further at Spain, Amuedo-Dorantes et al (2008) García-Pérez and Muñoz-Bullón (2005) found that, in the case of Spain, workers in temporary agency jobs are less likely to transition to regular employment than those in fixed-term contracts. There is no evidence of a stepping-stone effect for low-skilled workers, whose long-term employment and earnings may be harmed by taking temporary agency jobs.

There is some evidence of a distinction between temporary agency workers and those on fixed-term contracts – in Italy, Ichino et al (2008) found that the former are less likely to transition to regular employment than the latter. Finally, in Germany, Kvasnicka (2009) found no evidence of a stepping-stone effect, although there was some evidence that temporary agency jobs may benefit unemployed workers in the short term by increasing their earnings.

In terms of enhancement of transitions from temporary to permanent employment, Eichhorst et al (2017) note that, for example, active labour market policies and training in general should be at the core of any strategy to improve the situation of low-skilled temporary workers who frequently experience unemployment. They also believe that the use of subsidies to encourage conversions of temporary into permanent contracts is a plausible and quite widely used alternative, although with the caveat that this needs careful monitoring and evaluation.

2.13. Evidence of negative effects of temporary work on health and fertility

There is some evidence of negative impacts of temporary working on the health of individuals. For example, Broughton et al (2010) reported that specific features of non-standard contractual arrangements, compounded with heightened feelings of work-related and financial insecurity, may have significant effects on worker health and quoted research from the UK that found that workers in insecure jobs were more likely to suffer from mental health problems. In Finland, research (Broughton et al, 2010) has reported that 42% of employees on fixed-term contracts felt that this was stressful; a further 56% of these workers said that it was difficult to plan for the future. Nevertheless, around 50% of the employees in this research also stated that, for them, a fixed-term contract was linked to a positive feeling of freedom.

In terms of the implications of temporary work on the health of workers in Europe, Ehlerl and Schaffner (2011) found differences in self-reported health by type of employment contract, with permanent workers being more likely to be in better health than full-time temporary workers. When grouping countries according to their employment structure, however, some health differences appear to be only significant in certain country groups. In countries where permanent and full-time employment plays a major role, temporary employed workers have significantly poorer health, which is not the case in other country groups. In particular, four countries (Estonia, Latvia, Poland and the UK) drive these results. Although these differences largely vanish when taking into account the potential endogeneity between employment status and self-assessed health, they found that repeated temporary contracts have a significant negative impact on health. This study was based on EU-SILC data for 27 European countries.
With regard to the effects of temporary work on fertility, there is a body of literature that documents negative effects. Overall, Bernardi et al (2008) outline the insecurity hypothesis, which perceives work-related economic uncertainty as a factor stimulating postponement of long-term commitments, including parenthood. In terms of the labour market, the negative effects on fertility of unstable or temporary work in the case of individuals in European countries are documented by Sobotka et al (2010).

2.14. Explaining temporary employment: The role of regulation and institutions

The relationship between the growth of temporary forms of employment and institutional factors is clearly a complex one, and not entirely understood, as pointed out by Hipp et al (2015). They note that although enormous advances have been made in identifying relevant institutional factors, robust evidence on how different configurations of institutions affect non-standard employment is still scarce and the field faces substantial challenges.

Temporary work can be both a ‘boon’ and a ‘bane’ for labour markets (Jahn et al 2012), in that lowering dismissal costs for a subset of the labour force (ie those on temporary forms of contracts) may increase employment. However, workers with limited options such as immigrants, low-skilled and young workers who are rarely eligible for unemployment benefits, tend to be concentrated into temporary jobs. These workers also suffer disadvantage if there is a large gap in dismissal costs between temporary and permanent jobs.

The EU provides a regulatory framework governing temporary work, in the form of two main Directives, covering fixed-term work and temporary agency work. Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP offers protection to workers on fixed-term contracts. In particular, it seeks to ensure equal treatment of workers on fixed-term contracts and to prevent abuse arising from the use of successive employment contracts or relationships of this type. Further, Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work lays down the principle of non-discrimination, regarding essential conditions of work and of employment, between temporary workers and workers who are recruited by the user company. The effectiveness of the fixed-term work Directive is deemed to be good in general, although there are issues around exemptions for certain categories of worker and the definition of a comparable permanent worker in some countries. Other issues include difficulties in transforming fixed-term contracts into permanent contracts in the public sector in Greece and Italy. The temporary agency work Directive is deemed to be generally good, with some concerns about derogations from the principle of equal treatment (European Parliament 2016).

There are marked differences between labour market regulations within Europe: the Anglo-Saxon model of flexibility that combines high levels of employment and a high degree of labour turnover differs from continental European models featured by tighter labour market regulation and employment protection but more dual labour markets. However, in order to combat unemployment, in the 1980s most European countries began to deregulate labour markets. In 1984, atypical contracts were introduced in Italy and Spain: in Spain, this followed a major political debate among the social partners and an agreement to modify the principle of ‘job security’ and enhance flexibility (Adam and Canziani, 1998). The subsequent Spanish labour reform created fixed-term contracts for new labour market entrants that could be used for any activity, temporary or otherwise, and which required no or low levels of severance pay. This resulted in a sharp increase in the number of fixed-term contracts in Spain. Adam and Canziani argue, however, that this has had a mixed effect: on the one hand, fixed-term contracts have been an important mechanism for reducing unemployment among young and inexperienced workers. However, the likelihood of a transition to permanent employment is deemed to be very low, and employers have few incentives to provide
It appears therefore that the Spanish road to flexibilisation may easily result in a form of ‘low skill equilibrium’: a large labour force of ‘stand-by’ workers, easily replaceable, who co-exist with a protected (insider) labour force.

The level of regulation on a particular employment practice does appear to have an impact on its general extent. For example, in the case of temporary agency work, Voss et al (2013) found that between 2000 and 2007, the number of agency workers in Europe increased, mainly as a result of different factors such as EU enlargement and the change in regulation (i.e. liberalisation) in countries such as Germany, Italy, Finland or Poland. In Italy, legislation governing fixed-term contracts was liberalised in 2001. Cappellari et al (2012) studied the effects of liberalization. They found that the new legislation, which abolished the specific conditions under which fixed-term contracts could be used, making their use much more general, led to a decrease in fixed-term contracts. The use of these contracts became, indeed, too generic and, in case of any legal dispute, too dependent on judges’ interpretation of the norm.

The role of employment protection and its relationship to temporary work is explored by Hijzen et al (2017), in relation to a firm-level dataset for Italy and in the context of a variation in employment protection provisions in Italy around a size threshold of 15 employees. Before a reform carried out in June 2012, Italian legislation imposed significantly higher dismissal costs, and greater uncertainty, in case of unfair individual dismissal for firms above the threshold compared with those below. They found that firms that operate in the context of strict levels of employment protection make greater use of workers on temporary contracts. They found that employment protection significantly increases the incidence of temporary work and, as a result, tends to weaken the job security of workers in firms above the threshold. Firms above the threshold tend to circumvent the stricter regulations on permanent contracts by making more intensive use of temporary employment contracts. They estimated that the discontinuity of employment protection increases the incidence of temporary work by 2 to 2.5 percentage points (about 20%) in firms above the threshold and that employment protection may account for about 12% of the incidence of temporary work in Italy.

The role of institutions in shaping job polarisation was examined by Bosio and Cristini (2015). They found that the role of employment protection legislation appears to hamper the extent of hollowing out of routine occupations, whereas the strictness in the use of temporary contracts mainly affects the responsiveness of low-skilled occupations. This study was based on OECD employment protection indicators that cover regulation affecting workers on both permanent and temporary contracts (covering protection of standard workers against individual dismissal, regulation of temporary forms of employment, and specific requirements for collective dismissals).

### 2.15. Conclusions

This section has examined the extent of temporary working in the EU, looking at the overall picture by country, sector, occupation, gender, age and educational level. We find that temporary employment overall is an important feature of European labour markets, with fixed-term contracts being more widespread than temporary agency work. There is not a great deal of difference in terms of the gender composition of temporary work. However, workers with low levels of skills, young people, migrants and those in low- and medium-skilled occupations are more likely to be employed on a temporary basis.

The reasons why individuals work on a temporary basis are complex. In many cases, it is because there is no permanent work available. A need for personal flexibility can also play a role, however. In countries with strong vocational training systems, such as Austria, Germany
and Denmark, educational reasons play a substantial role via fixed-term apprenticeship contracts.

There is a body of evidence that shows that fixed-term workers show lower satisfaction with job quality compared to workers on permanent employment contracts. This is associated with lower perceived job stability, a higher low pay share, less worker representation and limited career prospects as well as training. There is also some evidence of negative impacts of temporary working on health and fertility.

Transition from temporary to permanent employment is a central area of debate in relation to temporary working, with discussion centring on whether temporary work should be considered as a stepping stone to more permanent forms of work, or whether it functions as a dead end, trapping individuals into a cycle of temporary contracts. Some countries such as France, Spain, the Netherlands, Greece, Portugal and Italy exhibit a low transition rate to permanent position, and in some countries average durations of fixed-term contracts are quite short, implying chains of fixed-term contracts.

All in all this section makes it clear that institutions are one of main factors that shape labour market dualism and lead to certain barriers to mobility between labour market segments. However, labour market duality is not stable, as it is influenced by economic developments, but also labour market reforms that can either deepen or mitigate it. The next chapter will address reforms in countries that have dual labour markets and which have implemented reforms to change this.
3. REFORM OPTIONS TO MITIGATE DUALISM: SINGLE OPEN-ENDED CONTRACTS (SOEC) AND OTHER POLICIES

**KEY FINDINGS**

Over the last years, in some countries proposals to replace the dual system of permanent and fixed-term contracts by a single open-ended contract (SOEC) have been made. There are at least two versions: a uniform contract (implying the same dismissal protection for all workers, i.e. abolishing fixed-term contracts) and a differentiated SOEC (with continued differentiation of dismissal protection based on seniority).

In theory, a SOEC will result in a more even distribution of dismissals over all employees: in a dual system, most redundancies affect employees on a fixed-term contract with low seniority; under a SOEC, dismissals will be more evenly spread over employees with varying degrees of seniority. Under a SOEC, workers with short tenure will have a larger probability of staying in the same job for a longer period of time, whereas workers with longer tenure run a greater risk of being dismissed. The number of hirings will probably fluctuate more strongly over the business cycle. Under a SOEC, employers may become more reluctant to hire workers about whose capacities they are very uncertain. The effects of a SOEC on the employment rate and the unemployment rate are uncertain, but probably small.

There are alternative mechanisms of protection against labour market risks such as active labour market policies and unemployment benefits. However, little is known about the effectiveness of alternative measures to overcome the divide between non-standard and permanent employment. Most alternative measures also have some downsides that have to be weighed against the advantages.

Measures to increase income security of non-standard workers, such as easier access to social insurance, may act as an unintended subsidy to employers who hire workers on non-standard contracts.

This chapter discusses the single open-ended contract (SOEC) as an option to mitigate labour market dualism and compares it with other policies. After a brief note on the history of the idea of a SOEC, section 3.1 defines the SOEC and distinguishes various types of a SOEC. Section 3.2 briefly discusses the effects of dismissal protection in general and section 3.3 focuses on the effects of a dual system with both permanent and temporary contracts. The potential effects of the introduction of a SOEC are discussed in section 3.4. Section 3.5 gives an overview of academic papers in which an ex-ante evaluation of the effects of a SOEC has been performed. In section 3.6 a number of alternative measures to mitigate dualisation are discussed and compared to as SOEC. In section 3.7 the main conclusions are summarised. To start, it is important to note that, since there has been no experience with a SOEC in practice, yet, all assessments of the introduction of a SOEC are based either on theoretical analyses or on empirical analyses of existing institutions. Moreover, there is very little empirical evidence on the impact of labour market policies on the transition from temporary to permanent employment, which hampers a comparison of the effectiveness of various measures.
3.1. What is a single open-ended contract?

A single open-ended contract (SOEC) is a contract of indeterminate duration that replaces the existing fixed-term (or temporary) and permanent contracts. It is a point of debate whether a SOEC should also replace other non-standard contracts, such as temporary agency work.

The idea of a single open-ended contract originates from the debates in a number of EU Member States, in particular France, Spain and Italy, in the first decade of this century on reforms to overcome labour market dualisation (cf. Casale & Perulli 2014). Against the backdrop of the EU initiative to promote ‘flexicurity’ – a combination of labour market flexibility and employment and income security – economic experts in these countries argued in favour of reforms of the employment protection legislation that would reduce or abolish the gap in dismissal protection between permanent and temporary contracts.

- In France a report to the Conseil d’Analyse Économique by Blanchard and Tirole from 2003 and a report to the ministers of economics, finance and industry and of employment, work and social cohesion by Cahuc and Kramarz from 2004 both proposed the replacement of existing contract types by a single employment contract.
- In Italy the idea of a single contract was put forward in a paper by Boeri and Garibaldi from 2005 as an alternative for the plethora of different employment contracts. They argued in favour of a Contratto unico a tempo indeterminato, a single open-ended contract with an extended trial period of three years in which workers would only receive severance pay in the case of unfair dismissal, followed by a stability phase in which there was full dismissal protection.
- In Spain, the debate on a single contract was started by a paper by Bentolila, Dolado and Jimeno from 2008, suggesting the introduction of a single permanent contract with steadily increasing severance payments, rising from 8 days to 36 days of wages. In 2009, the Fundación de Estudios de Economía Aplicada (FEDEA), supported by 100 economists, followed this proposal for a single contract for all newly recruited employees (Casale & Perulli 2014).

Theoretically, many varieties of a single contract are possible. Two important dimensions of a SOEC are (a) the extent of dismissal protection that a SOEC offers and (b) the extent of variation that exists within the SOEC.

- (a) Along the first dimension, each SOEC can be placed on a continuum from a contract that effectively offers no more protection than a fixed-term contract at the one extreme to a contract that is identical to the best protected permanent contract at the other extreme. The introduction of a SOEC that is almost identical to the current fixed-term contract would imply that all employees who are currently employed on a permanent contract will experience a (significant) reduction in dismissal protection. Alternatively, if the SOEC is similar to the best protected permanent contract, the dismissal protection of employees who currently work on a fixed-term contract will increase significantly. Consequently, the impact of the introduction of a SOEC on overall employment protection can differ significantly depending on the characteristics of the SOEC.
- (b) Along the second dimension, a SOEC that is uniform for all employees, in the sense that employment protection is exactly the same for all employees, can be distinguished from a differentiated or heterogeneous SOEC in which employment protection increases with the tenure of the employee. Most proposals for a SOEC assume that dismissal protection increases with tenure. In theory, a SOEC could also be differentiated according to other characteristics, such as age or seniority over the career (Lepage-Saucier et al. 2013). In any case, a differentiated SOEC differs in two respects from a dual system with both fixed-term and open-ended contracts. First,
with a differentiated SOEC, dismissal protection increases gradually with tenure while the transition from a fixed-term to an open-ended contract marks a discontinuity in dismissal protection. Second, with a differentiated SOEC all employees with the same tenure enjoy equal dismissal protection, while in a dual system, dismissal protection for two employees with the same tenure but a different type of contract differs.

Combining the two dimensions, four basic types of SOEC emerge (Figure 3.1). A uniform SOEC close to a fixed-term contract is similar to the existing ‘at-will’ employment contract in the USA, which is an open-ended contract that offers hardly any dismissal protection since the employee can be fired at will by the employer. A uniform SOEC that is equal to a permanent contract would be the result of abolishing fixed-term contracts and keeping only open-ended contracts with a fixed amount of dismissal protection. However, such a SOEC could include a (long) probation period, as suggested by Lapage-Saucier et al. (2013). In a differentiated SOEC, dismissal protection varies with tenure. If this protection increases rapidly with tenure, this SOEC is similar to a permanent contract; if it increases slowly and remains significantly below the protection of current permanent contracts, it is more similar to a fixed-term contract.

**Figure 3.17: Four types of single open-ended contracts (SOEC).**

- **fixed-term contract**
  - US ‘at-will’ employment contract
  - SOEC with dismissal protection increasing little with tenure
- **uniform**
  - abolishment of fixed-term contracts
- **differentiated**
  - SOEC with dismissal protection increasing strongly with tenure
- **permanent contract**

### 3.2. The impact of introducing a SOEC

**3.2.1. Dismissal protection decreases attractiveness of dismissal**

To analyse the impact of the introduction of a SOEC, it is best to start with the microeconomic theory of the effects of dismissal protection (cf. Bentolila & Bertola 1990). In this theory, dismissal protection is commonly interpreted as a cost that is incurred by the employer upon dismissal of an employee.

When hiring a worker, an employer faces three kinds of uncertainty. First, uncertainty about the productivity of the employee. Second, uncertainty about the future demand for its products. And third, uncertainty about the possibility that the worker will quit. Because of the first two uncertainties, an employer prefers to have the opportunity to dismiss a worker at a later point in time when their productivity is lower than expected or it has declined, or when demand drops.

Obviously, dismissal protection makes it more costly and, hence, less attractive to fire an employee. In this sense, dismissal protection reduces the number of dismissals. Because an employer takes the potential future costs of dismissal into account when hiring a new employee, dismissal protection makes recruiting a new employee less attractive and will also
therefore reduce the number of hirings. Since dismissal protection reduces both dismissals and hirings, it results in lower labour market turnover, i.e. the sum of hirings and dismissals (Bentolila & Bertola 1990). As a consequence, employment is more stable over the business cycle.

During recessions, the number of dismissals is reduced, and during an upturn fewer people are hired. This results in smaller flows from employment to unemployment and vice versa. During a recession, fewer employees become unemployed, but during a boom, fewer unemployed find a job. Consequently, average unemployment duration will be longer.

Theoretically, the impact of dismissal protection on the level of employment and the level of unemployment is unclear. However, in their seminal paper on firing costs, Bentolila & Bertola (1990) claimed that dismissal protection increases employment slightly because the (immediate) negative effect on dismissals is larger than the (long-term) negative effect on hirings.

### 3.2.2. Negative and positive effects of a dual system

In a dual system employers have the option of offering a fixed-term contract next to an open-ended contract. In view of the uncertainty about future demand, it might seem that an employer always prefers hiring a new employee on a fixed-term contract to prevent having to pay dismissal costs in the future. However, if a candidate for a position is offered a fixed-term contract, the employer may have to offer a higher wage than in case of a permanent contract. However, in view of the uncertainty the employer faces regarding the capacities of a candidate, they may nevertheless prefer hiring a new employee on a fixed-term contract as a prolonged probationary period to test the qualities of the employee.

If the law stipulates a maximum duration for a series of fixed-term contracts, after which the employer is obliged to convert the contract into an open-ended contract, there is a spike in the number of dismissals just before this moment is reached, since employers take as much time as possible to assess the quality of the employee before it becomes much more costly to dismiss the worker.

### 3.2.3. Impact of introducing a single open-ended contract

Since, to date, there is no country in which a single open-ended contract has been implemented, our assessment of the impact of a SOEC must be based on theoretical considerations and ex ante evaluations based on model simulations.

By introducing a single open-ended contract the sharp dividing line or discontinuity between the two types of contract disappears. In a dual system, the employer has to choose between replacing the employee with a new employee or offering them an open-ended contract if the maximum duration of a series of fixed-term contracts is reached. As explained above, this causes a strong increase in the number of dismissals as this moment in time approaches.

In case of a SOEC, there is no longer a specific point in time at which the employer has to choose between replacing the employee and offering an open-ended contract, since the employee already has an open-ended contract. With each day that the seniority of the employee increases, the dismissal costs increase only marginally.

As an example, we consider a differentiated SOEC, for which the dismissal costs at the first day of employment are equal to the dismissal costs of an employee with a fixed-term contract, and the dismissal costs increase gradually with tenure until they reach the current maximum level of dismissal costs for a permanent contract (Figure 3.2). As a consequence, dismissal costs under a SOEC will initially be higher than dismissal costs under the current fixed-term contract, but after the maximum duration of fixed-term contracts has been
reached, dismissal costs will be lower than under the current open-ended contract until the tenure at which the maximum level of dismissal costs applies.

**Figure 3.18: Dismissal costs under a dual system and under a SOEC.**

![Dismissal costs graph](image)

**Note:** The graph is based on the assumption that dismissal costs are 0 for fixed-term contracts until a maximum of 3 years; dismissal costs are 1/2 month of wage per year of tenure for a permanent contract with a maximum after 15 years; and dismissal costs are 1/3 month of wage per year under a SOEC with a maximum equal to a permanent contract (after 23 years).

Source: authors' calculations.

Under this differentiated SOEC, employers will more quickly decide to dismiss an apparently malfunctioning or mismatched employee, since waiting longer in order to be surer about the worker’s capacity will make it more costly to dismiss the worker.

However, after the (former) moment of maximum duration of fixed-term contracts is passed, dismissal costs are lower than under the current system. Thus, the employer can take some extra time to assess the quality of the employee if they are still uncertain. Dismissals due to malfunctioning will therefore be more evenly spread over the first years of a contract. In the initial period, the number of dismissals will be higher, but later on the number of dismissals will be lower. On theoretical grounds it is difficult to predict whether the total number of dismissals due to malfunctioning will be higher or lower in the long run, but probably the difference with the dual system will be small.

In case of falling demand, which forces the employer to dismiss a proportion of its staff, the distribution of layoffs over tenure will change in case of a differentiated SOEC. In a dual system, with both fixed-term and permanent contracts, the weight of dismissals lies among the workers with fixed-term contracts and relatively short tenure. This is either due to the (legal) requirement to first dismiss (or not renew the contract of) temporary workers before dismissing permanent workers and/or due to the fact that it is cheaper for the employer to dismiss temporary workers than to dismiss permanent workers.

Under a SOEC, the first argument can, by definition, no longer apply, whereas the difference in costs is smaller. Hence, it is more likely that an employer will dismiss a more experienced older worker rather than a younger worker with short tenure, e.g. because they expect that the productivity of the older worker will decline or because they prefer a more balanced age composition of the workforce. Of course, the decision may be different if specific clauses regarding collective dismissals (e.g. Last In, First Out) apply in laws, collective agreements...
or social plans. In case of a uniform SOEC with a long probationary period, the employees who are still in their probationary period will be dismissed first. Since the dismissal costs for all other employees are equal, there is no longer an a priori reason for the employer to distinguish between employees with different seniority.

We conclude that the introduction of a SOEC could in principle contribute to a more balanced distribution of dismissals over tenure, both in case of individual dismissals (due to mismatch or malfunctioning) and in case of collective dismissals (due to falling demand).

The impact of introducing a SOEC on hirings is more difficult to assess. Since it becomes more expensive for employers to dismiss workers with relatively short tenure, they will hire

- fewer workers for short-term work (e.g. seasonal work or temporary replacement of absent workers),
- fewer workers about whose capacities they are very uncertain,
- fewer workers if they are rather pessimistic about demand in the near future.

However, these effects will not occur if there is a long probationary period in which dismissals are not costly. Since it becomes cheaper to dismiss workers with longer tenure, employers will hire more workers if they are optimistic about future demand and hire more workers whose productivity is expected (but not certain) to increase with tenure.

Consequently, a SOEC may result in a stronger fluctuation of hirings over the business cycle and a larger difference in hiring probability between job-seekers with positive and with negative perceived capacities. It is not possible to predict the impact on the total number of hirings, but probably this impact will be relatively small.

While a SOEC may contribute to a more balanced distribution of dismissals, the distribution of hirings will probably be more skewed, both over the business cycle and over job-seekers with ‘good’ and ‘bad’ characteristics. As a consequence, it is uncertain whether introduction of a SOEC will really help in overcoming labour market dualisation.

### 3.3. Ex-ante evaluations of a SOEC

In the past 10 years a number of theoretical studies have been published on the expected effects of the introduction of a SOEC compared to a dual system with both fixed-term and open-ended contracts. These studies differ considerably regarding the mechanism they analyse and the assumptions they make. Most studies analyse a uniform SOEC, only two focus on a differentiated SOEC. In view of these different approaches and assumptions, it is not surprising that there is no general agreement on the effects of a SOEC compared to the existing dual system.

Nevertheless, one important conclusion on which most studies agree is that a dual system results in a spike in dismissals at or just before the moment that the maximum duration of fixed-term contracts is reached, while this effect is absent with a SOEC. As explained above, this difference is due to the abolition of the discontinuity in dismissal costs as the difference between a fixed-term and an open-ended contract disappears, which is exactly the point of a SOEC.

Costain et al. (2011) compare employment dynamics in a dual system with a uniform SOEC in a so-called matching model. By applying their model on the Spanish labour market they conclude that employment fluctuations are mainly due to the large volatility of the number of temporary jobs. If a SOEC is introduced with dismissal costs that are equal to those of a permanent contract, employment volatility drops by a quarter and unemployment rises by 2 percentage points. But also if dismissal costs are reduced to the average level of current dismissal costs (which is about two thirds of the dismissal costs of a permanent contract), employment volatility decreases and the unemployment rate increases approximately by 2
percentage points. This is due to the fact that employers expect to pay the dismissal costs earlier and, hence, the discounted value of the dismissal costs is higher than under the dual system.

In the model of Lepage-Saucier et al. (2013) introducing a uniform SOEC by eliminating temporary contracts, without changing the existing open-ended contracts, results in a significant decline in employment of 7 percentage points. To compensate for this effect, firing costs of the SOEC should be reduced by two thirds. Lepage-Saucier and colleagues stress that the dualisation of the labour market is not caused by the dual system of fixed-term and permanent contracts, but by dismissal protection as such. Therefore, in order to overcome dualisation, they prefer a reduction of dismissal protection of open-ended contracts rather than the merging of fixed-term and permanent contracts into a single open-ended contract.

The simulation by Gete and Porchia (2013) finds that the introduction of a uniform SOEC replacing a dual system results in more recently hired employees being dismissed compared to employees with tenure close to the previous maximum duration of fixed-term contracts. A SOEC increases the likelihood that an employee will become a ‘permanent’ employee in the sense that their tenure is longer than the previous maximum duration of fixed-term contracts. However, employees with longer tenure are more likely to be dismissed. In general, they estimate that under a SOEC the probability for a newly hired employee to reach seniority of twelve years is greater than under the dual system. Moreover, there will be less hiring and firing of workers with short tenure and thus less churn. The result will be a lower unemployment rate.

García Pérez and Osuma (2014) analyse the effects of introducing a differentiated SOEC in the Spanish economy with a matching model. Under the SOEC severance pay increases with seniority. They estimate that a SOEC would reduce unemployment and job destruction by 31.5% and 35%, respectively. It would also smooth the tenure distribution, with significantly fewer short-term contracts and more employees with tenure over three years.

Dolado et al. (2015; see also Dolado 2015) estimate the eligibility rule and tenure profile for the optimal differentiated SOEC in Spain. This optimal SOEC is characterised by a probation period of one year (in which period there is no dismissal protection) and a severance pay of 14 days of wages per year of service. The optimal SOEC reduces dismissals among short-tenured employees significantly and increases dismissals among long-term employees slightly. The combination of these effects results in a reduction of the unemployment rate from 9.0% to 8.1%. The most important effect of a SOEC is, in their view, that it removes ‘revolving doors’: fewer employees that reach the maximum duration of fixed-term contracts are replaced by new temporary employees.

Summarising the results of this section, there is only one point on which there is general agreement among scholars who have simulated the effects of a SOEC: replacing the dual system by a SOEC will result in a more even distribution of dismissals over all employees. Whereas in a dual system, most redundancies affect employees on a fixed-term contract with low seniority, under a SOEC dismissals will be evenly spread over employees with varying degrees of seniority. This implies that workers with short tenure will have a greater probability of staying in the same job for a longer period of time, whereas workers with longer tenure run a greater risk of being dismissed.

With regard to the impact of introducing a SOEC on the total number of hirings, the employment rate and the unemployment rate, there is much less agreement. It is likely that the number of hirings will fluctuate more strongly over the business cycle. Moreover, employers may become more reluctant to hire workers about whose capacities they are very uncertain, because it will become more costly to dismiss them on short notice. Regarding the effect on the total employment rate or the total unemployment rate, theoretical analyses
Mitigating labour market dualism
differ considerably, depending on the assumptions they make. However, if the average dismissal costs under a SOEC are similar to the average dismissal costs of fixed-term and permanent contracts under a dual system, the total impact on employment and unemployment will probably be small.

Table 3.1 gives an overview of the expected effects of the introduction of a SOEC on dismissals and hirings compared to a dual system.

Table 3.3: Overview of effects of a dual system versus a SOEC

<table>
<thead>
<tr>
<th></th>
<th>Dual system</th>
<th>SOEC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dismissals due to dysfunctioning</td>
<td>Concentrated at end of maximum period of fixed-term contract</td>
<td>More evenly spread over first years of tenure (more dismissals at start and after longer tenure)</td>
</tr>
<tr>
<td>Dismissals due to falling demand</td>
<td>Concentrated among employees with fixed-term contract</td>
<td>Employees in probationary period; more evenly spread over tenure</td>
</tr>
<tr>
<td>Hirings</td>
<td>Relatively many hirings in case of:</td>
<td>Relatively many hirings in case of:</td>
</tr>
<tr>
<td></td>
<td>• Short-term (e.g. seasonal) work;</td>
<td>• Expected increase of productivity with tenure;</td>
</tr>
<tr>
<td></td>
<td>• Uncertainty about capacities;</td>
<td>• Optimistic about future demand</td>
</tr>
<tr>
<td></td>
<td>• Pessimistic about future demand</td>
<td></td>
</tr>
<tr>
<td></td>
<td>More fluctuation of hirings over business cycle</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Larger difference between job-seekers with positiv ond with negative perceived capacities</td>
<td></td>
</tr>
</tbody>
</table>

Source: Economic theory and ex ante evaluations discussed in section 3.2 and 3.3

3.4. Alternative policy approaches: reducing dismissal protection, limiting fixed-term duration and incentives for conversion

In order to assess the introduction of a SOEC to overcome dualisation of the labour market, it should be compared to alternative measures to reduce dualisation. In this regard two aspects of dualisation should be distinguished.

- The first aspect is the overall difference (or gap) in labour market outcomes (e.g. earnings, working conditions, job security, career prospects) between individuals in the primary segment of the labour market (with ‘good jobs’) and individuals in the secondary segment (with ‘bad jobs’) (cf. Kalleberg 2011, Goos & Manning 2007).
- The second aspect refers to the barrier between the two segments, causing a lack of transitions from the secondary to the primary segment. A SOEC might reduce both aspects of dualisation, since the gap in dismissal protection becomes smaller and more workers may move from a job with little protection (related to short tenure) to a job with more protection (related to longer tenure).

Introduction of a SOEC is only one way in which employment protection legislation may be reformed in order to reduce the dualism between the primary and the secondary labour market segment. Measures that reduce the dismissal protection of permanent contracts, for example by lowering severance pay or by limiting the notice period, make it more attractive.
for employers to offer a permanent contract, either to newly hired employees or to employees on a fixed-term contract. Of course, such measures will increase job insecurity among permanent workers.

An alternative is to promote the transition from temporary to permanent contracts by limiting the total duration or the total number of successive fixed-term contracts. However, the question is whether this will have the desired effect. If the difference in (perceived) costs for the employer between temporary and permanent contracts remains large, employers may decide to substitute employees on a temporary contract that reaches its maximum duration or maximum number by another employee on a temporary contract. In that case, limiting the duration or the number of temporary contracts would only result in more churning. This measure would then have the perverse effect of widening the gap between temporary and permanent contracts.

Another option is to offer employers an incentive to convert a temporary contract into a permanent contract, for example by paying a subsidy or (temporarily) reducing social insurance contributions if an employee on a temporary contract is offered a permanent contract. Whether this measure is effective depends on the perception of the employer of the monetary reward for converting a temporary into a permanent contract vis-à-vis the expected (future) costs. Ciani and de Blasio (2015) examined the impact of the introduction of a short-lived bonus for the conversion of temporary contracts into permanent contracts in Italy in 2012 and found that it increased the conversion rate by 83%. Berson and Ferrari (2015) confirm this positive effect in a simulation study for France. A potential risk of such a measure (which was not studied by Ciani and de Blasio, 2015) is that it encourages employers to offer a new employee a temporary contract rather than a permanent contract in order to collect the subsidy or the reduction of the contribution later on.

Suggested policies outside the domain of employment protection legislation to reduce the gap between the primary and the secondary segment and to foster the transition from the secondary to the primary segment usually focus on increasing the human capital of individuals in the secondary segment. Vocational education and training, life-long learning and career guidance are the obvious measures to attain this goal.

3.4.1. Training can help, but other factors may counterbalance its effect

Serra (2016) finds that the transition from a fixed-term to a permanent contract, either in the same company or in a different company, is higher for workers who followed a training in the previous year. However, it is difficult to establish whether this indicates a causal effect (they were offered a permanent contract because of the training) or to a selection effect (workers who are more likely to move to a permanent contract also more often follow a training). Moreover, training will only be effective as far as the access of individuals to the primary segment is indeed dependent on their human capital. Although it is quite likely that human capital plays a role, there is also abundant evidence of the role of discrimination and stigmatisation (based on race, ethnicity and gender, but also on labour market experience, including spells of unemployment). Moreover, it is uncertain whether the total size of the primary segment depends on the educational distribution of the labour force. In other words, it is far from certain that if the total number of well-educated workers increases (relative to the number of low-educated workers), the size of the primary segment will increase accordingly. If this is not the case, an increase of the educational attainment of the labour force will simply result in the replacement of the lowest educated workers in the primary segment by better-educated workers from the secondary segment.

Similar arguments apply with respect to other active labour market programmes (ALMPs), including counseling, mediation and career choice advice by the Public Employment Service
Mitigating labour market dualism

These instruments may strengthen the position of workers in the secondary labour market and may facilitate their transition to permanent employment, but it is questionable whether they will contribute to overcoming discrimination and reducing the size of the secondary segment. Many studies have assessed the effectiveness of ALMPs, often with rather sobering conclusions. The net effect of specific instruments, after taking into account deadweight loss and displacement effects, is often small or negligible. Overview studies, such as Martin and Grubb (2001), Kluve (2010) and Card et al. (2010), point out that there are clear differences in effectiveness between different programmes. Job-search assistance, wage subsidies in the private sector, and, to a lesser extent, labour market training turn to be relatively effective, at least for some groups, whereas direct employment programmes in the public sector are in general not effective. However, these assessments focus only on the re-employment probability of unemployed individuals (which usually constitute the main target group) and not on the transition from the secondary to the primary labour market segment. We know little about the effectiveness of ALMPs regarding the transition from a job in the secondary segment to the primary segment.

There is some evidence that post-placement support of newly hired workers by a personal advisor of the Public Employment Service (PES) has positive effects on the retention of long-term unemployed, but there is no evidence on the transition from temporary to permanent contracts (Csillag and Scharle, 2017).

An alternative approach is to accept labour market dualisation, but to reduce its impact by improving the position of the workers in the secondary segment. This might be accomplished by improving their employment conditions, by increasing their disposable income, by providing them with a more generous safety net and by strengthening their voice through collective representation and bargaining (ILO 2016, pp.250ff).

Improving the employment conditions of temporary workers may be attained through national law, EU directives or collective agreements. Legislative measures may include raising the minimum wage and stricter regulation or monitoring of working conditions. Collective agreements may, for example, stipulate an increase of the lowest wage scales compared to the average wage. An obvious objection against these measures is that they raise the labour costs of workers in the secondary segment and may therefore harm their employment opportunities.

The government could also increase the disposable, take-home income of secondary workers by means of in-work benefits or tax credits. Contrary to the previous measures, these measures do not increase the labour costs of these workers, but they will result in an increase in government outlays (and have to be weighed against other government expenditures).

The third kind of measures aim at providing more income security to secondary workers by offering them easier access to income transfers if they lose their job (ILO 2016, pp.298ff). Since the difference in job security is an important distinguishing feature between the primary and the secondary segment, more generous eligibility rules for workers with fixed-term contracts would partly compensate for their higher risk of job loss. Currently, in many Member States, flexible workers have fewer entitlements to unemployment and disability insurance than permanent workers, while this insurance is more important for them

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3 Participation in these programmes has become prerequisite for (continuing) benefit receipt in more or less all European countries.

4 With the growing implementation of “flexicurity” in European countries, the share of the secondary segment could actually increase. Andersen et al. (2009) claim that two factors would make it easier for PES to motivate unemployed and trade unions to accept a fixed-term contract: portability of social security rights and adequate levels of income security.
(Matsaganis et al. 2015). Increasing their entitlements by relaxing eligibility rules would mitigate the income consequences of job loss for secondary workers. However, these additional entitlements should be financed either by the government or by increasing social insurance contributions (which may be paid by the employer or by the employees themselves). Each mode of financing has some disadvantages, be it for the government budget or for the labour costs of secondary workers.

An additional disadvantage of extra government expenditures to increase the disposable income or the social insurance entitlements of secondary workers is that they act as a subsidy to employers who hire workers in the secondary segment. They may thus, perversely, stimulate the growth of the secondary labour market segment instead of reducing it.

Finally, workers on flexible contracts often lack voice. This is partly due to their weak labour market position, as a consequence of which many do not dare to raise their voice out of fear of losing their job. This may be due partly to the legal limitation of membership and/or voting rights for works councils to employees with a permanent contract and partly due to the fact that the interests of flexible workers are not (sufficiently) represented by trade unions. Strengthening the collective representation of the interests of flexible workers may thus contribute to improving their labour market position (ILO 2016, pp.281ff). However, the question is whether secondary workers will raise their voice to further their interests, because they may fear losing their job.

Table 3.4 gives an overview of the pros and cons of the various measures that have been discussed in this section to reduce the gap between temporary and permanent employment and compares them to a SOEC.
Table 3.4: Overview of pros and cons of alternative measures to mitigate dualism

<table>
<thead>
<tr>
<th>Measure</th>
<th>Pro</th>
<th>Con</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reduce dismissal protection of permanent contracts</td>
<td>More transitions to permanent contract</td>
<td>More job insecurity for permanent workers</td>
</tr>
<tr>
<td>Limit total duration or number of fixed-term contracts</td>
<td>Shorter period in temporary contract</td>
<td>More churning</td>
</tr>
<tr>
<td>Incentives for converting temporary contracts into permanent contracts</td>
<td>More transitions to permanent contract</td>
<td>More temporary contracts for new employees</td>
</tr>
<tr>
<td>Vocational education and training, life-long learning</td>
<td>More transitions to permanent contract</td>
<td>Little effect due to stigmatization and discrimination; displacement</td>
</tr>
<tr>
<td>Active labour market programmes</td>
<td>More transitions into (permanent) employment</td>
<td>No effect on transitions from temporary to permanent contract</td>
</tr>
<tr>
<td>Improving employment conditions of secondary workers</td>
<td>Better pay or working conditions for secondary workers</td>
<td>Less jobs in secondary segment due to higher costs</td>
</tr>
<tr>
<td>In-work benefits or tax credits for secondary workers</td>
<td>Higher net income for secondary workers</td>
<td>Subsidy for employers who hire secondary workers</td>
</tr>
<tr>
<td>Improving income security for secondary workers</td>
<td>More income security for secondary workers</td>
<td>Subsidy for employers who hire secondary workers</td>
</tr>
<tr>
<td>Strengthening voice for secondary workers</td>
<td>Improve interest representation of secondary workers</td>
<td>Secondary workers may not dare to raise their voices</td>
</tr>
</tbody>
</table>

3.5. Conclusions

In this chapter we discussed the effects that can be expected from introducing a single open-ended contract (SOEC) and compared them with a number of alternative measures to mitigate labour market dualism. It is important to stress that a SOEC does not exist yet in any country and, consequently, the effects can only be assessed ex ante based on theoretical reasoning and by model simulations. Moreover, the effects of a SOEC will strongly depend on the specific type of SOEC, in particular the level of dismissal protection and the differentiation of dismissal costs with tenure. This explains partly why the ex-ante evaluations of a SOEC that have been performed up to date vary considerably in the projected effects of a SOEC on the employment rate and the unemployment rate. Nevertheless, the theoretical analyses agree on the fact that a SOEC will result in a more even spread of dismissals over employees with shorter and longer tenure. The spike in dismissals at the moment that the maximum number or the maximum duration of fixed-term contracts approaches, which is characteristic for a dual system, will disappear. This implies that there will be more transitions
from short to long tenure, but also that the risk of dismissal for workers with longer tenure will increase. Thus, a SOEC will help in narrowing the gap between temporary and permanent contracts, but in itself it will not be sufficient to overcome labour market dualism.

Alternative measures to mitigate dualism include other reforms of employment protection legislation, incentives for converting temporary contracts into permanent contracts, training, active labour market programmes and improving the position of secondary (temporary) workers. There is little empirical evidence about the effectiveness of these measures in reducing labour market dualism. Although most of these measures may contribute to a strengthening of the position of workers in the secondary segment, there is also a risk that they have perverse effects by giving the wrong incentives to employers. Thus, we conclude that there is not one best policy to tackle labour market dualism, but that the effectiveness of various measures strongly depends on the specific design of the measure, the interaction with other labour market and social security instruments and the legal and socio-economic national context. With this in mind, the next chapter showcases a number of country case studies, highlighting the range of different national situations and approaches to labour market dualism.
4. COUNTRY CASE STUDIES

KEY FINDINGS
To complement the general picture and the theoretical arguments about SOEC, national experiences with reforms to mitigate dualisms are highly relevant. Over the last 10 years, there has been significant reform activity in all countries selected for in-depth analysis.

Over the period of observation, employment protection of permanent workers has been reduced in countries such as Italy, Spain or Portugal. Reforms included easing the justification of dismissals, clarifying procedures and lowering severance pay for permanent workers.

Regarding re-regulation of fixed-term contracts, less activity was observed, although re-regulation in this area took place in the Netherlands, Slovenia, Spain, France and Poland. While some countries tried to narrow the regulatory gap between contract types, none introduced a uniform SOEC. Freelance work has become an issue for policy makers and some countries, such as Italy, have moved to stricter regulation.

All in all, hiring patterns have not changed dramatically. Fixed-term contracts are still used widely in the countries studied. This may have to do with long-standing hiring routines of employers. In Italy, regulation of fixed-term contracts has been relaxed.

Furthermore, in some cases unemployment benefit coverage has been extended, but not generously. For example, in France, it has been extended to freelance workers, while in Germany, access has been made slightly easier. The discussion on sustainable activation begins in the public employment services, but while active labour market policies have been modernised, they do not play a major role in countering segmentation. Strong hiring subsidies might help transitions to permanent contracts, but they are expensive and difficult to sustain fiscally.

Overall, labour market dualism is seen as a problem that needs to be tackled politically in all of the case study countries, even though they are facing their own particular labour market challenges. Labour market reforms include incentives for hiring workers on open-ended contracts, tighter regulation of fixed-term work, active labour market policies in order to try to achieve sustainability, and the use of fiscal and financial incentives to employers and individuals. These actions have had an effect on the labour market in many cases, although it is debatable whether the effect lasts beyond the subsidies in some cases, such as in Italy.

Based on the reviewed evidence, it is not (yet) possible to identify a best-practice model when it comes to lowering labour market dualism. Policy experimentation and its systematic evaluation will have to continue.

4.1. Introduction
To assess the potential of labour market reforms in mitigating labour market dualism, this section provides a number of national case studies. This is important, because assessing the performance of countries requires a contextualized perspective as well as in-depth knowledge about the state of national policies and evaluation studies. The section focuses on a sample of EU Member States with relatively intense dualism in their labour markets: Germany, the Netherlands, Slovenia, Poland, Spain, France, Portugal and Italy. This country selection makes sure that we cover the experiences of some of the most segmented labour markets and covers considerable institutional diversity. We focus our study in particular on changes
in (a) employment protection for permanent and temporary workers, (b) access to and generosity of unemployment benefits and (c) active labour market policies.

To achieve a reliable assessment of national reform experiences, we combined a review of the most recent research into this topic with interviews with two to three independent experts in each country. All experts are high-profile labour market researchers with national policies as their field of expertise. The general questions to be answered (that also structured all expert interviews) were the following:

- To what extent was labour market dualism seen as a problem to be tackled politically?
- Which were major reforms implemented over the last 10 years? What was done in the areas of employment protection, unemployment benefits and active labour market policies?
- What can be said about the impact of the reforms on the functioning of the labour market, in particular on the role of temporary employment and mobility?
- Which next steps are currently on the agenda?

The case studies also make reference to the descriptive data in chapter 2. Broader institutional developments are shown in graphs in the annex to the extent that comparable indicators exist. This holds for the employment protection index developed by the OECD, data on unemployment benefit entitlement and coverage and spending on ALMP.

Two observations are worth noting upfront, because they appeared consistently across all interviews. First, national experts were rather reluctant to identify policies that are highly effective in fighting dualism. This is in line with the earlier observation that labour market indicators such as the shares in temporary employment or transition rates to permanent employment (shown in section 2 above) do not suggest any country that would qualify as a best-practice case. Second, there were virtually no references to influences of the European level. EU regulation and initiatives do not seem to figure prominently in the assessment of national labour market experts.

**GERMANY:**
- Actions were recently taken to lower the wage differential between workers with a collective agreement and those working for a temporary agency;
- Introduction of a binding sectoral minimum wage (April 2017);
- Introduction of mandatory equal treatment for temporary agency workers after 9 months and maximum duration of assignments set equal to 18 months.

**NETHERLANDS:**
- Flexicurity Act (1999) intended to limit the gap in turnover costs between flexible and permanent contracts: limitation of fixed-term contracts sequences, shorter probationary period and dismissal procedures for permanent workers (but experts agree that the Act facilitated the use of various types of flexible contracts by employers);
- Agreement on EPL reform by social partners (2015): reduction of consecutive fixed-term contracts, new formula for severance pay, permission from the PES needed in the case of dismissal due to economic reasons, reduction of maximum duration of unemployment insurance.

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5 As highlighted during the MPL Expert Workshop in Ljubljana (2015), best practices are hard to identify among EU Member States, also due to a general scarcity of policy evaluation in this field.
**SLOVENIA:**
- Employment Relations Act (2013) had the explicit goal of reducing segmentation through closing the regulatory gap between temporary and permanent employment and increasing overall flexibility. The OECD stated that this was a good attempt of “making termination costs for different contracts converge towards a uniform rate”;
- Elements of the reform: shorter notice period for permanent contracts, lower severance pay, simplification of dismissal procedures, reduction of fixed-term contracts maximum duration, introduction of severance pay for temporary workers, financial incentives for transition.

**POLAND:**
- Tightening of regulations for different types of flexible employment: restriction of renewal and maximum duration of fixed-term contracts, equal notice period for temporary and permanent workers;
- Since 2017, minimum hourly wage applies to contracts of mandate.

**SPAIN:**
- Most relevant reforms implemented in 2010 and 2012, aimed at lowering segmentation by increasing internal, wage and external flexibility in open-ended jobs and making the regulation of fixed-term contracts more stringent.

**FRANCE:**
- Restrictive list of valid reasons for using fixed-term contracts;
- The possibility of contract termination by mutual consent was created to strengthen incentives not to involve labour courts and has grown in importance;
- Intended shift from from subsidised employment to larger-scale training programmes and to a more dual vocational training system (both considered to be more efficient and effective in ensuring longer-term labour market integration);
- “Prime de précarité”: a precariousness bonus amounting to 10% of the total wage that employers have to pay to the worker if their contract is not converted into an open-ended employment relationship.

**PORTUGAL:**
Significant reforms implemented after 2008 in the context of MoU (Memorandum of Understanding), specifically designed to stimulate employment creation and reduce labour market segmentation;
- From 2013, employers have to contribute on a monthly basis to a dismissal fund that covers up to half of the severance payments.

**ITALY:**
- One of the first countries to discuss the introduction of a single open-ended contract (along with Spain and France);
- Fornero Act (2012) reduced the cost of dismissing permanent workers, while the Poletti decree in 2014 further liberalised fixed-term contracts;
- Most significant reform is to be found in the Jobs Act (2015): exemption of new open-ended contracts from social security contributions for the three following years, dismissal protection increasing with tenure, reduction of legal uncertainty concerning dismissals, restrictions on non-standard work (abrogation of project-related collaborations), increase in unemployment benefit duration and expansion of its coverage (Mini-ASPI specifically designed for workers with short employment spells).
The case studies show that EU influences in combatting labour market segmentation have been limited, both in terms of EU Directives and the European Semester. Reform dynamics have been mostly triggered by national politics, with some notable exceptions.

Since 1999, the European Union has tried to regulate temporary work, specifically through Directive 1999/70/EC on fixed-term work and Directive 2000/78/EC on equal treatment in employment and occupation. De la Porte and Emmenegger (2016) have analysed the influence on Member states of the 1999 Directive – which has given rise to the greatest amount of litigation and controversy – focusing particularly on the role played by the Court of Justice of the European Union (CJEU) in interpreting the Directive. The Court has ruled several times on these four main aspects:

- Equal treatment: the most important consideration governing CJEU judgements on fixed-term work, mostly because it refers to a wide range of issues (pay, bonuses, access to training and promotions);
- Age discrimination: addressed by CJEU judgements in a weaker manner (Germany: Mangold case);
- Abuse of fixed-term contracts and unreasonable renewals (of successive fixed-term contracts): more discretion is left by CJEU to national judges to examine the situation, but in general the CJEU does not tend to challenge the use of these contracts;
- Conversion of fixed-term to open-ended contracts: in principle the CJEU tries to facilitate the transition, but it has a weak legal base for its rulings (except for cases of gross abuse), and again considerable discretion is left to national judges.

Regarding the actual implementation of Directive 1999/70/EC, a distinction can be made between the EU15 Member States and the EU10. The analysis here is restricted to the eight countries presented in the case studies.

Among the first group, Germany, Netherlands, Portugal and Italy adopted new legislation to transpose the Directive. Moreover, only a minority of States implemented it before July 2001, while some waited until the final deadline (July 2002). However, there are still some potential problems, namely clearer legislation when it is not possible to identify the “comparable permanent worker” would be needed in Spain, Italy, France, the Netherlands and Portugal. Moreover, in France, Italy and Portugal there are still different period-of-service qualifications required for fixed-term and permanent workers. Among the EU10, Poland and Slovenia are included in the case studies presented here. All 10 had transposed the Directive into their national legislation by their accession and did this by incorporating the requirements into existing labour law. There are, however, some areas that would require further reflection to assess whether implementation was carried out in line with the Directive. Labour market reforms are carried out at the national level, but European influences matter under certain circumstances. This holds e.g. for Country-Specific Recommendations issued within the framework of the European Semester if this is responding to urgent economic problem pressure (Alcidi and Gros 2015) or if the Country-Specific Recommendations are in line with national reform agendas (Maatsch 2017). External influences are most powerful in case of reforms implemented as a part of the economic adjustment programmes put forward to overcome the sovereign debt crisis (eg in Portugal). In general, however, it seems fair to say that the extent of labour market dualism is not directly influenced by EU action.
4.2. Germany: some recent steps towards re-regulation of temporary employment

**Policy and legislative highlights:**

- Deregulation of temporary agency work in 2003
- A large share of temporary contracts has educational purposes (apprenticeships with a high conversion rate, especially for tertiary graduates)
- Instead, more precarious scenario in public sector fixed-term contracts
- More regulation in recent years through collective agreements, the national minimum wage and 2017 legal regulation
- No ALMP designed to encourage transitions

Germany has seen a very favourable development of total employment and unemployment since the mid-2000s. Non-standard work has grown both in absolute terms and as a share of total employment. However, in the 2000s this trend came to a halt and could even be said to have slightly reversed in in the current decade. Regarding temporary employment, the share of fixed-term contracts is about 12% of total employment in 2016 (see figure 2.1). This share has remained quite stable over time. The same is true for the limited role of temporary agency work that grew strongly after deregulation in the early 2000s but never exceeded two or three percent of total employment.

Compared to other EU Member States, Germany has a large share of temporary contracts motivated by educational purposes, i.e. apprenticeships lasting two or three years, and a relative high rate of conversion of fixed-term contracts into permanent contracts (in 2016, 39% of employees with a temporary job were in education, the second highest level after Austria, see figure 2.9). In the German context, fixed-term contracts - that are legal without valid reason for up to two years - are often used as an extended probationary period, in particular in the case of tertiary graduates that enter the private sector.

Hence, it is fair to argue that fixed-term contracts for apprentices and for graduates taking up a first job in the private sector are not precarious. In fact, according to an expert interviewed, there is also some evidence that fixed-term contracts without valid reasons are associated with higher conversion rates than fixed-term jobs with valid reasons. Therefore, a duality between permanent and temporary jobs is not an accurate concept to depict the German labour market, particularly in the current situation of favourable macroeconomic conditions and skill shortages.

The situation is more problematic in the public sector where there is a higher risk of repeated fixed-term contracts and lower transition to permanent jobs (Hohendanner et al. 2018). This is particularly true in the academic sector, where budgets for employment are often based on funded projects and where specific sectoral rules apply for non-tenured researchers. After its deregulation in 2003, temporary agency work has evolved as a small segment of the labour market with particular prevalence in low- and medium-skilled manufacturing occupations. Temporary agency work acts as a flexible secondary segment of the labour force that operates with specific wage and working conditions. Empirically, temporary agency work has a larger share of low paid jobs and a polarised distribution of assignments, some relatively short, with intermittent unemployment spells, some with longer periods of employment in the user firms (Eichhorst 2015).
In Germany, the legislation on fixed-term contracts has remained unchanged since 2001. Dismissal protection in the case of open-ended contracts has not been reformed since 2003 when the firm size threshold was lifted to 10 employees, the selection criteria were modified and an option to take severance pay instead of procedural protection was established. Since then, dismissal protection has not been on the political agenda. Currently, there is some debate about abolishing or restricting the option of a fixed-term contract without valid reason. This appears rather symbolic and politically motivated, particularly because the public and academic sector would not be affected. In 2016, a reform of fixed-term employment under the specific rules of the academic sector was implemented, aimed at suppressing short-term temporary contracts.

Institutionally, the regulation of temporary agency work has been revised more substantially in recent years. First, collective agreements concluded in some sectors provide an additional sector-specific wage in line with the duration of an agency worker’s assignment to a user company so that the wage differential between the collective agreement in the temporary agency work sector and the wage in the user company is reduced (Spermann, 2013). Second, the temporary agency sector was affected by the establishment of a binding sectoral minimum wage (above the recently introduced statutory minimum wage) and the legal re-regulation that came into effect in April 2017. Equal treatment is now mandatory and effective after nine months, and the maximum duration of assignments is limited to 18 months, with some room for deviation by collective agreements. These reforms aim to improve the remuneration of agency workers and to avoid long-term assignments with inferior working conditions. Empirical evidence on the effectiveness of the reforms is not yet available as it is only beginning to affect cohorts of agency workers now.

Regarding ALMP and access to unemployment benefits, according to experts interviewed one has to note two main issues: First, Germany is one of the countries with the highest share of short- and long-term unemployed people covered by unemployment benefits (includes unemployment insurance benefits (Arbeitslosengeld I) and means-tested income support (Arbeitslosengeld II) (see also figure A 1), including also former temporary workers. The current legislation requires, with some exceptions, one year of contributions from insured employment within a period of two years. The current legislation has been in place since the early 2000s and has not been changed since. Although the empirical relevance is unclear, there is some debate about better access of the short-term employed to unemployment insurance benefits by extending reference periods and / or shortening minimum periods of contribution. Ex ante evaluations show, however, that this would only have a very limited impact on the share of unemployed receiving unemployment insurance benefits (Dlugosz et al. 2009). Second, over the past years, some criticism was raised about placement of unemployed people into non-standard employment, in particular temporary agency work. This is part of a policy that aims to place workers into jobs that are available rather than invest into long-term training courses (see e.g. Eichhorst et al. 2006; Arbeitskreis Arbeitsmarktpolitik 2018).

However, as confirmed by experts interviewed, there is no active labour market policy programme designed to encourage the transition of workers on temporary contracts to permanent contracts, neither via hiring incentives nor via training schemes. One has to note that more attention has been paid to active labour market training for low-skilled (employed) workers, in particular older workers and employees of small and medium-sized enterprises.

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6 The 2018 Coalition Agreement of the new government announces that the share of fixed-term contracts without valid reason will be limited in firms with 75 or more employees, and that the duration of these contracts shall be reduced from 24 to 18 months. However, this still needs to be implemented through legislation.
(but not focused on temporary workers directly). The take-up of sponsored training in the context of this programme (named ‘WEGEBAU’) and its effects seem limited.
4.3.  **Netherlands: 2015 labour market reforms seek to limit dualism further**

**Policy and legislative highlights:**

A reform of employment protection legislation came into force in 2015 and included a reduction of the maximum duration of consecutive fixed-term contracts from three to two years.

During the 2017 general election campaign, the gap between permanent and flexible contracts and the dismissal legislation were important topics and the new coalition agreement has announced a number of reforms of the Work and Security Act.

The Netherlands is among the EU Member States in which the share of non-standard employment has increased most strongly since 2000 (fixed-term contracts, temporary agency work, on-call contracts). In addition, the share of solo self-employed has also increased sharply. As a consequence, the share of standard permanent contracts declined from 73.1% in 2003 to 60.7% in 2017 (CBS, Statline).

It is noteworthy that the growth of non-standard work was not due to an increase in agency work, the share of which has remained fairly stable over the past 15 years. The sharpest increase has taken place among on-call contracts and other contracts without a fixed number of working hours. Their share in total employment doubled from 5.7% in 2003 to 11% in 2017. The number of fixed-term contracts, especially those with a duration of more than one year and with a prospect of a transition to permanent employment, increased also significantly, from 6.0% of total employment in 2003 to 8.4% in 2017.

Moreover, the number of solo self-employed increased from 8.1% of total employment in 2003 to 12.3% in 2017 (CBS, Statline). The transition from a flexible contract to a permanent contract has declined significantly during the crisis (de Beer and Verhulp, 2017).

Experts disagree about the causes of the strong growth of non-standard work and the reasons why companies use various types of flexible contracts. While general trends such as globalisation and technological progress are often mentioned as driving forces of the flexibilisation of the labour market, these trends do not uniquely affect the Netherlands and cannot explain the diverging development between the Netherlands and other Member States (cf. CPB 2016). Hence, one expert states that ‘laws, rules and socio-cultural factors explain that the Netherlands is different from neighbouring countries’.

A recent study of the reasons why companies hire staff on a temporary contract shows that this is not primarily related to fluctuations in demand, caused by the business cycle or seasonal fluctuations, but to the inflow of new staff. This suggests that the use of temporary contracts is a way to extend the legal probationary period (de Beer, 2018).

Labour market dualism has been a topic for debate for more than 20 years in the Netherlands. The 1999 Flexicurity Act intended to limit the gap in turnover costs between flexible and permanent contracts. It stipulated a limitation of a sequence of fixed-term contracts to three contracts and a period of three years, which is still seen as relatively lenient. The probationary period for a permanent contract was limited to two months and the procedure for the dismissal of a permanent worker was streamlined and shortened (de Beer and Verhulp, 2017).

With hindsight, it appears that this Act, contrary to its purpose, facilitated the use of various types of flexible contracts by employers. According to one expert, the Flexicurity Act has ‘enlarged the opportunities for using temporary contracts’. Another expert states that ‘the law has effectuated that flexible work has been normalised in terms of labour law and societal
acceptance’. With the agreement in the Foundation of Labour, the unions have formally ended their opposition to flexibilisation of the labour market, according to this expert.

The employers’ associations claimed that permanent contracts were still too rigid, particularly because of the required permission from the PES, which could only be circumvented with relatively high severance pay. Moreover, in 2004 the period that employers are obliged to continue paying 70% of the wage of a sick employee was extended from 52 weeks to 104 weeks. As a consequence, small companies in particular may incur relatively high costs in the case of the long-term illness of a permanent employee. For an employee on a fixed-term contract, sick pay ends with the termination of the contract.

After a long discussion, the social partners reached an agreement on EPL reform (Stichting van de Arbeid 2013), which came into force in 2015. The reform included a reduction of the maximum duration of consecutive fixed-term contracts from three to two years. It also introduced a new formula for severance pay of one third of a month’s salary for each year of service (and half a month after 10 years of service), starting after two years of service. This typically leads to lower compensation than the previous severance pay assigned by the courts. It also brought a radical change of the legal procedures for the dismissal of permanent staff, in which permission from the PES became the only option in the case of dismissal due to economic reasons. Moreover, the maximum duration of unemployment insurance compensation was reduced from 38 to 24 months.

Although the new law was based on an agreement between the social partners, it met almost immediately with strong criticism from employers, who claimed that this made it even less attractive to employ workers on a permanent contract, due to the stricter procedural requirements for dismissal. They also claimed that the law ‘forced’ them to dismiss temporary workers after two years instead of three years. Employers also criticised the new formal conditions for dismissing a permanent worker for making it very cumbersome to dismiss an employee on the grounds of poor performance. The view of experts regarding the impact of the law of 2015 varies. Some of them claim that it is still too early to assess the consequences of the law.

The strong growth in the number of solo self-employed people that began just after 2000, is generally attributed to the favourable tax treatment of the self-employed and the introduction of the declaration of the employment relation (VAR) in 2005, which indemnifies the employer from subsequent payment of social contributions for self-employed people. Since self-employed workers are not insured against unemployment, sickness and disability, it is often cheaper for companies to hire a worker as a self-employed person than as an employee.

During the campaign for the general elections of 2017, the gap between permanent and flexible contracts and the dismissal legislation were important topics. One political party, the liberal D66, actually included the proposal for a single contract in its manifesto. Although D66 was one of the parties that formed a new coalition government in October 2017, the single contract was not included in the coalition agreement. This agreement does, however, announce a number of reforms of the Work and Security Act, which may bring dismissal law in the Netherlands closer to a single contract. On 9 April 2018 minister of social affairs and employment presented the bill with the reform proposals. The maximum duration of a series of temporary contracts will be raised again to three years. The accrual of the right to severance pay will start from the first day of employment and will, consequently, also apply to temporary contracts. The probationary period for permanent contracts will be prolonged from two to six five months. It will become easier to dismiss a permanent worker based on a combination of various grounds. The unemployment insurance contribution will be lowered if an employee is hired on an open-ended contract (Koolmees, 2018).
Since these reforms will only be implemented in the coming years, it is not yet clear whether they will result in a reduction of the share of non-standard flexible work in the Netherlands and will help in bridging the gap between temporary and permanent employment. One expert expects that the differentiation of the unemployment insurance contribution will reduce the use of temporary contracts, whereas the prolongation of a series of temporary contracts will stimulate the use of temporary contracts. In his view ‘the total package will not help to reduce flexwork’. It is questionable whether the minimum hourly rate for the self-employed will be enforceable, because it is quite simple to manipulate the hourly pay rate. Another expert appreciates ‘the search for a new balance between flexibility and security’, but nevertheless states that ‘government policy is only one of the factors that play a role’. He expects that the growth of flexwork will also level off because employers recognise that ‘flexibilisation of work has a number of adverse effects on innovation, knowledge sharing and the functioning of the economy as a whole’.

Overall, the various attempts to create a balance between flexibility and security and close the gap between non-standard and permanent employment in the Netherlands in the past two decades do not appear to have been successful. Attempts to halt the growth of non-standard employment have failed and there is still a significant gap in employment protection and income security between fixed-term and permanent contracts.

4.4. Slovenia: significant reforms aimed at reducing segmentation

Policy and legislative highlights:

A significant reform of Slovenian labour law was enacted through the 2013 Employment Relations Act, aimed at reducing segmentation through closing the regulatory gap between temporary and permanent employment and increasing overall flexibility.

The deregulation of permanent contracts was accompanied by a re-regulation of temporary employment, with the maximum cumulative duration of fixed-term contracts limited to two years and incentives for using fixed-term contracts lowered by imposing higher unemployment insurance contributions.

Initial assessments of this reform have been positive.

Slovenia for a long time showed clear signs of a segmented labour market. This is expressed in high shares of temporary employment (according to figure 2.1, 15% of the total employed in 2016, 3 percentage points above the EU average), relatively weak prospects of transition into permanent contracts (in 2013, the labour transition from temporary to permanent contracts was around 36%, see figure 2.11) and – until recently – a rather dualised labour law. The strongest demographic feature in the incidence of temporary employment is the over-representation of younger workers (In 2016, nearly 54% of employed persons aged 15-24 years, work on a temporary basis, compare figure 2.6). Concerning occupations, temporary workers are a highly diverse group in Slovenia (figure 2.3).

With regard to non-standard employment, a striking feature of the Slovenian labour market is the high share of temporary agency work (OECD 2014. The underlying reasons are a) that agency work used to be regulated in a rather flexible way and that, according to an interviewed expert, monitoring of existing rules by labour inspectors is weak; b) that students typically work via student employment agencies and – at the same time – are highly attractive to employers: they do not enjoy equal rights with other employees and until 2015, they were exempted from social security contributions. This system apparently created incentives for young people to enrol at university as ‘ghost students’ to be eligible to enter this labour market segment. To close this loophole, since 2015, 15.5% of the wage is deducted for pension and disability insurance (Osvald 2017). Regarding non-student agency
work, a 2013 reform capped the share of agency workers in user companies to 25%. This apparently did not lead to a marked decline in the agency work segment.

Slovenia also has a persistently high share of temporary workers. A significant reform of Slovenian labour law was enacted recently through the 2013 Employment Relations Act. The explicit goal was to reduce segmentation through closing the regulatory gap between temporary and permanent employment and through increasing overall flexibility. For the OECD (2014: 190), the reform is the “clearest example (...) perhaps” for attempts among its members of “making termination costs for different contracts converge towards a uniform rate”. It therefore is of great significance for this study.

The elements of the reform were the following (OECD 2014; Vodopivec et al. 2016): permanent contracts became more flexible through a considerably shorter notice period (120 to 60 days) and lower severance pay; in addition, the procedures for dismissal were simplified, for instance by allowing monetary compensation instead of reinstatement in the case of unfair dismissal and by removing the obligation to prove that dismissal was preceded with an attempt to redeploy the employee within the firm. According to the interviewed experts, this relaxation of procedural requirements should be seen as the most important reform element, because the former rules, together with their interpretation by labour courts, created considerable uncertainty.

The deregulation of permanent contracts was complemented with re-regulation of temporary employment. The maximum cumulative duration of fixed-term contracts was limited to two years. Crucially, severance pay was introduced for temporary workers, which – with few exceptions – is the same as for permanent workers. What is noteworthy, however, is that severance pay for permanent workers is tied to seniority. Because seniority per definition is low for temporary workers, the harmonisation of severance pay does not produce substantive entitlements (for short-term employment it can be as low as 0.2 of a month’s pay). Incentives for using fixed-term contracts were lowered by imposing higher unemployment insurance contributions. If fixed-term contracts are converted into permanent contracts, employers are, however, exempted from contributions for up to two years. Hence, the Slovenian Employment Relations Act constitutes an ambitious reform package including de jure convergence in dismissal costs as well as fiscal incentives not to use fixed-term contracts or at least to convert them into permanent contracts.

Being still fairly recent, the long-term effects of the reform cannot be assessed. However, a preliminary evaluation by Vodopivec et al (2016) has been rather positive and it therefore looks as though hiring subsidies have made an impact, as in Italy. Nevertheless, temporary employment is still high in Slovenia, so there is no structural improvement as yet. They conclude that “(i) the probability of conversion from a fixed-term to a permanent contract with the same employer increased, (ii) workers employed under fixed-term contracts had an increased probability of obtaining a permanent rather than fixed-term job with another employer, and (iii) unemployed workers had an increased probability of obtaining a permanent rather than fixed-term job.” (p. 15). However, in 2014, the year after the reform, the overall distribution of temporary and permanent contracts among newly hired workers did not change dramatically compared to earlier years. The share of temporary workers remained at roughly 75% of new employment contracts (Eichhorst et al 2017: 10). The reform has not yet translated into a marked reduction of fixed-term employment according to Eurostat (although its time series for Slovenia has low reliability). Of course, aggregate stability can hide important developments on the micro level and it will be important to trace the longer-term effects of the Slovenian reform.

In sum, there are clear signs of positive effects of the reforms but future evaluations will have to clarify their substantive impact on segmentation. In any case, the Slovenian reforms constitute an interesting case that should attract continued attention. Moreover, there are
indications that ALMPs in Slovenia work quite well (better than the European average) in terms of transitions out of unemployment, but also with regard to subsequent employment stability and the probability of obtaining permanent rather than temporary contracts (Ministry of Labour, Family, Social Affairs and Equal Opportunity 2017. So far, it is not clear what explains this relatively successful implementation. This is another highly relevant aspect of the Slovenian labour market policy that deserves further scrutiny.

In terms of unemployment benefit coverage, Slovenia has a system in which coverage is linked to the contribution record. In 2010, there was an attempt to make the system more inclusive for workers with short employment spells: the employment record needed to claim unemployment benefits was lowered to nine months in the past 24 months (previously twelve out of 18 months). However, the effectiveness of the reform is unclear.

4.5. Poland: significant increase in temporary work and major employment protection reforms

Policy and legislative highlights:
The growth in temporary employment can at least partly be explained by weak enforcement of labour law, meaning that de facto flexibility in the use of temporary contracts is quite high.

A peculiar feature of the Polish labour market is the widespread use of so-called Civil Law Contracts, which are a specific type of fixed-term contract that allow the employment of formally self-employed workers.

Labour market dualism has rather severe consequences for workers in terms of their social protection, as unemployment benefits are relatively ungenerous and eligibility criteria are rather strict.

Overall, weak enforcement of the law and low bargaining power of employees are the main structural problems that lead to segmentation and that tend to hamper the success of labour market reforms in Poland.

Poland is a latecomer in terms of labour market dualism. In 2000, only around 4% of the total workforce was hired on a temporary basis. However, the share of temporary workers skyrocketed in subsequent years. Between 2000 and 2002 alone, it increased by almost 10 percentage points to 14%. In 2005, it had grown by another 10 percentage points but began to level off (since 2014, roughly 22% of the workforce has had a temporary employment contract). This dramatic increase cannot be fully explained by legislative changes. Major reforms of employment protection (such as deregulation of the maximum duration of fixed-term contracts) took place in 2002 and 2003, that is, when the growth pattern was well under way. In 2002, temporary contracts as well as collective dismissals were heavily deregulated, but the changes were revoked in 2003 to conform to the EU’s acquis communautaire in order to provide greater levels of regulation and protection in the sector (Guardiancich, 2012). This constitutes one of the few examples of a direct effect of EU law on national law in the period under scrutiny. According to the OECD (2014), the net effect was a stricter regulation of temporary contracts, even if the level remained moderate by international standards.

In the subsequent period, there were no significant reforms of temporary or permanent employment regulation. However, it should be noted that fixed-term contracts can be terminated by the employer without any justification in Poland – in contrast to dismissals of permanent workers where a valid reason needs to be given (Lewandowski et al. 2017). To explain the growth of temporary employment, some authors point to weak enforcement of labour law, so that de facto flexibility in the use of temporary contracts is rather high (e.g. Guardiancich 2012). Lewandowski et al. (2017: 6) cite the Chief Labour Inspectorate’s annual reports with the observation that “the fixed-term contract conversion rule (i.e., that a third successive fixed-term contract should be converted to an open-ended contract) was often
Mitigating labour market dualism

circumvented by employers (…)”. Finally, temporary work agencies provide an additional and highly flexible employment option in the Polish case.

A peculiar feature of the Polish labour market is the rather widespread use of the so-called Civil Law Contracts, as the experts consistently point out. They are a specific type of fixed-term contract that allow the employment of formally self-employed workers, often in a quasi-dependent manner, outside labour law and social protection. This type of contract is used both to perform specific work (producing a predefined output) or as a ‘contract of mandate’ without a specified output. From an employer’s point of view, civil law contracts are highly flexible and beneficial because of lower wage and non-wage labour costs. The high tax wedge of dependent employment in Poland is effectively circumvented.

Recently, regulations for different types of flexible employment have been tightened. Since 2016, employers are liable to pay social security contributions when using contracts of mandate. However, contributions are only calculated in relation to pay at the minimum wage level even if the contract provides for higher actual remuneration. The minimum (hourly) wage applies to contracts of mandate since 2017. In 2016, the renewal and maximum duration of fixed-term contracts was restricted, and notice periods in the case of an early termination of a fixed-term contract were aligned with those of permanent contracts. Despite these changes, fixed-term contracts and civil law contracts are still more flexible and cheaper for employers so that descriptive evidence on the impact of the reforms does not show significant effects on the share of temporary contracts (including civil law contracts). Both categories have only declined slightly, the interviewed experts note.

In the Polish context, labour market dualism has rather severe consequences for workers in terms of their social protection. As Guardiancich (2012) stresses, unemployment benefits are relatively ungenerous and eligibility criteria are rather strict. Eligibility is conditional upon having worked 365 days during the 18 months before the start of an unemployment spell. In addition, unlike most Western European countries, Poland does not have a second-tier unemployment assistance scheme. As a result, temporary workers have difficulties qualifying for unemployment benefits and have to rely on support from their families when out of work (Baranowska et al., 2011). Lewandowski et al. (2017) calculate that only about one-third of temporary workers who lose their job receive benefits as opposed to about two-thirds among permanent workers. Civil law contracts are not fully integrated into social insurance, but - as mentioned above - tentative steps towards better inclusion have been taken.

Active labour market policies are of limited relevance in Poland. They generally do not address the issue of temporary contract instability, or the segmentation regarding civil law contracts. Studying temporary workers’ mobility patterns, Baranowska and colleagues (2011) show that successful transitions into permanent employment are relatively infrequent in Poland, while exit rates into unemployment and inactivity are high. Lewandowski et al. (2017) show that transition into permanent employment deteriorated further in the 2010s.

Although the latest reforms are too recent to judge their effects, preliminary observations (see above) and previous experiences give little reason for optimism. According to the interviewed experts, the overall weak enforcement of the law and low bargaining power of employees are the main structural problems that lead to segmentation and that tend to hamper the success of labour market reforms.

7 It is important to note a possible limitation in cross-country comparability. Both types of civil law contracts are reported under the category of temporary employment in the European Labour Force Survey while comparable contracts for labour in other countries might be reported as self-employed.
### 4.6. Spain: action centres on combating dualism

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<th>Policy and legislative highlights:</th>
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<tr>
<td>A dramatic increase in temporary contracts was initially triggered by deregulation in the 1980s. This development resulted in political demands to limit labour market dualism and a number of labour market reforms were implemented in the 1990s and the 2000s.</td>
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<tr>
<td>A comparatively intense debate on a single open-ended contract emerged that prepared the ground for deregulation of employment protection in the aftermath of the 2008/09 economic crisis.</td>
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<tr>
<td>At the same time, the regulation of fixed-term contracts has been strengthened, in terms of an increase in severance payments, which now correspond to 12 days of pay per year of employment. This is still considerably lower than for permanent workers, but social security contributions for temporary workers are higher. Nevertheless, those interviewed for this study emphasise that the reforms have ultimately not resulted in enough of a convergence of dismissal costs between fixed-term and open-ended contracts.</td>
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In Spain, the dramatic increase in temporary contracts was initially triggered by deregulation in the 1980s. Because the reform coincided with adverse economic and demographic conditions, the subsequent boom of temporary contracts went beyond what could have been expected (Polavieja, 2006). Temporary contracts became increasingly popular as an instrument of labour market flexibility and adjustment in an otherwise strictly regulated labour market. This holds for the Spanish labour market in general, but fixed-term contracts played a particular role in tourism and construction as well as entry-level jobs for highly educated young graduates. The dualised labour law in Spain has facilitated a secondary segment with low training intensity and productivity.

This development soon produced political demands to limit labour market dualism (Dolado et al., 2002; Bentolila et al., 2012). Several reforms in this direction were implemented in the 1990s and the 2000s. A comparatively intense debate on a single open-ended contract emerged that prepared the ground for deregulation of employment protection in the aftermath of the 2008/09 economic crisis. The most important structural reforms - identified by the experts interviewed - were implemented in 2010 and 2012 (in particular Royal Decree-Law 3/2012). They were inspired by the motivation to lower segmentation by increasing internal, wage and external flexibility in open-ended jobs.

Individual dismissals were eased by extending and clarifying the reasons for justified separations, in particular with respect to organisational, technical and economic reasons (e.g. a significant loss in firm income or sales). Severance pay for unfair dismissals was lowered with a new type of permanent contract from 45 to 33 days per year of tenure, up to a limit of 24 months (from a previous maximum of 42 months). Moreover, administrative authorisation is no longer needed in case of collective dismissals (Eurofound 2015b). This new permanent contract with large wage subsidies for younger and older workers in small firms (with less than 50 employees) was made available to virtually all hirings of former temporary workers, unemployed people, and different age groups.

The reform terminated the right to continue collecting so-called “processing wages” during court proceedings and eliminated the fast-track dismissal channel where employers had to deposit the maximum severance pay to avoid a court case. These reforms were complemented by institutional changes encouraging internal flexibility, in particular employer-initiated changes in working conditions, and more decentralised collective bargaining and wage moderation (García-Serrano, Malo, 2013).
At the same time, the regulation of fixed-term contracts became more stringent. Between 2011 and 2015 temporary workers were entitled to receive increasing severance payments at the end of their contract, now corresponding to twelve days of pay per year of employment with the firm. This is still considerably lower than for permanent workers, but social security contributions for temporary workers are higher than for permanent employees. However, although the share of temporary contracts considerably declined (by 6.4 percentage points) in the aftermath of the recession (but mainly due to non-renewal of fixed-term contracts, given the adverse economic situation), Spain currently still holds the second place in terms of the share of temporary employment in total employment (see Figure 2.1).

In fact, temporary employment has increased again over the recent years of economic recovery. The average duration of temporary contracts is now even shorter and the possibilities for a transition to permanent employment contracts are lower than in earlier times (see figure 2.13). How can this be explained against the background of the ambitious labour market reforms? It is clear that these reforms have largely failed to overcome dualism measured in terms of the temporary employment share or the probability of a temporary contract being converted into a permanent one. Some evidence exists that permanent hirings increased (around 25,000 new contracts per month according to OECD, 2014) immediately after the reform but leveled off again later. And these changes were of limited size as temporary contracts are still the dominant form of contracts concluded, as demonstrated by the fact that 92% of new contracts registered in January 2014 were temporary contracts.

Moreover, right after the 2012 reform, temporary contracts appear to have increased by 31% between indeed February 2012 and January 2014 (Eurofound 2015b). Permanent hirings remain a rare phenomenon, despite the incentives given to employers (Bentolila et al., 2012; Bank of Spain, 2013, Martínez-Pastor and Bernardi, 2011; García Pérez and Jansen 2015 etc.). In addition, more than half (66%) of workers dismissed between 2012 and 2013 had an open-ended contract and this is ascribable to the fact that dismissals for open-ended contracts were made easier and cheaper by the labour reform (Eurofound 2015b).

The interviewed experts emphasise that the reforms ultimately did not produce enough of a convergence of dismissal costs (as assessment shared by the OECD 2014). The higher level of flexibility and lower costs for the termination of the contracts are important reasons for the employers to choose temporary contracts over open-ended contracts. This is partly because of implementation issues. In particular, labour courts have been quite restrictive in acknowledging the justification of fair dismissals even after the reforms, which continues to produce uncertainty about dismissal costs (Jimeno, Martínez-Matute and Mora 2018).

To appreciate the actual extent of dualisation in the Spanish labour market, characteristics of the highly segmented welfare state have to be included (Mato, 2011; Marx and Picot, 2014). Eligibility criteria for unemployment insurance are relatively lenient (a contribution record of 12 months over a 6-year period, compare table A 1), but they still create a barrier for labour market entrants, given the short and declining average duration of temporary contracts in Spain. Moreover, the benefit duration is tied to the contribution record so that for young workers, if eligible to benefits, the duration can be as short as four months. What makes things worse is the lack of universal unemployment assistance for those not covered (any more) by insurance benefits. This pushes many young unemployed people into residual social assistance or, more commonly, forces them to rely on support of their families (compared to other European countries, young people in Spain have a remarkable low effective unemployment insurance rate, see figure A 4).

Finally, despite efforts to promote active labour market policies and vocational training, the impact of such policies has been limited in the Spanish context so far, according to experts. First, there are significant obstacles in terms of funding and effective management of active labour market policies. Second, dead weight losses and substitution effects associated with
hiring incentives lead to a situation in which relatively high expenses for employer subsidies do not produce a corresponding improvement in the situation of jobseekers or temporary workers. According to the interviewed experts, such instruments also encourage questionable practices such as promoting temporary workers to permanent contracts with the aim of benefitting from subsidies and to dismissing workers once the subsidies expire. Third, delivering effective vocational training policies in a labour market characterised by a large secondary segment of temporary contracts seems difficult.

The Spanish case suggests that even remarkable changes in employment protection legislation might not contribute to a significant reduction in labour market duality. However, given the magnitude of the problem, the idea of a single open-ended contract might be considered as a plausible reform option (Dolado 2018). In Spain the discussed model would mean a gradual phasing in of firing costs with seniority, combined with a type of experience rating that should prevent firms from excessively using workers with short tenure as a flexible buffer. A single labour contract lowering dualism might also be very similar to the current permanent contract but with more flexibility in terms of economic dismissals.

### 4.7. France: dismissal procedures simplified

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<th>Policy and legislative highlights:</th>
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<tr>
<td>Deregulating dismissal protection for permanent workers has been on the French political agenda for some time, and specific action to combat labour market dualism in France includes making unemployment insurance more accessible for short-term workers.</td>
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<tr>
<td>During 2017, a number of legislative changes continued the trend towards simplified dismissal procedures.</td>
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<tr>
<td>Overall, labour market reforms since the late 2000s can be considered to be structural as they add up to a significant flexibilisation of dismissal protection, making it easier to dismiss workers for economic reasons. However, employers' dismissal behaviour has not yet changed substantially.</td>
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<tr>
<td>In the field of ALMPs, France traditionally has a variety of publicly-subsidised fixed-term contracts (contrats aidés) targeted at groups with specific barriers to labour market integration. Evaluations show that such contracts in the private sector often lead to stable employment, but not in the public sector.</td>
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<tr>
<td>Another long-standing feature of the French labour market is the precariousness bonus of 10% of the total wage, which employers pay to the worker if their contract is not converted into an open-ended employment relationship. It may be that this might actually make temporary employment more attractive to workers. In general, this instrument is not viewed as very effective, as it has not been able to prevent an increase in the number of temporary contracts over time.</td>
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France exhibits a moderate to high share of temporary employment in a European comparison (Figure 2.1), but very low transition rates to permanent jobs (Figure 2.11). An interesting feature of the regulatory model is that temporary employment has never been deregulated to the same extent as in many other countries with strong labour market segmentation (Marx 2012). In fact, in 2013 France had one of the strictest regulation systems of fixed-term contracts in the OECD (see Figure A6). Particularly restrictive is the list of valid reasons for using such contracts (OECD 2013: 88). The reason why they are used anyway is probably related to the fact that the protection of permanent workers against individual and collective dismissal is also above the OECD average (ibid.: 78-85).
Beneath the surface of apparent stability, some observers argue that labour market segmentation has intensified. Most notably, there has been an intense growth of very short contracts (less than one month) that – at least in some sectors – tend to be used in chains. Between the mid-2000s and the mid-2010s the number of such short-term contracts doubled approximately, from 1.8 to 3.7 million per quarter. In 2013, an attempt was made to prevent the use of very short contracts by charging higher unemployment insurance contributions. But this measure is generally considered a failure as the differential in the contribution rate was very small and did not affect all temporary jobs. Hence, it was revoked in 2017.

Another reaction has been to make unemployment insurance rather accessible for short-term workers by European standards. Since 2009, only four months of employment out of the last 28 months constitute a sufficient work record (Eurofound 2013). Increasingly, unemployment benefits are combined with part-time work as a sort of in-work benefit, allowing employers to offer low paid employment more easily. The whole system of unemployment insurance, however, is currently in a phase of redesign. Depending on government action and social partner agreements we might see a new type of bonus / malus system for employers, with experience-rated contribution rates corresponding to their hiring and firing behavior, most notably regarding short-term fixed-term contracts. At the same time, unemployment insurance could be opened to independent, freelance workers as well as expanded in the case of voluntary severance. These are highly relevant reform proposals to monitor in the future.

Deregulating dismissal protection for permanent workers has been on the French political agenda for some time, albeit in rather moderate form. In the mid-2000s, there were serious attempts to implement a version of the single employment contract, by replacing fixed-term employment with an extended trial period (proposal by Cahuc and Kramarz in 2004). The contrat nouvelle embauche (CNE) included a trial period of up to two years. In 2007, the contract was found to violate an ILO convention according to which “a period of probation or a qualifying period” should be “determined in advance and of reasonable duration”. The CNE was therefore abolished in 2008.

Instead, the possibility of contract termination by mutual consent was created to strengthen incentives not to involve labour courts. In this procedure, the employee is entitled to a severance payment of a fifth of a monthly wage per year of service and to immediate receipt of unemployment insurance benefits (if entitlement criteria are met). According to experts, termination by mutual consent has developed into an important tool in practice (Askénazy and Erhel 2016).

In 2013, the period during which a complaint against dismissal for personal reasons can be filed was shortened (from a comparatively high level). In addition, the procedures for collective dismissals were simplified. In 2017, a number of legislative changes continued the trend towards simplified dismissal procedures: the economic situation of foreign subsidiaries will no longer affect whether or not there are valid economic reasons for dismissal; the obligation to consider redeployment of employees before dismissing them was softened; negotiated collective redundancies were introduced that do not require an economic reason, but merely an agreement between management and employee representatives, and - most importantly - the discretion of judges was limited in determining the amount to be paid as compensation in case of unfair dismissal. The maximum compensation now amounts to 20 months’ pay (Lhernould 2017). According to expert views, the reforms since the late 2000s can be considered to be structural as they add up to a significant flexibilisation of dismissal protection, making it easier to dismiss workers for economic reasons. However, firms’ hiring behaviour has not yet changed substantially.

In the field of ALMPs, France traditionally has a variety of publicly-subsidised fixed-term contracts (contrats aidés) targeted at groups with specific barriers to labour market integration. Evaluations show that that such contracts in the private sector often lead to
stable employment, but not in the public sector (Benoteau 2015). In order to reduce the fiscal burden and to eliminate deadweight losses, starting from January 2018, these types of contracts changed their name to *parcours emploi compétences* and have been restricted in use to non-market sector employers hiring disabled people, young low-skilled (*Contrat Jeune en Entreprise*, a contract for people under 22 years old who dropped out of school before passing final secondary school examinations) or older workers, as well as long-term unemployed people (Ministère du travail, 2018).

As a consequence, this segment of temporary jobs is declining significantly at the moment. The policy focus is now shifting away from subsidised employment to larger-scale training programmes and to a more dual vocational training system that are both considered to be more efficient and effective in ensuring longer-term labour market integration. But this has yet to be implemented and evaluated.

A long-standing feature of the French approach to temporary employment is the ‘prime de précarité’, a precariousness bonus amounting to 10 percent of the total wage that employers have to pay to the worker if their contract is not converted into an open-ended employment relationship. According to the interviewed experts, this rule might actually make temporary employment more attractive to workers. However, there is no evaluation and generally, little is known about how it works in practice (e.g. to which extent costs are passed on to the worker through lower wages). In general, this instrument is not viewed as very effective, because although workers receive a bonus, it has not been able to prevent the number of temporary contracts from increasing over time.

### 4.8. Portugal: labour market reforms significantly reduce employment protection

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<td>Labour market reforms carried out in 2012 have significantly reduced the level of protection against individual dismissals, associated with high severance pay and procedural inconvenience.</td>
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<td>Unemployment benefit level and duration was reduced, and availability criteria tightened. However, in 2012, unemployment benefit access was eased by shortening the minimum contribution period from 15 to 12 months.</td>
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<tr>
<td>Another issue for Portugal is the heavy reliance of public employers on fixed-term employment in the early 2010s, and the role of bogus self-employment, both in the private and public sector (where it takes the form of contracting out public services).</td>
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<tr>
<td>So-called ‘green receipts’ have been frequently used to administer occasional work but are also said to be regularly used to fill permanent employment needs. In 2013, this was addressed by policy makers by strengthening the capacities of labour inspectorates to put pressure on firms to establish regular dependent employment relationships and improve benefit access of independent workers.</td>
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Portugal also falls into the group of countries with high shares of temporary employment. However, as shown in Figure 2.11, transition rates to permanent employment seem to be somewhat higher than in France or Spain. Despite the regulatory gap between the two types of contracts, screening of newly hired workers over an extended probationary period plays a more prominent role than in France or Spain, according to experts interviewed, thus paving the way to permanent hirings in some cases. Hence, fixed-term contracts act more often as stepping stones in the Portuguese case compared to the other countries. This is particularly important regarding younger workers while older workers find it more difficult to move from a temporary to a permanent job, experts say.
Institutionally, before the 2012 reforms, Portugal was characterised by the highest value of the OECD indicator on protection against individual dismissals, associated with high severance pay and procedural inconvenience (see Figure A5). In the years after 2008, Portugal went through a deep economic and sovereign debt crisis and required a bailout by the European Union, the ECB and the IMF, the so-called ‘Troika’. This was accompanied by significant reforms of employment protection that were implemented in the context of the Memorandum of Understanding (MoU) and reiterated by a tripartite agreement of January 2012. This reform was explicitly designed to stimulate employment creation and reduce labour market segmentation (OECD 2017).

To achieve this, employers’ firing costs were reduced by lowering severance payments. To narrow the regulatory gap between permanent contracts and temporary contracts, severance pay rules were aligned between the two contract types. In concrete terms this implied a reduction of severance pay for permanent workers from 30 to 20 days per year of tenure (up to a maximum of one annual salary or 240 times the monthly minimum wage). In addition, a minimum severance pay of a three month’s salary was abolished.

These changes were implemented in 2011 and 2012, first covering new contracts only. For continuously employed workers there is a mixed system. The new rules for calculating severance pay only apply to the time employed after the reform. In 2013, severance pay was reduced even further in case of collective dismissals (12 days per year of service) and individual dismissals (18 days per year of service in the first three years and 12 days per year in subsequent employment spells).

Reasons for justified dismissals were widened in 2012. Reasons for dismissals in case of restructuring became more objective (for more details see OECD 2017 and Távora and González 2016). An interesting innovation, starting in 2013 with Law 70/2013, is that employers have to contribute on a monthly basis to a dismissal fund that covers up to half of the severance payments. This was designed to reduce the short-term cost of dismissals for employers and to ensure that employers meet their obligations towards employees in case of bankruptcy and that workers received compensation (Eurofound, 2017b).

Fixed-term contracts had been liberalised to last for up to 24 months in 2007, and in 2011 severance pay for newly hired fixed-term workers was reduced from 24-36 days (depending on length of contract) to 20 and later 18 days per year of service (in line with severance pay for permanent contracts). The reform also included a temporary extension of the possibility to renew fixed-term contracts. All in all, the strictness of employment protection declined most significantly in Portugal, moving it more to the European average as shown by the OECD indicator. This holds both for permanent and fixed-term contracts.

The MoU reduced unemployment benefit generosity both in terms of level and duration. Also, availability criteria were tightened (Moreira 2015, Cardoso and Branco 2017). However, in 2012, unemployment benefit access was eased by shortening the minimum contribution period from 15 to 12 months. Moreover, unemployment benefits became available to self-employed contractors and - on a temporary basis - benefit generosity was increased for couples with children and lone parents. This, however did not improve access to unemployment insurance substantially, as observed by experts and the OECD (2017). Hence, fixed-term contract holders are still somewhat disadvantaged regarding income security. Regarding active labour market policies, Portugal has begun to spend more on hiring incentives and training programmes (starting from a low level), most notably to counter youth unemployment (OECD 2017).

Overall, the Portuguese story is broadly in line with the developments regarding employment protection of permanent and temporary workers as well as unemployment benefit access in many other countries observed, albeit the reforms implemented under the MoU went deeper.
than elsewhere. But how did this affect the functioning of the Portuguese labour market? A first systematic assessment of the Portuguese labour market reforms was published by the OECD in 2017. This study points out that on-the-job search and hiring have picked up after the employment protection reform. The full impact of the unemployment benefit reforms and the shift towards activation policies is yet to be seen. Overall, despite the improvement of the employment and unemployment situation in Portugal over the past years, segmentation of the labour market remains significant. One reason for this might be the fact that fixed-term contracts were liberalised in parallel to the deregulation of permanent contracts so that some regulatory gaps persist. Experts also point at the persistent economic uncertainty that makes employers reluctant to hire workers on a permanent basis. But the reforms are seen as basically appropriate to help ease the duality of the labour market to some extent.

Another issue is the heavy reliance of public employers on fixed-term employment in the early 2010s when permanent hirings were prevented by budgetary constraints so that public staffing mainly occurred on a temporary or more casual basis. Furthermore, experts interviewed point to the role of bogus, economically dependent self-employment in Portugal, both in the private and public sector (where it takes the form of contracting out public services).

In Portugal, so-called ‘green receipts’ have been frequently used to administer occasional work but observers claim that they are also regularly used to fill permanent employment needs. Hence, these contracts can be seen as a form of disguised self-employment. They are associated with lower employer social security contributions, no dismissal protection and no access to unemployment benefits. As of 2013, this was addressed by policy makers by strengthening the capacities of labour inspectorates to put pressure on firms to establish regular dependent employment relationships and improve benefit access of independent workers. Finally, with the change in government in 2016 there have also been attempts to stabilise employment in the public sector.

4.9. Italy: labour market reforms aim to combat dualism

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<tr>
<td>The most significant reform challenging the long-standing pattern of dualised employment protection was the Italian Jobs Act in December 2014, which exempted new open-ended contracts from social security contributions for the three following years, and also introduced dismissal protection for open-ended contracts that increases with tenure.</td>
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<tr>
<td>The available evidence shows an immediate effect after the reform. In 2015, the share of new hires with temporary contracts declined while hirings on permanent contracts grew, and a higher rate of transition from fixed-term to permanent contracts could be observed so that the phase from labour market entry to a first stable job was shortened. This effect faded later on, in line with the phasing-out of the hiring subsidy.</td>
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<tr>
<td>To balance this increase in flexibility, unemployment benefit duration was increased and coverage expanded.</td>
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<td>Overall, this reform represents a remarkable step and has the potential to serve as a model for countries facing similar challenges. The Jobs Act also aimed to introduce a complete overhaul, expansion and reorganisation of active labour market policies, although passive labour market policies are still dominant, and the implementation of the new active labour market policy arrangement is not yet complete.</td>
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Italy is characterised by a moderately high share of fixed-term contracts. The average duration of temporary contracts is, however, below the European average, and entry into permanent jobs has been very difficult (see Figure 2.11), in particular for young workers over the last decades. Fixed-term and project-related contracts have created a segment of
unstable employment associated with low productivity, training intensity and only very limited social security. In response to this, the role of employment protection legislation has been a subject for debate for a long time. In fact, Italy was also one of the first countries to discuss the introduction of a single open-ended contract (Boeri and Garibaldi 2005) as an instrument to mitigate labour market dualism (Pinelli et al. 2017). However, the actual reforms followed a slightly different path. Indeed, Italian policy makers have been rather active in various fields that relate to the issue of labour market segmentation.

The so-called Fornero Act in 2012 effectively reduced the cost of dismissing permanent workers. Specifically, it restricted the right to reinstatement to cases such as discrimination or dismissals for disciplinary reasons. In all other cases, a severance payment became the only consequence of a dismissal. A new round of reforms started in 2014 with an emergency decree (the Poletti decree) liberalising fixed-term contracts. It allowed for a maximum duration of 36 months and eight renewals and removed the need to state a valid reason for temporary hirings.

The most significant reform challenging the long-standing pattern of dualised employment protection was implemented with the Italian Jobs Act in December 2014, implemented via enforcing decrees during 2015 (Pinelli et al. 2017).

First, the Jobs Act exempted new open-ended contracts from social security contributions for the three following years and up to a yearly maximum of 8,060 EUR. This was renewed for 2016 with a threshold of 3,250 EUR and phased out almost completely in 2017 (Pinelli et al. 2017) - apparently because it was simply too costly (according to Fana et al (2015) calculations, each new permanent worker costs to public finances roughly EUR 21,000).

Second, open-ended contracts provide dismissal protection that increases with tenure, which can be seen as a differentiated type of SOEC. This results in lower dismissal costs for employers when dismissing workers with contract durations up to 12 years. The above-mentioned switch from reinstatement towards monetary compensation reduced legal uncertainty. More specifically, the reform provided for a fast-track settlement option at fixed separation costs in case of economic reasons for dismissal. A dismissed worker is to be offered a compensation of one gross monthly salary per year of service (with two months at minimum and 18 as maximum), but can still contest this in court. In case of unfair dismissals at least two gross monthly salaries are due (minimum four months, maximum 24 months). These rules apply to all new recruitments as of 7 March 2015. Thirdly, the Jobs Act introduced some restrictions on non-standard work. In particular, as of 2016 it abrogated specific project-related collaboration contracts (‘co.co.pro’)8 that had grown in importance over the 2000s9. Only existing co.co.pro contracts were allowed to continue. However, the so-called ‘co.co.co’ are still available.10 Yet, with the 2017 reform, co.co.co workers have received

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8 The acronym “co.co.pro.” stands for Collaborazione a progetto, which can be translated in English as Collaboration for a project. Legislative decree 81 of 15/06/2015 (Jobs Act), modified these contracts: from the 1st January 2016 the discipline of subordinate work applies also to collaborations which appears to be exclusively personal, continuous in time and for which the way of executing the work is fully organized by the employer. Co.co.pro. are therefore abolished and existing ones must end on their natural deadline or maximum on the 31st December 2015. However, some few exceptions are still possible.

9 See “The Jobs Act: the code for contracts and the end of project-based collaborations”, Legal update: Gianni, Origoni, Grippo, Cappelli & partners

10 The acronym “co.co.co.” stands for Collaborazione coordinata e continuativa, which can be translated in English as a Coordinate and continuous collaboration. The peculiar characteristic of this type of contract is that the employee is autonomous in the execution of the activity, but this activity must follow the scopes and the needs of the employer (also indicated with customer/client). This definition lends itself to different interpretations and abuses, with the possibility to mask actual subordinate work under forms of collaboration.
better access to different types of social protection (except for unemployment benefits) and protection against unilateral termination of contracts by clients.

However, the right to be granted a permanent contract if the firm exceeds the limit for temporary contracts was abolished (as a fraction of permanent ones, previously set at 20%) (ibid: 16). Fana et al. (2015) also point out the fact that the Jobs Act has increased the maximum revenue (from 5,000 to 7,000 euro per year) that a person can receive through “vouchers”11. The authors underline how this is in contrast with the original aim of the reform and instead risks to further exacerbate the use of this tool for dependent work (and not accessory one).

The available evidence shows an immediate effect after the reform, i.e. in 2015. In that year the share of new hires with temporary contracts declined while hirings on permanent contracts grew, and a higher rate of transition from fixed-term to permanent contracts could be observed so that the phase from labour market entry to a first stable job was shortened. This might partially be a short-term result of the employment protection reform, but research shows that this effect was predominantly driven by the large subsidies paid to employers in 2015 (Sestito and Viviano 2016, Pinelli et al. 2017).12 This effect faded later on in line with the phasing-out of the hiring subsidy. Subsequently, there was a return to high hiring rates on temporary contracts and lower rates of conversion. Hence, 2015 was the only year with positive balance of newly created permanent contracts. What can also be observed in the Italian case is a marked decline in labour court litigation, due to lower legal uncertainty, and a certain reduction in project-related freelance work induced by a revision of this type of contracts (Pinelli et al 2017).

To balance the increase in flexibility, unemployment benefit duration was increased and coverage expanded. A first step towards more universal benefits was undertaken by the introduction of Assicurazione Sociale per l’Impiego (ASPI) in Italy in 2013 within the Fornero reforms. Interestingly, the reform also introduced Mini-ASPI, a special benefit with lower contribution requirements, specifically designed for including workers with short employment spells (Picot and Tassinari 2017). In May 2015, the Italian government replaced ASPI and Mini-ASPI with a new scheme (NASpI) harmonising the different systems. The new regime uses rather permissive eligibility criteria, including consensual termination of contracts or resignation. As regards benefits, the new Italian unemployment insurance provides a benefit of 75% of monthly wages up to EUR 1,200. For earnings above this threshold, unemployed people receive a replacement of 25%. At the same time, a new unemployment benefit scheme – DIS-COLL – was piloted on an experimental basis for project-based collaborators and formally stabilised as well as extended to academic assistants later on and has now been merged with the general NASpI unemployment protection scheme (Picot and Tassinari 2015).

With the goal of better reflecting the situation of temporary workers and extending coverage, the reform represents a remarkable step and warrants careful evaluation once fully effective.

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11 The 2003 Biagi reform introduced another form of a-typical contract, the so-called “vouchers” (or buoni lavoro in Italian) to combat black market labour in those sectors in which occasional work is typical (i.e. gardening, private lessons, baby-sitting, agricultural and touristic sector). The voucher has a nominal value of 10€, of which 7.50€ are for the worker while the rest is divided between social contributions and insurance. The growth of this tool has been exponential, with 40 million sold in 2013, 115 mln in 2015 and almost 130 mln in 2016 [data from INPS voucher dossier 2015].

12 In fact, the Italian Jobs Act appears to be a unique natural experiment for analyzing labour market effects of graded security, as explained in Boeri and Garibaldi (2018). What they find from their recent evaluation is that the structural reform caused an increase in mobility as well as in open-ended hirings by firms with more than 15 employees (with respect to smaller firms, to which the hiring subsidies did not apply). Moreover, there has also been a sizable increase in the transformation from fixed-term to open-ended contracts. However, in larger firms, also firing per firm has increased (by approx. 50%) with respect to smaller firms.
It has the potential to serve as a model for countries facing similar challenges, experts argue. The Jobs Act also aimed to introduce a complete overhaul, expansion and reorganisation of active labour market policies, although passive labour market policies are still dominant, and the implementation of the new active labour market policy arrangement is not yet complete (Pinelli et al. 2017).

4.10. Conclusions: summarising the case studies
The case studies presented over shed some light into the actual design and implementation of reforms that fall into the scope of this study. The main findings can be summarised as follows:

- In most countries selected there was a massive wave of reform activities in the 2010s. In fact, some countries have reduced dismissal protection, increased the regulation of fixed-term contracts significantly and have moved towards close to a differentiated, but not uniform, SOEC. In some cases, alternative forms of casual work such as contracts for labour or project-based work have also been more regulated more heavily.
- Despite these reform efforts, however, effects on the labour market structures and dynamics are not clearly visible. Both national and European data still persistent levels of temporary employment, in particular with respect to young people, shorter durations of fixed-term contracts, and limited transition probability in countries that had major reforms.
- To explain this pattern experts interviewed pointed at economic uncertainty on the one hand. On the other hand, there are notable implementation and enforcement issues. Labour courts play a role here, but also the legacy of long-standing employers’ human resource strategies that are based on temporary hirings. Fixed-term contracts continue to be perceived as more flexible and cheaper than permanent contracts even after the reforms.
- The role of active labour market policies is more limited in practice. In the countries studied here, ALMP do not make a major contribution to overcome duality as they either focus more on the unemployed rather than temporary workers or are still a policy area that is under reorganisation and development. Clearly, hiring incentives might incentivize firms to hire workers on a permanent basis, but they are costly, create deadweight losses and are therefore not easily sustainable. As regards unemployment benefits, they have become more universal over time, but not more generous. That also means that temporary workers still have some disadvantage compared to regular workers.
- Based on the expert interviews and the available literature ‘best practices’ of policies or policy modules cannot be easily identified due to a lack of systematic evaluation and the complexity of reforms over relative short periods of time.
5. MAIN FINDINGS AND POLICY CONCLUSIONS

5.1. Main findings

Temporary employment continues to be a major feature of most EU labour markets

Temporary employment is an important feature of European labour markets, often in the form of dual labour markets. We can distinguish fixed-term contracts on the one hand and temporary agency work on the other hand. In general, fixed-term contracts are much more widespread than temporary agency work. In countries such as Poland, Spain, Croatia, Portugal and the Netherlands more than 15% of all workers are on temporary contracts, and in Slovenia, the Netherlands, Spain, France and Austria more than 2% of all workers are engaged in temporary agency work. The analysis of European-wide data shows that the gender composition of temporary work is quite balanced, but low-skilled workers, young people, migrants and workers in low- and medium skilled service sector occupations are disproportionately affected by temporary employment. University graduates are often employed on a temporary basis in some Southern European countries. In terms of working conditions, our analysis shows that temporary contracts are often taken up when no permanent job was available. Educational reasons play a substantial role only in a few countries with strong vocational training systems such as Austria, Germany and Denmark by way of fixed-term apprenticeship contracts.

The typical pattern is that European survey data on working conditions for fixed-term workers show lower satisfaction with job quality compared to permanent employment. This is associated with lower perceived job stability, a higher low pay share, less worker representation and limited career prospects as well as training. Finally, some countries such as France, Spain, the Netherlands, Greece, Portugal and Italy exhibit a low transition rate to permanent position. Moreover, in some countries average durations of fixed-term contracts are rather short, which increases concerns about chains of fixed-term contracts.

Policy options to mitigate dualisms: the single open-ended contract and some alternatives

To counter dualism in the labour market, in some countries proposals to replace the dual system of permanent and fixed-term contract by a single open-ended contract (SOEC) have been made. There are two versions of a SOEC:

- a uniform contract - implying only one contract for all workers, i.e. abolishing fixed-term contracts-
- a differentiated SOEC that continues to allow for temporary employment, but identical employment protection rules for both types of contracts.

In theory, a SOEC will result in a more even distribution of dismissals over all employees: in a dual system, most redundancies affect employees on a fixed-term contract with low seniority; under a SOEC, dismissals will be more evenly spread over employees with varying degrees of seniority. Under a SOEC, workers with short tenure will have a larger probability of staying in the same job for a longer period of time, whereas workers with longer tenure run a greater risk of being dismissed. The number of hirings will probably fluctuate more strongly over the business cycle. Under a SOEC, employers may become more reluctant to hire workers about whose capacities they are uncertain. The effects of a SOEC on the employment rate and the unemployment rate are probably small.
Beyond employment protection legislation, there are alternative mechanisms of protection against labour market risks such as active labour market policies and unemployment benefits. However, little is known in the evaluation literature about the effectiveness of alternative measures to overcome explicitly the divide between non-standard and permanent employment. Measures to increase income security of non-standard workers, such as easier access to social insurance, may stabilise income in case of interrupted employment trajectories and counter the double disadvantage of temporary workers in terms of employment instability and limited support through unemployment benefits.

Reform experiences in the sample of EU Member States: Significant institutional change, but limited effects on labour market dualisms so far

This study could trace significant reform activities in employment protection legislation, unemployment benefits as well as active labour market policies. Most of these reforms were implemented in situations of high or rising unemployment and fiscal pressure. Growing public concern over labour market inequalities might also have contributed.

Regarding employment protection, many countries that exhibited quite rigid dismissal protection have implemented reforms that reduced dismissal costs and simplified procedural requirements. At the same time, there has been a more contradictory approach towards temporary employment where some steps in the direction of further deregulation but also re-regulation could be observed. One has to note that no country has introduced a fully integrated single open-ended contract; all have kept a variety of contracts, including fixed-term contracts. Access to unemployment benefits has been eased in some cases. Whether this has translated into better coverage is not yet clear. Moreover, generosity has remained quite limited in some countries or has been reduced even further. Active labour market policies have gained programmatic salience, but quality of implementation and funding do not always seem to match ambitions.

Overall, it seems fair to say that labour market segmentation is high on many national agendas. There is a visible tendency to tackle the issue, particularly through attempts to close the regulatory gap between types of contracts. As yet, the evaluation of the impact of these reforms is rather preliminary, because of the short time period since their introduction. Also the complexity of some reform packages makes it difficult to assess single components. However, so far we have to conclude that - despite massive and unprecedented institutional changes - labour market structures and dynamics have not changed fundamentally. Temporary contracts and other flexible forms of employment still play a major role in the countries studied here. Furthermore, in some cases the average duration of fixed-term contracts seems to have declined over recent years, and transitions to permanent employment have not systematically increased. How can we make sense of this apparently limited success?

Enforcement and implementation issues related to employment protection reforms matter

The limited effect of employment protection reforms, in particular the deregulation of open-ended contracts, point to serious implementation issues. First, in some cases, legislative requirements regarding temporary contracts and self-employment are simply not enforced. This aspect was mentioned by several national experts. The problem can be rooted in the absence of effective labour inspectorates and/or the weakness of trade unions at the firm level. Second, in some cases labour courts have been reluctant to acknowledge valid reasons for economically justified dismissals. This could undermine the translation of deregulation into more legal certainty for employers. Thirdly, according to experts from some countries, employers often continue to perceive temporary contracts as more flexible, judicially less
risky and cheaper than permanent hirings - despite reduced severance pay requirements and procedural simplifications.

One possibility is that the reforms simply have not gone far enough in reducing the costs of dismissing permanent workers. Another possibility is that employers’ personnel policies are subject to a certain inertia. Hiring decisions are based on complex considerations and have to match the respective business model. Employers’ cognitive templates for managing this complexity might simply not be updated as frequently as reformers would hope. Put differently, as long as employers do not observe sufficient evidence for growing flexibility in practice, they probably have a tendency to adhere to existing staffing models based on fixed-term employment. One could argue that some employers, based on longer-term experiences with dismissal protection, tend to overestimate the risks and difficulties of dismissal after the legislative changes. There might be a systematic difference between perceived costs and real costs of permanent contracts. In this perspective, the effects of reform - if there are any - could take longer to become visible.

When discussing personnel policies, it is important to point to the role of the state as an employer. It is striking that in some countries, segmentation in the public sector is more severe or at least not lower than in the private sector. A crucial aspect of this problem arguably is the stricter dismissal protection for public sector workers, but also budgetary considerations play a role.

**Labour market policies and social protection play a minor role in mitigating dualisms**

Unemployment benefits and active labour market policies play a less prominent role in the reforms analysed here. If one adopts the flexicurity concept as an ideal, reform approaches tend to remain one-sidedly oriented towards the flexibility aspect. This does not come as a surprise, because, as opposed to regulatory changes, passive and active labour market policies can be quite expensive. Unemployment benefits have tended to become more easily available to temporary workers with short or interrupted employment spells, at least *de jure*. There have been few attempts to make benefits more generous. The reform survey also does not find a significant expansion of active labour market policies targeted at temporary workers’ upward mobility. In particular, there are few placement strategies or types of training targeting temporary workers with the aim of moving them to permanent positions. The most heavily used approach is hiring incentives to employers that reward the use of permanent contracts. According to the available evidence, these hiring or conversion incentives work, but they are expensive, entail deadweight losses or substitution effects and are hardly sustainable in fiscal terms.

**The evidence so far**

To sum up, based on the evidence that has become available so far, we can observe a rather limited success of recent policy initiatives to reduce the ‘institutional’ factor driving labour market segmentation. One might argue that this is because segmentation is also driven by other factors, in particular (resilient) human resources practices and the macro-economic environment. Some experts point out that reforms have not gone far enough in the convergence of turnover costs. However, so far there is simply no substantive support for a key claim legitimating the reduction of permanent workers’ social rights: that labour market outsiders would benefit from it.
5.2. Policy conclusions

Remaining reform issues in the national context

What further steps should be taken towards reducing segmentation in European labour markets? One step could be to re-regulate temporary contracts in a more consistent way. Based on the assumption that dismissal rules provide sufficient flexibility after the reforms, it might be justified to make temporary employment more expensive. Rather than complex regulations that can be circumvented in practice, we suggest considering financial incentives. One promising way is to introduce experience-rating in unemployment insurance, so that the costs of flexible HR practices can no longer be externalised. This would also allow financing an expansion of unemployment benefit coverage and generosity that would take the idea of flexicurity more seriously.

One has to note, however, that reforms in employment protection will not mitigate labour market dualisms easily as there are other factors contributing to dual or segmented labour markets. However, it also is too early to deny any positive effect of reducing the regulatory gap between types of contracts. In this area, the responsibility still lies with the national level. One option is to continue on the reform path of the past years and further deregulate permanent contracts as advocated by some observers. However, this appears premature, because the reforms might still produce favourable effects in the mid-term. Also, it is far from clear how radically permanent contracts have to be deregulated to produce a noticeable effect on segmentation. A risk to be taken seriously is that further deregulation may produce losers, but no winners on the employee side.

Enforcing and communicating existing rules by national initiatives and EU contributions

A possibility that is worth taking into consideration is that policy makers should not aim so much at changing rules but at enforcing and communicating existing ones properly. Based on our case studies, we would argue that much would be gained if existing restrictions on temporary employment - including the equal pay principle - are enforced rigorously. The same holds for new rules on self-employment, freelance or contract work established in some countries. In the absence of industrial relations traditions that fulfil this role, this would require investment in labour inspectorates. Given the budgetary situation of some of the countries studied here, this is an area where the European Union could take a strong role. This is potentially in line with

- some aspects of the planned European Labour Authority announced by the European Commission and
- with the better implementation of the Written Statement Directive as stated in the European Pillar of Social Rights.

It is also advisable to communicate the newly established dismissal protection rules more clearly and consistently to market actors so that the real costs of dismissals can be more in line with perceived costs of dismissals. Hence, better communication by ministries and social partners could help overcome the reluctance of employers to hire on a permanent bases as they still follow long-standing hiring practices shaped by pre-reform experiences.

Building human capital-oriented ALMPs

Regarding ALMPs, it is not easy for public employment services to influence upward transitions once workers are in employment. Hiring incentives can achieve this, but might be too expensive to be sustainable. Another possibility is to train workers during unemployment
spells in such a way that employment trajectories are improved in the long run. While evidence exists showing that this is possible, the costs are again rather high. Nonetheless, human-capital oriented ALMPs should complement any strategy to tackle segmentation.

Governments that are determined to lower segmentation should start with hiring practices in the public sector. There are good reasons to screen workers before admitting them to a highly protected career in the public sector. However, there is no justification for highly precarious chains of temporary contracts, as we observe them, for instance, in academia.

**Observing and evaluating further developments rather than a quick de- or re-regulation**

Given the fact that the recent reforms have probably not yet fully shown their impact in terms of changing labour market dynamics over the business cycle it seems advisable to continue to closely monitor and evaluate the functioning of European labour markets and give country-specific recommendations in the framework of the European Semester.

**The role of the European Semester and the European Pillar of Social Rights**

The European Semester can also be seen as a framework for implementing principles and policy reforms of the European Pillar of Social Rights. The European Pillar of Social Rights itself was designed to, among other goals, “aim at preventing labour market segmentation while making employment secure and adaptable”. Especially since temporarily employed are disadvantaged with respect to further training, labour market security and salary, this is a relevant issue. In principle no. 5 the European Pillar of Social Rights addresses ‘Secure and adaptable employment’ and states the following:

« Regardless of the type and duration of the employment relationship, workers have the right to fair and equal treatment regarding working conditions, access to social protection and training. The transition towards open-ended forms of employment shall be fostered. In accordance with legislation and collective agreements, the necessary flexibility for employers to adapt swiftly to changes in the economic context shall be ensured. Innovative forms of work that ensure quality working conditions shall be fostered. Entrepreneurship and self-employment shall be encouraged. Occupational mobility shall be facilitated. Employment relationships that lead to precarious working conditions shall be prevented, including by prohibiting abuse of atypical contracts. Any probation period should be of reasonable duration. «

As this study has shown, designing suitable employment protection legislation is a complex and country-specific issue. Hence, the details of the concrete implementation of the principles of the European Pillar of Social Rights depend on finding solutions that work at the national level. While labour market reforms at the national level follow their own political logic, the European Semester can give some orientation and advice (see also European Commission 2017a, b, c) although it is clear that the impact of the European Semester is limited.

**Four policy priorities at the national and the European level**

Hence, as main policy conclusions this study suggests the following points:

- It is important to closely monitor the further development of dualised labour markets after the recent reforms and to adjust national if there is compelling evidence in favour of this. This can be organised and supported via the European Semester.
- In general, it seems premature to develop further structural reforms on the labour markets at this point in time. Given the diversity and complexity of national labour markets and forms of labour market dualisation, European principles as stated in the European Pillar of Social Rights are necessarily quite abstract and can only be made
more concrete in the national context, taking into account recent reform paths and effects.

- It is advisable to effectively communicate the newly established dismissal rules and regulations on temporary contracts so that employers become better aware of existing flexibility options, the real costs associated with the different forms of contracts and the reduced extent of legal uncertainty.

- The European Union could focus more on and support Member States in the enforcement of existing legislation on temporary employment or contract labour. This refers to the Written Statement Directive and to the envisaged European Labour Authority.

**Further research** would be needed to examine in more depth the drivers behind labour market dualism in a wider range of EU Member States and to analyse the effectiveness of a range of policy responses and whether elements of evolving good practice could be transferred across national boundaries.
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• Eurofound (2014). Young people and temporary employment in Europe, Matsaganis M, Rabemiafara N and Ward T.
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ANNEX

Figure A 1: ALMP expenditure in PPS per person wanting to work 2016 (2015 or 2014 in case not available).

Source: Eurostat, [lmp_ind_exp].

Figure A 2: Unemployment benefit coverage of short-term and long-term unemployed, 2007 and 2014.

Source: Eurostat, [imp_ind_exp].
Figure A 3: Labour market insecurity, 2007 and 2013.

Source: OECD, Job Quality Database. Note: Labour market insecurity is defined in terms of the expected earnings loss associated with unemployment. This loss depends on the risk of becoming unemployed, the expected duration of unemployment and the degree of mitigation against these losses provided by government transfers to the unemployed (effective insurance).

Figure A 4: Effective unemployment insurance of 15-29 years old, 2007 and 2013.

Source: OECD, Job Quality Database. Note: Effective unemployment insurance is defined as the coverage rate of unemployment insurance (UI) times its average net replacement rate among UI recipients plus the coverage rate of unemployment assistance (UA) times its net average replacement rate among UA recipients.
Figure A 5: Strictness of employment protection: individual dismissals (regular contracts).

Source: OECD.stat.

Figure A 6: Strictness of employment protection: temporary contracts.

Source: OECD.stat.
Table A 1: Characteristics and unemployment benefits in the EU.

<table>
<thead>
<tr>
<th>Country</th>
<th>Qualifying</th>
<th>Duration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>52 within last 24 months</td>
<td>20 weeks</td>
</tr>
<tr>
<td>Belgium</td>
<td>Between 312 working days during the previous 21 months, and 624 working days over the previous 42 months (varies with age)</td>
<td></td>
</tr>
<tr>
<td>Bulgaria</td>
<td>9 months during last 15 months</td>
<td></td>
</tr>
<tr>
<td>Croatia</td>
<td>9 months during last 24 months</td>
<td></td>
</tr>
<tr>
<td>Cyprus</td>
<td>26 weeks(^{13})</td>
<td>156 days</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>12 months in last 2 years</td>
<td>5 months</td>
</tr>
<tr>
<td>Denmark</td>
<td>1 year during during three preceeding years</td>
<td>2 years</td>
</tr>
<tr>
<td>Estonia</td>
<td>12 months over the 36 months preceding</td>
<td>180 days</td>
</tr>
<tr>
<td>Finland</td>
<td>26 weeks of employment during the last 28 months and during each week at least 18 hours</td>
<td>300 days</td>
</tr>
<tr>
<td>France</td>
<td>4 months (122 days) insurance during the last 28 months (36 months for those aged 50 and over)</td>
<td>4 months</td>
</tr>
<tr>
<td>Germany</td>
<td>12 months during the last 2 years</td>
<td>12 months</td>
</tr>
<tr>
<td>Greece</td>
<td>125 days of work during the 14 months preceding job loss or, at least, 200 days of work during the 2 years preceding job loss for the first time claimants</td>
<td>Proportional to periods of employment</td>
</tr>
<tr>
<td></td>
<td>(125 days : 5 months 150 days : 6 months 180 days : 8 months 220 days : 10 months 250 days : 12 months)</td>
<td></td>
</tr>
<tr>
<td>Hungary</td>
<td>360 days of insurance during the previous 3 years</td>
<td>1 day paid for every 10 days of prior insurance, up to a max of 90 days</td>
</tr>
<tr>
<td>Ireland</td>
<td>104 weekly contributions paid; and 39 weekly contributions paid or credited during the relevant contribution year preceding the benefit year</td>
<td>234 days</td>
</tr>
<tr>
<td>Italy</td>
<td>13 weeks of work insurance during the four years</td>
<td>Half the number of weekly contributions paid during the last four years</td>
</tr>
<tr>
<td>Latvia</td>
<td>Socially insured for at least 1 year, paid at least 9 months of contributions in 12 months</td>
<td>9 months</td>
</tr>
<tr>
<td>Lithuania</td>
<td>18 months in the 3 years</td>
<td>Duration depends on the length of the insurance record (less than 25 years: 6 months; 25 - 30 years: 7 months; 30 - 35 years: 8 months; 35 years and over: 9 months)</td>
</tr>
<tr>
<td>Luxembourg</td>
<td>26 weeks during the last year</td>
<td>365 calendar days during a reference period of 24 months</td>
</tr>
<tr>
<td>Malta</td>
<td>50 weeks(^{14})</td>
<td>Max 156 days' benefit, provided that the number of benefit days paid does not exceed the number of contributions paid under a Contract of Service</td>
</tr>
</tbody>
</table>

\(^{13}\) Conditions relate to the extent of contributions paid

\(^{14}\) Of those at least 20 paid or credited should be in the last two previous years.
<table>
<thead>
<tr>
<th>Country</th>
<th>Eligibility</th>
<th>Duration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Poland</td>
<td>365 calendar days during 18 months preceding the day of registration</td>
<td>6 months in areas with an unemployment rate less than 150% national average; 12 months in areas with an unemployment rate of at least 150% or more of the national average</td>
</tr>
<tr>
<td>Portugal</td>
<td>360 days of employed work and contribution payment</td>
<td>Duration proportional to age and length of contribution</td>
</tr>
<tr>
<td>Romania</td>
<td>12 months during the 24 months preceding</td>
<td>Duration varies with the contribution period:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Years</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1-5</td>
</tr>
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<td></td>
<td>5-10</td>
</tr>
<tr>
<td></td>
<td></td>
<td>10 and over</td>
</tr>
<tr>
<td>Slovakia</td>
<td>2 years during the last 3 years</td>
<td>6 months (4 months in case of employees on fixed-term labour contracts)</td>
</tr>
<tr>
<td>Slovenia</td>
<td>9 months during the previous 24 months</td>
<td>Depends upon length of insurance and partly also on age</td>
</tr>
<tr>
<td>Spain</td>
<td>360 days during the 6 years preceding the legal unemployment situation</td>
<td>Duration varies from a minimum of 4 months to a maximum of 2 years</td>
</tr>
<tr>
<td>Sweden</td>
<td>6 months and at least 80 hours of work per month during the last 12 months</td>
<td>300 days</td>
</tr>
<tr>
<td>The Netherlands</td>
<td>wages in at least 26 weeks out of the 36 weeks before the first day of unemployment</td>
<td>Max. duration of 24 months</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>Contributions paid for at least 26 weeks in one of the 2 tax years on which the claim is based at the minimum weekly contribution rate for that year</td>
<td>Max 182 days</td>
</tr>
</tbody>
</table>

Source: MISSOC.

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15 4 years in case of temporary employment
16 Insurance period between 9 months and 5 years: 3 months; insurance period between 5 and 15 years: 6 months; insurance period between 15 and 25 years: 9 months; insurance period of 25 years or more: 12 months (19 months if over age 50; 25 months if over age 55)
17 Alternative: Employed or self-employed for at least 480 hours during a consecutive period of 6 months with at least 50 hours of work every month during the last 12 months