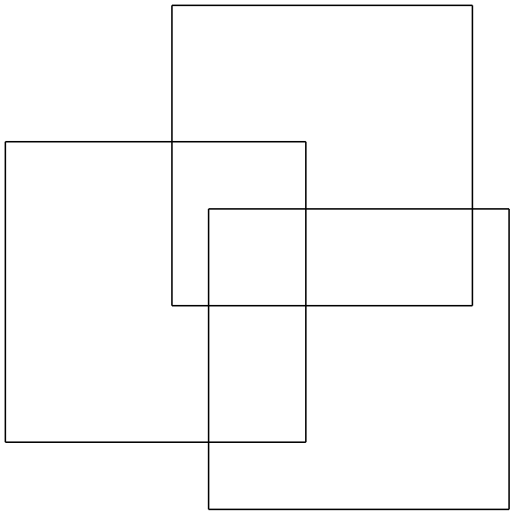
MENSFE/2015

International
Labour
Office

Geneva

Non-standard forms of employment

Report for discussion at the Meeting of Experts on Non-Standard Forms of Employment
(Geneva, 16–19 February 2015)



Geneva, 2015

Conditions of
Work and
Equality
Department

MENSFE/2015

INTERNATIONAL LABOUR ORGANIZATION

Conditions of Work and Equality Department

Non-standard forms of employment

Report for discussion at the Meeting of Experts on Non-Standard Forms of Employment
(Geneva, 16–19 February 2015)

Geneva, 2015

INTERNATIONAL LABOUR OFFICE, GENEVA

Non-standard forms of employment. Report for discussion at the Meeting of Experts on Non-Standard Forms of Employment (Geneva, 16–19 February 2015) / International Labour Office, Conditions of Work and Equality Department, Geneva, 2015.

ISBN 978-92-2-129383-5 (print)
ISBN 978-92-2-129384-2 (Web pdf)

Also available in French: *Les formes atypiques d'emploi:* rapport pour discussion à la Réunion d'experts sur les formes atypiques d'emploi (Genève, 16–19 février 2015) / Bureau international du Travail, Département des conditions de travail et de l'égalité, Genève, 2015 (ISBN 978-92-2-229383-4 (print); 978-92-2-229384-1 (web pdf) and in Spanish: *Las formas atípicas de empleo*: informe para el debate en la reunión de expertos sobre las formas atípicas de empleo (Ginebra, 16–19 de febrero de 2015) / Oficina Internacional del Trabajo, Departamento de Condiciones de Trabajo e Igualdad, Ginebra, 2015 (ISBN: 978-92-2-329383-3 (print); 978-92-2-329384-0 (web pdf)).

precarious employment / part-time employment / temporary employment / labour market / international labour standards / role of ILO

ILO Cataloguing in Publication Data

Printed by the International Labour Office, Geneva, Switzerland

Contents

1. Introduction

1. In his Report to the 102nd Session of the International Labour Conference, the Director-General of the International Labour Office observed that "the classic stereotype of a full-time permanent job, with fixed hours, and a defined-benefit pension on the completion of a largely predictable and secure career path with a single employer, however desirable it might appear, is an increasingly infrequent reality". He also noted that "[t]oday, about half of the global workforce is engaged in waged employment, but many do not work full time for a single employer" and that "[v]iews are strongly divided about whether and how this matters for the attainment of decent work for all and, if so, what if anything should be done about it" (ILO, 2013a, p. 13).

2. Views are divided on the issue of non-standard forms of employment (NSFE) partly because "non-standard" covers an array of situations, some more prevalent in certain parts of the world than in others, some which have always existed, and some which are new. This heterogeneous mix of employment arrangements reflects the diversity of today's more integrated, but evolving, world economy. A nuanced understanding of this mix is paramount both for employers and workers adjusting to changes in the world of work, and for labour market governance in general, in order to maximize the benefits it affords and to address the challenges it presents.

3. This background report sets out a typology of non-standard employment, and presents a general overview of the prevalence and growth of different forms of non-standard employment around the world, the reason for its use, and its effects on workers, firms and the labour market, with special attention paid to fundamental principles and rights at work. It also reviews ILO standards, regional and national regulation of the different types of non-standard employment, and recent reforms. It is a general overview, intended as input for the Meeting.

4. This Meeting is the outcome of a resolution approved during the recurrent discussion on fundamental principles and rights at work held at the 101st Session of the Conference, whereby the ILO would, among other actions, "organize a meeting of experts, undertake research and support national studies on the possible positive and negative impacts of non-standard forms of employment on fundamental principles and rights at work and identify and share best practices on their regulation". [1] In June 2014, the Officers of the Governing Body proposed that the Meeting of Experts on Non-Standard Forms of Employment be held in February 2015. The conclusions of the Meeting are expected to contribute to preparations for the recurrent discussion on labour protection to be held at the 104th Session of the Conference in June 2015.

1.1. Defining non-standard forms of employment

5. There is no official definition of NSFE. Typically, NSFE covers work that falls outside the scope of a standard employment relationship, which itself is understood as being work that is full-time, indefinite employment in a subordinate employment relationship. For the purposes of this discussion, the following forms of non-standard employment are considered: (1) temporary employment; (2) temporary agency work and other contractual arrangements involving multiple parties; (3) ambiguous employment relationships; and

[1] See http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_182951.pdf.

(4) part-time employment. The analysis is focused on employees and therefore excludes independent, self-employed workers. Workers in NSFE may be working under formal or informal employment arrangements; both arrangements are therefore included in the analysis.

6. Temporary employment, whereby workers are engaged for a specific period of time, includes fixed-term, project or task-based contracts, as well as seasonal or casual work. Fixed-term contracts can be either written or oral, but are characterized by a predefined term. In the majority of countries, fixed-term contracts are regulated by specific legal provisions on the maximum duration of the contract, the number of renewals, and valid reasons for recourse. Fixed-term contracts, as well as project or task-based work, are also widely used in informal employment relationships. Casual work is the engagement of workers on an occasional and intermittent basis, for a specific number of hours, days or weeks, in return for a wage dictated by the terms of a daily or periodic work agreement. Casual work is a prominent feature of informal waged employment in low-income developing countries.

7. Workers who are not directly employed by the company to which they provide their services may be performing work under contractual arrangements involving multiple parties, such as when a worker is deployed and paid by a private employment agency [2] to perform work for a user firm. In most countries, the agency and the worker enter into an employment contract or relationship, whereas the agency and the user firm conclude a commercial contract. Although there is generally no employment relationship between temporary agency workers and user firms, some jurisdictions impose legal obligations on user firms vis-à-vis temporary agency workers, especially in respect of health and safety. The user firm pays fees to the agency, and the agency pays the wages and social benefits to the worker. In some countries, temporary agency work is referred to by the term "labour dispatch" (such as China, Japan and the Republic of Korea), "labour brokerage" (South Africa) and "labour hire" (Namibia). Although temporary agency workers are commonly recognized as being in an employment relationship, there may be limitations imposed on the rights of the worker or confusion regarding these rights because multiple parties are involved, particularly if the worker has provided services at the user firm for an extended period of time.

8. Ambiguous employment relationships may arise when the respective rights and obligations of the parties concerned are not clear, or when inadequacies or gaps exist in the legislation, including regarding the interpretation of legal provisions and their implementation. One area that sometimes lacks legal clarity is dependent self-employment, where workers perform services for a business under a civil or commercial contract but depend on one or a small number of clients for their income and receive direct instructions regarding how the work is to be done. Dependent self-employed workers are typically not covered by the provisions of labour or social security laws, although a number of countries have adopted specific provisions to extend some protection to them.

9. In part-time employment, the normal hours of work are fewer than those of comparable full-time workers. Many countries have specific legal thresholds that define part-time work in relation to full-time work. For statistical purposes, part-time work is usually considered

[2] The Committee of Experts on the Application of Conventions and Recommendations (CEACR) has recalled that Article 1 of the Private Employment Agencies Convention, 1997 (No. 181), "defines the term 'private employment agency' as any natural or legal person, independent of the public authorities, which provides the labour market services listed in the Convention" and that the definition "encompasses any recruiter or direct service supplier outside the realm of public employment services" (ILO, 2010, p. 73).

as working fewer than 35 hours, or 30 hours, per week (van Bastelaer et al., 1997). In some instances, working arrangements may involve very short hours or no predictable fixed hours and the employer is under no obligation to provide a specific number of hours of work. Such working arrangements take various contractual forms depending on the country, but are commonly referred to as "on-call work". [3]

2. Incidence of and trends in non-standard forms of employment

10. Temporary and part-time employment have always existed in labour markets and serve important purposes. Temporary work, including temporary agency work, gives enterprises flexibility to replace temporarily absent workers, to evaluate new hires before offering them open-ended contracts, and to respond to seasonal or other changes in demand. Part-time work allows employers greater flexibility in planning work, aligning schedules with peaks in customer demand and retaining workers who are not in a position to commit to full-time work. Workers seek non-standard arrangements to accommodate family, educational or other obligations, to supplement their income, or in the hope that the job might lead to permanent employment. Over the past several decades, however, there has been an increase in the use of NSFE, often for new purposes, although trends in the various types of contractual arrangements that have proliferated across countries have been uneven.

2.1. Understanding why firms use non-standard forms of employment

11. In general, a firm's decision to engage in non-standard work arrangements will be influenced by its specific attributes, such as size, the industry in which it operates, the skill level of its workforce, its proprietary knowledge, the practices of competing enterprises, and the regulatory framework of the country in which it operates. Some sectors have traditionally been associated with non-standard arrangements, such as temporary (or seasonal) employment in agriculture, construction (also highly seasonal and characterized by contractual arrangements involving multiple parties), and the arts (as the work is often for a specific project). However, NSFE have spread to industries that were not previously characterized by these arrangements, such as the airline industry (Bamber et al., 2009) and the hotel industry (Weil, 2014). Aside from seasonal fluctuations in production, there are three major reasons why organizations use non-standard workers: cost advantages, flexibility and technological change. These are not independent reasons and organizations may adopt non-standard work for any one, or a combination, of these reasons.

12. Organizations value the lower costs associated with non-standard workers. Temporary workers are often cheaper because of either lower wage or non-wage costs (Nesheim et al., 2007; von Hippel et al., 1997). In some instances, regulations may unintentionally – or deliberately – encourage the use of alternative arrangements, such as part-time workers falling below the threshold for social security benefits, or fixed-term workers being exempt from severance pay. As Gleason (2006) explains, based on a comparative study of the United States, Japan and Europe, "[e]ach type of nonstandard employment exists in its current form because there is either a relative absence of a regulatory environment or a regulatory environment that frames its use" (page 8). The regulatory environment affects

[3] "On-call work" is to be differentiated from "on-call hours" under an employment contract that otherwise specifies working hours, common, for example, in the medical profession.

the cost of different arrangements and thus influences firms' decisions regarding whether or not to engage workers under non-standard arrangements. Other cost considerations can also be important. For example, workers who are managed by third parties can save an organization the expenses involved in screening, administering and supervising workers (Kalleberg et al., 2003).

13. Organizations use non-standard workers to attain numerical or functional flexibility. Workers are brought in at short notice to help the organization deal with seasonal demand (Harrison and Kelley, 1993) or with fluctuations in labour supply (Ko, 2003). In this respect, temporary work has always existed. But with shorter product cycles arising from just-in-time production, the ability to hire workers for short time periods provides organizations with numerical flexibility, enabling them to expand (or reduce) their workforce fairly rapidly. Organizations also attain functional flexibility when they are able to hire workers to deal with specific, typically short-term, needs requiring special skills not available in-house (Kalleberg et al., 2003).

14. Technological developments have enabled firms to assemble teams of employees who work around the world in virtual contact with each other (Brews and Tucci, 2004). The more recent development of online contracting services such as "eLance" and "oDesk" allows organizations to find individuals to whom work can be subcontracted. As the work is often done in virtual mode, it involves both limited administrative and physical attachment to the organization.

2.2. Incidence and trends

15. There are considerable variations in the extent and growth of NSFE across the world. As mentioned, it is more common in certain industries. It is also more closely associated with lower-skilled occupations, in which workers can be quickly trained and easily replaced. [4] Young people are more commonly found in temporary jobs and women are more likely to be in part-time employment.

16. Nonetheless, and despite the growth of non-standard work in many regions of the world, the "standard employment relationship" remains the dominant form of employment in industrialized countries, accounting for 70 per cent of jobs in Europe and the United States. In emerging economies, such as Brazil and Argentina, most jobs created in the 2000s were formal jobs with indefinite contracts (Maurizio, 2014). In low-income countries, self-employment and casual waged employment remain the dominant forms of engagement.

2.2.1. Temporary employment

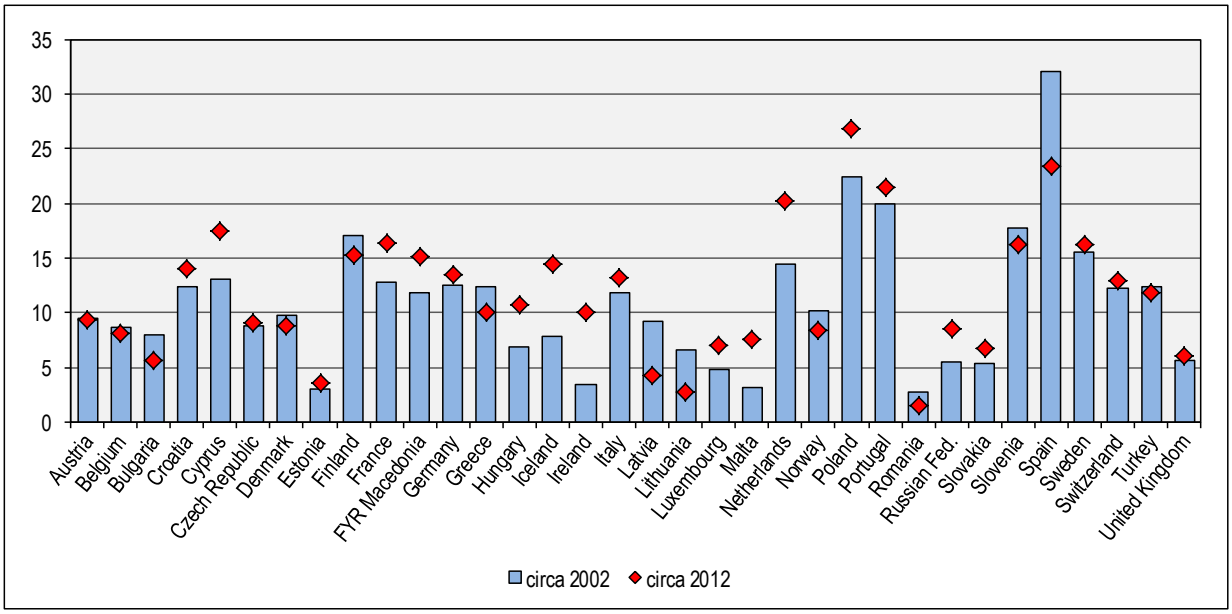
17. Temporary employment, whereby workers are engaged for a specific period of time, includes fixed-term, project or task-based contracts, as well as casual work. Accurate, detailed and comparable cross-country data on the incidence and trends of temporary employment is lacking, due primarily to different statistical definitions used in national surveys. These differences stem in part from the different forms of temporary employment that exist in countries. In Europe and Latin America, for example, temporary employment is dominated by fixed-term contracts, while casual employment, rather than contractual

[4] Non-standard employment arrangements have been the subject of discussion at recent ILO Global Dialogue Forums, including in discussions on the electronics sector (December 2014) and on media and culture (May 2014), and will also be the subject of forthcoming forums on the retail sector (April 2015) and on telecommunications and contact centres (October 2015). See http://www.ilo.org/sector/activities/sectoral-meetings/lang--en/index.htm.

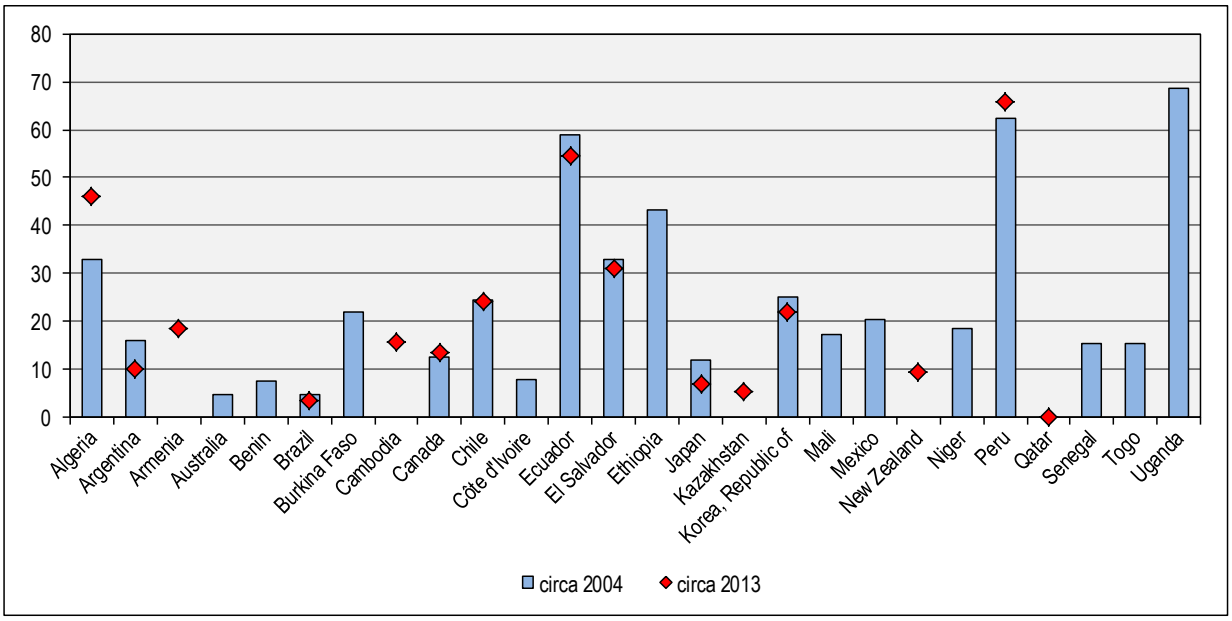
arrangements with formal guarantees, dominates in many parts of Africa and Asia. Given this situation, some countries collect data on the incidence of fixed-term contracts but not on casual work, while others do the opposite. The very presence of one concept in national data and not of the other may in itself signal recognition of the importance of that specific form of employment in a given country. It does not, however, signal that other forms are absent. [5]

18. The main data source for temporary employment is official statistics from household surveys. Figure 1 gives the percentage of employees who are temporary workers, in countries with available data, between 2004 and 2013. The variation across and within regions is significant. In Europe (upper panel), the incidence of temporary employment as a percentage of wage employment spanned from under 5 per cent in Romania and the Baltic States to around 25 per cent in Spain and Poland. In other parts of the world (lower panel), temporary employment ranged from as low as 0.1 per cent in Qatar to 43 per cent in Ethiopia and 48 per cent in Algeria. The share of temporary employment was also high in El Salvador (33 per cent), Ecuador (54 per cent) and Peru (66 per cent).

Figure 1. Temporary workers, as a percentage of waged employees, in selected countries: Incidence and trends



[5] Some countries collect data on "precarious employment", based on the statistical standard. According to the resolution concerning the international classification of status in employment (ICSE) of 1993, paragraph 14(d), "Workers in precarious employment can either: (a) be workers whose contract of employment leads to the classification of the incumbent as belonging to the groups of 'casual workers' (cf. item (e)), 'short-term workers' (cf. item (f)) or 'seasonal workers' (cf. item (g)); or (b) be workers whose contract of employment will allow the employing enterprise or person to terminate the contract at short notice and/or at will, the specific circumstances to be determined by national legislation and custom.".



Note: Upper panel: European countries; lower panel: rest of the world. Benin, Burkina Faso, Côte d'Ivoire, Mali, Niger, Senegal, Togo: only capital cities.

Source: European countries: 2004, 2013 (Eurostat); Austria: 2004, 2012 (Eurostat); Argentina: 2004, 2012 (EPH INDEC); Armenia: 2005 (National Statistical Service); Brazil: 2004, 2011 (PME IBGE); Benin, Burkina Faso, Côte d'Ivoire, Mali, Niger, Senegal, Togo: 2002 (STATECO); Cambodia: 2012 (LFS); Canada: 2000, 2011 (OECD); Chile: 2003, 2012 (CASEN MDS); El Salvador: 2005, 2011 (DIGESTYC); Ethiopia: 2005 (LFS); The former Yugoslav Republic of Macedonia, Turkey: 2006, 2013 (Eurostat); Japan: 2001, 2013 (OECD); Kazakhstan: 2013 (Ministry of National Economy, Committee on Statistics); Mexico: 2004 (OECD); New Zealand: 2008 (OECD); Peru : 2005, 2012 (ENAHO INEI); Qatar: 2012 (LFS); Republic of Korea: 2004, 2011 (OECD); Russian Federation: 2000, 2011 (OECD); Uganda: 2005 (UBOS); United States: 2001 (OECD).

19. In terms of dynamics, figure 1 shows that the incidence of temporary employment has exhibited both upward and downward trends throughout the world. In general, temporary employment has expanded over the past several decades but, as it is a highly cyclical form of employment, it has shrunk in some parts of the world as a result of economic crises. Thus, in Europe, there was a common upward trend in temporary employment, which rose from 9 per cent in 1987 to 15.2 per cent in 2006, but which then fell in the late 2000s across Europe (Cazes and de Laiglesia, forthcoming). Temporary employment grew slowly over the 2004–13 period in France (from 12.8 per cent to 16.4 per cent), Germany (from 12.5 per cent to 13.5 per cent) and Italy (from 11.9 per cent to 13.2 per cent), but dropped spectacularly in Spain (from 32 per cent to 23 per cent). Similar changes were observed in the Republic of Korea during the Asian financial crisis and later, as a result of the global economic crisis. Significant increases over the past decade were recorded in Algeria, Cyprus, Ireland and the Netherlands. In Latin America, the evolution of temporary employment differed tremendously across countries, in line with regulatory changes in labour law over the past two decades. Thus, for example, temporary employment declined in Argentina, from 15.9 per cent of employment in 2004 to 10 per cent in 2012, partly as a result of regulatory reforms. [6]

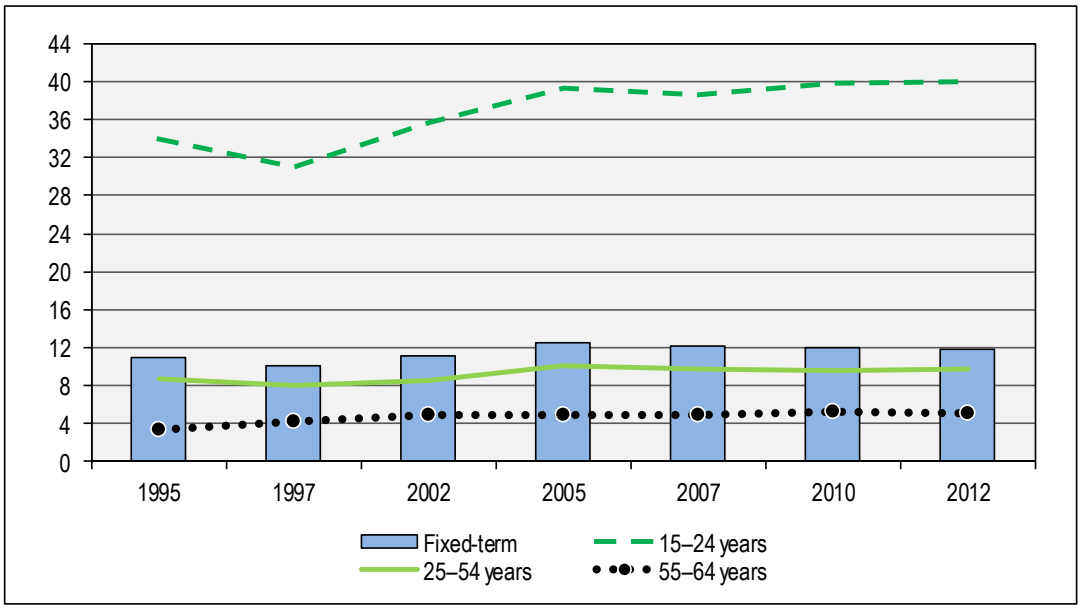
20. In some countries, particularly lower-income developing countries, temporary employment is characterized by casual employment relations, which in most cases means that workers are engaged on a daily, weekly or sometimes seasonal basis, but without a formal work contract. In developing countries, the trends and incidence of temporary or casual employment are affected primarily by the movement from self-employment into waged

[6] In the early 1990s, the Government of Argentina introduced special fixed-term contracts that entailed lower social security contributions for employers than open-ended contracts. In 2004, the different levels of social security contributions for different types of contract were eliminated (Bertranou et al., 2013).

employment. In India, 30 per cent of the total number of employed workers were in casual employment in 2011–12, reflecting in part a shift away from self-employment. In Uganda, the latest data (2005) indicate that 84 per cent of the workforce is self-employed, and that among the 16 per cent who are employees, 72 per cent are temporarily engaged. In Australia, "casual employment" has long been a specific employment category. It can be either full-time or part-time work, and the employee is not entitled to paid annual leave or sick leave. [7] "Casuals", however, are compensated for their lack of paid leave entitlements with a higher hourly pay rate, known as "casual loading". In 2012, 23 per cent of employees were "casuals", of whom 69 per cent worked part time (Australian Bureau of Statistics, 2012).

21. In Europe, data for 14 European countries from the European Labour Force Survey reveal that fixed-term contracts are more prevalent among women (13.0 per cent compared with 10.7 per cent for men), workers with lower levels of education (15.5 per cent compared with 9.9 per cent for high-level education) and workers in elementary occupations (21 per cent compared with 10 per cent for professionals). But the biggest divergence in Europe is with respect to age. As figure 2 shows, the incidence of fixed-term contracts among young people was four times higher than it was for prime-age workers, reaching 40 per cent by 2012.

Figure 2. Employees with fixed-term contracts by age group, as a percentage of the working population aged 15–64, in selected European countries, 1995–2012



Note: figures for 1995 do not include Estonia, Germany, Hungary, Poland or the United Kingdom; figures for 1997 do not include Germany or the United Kingdom.

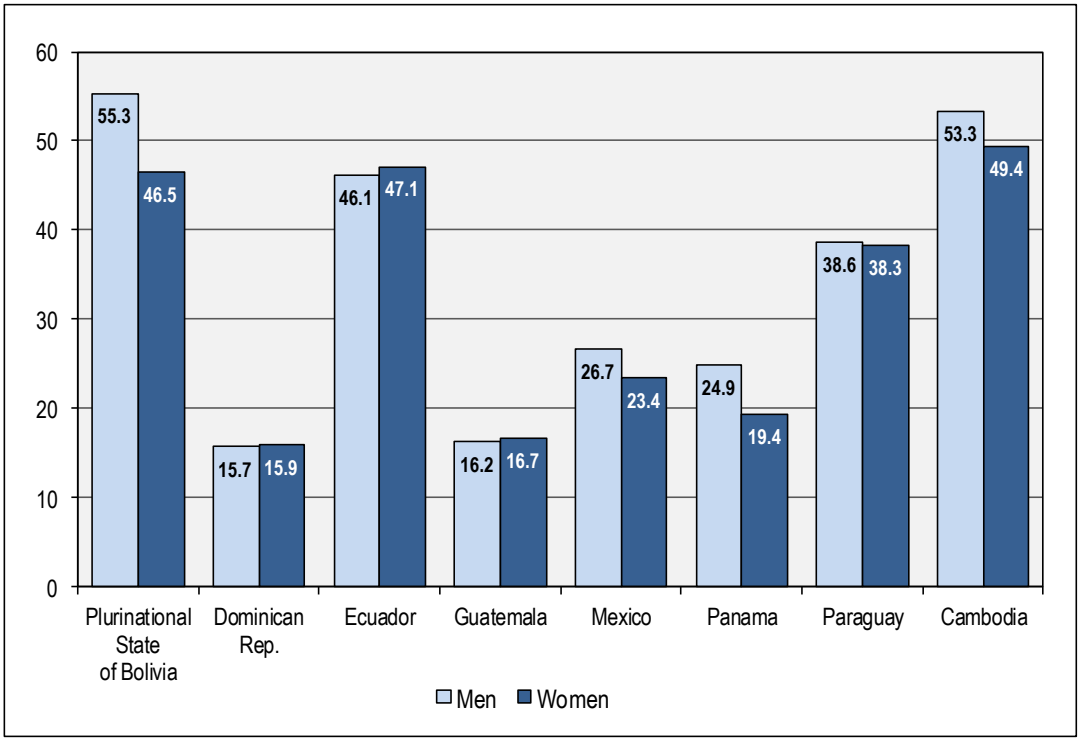
Source: European Labour Force Survey (ELFS) 1995–2012, countries included: Belgium, Estonia, Germany, France, Greece, Hungary, Ireland, Italy, Netherlands, Poland, Portugal, Spain, Sweden and United Kingdom; yearly data used except for 1995 and 1997 (only quarterly data available); weighted for annual estimates.

22. Both permanent and fixed-term contracts can be written or oral, formal or informal. Holding a written contract may not necessarily mean that the employment relationship is more stable. Thus, while in the Dominican Republic, Mexico or Panama the majority of written contracts are indefinite, in the Plurinational State of Bolivia and Cambodia most

[7] There is no single definition of casual employment, as the classification and terms and conditions of casual employees vary according to the industry.

written contracts are fixed-term; the incidence of fixed-term contracts is also high in Ecuador and Paraguay (figure 3).

Figure 3. Workers with fixed-term contracts, as a percentage of workers with written contracts, by gender, in selected developing countries; data for the latest available year

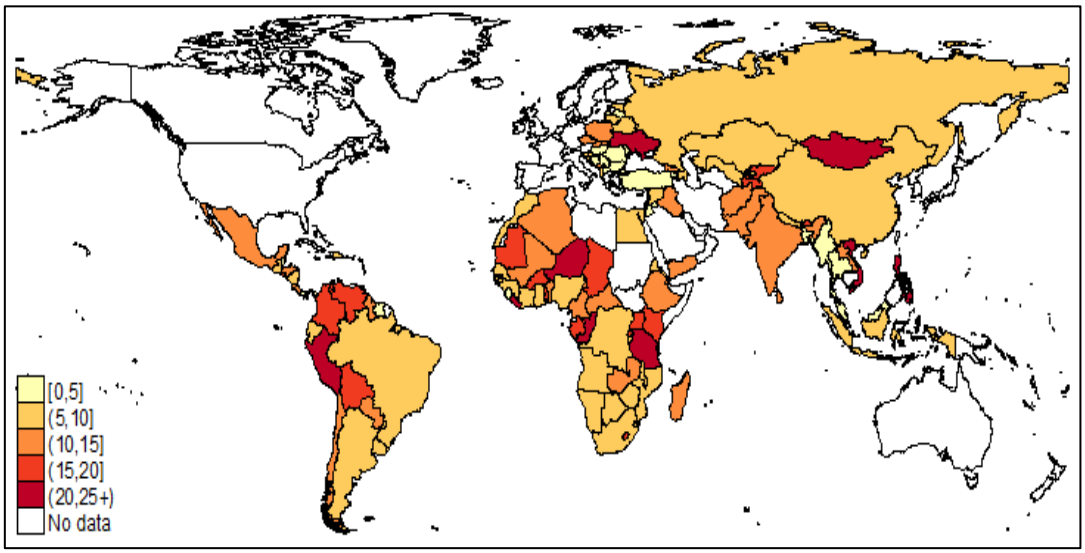


Source: Plurinational State of Bolivia: 2004 (ECLAC); Dominican Republic: 2005 (ECLAC); Ecuador: 2005 (ECLAC); Guatemala: 2013 (ENEI); Mexico: 2005 (ECLAC); Panama: 2005 (ECLAC); Paraguay: 2005 (ECLAC); Cambodia: 2011–12 (LFS).

23. The World Bank's enterprise surveys are another source of information on temporary employment. They compile data from 130,000 private manufacturing and service companies in 135 countries. [8] Figure 4 shows the world distribution of temporary employment, ranging from under 5 per cent in Jordan, Latvia and Sierra Leone, to over 25 per cent in Mongolia, Peru and Viet Nam. The findings are broadly consistent with the available data collected from national sources. The mean share of temporary workers is 11 per cent; about one third of countries have temporary employment around this mean. About 40 per cent of all firms throughout the world employ some temporary workers.

[8] The survey of registered companies with five or more employees includes questions on the number of "full-time temporary or seasonal employees[, who] are defined as all paid short-term (i.e. for less than a fiscal year) employees with no guarantee of renewal of employment contract" (World Bank, 2011). This definition is slightly different from the one reported above as it includes seasonal workers; at the same time it is narrower, because it excludes temporary workers employed for more than one year or having the promise of renewal of their temporary contract. The survey also does not cover temporary workers in non-registered companies. As a result, the percentage likely represents a lower bound on the number of temporary workers in a given country.

Figure 4. Incidence of temporary employment, as a percentage of total employment, in the private sector, circa 2010



Note: Data for 132 countries, for the latest available year, ranging from 2005 for Morocco and Egypt to 2014 for Afghanistan and Myanmar. For the majority of countries (67), data refer to 2009 or 2010. Industrialized countries were not surveyed.

Source: Own computations based on the World Bank Enterprise Survey, 2014.

24. Table 1 shows the incidence of temporary employment across regions and sectors. It shows that in the Middle East and North Africa, and also in South Asia, temporary employment, on average, is more widespread in manufacturing than in services. The opposite is true in Africa, East Asia and the Pacific, Europe and Central Asia, and in Latin America and the Caribbean. With the exception of the Middle East and North Africa, construction and transportation seem to be the subsectors that uniformly employ the largest share of temporary workers across the world. They represent over 35 per cent of all workers in this sector in East Asia and the Pacific, over 30 per cent in Latin America and the Caribbean, over 25 per cent in Africa, and nearly 20 per cent in South Asia.

Table 1. The incidence of temporary employment, as a percentage of total employment, by region and sector, circa 2010

Region	Manufacturing	Services
Africa	9.7	11.5
East Asia and the Pacific	7.9	8.4
Europe and Central Asia	5.9	7.7
Latin America and the Caribbean	7.0	11.9
Middle East and North Africa	13.2	12.2
South Asia	13.1	11.2

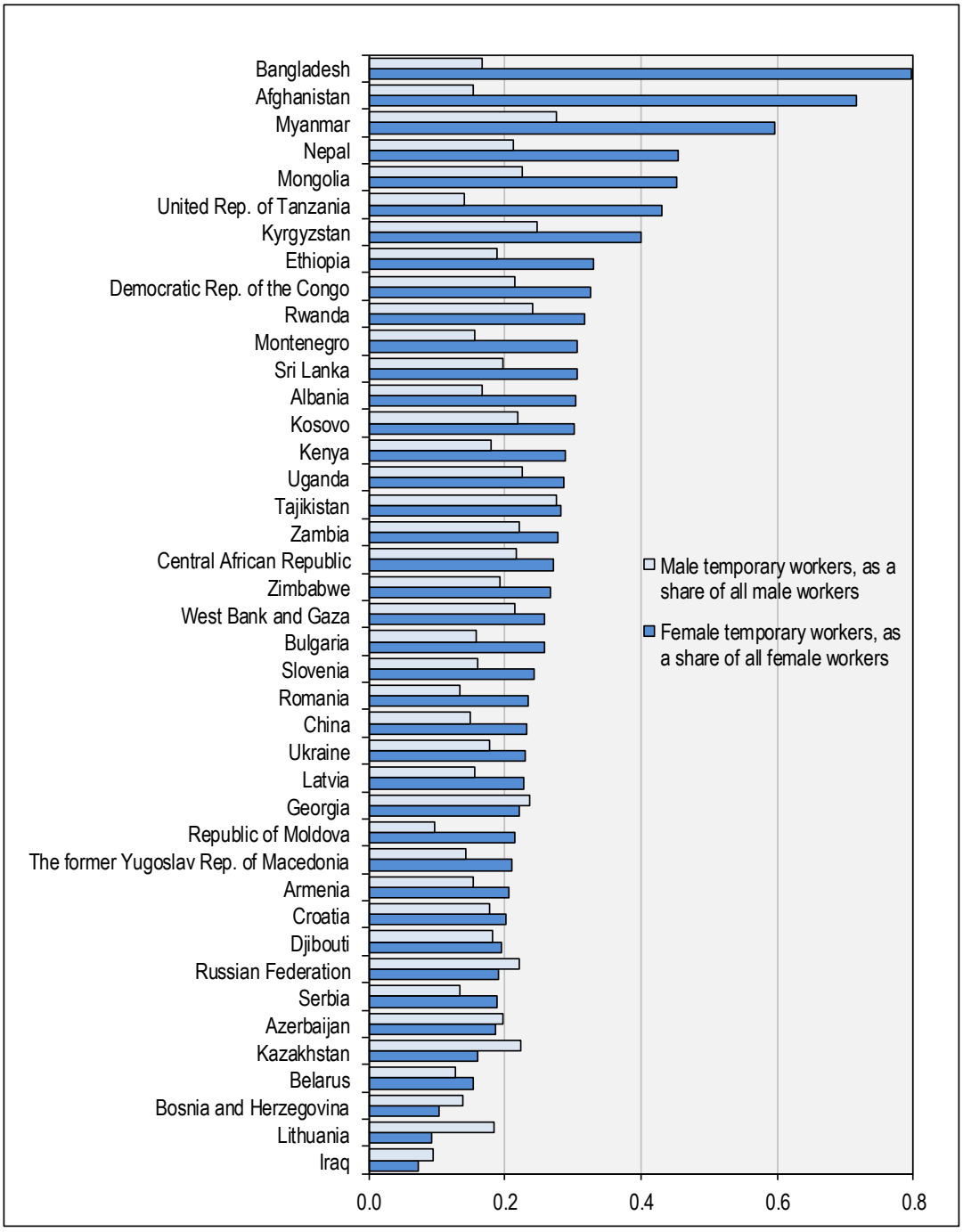
Note: Manufacturing includes, but is not limited to, textiles, leather, garments, food, metals and machinery, electronics, chemicals and pharmaceuticals, wood and furniture, non-metallic and plastic materials, auto and auto components. Services include but are not limited to retail and wholesale trade, hotels and restaurants, construction and transportation. Data are a simple average of all the countries, based on the enterprise survey undertaken in each of the countries.

Source: Own computations based on the World Bank's enterprise surveys, 2014.

25. In some countries, and in the services sector only, the survey also contained a question on temporary employment by sex. Figure 5 shows the share of female and male temporary workers, as compared to the total of female and male workers. It suggests that temporary employment among female workers can vary significantly both within and across countries, ranging from 10 to 80 per cent. With a few exceptions, female temporary

workers outnumber, in relative terms, male temporary workers. In Bangladesh and Afghanistan, the share of female temporary workers in the services sector is four times higher than that of male workers.

Figure 5. Temporary employment in the services sector for males and females, circa 2013



Note: Data for 41 countries for the latest available year, between 2011 and 2014. For the majority of countries (31) data refer to 2013.

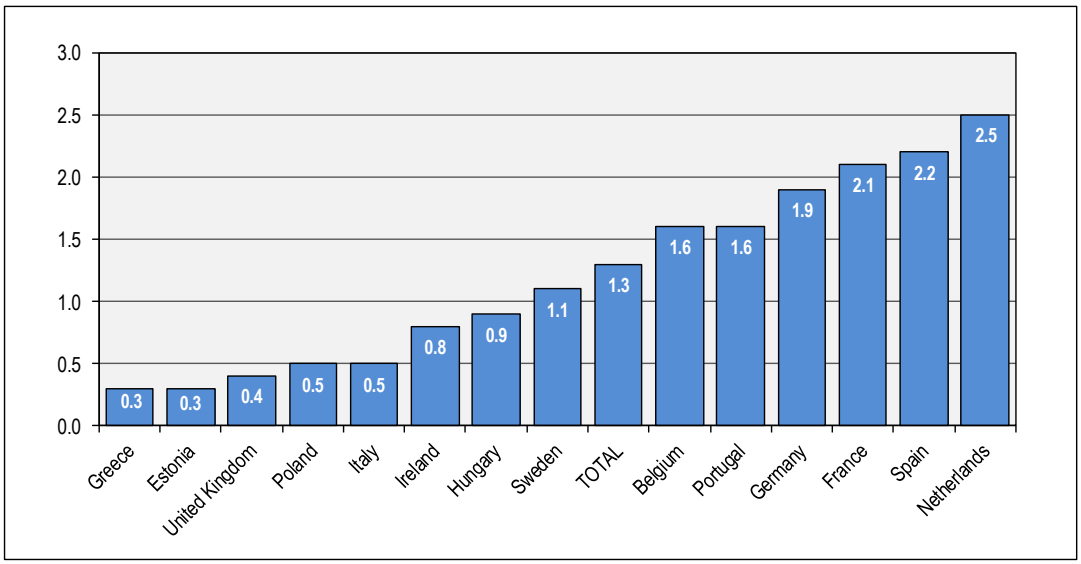
Source: Own computations based on the World Bank Enterprise Survey, 2014.

2.2.2. Temporary agency work and other contractual arrangements involving multiple parties

26. The International Confederation of Private Employment Agencies (Ciett) reported that there were 36 million temporary agency workers in 2012, with 11.5 million employed daily as agency workers. The largest number of temporary agency workers was seen in the United States (11.5 million), followed by Europe (8.2 million), Brazil (7.1 million), Japan (2.5 million) and South Africa (2.2 million) (Ciett, 2014). These figures, however, only give a partial picture as they are limited to temporary agency workers employed by members of Ciett, and thus do not include non-Ciett agencies or other firms that operate as labour brokers. In addition, workers may be employed by a third-party firm, providing services to a user firm, in an "in-house subcontracting" arrangement, such as janitorial, security or information technology (IT) services. Some countries provide data on temporary agency workers, but other countries only do so on "contract labour", which may include temporary agency or leased workers, and also subcontracted services, reflecting in part the blurring of the concepts.

27. Temporary agency work has grown rapidly over the past several decades, but still represents only a small fraction of the labour force. In Europe, 2012 data from the European Labour Force Survey reveals that temporary agency employment ranges from 0.3 per cent in Greece to over 2 per cent in France, the Netherlands and Spain (see figure 6).

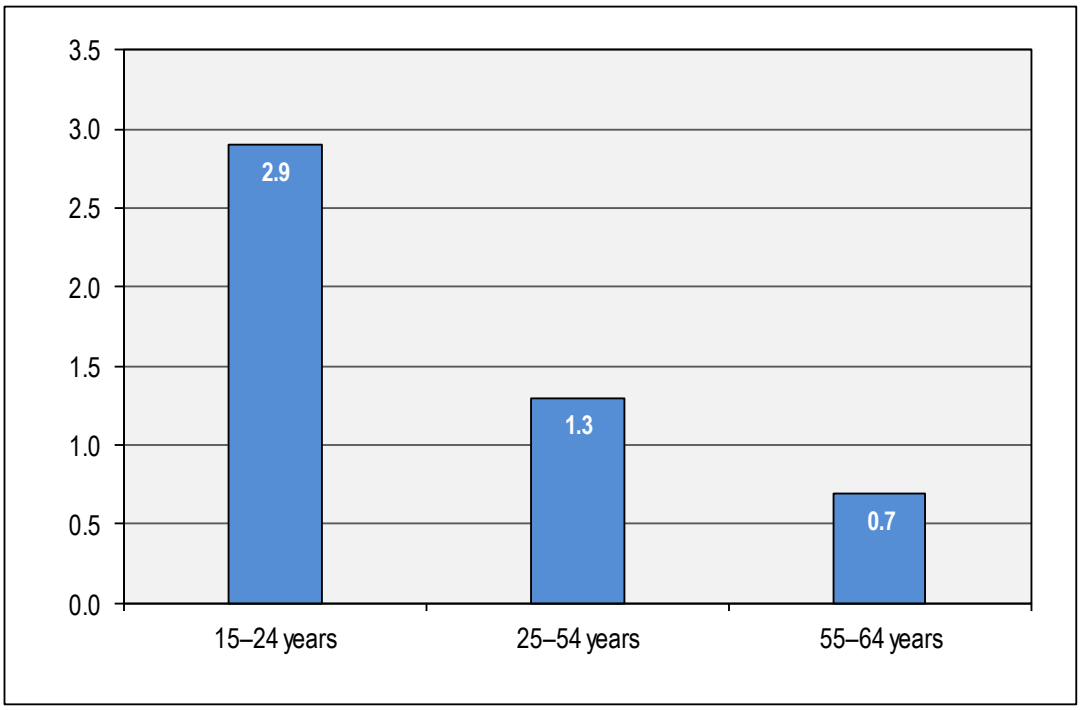
Figure 6. Temporary agency employment as a percentage of the working population, 2012



Source: ELFS 2012, yearly data weighted for annual estimates.

28. However, disaggregating data on temporary agency work by age, occupation and skill level reveals that the incidence of temporary agency work does not cut evenly across the labour market. In 2012, data for 14 European countries, based on the European Labour Force Survey, showed that young people had a temporary agency employment rate (2.9 per cent) that was more than double that of prime-aged workers (1.3 per cent) (figure 7a). Temporary agency work is also more prevalent among elementary occupations, with 3.3 per cent of workers engaged in temporary agency work, followed by plant and machine operators at 3.2 per cent. The incidence of temporary agency work among professional jobs was lowest, with only 0.4 per cent of workers employed under temporary agency work contracts (figure 7b). A similar pattern emerges from educational data: the incidence of temporary agency work among low-skilled workers (1.8 per cent) is more than double what it is for high-skilled workers (0.8 per cent).

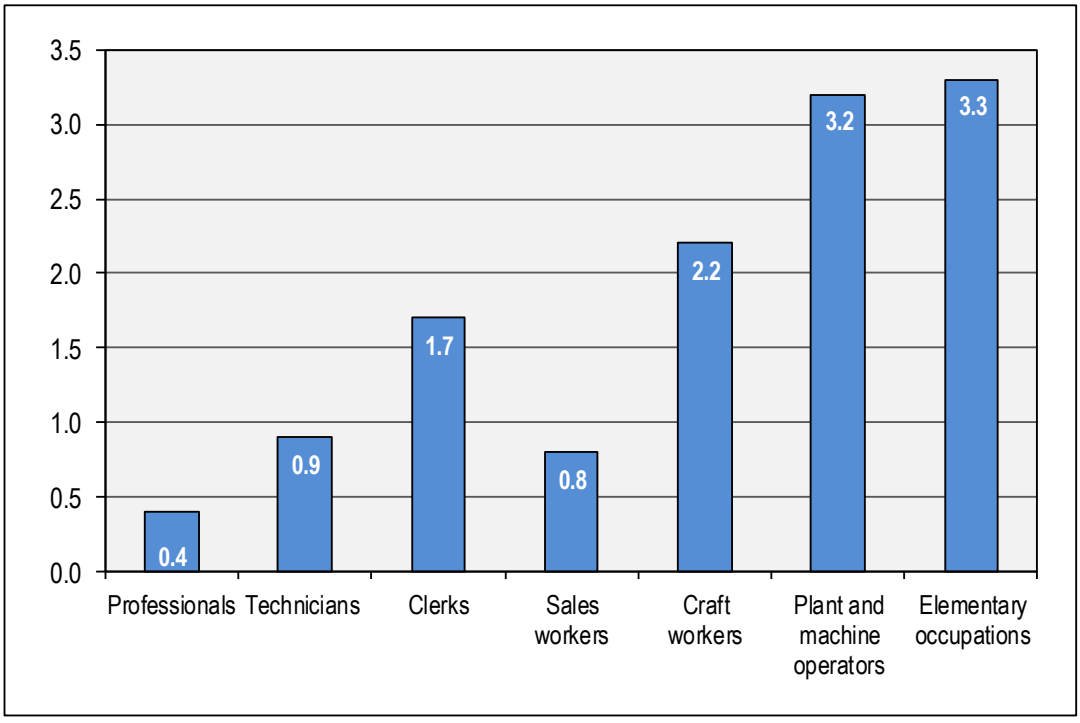
Figure 7a. Percentage of workers employed in temporary agency work by age, 2012



Note: Includes Belgium, Germany, Estonia, Spain, France, Greece, Hungary, Ireland, Italy, Netherlands, Poland, Portugal, Sweden and United Kingdom.

Source: ELFS.

Figure 7b. Percentage of workers employed in temporary agency work by occupation, 2012



Note: Includes Belgium, Germany, Estonia, France, Greece, Hungary, Ireland, Italy, Netherlands, Poland, Portugal, Spain, Sweden and United Kingdom.

Source: ELFS.

29. In the United States, the percentage of temporary agency workers in the total workforce doubled between 1990 and 2000, accounting for 10 per cent of all employment growth

during this period (Luo et al., 2010). According to data from the 2001 National Employer Survey, temporary agency workers accounted for 2.1 per cent of the average establishment's on-site workforce, but an additional 2.6 per cent were temporary workers engaged directly by the employer. [9] A further 1.8 per cent of the on-site workforce consisted of "vendor-on-premise" workers (0.9 per cent) and "professional employer organization" workers [10] (0.9 per cent) (Cappelli and Keller, 2013). The same survey revealed that, although 43 per cent of all establishments had used at least one temporary agency worker, it was a "small group of establishments [that made] extensive use of these alternative arrangements" (ibid., p. 884). In particular, 5 per cent of companies accounted for 32 per cent of all temporary agency workers used. The workers were highly concentrated in production (43.7 per cent) and office jobs (41.2 per cent), the majority of which were clerical, with the remainder working in technical (10.2 per cent), managerial and professional jobs (4 per cent).

30. In the Republic of Korea, 3.5 per cent of paid employees were employed as temporary agency workers in 2013, an increase on the 2.3 per cent recorded in 2001. In addition, 1.1 per cent of paid employees were "dispatched workers". [11] In Japan, 2.3 per cent of employees were dispatched workers in 2009, an increase on the 0.7 per cent recorded in 2000. As in other countries, dispatched workers were highly concentrated in production (43 per cent) and office (39 per cent) jobs; 5.1 per cent were specialized or technical workers (Hamaguchi and Ogino, 2011). In the Philippines, in 2012, of all registered, non-agricultural establishments with 20 or more employees, 44 per cent had agency-hired workers, nearly half of whom were employed in manufacturing. The same survey found that, in addition, 16 per cent of employees in non-agricultural establishments were "contractual or project-based workers", defined as workers whose employment is "fixed for a specific project or undertaking" (Philippine Statistics Authority, 2014a and 2014b).

31. In China, one fifth (60 million) of the 300 million urban employees in 2011 were dispatched workers, an increase on the 27 million reported in 2007 (Li and Wan, forthcoming). In India's organized manufacturing sector, data from the Annual Survey of Industries revealed a sharp increase in the use of "contract labour", which grew from 13.5 per cent in 1990–91 to 26.5 per cent in 2004–05, and to 33.9 per cent in 2010–11 (Institute for Human Development, 2014). Moreover, according to Neethi (2008), the growth rate of direct employment has been lower than that of contract labour, which has been displacing permanent direct work despite legal limitations on the use of contract work in core activities. These trends have led policy-makers to refer to a growing "informalization" of employment in the organized sector.

32. In Israel, the Central Bureau of Statistics estimates that 5.4 per cent of the labour force are contract labourers, the majority of whom are employed in the cleaning, security and personal caregiving sectors. Contract labourers account for between 15 and 20 per cent of the public sector workforce (Neuman, 2014).

[9] The latest available data is for 2001. The other source of information is the 2005 Contingent Work Supplement to the Current Population Survey, which is a household survey. It reports that temporary agency workers make up 0.9 per cent of the workforce, which includes the additional category of "on-call workers/day laborers", which accounts for 2.0 per cent. In addition 2.1 per cent of workers report being direct-hire temporary workers (GAO, 2006).

[10] A professional employer organization (PEO) "co-employ[s] the client's worksite employees". The PEO and client company "share and allocate responsibilities and liabilities", with the PEO assuming responsibility and liability for the "business of employment" and the client company for "product development and production". See http://www.napeo.org/peoindustry/faq.cfm.

[11] Data provided by B.-H. Lee of the Korea Labour Institute.

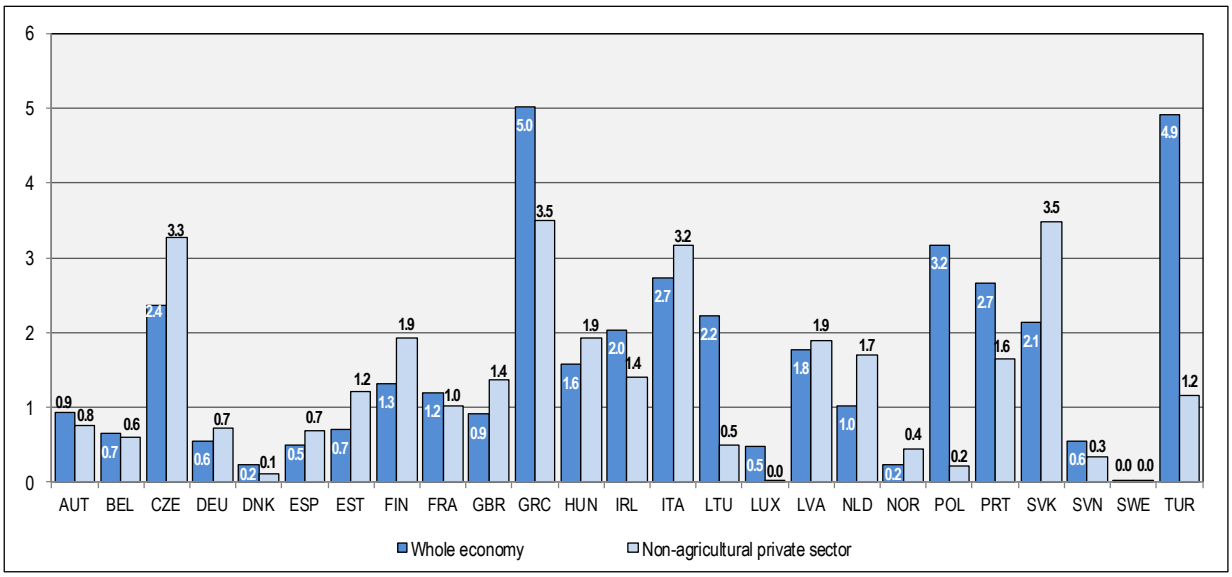
33. Data on Africa are scarce, with the exception of some sectoral and occupational information. In South Africa, the National Association of Bargaining Councils estimated that in 2010, 6.5 per cent of the total workforce was employed by labour brokers (Benjamin, 2013). Bhorat et al. (2013), using industrial classification data, estimated that the contract cleaning, security and farmhands sector grew by 8.3 per cent between 1999 and 2011, far surpassing economy-wide employment growth of 2.1 per cent. In Zambia, 48 per cent of the labour force in the mining industry was employed by contractor and labour broker companies in 2009, mostly on short-term contracts (Matenga, 2009). Subcontracting is also widespread in the mining sectors of South Africa and Lesotho (Crush et al., 2001).

34. For Latin America, data are also limited. In Chile, the 2011 establishment survey on working conditions and labour relations (*Encla 2011)* reported that 3.6 per cent of firms employed agency workers, representing an increase on the 2.8 per cent reported in 2008. However, 13.6 per cent of large firms – defined as having 200 or more employees – reported using agency work. Subcontracting was much more prevalent, with 38 per cent of firms subcontracting, an increase over the 31 per cent reported in 2008. The survey found that, in around 15 per cent of the firms hired to provide services, the workforce was comprised completely or partially of former employees of the lead firm.

2.2.3. Ambiguous employment relationships

35. It is not possible to collect statistics on ambiguous employment relationships. The European Working Conditions Survey, however, does attempt to assess the incidence of "dependent self-employment" in its quinquennial survey (see note to figure 8 for an explanation of how dependent self-employed workers are identified in the survey). The 2010 survey revealed that dependent self-employment ranges from being statistically negligible in Sweden, to over 3 per cent of non-agricultural, private sector employment in the Czech Republic, Greece, Italy and Slovakia (see figure 8). Dependent self-employment also appears to be an important practice in the agricultural sectors in Greece, Poland and Turkey. The Organisation for Economic Co-operation and Development (OECD) states that dependent self-employment represents "a non-trivial share of dependent employment" and argues that the estimates are lower bound, as workers may not identify themselves as self-employed if they are in a situation of dependency (OECD, 2014).

Figure 8. Share of dependent self-employed as a percentage of private sector employees, 2010



Note: Dependent self-employed workers are considered own-account workers if at least two of the following conditions apply to them: (1) they have only one employer/client; (2) they cannot hire employees even in the event of heavy workload; and (3) they cannot take the most important business decisions autonomously.

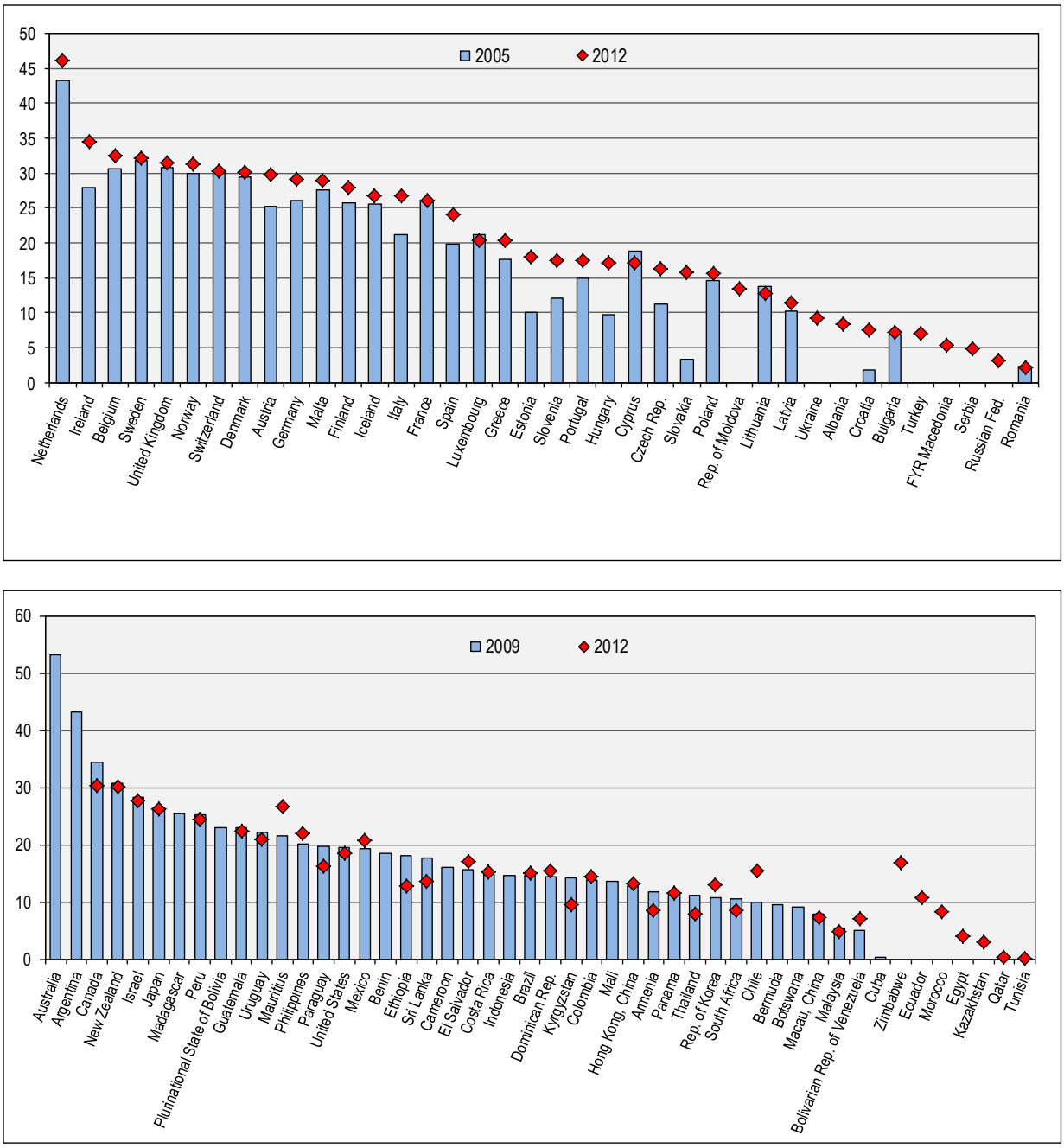
Source: OECD (2014), based on 5th European Working Conditions Survey, Eurofound.

2.2.4. Part-time employment

36. Figure 9 shows the incidence of and recent trends in the share of employees working fewer than 35 hours, based on national sources collected by ILOSTAT, the ILO's central statistics database. In Europe (upper panel), in around 2012, this incidence spanned from under 2 per cent in Romania to over 45 per cent in the Netherlands, [12] with an average incidence of 19.8 per cent. Part-time employment is a particularly prominent feature in northern Europe, reflecting explicit government policy to promote work–life balance. Between 2005 and 2012, part-time employment increased in some European countries, mainly as a result of the economic crisis, while remaining stable in others. The increase was partly due to work-sharing policies instituted to lessen job losses (Messenger and Ghosheh, 2013).

[12] The Netherlands, which is sometimes referred to as the world's first "part-time economy", guarantees the "right for full-time employees to work reduced hours, unless this cannot reasonably be granted on grounds of conflicting business interests" (Visser, 2002, p. 32).

Figure 9. Workers working fewer than 35 hours per week, as a percentage of all employees, in selected countries: Incidence and trends

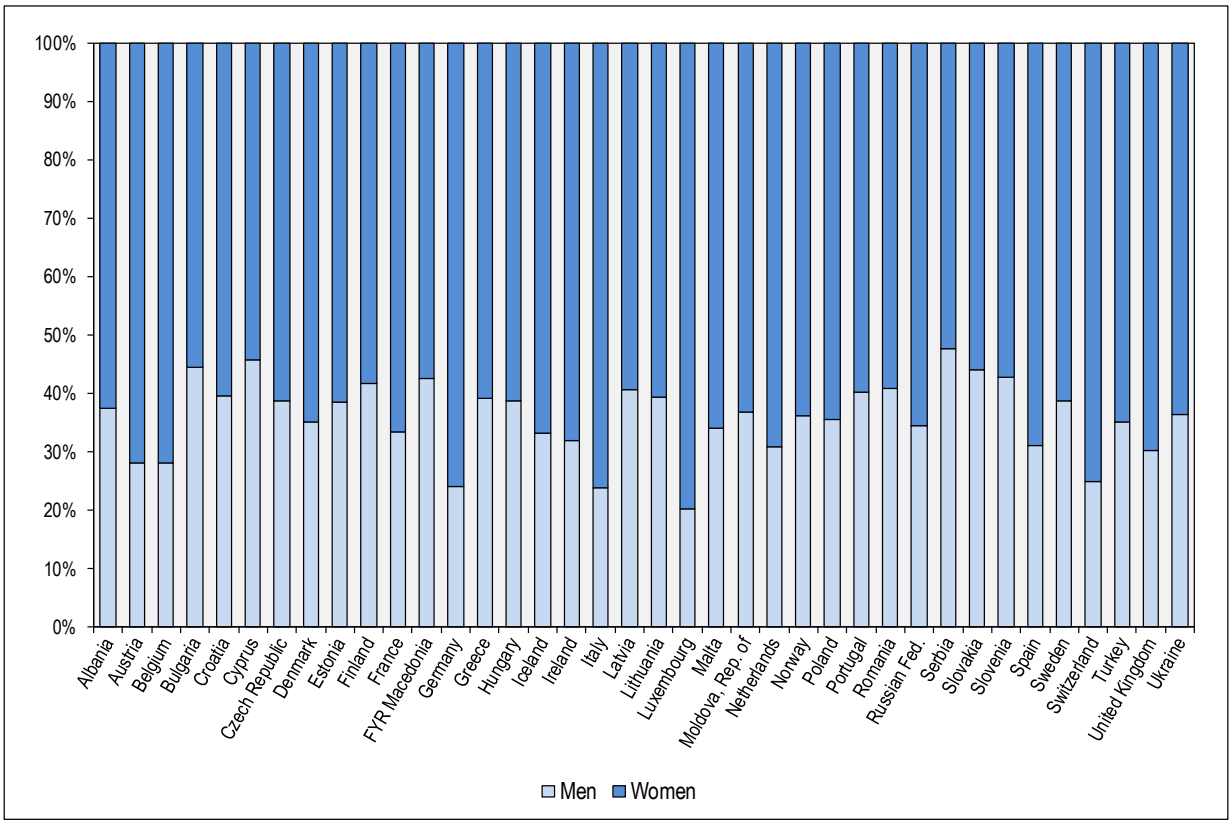


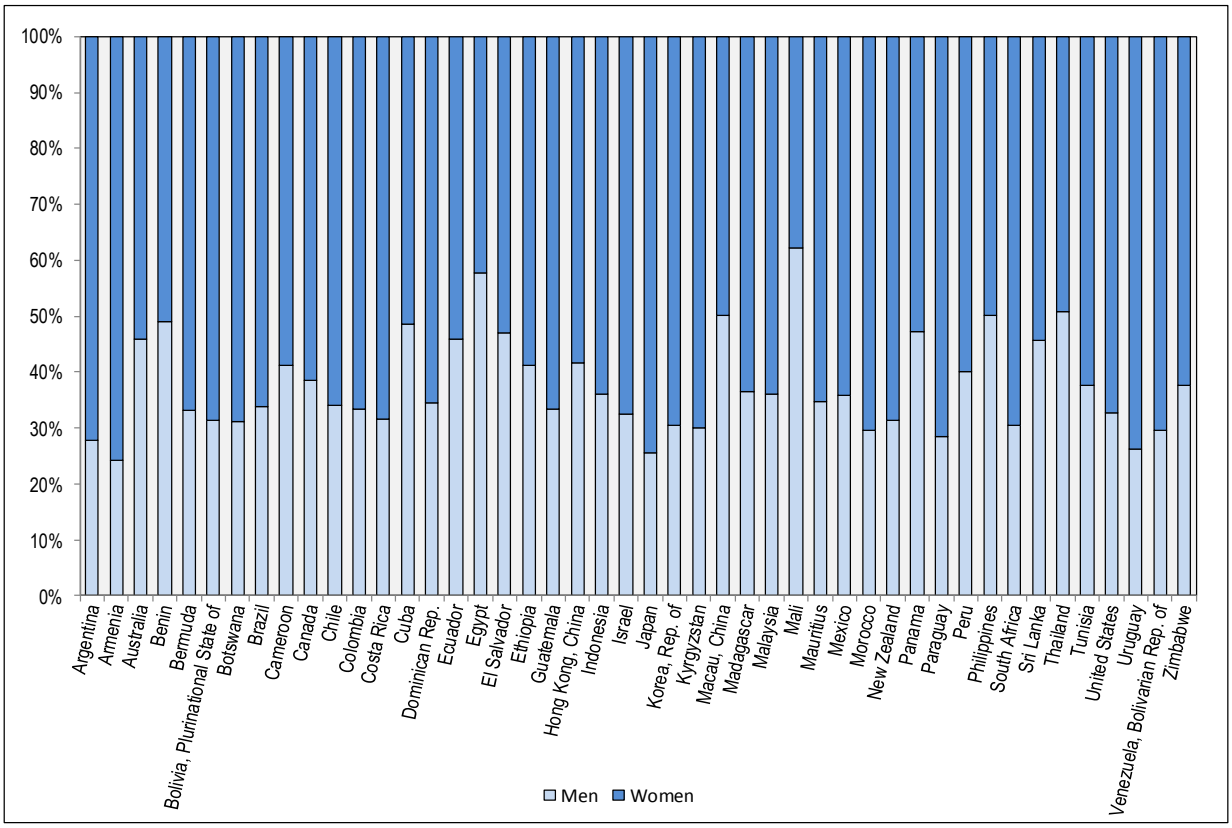
Note: Upper panel: European countries; lower panel: rest of the world.

Source: ILOSTAT and OECD (for the United States).

37. In non-European countries (lower panel), part-time employment in 2012 was as low as 0.1 per cent in Tunisia, and as high as 30 per cent in Canada, with an average value of 15 per cent; both upward and downward trends were observed between 2009 and 2012. In general, developing countries feature somewhat lower rates of part-time waged employment; part-time hours among the self-employed, however, are high. In nearly every country in the world, women are more likely to be found in part-time work than men (see figure 10), reflecting the greater amount of time that women devote to childcare and domestic responsibilities.

Figure 10. Distribution of part-time work (fewer than 35 hours per week) among women and men, circa 2010



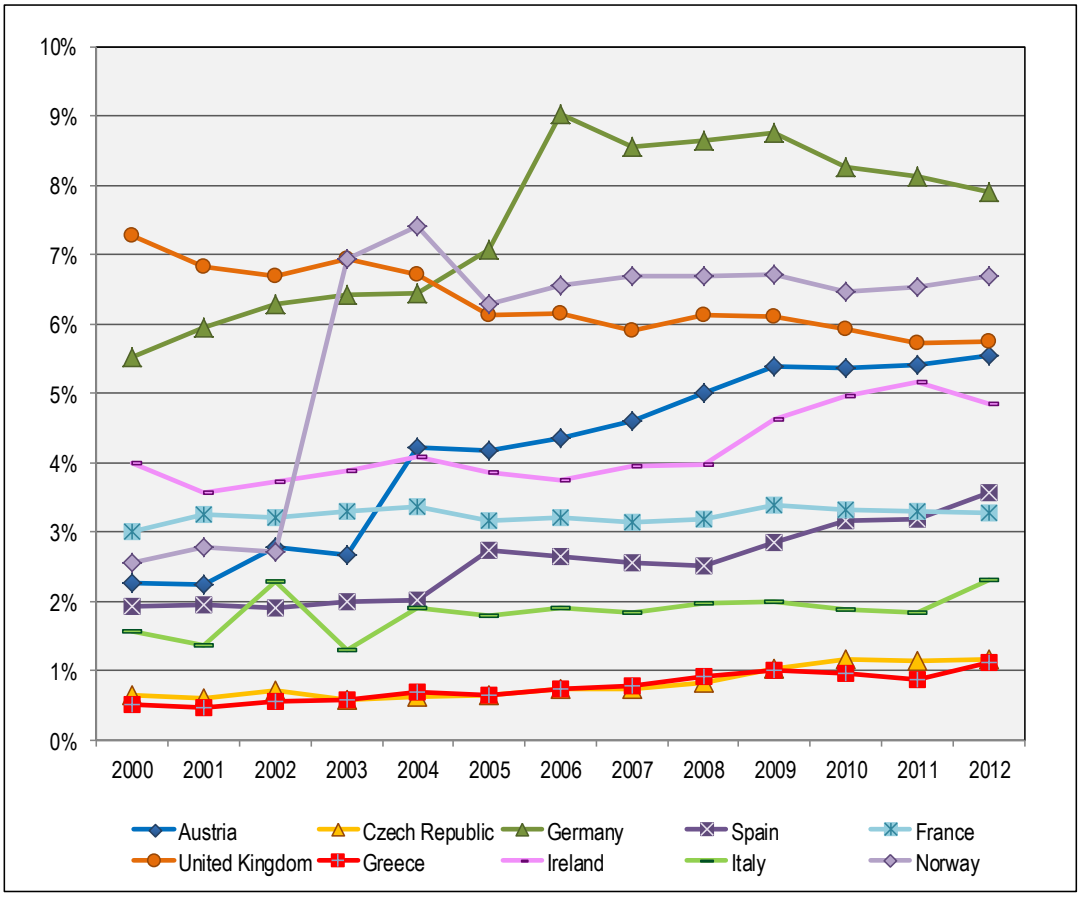


Note: Upper panel: European countries; lower panel: rest of the world. Data correspond to the year 2010 or nearest available year, in the range 2009–11.

Source: ILOSTAT.

38. Very short and also unpredictable working hours, in the form of zero-hours contracts in the United Kingdom, mini-jobs and work-on-demand *(Arbeit auf Abruf)* in Germany, casual employment in Australia, and crowdwork via the Internet, have grown in importance (see figure 11). Very short hours (fewer than 15 per week) can be an attractive option for people who want to devote a limited amount of time to paid work. Nevertheless, in many instances such arrangements are associated with a high level of variability and a lack of predictability in working time and schedules (Messenger and Wallot, forthcoming). [13] In Denmark, Germany, the Netherlands and the United Kingdom, more than 40 per cent of establishments employ at least some of their workforce for fewer than 15 hours per week (Riedmann et al., 2010).

Figure 11. Growth of part-time employment – Percentage of employees working fewer than 15 hours per week in ten European countries, 2000–12



Source: Messenger and Wallot, forthcoming.

3. Effects of non-standard forms of employment on workers, firms and labour market performance

39. The growth of non-standard arrangements and their greater incidence among particular groups of workers have significant repercussions for workers, firms and the overall labour

[13] Owing to the variability of working hours, some workers under such contractual arrangements may work longer hours.

market that require a better understanding. This section reviews some of these repercussions, drawing heavily on empirical findings from research studies.

3.1. Effects on workers

40. Working arrangements can affect workers in a variety of ways, including their ability to access the labour market and transition between jobs, their earnings, access to social security benefits, access to training, occupational safety and health, and their ability to exercise their freedom of association and collective bargaining rights.

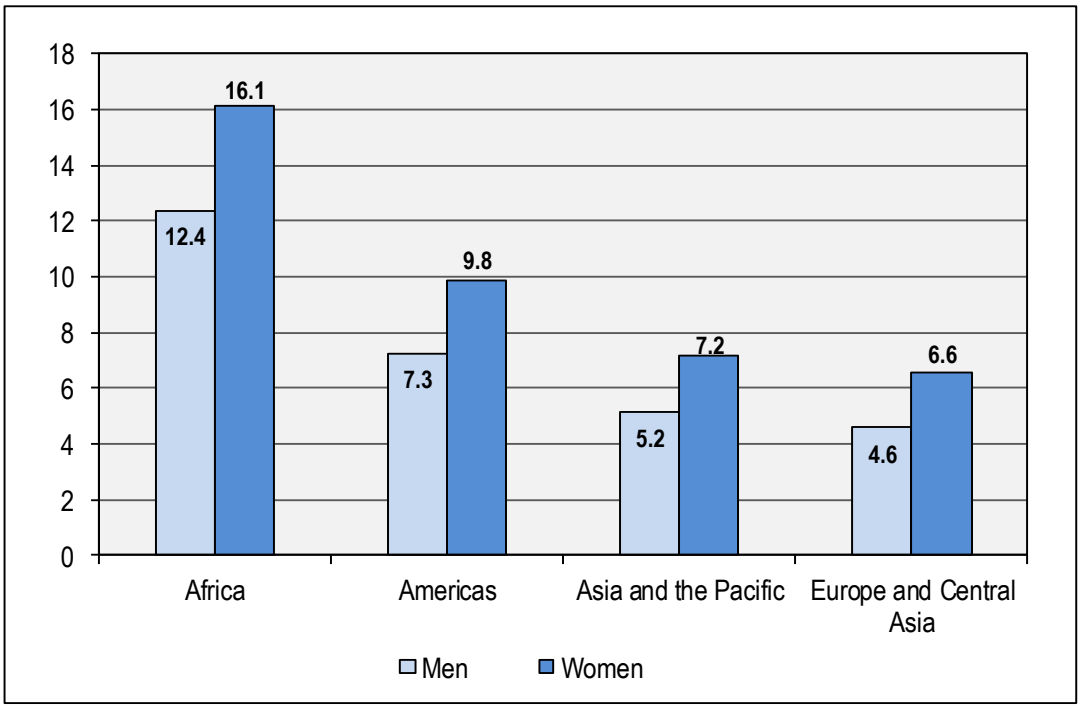
3.1.1. Access to employment; individual labour market transitions

41. For workers, NSFE can be a useful way of gaining work experience, act as an entry point into the labour market for school-leavers and reintegrate people who have been out of the labour force (Gangl, 2003; McGinnity et al., 2005). They also provide the opportunity to develop both job-specific and general skills, strengthen labour market attachment and expand social and professional networks. Temporary employment agencies hire individuals who may have difficulty finding employment (Autor and Houseman, 2010), provide support services such as transportation, and supply the information needed to overcome any "spatial mismatches" between where workers live and where their jobs are located (Andersson et al., 2007). Part-time work allows workers with care responsibilities to participate in the labour market (Booth et al., 2002). Non-standard employment may therefore contribute to improved employment outcomes and a better work–life balance, provided that the working conditions are decent and that it is the worker's choice to engage in this type of employment (Fagan et al., 2014).

42. Challenges arise, however, when non-standard employment is an involuntary choice, or when transitioning to standard employment is compromised. For part-time employment, the acceptability of working shorter hours can be analysed through the prism of underemployment, defined as when persons: (a) are willing to work additional hours; (b) are available to work additional hours; and (c) have worked less than a given working time threshold (chosen according to national circumstances). Data on underemployment around the world are summarized in figure 12, which shows that the time-related underemployment rate, as a percentage of the total number of people in total employment, ranges from around 5 per cent in Europe to around 15 per cent in Africa. It is considerably higher among women than men in all regions, even though part-time employment is often considered to be the option preferred by women due to their greater care responsibilities. In Europe, available data on the twin concept of involuntary part-time employment suggests that its incidence, as a percentage of all part-time employment, ranges from 7 per cent in Turkey to 68 per cent in Greece (figure 13). More than half of all part-time employment is involuntary in Bulgaria, Cyprus, Italy, Romania and Spain. Over the past decade, the majority of European countries have witnessed an increase in the incidence of involuntary part-time employment (with a threefold increase observed in Slovakia and Spain). A decrease was witnessed in Belgium, Bulgaria, the Baltic States and Romania, although, with the exception of Belgium and Estonia, all of them have rates of involuntary part-time work of over 40 per cent. In August 2014, the rate of involuntary part-time work in the United States was 27 per cent . [14]

[14] http://www.bls.gov/news.release/empsit.t08.htm [accessed 3 Oct. 2014].

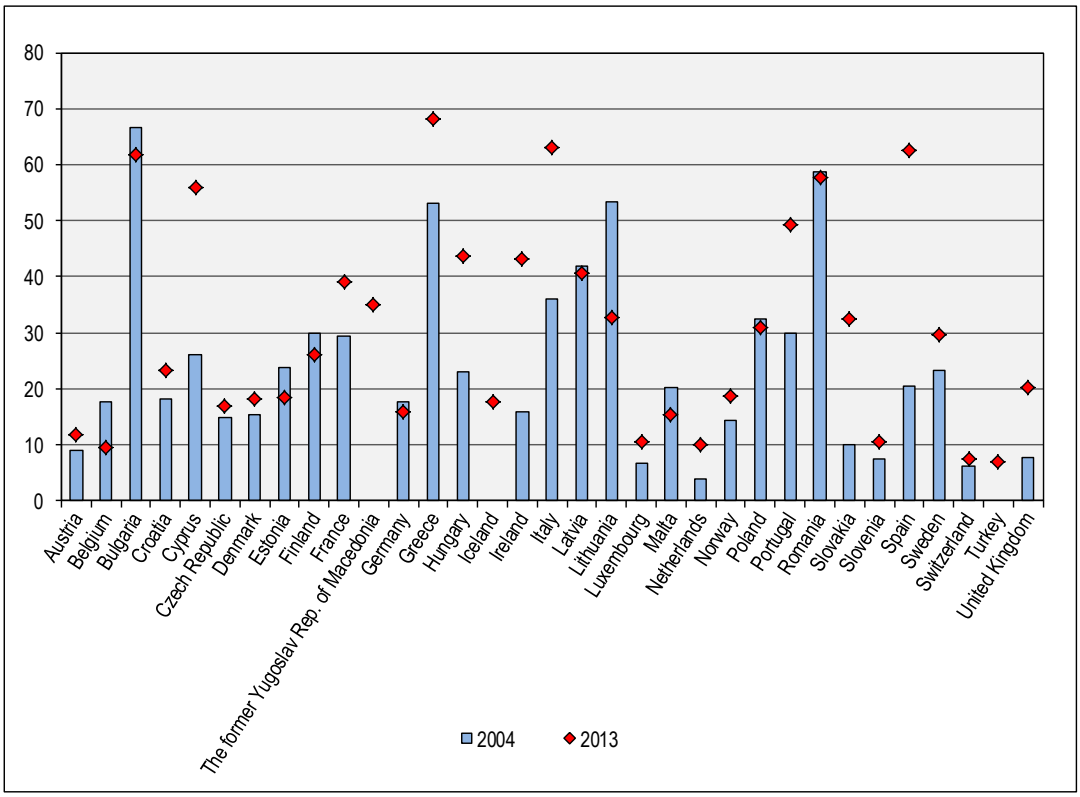
Figure 12. Incidence of time-related underemployment, as a percentage of total employment, 2010



Note: Coverage: 87 countries, grouped by ILO region; data for Arab States are unavailable.

Source: ILOSTAT.

Figure 13. Trends in involuntary part-time employment, as a percentage of total part-time employment



Source: Eurostat.

43. OECD data on temporary workers show that, in Denmark, France, Sweden, Switzerland and the United Kingdom, roughly one fifth of all workers with a fixed-term contract reported entering into this contract because they did not want to have a permanent job, while the remainder were on fixed-term contracts either because they were on probation or because they could not find a permanent job. The percentage of workers who reported holding a temporary job because they could not find a permanent one ranged from 30 per cent in Iceland, 40 per cent in the Netherlands, 67 per cent in Sweden, to over 90 per cent in Greece, Portugal and Spain (OECD, 2014). In Australia, where the debate about "happy" casual workers has been particularly intense (Lee and Eyraud, 2008), about half (52 per cent) of all casual employees reported, in 2007, that they would prefer not to work on a casual basis.

44. The ease of transitioning from non-standard to standard employment is an issue of particular concern for workers in fixed-term and temporary agency employment. Fixed-term contracts typically offer a lower level of protection to workers in terms of termination of their employment, as generally no reasons need to be provided by the employer to justify the end of the employment relationship, beyond the fact that the end date of the fixed-term contract has been reached. Casual and day workers in developing countries also have no guarantee of continued employment with the same employer. In India, evidence suggests that the dominant employment pattern with respect to non-regular workers is to hire and fire the same workers at frequent intervals, with pronounced unemployment spells in-between (Shyam Sundar, 2011). Thus, instead of being "stepping-stone" jobs, temporary or temporary agency employment may become "dead-end" employment, whereby workers slip back into unemployment at the end of the performed task, or may lead to "entrapment" in non-standard employment, if subsequent employment relationships are also non-standard.

45. Evidence of the prevalence of "stepping-stone" jobs versus "dead-end" jobs can be examined by looking at the length of transitions between various employment statuses. Table 2 summarizes empirical evidence and shows that, in the vast majority of countries examined, yearly transitions from non-standard to standard employment remain under 55 per cent, and even under 10 per cent in some instances. The stepping-stone hypothesis is confirmed for some countries (Denmark, Italy, the Netherlands and the United States), where a temporary job significantly increases the probability of subsequently obtaining a regular job, relative to unemployment. The effect seems to be the strongest for young graduates, immigrants and workers initially disadvantaged, either in terms of education or low pay. These are indeed the workers for whom the benefits of having lower initial screening, obtaining general rather than specific work experience, and expanding their network through non-standard jobs are significant. However, when temporary work is further liberalized and the pool of temporary workers increases, longer term evidence, as seen in Japan and Spain, suggests that workers who start off with a temporary job are more likely to transition between non-standard work and unemployment over the course of their working life than workers who start with a permanent contract. In these cases, temporary work ceases to be a stepping stone. The stepping-stone hypothesis is not confirmed in the case of temporary agency workers in Germany, Sweden or certain parts of the United States, where temporary agency workers seem to remain in this specific type of relationship or face increased "churning". Table 2 shows that in all countries reviewed, even where the stepping-stone mechanism is at work, non-standard workers have a significantly higher rate of transition into unemployment or into inactivity – sometimes nearly tenfold – as compared to regular workers. This evidence confirms that non-standard and standard workers are unequal with respect to job security.

Table 2. Overview of empirical evidence on labour market transitions of workers in non-standard forms of employment

Country	Period	Source	Comparison group	Findings	
				Yearly transitions to permanent jobs	Yearly transitions to other statuses
Australia	2001–08	OECD, 2014	Non-regular employees		Both to unemployment and inactivity: Estimated difference between non-regular and permanent employees is about one percentage point
Austria, Belgium, Italy, Ireland, Greece, Finland, France, Portugal, Spain, United Kingdom	2004	Boeri, 2011	Workers with FTC	Range from 12% to 13% in Portugal and France, to around 47% in Austria, Ireland and the United Kingdom	
Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, United Kingdom	1998–99	OECD, 2006	Temporary workers	Ranging from 18% in France to 55% in Austria	To unemployment: Transitions of permanent workers never exceed transitions of temporary workers; temporary: between 4.3% in Belgium and 15.9% in France; permanent: between 0.7 % in Luxembourg and 3% in Germany. To inactivity: With the exception of Belgium, transitions of permanent workers never exceed transitions of temporary workers; temporary: between 1.3% in Belgium and 14% in France; permanent: between 1.6 % in Denmark and 3.9% in Germany
	2000–01			Ranging from 20% in France to 54% in the Netherlands	
Denmark	1997–2006	Jahn and Rosholm, 2014	Temporary agency workers	Stepping-stone effect is confirmed while being with the temporary work agency, but not afterwards. Temporary agency work increases transition into permanent jobs by 19% for men and by 7% for women; the effect is largest for immigrants.	
France	2010	Le Barbanchon and Malherbet, 2013	Workers with FTC	5.6%	To unemployment: FTC: 9%, permanent workers: 0.9% To inactivity: FTC: 8.9%, permanent workers: 1.9%
Germany	2010–11	Eichhorst and Tobsch, 2013	Workers with FTC	38%	To inactivity and unemployment: 18%. Remain in FTC work: 41%
			Temporary agency workers	28%	Remain in agency work
			Marginal part-time workers	21%	To inactivity/unemployment: 21% Remain in marginal part-time work: 48%

Country	Period	Source	Comparison group	Findings	
				Yearly transitions to permanent jobs	**Yearly transitions to other statuses**
	1994–96	Kvasnicka, 2009	Temporary help work	No stepping-stone effect, but no increased probability of unemployment either; temporary agency workers seem to remain in this type of employment relationship	
Indonesia	2004	Lee and Eyraud, 2008	Casual workers	5.8%	Casual to own-account workers: 4.8%. Most stated reason: unsatisfying income. Employees to own-account workers: 53.6%. Most stated reason: lay-off
Italy	2000–04	Picchio, 2008	Temporary work	3.7%; Stepping-stone effect is confirmed	To unemployment (as a percentage of all transitions) Temporary: 0.7%, permanent workers: 1.6%
	2001	Ichino et al., 2008	TAW	Stepping-stone effect is confirmed, it is highest in Tuscany, in services, among youth transitioning from school to work	
Japan	2002	Esteban-Pretel et al., 2011	Contingent workers*	Stepping-stone hypothesis is not confirmed after ten years of labour market experience when starting off in NSFE; and the dead-end hypothesis is non-existent after 20 years. The welfare of workers for the first 40 years of their lives is lower if they begin in a contingent job than in a regular job, but higher than if they are initially unemployed.	
Republic of Korea	2004–05	Lee and Yoo, 2008	Non-standard workers	7.9%	To unemployment: Non-standard: 2.4%, permanent workers: 1.5% To inactivity: Non-standard: 16.4%, permanent workers: 5%
Netherlands	1998–2000	De Graaf-Zijl, van den Berg, and Heyma, 2011	Workers with FTC	38%. Stepping-stone effect is mild; it is strongest for ethnic minorities, men, and low-educated workers	To unemployment: FTC: 21%, permanent workers: 18% To inactivity: FTC: 6%, permanent workers: 3%
Spain	2001–11	Garcia-Serrano and Malo, 2013	Workers with FTC	5–7% over the period, with a maximum of 17% in 2005	To unemployment: FTC: 7–17%, permanent workers: 0.8-2% over the period. To inactivity: FTC: 4–7%, permanent workers: 1–2%
	2006–10	García-Pérez et al., 2014	Workers with FTC*		Increased transitions into unemployment; higher incidence of holding FTCs over a working lifetime
	1990–2003	García-Pérez and Muñoz-Bullon, 2011	Workers with FTC**	6.5% for unskilled workers; 9.7% for skilled workers; transitions rise slightly with FTC tenure	To unemployment: up to 66% for unskilled workers To another FTC: up to 21%
Sweden	1997–2008	Hveem, 2013	TAW	No stepping-stone effect: “Joining a temporary agency … decreases the probability of getting a regular job for years to come in general but not for non-western immigrants”; “women showed stronger and more persistent negative regular employment effects”.	
United States	1993–2001	Andersson et al., 2007	TAW	Stepping-stone effect confirmed; it is strongest for low-wage earners as it improves their access to higher wage employment.	To temporary agency work: 36.9–61.2% over three years, for workers for whom temporary agency is a primary employer.

Country	Period	Source	Comparison group	Findings	
				Yearly transitions to permanent jobs	Yearly transitions to other statuses
	1999–2003	Autor and Houseman, 2010	TAW, Detroit's welfare-to-work programme	No stepping-stone effect; increased churning: "Rather than helping participants transition to direct-hire jobs, temporary-help placements initially lead to more employment in the temporary-help sector, which serves to crowd out direct-hire employment".	
	2000–01	Cappelli and Keller, 2013***	Part-time work, temporary help, contracting	"Over 90 per cent of establishments have converted temporary agency workers to permanent employees … Hiring may be a very important part of what temporary agencies do for their clients".	

Note: FTC–fixed-term contract; TAW – temporary agency work. * Studies covering long-term periods, rather than yearly transitions. ** Transitions from the first FTC; young workers only. *** Analysis does not control for various characteristics. References covering earlier periods include Amuedo-Dorantes (2000) and Güell and Petrongolo (2007) for Spain; Boockmann and Hagen (2008), and Hagen (2002) for Germany; Berton et al. (2011) for Italy; Booth et al. (2002) for the United Kingdom; Hotchkiss (1999) for the United States.

3.1.2. Wage differentials

46. The principle of equal pay for work of equal value is embedded in ILO standards and in most national legislation. Nevertheless, empirical evidence suggests that de facto earnings of workers in NSFE may differ from those of regular workers. Table 3 summarizes empirical findings on wage differences (premiums or penalties) between regular and non-regular workers. It shows that the earnings of workers in NSFE vary across economic sectors, occupations, educational level, duration of engagement in a specific form of non-standard employment, and the extent to which this form of employment is the outcome of a voluntary choice. Recipients of wage premiums for non-standard employment include temporary engineers and technicians, nurses, IT programmers, and young temporary agency workers in Portugal (see table 3).

Table 3. Overview of empirical evidence on the wage differences between standard and non-standard workers

Country	Period	Source	Comparison group	Findings
Bangladesh	2010	ILO, 2013b	Casual employees	WR: 2/5
EU-15	1987–2009	Boeri, 2011	Workers with temporary contracts	WPR: 20–25% for men; ranging from 6.5% in the United Kingdom to 44.7% in Sweden
Germany	1999	Hagen, 2002	Workers with FTCs	WPNR: 23%
	2006	Pfeifer, 2012	Workers with FTCs	WPNR: 10%
	1995–2008	Jahn and Pozzoli, 2013	Workers in TAW	WPNR: 22% for men, 14% for women. Wage penalty decreases with tenure in TAW
France	1983–2000	Blanchard and Landier, 2002	Workers with FTC	WPNR: 20%
India	2004–05	Shyam Sundar, 2011*	Casual workers	Regular workers in urban areas earn three times the real wages of casual workers
	2004–05	Bhandari and Heshmati, 2008	Contract workers	WPR: 45.5%
Indonesia	2010	ILO, 2011*	Casual workers	WR: In agriculture: 1/3; not in agriculture: < 1/2
Italy	2000–02	Picchio, 2006	Workers with FTC and in TAW	WPNR: 13%, reduced by about 2.3% after one year
Israel	1987	Cohen and Haberfeld, 1993	Part-time workers in temporary help service	Both penalties and premiums exist, depending on the occupation and qualification
Japan	1980, 2003	Kubo, 2008	Part-time workers	WR: 76.2%, 65.7%
	2010	Hamaguchi and Ogino, 2011	Full-time non-regular	WR: Compared with full time: 64%; compared with part time: 28%; gaps increase with age
Kenya	1998–99; 2005–06	Wambugu and Kabubo-Mariara, 2012	Part-time non-regular	WPNR: 37% for seasonal workers; 34% for part-time workers
Republic of Korea	2008	Lee and Eun, 2014	Casual workers	WR: 64.4% for men, 85.2% for women
Portugal	1995–2000	Böheim and Cardoso, 2009	Seasonal and part-time workers	WPNR: 1–9% on average, but young workers earn higher wages in TAW as compared to peers in non-TAW; prime-age and older workers earn less
Philippines	1994–2006	Hasan and Jandoc, 2009	Workers in TAW	WPR: up to 45–51%, highest wages in services
Sweden	Mid-1980s,	Holmlund and	Temporary and daily	WPNR: 10%

Country	Period	Source	Comparison group	Findings
	Mid-1990s	Storrie, 2002	workers	
United Kingdom	1991–97	Booth et al., 2002	Workers with FTC and interim workers	WPNR: 8.9% for men, 6% for women
	2000	Forde and Slater, 2005	Temporary workers	WPNR: 11% for men, 6% for women
United States	1994	Nollen, 1996 *	Workers in TAW	WPNR: 34%
	1995	Kalleberg et al., 2000	"Temporaries"	Workers in standard employment relations are less likely than those in non-standard work arrangements to have a low-wage job, with the exception of male contract employees
	1995	Houseman, 1997	Non-standard work	WPNR: "significant"
	1980–mid-1990	Carey and Hazelbaker, 1986	Temporary workers (including on-call and TAW)	"Engineers and technicians frequently can earn more take-home pay in temporary jobs than they can in regular jobs"
	2000s	Theodore and Peck, 2013	Temporary workers	Wage premiums reported for temporary nurses, IT programmers, and high-paid workers
South Africa	2001–07	Bhorat et al., 2013	"Temporary staffing industries"	WPNR: 17–35% as compared to those employed in the formal sector

Note: * Analysis does not control for various characteristics, such as individual observable or unobservable characteristics, type of company, sector or region. FTC – fixed-term contract; TAW – temporary agency work; WR – wage ratio, WPR – wage premium for regular workers; WPNR – wage penalty for non-regular workers.

47. In most instances, however, non-standard workers earn less for comparable work and the disadvantages associated with NSFE are not systematically compensated with higher earnings (see table 3). Wage penalties for non-regular workers are between 30 per cent and 60 per cent of the wages of regular workers in developing countries, and between 1 and 34 per cent in developed countries. These differences are due to: (i) unequal treatment of non-standard workers; (ii) the probationary nature of some NSFE; (iii) shorter tenure of non-standard workers, mainly due to less stable employment; and (iv) exclusion of non-standard workers from corporate benefits, such as regular bonuses and overtime payment (Lee and Yoo, 2008). These earning differentials may lead to greater income insecurity for these workers. Moreover, the effects can be long term, if workers have difficulty transitioning to permanent jobs and have limited opportunities for promotion and to establish a career path. Wage penalties are usually smaller for part-time workers as compared to temporary or temporary agency workers, but can still be significant (Messenger and Ray, forthcoming). In some instances, wage gaps may widen with age, as is the case with Japanese fixed-term workers; or, on the contrary, decrease with time spent in the sector, as is the case with temporary agency workers in Germany, who may accumulate sector-specific human capital.

3.1.3. Access to employment-based social security benefits

48. Workers employed under NSFE contracts frequently have inadequate employment-based social security coverage, either because they are explicitly excluded from receiving coverage by law or because their short tenure, short contribution periods or low earnings may limit access to such entitlements. In addition, even when workers under NSFE contracts are covered, benefit levels may be too low, as a result of their low wages and contributions, to provide an adequate level of coverage, unless mechanisms are in place to ensure at least a minimum level of protection. In Italy, project or task-based work may

imply limited social insurance contributions and maternity or sick leave compensation, and does not entitle workers to unemployment benefits. In India, where major labour laws apply to "establishments" and not to "workers" directly, and cover regular workers only, the majority of casual workers fall outside the scope of the regulation (Papola, 2013). In the Republic of Korea, in 2008, 39 per cent of non-regular workers were covered by the national pension scheme, as compared to 77 per cent of regular workers; 42 per cent of non-standard workers were covered by health insurance, as compared to 78 per cent of regular workers; and 39 per cent of non-standard workers were covered by employment insurance, as compared to 66 per cent of regular workers (Lee and Eun, 2014). In the United States, in 2005, around 13 per cent of contingent workers received health insurance through their employer (9 per cent of temporary agency workers, 19 per cent of part-time workers), compared to 72 per cent of standard full-time workers; and 38 per cent of contingent workers had access to employer-provided pensions (4 per cent of temporary agency workers, 23 per cent of part-time workers), compared to 76 per cent of standard full-time workers (GAO, 2006). In South Africa, 48 per cent of temporary agency workers in the formal sector, compared to 36 per cent of non-agency workers, indicated that their employer did not contribute to a pension fund. The figures are 85 per cent and 60 per cent, respectively, for non-contributions to health insurance (Bhorat et al., 2013).

49. In countries with large informal economies, the debate on social security coverage of non-standard workers may be viewed through the prism of informality, as informality itself may be measured by access or contributions to social security. For example, in Colombia, the informality rate of workers with fixed-term contracts, who represent about 30 per cent of all workers, is about ten percentage points higher than for workers under open-ended contracts; informality being measured using health and pension contributions (Pena, 2013).

50. Unless mechanisms are in place to ensure social security coverage for NSFE workers through an extension of contributory or non-contributory social security mechanisms, these workers are more likely to be inadequately covered or not covered at all (ILO, 2014) and are, as a result, more exposed to social risks than other workers, including with respect to income security and effective access to health care.

3.1.4. Training

51. On-the-job training is important for upgrading workers' skills and improving their productivity and that of the enterprise. It may also improve workers' ability to boost their earning potential, develop a career, and transition to a regular job. Evidence on equality with respect to training is limited mainly to developed countries. Young temporary workers in Germany and France may receive more training as compared to full-time permanent employees, but this is mainly because many of them are apprentices. In other instances, having workers on temporary contracts usually decreases the incentive and need for employers to provide training, especially if the conversion rate of fixed-term contracts into permanent contracts is low (Dolado et al., 2002). Empirical evidence, summarized in table 4, confirms this proposition, and shows that temporary workers face penalties when it comes to training opportunities.

Table 4. Overview of empirical evidence on differences in training between standard and non-standard workers

Country	Period	Source	Comparison group	Findings
Chile	2002–09	Carpio et al., 2011	Temporary workers	Access to training is reduced by 3.5%.
European countries (Austria, Belgium, Denmark, Finland, France, Greece, Ireland, Italy, Netherlands, Portugal, Spain, United Kingdom)	1997	OECD, 2002	Temporary workers	Access to training is reduced by 6%.
	2000	Nienhueser and Matiaske, 2006	Temporary agency work	85% of temporary agency workers received no training as compared to 63% of permanent workers over a year.
OECD (Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Estonia, Finland, France, Germany, Ireland, Italy, Japan, Republic of Korea, Netherlands, Norway, Poland, Slovakia, Sweden, United Kingdom, United States)	2012	OECD, 2014	Temporary workers	"On average, being on a temporary contract reduces the probability of receiving employer-sponsored training by 14%" (by 27% in Estonia, France and Slovakia). Probability is increased by 5% in the United States, but the estimate is not statistically significant.
Spain	2006	Bentolila et al., 2011	Temporary workers	40% of permanent employees received training paid by their firms in 2006, compared to 23% of temporary employees.
United Kingdom	1991–97	Booth et al. (2002)	FTC, seasonal and casual workers	Men: access to training is reduced by 12% for workers with FTC; and by 20% for workers with seasonal/casual contracts. Women: Access to training is reduced by 15% for workers with FTC; and by 7% for workers with seasonal/casual contracts.

3.1.5. Occupational safety and health

52. Access to training is not just important for developing workers' skills and improving their earning potential, but also for preventing accidents. A temporary worker who does not receive training on basic safety at the workplace runs the risk of having an industrial accident with potentially serious consequences for the worker and the workplace. In general, temporary agency workers, like other workers on temporary contracts, have less knowledge about their work environment (Aronsson, 1999) and may feel too constrained by their status to complain about work hazards or make necessary changes. They are also unlikely to be represented on health and safety committees (Quinlan and Mayhew, 2000). Although they are faced with many of the same risks as other workers, because multiple parties are involved, with the contracting agency paying the wages but the user firm giving the instructions, there is greater potential for accidents, even if responsibility for safety and health at the workplace lies with the user firm.

53. There is evidence of higher accident rates among temporary and temporary agency workers. In France, a 1998 inquiry into working conditions by the French Directorate of Research, Studies and Statistics (DARES) revealed that the accident rate involving temporary agency workers was 13.3 per cent, compared to an average of 8.5 per cent for the country as a whole. In Spain, between 1988 and 1995, the accident rate per 1,000 workers was 2.5 times higher for temporary workers than for permanent employees; the rate of fatal accidents was 1.8 times higher. In Belgium, in 2002, the accident rate for permanent manual workers, or those with long-term contracts, stood at 62 per 1,000

workers, compared with 125 for manual workers hired via temporary employment agencies (Vega-Ruíz, 2014).

54. In addition to physical health and safety issues, NSFE may be associated with psychosocial factors that increase the risk of adverse health outcomes. For example, having an involuntary temporary or part-time job may aggravate subjective perceptions of job insecurity, especially when conversion rates to regular employment are low (Dolado et al., 2012). Job insecurity, in turn, can be associated with a range of other negative outcomes adversely affecting work satisfaction, psychological and mental well-being, and overall life satisfaction (Beard and Edwards, 1995; De Witte, 1999). A meta-review of 68 studies on the health effects of job insecurity found that in 60 studies (88 per cent), "job insecurity was associated with measurably worse OSH [occupational safety and health] outcomes" (Bohle et al., 2001, p. 39).

3.1.6. Freedom of association and collective bargaining

55. Workers in NSFE may experience difficulty in joining trade unions or in being covered by collective bargaining agreements. In a few cases, this is the result of legal exclusions that prevent certain groups of workers from organizing and bargaining, but in most cases it is the result of the difficulties imposed by their status.

56. Legal restrictions on the right of freedom of association and collective bargaining for workers in NSFE mainly concern workers in contractual arrangements involving multiple parties. For example, dispatched workers in the construction sector in the Philippines can join the recognized industry union, but cannot constitute an appropriate collective bargaining unit. In Indonesia, dispatched workers cannot be part of the union of regular workers (Serrano, 2014); in the Republic of Korea they can only negotiate with their employing agency, which is deemed to be their sole employer (Rubiano, 2013), while self-employed workers cannot join the same union as employees, which was an issue that was also specifically examined by the Committee on Freedom of Association (CFA). [15] In Lithuania, fixed-term workers cannot participate in the election of works councils.

57. Nevertheless, the most common challenge that workers in NSFE face regarding freedom of association and collective bargaining rights is the inability to exercise these rights in practice. For instance, the Committee of Experts on the Application of Conventions and Recommendations (CEACR) examined cases related to severe anti-union discriminatory use of fixed-term contracts, [16] while the Committee on Freedom of Association observed that "in certain circumstances, the renewal of fixed-term contracts for several years may alter the exercise of trade union rights". [17] The presence of multiple labour providers can fragment the bargaining unit, preventing workers from reaching the regulatory threshold necessary to either form a trade union or gain recognition as the bargaining agent (Hayter and Ebisui, 2013). Moreover, if there are multiple bargaining units within an enterprise, they may not have sufficient bargaining power in collective bargaining negotiations. Trade unions face significant challenges trying to organize temporary workers and agency

[15] Republic of Korea – CFA, 368th Report, Case No. 2602. http://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:3057164 [2 Oct. 2014].

[16] Belarus – CEACR, observation, C.98, 2011. http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:2698981,103154,Belarus,2011 [2 Oct. 2014].

[17] Chile – CFA, 368th Report, Case No. 2884. http://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:3128139 [2 Oct. 2014].

workers as a result of their weak and short attachment to a single workplace or employer. Agency workers are often unaware of their rights at the workplace and may be led to believe that they have no right to join a union of direct hires (Ruckelshaus et al., 2014), or they may fear retaliation if they were to join a union (Crush et al., 2001; Hatton, 2014).

58. Temporary agency workers may face difficulties when on strike. In a 2012 Labour Court case in South Africa, workers at the Mogalakwena mine, who were employed by labour brokers and placed at the mine, went on strike picketing the mine's premises. The Commission for Conciliation, Mediation and Arbitration ruled that the striking employees were permitted to stage pickets at the premises of the temporary employment agency, 30 km from the mine, but not at the mine's premises. [18]

59. NSFE can also undermine the effective exercise of collective bargaining rights of regular workers. One US study, for example, argued that "in-house subcontracting" and reliance on temporary agency workers had weakened trade unions and undermined their ability to challenge violations of labour laws (Ruckelshaus et al., 2014). Similarly, subcontracting in South Africa's mines is seen as contributing to the decline in union numbers and strength (Crush et al., 2001). A recent article in *Industrial and Labor Relations Review*, based on an analysis of 106 labour–management disputes in the United States, discussed ways in which temporary agency work had been used: to block union organization drives; to replace pro-union workers with temporary agency workers (temps); to use temps to interfere with a union certification election; to weaken or dismantle existing unions by using temps to replace union workers; to force concessions at the bargaining table by replacing, or threatening to replace, striking workers with temps; and by locking out union workers and replacing them with temps (Hatton, 2014).

60. In some instances, temporary agency workers are allowed to join the bargaining unit of the lead firm along with regular workers, but only with the consent of their employer. This restriction can make collective bargaining difficult, if not impossible. This is the case in the United States, for example, as the National Labor Relations Board maintains that agency workers and permanent workers have the right to be organized in the same bargaining unit, a "multi-employer bargaining unit", but doing so requires the consent of both the "user" employer and temporary work agency (or agencies). This condition has the effect of nearly always prohibiting collective bargaining, especially when more than one temporary work agency provides workers to a user enterprise (Hatton, 2014).

61. Finally, in both developed and developing countries, women, low-skilled workers, migrants and young people are more likely to be found in NSFE. The greater difficulty that workers in NSFE have in joining trade unions means that affiliation and collective bargaining rates for these workers are lower. As a result, there is less opportunity for them to use collective bargaining as a means to negotiate better working and employment conditions.

3.2. Effects on firms

62. Despite widespread literature on the effect that non-standard work has on workers, the literature on the effects on firms is more limited and mainly focuses on industrialized countries. Nonetheless, the findings help to shed light on the possible implications with respect to management and human resource practices as well as on innovation and productivity.

[18] This ruling was, however, set aside by the Labour Court because, in its view, the Commissioner had failed to consider the proper place for picketing (Benjamin, 2013).

63. Non-standard work arrangements change the ways in which organizations manage their human resources. The first way in which non-standard work affects basic human resource management practices is the decision about whether to have the work done in-house by standard workers, or to hire workers on short-term contracts, or to outsource the work to an external agency that manages contract workers. The extent to which non-standard workers are used in an organization is a function of a variety of factors, such as the level of bureaucratization of the organization (Davis-Blake and Uzzi, 1993), the technology used in the organization, the availability of labour intermediaries, such as temporary help agencies, that make it possible for firms to find suitable workers (Kalleberg, 2000), as well as the regulatory framework.

64. The use of non-standard work arrangements has shifted the responsibility of training and development from organizations to individual workers (Barley and Kunda, 2004). In general, the greater the proportion of non-standard workers in an organization, the less the organization will invest in these workers' training (Davis-Blake and Uzzi, 1993). As a result, the role of human resources shifts from training and development to identifying the sets of skills they need to buy from the market and procuring these skills for the organization in an efficient and timely manner. This can, however, lead to a gradual erosion of firm-specific skills in the organization (Lepak and Snell, 2002). Nonetheless, in industries reliant on low-skilled labour, the need to retain firm-specific skills may be less of a concern.

65. Non-standard work arrangements may shift the onus of career planning from organizations to individual workers. As individuals develop portable skills they can move from organization to organization more easily, affecting an organization's ability to retain standard workers. Organizations that have both standard and non-standard workers find that the greater the presence of non-standard workers in the organization, the poorer the relationship of standard workers with the organization (George, 2003), their supervisors (Davis-Blake et al., 2003) and their co-workers (Chattopadhyay and George, 2001). There are instances, however, where non-standard arrangements have the opposite effect. For example, when organizations offer employees the opportunity to shift from full-time to part-time employment, the presence of these "retention part-time workers" has a positive spillover effect on their standard co-workers (Broschak and Davis-Blake, 2006).

66. There are few studies in the management literature that have systematically studied the effect of non-standard work arrangements on the profitability of organizations, partly because of the difficulty of isolating the effect of this employment practice on organizational profitability (George and Ng, 2010). There are, however, a few studies on the effects of other aspects of firm performance. Kleinknecht et al. (2014) analyse the relationship between the employment of temporary workers and organizational innovation, and find that using low-paid temporary workers had a negative effect on innovation (as measured by whether the firm had research and development activities and the extent of investment in those activities) in industry sectors where the knowledge base was more firm-specific and relatively stable. In India, Pradhan (2006) finds a statistically negative association between research and development and the use of contract labour. Battisti and Vallanti (2013) found in a sample of Italian manufacturing and service enterprises that a larger share of temporary workers in the firm "reduce[s] workers' motivation and effort", as measured by absences, which, they argued, negatively affected firm productivity. Nielen and Schiersch (2014) studied German firms in the manufacturing sector and found that there was an inverted U-shaped relationship between the extent to which a firm used temporary agency workers and the firm's competitiveness, as measured by a ratio of labour cost to labour productivity. Nollen and Axel (1996), however, explain in their seminal study, published by the American Management Association, that the risks of engaging non-standard workers (for example, less motivation, loyalty and teamwork), may not matter if the job is routine, machine-paced and highly structured. In addition, for some stressful and repetitive tasks, it may be more productive if "the job is done in short spells

by part-timers or temporaries" (p. 74). The authors also note that many temporary agency workers are often motivated to work hard in the hope of securing a permanent position.

3.3. Effects on the labour market, wage inequality and productivity

67. The micro-level effects of NSFE on workers and firms ultimately have macro-level consequences that can affect how labour markets function, overall wage distribution, and sectoral and economy-wide productivity. An important concern regarding the growth of non-standard employment is that it can exacerbate labour market segmentation. Labour market segmentation, or duality, describes a situation where one part of the labour market ("the less protected fringe") faces inferior working conditions and greater insecurity, and where transitions from one segment of the labour market to the other are compromised. Labour market segmentation points to unequal risk-sharing, not only between regular and non-regular workers regarding unemployment and income security, but also between non-regular workers and employers in terms of economic adjustment, as workers in non-standard arrangements disproportionately bear the brunt of economic adjustment. In an economic downturn, the initial reaction by employers is to not renew temporary contracts and to limit recourse to temporary agency work. The jump in unemployment in Spain and Japan during the recent economic crisis has been largely the result of the non-renewal of and cuts in fixed-term jobs. In Spain, in the last quarter of 2008, 2.5 per cent of permanent workers lost their jobs, compared to 15 per cent of workers on fixed-term contracts. In Japan, in 2009, the number of dispatched workers dropped by 20 per cent in the first quarter. In other countries (Ireland 2011–12, Bangladesh 2010, the Republic of Korea in the late 1990s), when firms started hiring again they chose to substitute permanent hires with workers on short temporary contracts, as a means of keeping labour costs flexible. As a result, the volatility of both employment and unemployment in segmented labour markets is high (Bentolila and Saint-Paul, 1992; Boeri and Garibaldi, 2007). Yet, the more volatile labour markets are, the higher the volatility of public budgets (OECD, 2014), both because there is more volatility in payroll and income tax receipts, but also because there are more individuals claiming unemployment benefits or requiring social assistance. The key challenge for policy-makers is to mitigate the negative consequences of unequal risk-sharing between various labour market actors, at both the micro and macro levels.

68. Labour market segmentation and the general casualization of employment can also exacerbate wage and income inequality. NSFE are not only associated with lower wages but also with stagnant and falling wages (Dey et al., 2009), contributing to wage polarization. Wage inequality is further exacerbated by relatively lower training opportunities for non-standard workers, which further decreases the potential for career advancement and the possibility of closing the wage gap. Moreover, non-regular workers face more unemployment spells and a greater likelihood of remaining in non-standard work, which negatively affects their lifelong earnings. Available evidence shows that the widespread use of temporary work has contributed to wage inequality in some industrialized countries, notably in Japan and the Republic of Korea, as well as in some Latin American countries. However, the influence of temporary work on wage inequality also depends on the existence of other institutions, particularly wage-setting institutions (Cazes and De Laiglesia, forthcoming; Lee and Eyraud, 2008; Lee and Yoo, 2008).

69. In addition, non-standard employment may adversely affect sectoral and aggregate productivity growth and can also affect our understanding of productivity trends. Dey et al. (2009) explain how the US sectoral productivity growth data of the past few decades, particularly in manufacturing, have likely been overstated, as the growth of subcontracting has meant that the total number of workers in the industry is higher than indicated by the data under the specific International Standard Industrial Classification (ISIC) code.

70. In addition to this technical issue, recourse to inexpensive and highly flexible forms of labour contracting may reduce incentives to invest in productivity-enhancing technologies, with long-term implications for economic growth (Galbraith, 2012). Moreover, the more limited training opportunities offered to non-standard workers, as reviewed in table 4, may further exacerbate the incidence of low-skilled and low-productivity work (Boeri and Garibaldi, 2007). Also, the relatively high threat of dismissal associated with NSFE can adversely affect worker effort, as temporary workers may have a weaker attachment to a particular firm (Jimeno and Toharia, 1996). Indeed, a study using industry-level panel data for Member States of the European Union found that the use of temporary contracts has a negative effect on labour productivity (Lisi, 2013). At the macroeconomic level, Dolado et al. (2012) estimated that 20 per cent of the slowdown in productivity in Spanish manufacturing firms between 1992 and 2005 was due to the "reduced effort" of temporary workers.

4. The regulation of non-standard forms of employment

71. This section discusses the regulation of NSFE by ILO instruments, regional instruments and national legislation, in order to give a broad overview of the protection afforded to workers. The analysis of national regulations also provides a general picture of the limits placed on the use of non-standard work arrangements across the world. In section 4.3, recent regulatory changes with respect to NSFE are discussed, shedding light on the concerns of policy-makers and legislators in different parts of the world, as well as on general trends in regulation.

4.1. ILO standards that address or concern non-standard forms of employment

72. Some ILO instruments contain specific provisions on the different forms of non-standard employment addressed in this report. In addition, most ILO instruments apply to all workers, regardless of their occupational status, and are therefore important for regulating various aspects of non-standard employment. Given the concern regarding the ability of workers in NSFE to exercise their fundamental principles and rights at work, specific fundamental Conventions are also briefly reviewed in this section.

4.1.1. Standards addressing specific forms of non-standard employment [19]

73. The Termination of Employment Convention, 1982 (No. 158), [20] and Recommendation (No. 166), regulate and provide guidance on the use of fixed-term or temporary

[19] For the full text of all ILO standards see the ILO Normlex website [http://www.ilo.org/dyn/normlex/en/f?p=1000:12000:0::NO:::].

[20] Came into force on 23 November 1985 and is in force for the following 35 ILO Members: Antigua and Barbuda, Australia, Bosnia and Herzegovina, Cameroon, Central African Republic, Cyprus, Democratic Republic of the Congo, Ethiopia, Finland, France, Gabon, Latvia, Lesotho, Luxembourg, Malawi, Republic of Moldova, Montenegro, Morocco, Namibia, Niger, Papua New Guinea, Portugal, Saint Lucia, Serbia, Slovakia, Slovenia, Spain, Sweden, the former Yugoslav Republic of Macedonia, Turkey, Uganda, Ukraine, Bolivarian Republic of Venezuela, Yemen and Zambia. The Working Party on Policy regarding the Revision of Standards (the "Cartier Working

employment contracts. Convention No. 158, which regulates termination of employment at the initiative of the employer, makes provision for certain exclusions from all or some of its provisions, which may relate to workers engaged under a contract of employment for a specified period of time or for a specified task or to workers engaged on a casual basis for a short period. Furthermore, the Convention stipulates that "[a]dequate safeguards shall be provided against recourse to contracts of employment for a specified period of time the aim of which is to avoid the protection resulting from this Convention".

74. Recommendation No. 166 supplements Convention No. 158 and is particularly relevant to the scope of this report, as it addresses measures that may be taken to ensure adequate safeguards against contracts whose purpose is to avoid the protection resulting from Convention No. 158. It suggests that provision may be made to limit recourse to contracts for a specified period of time to cases in which the employment relationship cannot be of indeterminate duration and to deem contracts for a specified period of time, other than in cases in which the employment relationship cannot be of indeterminate duration, to be: (a) contracts of employment of indeterminate duration or, when renewed on one or more occasions; (b) contracts of employment of indeterminate duration.

75. The Private Employment Agencies Convention, 1997 (No. 181), [21] highlights in its Preamble the role that private employment agencies may play in a well-functioning labour market, while recalling the need to protect workers. The Convention is, in principle, applicable to all private employment agencies, all categories of workers (with the exception of seafarers) and all branches of economic activity. Ratifying States are required to take measures to ensure that workers recruited by private employment agencies are not denied the right to freedom of association and the right to collective bargaining and that the agencies treat workers without discrimination. Private employment agencies also cannot charge directly or indirectly fees or costs to workers, with some limited exceptions. Furthermore, ratifying States should ensure that a system of licensing or certification, or other forms of governance, including national practices, regulates the operation of private employment agencies. Ratifying States are also required to ensure adequate protection and, where applicable, to determine and allocate the respective responsibilities of private employment agencies and of user enterprises in relation to: collective bargaining; minimum wages; working time and other working conditions; statutory social security benefits; access to training; protection in the field of occupational safety and health; compensation in case of occupational accidents or diseases; compensation in case of

Party") did not reach any conclusions regarding Convention No. 158 and Recommendation No. 166 (see *Information note on the progress of work and decisions taken concerning the revision of standards*, updated in June 2002, para. 3, available at: http://www.ilo.org/global/standards/international-labour-standards-policy/WCMS_125644/lang--en/index.htm). A Tripartite Meeting of Experts was convened in April 2011 to examine these two instruments. In the absence of a tripartite consensus, the outcome of this Meeting was adopted by the Government and the Worker experts (see Tripartite Meeting of Experts to Examine the Termination of Employment Convention, 1982 (No. 158), and the Termination of Employment Recommendation, 1982 (No. 166), Geneva, 18–21 April 2011, Final report, TMEE/C.158–R.166/2011/2, para. 127, available at: http://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/employment-security/WCMS_165186/lang--en/index.htm).

[21] Came into force on 10 May 2000 and has been ratified by the following 28 countries: Albania, Algeria, Belgium, Bosnia and Herzegovina, Bulgaria, Czech Republic, Ethiopia, Fiji, Finland, Georgia, Hungary, Israel, Italy, Japan, Lithuania, Republic of Moldova, Morocco, Netherlands, Panama, Poland, Portugal, Serbia, Slovakia, Spain, Suriname, the former Yugoslav Republic of Macedonia, Uruguay and Zambia. Convention No. 181 and its accompanying Recommendation No. 188 are considered to be up-to-date instruments. See NORMLEX, List of instruments by subject and status, available at: http://www.ilo.org/dyn/normlex/en/f?p=1000:12030:0::NO:::.

insolvency and protection of workers' claims; and maternity and parental protection and benefits.

76. The Private Employment Agencies Recommendation, 1997 (No. 188), supplements Convention No. 181 by providing, inter alia, that workers employed by private employment agencies and made available to user enterprises should, where appropriate, have a written contract of employment specifying their terms and conditions of employment, with information on such terms and conditions provided at least before the effective beginning of their assignment. Private employment agencies should also not make workers available to a user enterprise to replace workers of that enterprise who are on strike.

77. The Employment Relationship Recommendation, 2006 (No. 198), provides that member States should formulate and apply, in consultation with the most representative employers' and workers' organizations, a national policy for reviewing at appropriate intervals and, if necessary, clarifying and adapting the scope of relevant laws and regulations, in order to guarantee effective protection for workers in an employment relationship. Such a policy should include the following measures, among others: to provide guidance on establishing the existence of an employment relationship and on the distinction between employed and self-employed workers; combat disguised employment relationships that hide the true legal status of workers; ensure standards applicable to all forms of contractual arrangements, including those involving multiple parties, so that employed workers have the protection they are due; and ensure that such standards establish who is responsible for providing such protection. Moreover, national policies should aim at ensuring the effective protection of workers, especially those affected by uncertainty as to the existence of an employment relationship, including women workers and the most vulnerable workers.

78. Recommendation No. 198 [22] also provides that the determination of the existence of an employment relationship should be guided primarily by the facts relating to the performance of work and the remuneration of the worker, notwithstanding how the relationship is characterized by the parties. It furthermore suggests clearly defining the conditions applied for determining the existence of an employment relationship, such as subordination and dependence, and sets out specific indicators to this end. As part of their national policy, member States should promote the role of collective bargaining and social dialogue as a means of finding solutions to questions related to the scope of the employment relationship at the national level.

79. The Part-Time Work Convention, 1994 (No. 175), [23] is aimed at promoting access to productive, freely chosen part-time work that meets the needs of both employers and workers, and ensuring protection for part-time workers with respect to access to employment, working conditions and social security. Convention No. 175 applies to all part-time workers – defined as employed persons whose normal hours of work are fewer than those of comparable full-time workers. [24] The Convention seeks to ensure equal

[22] Recommendation No. 198 is considered to be up to date. See NORMLEX, List of instruments by subject and status, available at: http://www.ilo.org/dyn/normlex/en/f?p=1000:12030:0::NO:::.

[23] Came into force on 28 February 1998 and has 14 ratifications: Albania, Australia, Bosnia and Herzegovina, Cyprus, Finland, Guyana, Hungary, Italy, Luxembourg, Mauritius, Netherlands, Portugal, Slovenia and Sweden. Convention No. 175 and its accompanying Recommendation No. 182 are considered to be up-to-date instruments. See NORMLEX, List of instruments by subject and status, available at: http://www.ilo.org/dyn/normlex/en/f?p=1000:12030:0::NO:::.

[24] However, ratifying States may, after consulting the representative organizations of employers and workers concerned, exclude wholly or partly from its scope particular categories of workers or

treatment of part-time workers and comparable full-time workers in a variety of ways. [25] First, part-time workers are to be granted the same protection as comparable full-time workers in relation to the right to organize, the right to bargain collectively and the right to act as workers' representatives; occupational safety and health; and discrimination in employment and occupation. Second, measures must be taken to ensure that part-time workers do not, solely because they work part time, receive a basic wage [26] which, calculated proportionately, is lower than that of comparable full-time workers. Third, statutory social security schemes based on occupational activity should be adapted so that part-time workers enjoy conditions equivalent to those of comparable full-time workers, and these conditions may be determined in proportion to hours of work, contributions or earnings. Fourth, part-time workers must also enjoy equivalent conditions with respect to maternity protection, termination of employment, paid annual leave and paid public holidays, and sick leave. [27]

80. Convention No. 175 also calls for the adoption of measures to facilitate access to productive and freely chosen part-time work which meets the needs of both employers and workers, provided that the required protection, as mentioned above, is ensured. It also provides that measures must be taken, where appropriate, to ensure that transfer from full-time to part-time work or vice versa is voluntary, in accordance with national law and practice. The Part-Time Work Recommendation, 1994 (No. 182), encourages employers to consult the representatives of the workers concerned on the introduction or extension of part-time work on a broad scale and on related rules and procedures, and to provide information to part-time workers on their specific conditions of employment. It further addresses the number and scheduling of hours of work, changes in the agreed work schedule, work beyond scheduled hours and leave, as well as part-time workers' access to training, career opportunities and occupational mobility.

4.1.2. Other standards of particular interest to workers in non-standard forms of employment

81. With the exception of ILO standards that are directed at specific occupations or economic sectors, ILO standards apply, in principle, to all workers. In some instances, exceptions may be introduced for certain enterprises, sectors or occupations, but even then member States are encouraged to subsequently extend protection to excluded groups. Some ILO standards are of particular relevance to workers in NSFE. The Maternity Protection

certain establishments "when its application to them would raise particular problems of a substantial nature".

[25] The term "comparable full-time worker" refers to a full-time worker who: (i) has the same type of employment relationship; (ii) is engaged in the same or a similar type of work or occupation; and (iii) is employed in the same establishment or, when there is no comparable full-time worker in that establishment, in the same enterprise or, when there is no comparable full-time worker in that enterprise, in the same branch of activity, as the part-time worker concerned.

[26] Pursuant to Recommendation No. 182, part-time workers should benefit on an equitable basis from financial compensation, additional to basic wages, which is received by comparable full-time workers.

[27] Under some conditions, exclusions may be introduced for part-time workers whose hours of work or earnings do not reach certain thresholds. However, these thresholds must be sufficiently low as not to exclude an unduly large percentage of part-time workers and should be reduced progressively.

Convention, 2000 (No. 183), [28] expressly provides for its application to all employed women "including those in atypical forms of dependent work" in recognition of the significant share of women found in NSFE. The Workers with Family Responsibilities Convention, 1981 (No. 156), [29] applies to all branches of economic activity and to all categories of workers. It concerns men and women workers whose family responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity, and is therefore particularly relevant for workers who have entered non-standard employment arrangements in order to combine work and family responsibilities.

82. The Social Protection Floors Recommendation, 2012 (No. 202),[30] can be of benefit to workers in NSFE, particularly if they are excluded from social security coverage as a result of legal thresholds. Social protection floors are nationally defined sets of basic social security guarantees, to be provided to "at least all residents and children", which secure protection aimed at preventing or alleviating poverty, vulnerability and social exclusion.

83. Other ILO Conventions are relevant to NSFE. For instance, the Employment Policy Convention, 1964 (No. 122), commits States to adopt policies "to promote full, productive and freely chosen employment". In this respect, the CEACR referred to "measures implemented in consultation with the social partners to reduce labour market dualism" and "whether they have translated into productive and lasting employment opportunities for non-regular workers". [31] Moreover, the Labour Administration Convention, 1978 (No. 150), calls on States to extend the functions of labour administration to workers not currently considered employed, an issue that was also recently addressed by the CEACR. [32] The Labour Inspection Convention, 1947 (No. 81), on the need to maintain a system of labour inspection for workplaces, and its 1995 Protocol, are also pertinent.

[28] Came into force on 7 February 2002 and has 29 ratifications: Albania, Austria, Azerbaijan, Belarus, Belize, Benin, Bosnia and Herzegovina, Bulgaria, Burkina Faso, Cuba, Cyprus, Hungary, Italy, Kazakhstan, Latvia, Lithuania, Luxembourg, Mali, Republic of Moldova, Montenegro, Morocco, Netherlands, Portugal, Romania, Serbia, Slovakia, Slovenia, Switzerland and the former Yugoslav Republic of Macedonia. Convention No. 183 is considered to be up to date. See NORMLEX, List of instruments by subject and status, available at: http://www.ilo.org/dyn/normlex/en/f?p=1000:12030:0::NO:::.

[29] Came into force on 11 August 1983 and has 43 ratifications: Albania, Argentina, Australia, Azerbaijan, Belize, Plurinational State of Bolivia, Bosnia and Herzegovina, Bulgaria, Chile, Croatia, Ecuador, El Salvador, Ethiopia, Finland, France, Greece, Guatemala, Guinea, Iceland, Japan, Kazakhstan, Republic of Korea, Lithuania, Mauritius, Montenegro, Netherlands, Niger, Norway, Paraguay, Peru, Portugal, Russian Federation, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, the former Yugoslav Republic of Macedonia, Ukraine, Uruguay, Bolivarian Republic of Venezuela and Yemen. Convention No. 156 is considered to be up to date. See NORMLEX, List of instruments by subject and status, available at: http://www.ilo.org/dyn/normlex/en/f?p=1000:12030:0::NO:::.

[30] Recommendation No. 202 is considered to be up to date. See NORMLEX, List of instruments by subject and status, available at: http://www.ilo.org/dyn/normlex/en/f?p=1000:12030:0::NO:::.

[31] Japan – CEACR, direct request, 2013, http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:3147206,102729,Japan,2013 [2 Oct. 2014].

[32] Republic of Korea – CEACR, observation, 2011, http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:2700228,103123,Korea,%20Republic%20of,2011 [2 Oct. 2014].

4.1.3. Core labour standards

84. At the recurrent discussion on fundamental principles and rights at work at the 101st Session of the International Labour Conference, a resolution was approved that adopted conclusions on how to ensure that fundamental principles and right at work were accessible to all. [33] In this context, the Conference observed that "the increase in non-standard forms of employment, in cases in which the national legislation does not adequately regulate them, raises questions concerning the full exercise of fundamental principles and rights at work".

85. The International Labour Conference has adopted eight Conventions covering four categories of fundamental rights at work: freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation. The 1998 ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up underline that all ILO member States, even if they have not ratified these Conventions, have an obligation arising from the very fact of membership in the Organization to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights that are the subject of these Conventions. The most relevant provisions for NSFE are briefly presented below.

86. The Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), provides for the right for workers and employers to establish and join organizations of their own choosing without previous authorization. Under the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), workers must be afforded adequate protection against any act of anti-union discrimination, such as making the employment of workers subject to the condition that they shall not join a union or shall relinquish trade union membership, or causing the dismissal of or other prejudice to a worker by reason of union membership or participation in union activities. Convention No. 98 also enshrines the right to collective bargaining.

87. The Committee on Freedom of Association has clarified that by virtue of the principles of freedom of association, all workers – with the sole possible exception of members of the armed forces and the police – should have the right to establish and join organizations of their own choosing and that, therefore, the entitlement to that right should not be "based on the existence of an employment relationship, which is often non-existent". For example, agricultural workers, self-employed workers in general or those who practise liberal professions, "should nevertheless enjoy the right to organize". Temporary workers should also have that right, according to the Committee on Freedom of Association. It held that "the requirement for the establishment of a trade union that workers need to be employees of only one employer is a violation of the principles of freedom of association" (ILO, 2006, paras 254–259, 271), and addressed the issue of the right to collective bargaining of temporary workers, holding that they "should be able to negotiate collectively" (ILO, 2006 para. 906).

88. Similar views have been expressed by the CEACR, which has stated that all employers and workers in the private and public sectors, including subcontracted workers, dependent workers, and self-employed workers, have the right to freedom of association under Convention No. 87 (ILO, 2012, para. 53). The CEACR also highlighted how, under Convention No. 98, recognition of the right to collective bargaining is general in scope and

[33] Resolution concerning the recurrent discussion on fundamental principles and rights at work, adopted on 13 June 2012.

all organizations of workers in the public and private sectors (other than those representing categories of workers which may be excluded from the scope of the Convention) [34] must benefit from it, including organizations representing categories of workers such as self-employed and temporary workers, outsourced or contract workers, and part-time workers (ILO, 2012, para. 209).

89. The Equal Remuneration Convention, 1951 (No. 100), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), do not expressly address discrimination based on the employment relationship, but they are relevant for workers in NSFE since, in many countries, specific groups, particularly women, but also migrants and ethnic minorities, are over-represented in NSFE. Convention No. 100 is aimed at eliminating discrimination between men and women with regard to remuneration by ensuring the application to all workers of the principle of equal remuneration for men and women for work of equal value. The concept of remuneration is broadly defined under Convention No. 100. Under Convention No. 111, States undertake "to declare and pursue a national policy designed to promote … equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination", [35] which has the effect of "nullifying or impairing equality of opportunity or treatment in employment or occupation". The CEACR has observed how non-regular workers, such as "fixed-term, part-time and dispatched workers" may be particularly vulnerable to discrimination, and has also addressed the issue of discrimination based on employment status. [36]

4.2. Regional and national regulation of non-standard forms of employment

90. ILO standards have influenced regional and national regulations on temporary work, temporary agency work, ambiguous and disguised employment relationships, and part-time work. Nonetheless, national regulations vary considerably, reflecting the specificities of the country, including the different legal systems and the different levels of economic development.

4.2.1. Fixed-term contracts

91. At the regional level, the most detailed instrument regulating fixed-term contracts is European Union Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work. The Caribbean Community (CARICOM) also adopted, in 1995, the Model Law on Termination of Employment, which includes provisions regulating the use of fixed-term contracts.

92. In most countries, fixed-term contracts are regulated by specific legal provisions, but they can also be governed by collective agreements at the enterprise, sectoral or national levels,

[34] Namely the armed forces, the police and public servants engaged in the administration of the State.

[35] For the purpose of the Convention, discrimination is defined as "any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin". Other grounds of discrimination may be determined by member States after consultation with representative employers' and workers' organizations and other appropriate bodies.

[36] Republic of Korea – CEACR, observation, 2013. http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3150326 [2 Oct. 2014].

as they are in the Nordic countries. A comparative overview of national labour laws shows that many countries have adopted different approaches to prevent abusive recourse to fixed-term contracts. Three major dimensions of such provisions are: (1) the prohibition of fixed-term contracts for permanent tasks; (2) a limitation in the number of successive fixed-term contracts; and (3) a limitation of the cumulative duration of fixed-term contracts. The CEACR has confirmed that a relatively common sanction for breaching legal requirements is to convert the fixed-term contract to a contract of unlimited duration.

93. Figure 14 is a map illustrating the legal prohibition of the use of fixed-term contracts for permanent tasks. In more than half of the 187 countries on which information is available, legislation limits the use of fixed-term contracts to tasks of a temporary nature, prohibiting such contracts for work that can objectively be considered to be permanent. Table 5 provides a list of countries that impose limits on the number of renewals of fixed-term contracts allowed.

Figure 14. Legal prohibition of the use of fixed-term contracts for permanent tasks

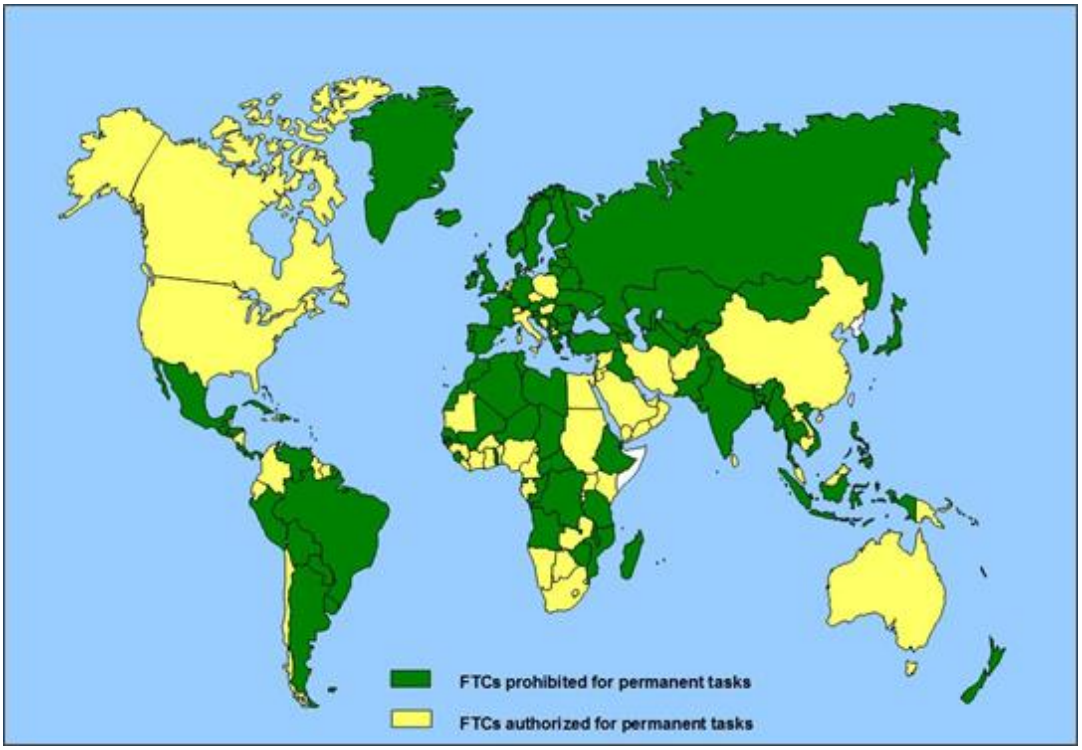


Table 5. Number of successive fixed-term contracts (FTCs) authorized by law

Number of successive FTCs authorized by law	Countries
1 FTC	Bulgaria
2 FTCs	Brazil, Cameroon, Chile, China, Comoros, Democratic Republic of Congo, Estonia, France, Gabon, Indonesia, Madagascar, Niger, Senegal, Saudi Arabia, Spain, Bolivarian Republic of Venezuela and Viet Nam
3 FTCs	Czech Republic, Greece, Luxembourg, Netherlands and Romania
4 FTCs	Belgium, Germany, Portugal and Slovakia

Source: Muller, forthcoming.

94. The most frequent provision used to regulate fixed-term contracts is a limitation on their cumulative duration. The comparative analysis shows that around half of the 193 countries for which information is available limit the cumulative duration to two to five years (see table 6).

Table 6. Maximum legal duration of fixed-term contracts (FTCs), including renewals

Maximum duration of FTCs, including renewals	Countries
One year or less	Chile, Guinea-Bissau, Pakistan,* Panama, Serbia, Sierra Leone, Bolivarian Republic of Venezuela and Zimbabwe*
Two years	Plurinational State of Bolivia, Bosnia and Herzegovina, Brazil, Burkina Faso,* Cambodia, Central African Republic, Republic of Congo, Djibouti, Côte d'Ivoire, Ecuador, Equatorial Guinea, France,* Germany, Guinea, Iceland, Republic of Korea, Lebanon,* Luxembourg, Madagascar, Maldives, Mauritania, Montenegro,* Morocco,* Netherlands,** Palau, Occupied Palestinian Territory, Senegal, Slovakia, Slovenia,** Spain, Sweden, Thailand and Bolivarian Republic of Venezuela
Three years	Algeria, Angola, Belgium,* Bulgaria, Colombia,* Comoros, Croatia, Cuba, Greece, Indonesia, Italy, Latvia, Liberia,* Myanmar, Panama,* Portugal, Sâo Tomé and Principe, Saudi Arabia* and Timor-Leste
Four years	Benin, Cameroon, Chad, Democratic Republic of Congo, Gabon, Georgia, Germany, Ireland,* Libya, Malta, Niger, Norway, Sudan, Togo, Tunisia, United Arab Emirates* and United Kingdom*
Five years	Argentina, Armenia, Azerbaijan, Bahrain, Belarus,* Cabo Verde, Costa Rica,* Finland, Honduras, Hungary, Japan, Jordan,* Kuwait, Kyrgyzstsan, Lithuania, Republic of Moldova, Mongolia,* Paraguay, Peru, Qatar, Romania, Russian Federation,* Senegal,* Syrian Arab Republic, Tajikistan, the former Yugoslav Republic of Macedonia, Turkmenistan and Uzbekistan
Six years	Mali, Mozambique, Portugal and Viet Nam
Ten years	China, Estonia and Switzerland;* Czech Republic (nine years)
No legal limits for the maximum duration of FTCs	Afghanistan, Albania, Antigua and Barbuda, Australia, Austria, Bahamas, Bangladesh, Barbados, Belize, Botswana, Brunei Darussalam, Burundi, Canada, Cyprus, Denmark, Dominica, Dominican Republic, Egypt, El Salvador, Eritrea, Ethiopia, Fiji, Gambia, Ghana, Grenada, Guatemala, Guyana, Haiti, Hong Kong (China), India, Islamic Republic of Iran, Iraq, Israel, * Jamaica, Kazakhstan, Kenya, Lao People's Democratic Republic, Lesotho,* Malawi, Malaysia, Marshall Islands, Mauritius, Mexico, Namibia, Nepal, New Zealand, Nicaragua, Nigeria, Oman, Papua New Guinea, Philippines, Poland, Rwanda, Samoa, Seychelles, Singapore, Solomon Islands, South Africa,** Sri Lanka, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Sri Lanka, Suriname, Swaziland, United Republic of Tanzania, Thailand, Tonga, Trinidad and Tobago, Turkey, Uganda, Ukraine, United States, Uruguay, Vanuatu, Yemen and Zambia

Note: * Specific comments and assumptions are provided in Muller, forthcoming. ** See section 4.3.

Source: Muller, forthcoming.

4.2.2. Temporary agency work

95. The legal framework for regulating temporary agency work aims to prevent abuses in recourse to temporary agency work and, in some cases, to establish the principle of equal treatment for temporary agency workers and comparable workers at the user firm. In most countries, including several countries that have not ratified Convention No. 181, the agency must be authorized by, licensed by or registered with the public authorities and

must regularly report to those authorities. [37] In some jurisdictions, however, no specific registration duties exist for temporary work agencies (for example, Denmark, Finland, New Zealand, Suriname and the United Kingdom), while in federal countries the system of registration or authorization is sometimes regulated by individual States (for example, Australia, Canada and the United States).

96. Recourse to temporary agency work is sometimes only allowed where there is an objective reason for it. In a number of countries this reason must be temporary in nature, such as the need to replace an absent worker or to perform an activity that is not ordinarily carried out within the business. A vast number of countries, however, do not impose this requirement (see table 7).

Table 7. Objective or temporary reason for recourse to temporary agency work

Type of reason	Countries
Temporary reason	Argentina, Belgium, Brazil, Chile, China,* Colombia, Estonia, Finland, Luxembourg, Morocco, Norway,* Peru, Poland, Portugal and South Africa *
Objective reason	Austria, Slovakia and Spain*
No limitation	Australia, Canada, Denmark, Germany, Ghana, Greece, Hungary, Iceland, Indonesia, Ireland, Israel, Italy, Latvia, Malaysia, Namibia, Netherlands, New Zealand, Russian Federation, Singapore, Slovenia, Sweden, Switzerland, United Kingdom, United States, Uruguay and Zimbabwe

Note: * Some exceptions for particular situations; see also section 4.3

97. As to the relationship between the agency and the worker, this can be open-ended but in most cases is on a fixed-term basis. Some jurisdictions explicitly provide for this relationship to be temporary (for example, Belgium, China and France), while in many other cases both permanent and fixed-term contracts are allowed (for example, Croatia, Germany, Hungary, Italy, Panama, Portugal and Slovenia), though fixed-term arrangements typically prevail. In some countries the relationship between the agency and the worker can also be one of self-employment (for example, Estonia and the United Kingdom).

98. In various jurisdictions there are limitations regarding the number of assignments, their renewal or their suspension (see table 8). In some cases these limits are set out specifically for temporary agency work, while in other cases the general regulations governing fixed-term contracts apply, with regard to either the number of assignments or to the relationship between the agency and the worker. In some countries the maximum duration is variable, depending on the task to be completed or the reason for the assignment (for example, Belgium, Republic of Korea and Portugal).

[37] See ILO (2007) for information on specific requirements.

Table 8. Limitation regarding the number or renewal of assignments and the maximum duration of assignments

Type of limitations	Countries
Limitation on number of assignments/renewals	Switzerland
Provision for a maximum duration of assignment (also cumulative): (number of months)	Belgium (variable: 3–18), Brazil (3), Colombia (12), Chile (variable 3–6), Czech Republic (12), Greece (36), Hungary (60), Israel (9–15), Italy (36),** Republic of Korea (variable 3–24), Norway (48),* Panama (12),* Poland (variable 18–36), Portugal (variable 6–24), Romania (36)
Both: (i) limitation on number of assignments; and (ii) max duration: (number of renewals/number of months)	Estonia (2/120), Luxembourg (2/12)
No limitation	Argentina,* Australia, Canada, China,* Denmark, Finland,* Germany,* Iceland, India, Indonesia, Ireland, Latvia,* Mexico, New Zealand,* Russian Federation,* Slovakia,* Slovenia,* South Africa, Spain,* Sweden,* United Kingdom and United States

Note: * Countries where a fixed-term contract between a temporary agency worker and an agency is subject, entirely or partially, to the limits applicable to direct fixed-term employment between a worker and a firm. ** The 36-month limit in Italy refers to the duration of a single assignment; it is debatable whether a series of assignments would be subject to the 36-month limit.

99. Under Recommendation No. 188, agencies should not make workers available to a user enterprise to replace workers of that enterprise who are on strike. Under Directive 2008/104/EC, Member States of the European Union are allowed to restrict the use of temporary agency work during industrial action. This restriction is established in a vast number of countries, either by statutory measures (for example, Argentina, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Chile, Croatia, France, Greece, Hungary, Italy, Israel, Lithuania, Morocco, Namibia, New Zealand, Peru, Poland, Portugal, Romania, Slovenia, Spain and the United Kingdom) or via collective bargaining (for example, Denmark, Norway and Sweden) or codes of conduct (Finland). It is also worth noting that the Code of Conduct of the International Confederation of Private Employment Agencies (Ciett) sets forth a similar provision. Such a limitation, however, is not provided for in a number of other jurisdictions, including Germany, Ireland, Latvia and the United States.

100. Several countries, including countries that have not ratified Convention No. 181, limit or prohibit temporary agency work in specific sectors (for example, Argentina, Germany, the Japan, Republic of Korea and Spain), [38] with regard to certain activities within the user firm, such as core or managerial activities (for example, Chile, India, Indonesia and Mexico), or for hazardous work (for example, France, Greece, Lithuania, Poland, Portugal, Slovenia and Spain). Some countries have regulations preventing user firms from having recourse to temporary agency work shortly after dismissals for business reasons or following collective dismissals (for example, Croatia, France, Greece, Hungary, Italy, Lithuania, Portugal, Slovenia and Spain).

101. Several jurisdictions adhere to the principle of equal treatment of temporary agency workers and comparable workers at user firms in respect of terms and conditions of employment (see table 9). For Member States of the EU, respect for the principle of equal treatment with regard to basic working conditions is mandated by Directive 2008/104/EC,

[38] A common limitation is restrictions on or prohibition of the use of temporary agency workers in the construction sector.

subject to certain exceptions. [39] The principle of equal treatment can also be found in other jurisdictions, including Colombia, Mexico and Uruguay. The scope of the principle of equal treatment varies significantly; in some countries it is limited to pay, while in others it covers all the basic terms and conditions of employment. Some countries permit derogations from the principle on the basis of collective bargaining agreements.

Table 9. Principle of equal treatment

Type of limitations	Countries
Basic terms and conditions of employment	Austria,* Belgium, Colombia, Croatia, Czech Republic, Denmark, Estonia, France, Finland, Germany,* Greece, Iceland, Hungary (six-month qualification period may apply regarding pay), India, Ireland, Israel,* Italy, Republic of Korea,** Latvia, Luxembourg, Mexico, Namibia, Netherlands,* Norway, Poland, Portugal (two-month qualification period for full equality regarding pay), Slovakia, Slovenia,* Spain, Sweden,* United Kingdom (three-month qualification period) and Uruguay
Partial	Argentina (pay), Brazil (pay), China (pay), Ethiopia, Peru (exceptions possible), Romania (exceptions possible), Switzerland
No principle of equal treatment	Australia, Canada, Chile, Japan,** New Zealand, Panama, Russian Federation, South Africa,** Singapore and United States

Note: * Significant derogation from the principle of equal treatment may be provided by collective bargaining agreements. ** See section 4.3.

4.2.3. Ambiguous employment relationships

102. Many jurisdictions have put in place legal remedies to tackle the issue of misclassified self-employment. A common measure is the establishment of a "primacy of facts" rule whereby the determination of the existence of an employment relationship should be guided by the facts relating to the actual performance of work and not by how the parties describe the relationship. The "primacy of fact" principle can be found in civil law and common law systems and is expressly stated in the laws of some countries (for example, Argentina, Mexico, Panama and Poland), and sometimes even at the constitutional level (for example, Colombia and the Bolivarian Republic of Venezuela). In some countries, it is also a general principle of contract law (for example, Bulgaria and Italy), or set forth by the courts.

103. Indeed, despite a traditional reluctance of common law systems to interfere with the contractual intention of the parties, the "primacy of facts" principle is either present in the courts' reasoning (for example, Ireland, South Africa and the United Kingdom) or enforced via statutory measures in various common law jurisdictions. [40] An interesting example in this respect is the Australian Fair Work Act 2009, which prohibits misrepresenting an employment relationship as an independent contracting arrangement; dismissing or threatening to dismiss an employee for the purpose of engaging them as an independent contractor; or making a knowingly false statement to persuade or influence an employee to become an independent contractor. The Act sets out sanctions in the event of a breach of the relevant provisions.

[39] For instance, EU Member States may grant a derogation for workers employed by agencies under a permanent contract, provided that they are paid between assignments or when the exception is established by collective agreement, on condition that the overall protection of workers is ensured.

[40] In Italy and Belgium, despite being civil law jurisdictions, the contractual intention of the parties plays a significant role in the classification of the working relationship.

104. Another common approach aimed at combating misclassifications is, in the words of Recommendation No. 198, "providing for a legal presumption that an employment relationship exists where one or more relevant indicators is present". This type of legal provision is present in various legal systems across the world and may take the form of a broad presumption that working relationships are presumed to be employment relationships (for example, Colombia, Dominican Republic, Netherlands, Panama and the Bolivarian Republic of Venezuela). Alternatively, the law may specify certain indicators that may trigger a presumption or a reclassification under an employment relationship (for example, Italy, Malta, Namibia, Portugal, South Africa and the United Republic of Tanzania). Another possible approach is to provide for the application of the employment regulation to workers other than those with an employment contract (for example, Israel).

105. In an attempt to clarify the law, various European countries have specifically regulated dependent self-employment or quasi-subordinate work, extending some labour protection to the workers involved. However, the level of protection and even the definition of dependent self-employment vary significantly, with some jurisdictions focusing on economic dependency (for example, Austria, Canada, Germany and Spain) and others having regard instead to the worker's strict coordination with the principal's business organization (Italy and the United Kingdom). In Germany, *arbeitnehmerähnliche Personen* (employee-like persons) are covered by some of the legal protection normally afforded to employees, such as access to labour courts, annual leave, protection against discrimination, and collective bargaining, but they are excluded from protection against unfair dismissal. In Spain, dependent self-employed workers are defined according to economic dependency criteria, such as the performance of economic or professional activities directly and predominantly for a principal and dependence on the principal for at least 75 per cent of the income deriving from their professional service. Dependent self-employed workers are afforded some legal protection, such as minimum paid annual leave, entitlements in the event of unjustified termination, the right to suspend work for family or health reasons, and the right to collective bargaining. In Italy, *lavoratori parasubordinati* are self-employed workers who collaborate with a principal under a continuous, coordinated relationship, even if it is not subordinate in nature. Since the mid-1970s, these "para-subordinate" workers have progressively gained legal protection, including access to labour courts, limited social security rights, occupational safety and health coverage, some limited maternity and sickness protection, the right to collective bargaining and some rights regarding the early termination of contracts.

4.2.4. Part-time work

106. The prohibition of discrimination against part-time workers is a key provision of EU Council Directive 97/81/EC of 15 December 1997 on part-time work. Inspired by the Part-Time Work Convention, 1994 (No. 175), the Directive seeks to improve the quality of part-time work and to facilitate its development on a voluntary basis. As a result, the labour legislation of EU Member States prohibits discrimination against part-time workers; this prohibition is also present in the legislation of other countries, including Côte d'Ivoire, Republic of Korea, Mozambique, Russian Federation and Turkey. In certain cases, both direct and indirect discrimination against part-time employees is expressly prohibited (for example, Bulgaria and Sweden).

107. The principle of *pro rata temporis* is defined in the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 of the United Kingdom as meaning that "where a comparable full-time worker receives or is entitled to receive pay or any other benefit, a part-time worker is to receive or be entitled to receive not less than the proportion of that pay or other benefit that the number of his weekly hours bears to the number of weekly hours of the comparable full-time worker". This principle is also applied in other countries, including Cabo Verde, France, Islamic Republic of Iran, Republic of Korea, Malta, Russian Federation and Senegal.

108. Nonetheless, the application of this principle to such employees' entitlements as annual leave is not uniform. In Brazil, the relevant legislation specifies the number of days of leave to which part-time employees are entitled according to the number of hours they work per week. Similarly, in Mauritius, a formula has been established to calculate the annual leave entitlement of part-time workers. In Japan, part-time employees who work at least 30 hours per week are entitled to the same amount of annual leave as full-time workers and the law specifies the number of days of leave for those who work less than 30 hours per week. In the Russian Federation, part-time workers have the same amount of annual leave as full-time workers. In France, the same rules are used to calculate holiday pay for both part-time and full-time workers .

109. In some cases, the protection is not extended to part-time workers whose hours of work or earnings are below certain thresholds. In Ireland, the non-discrimination principle regarding the pension scheme does not apply to part-time employees whose normal hours of work constitute less than 20 per cent of the normal hours of work of comparable full-time employees. In South Africa, employees who work less than 24 hours per month for an employer are not covered by the majority of the working-time provisions of the Basic Conditions of Employment Act 1997.

110. National legislation may also establish a minimum or a maximum number of working hours for part-time employees. In Algeria, working hours for part-time employment can never be less than half of the statutory working time. In Denmark, the Act on Part-Time Employment allows collective agreements to prescribe a minimum of 15 hours per week for part-time work. In France, a recent law establishes, in principle, a minimum of 24 hours per week for part-time workers. On the other hand, in Côte d'Ivoire, part-time work cannot exceed 30 hours per week or 120 hours per month.

111. The protection of part-time workers is also ensured through measures related to the conclusion of employment contracts. The requirement for a written contract is found in many national laws and may be coupled with the obligation to include certain specific information. In Romania, an individual part-time employment contract must indicate the number of working hours and their distribution, as well as cases where the work schedule may be amended. If these requirements are not fulfilled, the contract is deemed to be a full-time contract. Similar provisions exist in France and Portugal.

112. Specific rules may also apply to the performance of additional hours of work. Overtime is prohibited for part-time workers in Brazil. In Argentina, it is only allowed in cases of serious danger or imminent risk for the people or the goods of the undertaking. In the Republic of Korea, it requires the agreement of the part-time worker, and the number of additional hours cannot exceed 12 per week. The labour legislation of a number of countries, including Côte d'Ivoire, Ireland, Malaysia and Singapore, does not require that part-time employees receive a premium for additional hours when the normal hours of full-time employees are not exceeded.

113. Some jurisdictions aim to facilitate the transfer from full-time to part-time work and vice versa. In Romania, employers must, as far as possible, take into account the demands of their employees to be transferred either from full-time to part-time work, or to extend their

work schedule. Similar provisions exist in Bulgaria and Portugal. In the Netherlands, under the Adjustment of Working Hours Act, in companies with at least ten employees the employer is obliged to respond to employees' requests to change their working hours, unless compelling interests relating to the enterprise or the service dictate otherwise. The right to shift to part-time hours exists, under specific provisions, in Angola, Armenia, Germany and the Russian Federation.

4.3. Regulatory responses to non-standard forms of employment

114. Governments and social partners have addressed NSFE by instituting statutory reforms or by pursuing collective agreements. In some countries, the courts have also influenced policy direction. This section provides highlights of some important recent reforms with respect to NSFE, as well as the overall regional direction of reforms.

4.3.1. Statutory reforms

115. In Europe, the growth of NSFE in the past decades has led to concerns over heightened labour market segmentation. Policy-makers and institutions, including the European Commission (European Commission, 2006, 2013), began advocating labour reforms to reduce the regulatory gap between workers in standard and non-standard forms of employment. As a result, efforts were made to increase protection for part-time workers and those in dependent self-employment. Provisions regulating fixed-term contracts and temporary agency work were, however, further liberalized in many countries, partly in response to growing concerns over the increase in unemployment resulting from the economic crisis.

116. In many countries, the reforms involved removing restrictions on the reasons for using temporary workers. This occurred, for example, in Italy, in 2014 with regard to the use of fixed-term contracts and temporary agency work; in Greece, in 2014 with respect to temporary agency work; in Germany and Spain with respect to fixed-term contracts; and in Romania, in 2011, regarding temporary agency work. In addition, Romania increased the maximum length of fixed-term contracts from 24 to 36 months, which can be further renewed twice for periods of 12 months. Croatia, in 2014, extended the maximum duration of a temporary agency work assignment to a user firm from one to three years. In the Czech Republic, the maximum duration of fixed-term contracts was extended from two to three years in 2013; contracts can be renewed twice for a maximum duration of nine years. These provisions do not apply to temporary agency work.

117. There were, however, a few exceptions to this pattern. Slovenia, in 2013, reduced the maximum duration of a fixed-term placement to two years and introduced severance payments for fixed-term workers. It also introduced a maximum quota of 25 per cent of temporary agency workers per user firm. In the Netherlands, the maximum period of successive fixed-term contracts was reduced from three to two years (effective from July 2015); although some exceptions can be provided through collective bargaining (for instance in the case of temporary agency work), their scope has narrowed. In Norway, a 2013 law allows unions to file lawsuits against unlawful recourse to temporary agency work. In addition, the joint and several liability of the agency and the user firm in respect of the equal-treatment entitlements of temporary agency workers was introduced.

118. Several European countries strengthened safeguards to combat disguised employment and increased protection for the newly created categories of dependent self-employed workers, as discussed in section 4. Thus, in Italy, "para-subordinate project workers" are now entitled to minimum compensation in line with the provisions of national collective

bargaining agreements. In 2012, Slovakia introduced a new definition of dependent work to combat disguised employment, and in 2010 Greece introduced a presumption of subordination when a person works for the same entity for nine consecutive months.

119. With respect to part-time work, the general trend in Europe has been to encourage its use and to improve the protection of part-time workers. In Greece, Act No. 38467/2010 establishes the right of workers to decide unilaterally their transfer from full-time to part-time work if the company employs at least 20 people and its operational needs are not harmed. In 2012, Italy abolished the requirement that the transfer from full-time to part-time work be approved by provincial labour authorities. In 2013, France mandated that negotiations concerning the organization of part-time work should be initiated when at least one third of the workforce in the sector concerned is employed part time. Furthermore, the minimum number of working hours of part-time workers is, in principle, set at 24 hours per week. Exceptions are allowed under strict conditions, either at the employee's request or on the basis of collective agreements. In 2012, Spain amended its labour law to authorize overtime by part-time employees beyond the "complementary hours" agreed to between the employer and the employee. In Norway, new legislation that entered into force on 1 January 2014 specified that workers who work regularly in excess of their agreed working hours for a period of 12 months have, in principle, the right to a corresponding increase in their contractual hours.

120. In Asia, the rise of "dispatched work" prompted a series of reforms in several countries to manage its use, counter wage discrimination and ensure the financial solidity of labour dispatch firms. Some reforms were also instituted to strengthen protection for fixed-term and part-time employees.

121. In 2013, China reformed its Labour Contract Law, restricting the use of labour dispatch to auxiliary positions outside the user firm's core business, temporary positions (maximum six months) and the replacement of absent workers. The reform also established the principle of equality of treatment in respect of the pay of dispatched workers. Tighter regulations governing the operation and functioning of labour dispatch agencies (for example, registered capital and adequate premises) and sanctions in cases of breach were also introduced. In 2012 Indonesia amended its regulation governing outsourcing and labour supply, restating the principle that outsourced work should be limited to auxiliary activities and not be used for the firm's core business. In 2013 Viet Nam amended its Labour Code to regulate labour dispatching, restricting it to 17 job categories, including secretarial, cleaning and security activities, and imposing capital requirements on firms intending to operate as labour suppliers. The amendment prohibited wage discrimination against dispatched workers and imposed shared responsibility on the labour supplier and the user firms regarding occupational safety and health and compensation issues.

122. In 2012 Japan imposed a prohibition on hiring former employees under a worker dispatch arrangement within one year of termination of employment, save for exceptional cases. In the Republic of Korea, workers dispatched from an unlicensed labour supplier or used for activities for which labour dispatch is not allowed are now entitled to obtain direct employment with the user firm. In the Philippines, new rules governing contracting and subcontracting were introduced in 2011. Contractors and subcontractors must be independent businesses with substantial capital, and joint and several liability exists between them and the principal firm vis-à-vis contract workers. Contract workers are also entitled to labour protections such as the right to organize and bargain collectively, occupational safety and health safeguards and social security. The mere hiring out of labour was prohibited, as was the repeated hiring of workers through contractors to circumvent the security of tenure provisions of the Labour Code.

123. With respect to fixed-term contracts, Japan, under the recently revised Labour Contracts Act, granted workers employed on fixed-term contracts for at least five years the right to

apply for open-ended employment. Moreover, the law codified the long-standing legal doctrine of "refusal to renew contracts" and also prohibited differences in treatment between fixed-term and permanent employees based on unreasonable grounds. In the Republic of Korea, reforms were undertaken to better specify the scope of the principle of non-discrimination in respect of part-time, fixed-term and dispatched workers, which now expressly includes wages, bonuses, working conditions and benefits.

124. With regard to part-time work, in 2014 Japan extended protection against discrimination to part-time employees with employment contracts of indefinite duration. In 2013 Australia amended the Fair Work Act, extending the possibility for employees to request flexible working arrangements, including the reduction of their working hours.

125. Some significant legal developments concerning non-standard work also occurred in southern Africa. In 2014, South Africa amended its Labour Relations Act specifically to regulate non-standard employment. The amendments do not affect previous reforms to strengthen joint and several liability of the agency and the user firm vis-à-vis the supplied workers and to reinforce the duties of temporary employment agencies. Further protection is granted to employees whose earnings are below a certain threshold and the use of agency workers by a client firm is, in principle, limited to three months. Unless one of the exceptions provided by the amendments applies, a worker who is used for a longer period by a client will be deemed as employed on an indefinite basis. A similar rule is established regarding the employment of workers under fixed-term contracts, but it does not apply to small and newly created firms. The amendments also introduce protection for employees under fixed-term contracts who have a reasonable expectation of renewal of their contract on a permanent basis, and strengthen anti-discrimination protection for non-standard workers.

126. In Namibia, a 2012 Supreme Court ruling regarding placement through private employment agencies established that a worker assigned by an agency to a user firm would, in principle, be considered an employee of the latter, unless the user firm applied to the competent minister for an exemption from this rule, with the support of the worker and the agency. The exemption can be granted only when the minister is satisfied that the employment rights of the employee will be satisfactorily protected. The agency and the user firm will, however, be jointly and severally liable for any contravention of these provisions. Furthermore, employees placed by labour brokers must not be treated differently or less favourably and must have the right to join trade unions and to bargain collectively.

127. In Latin America, as in Asia and Africa, many of the reforms addressed contractual arrangements involving multiple parties, with the objective of managing their use and providing protection to workers. In 2006 Chile introduced amendments to its Labour Code which established that the principal firm is jointly liable with the subcontractor, while user firms have a subsidiary liability vis-à-vis agency workers in the case of temporary agency work. In addition, agency work is only allowed for temporary reasons (such as replacement of absent workers or start-up of firms) or for extraordinary activities. In Uruguay, Law No. 18.099 of 2007 made provision for the principle of equal treatment of agency workers and comparable workers in the user firm, and introduced joint and several liability in respect of agency work and subcontracting. In Mexico, a vast reform of labour legislation was completed in 2013. Under the resulting legislation, subcontracting cannot be used for activities similar or identical to those executed by the principal firm and must be justified by the specialized nature of the activities, otherwise the workers would be deemed employees of the principal. The principal must also ascertain whether the subcontractor is in a position to comply with its obligations vis-à-vis the workers.

128. In Argentina, a 1998 reform of fixed-term and temporary contracts reversed the liberalization of the early 1990s and some forms of temporary contract were repealed. In

2006 a decree was enacted to reform temporary agency work, which provides that such work can only be used for temporary or extraordinary reasons (for example, replacement of absent workers, urgent tasks or transitional tasks extraneous to the normal course of business). Moreover, the proportion of temporary agency workers relative to the user firm's direct permanent employees must be reasonable and justified.

129. A few countries also instituted changes to strengthen the collective bargaining rights of non-standard workers. In Namibia, in addition to the provisions permitting the operation of private employment agencies in 2012, the amended laws grant workers placed by private employment agencies the right to join trade unions and bargain collectively. In the early 2000s, Chile extended the right to collective bargaining to casual and temporary workers. In 2009 El Salvador amended article 47 of its Constitution in order to grant freedom of association to employers and workers "without distinction" and "whatever their activity or the nature of the work they perform". Similarly, the 2009 Constitution of the Plurinational State of Bolivia prohibits discrimination based, inter alia, on type of occupation and grants the right to collective bargaining to all workers.

4.3.2. Case law

130. Courts have played a prominent role in shaping and supplementing the regulation of non-standard work in some jurisdictions, though it is impossible to indicate a single and unequivocal legal trend in case law. In some cases, case law has paved the way for reforms restating some of the principles established in court, such as those regarding the Italian regulation of "para-subordinate" project work and the Japanese legal doctrine of "refusal to renew" fixed-term contracts.

131. In several common law countries, case law sets out multi-factor tests to determine the employment relationship, taking into account elements beyond the traditional "control test" (for instance, in Australia, India, South Africa and the United Kingdom). These tests do not necessarily broaden the scope of employment laws. One significant example is the "mutuality of obligation" test in the United Kingdom, which has implications for "zero-hour" workers. In the United States and Canada, some significant developments in the approach to certain forms of non-standard work occurred through the courts and quasi-judicial bodies with the "joint-employer doctrine". Consequently, in the United States temporary agency workers are treated as employees of both the agency and the user firm, and in Canada in certain cases they are considered as employees of the user firm, particularly for the purpose of collective bargaining (Sack et al., 2011). This approach was also followed by the US National Labor Relations Board (NLRB) but was subsequently reversed in 2004. [41] In Australia, industrial tribunals in both federal and state jurisdictions have developed clauses in industrial awards that in some cases allow workers employed regularly and systematically as casual workers to convert their relationship to permanent part-time or full-time employment (Casale et al., 2011). Such clauses are also found in many collective agreements.

[41] NLRB Decision *H.S. Care L.L.C., d/b/a Oakwood Care Center and N&W Agency* (343 NLRB 659 (2004)). In May 2014, however, the NLRB issued a "Notice and Invitation to File Briefs" concerning a potential modification of its current "joint employer" standards.

4.3.2.1. Collective bargaining

132. Collective bargaining has been used in various countries to address concerns about non-standard work, to regulate its use, including conditions of employment, and to regularize non-standard workers. [42] The degree to which collective bargaining is able to deliver these outcomes depends on the existence of unions to bargain on behalf of workers as well as the overall framework for collective bargaining.

133. Some agreements have sought to limit the use of non-standard work by requiring that agency or contract work be justified and setting thresholds, categories of work and specific contingencies for its use. In a number of collective bargaining agreements, this is achieved by giving trade unions or works councils consultation rights, including the right to object to the use of temporary work. For example, the 2013 cross-sectoral collective agreement on temporary agency work in Belgium forbids temporary agency work in the transport and logistics sector and limits its use in the construction sector to the replacement of a permanent worker on sick leave (Eurofound, 2014). The pilot collective agreement concluded by IG Metall in the metal and electricity industry in Baden-Württemberg in 2012 gives more co-determination rights to works councils in the sector on the use of temporary work and provides the right to call for negotiations to regulate the use of temporary agency workers through works agreements (Eurofound, 2012). Although collective agreement clauses that prevent companies from using non-standard work are less common, one such example is provided by the collective agreement of the Automobile Manufacturers Employers Organisation (AMEO) and the National Union of Metalworkers (NUMSA) in South Africa, which contained a provision to discontinue the use of labour brokers with effect from 1 January 2010 "in respect of the bargaining unit", with the exception of pre-existing labour-broker contracts, which were allowed to run their course (Theron, 2011).

134. Other agreements have sought to prevent the abuse of workers in non-standard arrangements by limiting subcontracting only to firms that comply with labour law. For example, the Industrial Chemicals Sector Substantive Agreement in South Africa specifies that parties to the agreement shall only engage labour brokers that comply with the law and the applicable collective bargaining agreement.

135. Some collective agreements contain clauses to promote the transition of non-standard workers from NSFE to permanent jobs. The collective bargaining agreement reached with the Indo Phil Textile Mills (the Philippines) states that any temporary or casual employee performing a job of a regular employee who has worked for 156 days in any 12-month period shall be deemed a regular employee.

136. Other collective agreements have sought to mitigate the risk that provisions aimed at regularizing agency and contract workers may result in employers terminating temporary contracts and avoiding temporary agency hire. One innovative response to this concern has

[42] Examples of provisions related to non-standard workers were drawn from 64 collective bargaining and social dialogue agreements. Of the agreements five were inter-sectoral (from Belgium, Denmark, Germany and Spain); 14 were sectoral/multi-employer (from Argentina, Belgium, Brazil, Denmark, France, Germany, Ireland, Israel, Republic of Korea, Norway and South Africa); 37 were company agreements (Argentina, Australia, Canada, Colombia, France, Germany, India, Indonesia, Japan, Malaysia, Mauritius, Netherlands, Philippines, Spain, South Africa, Thailand, United Kingdom, United States and Zambia); one was for self-employed workers (Germany); and six were social dialogue agreements (Indonesia, Ireland, Singapore, South Africa and Uruguay). Most of the provisions were sourced from published materials and some others were provided directly by trade union and labour researchers.

been to regularize jobs rather than workers. This is the case of the collective agreement reached with the *École Normale Supérieure* in France, according to which all fixed-term contracts will be turned into permanent contracts three years after their start, even if the legislation requires a six-year deadline for the conversion. In other cases, collective bargaining has been used to reduce job uncertainty for these workers. For example, trade unions in India have modified their demands for regularizing contract workers and have instead demanded that the "principal employers" or even contractors provide these workers with "continuity of employment" (Ebisui, 2012).

137. Trade unions have pursued solidarity bargaining and have concluded agreements to provide non-regular workers with better working conditions, including parity of wages and benefits with regular workers. In 2012, IG Metall in Germany negotiated an agreement on wage adjustments for temporary agency workers in the metal industry with two large temporary employers' organizations (the Federal Employers' Association of Personnel Service Providers (BAP) and the Association of German Temporary Employment Agencies (iGZ)); another agreement was negotiated in 2013 with the metal and electrical industries' employers for equal pay for agency workers (Eurofound, 2012). In Denmark, a multi-employer agreement (between Danish Business and the Union of Commercial and Clerical Workers) reduced the qualifying periods for agency workers to be eligible for employment benefits, including maternity entitlements (Eurofound, 2009). The collective agreement reached with Aeon, a major Japanese merchandising company with 79,000 part-timers accounting for 80 per cent of its workforce, applies the same appointment tests and promotion screening for part-time employees as used for regular employees; it also entitles part-timers to the same training opportunities (Ebisui, 2012). Israel's Histadrut has negotiated separate collective agreements with the Ministry of Finance to significantly improve the wages of cleaners and security workers in the public sector and, in the private sector, with the Coordinating Bureau of Economic Organizations to align the conditions of contract workers with those of workers directly employed. [43]

138. Collective bargaining has also been used to clarify the employment relationship and extend freedom of association and collective bargaining rights. The collective agreement concluded between the Federation of German Newspaper Publishers (BDV) and the two main trade unions (the German Association of Journalists (DJV) and Ver.di) stipulated that self-employed freelance journalists who earn 50 per cent of their salary from a single employer or client are considered employees and hence have the right to collective bargaining (Ebisui, 2012).

139. At the transnational level, an agreement between the Volkswagen Group and its European and Global Works Councils was reached in 2012, limiting the use of temporary work in Volkswagen plants to 5 per cent of the workforce, stipulating equal pay for temporary workers, limiting the length of an individual's assignment to a total of three contract extensions or a period of 36 months collectively, and providing opportunities for permanent employment and training. [44]

140. Besides specific agreements to address non-standard work, collective bargaining, when undertaken at the sectoral or multi-employer levels, can provide protection to groups that may not be unionized, such as migrant, women and young workers. By establishing a floor of wages and working conditions for a sector, industry-wide agreements can help prevent a

[43] See http://www.histadrut.org.il/index.php?page_id=2259.

[44] *Charter on Temporary Work for the Volkswagen Group*, 30 Nov. 2012. http://www.industriall-union.org/sites/default/files/uploads/documents/GFAs/Volkswagen/precarious_agreement_Nov_2012/charta_der_zeitarbeit_englisch_final.pdf.

downward spiral of cost-based competition on wages and working conditions (O'Sullivan and Turner, 2013). In this way, sectoral agreements may also help to reduce the incentive for employers to use contract work.

141. Given the more limited collective bargaining coverage of non-standard workers, social dialogue can provide a useful approach for addressing the needs of non-standard workers. Singapore has engaged in national tripartite cooperation and partnership to address the growth of contract and casual workers associated with the expansion in outsourcing. In 2008, it issued the Tripartite Advisory on Responsible Outsourcing Practices to encourage end-user companies to demand that their service suppliers or contractors raise employment terms and benefits, and take due account of the Central Provident Fund status of low-wage contract workers, as required by the law. In Argentina, the National Agreement for the Promotion of Social Dialogue in the Construction Industry was signed in December 2010 between the Construction Workers' Union of the Argentine Republic (UOCRA), the Argentine Construction Chamber (CAC) and the Ministry of Federal Planning, with the goal of reaching, among other issues, a consensus on wages, employment registration and the fostering of decent employment (Ebisui, 2012).

5. Conclusion and points for discussion

142. The previous sections have provided general information on the incidence and trends of different types of non-standard employment, the reasons for their use, and their possible effects on workers, enterprises and the labour market. The report has also reviewed the international, regional and national regulations of non-standard work as well as recent regulatory responses. The scope of the issues under examination is broad, covering several different forms of contractual arrangements with rates of prevalence that differ across regions, countries, sectors and groups of workers.

143. "Standard" employment is still significant, if not dominant, in many parts of the world, including in industrialized countries. In low-income countries, self-employment remains the main form of work, and waged employment is often characterized by casual and informal contractual arrangements that lack basic worker protection. Middle-income developing countries blend the two types of labour markets, but some countries have nonetheless witnessed a considerable proliferation of non-standard arrangements in the formal economy. Non-standard employment is not limited to industrialized countries, even if most of the data and research available is on these countries. Indeed, non-standard employment arrangements have become important features in many of the world's labour markets, and in particular economic sectors, where they did not previously exist. They are also more prevalent among women, young people, the less-skilled and migrants. The regulatory responses described in the previous section provide insight into the changes that have occurred in different countries' labour markets, the concerns of policy-makers and the concerns of workers at the bargaining table.

144. NSFE can be beneficial to both employers and employees if they can accommodate the needs of enterprises for flexibility, while at the same time providing decent employment that enables workers to balance work and personal responsibilities. But if NSFE leads to growing segmentation in labour markets, with repercussions for workers' security, income inequality and productivity, then there is cause for disquiet. Responding to these concerns requires more detailed analysis of the effects of specific types of non-standard arrangements, the multiple reasons for their use and growth, the sectors and occupations most affected, as well as the policy options for improving worker protection while providing for enterprise needs. A greater understanding is needed of the interplay between regulation, incidence and effects, drawing on country experiences.

Points for discussion

145. In the light of the information contained in this background paper, the Meeting of Experts might consider the following points for discussion:

(1) What have been the trends and driving forces with regard to non-standard forms of employment in recent decades? What is the impact for workers, firms and labour market performance of the various types of non-standard forms of employment?

(2) What country experiences and innovative practices, including regulatory changes, case law and social and labour market policies, can provide useful guidance for addressing potential vulnerabilities associated with non-standard forms of employment?

(3) What should the main priorities for ILO action be in order to ensure the full realization of fundamental principles and rights at work and other rights for workers in non-standard forms of employment?

(4) How can existing international labour standards be better used to address non-standard forms of employment and what, if any, are the existing gaps in this area?

(5) Which aspects of non-standard forms of employment warrant further research, analysis and other actions by the ILO?

References

Amuedo-Dorantes, C. 2000. “Work transitions into and out of involuntary employment in a segmented market: Evidence from Spain”, in *ILR Review*, Vol. 53, No. 2, pp. 309–325.

Andersson, F. et al. 2007. “Temporary help agencies and the advancement prospects of low earners”, Working Paper No. 13434 (Cambridge, MA, National Bureau of Economic Research).

Aronsson, G., 1999. “Contingent workers and health and safety”, in *Work, Employment and Society*, Vol. 13, pp. 439–459.

Australian Bureau of Statistics. 2012. *Forms of Employment*, No. 6359.0 (Canberra).

Autor, D.H.; Houseman, S.N. 2010. “Do temporary-help jobs improve labor market outcomes for low-skilled workers? Evidence from ‘Work First’”, in *American Economic Journal: Applied Economics*, Vol. 2, No. 3, pp. 96–128.

Bamber, G.J. et al. 2009. *Up in the air: How airlines can improve performance by engaging their employees* (Ithaca and London, Cornell University Press).

Barley, S.R.; Kunda, G. 2004. *Gurus, hired guns, and warm bodies: Itinerant experts in a knowledge economy* (Princeton, NJ, Princeton University Press).

Battisti, M.; Vallanti, G. 2013. “Flexible wage contracts, temporary jobs, and firm performance: Evidence from Italian firms”, in *Industrial Relations*, Vol. 52, No. 3, pp. 737–764.

Beard, K.M.; Edwards, J.R. 1995. “Employees at risk: Contingent work and the psychological experience of contingent workers”, in C.L. Cooper, D.M. Rousseau (eds): *Trends in Organizational Behavior*, Vol. 2 (Chichester, Wiley), pp. 109–126.

Benjamin, P. 2013. *Law and practice of private employment agency work in South Africa*, Sector Working Paper No. 292 (Geneva, ILO).

Bentolila, S. et al. 2011. *Reforming an Insider–Outsider Labour Market: The Spanish Experience*, IZA Discussion Paper No. 6186 (Bonn, IZA).

Bentolila, S.; Saint-Paul, G. 1992. “The macroeconomic impact of flexible labour contracts, with an application to Spain”, in *European Economic Review*, Vol. 36, No. 5, pp. 1013–1047.

Berton, F. et al. 2011. “Are temporary jobs a port of entry into permanent employment? Evidence from matched employer–employee”, in *International Journal of Manpower*, Vol. 32, No. 8, pp. 879–899.

Bertranou F. et al. 2013. *Informalidad, calidad del empleo y segmentación laboral en Argentina*, Working Document No. 2 (Buenos Aires, ILO Country Office for Argentina).

Bhandari, A.K.; Heshmati, A. 2008. “Wage inequality and job insecurity among permanent and contract workers in India: Evidence from organized manufacturing industries”, in *ICFAI Journal of Applied Economics*, Vol. 7, No. 1, pp. 80–111.

Bhorat, H. et al. 2013. *The determinants of wage inequality in South Africa. ILO Country Case Studies on Inequality* (Geneva, ILO) unpublished.

Blanchard, O.; Landier, A. 2002. "The perverse effects of partial labour market reform: Fixed-term contracts in France", in *The Economic Journal*, Vol. 112, No. 480, pp. F214–F244.

Boeri T.; Garibaldi, P. 2007. "Two tier reforms of employment protection legislation. A honeymoon effect?", in *The Economic Journal*, Vol. 117, No. 521, pp. F357–F385.

Boeri, T. 2011. "Institutional reforms and dualism in European labor markets", in D. Card, O. Ashenfelter (eds): *Handbook of Labor Economics*, Vol. 4b (Elsevier), pp. 1173–1236.

Böheim, R.; Cardoso, A.R. 2009. "Temporary help services employment in Portugal, 1995–2000", in D.H. Autor (ed.): *Studies of Labor Market Intermediation* (Chicago, IL, University of Chicago Press), pp. 309–334.

Bohle, P. et al. 2001. "The health and safety effects of job insecurity: An evaluation of the evidence", in *The Economic and Labour Relations Review*, Vol. 12, No. 1, pp. 32–60.

Boockmann, B.; Hagen, T. 2008. "Fixed-term contracts as sorting mechanisms: Evidence from job durations in West Germany", in *Labour Economics*, Vol. 15, No. 5, pp. 984–1005.

Booth, A.L. et al. 2002. "Temporary jobs: Stepping stones or dead ends?", in *The Economic Journal*, Vol. 112, No. 480, pp. F189–F213.

Brews, P.J.; Tucci, C.L. 2004. "Exploring the structural effects of internetworking", in *Strategic Management Journal*, Vol. 25, No. 5, pp. 429–451.

Broschak, J.P.; Davis-Blake, A. 2006. "Mixing standard work and nonstandard deals: The consequences of heterogeneity in employment arrangements", in *The Academy of Management Journal*, Vol. 49, No. 2, pp. 371–393.

Cappelli, P.H.; Keller, J.R. 2013. "A Study of the Extent and Potential Causes of Alternative Employment Arrangements", in *Industrial and Labor Relations Review*, Vol. 66, No. 4, pp. 874–901.

Carey, M.L.; Hazelbaker, K.L. 1986. "Employment growth in the temporary help industry", in *Monthly Labor Review*, Vol. 109, No. 4, pp. 37–44.

Carpio, S. et al. 2011. *The effect of temporary contracts on human capital accumulation in Chile*, IDB Working Paper Series No. IDB-WP-253 (Inter-American Development Bank).

Casale, G. et al. 2011. "Legal regulation of the employment relationship in the Asia–Pacific region", in G. Casale (ed.): *The Employment Relationship – A Comparative Overview* (Geneva, ILO), pp. 189–232.

Cazes, S.; de Laiglesia, J. Forthcoming. "Temporary contracts and wage inequality", in J. Berg (ed.): *Labour markets, institutions and inequality* (Geneva, ILO and Edward Elgar).

Chattopadhyay, P.; George, E. 2001. "Examining the effects of work externalization through the lens of social identity theory", in Journal of Applied Psychology, Vol. 86, No. 4, pp. 781–788.

Ciett (International Confederation of Private Employment Agencies). 2014. Economic Report (Brussels).

Cohen, Y.; Haberfeld, Y. 1993. "Temporary help service workers: Employment characteristics and wage determination", in *Industrial Relations*, Vol. 32, No. 2, pp. 272–287.

Crush, J. et al. 2001. "Undermining Labour: The rise of sub-contracting in South African Gold Mines", in *Journal of Southern African Studies*, Vol. 27, No. 1, pp. 5–31.

Davis-Blake, A. et al. 2003. "Happy together? How using nonstandard workers affects exit, voice, and loyalty among standard employees", in *Academy of Management Journal*, Vol. 46, No. 4, pp. 475–485.

Davis-Blake, A.; Uzzi, B. 1993. "Determinants of employment externalization: A study of temporary workers and independent contractors", in *Adminstrative Science Quarterly*, Vol. 38, No. 2, pp. 195–223.

de Graaf-Zijl, M. et al. 2011. "Stepping stones for the unemployed: The effect of temporary jobs on the duration until (regular) work", in *Journal of Population Economics*, Vol. 24, No. 1, pp. 107–139.

De Witte, H. 1999. "Job insecurity and psychological well-being: Review of the literature and exploration of some unresolved issues", in *European Journal of Work and Organizational Psychology*, Vol. 8, No. 2, pp. 155–177.

Dey, M. et al. 2009. *What do we know about contracting out in the United States? Evidence from Household and Establishment Surveys*, Upjohn Institute Working Paper No. 09-157 (Kalamazoo, MI, W.E. Upjohn Institute for Employment Research).

Dolado J.J. et al. 2002. "Drawing lessons from the boom of temporary jobs in Spain", in *The Economic Journal*, Vol. 112, No. 480, pp. F270–F295.

–. 2012. *Does dual employment protection affect TFP? Evidence from Spanish manufacturing firms*, CEPR Discussion Paper No. DP8763 (London, Centre for Economic Policy Research).

Ebisui, M. 2012. *Non-standard workers: Good practices of social dialogue and collective bargaining*, Dialogue Working Paper No. 36 (Geneva, ILO).

Eichhorst, W.; Tobsch, V. 2013. *Has atypical work become typical in Germany? Country case study on labour market segmentation*, Employment Working Paper No. 145 (Geneva, ILO).

Esteban-Pretel, J. et al. 2011. "Are contingent jobs dead ends or stepping stones to regular jobs? Evidence from a structural estimation", in *Labour Economics*, Vol. 18, No. 4, pp. 513–526.

European Commission. 2006. *Modernising labour law to meet the challenges of the 21st century*, Green Paper No. COM(2006) 708 final (Brussels, European Commission).

–. 2013. "Labour market developments in Europe 2013", in *European Economy* 6/2013 (Brussels, European Commission).

Eurofound. 2009. *Temporary agency work and collective bargaining in the EU* (Dublin, Eurofound).

–. 2012. *Collective agreements concluded in the metal industry* (Dublin, Eurofound).

–. 2014. *New collective agreement on temporary agency work* (Dublin, Eurofound).

Fagan, C. et al. 2014. *In search of good quality part-time employment*, Conditions of Work and Employment Series No. 43 (Geneva, ILO).

Forde, C.; Slater, G. 2005. "Agency working in Britain: Character, consequences and regulation", in *British Journal of Industrial Relations*, Vol. 43, No. 2, pp. 249–271.

Galbraith, J.K. 2012. *Inequality and Instability: A study of the world economy just before the great crisis* (New York, Oxford University Press).

Gangl, M. 2003. "The only way is up? Employment protection and job mobility among recent entrants to European labour markets", in *European Sociological Review*, Vol. 19, No. 5, pp. 429–449.

GAO (United States Government Accountability Office). 2006. *Employment arrangements: Improved outreach could help ensure proper worker classification*, Report to the Ranking Minority Member, Committee on Health, Education, Labor, and Pensions, US Senate, GAO-06-656.

García-Pérez, J.I. et al. 2014. *Can fixed-term contracts put low-skilled youth on a better career path? Evidence from Spain*, paper presented at the OECD ELS Seminar Series, Paris, Mar. 2014.

García-Pérez, J.I.; Muñoz-Bullón, F. 2011. "Transitions into permanent employment in Spain: An empirical analysis for young workers", in *British Journal of Industrial Relations*, Vol. 49, No. 1, pp. 103–143.

García-Serrano, C.; Malo, M.A. 2013. *Beyond the contract type segmentation in Spain. Country case study on labour market segmentation*. Employment Working Paper No. 143 (Geneva, ILO).

George, E. 2003. "External solutions and internal problems: The effects of employment externalization on internal workers' attitudes", in *Organization Science*, Vol. 14, No. 4, pp. 386–402.

George, E.; Ng, C.K. 2010. "Nonstandard workers: Work arrangements and outcomes", in S. Zedeck (ed.): *APA Handbook of Industrial and Organizational Psychology*, Vol. 1 (Washington, DC, American Psychological Association), pp. 573–596.

Gleason, S.E. (ed.). 2006. *The shadow workforce: Perspectives on contingent work in the United States, Japan, and Europe* (Kalamazoo, Michigan, Upjohn Institute for Employment Research).

Güell, M.; Petrongolo, B. 2007. "How binding are legal limits? Transitions from temporary to permanent work in Spain", in *Labour Economics*, Vol. 14, No. 2, pp. 153–183.

Hagen, T. 2002. "Do temporary workers receive risk premiums? Assessing the wage effects of fixed–term contracts in West Germany by a matching estimator compared with parametric approaches", in *Labour*, Vol. 16, No. 4, pp. 667–705.

Hamaguchi, K.; Ogino, N. 2011. *Non-regular work: Trends, labour law policy, and industrial relations developments – The case of Japan*, Dialogue Working Paper No. 29 (Geneva, ILO).

Harrison, B.; Kelley, M.R. 1993. “Outsourcing and the Search for ‘Flexibility’”, in *Work, Employment and Society*, Vol. 7, No. 2, pp. 213–235.

Hasan, R.; Jandoc, K.R.L. 2009. *Quality of jobs in the Philippines: Comparing self-employment with wage employment*, ADB Economics Working Paper Series No. 148 (Manila, Asian Development Bank).

Hatton, E. 2014. “Temporary weapons: Employers’ use of temps against organized labor”, in *ILR Review*, Vol. 67, No. 1, pp. 86–110.

Hayter, S.; Ebisui, M. 2013. “Negotiating parity for precarious workers”, in *International Journal of Labour Research*, Vol. 5, No. 1, pp. 79–96 (Geneva, ILO).

Holmlund, B.; Storrie, D. 2002. “Temporary work in turbulent times: The Swedish experience”, in *The Economic Journal*, Vol. 112, No. 480, pp. F245–F269.

Hotchkiss, J.L. 1999. “The effect of transitional employment on search duration: A selectivity approach”, in *Atlantic Economic Journal*, Vol. 27, No. 1, pp. 38–52.

Houseman, S.N. 1997. “New Institute Survey on Flexible Staffing Arrangements”, in *Employment Research*, Vol. 4, No. 1, pp. 1, 3–4.

Hveem, J. 2013. “Are temporary work agencies stepping stones into regular employment?”, in *IZA Journal of Migration*, Vol. 2, No. 21, pp. 1–27.

Ichino, A. et al. 2008. “From temporary help jobs to permanent employment: What can we learn from matching estimators and their sensitivity?”, in *Journal of Applied Econometrics*, Vol. 23, No. 3, pp. 305–327.

Institute for Human Development (IHD). 2014. India Labour and Employment Report 2014 (New Delhi, Academic Foundation and Institute for Human Development).

ILO. 2006. *Freedom of Association – Digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO*, fifth (revised) edition, paragraphs 254, 255, 258, 259, 271.

–. 2007. *Guide to Private Employment Agencies. Regulation, Monitoring and Enforcement* (Geneva, ILO).

–. 2010. *General Survey concerning employment instruments in light of the 2008 Declaration on Social Justice for a Fair Globalization*, Report III (Part 1B), International Labour Conference, 99th Session, Geneva, 2010.

–. 2011. Decent work country profile: Indonesia (Geneva, ILO).

–. 2012. *General Survey on the fundamental Conventions concerning rights at work in light of the ILO Declaration on Social Justice for a Fair Globalization, 2008*, Report III (Part 1B), International Labour Conference, 101st Session, 2012.

–. 2013a. *Towards the ILO centenary: Realities, renewal and tripartite commitment*, Report of the Director-General, Report 1(A), International Labour Conference, 102nd Session, Geneva, 2013.

–. 2013b. Decent work country profile: Bangladesh (Geneva, ILO).

–. 2014. *World Social Protection Report 2014/15: Building economic recovery, inclusive development and social justice* (Geneva, International Labour Office).

Jahn, E.J.; Pozzoli, D. 2013. “The pay gap of temporary agency workers – Does the temp sector experience pay off?”, in *Labour Economics*, Vol. 24, pp. 48–57.

Jahn, E.J.; Rosholm, M. 2014. “Looking beyond the bridge: The effect of temporary agency employment on labor market outcomes”, in *European Economic Review*, Vol. 65, pp. 108–125.

Jimeno, J.F.; Toharia, L. 1996. “Effort, absenteeism, and fixed-term employment contracts”, in *Revista Española de Economía*, Vol. 13, No. 1, pp. 105–119.

Kalleberg, A.L. 2000. “Nonstandard employment relations: Part-time, temporary and contract work”, in *Annual Review of Sociology*, Vol. 26, No. 1, pp. 341–365.

Kalleberg, A.L. et al. 2000. “Bad jobs in America: Standard and nonstandard employment relations and job quality in the United States”, in *American Sociological Review*, Vol. 65, No. 2, pp. 265–278.

–. 2003. “Externalizing employment: Flexible staffing arrangements in US organizations”, in *Social Science Research*, Vol. 32, No. 4, pp. 525–552.

Kleinknecht, A. et al. 2014. “Is flexible labour good for innovation? Evidence from firm-level data”, in *Cambridge Journal of Economics*, Vol. 38, No. 5, pp. 1207–1219.

Ko, J.J.R. 2003. “Contingent and internal employment systems: Substitutes or complements?”, in *Journal of Labor Research*, Vol. 24, No. 3, pp. 473–490.

Kubo, K. 2008. “Japan: The resilience of employment relationships and the changing conditions of work”, in S. Lee, F. Eyraud (eds): *Globalization, flexibilization and working conditions in Asia and the Pacific* (Oxford, Chandos Publishing and Geneva, ILO).

Kvasnicka, M. 2009. “Does temporary help work provide a stepping stone to regular employment?” in D.H. Autor (ed.): *Studies of Labor Market Intermediation* (Chicago, University of Chicago Press), pp. 335–372.

Le Barbachon, T.; Malherbet, F. 2013. *An anatomy of the French labour market. Country case study on labour market segmentation*, Employment Working Paper No. 142 (Geneva, ILO).

Lee, B.-H.; Eun, S.M. 2014. “Labor politics of employment protection legislation for non-regular workers in South Korea” (Seoul, Korea Labor Institute) unpublished.

Lee, B.-H.; Yoo, B.-S. 2008. “The Republic of Korea: From flexibility to segmentation”, in S. Lee, F. Eyraud (eds): *Globalization, flexibilization and working conditions in Asia and the Pacific* (Oxford, Chandos Publishing and Geneva, ILO).

Lee, S.; Eyraud, F. 2008. “Globalization, institutional reforms and workers: Changes and outcomes”, in S. Lee, F. Eyraud (eds): *Globalization, flexibilization and working conditions in Asia and the Pacific* (Oxford, Chandos Publishing and Geneva, ILO).

Lepak, D.P.; Snell, S.A. 2002. “Examining the human resource architecture: The relationships among human capital, employment, and human resource configurations”, in *Journal of Management*, Vol. 28, No. 4, pp. 517–543.

Li, S.; Wan, H. Forthcoming. *Labour market segmentation and the status of workers in China*, (Conditions of Work and Equality Department).

Lisi, D. 2013. “The impact of temporary employment and employment protection on labour productivity: Evidence from an industry-level panel of EU countries”, in *Journal for Labour Market Research*, Vol. 46, No. 2, pp. 119–144.

Luo, T. et al. 2010. “The expanding role of temporary help services from 1990 to 2008”, in *Monthly Labor Review*, pp. 3–16.

Matenga, C. 2009. *The impact of the global financial crisis on the mining sector in Zambia* (Lusaka, ILO).

Maurizio, R. 2014. *Labour formalization and declining inequality in Argentina and Brazil in 2000s: A dynamic approach*, ILO Research Paper No. 9 (Geneva, ILO).

McGinnity, F. et al. 2005. “A Bad Start? Fixed-Term Contracts and the Transition from Education to Work in West Germany”, in *European Sociological Review*, Vol. 21, No. 4, pp. 359–374.

Messenger, J.; Ghosheh, N. (eds). 2013. *Work sharing during the Great Recession: New developments and beyond* (Cheltenham, ILO and Edward Elgar).

Messenger, J.; Ray, N. Forthcoming. “The Deconstruction of Part-Time Work,” in J. Berg (ed.): *Labour Markets, Institutions and Inequality: Building social justice in the 21st century* (Geneva, ILO and Edward Elgar).

Messenger, J.; Wallot, P. Forthcoming. *The diversity of “marginal” part-time employment*. ILO Research Brief (Geneva, ILO).

Muller, A. Forthcoming. Fixed-term contracts: Global overview of labour laws (Geneva, ILO).

Neethi, P. 2008. “Contract work in the organised manufacturing sector: A disaggregated analysis of trends and their implications”, in *The Indian Journal of Labour Economics*, Vol. 51, No. 4, pp. 559–573.

Nesheim, T. et al. 2007. “Externalizing the core: Firms’ use of employment intermediaries in the information and communication technology industries”, in *Human Resource Management*, Vol. 46, No. 2, pp. 247–264.

Nienhueser, W.; Matiaske, W. 2006. “Effects of the ‘principle of non-discrimination’ on temporary agency work: Compensation and working conditions of temporary agency workers in 15 European countries”, in *Industrial Relations Journal*, Vol. 37, No. 1, pp. 64–77.

Neuman, S. 2014. *Job quality in segmented labour markets: The Israeli case*. Conditions of Work and Employment Series (Geneva, ILO).

Nielen, S.; Schiersch, A. 2014. “Temporary agency work and firm competitiveness: Evidence from German manufacturing firms”, in *Industrial Relations*, Vol. 53, No. 3, pp. 365–393.

Nollen, S. 1996. “Negative aspects of temporary employment”, in *Journal of Labor Research*, Vol. 17, No. 4, pp. 567–582.

Nollen., S.; Axel, H. 1996. *Managing contingent workers: How to reap the benefits and reduce the risks* (New York, American Management Association, AMACOM).

O'Sullivan, M.; Turner, T. 2013. *Solving the problem of precarious work? Reregulation in contract cleaning and security in Ireland*, paper presented at the International Working Party on Labour Market Segmentation Conference "Austerity without end? European employment in crisis", Dublin, 12–14 September 2013.

Organisation for Economic Co-operation and Development (OECD). 2002. *OECD Employment Outlook* (Paris, OECD).

–. 2006. *OECD Employment Outlook* (Paris, OECD).

–. 2014. *OECD Employment Outlook* (Paris, OECD).

Papola, T.S. 2013. *Role of labour regulation and reforms in India: Country case study on labour market segmentation*, Employment Working Paper No. 147 (Geneva, ILO).

Pena, X. 2013. *The formal and informal sectors in Colombia: Country case study on labour market segmentation*, Employment Working Paper No. 146 (Geneva, ILO).

Pfeifer, C. 2012. "Fixed-term contracts and wages revisited using linked employer–employee data", in *Zeitschrift für ArbeitsmarktForschung*, Vol. 45, No. 2, pp. 171–183.

Philippine Statistics Authority. 2014a. "2012 Survey of Employment in Establishments with 20 or more workers. Statistics on non-regular workers", in *Labstat Updates*, Vol. 18, No. 12, pp. 1–4.

–. 2014b. "2012 Survey of Employment in Establishments with 20 or more workers. Statistics on agency-hired workers", in *Labstat Updates*, Vol. 18, No. 13, pp. 1–5.

Picchio, M. 2006. *Wage differentials and temporary jobs in Italy*, Discussion Paper, No. 2006-33 (Louvain-la-Neuve, Département des Sciences Économiques de l'Université catholique de Louvain).

–. 2008. "Temporary contracts and transitions to stable jobs in Italy", in *Labour* (Special Issue), Vol. 22, s1, pp. 147–174.

Pradhan, J.P. 2006. "How do trade, foreign investment and technology affect employment patterns in organized Indian manufacturing?", in *The Indian Journal of Labour Economics*, Vol. 49, No. 2, pp. 249–272.

Quinlan, M.; Mayhew C. 2000. "Precarious employment, work re-organisation and the fracturing of OHS management", in K. Frick, P.L. Jensen, M. Quinlan, T. Wilthagen (eds): *Systematic occupational health and safety management: Perspectives on an international development* (Amsterdam, Elsevier/Pergamon), pp. 175–198.

Riedmann, A. et al. 2010. European Company Survey 2009 (Dublin, European Foundation for the Improvement of Living and Working Conditions).

Rubiano, C. 2013. "Precarious work and access to collective bargaining: What are the legal obstacles?", in *International Journal of Labour Research*, Vol. 5, No. 1, pp. 133–151 (Geneva, ILO).

Ruckelshaus, C. et al. 2014. *Who's the Boss: Restoring accountability for labor standards in outsourced work*, National Employment Law Project. Available at: http://www.nelp.org/page/-/Justice/2014/Whos-the-Boss-Restoring-Accountability-Labor-Standards-Outsourced-Work-Report.pdf?nocdn=1 [1 Oct. 2014].

Sack, J. et al. 2011. "Protecting workers in a changing workworld: The growth of precarious employment in Canada, the United States and Mexico", in G. Casale (ed.): *The employment relationship – A comparative overview* (Geneva, ILO), pp. 233–286.

Serrano, M.R. 2014. *Between flexibility and security: The rise of non-standard employment in selected ASEAN countries* (Jakarta, ASEAN Services Employees Trade Unions Council (ASETUC)).

Shyam Sundar, K.R. 2011. *Non-regular workers in India: Social dialogue and organizational and bargaining strategies and practices*, Dialogue Working Paper No. 30 (Geneva, ILO).

Theron, J. 2011. *Non-standard workers, collective bargaining and social dialogue: The case of South Africa*, Dialogue Working Paper No. 28 (Geneva, ILO).

Theodore, N.; Peck, J. 2013. "Selling flexibility: Temporary staffing in a volatile economy", in J. Fudge, K. Strauss (eds): *Temporary Work, Agencies and Unfree Labor* (New York, NY, Routledge), pp. 26–47.

van Bastelaer, A. et al. 1997. "The definition of part-time work for the purpose of international comparisons", OECD Labour Market and Social Policy Occasional Papers, No. 22 (Paris, OECD Publishing).

Vega-Ruíz, M.L. 2014. *Building OSH for nonstandard workers: General review*, unpublished.

Visser, J. 2002. "The first part-time economy in the world: A model to be followed?", in *Journal of European Social Policy*, Vol. 12, No. 1, pp. 23–42.

von Hippel, C. et al. 1997. "Temporary employment: Can organizations and employees both win?", in *Academy of Management Executive*, Vol. 11, No. 1, pp. 93–104.

Wambugu, A.; Kabubo-Mariara, J. 2012. *Labour market institutions and earnings distribution in Kenya*, Working Paper (Nairobi, University of Nairobi School of Economics).

Weil, D. 2014. *The fissured workplace: Why work became so bad for so many and what can be done to improve it* (Cambridge, Harvard University Press).

World Bank. 2011. World Bank's Enterprise Survey. Understanding the questionnaire. Available at: www.enterprisesurveys.org [1 July 2014].