

# Policy Measures to Address Polarisation of the Labour Market: Lessons to Korea from Germany and Europe<sup>1</sup>

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## 1. The macro-economic background

There is an ongoing debate about the so-called German job miracle.<sup>3</sup> Some people claim that both the remarkable increase in jobs and the visible decline in unemployment are the result of the labour market reforms under *Agenda 2010* of Chancellor *Gerhard Schröder*. Others maintain that the favourable situation has nothing to do with these reforms; on the contrary. They argue that the increase of employment in the upswing 2005 to 2007 was weaker than in earlier upswings, and they see the recent increase in employment (2010-2011) only based on atypical jobs (part-time, temporary and own-account work) and the decreasing unemployment rate only as result of reduced labour supply due to the ageing population.

In this paper I argue that the German employment success was mainly the result of favourable macro-economic conditions, in particular high competitiveness in international trade (export) based on high and diversified quality production in manufacturing (e.g., automobiles, machine tools, chemistry, medical, and energy technologies) and low unit wage costs. But some positive impact of fundamental labour market reforms has also to be acknowledged: the flexibilisation of employment relationships, the modernization of employment services, and in particular the paradigmatic policy change from job security to labour market security. This move, however, is not yet completed. Considerable further steps have to follow in order to cope with the increasing polarisation of the labour market reflected in rising wage inequalities, increasing in-work poverty, precarious jobs and high long-term unemployment. So, the German case may provide lessons derived from both: its strengths and remaining weaknesses.

In South Korea (hereafter Korea), critical views also hint to an increasing tendency of polarisation of the labour market reflected – may be even more than

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<sup>3</sup> On March 13, 2010, *The Economist* featured the “German miracle” even by the headline „Older and Wiser“, pp. 3-18.

in Germany – in high wage inequality (particularly between core workers and workers in temporary or other casual jobs), polarisation in education and skills, and a wide gap of employment opportunities between men and women.

To shed some more light on the macro-economic context of this issue, I start with an empirical exercise on the aggregate level of the two economies by splitting the change in *economic welfare* into its four main components: GDP per capita as economic welfare indicator can be decomposed into (1) productivity per hour worked (*efficiency* indicator), (2) hours worked per employed person (*work-sharing* indicator), (3) employment rate per working age population (*inclusion* indicator), and working age population related to total population (*demography* indicator). This simple mathematical identity equation (Annex I, Tables 1a, 1b) allows us to compare the *driving factors* of economic welfare in the two countries between 1998 and 2011, and the two periods 1998-2007 and 2007-2011, i.e. before and after the great fiscal and economic crisis.

As expected, the *Korean economic welfare* is growing much faster than the German one, albeit from a substantial lower level (Annex I, Tables 2a, 2b). This dynamics, however, slowed down since the great fiscal and economic crisis and has not yet fully recovered. As reflected in the components, the increase of Korean GDP/Capita was mainly driven by improved productivity, even in the latest period (2007-2011). For the *German economic welfare*, the same holds true (albeit with less dynamic), but in the recent period the productivity dynamic broke down and has not yet resumed its former level. Working time reduction (which we take as indicator for work sharing or work-life balance) kept its strong dynamic in Germany and, coming as a surprise, even accelerated in Korea. Another big difference in the recent period, however, is the speeding up of the positive employment dynamics in Germany in contrast to Korea where it completely broke down. The positive welfare dynamics in Korea would have been even smaller if it were not for the still favourable demographic trend: an increase in the working age population in contrast to the further decrease in Germany.

In order to make this assessment firmer, we throw a look at the components of hours worked per capita (H/P) by utilising again a simple identity equation (Annex I, Tables 3a, 3b). In 1998, Koreans worked on average 1,074 hours per capita, 377 hours more than the Germans (697 hours). In 2011, this difference became smaller ( $1,018 - 708 = 310$  hours) because Koreans reduced their working time substantially in the most recent period, whereas the Germans even increased their working time slightly. This yearly average number of hours worked per capita can again be seen as the product of four components: the hours worked per employed person (which may be taken as an indicator for *work preference*), the number of employed person as a fraction of the total active labour force (indicating the *utilisation of the active labour force*, maximum 100 percent), the number of persons engaged in the labour market as a fraction of the working age population in age 15 to 64 (indicating *labour force participation*), and finally the

*demographic structure*, which means the share of working age population as percent of total population. From this equation follows, that the dynamics of hours worked per capita can be described as the sum of the natural logarithms of the these components (Annex I, Tables 4a, 4b).

The respective composition analysis shows that *Korea's* decline of hours worked per capita was only driven by the reduction of working time per worker over the whole period (1998-2011), however counteracted to some extent by improved labour force utilisation (lowering unemployment), increased labour force participation and marginally by the structural change of the population. Apart from the still positive demographic factor, these counteracting forces completely disappeared in the most recent period (2007-2011), whereas the trend of reduced working time per workers was even enforced.

Apart from the lower dynamics, the *German* case is different. In contrast to Korea, hours worked per capita increased in Germany in spite of the continuous reduction of working time per employed over the whole period! Reasons for this positive balance are the greater inclusion of the working age population (i.e., labour force participation, in fact exclusively of women!) and (especially in the latest period 2007-2011) the improved utilisation of the active labour force through a substantive reduction of unemployment.

To sum up: The German economy seems to be faced with a trade-off between labour market inclusion and efficiency, whereas Korea's high efficiency seems to go along with labour market exclusion. The German labour market polarisation – to which we shall come in the next section – seems to be mainly characterised by an inclusionary polarisation (polarisation within the active labour force), and the Korean labour market polarisation seems to be mainly characterised by an insider-outsider cleavage, which means by those who participate in the formal economy and those who do not. There are certainly overlaps, but these different contextual conditions should be kept in mind when drawing lessons from the German case.

In the following, I shall start with the main characteristics and causes of the German labour market polarisation, if suitable and possible compared to other European countries and Korea (2); I will then – in the main chapter – review German policy measures related to the social safety net for working poor, transitions to more decent (regular) jobs, and labour regulations concerning regular and non-regular employment, sometimes extended by experiences (or good practices) from European neighbour states (3); the final step consists of a summary and of some tentative lessons from German or European experiences for Korea (4).

## 2. Polarisation of the German labour market

Poverty<sup>4</sup> in work or poverty despite having a job may have several reasons: low wages, low working time (in particular short part-time work or ‘Minijobs’), low skills, high needs related to family (children and other dependent persons), chronic health problems or disability, high taxes or little support by public transfers. Involuntary unemployment, of course, is another important reason for poverty, in particular if the coverage of unemployment insurance (size and duration of income replacement) is very limited.

Compared to other European member states, Germany’s performance in terms of work-related poverty is mediocre: 6.9 percent of workers (6.1 percent men, 7.7 percent women) had a disposable income less than 60 percent of median income at the end of the day (Annex I, Figure 1). The figures for Germany show a rising tendency, caused to some (and increasing) extent by the rising low-wage sector: 10.4 percent of low-wage earners were poor in 1997, 17.7 percent in 2008 (Lohman and Andreß 2011, 185).<sup>5</sup>

A further reason for polarisation is an increasing gap between low and high educated people. Despite an overall increase in the education level at secondary and tertiary level, a substantial part of the German labour force (about 15 percent) is still without secondary or vocational training (OECD 2011, 48). Little or no progress has been made to reduce school dropouts and the number of low-skilled among young adults, in particular among young adults from a migration background. Apart from the fact that the low-skilled are not well integrated into the labour market (Annex I, Figure 2), the chance of being and remaining in the low-wage sector is very high. Furthermore, low-skilled people face high risk of unemployment, in particular in Germany (Annex I, Figures 3 and 4).

Other important causes of polarisation often leading to leading to poverty in work have to be seen in rising forms of *non-standard employment*, especially in form of short-hours part-time, i.e. Minijobs and Midijobs.<sup>6</sup> Germany is one of the EU member states where non-standard employment is not only high but also strongly increasing (Annex I, Figure 5). In addition, non-standard employment forms are closely linked to low wages. Whereas, overall, about 20 percent of the employed work in low-wage jobs, women are clearly overrepresented (27.2 against 14.3 percent of men). In regular full-time jobs, only 11.7 percent are low-wage earners, against 19.5 in regular part-time jobs; however, 81.2 percent of Minijob-workers

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<sup>4</sup> I will always talk of relative (not of absolute) poverty, i.e., people having to live on an income less than 60 percent of the median income in the respective country, weighted by the equivalence scales that are standard in the OECD countries.

<sup>5</sup> Regarding the comparative development of the low-wage sector, see also Annex II, Table 5, of my first report about the reform of the working hour scheme (Schmid 2012b).

<sup>6</sup> For further information on Minijobs and Midijobs see section 3.6.

(the majority of them women) receive low wages, and many temporary workers, in particular temp-agency workers are low-wage earners (for more details see Annex I, Table 6). Many of these jobs are not covered by social security or will provide only marginal security especially in old age. Transitions to regular jobs (full-time jobs with open-ended contracts) are low, and unemployment risks are high, in particular among temp-agency workers.<sup>7</sup>

### 3. Policy measures against polarisation

Leaving apart the most evident policy measure to reduce the risk of poverty, namely good education and training *for all* young people, the first policy priority should be higher inclusion of high risk people into the labour market, in other words, providing them with more and better job opportunities. Job creation, however, is mainly the task of economic policy: private and public investment, monetary and wage policy, and a proper regulatory framework for investment and innovation. *Labour market policy*, to which I shall restrict the considerations here, *can only assist sustainable job creation*. However, since new job creation is increasingly related to precarious non-standard employment, due consideration is given to policies enhancing legal and social protection of unconventional forms of employment.

#### 3.1 Inclusion of high risk people into the labour market

Evidence from aggregate European research already indicates that policies directed to the inclusion of low-skilled people make sense: the higher their employment rate, the lower their relative in-work poverty (Annex I, Figure 5). Necessary in addition, however, are policy measures to enhance the transition from low-wage jobs to middle or high wage jobs, in particular through training and education. Research at the individual level shows that low-wage jobs may serve as a bridge to labour market participation. Furthermore, even when these chances are low, it is important to consider the positive impact on keeping people attached to the labour market. This labour market glue effect helps to mitigate discouragement effects, which sooner or later cause definite withdrawal from the labour market into the permanent status of inactivity and respective transfer dependency ending eventually in permanent instead of *transitory poverty* (see Annex 1, Table 7, as evidence for German women).

The general lesson to be drawn from this experience is evident: Policy strategies of *work first* make sense, however with an important caveat. Addressed to labour market services the conclusion must be: “*Work first plus Training*”. Work first is a meaningful orientation; especially addressed to low skilled for whom training on

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<sup>7</sup> Unfortunately, however, even in Germany the statistics on the transition dynamics is underdeveloped.

the job is more effective than training off the job. Efficiency oriented employment services, however, have to care not only for a quick placement but also for sustainable placements that enhance people's productivity potential and thereby their labour market security.

### 3.2 Establishing encompassing income maintenance schemes

Income maintenance schemes are of high importance to reduce poverty in case of involuntary unemployment or *transitory inactivity*. German workers are still relatively well covered by one of the two existing schemes if they become unemployed: unemployment benefits (ALG I), and basic income security (ALG II). In total, nearly 90 percent of unemployed receive one of these two income supports (Annex I, Table 8). Although the reforms related to *Agenda 2010* reduced the duration of *unemployment benefits* (later on extended again a bit for elderly unemployed), the size of ALG I remained at 67 percent of the former net income for unemployed with children, and 60 percent for the others. However, the entitlement conditions got more restricted so that in the meantime only a quarter of unemployed receive insurance benefits (ALG I according to SGB III); almost two third (with an increasing tendency) receive only means tested basic income security (*ALG II* or *Grundsicherung* according to SGB II), which consists of a universal lump-sum for everybody entitled to this benefit plus possibly additional transfers related to the needs of the 'needy community' (*Bedarfsgemeinschaft*)<sup>8</sup>, e.g., housing allowances and basic income security for dependents.<sup>9</sup>

On one hand, the gist of the Agenda 2010 reform was to abolish status related income maintenance for the unemployed whose insurance related benefits were exhausted (the former *Arbeitslosenhilfe*); on other hand, the reform intended to include all employable people<sup>10</sup> into the system of work-related income security plus respective measures of active labour market policies.<sup>11</sup> The impact of this paradigmatic social policy change was an extension of people entitled to work-related basic income security (*Grundsicherung*) which is reflected in the numbers

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<sup>8</sup> The *Bedarfsgemeinschaft* is, according to the Social Law Book Two (*SGB II*), the smallest social unit of solidarity covering all people who live in partnership or as singles and of whom the state expects mutual solidarity or self-help (principle of subsidiarity). The state assumes only responsibility if these partners or individuals are not able assisting each other or helping themselves to live a life according to the constitutionally guaranteed existence minimum.

<sup>9</sup> In 2012, the monthly transfers for an unemployed family with two children passing the means-test were the following: €374 basic allowance, + €37 for the unemployed spouse/partner, + €219 for the child <6, + €251 for child ≥6; in total €1,181 plus possibly housing and heating allowances. For information: In 2012, average gross monthly wages were €2,413; for full-time employed €3,385. Taking into account that low income earners have to pay roughly 40 percent of gross wages for social security contributions and perhaps some income taxes, the respective net-amounts are €1,448 and €2,031.

<sup>10</sup> This is all people in age 15 to 64 who are able to work at least 3 hours a day.

<sup>11</sup> Non-employable people in working age receive *Sozialgeld* (social allowance), or *Sozialhilfe* (social assistance), or some kind of disability pension.

as well as in the structure of people receiving this benefit.<sup>12</sup> In 2011, 4,615,000 people received ALG II, of which 43 percent were actually unemployed. There are various reasons for the other 57 percent employable people not being unemployed but receiving *Grundsicherung: transitory incapacity of work* (584,000), *transitory unavailability for work* due to education, training, care or other social obligations (636,000), participating in labour market policy measures (512,000), being in pre-pension measures (258,000), and working more than 15 hours but not earning enough (633,000).<sup>13</sup>

What lessons can be drawn from the German case of income maintenance? First, the German *unemployment insurance* remained basically intact for one main reason: In the meantime, even mainstream economists acknowledge that short-term generous income replacements in case of involuntary unemployment should not be considered as costly or even wasteful transfers to allegedly idle people but as investment into *productive job search* (for workers), as investment into *innovative restructuring* (for employers), and last but not least as investment into *in-built economic stabilizers* (for the whole economy).<sup>14</sup> However, the recent restrictions for eligibility went too far (e.g. the reduction of the entitlement period from three to two years). From the TLM point of view the insurance principle should even be strengthened in favour of including labour market risks beyond unemployment, in particular the risk of deteriorating income capacity through outdated skills, reduced health and care obligations.<sup>15</sup>

Second, since its introduction in 2005 the German basic income security scheme (*Grundsicherung* or its synonyms *Arbeitslosengeld II* and *Hartz IV*) was always and still is hotly contested. But more and more people acknowledge that the paradigm shift from job security and (in case of long-term unemployment) income status security (for insiders) towards labour market security and (in case of long-term unemployment or transitory inactivity) basic income security (for all employable people) was right and contributed both to a better functioning of the labour market and to more social justice. However, policy reforms in this direction have to be aware of at least three challenges: The first challenge is to find a balance between decent levels of basic income guarantees and possible

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<sup>12</sup> Popularly (and usually with a very critical connotation) known as *Hartz IV*, according to Peter Hartz (former personnel chief manager of VW), the head of the *Commission Modernisation of Labour Market Services*, which prepared in 2002 the labour market reforms of Chancellor Schroeder's Agenda 2010; the author of this paper was a member of this commission.

<sup>13</sup> For an extensive report about the basic income maintenance scheme see Bundesagentur für Arbeit (2012).

<sup>14</sup> It is probably not an accident that the Nobel Prize for economics in 2010 was awarded to Peter Diamond, Dale Mortensen and Christopher Pissarides who stressed the investment function of job search and the rationality of taking over some of these search costs by Public Employment Services (PES). See, among others, Pissarides (2000).

<sup>15</sup> For a recent concise summary of my argument for extending unemployment insurance to a system of employment insurance see Schmid (2012c).

negative incentives to work;<sup>16</sup> the second is to take care for fair *and* transparent procedures in means-testing and for moderate sanctioning of people who reject job offers; the third – and in my view the most important – is to effectuate policies to (re-)integrate people into the labour market by making work and transitions pay, as well as by making the market fit for workers. It is this third challenge to which the next section intends to make a contribution.

### 3.3 *Making work and transitions pay through active labour market policies*

As already mentioned, in 2011 over half a million of people receiving *Grundsicherung* (the German basic income security scheme) was in the transitory stage of active labour market policies and therefore not counted as unemployed. Another two third million of people in such measures should be added who otherwise would have been unemployed on the ALG I payroll, altogether 1.23 million. Due to the overall good employment performance in 2010, but especially due to rising public debts (fiscal crisis), the government decided to drastically cut expenditure for labour market policy. The change in the figures from 2010 to 2011 reflects the impact of this decision (Annex I, Table 9): Participation went down by 21 percent, and the cuts were even targeted on measures that proved quite effective and an investment for the long-run (see below).

The bulk of German labour market measures goes to *vocational education* helping disadvantaged young people to successfully make the transition from school to work, which is an important contribution for the relatively low German youth unemployment rate. Many experts argue that the increasing transition system between school and work raises doubts about the quality of primary or secondary schools.<sup>17</sup> They maintain that it would be more effective to tackle this problem directly in schools instead of putting young adults into such measures that (allegedly) leave a lot to desire. Yet considering the fact that the transition from school to work becomes more and more complicated, an increasing transition buffer between the education and labour market system seems to be inevitable in a modern society. The question is how to make this transition system between school and work as effective as possible, for instance by extending job related vocational training, modularisation of vocational schedules, individual case management for the disadvantaged and very hard to place people.

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<sup>16</sup> Right now, the main political debate is about the level of *Grundsicherung (Arbeitslosengeld II)*, which some political parties currently in opposition wish and promise to increase (the Greens from €374 to €420, the Left even up to €500). The present conservative-liberal government and core employment policy managers, however, warn of the high costs and of negative employment effects. See also footnote 6 for the empirical background.

<sup>17</sup> The main critic is the negative selection effect for children coming from a disadvantage background (poor and/or migrant families), and employers complain in particular the low basic knowledge of many school leavers or drop-outs, to some extent also documented in the PISA results.

The second most important policy measure in Germany is temporary *public job creation*. However, the character of these measures changed from regular temporary jobs (*Arbeitsbeschaffungsmaßnahmen*) to work experiences (*Arbeitsgelegenheiten*) with little financial incentive (*Ein-Euro-Jobs*). Since both measures received negative scores in evaluation studies (especially related to young people), the level of these measures has been drastically cut during the last year, and temporary public job creation will probably play a minor role in the near future.

The most successful policy according to recent evaluation studies is direct *employment support*, in particular through targeted *wage-cost subsidies* for the unemployed to overcome the transitory gap between wages and individual productivity, and *start-up allowances* (*Gründungszuschuss*) helping unemployed to start their own business. Evaluation acknowledges up to 40 percent higher probability of employment for unemployed supported by wage-cost subsidies, and of the unemployed transiting into self-employed about 80 percent were still self-employed after 2.5 years, and another 10 percent were back in dependent wage work. Most of these self-employed had a sustainable income (albeit with tremendous differences between low and high income), and many of these self-employed created additional jobs for others.

Recent evaluations studies, and in particular an international meta-study found that *training measures* for unemployed also had at least in the long-run positive impacts on employment chances. Retraining into other occupations or (for low skilled) to attain the first occupational degree was in particular successful. But these measures are costly, need careful preparation and a long breath for all actors involved: three reasons, probably, why these measures currently play in practice only a minor role.<sup>18</sup> So, the recent drastic cuts in expenditure for active labour market policies in Germany seem not to be justified, in particular not for training and start-up support.

All these measures follow the line of *making the workers fit for the market* (employable). However, the TLM and capability approach also emphasise the reverse need of *making the market fit for the workers*, in particular for the working age population with restricted or reduced work capacities.<sup>19</sup> This aspect

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<sup>18</sup> For Germany see the summary report by Heyer et al. (2012); for start-up, e.g., Caliendo et al. (2012); and for the meta-study mentioned Card et al. (2009). The latter found, for instance, that in short-term (impact after one year), 38% of the coefficients are significantly positive, 28% negative; measures of medium-term effects (impact after two years) are to 50% positive, 10% negative; the relationship for long-term effects is even more favourable, yet not significant due to the limited number of studies. For a useful compendium on the impact of minimum income benefits and activation measures in OECD-countries see Immervoll (2009).

<sup>19</sup> For a theoretical underlining see the concept of *capacity building* from a labour law point of view: Rather than requiring the individual to be 'adaptable' to changing market conditions, the standard employment contract should also require (from employers) that employment practices be adapted to the circumstances of the individual (Deakin and Supiot 2009, 28). Such duties can be

of active labour market policy, however, is currently not well developed in Germany. This observation refers in particular to measures for reasonable adjustment of workplace for which Denmark, Sweden and Finland are recommended as model countries.<sup>20</sup>

The unemployment figure for *severely disabled* in Germany has reached the shameful level of 15 percent in contrast to the average of 6.5 percent at the end of 2012. This is in remarkable contrast to the legal framework which in the meantime provides a whole package of possible measures for a more active stance. The recent modification of the German law for severely disabled people stipulates the right of disabled against their employer to

- an employment which enables them to utilise and to develop further their abilities and knowledge,
- the right to privileged access to firm-specific training,
- the right to facilitation the participation in external training,
- the right to disability-conform work environment, and
- the right to equipping the work place with required technical facilities.

It is evident, that these kinds of adjustments duties require support through procedural rules, for instance negotiation through collective agreements, social pacts or covenants between firms and other key actors at the local or regional labour market (Korver and Schmid 2012). At the firm level, the case of workplace accommodation for severely disabled is possibly a model since the new rules provide clear procedures to be taken in order to ensure the maintenance of the employment relationship through, e.g., the involvement of rehabilitation experts, “integration management” and “integration agreements”.<sup>21</sup> Yet, for the time being, we still have to wait for remarkable results towards greater labour market security for people with reduced work capacities.

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derived (in contrast to all utility related approaches of justice) from the principle of *justice as agency*, called “responsibility of effective power” by Amartya Sen. Sen also draws the attention to the fact that for people with disabilities, the *impairment of income-earning capacity* is often severely aggravated by a *conversion handicap*. He cites a study for the UK showing that poverty drastically jumps by 20 percentage points for families with a disabled member if taking account for conversion handicaps, whereby a quarter can be attributed to income handicap and three quarters to conversion handicap, the central issue that distinguishes the capability perspective from the perspective of market incomes and resources (Sen 2009, 258-60, and 270 ff). For employment policy considerations inspired by this approach see Rogowski et al. (2012).

<sup>20</sup> For Denmark (in particular for the concept of “flexi-jobs” to integrate disabled [mostly elderly] persons into the labour market, see Madsen 2007; for Sweden Wadensjö (2006); for Finland (and particularly related to mature aged workers) OECD (2004).

<sup>21</sup> Social Law Book Nine (*SGB IX*), § 81 (4) and §§ 83, 84.

### 3.4 *Taming non-standard forms of employment: The case of temporary work, in particular temp-agency work*

Non-standard forms of employment are known in different forms: part-time work, fixed-term contracts, temp-agency work, casual work or Minijobs, contract work and own-account work. The case of *part-time work* – including policy recommendations – was already subject of my first report (Schmid 2012b).

*Temporary work* or *fixed-term contracts* play an important role in Germany: about eight percent of the working-age population is in temporary contracts, a figure much below, e.g., Spain (about 16 percent), but much higher than in most of the new member states in Europe (Annex I, Figure 7). The huge country differences in this figure hint to an important contextual background: On one hand, temporary contracts correlate strongly with employment protection (substituting a certain lack of flexibility); on other hand, temporary contracts seem to reflect new needs of modern labour markets characterised by extended networks and long service chains. The majority are youngsters and young adults<sup>22</sup> who transit sooner or later into regular open-ended jobs. After some re-regulation (e.g., limiting fix-term contracts in chains), the dynamics of German temporary work is stagnating. Right now, there are no major problems with this contract-form because the new regulatory framework is accepted among the main labour market policy actors (see Annex II, Sketch 2). Of course, some critical issues remain, but they are much the same as in temp-agency work to which I now turn.<sup>23</sup>

*Temp-agency work* is a hybrid works-contract between three parties: The temp-agency firm, the employer, and the employee. To understand the German system it is important to know that, in contrast to Britain and France, temp-agency firms act as regular employers (with corresponding responsibilities) lending their employees for some time to a borrowing employer.<sup>24</sup> This means that temp-agency workers have regular (and even often open-ended) works contracts, whereas most British or French temp-agency firms act just as intermediaries without any function (and responsibility) as employers. Temp-agency work was successively deregulated, with the height during the Agenda 2010 reforms, reaching a number up to one million (about two percent of total employment). Employment in this contractual form is cyclically highly sensitive.<sup>25</sup> Due to some spectacular misuses, a political phase of re-regulation started recently which also

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<sup>22</sup> About 40 percent of all temporary workers are in the age 15 to 25.

<sup>23</sup> The main critic is: a substantial number of workers get stuck in temporary work with corresponding higher risks of low wages, high unemployment, low promotion opportunities and interrupted employment careers. For more details see Schmid (2010) and Schmid (2011a).

<sup>24</sup> Therefore also called „*Leiharbeitnehmer*“, which is the preferred word of trade unions or employment agencies when they talk about this contract form. Very informative overviews about German temp-agency work are given by Spermann (2011) and Vanselow/ Weinkopf (2009).

<sup>25</sup> It is for experts one of the best indicators announcing economic upswings and downturns.

may be the reason why the average size of temp-agency work seems now to stagnate.

For *employers*, temp-agency work offers many chances: *numerical flexibility*, which means coping with large switches of incoming orders (e.g., seasonal fluctuations); *functional flexibility*, i.e. buying specific competences instead of producing oneself; and *quality ensurance* of workers, i.e. controlling the competences of new employees. Because temp-agency firms provide these functions usually at low costs (i.e. wages), this contractual form inherits also a substantial *risk*, which I call the *cost-temptation risk*. The temptation consists in substituting high-quality (and high-price) competitiveness by low-cost competitiveness which may not be sustainable in the long-run or only at a low-skill equilibrium. Recent evaluations provide robust evidence that firms using excessively fixed-term contracts and, in particular, temp-agency work perform less well in terms of innovation and productivity than firms using this contractual form more carefully and moderately.<sup>26</sup>

For *temp-agency firms*, human resources management for other employers is increasingly a profitable market niche. The more the labour market works like a *network economy*, the more firms are interested in out-placing personnel management, in particular in areas where *time limited projects* determine work organisation. High quality temp-agency services are a challenging task because complicated risk pooling and excellent market knowledge are required. In the low-skill labour market segment, however, many agents – often in cooperation with employers – tend to exploit the weak situation of workers by firing and rehiring through temp-agency firms at lower wages.

The infamous example for such an employer is the German retail-trade company-chain *Schlecker*, who closed many small shops and rehired the workers through the dubious temp-agency firm *Meniar* paying its workers wages 30 percent lower than before and providing less or lower fringe benefits like holidays and Christmas payments on the basis of an even more dubious collective agreement with the so called *Christian Trade Unions*.<sup>27</sup>

What teaches this case? At least so much: In the meantime, *Schlecker* had to eliminate this practice due to heavy public protest, including top officials of the government. In fact, this huge company-chain recently even went bankrupt and manifestly demonstrating thereby that unfair price competition is not sustainable

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<sup>26</sup> See, among others, Zhou et al.(2010).

<sup>27</sup> When the government deregulated temp-agency work in the course of *Agenda 2010* reforms in 2002/03, it did not expect that the competition between trade union representatives in the temp-agency sector would develop into a harsh power battle between unions under the umbrella of DGB (*Deutscher Gewerkschaftsbund*) and unions under the umbrella of CGZP (*Christliche Gewerkschaften Zeitarbeit und PersonalServiceAgenturen*); the fragmented organisation of employers also enhanced this power struggle (Vitols 2008).

in the long-run. The company had dishonestly exploited existing or newly created loopholes in the law. The main loophole (in principle still valid) consists in the provision of temp-agency regulation that collective agreements can deviate from the equal treatment principle, based on the implicit assumption that social partners negotiate on equal terms. This assumption has been successfully contested by VER.DI, the second largest DGB-trade union covering especially public services, by suing CGZP due to its limited representation of workers. Furthermore, the German government now (2012) ruled out by law the possibility of such ‘revolving door’ practices. Another lesson is the experience that temp-agency firms face the risk of cooperation failure when they are unable to develop good networks with regional key actors (companies, development agencies, training institutions and public employment agencies).

For *employees*, temp-agency work offers the opportunity to collect work experiences and to develop social networks which are, according to all job search literature, extremely helpful to find regular jobs. This holds especially true for young people without such experience and with difficulties to shape their own work or job preferences. In particular in the Netherlands and Belgium, many students earn some income during their education in temporary jobs organised by temp-agencies. Among adult professionals, however, one finds more and more “job-nomads” who even don’t like a “regular” job and prefer occasional jobs that are highly paid due their unique professional speciality. For example, in Berlin a temp-agency has been founded for anaesthetic doctors who temporarily work at any place in Germany where such specialists are just needed or have to be replaced temporarily due to illness, vacations, parental or care leave. In as far as temp-agency work fulfils this matching function for a limited period of time, it probably supports a higher labour force participation, reflected for instance (although, of course, no valid causal proof) in a positive correlation of labour force participation and temp-agency penetration rate (Annex I, Figure 8).

Finally, temp-agencies can provide *stepping-stones* or *bridges* for unemployed to find a new and – in the long-run – perhaps a regular job. In Germany, about 60 percent of people taking up a temp-agency job have been unemployed or inactive before. Two recent evaluations with sophisticated methodology (control group design) found small but significant effects. First, 17 percent more of long-term unemployed were after two years back in regular work than long-term unemployed not using temp-agency jobs. Second, and not less important, 35 percent were back or still in temp-agency work which indicates at least a positive ‘labour market glue effect’, i.e., staying still in the labour market instead of being unemployed or eventually in permanent inactivity (Lehmer and Ziegler 2010). This “glue effect” is confirmed in another study, which in addition observed that unemployed utilising the ‘spring-board’ of temp-agencies found more full-time regular jobs in the long-run than their counterparts (Baumgarten et al. 2012).

Yet despite these glimmers of hope, one has to be aware that the overall picture of temp-agency work<sup>28</sup> is still gloomy, at least in part.

First, the *low-pay risk* is high: Two third of temp-agency jobs are in low-wages (Annex I, Table 6); five to 12 percent receive in-work benefits (*Aufstocker*) in order to insure the existence minimum of income guaranteed by the German constitution.

Second, '*equal pay*' is often de facto violated, last but not least through collective agreements. However, taking into account the different characteristics of people in temp-agency work compared to those in regular work, the wage-gap reduces to 15 to 20 percent (Jahn 2010).

Third, *job instability* is high: Temporary contracts are three times higher compared to non-temp-agency workers, and the average duration of contracts is only 3.5 months.

Fourth, *employment security* is low: In 2006, only 10 percent were permanently employed over the whole year (albeit, may be, with different employers). Cyclical sensitivity is extremely high. In July 2008 (the height of the boom), there were 823,000 temp-jobs; that number shrank to 526,000 in the middle of the recession in 2009 (i.e. by one third!); and rocketed again in the height of 2011 to about 1,000,000. Furthermore, the transition dynamics from temp-jobs to regular jobs is poor. The TWA industry often cites 30 percent of TWA workers being offered a permanent full-time job by the client firm, other studies based on surveys find a number between seven and 14 percent.

Fifth, correspondingly, *social security* is low. The risk of unemployment is much higher than for regular workers, and temp-workers are often not entitled to regular income replacement due to interrupted work careers.<sup>29</sup> Many workers being a long time in temp-jobs accumulate only small entitlements to pension so that they might have to live in poverty in old age. Many other disadvantages compared to regular workers have to be regarded, e.g., higher risks of work related accidents or illness, family destruction, smaller fringe benefits (holidays etc.) and lower promotion opportunities.

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<sup>28</sup> Apart from the still overall bad image of TAW in Germany, in contrast for instance to the Netherlands or Belgium. The (often over-)critical press in Germany even talks of "900,000 slave workers".

<sup>29</sup> To receive (insurance related) unemployment benefits, workers have to show a record of at least 12 months regular employment within a period of two years; temporary workers profited up until recently of short waiting period of six months.

What lessons should be drawn from this down-to-earth picture? The German government already reacted to some extent in order to mitigate the high risks related to temp-agency work.

First of all, a basic *minimum wage per hour* for the temp-agency branch was ruled only recently in 2012, under which no collective agreement shall fall: €7.50 in East-Germany, and €8.19 in West-Germany. This will certainly improve the income situation for many temp-workers earning low wages. From the TLM point of view, it would make sense to mitigate the tax and social security load on low-wage income by, e.g., progressive social security contributions or earned income tax credits. The high social security contributions are the reason why in Germany net income from wages over €800 are about 40 percent lower than the wage costs for employers. If, in addition, this income is taxed by 14 percent (beginning rate), the tax-wage-gap widens up to 50 percent. This gap could be narrowed, for example, through a higher amount of wage income free of contributions (or even a negative income tax), compensated either by progressive social security contributions and/or through a shift of financing social security from contributions to taxes on income, capital, assets, and consumption (like in *Denmark*). The theoretical arguments for such a change are: first, they compensate on the supply side the low productivity potential of low-wage earners; second, they consider on the demand side the low potential of productivity increase in personnel services (e.g. education, care). Such a change would enhance the TLM idea of employment insurance.

Second, the *equal treatment principle* should be maintained, but it should allow social partners to handle this principle in a flexible way according to the needs of firms or branches, in particular related to *equal pay*. The *European Directive on Temporary Agency Work* from 2008 (Annex II, sketch 1) has set a corresponding legal framework which is gradually implemented by all EU member states. In the process of this application, the German social partners (after long conflicting talks and under a certain pressure from the government) recently came up with two paradigmatic collective agreements in the metal and chemical industries. These agreements still allow paying temp-workers lower wages than for comparable workers but provide for surcharges up to 50 percent of starting wages according to the length of contracts (for an example see Annex I, Table 10). These wages, however, shall not surpass 90 percent of the wages for comparable workers.<sup>30</sup>

Third, it seems plausible, at first glance, that one way of coping with higher risks of this employment relationship is to require *risks surcharges* on wages or social security contributions. *France* has introduced such risks premiums: 10 percent

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<sup>30</sup> It is doubtful, in my view, whether this clause is in the spirit of the European Directive (see underlines and italics in Annex II, sketch 1). Such a clause only makes sense in combination with regulations that foresee the transition to regular contracts after a certain length of contracts, e.g. 18 months (like in the Netherlands).

surcharge on wages, only *not to be paid* if the user firm hires this person afterwards on a regular job; in addition, temp-agency firms have to contribute 2.15 percent of wages to a training funds targeted to temp-workers. However, little knowledge about the impact of such rules is available. From the TLM point of view, the preferable solution would be to establish risk surcharges conditional on ‘active’ use, e.g. for improving the employability of temp-workers, especially by training and education during times when they are not working for user firms. Such contributions are familiar in the *Netherlands*, in particular in form of collective agreements. Limitations in synchronising temp-work contracts<sup>31</sup> (to circumvent, for instance, wage or risk surcharges) and transparent tenure rules (for instance rules providing opportunities for transiting into regular jobs) would also improve job security for temp-workers.<sup>32</sup>

Fourth, *employment security* will already be improved in as far as the principles of equal treatment (see above), in particular related to payment and reasonable job security are realised. However, much more could be done in particular by measures to improve employability through training and education. This is easily said but difficult to implement because such measures require cooperation of many actors at local, regional or branch level. Regional employment pacts or covenants would be a way to overcome the many hurdles, collective agreements another.<sup>33</sup>

Fifth, *social security* will also improve if the above conditions hold in reality. From the TLM point of view, it would be reasonable in addition to adjust the regulation of unemployment insurance to the new reality of flexible jobs like temp-workers, for example by reducing the waiting period required for the entitlement of unemployment benefits. Currently, the minimum period is one year of regular employment within the last two years. There was an exemption taking account for flexible jobs, allowing six months through accumulating short-term jobs (*Kurze Anwartschaft*), which however has recently been abolished.

Finally, a *universal basic income security scheme* in old age, independent of the work-life-course, would help much to improve social security in old age. Netherlands, Denmark and Sweden provide for such a universal system (*Volksrente*) based on citizenship and not on labour market status. Another model is the three-tier system in Switzerland: The first tier is a universal citizenship security to which all citizens aged > 20 (independent of their employment status)

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<sup>31</sup> For instance by reducing the duration of contracts and renewing the contracts (may be in chains) after a short while.

<sup>32</sup> Tenure rules in the Netherlands are usually the following: Phase A (18 months, some limits in social rights); phase B (another 18 months, same rights as regular workers, in particular entitlement to training); phase C (after three years entitled to an open-ended contract).

<sup>33</sup> For regional employment pacts or covenants see Korver and Schmid (2012). Recently in Germany, IG BCE and Temp-agency Company *Technicum* signed a CA establishing a Training Funds for temp-workers.

have to contribute (about 10 percent of wages or income; in case of employment divided equally by employers and employees); the second tier is an obligatory capital funded system to secure the income status; the third tier is a privately and voluntary funded system for topping up income security in old age. The first tier provides for all citizens a decent minimum income independent of their contributions; although there is no ceiling of income in terms of contributions (like in Germany) there is a maximum of benefits for the first tier, which means in practice an in-built mechanism of redistribution in advance that favours the unlucky disadvantaged people in a solidaric way.

Apart from temporary work (including temp-agency work), three other forms of non-standard employment gained importance: Minijobs or Midijobs, solo-self-employment (own-account work), and contract work. The majority of these jobs potentially contribute to poverty because they often are low paid, insecure, and not or insufficiently covered by social protection systems (health-, pension-, and unemployment insurance). I start with the most difficult and complicated form which to a large extent is positioned in the grey zone between regular employment and disguised self-employment.

### 3.5 *Taming non-standard forms of employment: The case of contract work*

*Contract work* is a relatively recent phenomenon and does, in the strict sense, not belong to the category of employment relationships. In fact, it belongs to the category of sales or commercial contracts, which are not regulated by labour law but by civil law.<sup>34</sup> Nevertheless, at the end of the day, somebody must do the work, which means that contract work induces directly (over ‘freelancers’) or indirectly (over subcontracting) non-regular and often precarious forms of work.

In Germany, contract work expanded with increasing regulatory restrictions of part-time work and temporary work. However, official statistical figures are not available. The main reason for this is that employers do not have to report these quasi-employment relationships as employment; in their own statistics, this form of work appears as business costs (‘Sachkosten’). Contract workers usually have a contract with an intermediary personnel service provider whose name often reveals its field of operation, e.g. ‘*Warehouse Packing Reinforcement*’: Retail employers, e.g., re-define the task of filling their store-shelves with products or commodities as specified “work” (in German ‘*Werk*’) and subcontract this “*Werk*” to an intermediary.<sup>35</sup> Another common case is hotels re-defining the

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<sup>34</sup> For a theoretical consideration of the difference between employment contracts and sales contracts see Schmid (2008, 178-185), and Schmid (2011c).

<sup>35</sup> For the foreign reader it might be helpful to remind an old German differentiation between ‘*Werk*’ and ‘*Wirken*’ (Otto von Gierkes). ‘*Werk*’ emphasises the aspect of an objective result of working (a table, a specific and unique transport service between A and B etc.) and ‘*Wirken*’ emphasises the working-activities that may or may not lead to a specific result. ‘*Werk*’ relates to contract work and ‘*Wirken*’ to an employment relationship. The problem is that in fact the two

cleaning or washing tasks as ‘Werk’ and subcontracting them to intermediaries. These intermediaries are organised in the employers’ association ‘Instore’ and have arranged with the DHV-trade union a collective agreement in the very low-wage sector. Contract workers’ remuneration for their ‘Werk’ is (often much) lower, and firms clearly use this instrument to bring wage costs down. These works contracts are *not covered by labour law* except the ‘work services’ is provided by temp-agency firms who have to establish an employment relationship with the contract worker (see section 3.4). However, often such contracts do exist only on paper turning in this ‘grey sector’ the grey into black. Often work contracts appear also in the form of disguised self-employment (see section 3.7). Since unlawful use of temp-agency work becomes more and more difficult, contract works is frequently also applied in middle and even high skill areas, for instance in research and development divisions of automobile firms. The IG Metall trade union estimates that 40 to 60 percent of labour services in this area are subcontracted in form of works contracts.

Currently, this form of ‘employment’ is hotly debated in Germany. The government and in particular the opposition parties are demanding stronger regulation. There is widespread understanding that three issues require particular attention in order to provide more protection for this kind of workers: transparency (e.g. through introduction of reporting obligation); equal treatment (e.g. equal pay with comparable regular workers at least after some time); accountability (e.g. through transformation of works contracts into labour contracts when characteristics of an employment contract – such as subordination, regularity of the tasks, use of firms’ infrastructure, payment according to time and not the ‘Werk’, and eventually employers’ liability for the result – dominate).<sup>36</sup> In the international context of labour law, there is widespread consensus that, at the end of the day, not the formal contractual arrangement but the ‘*primacy of facts*’ should determine the actual protection of workers by ensuring and enforcing universal human rights, in particular equal treatment and decent work (fair pay and acceptable working conditions).

### 3.5 *Taming non-standard forms of employment: The case of Minijobs and Midijobs*

In the meantime, *Minijobs* are a German peculiarity in international comparison. They existed for a long time but were revised and pumped up by the so-called Hartz-legislations in 2002/3. The main objectives were the containment of informal or illegal work, especially in private households and other personal

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aspects of work are often hard to separate. The worker bound by a works contract is liable for the result, the worker bound by an employment contract is not liable or only liable to the extent that the lack of a result or the low quality of the result can be blamed on him or her. In the first case, the worker bears the risk; in the second case, the employer bears the risk.

<sup>36</sup> See Waas (2012) from the point of view of a German labour lawyer who also considers respective legal regulations of other countries. Recommended is also to look at corresponding ILO recommendations (e.g., Annex II, point 3).

services, and the strengthening of employment as stepping stones to regular jobs (Schmid and Modrack 2008). Minijobs are ('regular') employment relationships that earn up to 400 Euro per month, this year (2013) heightened to 450 Euro. As part of the reform, the 15 hours limit has been abolished. Hence, marginal employment can be exercised in addition to regular employment without becoming subject to social security contributions or taxes on the side of employees. Employees, however, might voluntarily pay a contribution to add to their social security entitlements; however, only about 10 percent use this opportunity. Most important, Minijobs as side job – a job in addition to a regular job – are now allowed. Employers are compelled to making full contributions for Minijobs in form of a lump-sum payment of 30 percent of gross wages (15% go into the pension system, 13% into the health insurance, and 2% are targeted to general taxes). In addition, a lump-sum of 0.77 percent of the wage is targeted to three funds: further payments of wages in case of illness; protection of mothers; insolvency. As a result, employers might theoretically be inclined to transform *Minijobs* into *Midijobs*. Yet, as we will see, this is only in part the case.

*Midijobs* are more recent. They were introduced in 2003 with the objective to stimulate part-time jobs. Prior to the latest reforms, full social insurance contributions set in when passing the 325 (then 400) Euro income limit. By now, employees' contributions amount to 4.7 percent of their earnings when they earn at least 400.01 Euro (since 2013: 450.01 Euros). For incomes between € 400 and € 800, employees' contributions increase linearly until hitting the regular share of (most recently) 18.9 percent (last year 19.5%, formerly about 21%); meanwhile, full social insurance entitlements are gained.

Table 11 in Annex I shows the development of these two non-standard employment forms: Altogether, Minijobs increased from about 4.1 million to 7.3 million, and Midijobs from 607,000 to about 1.3 million. A large part of Minijobs (one third!) are side jobs of people who otherwise have a regular full-time or part-time job. Of total employment, exclusive Minijobs and Midijobs make up 15 percent.

In 2011, 62.9 percent of all Minijobs were held by women. One important reason for this overrepresentation relates to the German tax system which still discourages women's labour force participation through high marginal tax rates for second earners and joint taxation ('splitting') favouring the top earner in the family. *This fact already hints to the impossibility drawing simple conclusions and recommendations for other countries from German experiences.* Another interesting fact is the age distribution: 17.7 percent of Minijobs were held by people over 60, and 25.5 percent under 30 years old. So, 43.2 percent of Minijobs relate to workers at the margin of the labour market, either (in the majority) still involved in education and training<sup>37</sup> or in early or actual retirement. Finally, Minijobs are clearly overrepresented in branches where wage costs play a

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<sup>37</sup> 850,000 Minijobs relate to young people in education or vocational training.

dominant role in demand for products or services: wholesale and retail (13.5% of all Minijobs), hotels and restaurants (11.3%), business services (11.7%), freelance scientific and technical services (5.4%), and domestic or household services (3%).

Apart from being free from taxes and social contributions for the workers, *in legal terms* Minijobs establish a regular employment relationship: regulations concerning further payment of wages in case of illness or entitlements to vacations hold also for Minijobs (and, of course, for Midijobs as well). However, despite employers' lump-sum contribution of 30 percent, an exclusive Minijob does not establish sufficient health insurance protection, and only small pension entitlements are acquired. Furthermore, employees' subsidies through exemption from taxes and social security contribution probably are passed over to some extent to the employers who can pay lower wages; all the more since competition among workers (especially in the low wage sector) is tough due to high unemployment and low bargaining power in this wage segment.

Unfortunately, evaluation research related to Minijobs (almost nothing is available for Midijobs) is not well developed. Robust results for an overall assessment do not (yet) exist. Only fragmented evidence is available<sup>38</sup> giving reason for a mixed but – at the current form of regulation – overall sceptical summary.

*On the positive side* stands the increase of employment opportunities for many people who – for one reason or the other (education, retirement, etc.) – only wish a *transitory job* to top-up their income and wish not to engage into an employment career. For these people it does not make sense to use the evaluation criteria of transiting from their Minijob into a regular job. And for employers, the lump-sum payment for social protection and the flexible use makes Minijobs to an attractive instrument.

*On the negative side*, first, stands the fact that in particular women often are caught in the trap of Minijobs, and this probably holds also true for the Midijobs. The transition into regular jobs is rare, the wages are often low, and social security protection gained by this type of employment is meagre. Second, Minijobs seldom do provide bridges for the unemployed into regular jobs, on the contrary: Many unemployed use Minijobs as additional income instead to search hard for a regular job. And, most important, subsidised Minijobs for side jobs (and for insiders), are reducing further the employment opportunities for the unemployed. Third and finally, looked from a macroeconomic point of view, Minijobs clearly have served as an instrument to bring wages down and substituting regular jobs to some extent.<sup>39</sup> Downward wage pressure might be useful for competitiveness, but it may also go too far when these wages bring not up decent incomes for living, and

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<sup>38</sup> This evidence is best summarised by Eichhorst et al (2012).

<sup>39</sup> Good evaluation research would require the estimation of more precise figures for substitution or displacement. And, taking the long service chains in mind, it is also possible that in some cases Minijobs might induce or support high quality jobs.

when these wages prevent companies to invest in high quality products and services that are necessary for sustainable competitiveness.

### 3.7 *Taming non-standard forms of employment: The case of solo-self-employed or freelancers ('own-account workers')*

Solo-self-employment in form of own-account work (or 'freelancing') has increased in Germany until about 2005; since then it is stagnating or even slightly decreasing.<sup>40</sup> However, compared to other EU-member states, this form of non-standard employment is only modestly developed in Germany (see Figure 12, Appendix I): Only about 3 percent of the working age population are full-time self-employed without own employees, i.e. 'freelancers'. In Greece (at the top), the figure is about 12 percent, in the UK about 10 percent, in the small Baltic state Estonia only 2.5 percent. In Germany, the share of fulltime 'freelancers' in percent of total employment is about four percent; including part-time own-account workers, the share increases to about 6 percent, which is still a relatively small number compared to most other EU-member states. In total, the number of own-account workers amounts currently to about 2.3 million.<sup>41</sup>

These figures tell that self-employment plays a different role in Germany *compared to Korea* where the share of self-employed is reported to be about one third of total employment, of which 60 percent are own-account-workers, i.e. self-employed without employees (Kwang-Yeong Shin 2012). In Germany in contrast, own-account work it is a growing concern of polarisation and poverty, too; but it is also considered as potential bridge from non-work (i.e., inactivity or unemployment) to regular employment, and by a good few even as job creation machinery.

The majority of 'solo-self-employed' works in public or private services (all kind of communication media, culture, and education), real estate and business services (in particular facility management), wholesale and retail, and – to an increasing extent – in building and construction. The share of women is about one third, however increasing, in particular as part-timers. By educational background, a remarkable structural change towards higher qualification can be observed. Another interesting phenomenon, although completely under-researched, is the increasing transition dynamics between inactivity, self-employment and regular work, including the combination of regular part-time work and part-time own account work.<sup>42</sup> Own-account-work is in Germany often of short duration and an

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<sup>40</sup> The best and most recent overview on 'solo-self-employed' in Germany is given by Koch et al (2011); in a European comparative perspective see Schulze Buschoff (2007).

<sup>41</sup> In addition to the self-employed as own-account workers come about 1.8 million self-employed as entrepreneurs with at least one dependent employee (salary or wage worker). Total employment level in Germany currently is about 41 million.

<sup>42</sup> The best available European study (related to Sweden) is Delmar et al. (2008); for Germany see Koch et al. (2011: 31-33).

element of transitional labour markets. However, the large transition rates of regular older workers into precarious and low productive ‘solo-self-employment’ in Korea due to (early) mandatory retirement ages – thereby shifting the entrepreneurial risk to workers – is almost unknown in Germany (OECD 2012: 36). So, the recommendation by the OECD of phasing out the right of firms to set mandatory retirement ages can only be underlined here, not least in favour for a policy of higher-productivity jobs (see Schmid 2012b). Yet the path to own-account-work may also come from unemployment due to dismissals or company bankruptcy which might explain the fact that solo-self-employment among elderly people is also quite common in Germany, not least due to explicit policies supporting start-ups for unemployed.<sup>43</sup>

On average, full-time ‘solo-self-employed’ earn in Germany less than self-employed entrepreneurs, however more than regular dependent wage workers. However, the income structure among own-account workers is much polarised: the share of low earning ‘solo-self-employed’ is high (29% earn less than 1,100 Euro net and per month). The gender wage gap is almost the same as for regular workers: women earn only 73 percent compared to men.

Only in *Denmark*, solo-self-employed are sufficiently covered by *unemployment insurance*.<sup>44</sup> Generally, they are also covered in *Poland* but the level of unemployment benefit, paid as a lump sum, is so low that it cannot be deemed adequate to guarantee an income above the poverty line. In most other EU member states, self-employed are excluded from mandatory insurance systems. This was also the case in *Germany* prior to 2006. Since that date some categories of the self-employed, namely persons previously in payroll employment (wage-work), may continue to be covered by the statutory unemployment insurance scheme.<sup>45</sup> The German system remains closed to persons in marginal forms of employment, despite the above mentioned fact that their numbers, as a proportion of all employment, have risen remarkably in recent years. The current unemployment insurance system also provides a small incentive to transit from dependent wage work to self-employment in as far as unemployment benefit entitlements are kept for two years so that in case of early failure, self-employed can fall back on the safety net of unemployment insurance. The *Netherlands* has also such provisions. *Austria* is not only the most generous country in this respect (unemployment benefit entitlements might be kept permanently) but also flexible in as far as self-employed can choose between different levels of contribution, whereas the German system is quite restrictive and partly unfair (lump-sum

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<sup>43</sup> See the remarks to the successful start-up subsidies for unemployed in section 3.3. An extensive recent overview of this programme including respective evaluation research can be found in Caliendo et al (2012).

<sup>44</sup> The best overview on social protection of non-regular workers for six EU member states (including Germany) is provided by Schulze Buschoff and Protsch (2008).

<sup>45</sup> For an extensive recent discussion of unemployment insurance for self-employed in Germany, also referring to some other EU countries, see Koch et al. (2011: 42-46).

contributions on the one hand, benefits favouring high skilled on the other hand). Finally, from the TLM point of view, transferability of social protection entitlements from one employment status to the other is highly recommended.

In regard to *state retirement provision* what counts is whether people can expect a pension that will at least keep them above the poverty line, even if they have a history of non-standard employment (Schulze Buschoff and Protsch 2008:69). In the Netherlands, Denmark and Sweden they can: in these countries *universal pension guarantees* all residents at least a subsistence-level income. Most other EU member states do not have such a system. In Germany a large proportion of those in self-employment and marginal forms of employment are not compulsorily covered under the contributory system of statutory retirement provision. Many people in the current debate are in favour of such an inclusion but the issue is quite complicated.<sup>46</sup> It seems that basic reforms coping sufficiently with the changing world of work require a *coordination of all social protection systems*; partial and uncoordinated reforms are likely to fail.

#### **4. Summary and conclusions for Korea**

Labour market polarisation is globally a common trend; Korea and Germany are no exceptions. However, as demonstrated at the beginning, Korea faces in particular *exclusionary polarisation*, i.e., segmentation between insiders and outsiders of the labour market, whereas Germany is more characterised by *inclusionary polarisation*, i.e., by increasing gaps in income and other social risks among the increasing number of labour market participants. Yet both countries share the challenge of rising non-standard employment relationships leading to increased poverty at work and low security in risky situations over the life-course: transition from school to work, income volatility, unemployment, and temporary income restrictions due to unpaid care work or incapacities to work through illness, disability or old age. At the end of the day, *only more and better jobs* can stop these trends, yet labour market policy can help to assist job creating employment policies in effective and efficient ways. Apart from better education and vocational training, which were not at the core of this study, *four main policy approaches* have been identified to fight polarised labour market segmentation.

(1) *Inclusion of high risk people into the labour market*: Taking labour market participation as indicator of inclusion, Korea has one of the lowest employment rates in OECD countries, in particular related to women (Annex I, Figure 9). In order to avoid exclusion of the low-skilled, the long-term unemployed or the people in involuntary inactivity (in particular women), a work-first strategy combined with training opportunities has been recommended. Even at low wages,

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<sup>46</sup> Readers interested in the German debate are recommended to consult Fachinger and Frankus (2011).

the chances of moving upwards and out of (transitory) poverty or remaining active rather than inactive are higher than staying in unemployment or inactivity. Investing into efficient labour market services would enhance such a strategy. Part-time jobs of good quality are another important element for higher inclusion of women into the labour market which has already been tackled in my first report (Schmid 2012b).<sup>47</sup>

(2) *Establishing encompassing income maintenance schemes*: The poverty rate in Korea was 15 percent in 2008, the seventh highest in the OECD area (47 percent among the elderly), whereby 88 percent of the poor were in households headed by a working-age person (OECD 2012, 113). Furthermore, measured in net replacement rates, income maintenance during unemployment in Korea is one of the lowest in OECD countries (Annex I, Figure 10).<sup>48</sup> German and European experience, however, suggest that high coverage of people at risk of unemployment and generous short-term unemployment insurance benefits are not only powerful instruments to prevent in-work poverty but also important inbuilt stabilisers to maintain effective demand during recessions. The same argument holds true for able-bodied working-age individuals who are not covered by insurance for various reasons (lack of work experience, exhaustion of insurance benefits, etc.), and for those who for some reason (transitory stages of education, care for children, reduced work capacity, etc.) are not or not fully available to the labour market but in principle employable and willing to work. For these groups a means tested universal scheme of basic income security in analogy of the German *Grundsicherung* (ALG II = unemployment assistance) has been recommended, provided that it is complemented by effective and efficient employment services (still underdeveloped even in Germany).

(3) *Making work and transitions pay through active labour market policies*: Compared to most OECD countries, Korea spends little for active labour market policies (Annex I, Figure 11). The detailed review of German labour market policy measures and meta-evaluation studies in comparative perspective suggest that temporary public job creation measures for the unemployed should have the least priority. Apart from information and counselling services that support the matching between demand and supply, the highest priority should be put on direct employment support through *wage cost subsidies* targeted to those hard-to-place people who only need a *transitory bridge* to close the gap between wages and individual productivity. This gap, then, can be closed through on-the-job training and/or supplementary training measures. For those with low productivity potentials, enhancing the Earned Income Tax Credit (introduced in 2008) would be a solution.

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<sup>47</sup> In addition, the OECD Economic Survey 2012 provides a comprehensive policy package for boosting female labour force participation (OECD 2012, 52-57).

<sup>48</sup> Benefit duration is also one of the lowest (Duell et al. 2010, p. 90); coverage of unemployed by the Employment Insurance System has increased, but is still low at about 30 percent (OECD 2012, 126).

For young people facing difficulties to find a job, a carefully targeted *transition system* between school and work should be established taking account of the individual needs that can be quite different (lack of elementary skills, lack of work experiences, lack of information or even of motivation). In many cases, however, the combination of work and formal learning (so-called dual systems or apprenticeship systems) would provide an ideal form of such a transition system.

Also training measures for adults targeted to skills needed by the market, including transversal skills (*making workers fit for the market*) are useful investments, especially in the long-run. In view of the ageing workforce (marked in particular in Korea), measures for *making the market fit for workers* for instance through reasonable adjustment of workplaces or working time are recommended because earning capacities of older workers are often restricted due to health problems or unpaid care obligations for the youngsters or very old relatives.

(4) *Taming non-standard forms of employment (non-regular work)*: The main driver of labour market segmentation and in-work poverty is the large share of non-standard employment or non-regular work. In Korea, non-regular workers account for one-third of employees earning only 57 percent as much per hour as regular workers in 2010;<sup>49</sup> more than a quarter of full-time workers earn less than two-thirds of the median wage, the highest in the OECD area. The largest component of non-regular employment is temporary workers (25% of total employment) boosting worker turnover and hence reducing firm based training.

As this polarisation reflects to some extent strong employment protection of core workers (insiders), a *first* recommendation is to check the effectiveness of this regulation. German and European experiences suggest that it is – on one hand – not employment protection per se but inflexibility and intransparency of administrative procedures when firms have to dismiss workers, and – on other hand – limited internal (numerical as well as functional) flexibility of insiders leading to the recourse of non-standard employment contracts with damaging employment chances of outsiders. Korea's labour law and industrial relations regulation, therefore, should consider:

- a) Ways how to reduce uncertainty in dismissal procedures;
- b) Making employment protection conditional on the readiness to internal flexibility, e.g. job rotation, training, work-sharing, working time accounts, wage corridors;

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<sup>49</sup> Although the gap is narrowed to 13 percent after adjusting for differences in individual characteristics, such as gender, education, tenure, occupation and age (OECD 2012, 34; and pp 49-50 for further details on labour market polarisation in Korea).

- c) Support of companies in establishing such flexibility instruments, e.g., through short-time work allowances<sup>50</sup>, co-financing of training measures, e.g. through training vouchers in particular for employees and employers of SME.

*Second*, German and European experiences suggest that excessive use of temporary work damages the dynamics of innovation and sustainable productivity. It is, therefore, even in the interest of the employers and the economy to *restrict opportunistic and cut-throat price competition* by using cheap non-regular work. Furthermore, such a strategy is in particular unfair to workers with low labour market power or without union representation (also very low in Korea). This study recommends, therefore, reforms in the following directions:

- a) Impose a decent universal minimum wage (which, currently, is quite low in Korea) and control compliance;
- b) Lower the tax or contribution load for low wage work (possibly for both, the employers and employees);
- c) Enforce the equal treatment principle in particular for temp-agency workers (possibly in a flexible way through collective agreements);
- d) Exclude by law revolving door practices (firing and rehiring at lower wages);
- e) Impose conditional risk surcharges for temporary or temp-agency work (e.g., surcharge contribution to training funds);
- f) Open the opportunity for fix-term contracts without reason but restrict this possibility to at most two years, and make exceptions conditional either on job creation or employability enhancing measures, in particular education and training.

*Third*, as temporary work or part-time work becomes effectively regulated, firms increasingly escape to the alternative of *sales (or commercial) contracts*, particularly in the form of ‘works contracts’ inducing – over the extended service chain – further cases of precarious non-regular work. In Germany, this dimension of non-regular work statistically is still in a grey zone and currently hotly debated. From this debate and from existing experiences, three recommendations can be formulated:

- a) Care for transparency, e.g. through introduction of reporting obligations;
- b) Equal treatment, e.g. equal pay with comparable regular workers at least after some time;
- c) Accountability, e.g. through transformation of works contracts into labour contracts when characteristics of an employment contract dominate.

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<sup>50</sup> See the case of *Kurzarbeit* (time work) described in my previous report (Schmid 2012b).

*Fourth*, Minijobs and Midijobs are a German peculiarity in the range of non-standard employment. They have been introduced as a low threshold job opportunity to boost employment and to get work out of the unregulated informal or illegal sector. On the one hand, these small jobs are completely covered by labour regulations (e.g. providing entitlements to vacations and further payment of wages in case of illness) and provide flexible job opportunities for many persons at the margin of the labour market and for many employers especially in services that would not exist without the new regulations. On the other hand, the overall assessment is mixed giving reason for the following recommendations:

- a) Encourage employers to create low threshold (marginal) jobs through lump-sum contributions to social protection avoiding thereby too much red-tape, yet restrict possibly the number of such jobs to control for substitution of regular work;
- b) Enable people at the margin of the labour market (e.g., students, elderly in retirement or on regular part-time) to take up marginal jobs by exemption from taxes or social contributions;
- c) Do not subsidise such marginal jobs for workers with regular full-time jobs, and design the overall social protection system in a way that does not create incentives to stay permanently on social transfers plus marginal wage income;
- d) Take care to avoid the danger of cut-throat wage competition related to such jobs through decent national minimum wages;
- e) Give workers representatives of medium and large firms a voice in codetermining the establishment of marginal jobs.

*Fifth*, *solo-self-employment* in form of own-account-work (often also called ‘freelancers’) has increased in Germany but does not play that important role as in Korea. In fact, German labour market policy has even introduced successful and recommendable labour market policy measures to induce such start-ups for the unemployed as potential bridges to entrepreneurial self-employment. Yet, the increasing polarization within this group of non-regular work and the rising number of precarious ‘solo-self-employment’ has raised concerns to provide better social protection and regulation preventing transitions into such precarious jobs. German and European experience leads to the following recommendations:

- a) Phase out the right of firms to set mandatory retirement ages that induce firms to get rid of older workers who then have to escape to precarious forms of self-employment;
- b) Recalibrate the entitlement rules of (un)employment insurance so that non-regular workers, including self-employed, are better included; the reported Austrian case seems to be of particular interest;
- c) Establish and ensure the right to transfer individual entitlements to social protection from one employment relationship to the other;

- d) Consider the establishment of a universal basic income security in old age based on citizenship and independent of the employment status during the life course.

To sum up: Labour market polarisation hinders productivity growth and erodes fairness as a precondition for cooperation both between workers and employers as well as among the workers themselves. German and European experiences corroborate the argument that a policy change from job security for insiders towards labour market security *for all employable people* (social inclusion principle) will not only improve equity but also efficiency. An extensive system of primary vocational training at the middle level and continuous vocational education and training (life-long-learning) is a key to prevent polarisation and to establish a win-win-game in terms of equity and efficiency. How such a win-win-game could work has been described by American economists who delivered an interesting model for computerization as a key driver of U.S. labour market polarisation (Autor et al. 2006). If, for instance, middle skilled workers with routine jobs (e.g., bookkeepers) are displaced by computers and upgraded by education or training, the resulting sharpened wage competition between high skilled will reduce wage inequality at the top half of distribution; furthermore, the resulting mitigation of cut-throat wage competition among low-skilled will reduce wage inequality at the lower half of distribution; both processes, thereby, will enhance equity (declining wage inequality) as well as efficiency (higher productivity growth).

## Literature

- Autor, David H. and Lawrence F. Katz, Melissa S. Kearney (2006), The Polarization of the U.S. Labor Market, in: *The American Economic Review*, Vol. 96, No. 2 (May, 2006), pp. 189-194
- Baumgarten, Daniel und Michael Kvasnicka (2012), Durchlässiger Arbeitsmarkt durch Zeitarbeit?, Gütersloh, Studie des Rheinisch-Westfälischen Instituts für Wirtschaftsforschung im Auftrag der Bertelsmann Stiftung, S. 9-31; here also: dito and Juliane Landmann, Eric Thode, Gestaltungsoptionen, S. 32-39
- Bosch, Gerhard und Claudia Weinkopf (2011), Arbeitsverhältnisse im Dienstleistungssektor, in: *WSI-Mitteilungen*, 64 (9), 439-47
- Bundesagentur für Arbeit (2012), SGB II Sozialgesetzbuch Zweites Buch: Grundsicherung für Arbeitsuchende, Jahresbericht 2011, Nürnberg, <http://statistik.arbeitsagentur.de/arbeitsmarktberichte>
- Caliendo, Marc and Jens Hogenacker, Steffen Künn, Frank Wießner (2012), Alte Idee, neues Programm: Der Gründungszuschuss als Nachfolger von Überbrückungsgeld und Ich-AG, in: *Journal of Labor Market Research*, 45 (2), 99-123
- Card, David and J. Kluve, J., A. Weber (2009), Active labor market policy evaluations: A Meta-analysis, Bonn, IZA Discussion Paper No. 4002
- Deakin, Simon and Alain Supiot (eds.) (2009), *Capacitas – Contract Law and the Institutional Preconditions of a Market Economy*, Oxford and Portland: Oregon

- Delmar, F. and T. Folta, K. Wennberg (2008), *The Dynamics of Combining Self-Employment and Employment*, Uppsala: *IFAU-Working Paper*, 2008-23
- Duell, Nicola et al. (2010), *Activation Policies in Switzerland*, *OECD Social, Employment and Migration Working Papers*, No. 112, OECD Publishing, <http://dx.doi.org/10.1787/5km4hd7r28f6-en>
- Eichhorst, Werner u.a. (2012), *Geringfügige Beschäftigung - Situation und Gestaltungsoptionen*, Gütersloh, Bertelsmann-Stiftung
- Fachinger, U. and A. Frankus (2011), *Sozialpolitische Probleme bei der Eingliederung von Selbständigen in die gesetzliche Rentenversicherung*, Bonn, WISO-Diskurs der Friedrich-Ebert-Stiftung
- Heyer, Gerd; Koch, Susanne; Stephan, Gesine; Wolff, Joachim (2012): *Evaluation der aktiven Arbeitsmarktpolitik: Ein Sachstandsbericht für die Instrumentenreform 2011*, in: *Journal for Labour Market Research*, Vol. 45, No. 1, S. 41-62
- Immervoll, Herwig (2009), *Minimum-Income Benefits in OECD countries: Policy Design, Effectiveness and Challenges*, IZA Discussion Paper No 4627, Bonn
- Jahn, Elke J. (2010), *Reassessing the Pay Gap for Temps in Germany*, *Jahrbücher für Nationalökonomie und Statistik*, 230 (2), 208-233
- Koch, A. and M. Rosemann, J. Späth (2011), *Soloselbständige in Deutschland – Strukturen, Entwicklungen und soziale Sicherung bei Arbeitslosigkeit*, Bonn, WISO-Diskurs der Friedrich-Ebert-Stiftung
- Korver, Ton and Günther Schmid (2012), *Enhancing Transition Capacities and Sustainable Transitions*, in: Jean De Munck, Claude Didry, Isabelle Ferreras, Annette Jobert (eds.), *Renewing Democratic Deliberation in Europe: The Challenge of Social and Civil Dialogue*, Brussels 2012, Peter Lang, pp. 23-55
- Kwang-Yeong Shin (2012), *Economic Crisis, Neoliberal Reforms, and the Rise of Precarious Work in South Korea*, in: *American Behavioral Scientist*, XX(X), 1-19
- Lehmer, Florian und Kerstin Ziegler (2010), *Brückenfunktion der Leiharbeit – Zumindest ein schmaler Steg*, Nürnberg, IAB-Kurzbericht 13
- Lohmann, Henning und Hans-Jürgen Andreß (2011), *Autonomie oder Armut? Zur Sicherung gleicher Chancen materieller Wohlfahrt durch Erwerbsarbeit*, in: *WSI-Mitteilungen* 64 (4), 178-187
- Madsen, Per Kongshoj (2007), *Distribution of Responsibility for Social Security and Labour Market Policy. Country Report: Denmark*, AIAS working paper 2007-51, University of Amsterdam
- Mosthaf, Axander and Thomas Schank, Claus Schnabel (2009), *Low-Wage Employment versus Unemployment: Which One Provides Better Prospects for Women?* IZA DP No. 4611
- OECD (2004), *Ageing and Employment Policies*, Finland, Paris, OECD Publishing
- OECD (2011), *Education at a Glance*, Paris, OECD Publishing
- OECD (2012), *OECD Economic Surveys: Korea 2012*, Paris, OECD Publishing
- Pissarides, Christopher (2000), *Equilibrium Unemployment Theory*, second, revised and extended edition, Cambridge, Mass., et al. MIT Press
- Rogowski, Ralf and Robert Salais, Noel Whiteside (eds.) (2012), *Transforming European Employment Policy – Labour Market Transitions and the Promotion of Capabilities*, Cheltenham, UK and Northampton, MA, USA, Edward Elgar
- Schmid, Günther (2008), *Full Employment in Europe – Managing Labour Market Transitions and Risks*, Cheltenham, UK, and Northampton, MA: Edward Elgar

- Schmid, Günther (2010), Nonstandard Employment and Labor Force Participation: A Comparative View of the Recent Development in Europe, in: E. Berkhout et al. (2010), Bridging the Gap – International Data Base on Employment and Adaptable Labor, Amsterdam, SEO Socioeconomic Research, S. 119-154
- Schmid, Günther (2011a), Non-Standard Employment in Europe: Its Development and Consequences for the European Employment Strategy, in: German Policy Studies, 7 (1), 171-210, <http://spaef.com/gps.php>
- Schmid, Günther (2011b), Übergänge am Arbeitsmarkt – Arbeit, nicht nur Arbeitslosigkeit versichern, Berlin, edition sigma
- Schmid, Günther (2011c), Non-Standard Employment and the New Standard Employment Contract: Reflections from a Transitional Labour Market Point of View, Presentation to the monthly luncheon seminar of *ReflecT*, the Research Institute for Flexicurity, Labour Market Dynamics and Social Cohesion at Tilburg University, 13 September 2011; download over [www.guenterschmid.eu](http://www.guenterschmid.eu)
- Schmid, Günther (2012a), New Skills and Jobs in Europe – Pathways towards Full Employment, Report for the European Commission (Directorate General for Research and Innovation), [http://ec.europa.eu/research/social-sciences/pdf/new-skills-and-jobs-in-europe\\_en.pdf](http://ec.europa.eu/research/social-sciences/pdf/new-skills-and-jobs-in-europe_en.pdf)
- Schmid, Günther (2012b), Reform of the Working Hour Scheme: Recommendations for Korea from experiences in Europe, mimeo, 38 pp.
- Schmid, Günther (2012c), Sharing Transition Risks: Towards a System of Employment Insurance, Aalborg 2012, CARMA Research paper 2012:1 [http://www.epa.aau.dk/fileadmin/user\\_upload/mb/CARMA/CARMA\\_2012-1\\_Guenther\\_Schmid.pdf](http://www.epa.aau.dk/fileadmin/user_upload/mb/CARMA/CARMA_2012-1_Guenther_Schmid.pdf)
- Schmid, G. and S. Modrack (2008), Employment Dynamics in Germany: Lessons to be learned from the Hartz Reforms, Discussion Paper SP I 2008-102, Wissenschaftszentrum Berlin für Sozialforschung (WZB), 31 pp. <http://bibliothek.wzb.eu/pdf/2008/i08-102.pdf>
- Schulze Buschoff, K. (2007), Neue Selbständige im europäischen Vergleich – Struktur, Dynamik und soziale Sicherheit, Düsseldorf: edition Hans-Böckler-Stiftung, Nr. 201
- Schulze Buschoff, K. and P. Protsch (2008), (A-)typical and (in-)secure? Social Protection and “non-standard” forms of Employment in Europe, in: International Social Security Review, 61 (4), 51-73
- Sen, Amartya (2009), The Idea of Justice, London, Allan Lane and Penguin Books.
- Spermann, Alexander (2011), Die neue Rolle der Zeitarbeit in Deutschland, Randstad Discussion Paper No. 1, April 2011
- Vanselow, Achim und Claudia Weinkopf (2009), Zeitarbeit in europäischen Ländern - Lehren für Deutschland? Düsseldorf, Hans-Böckler-Stiftung. Arbeitspapier 182
- Vitols, Katrin (2008), Zwischen Stabilität und Wandel – Die Sozialpartnerschaft in Deutschland und die atypische Beschäftigungsform Zeitarbeit, Hamburg, Verlag Dr. Kovac
- Waas, Bernd (2012), Werkvertrag, freier Dienstvertrag und Arbeitsvertrag: Abgrenzung und Identifikation im deutschen Recht und in ausländischen Rechtsordnungen, Abschlussbericht, Düsseldorf, Hans-Boeckler-Stiftung
- Wadensjö, Eskil (2006), Part-time Pensions and Part-Time Work in Sweden, IZA DP No. 2273, Bonn: Institute for the Study of Labor
- Zhou, Haibo and Ronald Dekker, Alfred Kleinknecht (2010), *Flexible Labor and Innovation Performance: Evidence from Longitudinal Firm-level Data*, Rotterdam: Research Paper 2010-01-21 of the Erasmus Research Institute of Management (ERIM)

## Annex I: Tables and Figures

**Table 1a: Decomposition of GDP per capita (*economic welfare* indicator) into hourly productivity (*efficiency* indicator), hours per worker (*working-time preference* indicator), employment rate (*social inclusion* indicator), and working-age population (*demographic* indicator, 1998, 2007, 2011: Germany**

	GDP/P	=	GDP/H	x	H/E	x	E/WAP	x	WAP/P
<b>1998</b>	28,923	=	41.49	x	1,569	x	.6547	x	.6785
<b>2007</b>	33,407	=	48.48	x	1,492	x	.6964	x	.6632
<b>2011</b>	34,591	=	48.85	x	1,457	x	.7353	x	.6611

**Table 1b: Decomposition of GDP per capita (*economic welfare* indicator) into hourly productivity (*efficiency* indicator), hours per worker (*working-time preference* indicator), and employment rate (*social inclusion* indicator), and working-age population (*demographic* indicator, 1998, 2007, 2011: Korea**

	GDP/P	=	GDP/H	x	H/E	x	E/WAP	x	WAP/P
<b>1998</b>	15,790	=	14.70	x	2,494	x	.6019	x	.7157
<b>2007</b>	24,948	=	22.44	x	2,306	x	.6686	x	.7211
<b>2011</b>	27,541	=	27.06	x	2,090	x	.6669	x	.7303

GDP/P = Gross Domestic Product per Capita (constant prices, constant PPP, base year 2005)

GDP/H = Gross Domestic Product per Hour

H/E = Working Time per Employed Person

E/WAP = Employment Rate

WAP/P = Working-Age Population (age 15-64) related to Population

Sources: OECD stats, download 31 October 2012, and own calculations; for the original raw data explaining small rounding errors in these tables see following Table 3.

**Table 2a: Decomposition of the yearly change of economic welfare into change of productivity, working time, employment and demographic structure, 1998-2011 (1998-2007, 2007-2011): Germany**

	$\Delta \ln(\text{GDP}/\text{P}) =$	$\Delta \ln(\text{GDP}/\text{H}) +$	$\Delta \ln(\text{H}/\text{E}) +$	$\Delta \ln(\text{E}/\text{WAP}) +$	$\Delta \ln(\text{WAP}/\text{P})$
<b>1998-2011</b>	<b>1.38</b>	<b>= + 1.27</b>	<b>- 0.57</b>	<b>+ 0.89</b>	<b>- 0.20</b>
<b>1998-2007</b>	1.60	= + 1.73	- 0.56	+ 0.69	- 0.25
<b>2007-2011</b>	0.87	= + 0.19	- 0.60	+ 1.36	- 0.08

**Table 2b: Decomposition of the yearly change of economic welfare into change of productivity, working time, employment and demographic structure, 1998-2011 (1998-2007, 2007-2011): Korea**

	$\Delta \ln(\text{GDP}/\text{P}) =$	$\Delta \ln(\text{GDP}/\text{H}) +$	$\Delta \ln(\text{H}/\text{E}) +$	$\Delta \ln(\text{E}/\text{WAP}) +$	$\Delta \ln(\text{WAP}/\text{P})$
<b>1998-2011</b>	<b>4.28</b>	<b>= + 4.69</b>	<b>- 1.36</b>	<b>+ 0.79</b>	<b>+ 0.16</b>
<b>1998-2007</b>	5.08	= + 4.70	- 0.87	+ 1.17	+ 0.08
<b>2007-2011</b>	2.47	= + 4.68	- 2.47	- 0.06	+ 0.32

GDP/P = Gross Domestic Product per Capita (constant prices, constant PPP, base year 2005)

GDP/H = Gross Domestic Product per Hour

H/E = Working Time per Employed Person

E/WAP = Employment Rate

WAP/P = Working Age Population related to Population

Sources: OECD stats, download 31 October 2012, and own calculations; for the raw data explaining small rounding errors in these tables) see Table 1 and 2 in Appendix.

**Table 3a: Decomposition of working time per population into working time per employed person, labour force utilisation, labour force participation and demographic structure, 1998, 2007, 2011: Germany**

	H/P	=	H/E	x	E/(E+U)	x	(E+U)/WAP	x	WAP/P
<b>1998</b>	697	=	1,569	x	.908	x	.721	x	.679
<b>2007</b>	689	=	1,492	x	.913	x	.762	x	.663
<b>2011</b>	708	=	1,457	x	.941	x	.782	x	.661

**Table 3a: Decomposition of working time per population into working time per employed person, labour force utilisation, labour force participation and demographic structure, 1998, 2007, 2011: Korea**

	H/P	=	H/E	x	E/(E+U)	x	(E+U)/WAP	x	WAP/P
<b>1998</b>	1,074	=	2,494	x	.931	x	.647	x	.716
<b>2007</b>	1,112	=	2,306	x	.968	x	.691	x	.721
<b>2011</b>	1,018	=	2,090	x	.966	x	.690	x	.730

H/P = Working Hours per Population

H/E = Working Hours per Employed Person

E/(E+U) = Utilisation of Active Labour Force (U=Unemployment)

(E+U)/WAP = Labour Force Participation Rate

WAP/P = Working Age Population (age 15-64) related to Population

Sources: OECD stats, download 31 October 2012, and own calculations; for the original raw data explaining small rounding errors in these tables see following Table 3.

**Table 4a: Decomposition of yearly change of working time per population into working time per employed person, labour force utilisation, labour force participation and demographic structure, 1998-2011 (1998-2007, 2007-2011): Germany**

	$\Delta \ln(H/P) =$		$\Delta \ln(H/E) +$	$\Delta \ln E/(E+U) +$	$\Delta \ln(E+U/WAP) +$	$\Delta \ln(WAP/P)$
<b>1998-2011</b>	<b>0.12</b>	=	<b>- 0.57</b>	<b>+ 0.27</b>	<b>+ 0.62</b>	<b>- 0.21</b>
<b>1998-2007</b>	- 0.13	=	- 0.56	+ 0.06	+ 0.61	- 0.26
<b>2007-2011</b>	0.68	=	- 0.59	+ 0.76	+ 0.65	- 0.08

**Table 4b: Decomposition of yearly change of working time per population into working time per employed person, labour force utilisation, labour force participation and demographic structure, 1998-2011 (1998-2007, 2007-2011): Korea**

	$\Delta \ln(H/P) =$		$\Delta \ln(H/E) +$	$\Delta \ln E (E+U) +$	$\Delta \ln(E+U/WAP) +$	$\Delta \ln(WAP/P)$
<b>1998-2011</b>	<b>- 0.41</b>	=	<b>- 1.36</b>	<b>+ 0.28</b>	<b>+ 0.49</b>	<b>+ 0.15</b>
<b>1998-2007</b>	0.39	=	- 0.87	+ 0.43	+ 0.73	+ 0.08
<b>2007-2011</b>	- 2.21	=	- 2.46	- 0.05	- 0.04	+ 0.31

H/P = Working Hours per Population

H/E = Working Hours per Employed Person

E/(E+U) = Utilisation of Active Labour Force (U=Unemployment)

(E+U)/WAP = Labour Force Participation Rate

WAP/P = Working Age Population (age 15-64) related to Population

Sources: OECD stats, download 31 October 2012, and own calculations; for the raw data explaining small rounding errors in these tables) see Table 1 and 2 in Appendix.

**Table 5: Employment performance, Germany and Korea, 1998, 2007, 2011**

	Germany			Korea		
	1998	2007	2011	1998	2007	2011
GDP in Million US \$, constant prices, constant PPP (base year 2005)	2372521.153	2747926.566	2827985.683	730855.7287	1212435.147	1370980.22
Resident population (P)	82029000	82257000	81755000	46286500	48597650	49779440
Hours worked (H)	57189000000	56679000000	57887000000	49724840000	54040460000	50658670000
Employed persons (E)	36438000	37989000	39738000	19938000	23432800	24244000
Working age population (15-64) (WAP)	55653000	54549000	54046000	33125930	35045530	36352540
Unemployed persons (U)	3693000	3601000	2502000	1490000	783000	855000
GDP/P	28922.96	33406.60	34590.98	15789.82	24948.43	27541.09
GDP/H	41.49	48.48	48.85	14.70	22.44	27.06
H/E	1569.49	1491.98	1456.72	2493.97	2306.19	2089.53
E/WAP	0.6547	0.6964	0.7353	0.6019	0.6686	0.6669
WAP/P	0.6785	0.6632	0.6611	0.7157	0.7211	0.7303
E/(E+U)	0.9080	0.9134	0.9408	0.9305	0.9677	0.9659
(E+U)/WAP	0.7211	0.7624	0.7816	0.6469	0.6910	0.6904
H/P	697.18	689.05	708.05	1074.28	1112.00	1017.66

Data: OECD stats, download 31 10 2012

**Table 6: Share of employed with low-wages in percent of respective total employment in Germany, 2006**

	<b>Total</b>	<b>„Regular Work“</b>	<b>Part-time Work</b>	<b>Temporary Work</b>	<b>Minijobs</b>	<b>Temp-Agency Work</b>
Total	20.0	11.7	19.5	36.0	81.2	67.2
Women	27.2	16.7	18.0	38.2	81.9	77.3
Men	14.3	7.7	30.6	33.9	79.,8	63.7
Manufacturing	13.7	8.9	21.1	34.7	80.8	
Construction	14.1	10.4	26.9	34.8	59.4	
Trade etc.	24.6	13.4	23.9	49.2	83.5	
Restaurants etc.	62.1	51.6	56.7	72.1	84.9	
Health	15.0	8.6	9.4	25.0	70.8	

Source: Bosch/Weinkopf (2011)

**Table 7: Yearly Transitions of West-German Women in Age of 20 to 55 (2000-2006)**

		t+1			
	<b>High Wages</b>	<b>Low Wages</b>	<b>Unemployed</b>	<b>Inactive</b>	<b>Total</b>
T (Year)					
<b>High Wages</b>	87.4	6.8	1.3	4.6	100
<b>Low Wages</b>	27.3	61.8	3.0	8.0	100
<b>Unemployed</b>	16.4	20.1	33.4	30.0	100
<b>Inactive</b>	5.9	4.9	4.6	84.7	100
<b>Total</b>	51.1	14.4	3.5	30.9	100

Source: GSOEP and Mosthaf/ Schank/ Schnabel (2009). Reading example: This transition matrix shows the yearly transitions of West-German women between different statuses of employment or inactivity (controlling for individual characteristics). The most important result is that women in low wage jobs have a higher probability to move into high wage jobs than unemployed women: 27.3 against 16.4 percent. In contrast, unemployed women have a much higher probability to move into inactivity than women in low wage jobs: 30 against 8 percent. The chance to get stuck in low wage jobs, however, is still very high: 61.8 percent. Too high!

**Table 8: Unemployed workers (in 1,000) receiving income support in Germany, 2005 and 2011**

	<b>2005</b>	<b>2011</b>
<b>Unemployed</b>	<b>4,861</b>	<b>2,976</b>
Receiving ALG I	1,428	728
Receiving ALG II	2,725	1,928*
ALG I in percent	29.4	24.5
ALG II in percent	56.1	64.8
<b>ALG I + ALG II in percent</b>	<b>85.5</b>	<b>89.3</b>

Source: Bundesagentur für Arbeit, Arbeitsmarkt 2011, and own calculations.

\* 1,992 – 66 = 1,928 (the benefits of 66,000 unemployment benefit receivers are topped up by unemployment assistance (ALG II) in order to ensure their guaranteed minimum income), so this figure is already included in 728,000)

ALG I = unemployment benefits (67% [U with children] or 60% percent of former net wage); maximum duration 12 months, for aged > 50 15 months, for aged > 55 18 months, for aged > 58 24 months

ALG II= unemployment assistance (lump sum and means tested); unlimited as long as no job is available

**Table 9: Participants in policy measures to integrate employable but jobless people in Germany into the labour market, 2011 compared to 2010\***

	<b>Stock</b> in 1,000	<b>Change</b> to 2010 in %	<b>Flow</b> in 1,000	<b>Change</b> to 2010 in %
<b>Placement support<sup>1</sup></b>	161	-28.5	3,493	-20.2
<b>Training<sup>2</sup></b>	180	-16.8	333	-43.1
<b>Vocational education<sup>3</sup></b>	341	-9.5	430	-7.4
<b>Employment support<sup>4</sup></b>	165	-21.7	256	-22.4
<b>Start-up support<sup>5</sup></b>	136	-11.8	151	-12.1
<b>Public job creation<sup>6</sup></b>	198	-35.9	498	-32.9
<b>Others<sup>7</sup></b>	47	-23.5	63	-27.8
<b>Total (1-7)<sup>8</sup></b>	<b>1,228</b>	<b>-21.0</b>	<b>2,924</b>	<b>-26.7</b>

\*) Short-time work as employment maintenance measure, of course, excluded

1) In particular very short-term measures of “activation” (e.g. advice how to apply for a job, etc.); 2.2 million of the flow figures relate to some support from the placement budget (e.g. travel assistance at job search, etc.)

2) Mainly further training or retraining of unemployed to improve their employability

3) Various measures to support vocational training of disadvantaged youth (e.g. deepening or broadening basic skills as preparatory measures to apprenticeship or work, special measures for handicaps, training bonuses for employers, etc.)

4) In particular integration-support through wage-cost subsidies; including also *wage insurance* for the integration of elderly unemployed (the only increasing instrument from 17,000 in 2010 to 29,000 participants in 2011!)

5) Mainly start-up allowance (UI-benefits for 9 months plus €300 monthly allowance for insurance contributions)

6) “One-Euro-Jobs” (UI-benefits plus small subsidy for work experiences)

7) Basically rehabilitation measures

8) Note for *background information*: In 2011, 8,218,000 entered into the status of unemployment; 8,449,000 left the status of unemployment, of which only 3,126,000 made the transition to employment, the rest (5,323,000) into education or other inactivity status (remaining unemployed, illness, retirement etc.)

Source: Bundesagentur für Arbeit (2012), Arbeitsmarkt 2011, Table IV.F.2a, p. 123 (translation and remarks by the author)

**Table 10: Gross hourly wages\* and topping-up amounts for temp-agency workers in the plastic industry\*\* of West-Germany\*\*\* according to the collective agreement between IG BCE and BAP, 2012**

Topping-up in percent	Wage		Groups****		
	1	2	3	4	5
< 6 weeks: none	8.19	8.74	10.22	10.81	12.21
> 6 weeks: 3 to 7	8.76	9.35	10.63	11.24	12.58
> 3 months: 4 to 10	9.00	9.61	10.83	11.46	12.70
> 5 months: 6 to 15	9.42	10.05	11.14	11.78	12.94
> 7 months: 9 to 22	9.99	10.66	11.55	12.21	13.31
> 9 months: 10 to 25	10.24	10.93	11.75	12.43	13.43

\*) in Euro (€)

\*\*) The plastic (*Kautschuk*) industry is one of several branches within the Chemical Industry; the collective agreement for the whole Chemical Industry allows up to 50% topping-ups; the topping-ups, however, shall not lead to wages over 90% of a comparable worker! The CA's contract duration is exceptionally long (2012-2017).

\*\*\*) Wages in East-Germany are about 8 to 14 percent lower, depending on wage group; wage groups 6 to 9 are without topping-up

\*\*\*\*) Basically, the wage groups describe the skill demands and tasks from low (wage group 1) to high (wage group 9); in the Public Services, there are 15 wage- or salary-groups

IG BCE = Trade union of Mining, Chemical Industry, and Energy (*Industriegewerkschaft Bergbau, Chemie, und Energie*); BAP = Employers' Association of Personnel Service Agencies (*Bundesarbeitgeberverband der Personaldienstleister*)

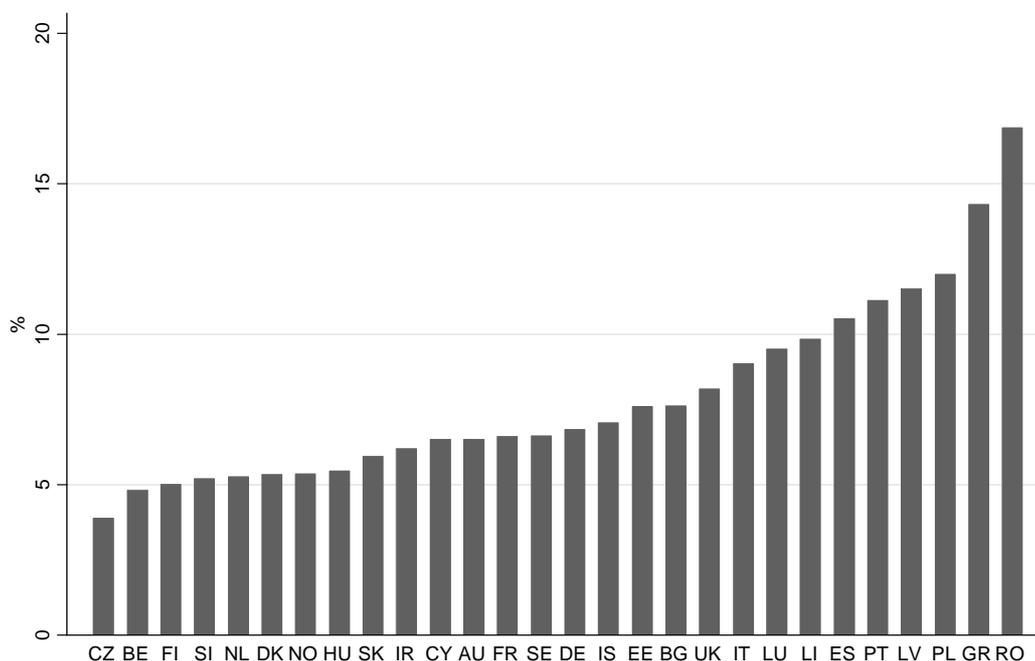
Source: randstadpolitikbrief, November 2012, p. 6

**Table 11: Minijobs and Midijobs in Germany (in 1,000 or percent)**

Year	Absolute	Exclusive Minijobs	Minijobs as side jobs	Mini-side jobs as % of total	Midijobs	Mini* + Midi as % of total E.
2003	4,184	4,184	-	0.0	607 (2003)	12.2
2007	7,104	4,943	2,160	30.4	1,195	15.4
2011	7,307	4,894	2,493	33.7	1,319	15.1

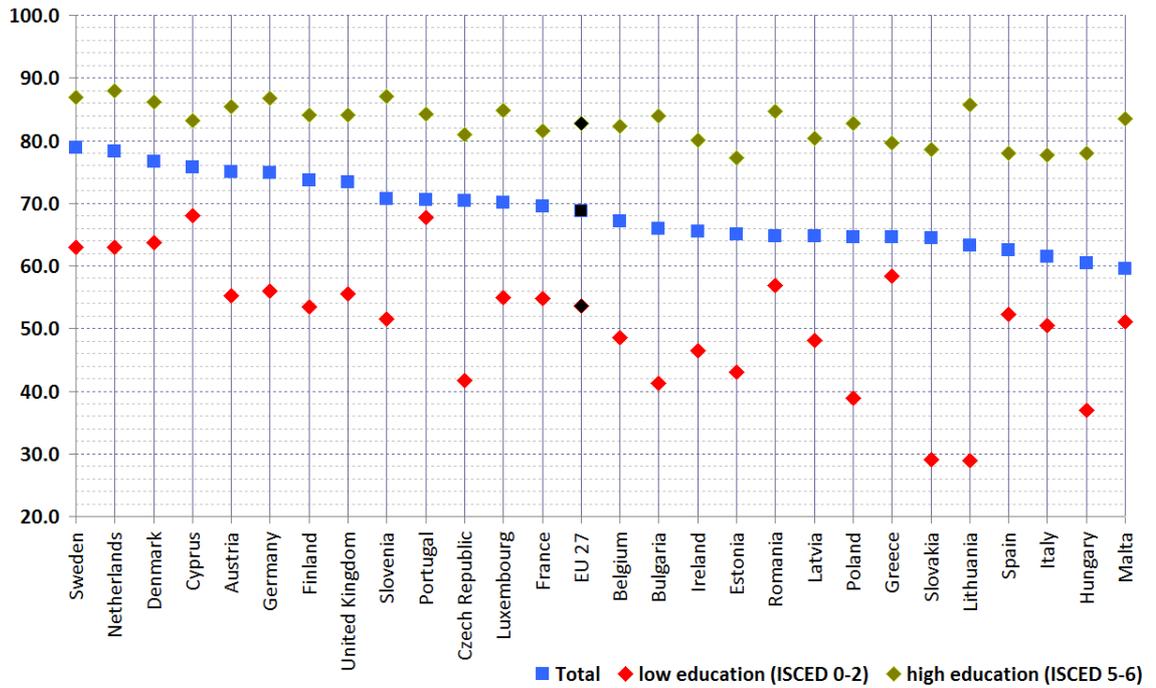
Source: Eichhorst et al. (2002) and own calculations (E. = employment); \*) the last column relates only to exclusive Minijobs plus Midijobs because employment statistics counts only the main job.

**Figure 1: In-work poverty rates in European member states (2008)**



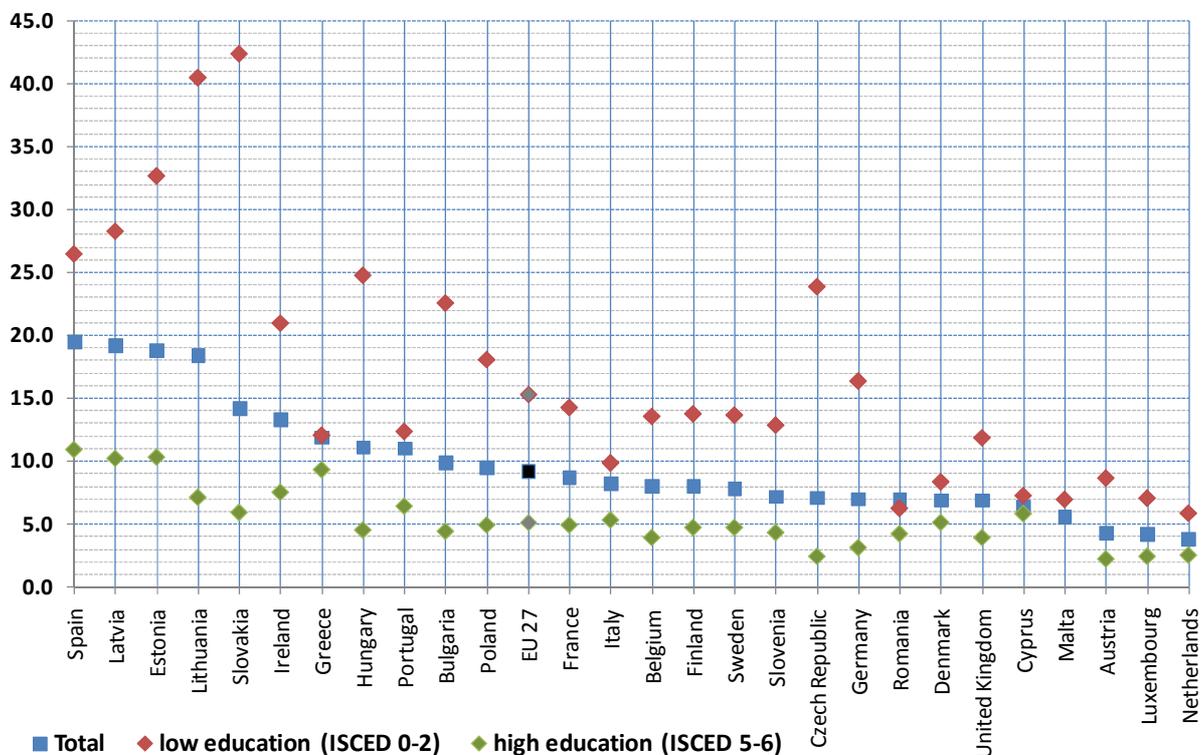
Source: Lohmann and Andreß 2011, p. 180 (calculated on the basis of EU-SILC 2008, weighted, France=2007). Reading example: In Germany (DE), 6.9 percent of employed people had less than 60 percent of the median income at their disposal, taking into account household context, taxes and social transfers; in the Czech Republic (CZ), it was only 3.9 percent, in Romania (RO) 16.9 percent.

**Figure 2: Employment rates by educational level in European member states, 2010: Low education (red) and high education (green) compared (and ranked) with total (blue) in age 20-64**



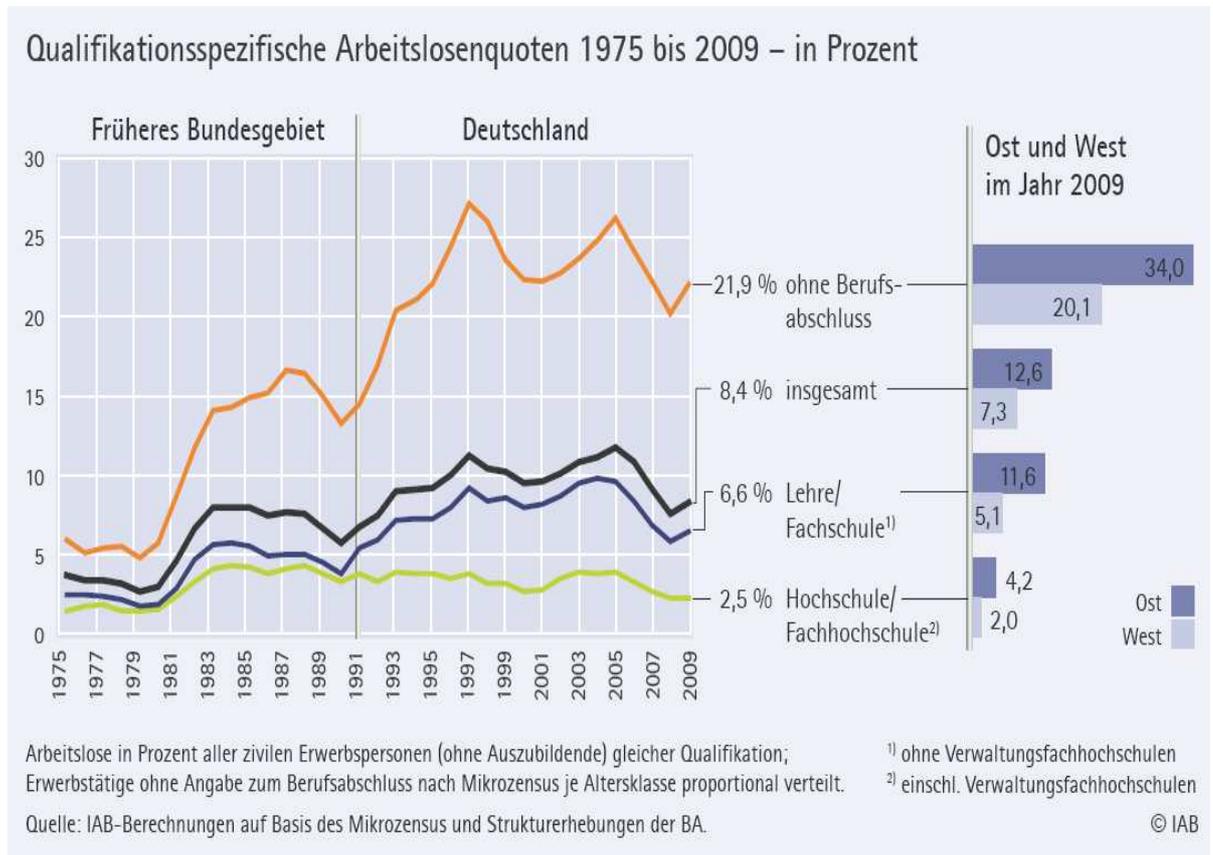
Source: Eurostat, own calculations, 3<sup>rd</sup> quarter

**Figure 3: Unemployment rates of EU Member States by education level, 2010 and ranked according to 'Total' (age 20-64)**



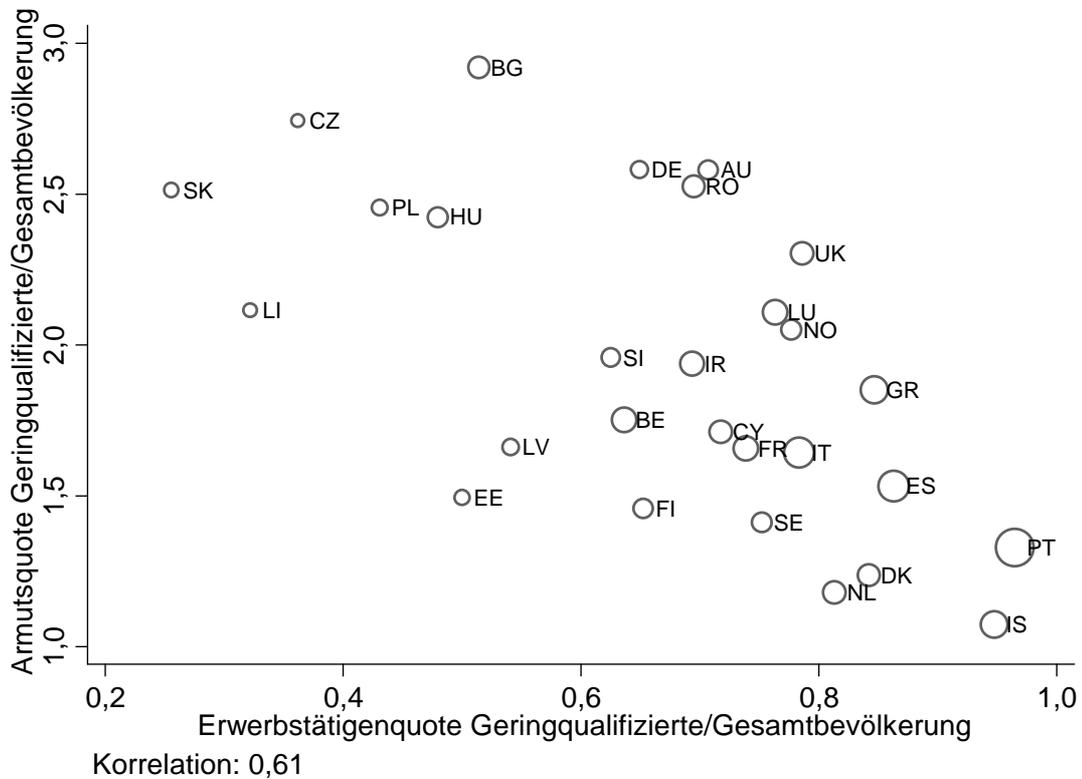
Data for second quarter 2010; Source: European Labour Force Survey Database lfsq\_urgaed, download 12.03.2011

**Figure 4: Unemployment rates according to level of education in Germany**



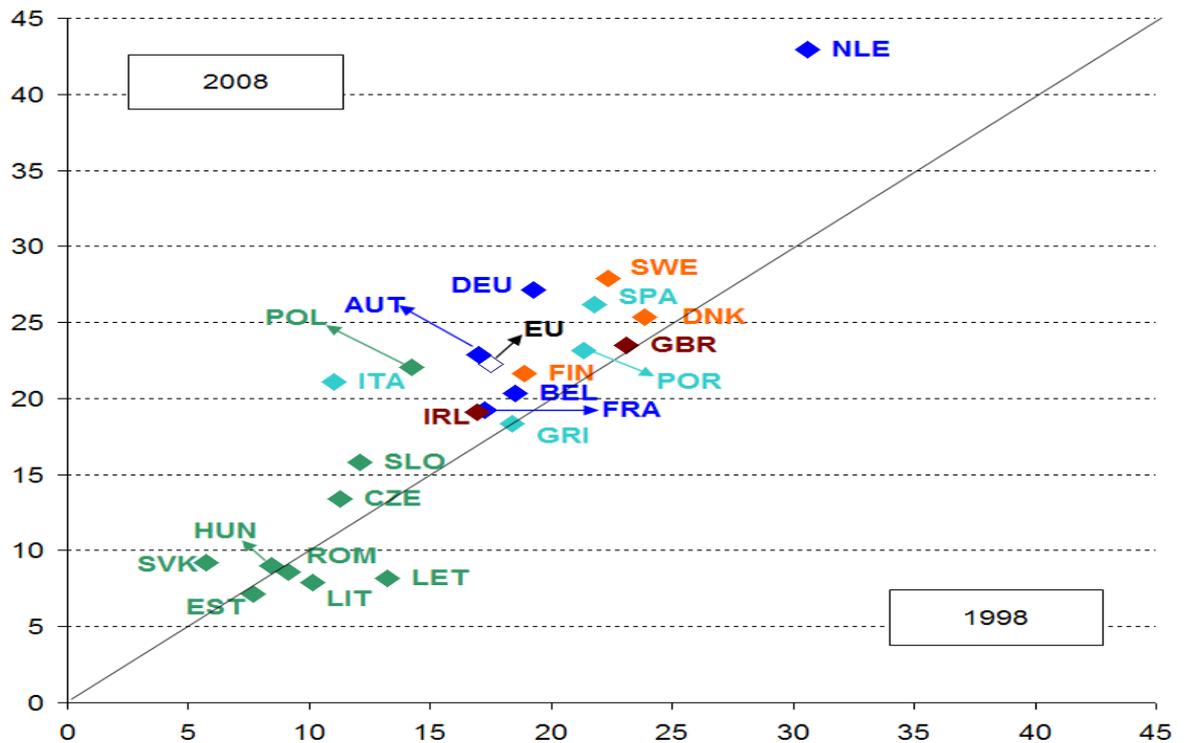
Source: IAB-Aktuell, 10.02.2011. **Reading example:** In 2009, the unemployment rate in Germany for workers without vocational training was 21.9 percent, for workers with academic degree (universities or business schools) only 2.5 percent.

**Figure 5: Relative in-work poverty and relative labour market integration of low-skilled in European member states**



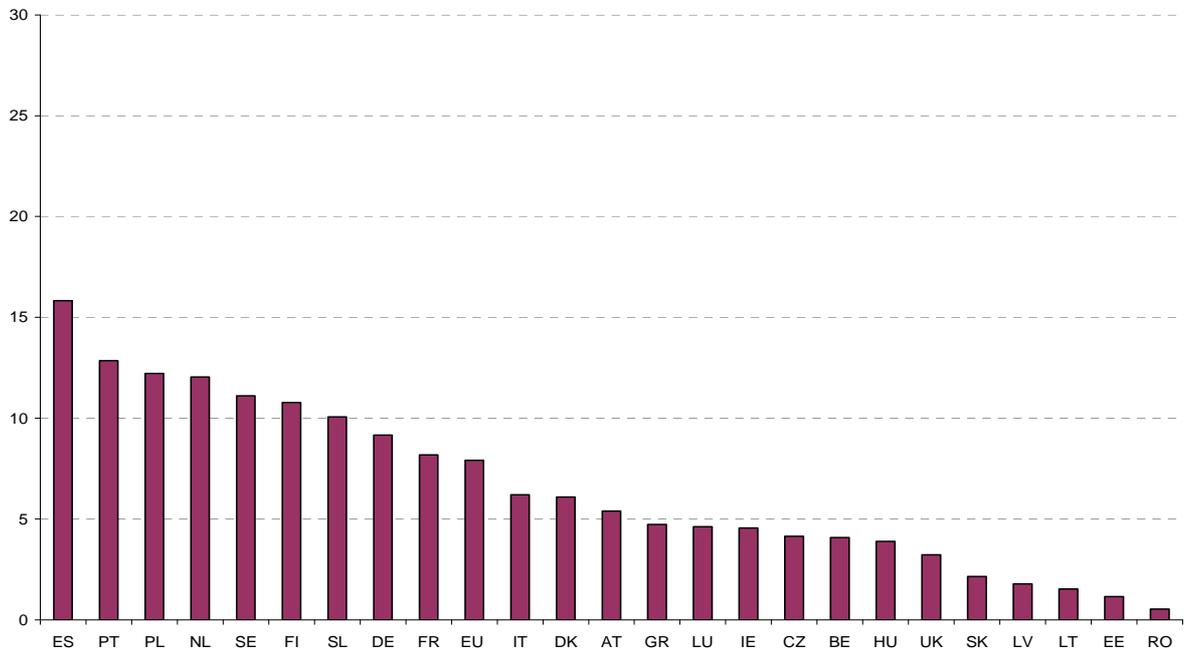
Source: Lohmann and Andreß (2011), p. 183, based on EU-SILC 2008 (weighted, France=2007; size of circles reflecting relative size of low-skilled group (ISCED 0-2) as % of population).  
Reading example: In Germany (DE), the relative in-work poverty of low-skilled was 2.5 times higher than the average in-work poverty rate whereas the employment rate of this group was .65 lower than the total. So, in contrast, for example to Finland (FI) with about the same relative labour market inclusion of low-skilled, relative in-work poverty was much higher. The correlation is .61, which means the higher the integration of low-skilled into the labour market, the lower is their relative in-work poverty.

**Figure 6: Non-standard employment rates, 1998 and 2008 (Part-time, temporary, and own account workers in percent of working-age population, 15-64)**



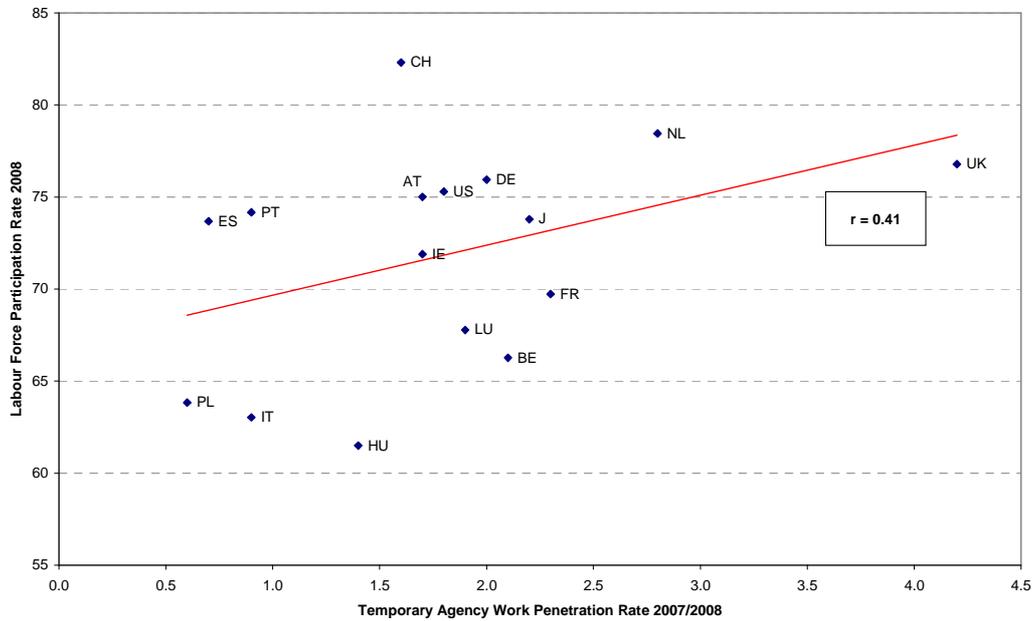
Source: Schmid 2011a, p. 174, for further explanations. Reading example: In Germany (DEU), workers in part-time, self-employment or temporary work (including temp-agency work) (controlled for overlaps, e.g., part-time self-employed or temporary part-time workers) made up about 18 percent of working age population in 1998, 27 percent in 2008.

**Figure 7: Fixed-term employment rate in Europe, 2008: Temporary full-time or part-time workers in percent of working-age population (15-64)**



Source: Eurostat, Labour Force Survey; own calculations. Note that the measurement is in terms of employment rate, i.e., as percent of working-age population and not (as often in the literature) as a share of total employment. Reading example: In Germany (DE), about eight percent of the working-age population (age 15-64) are employed on the basis of a fixed-term contract either in full-time or in part-time work. The respective share of temporary full- and part-time workers of total employment can easily be recalculated by the fixed-term employment rate divided by the employment rate (in Germany  $\approx 8 / .75 \approx 11$  percent).

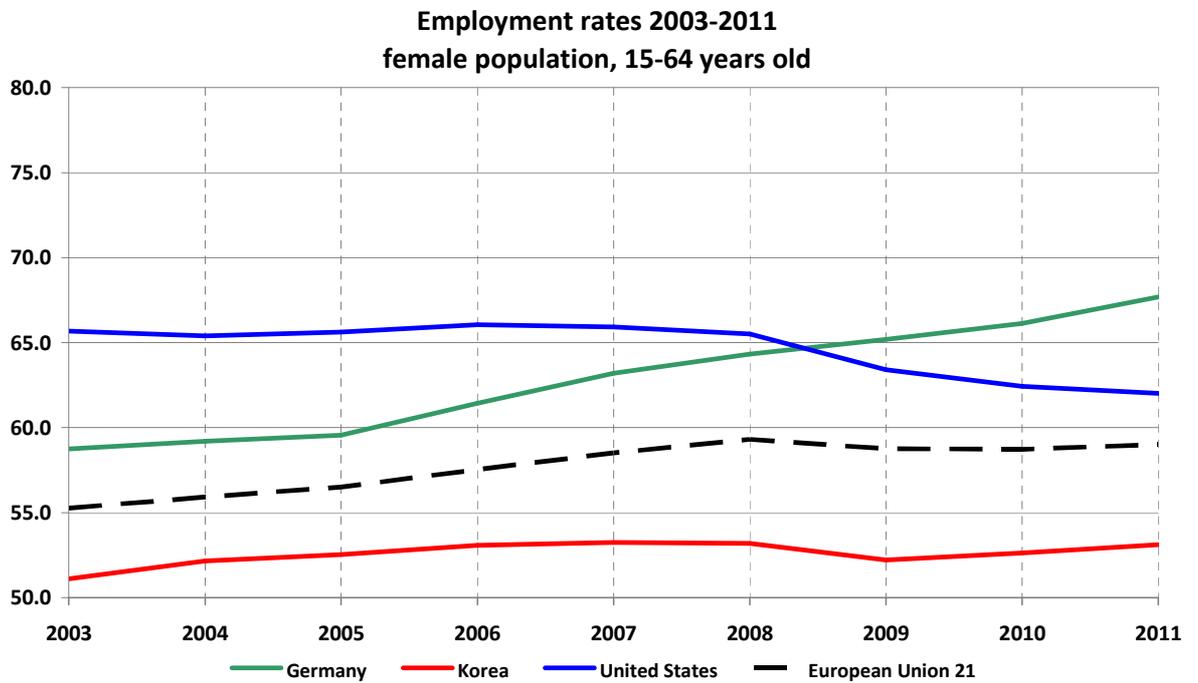
**Figure 8: Temp-agency penetration rate\* and labour force participation rate for selected countries (2007/08)**



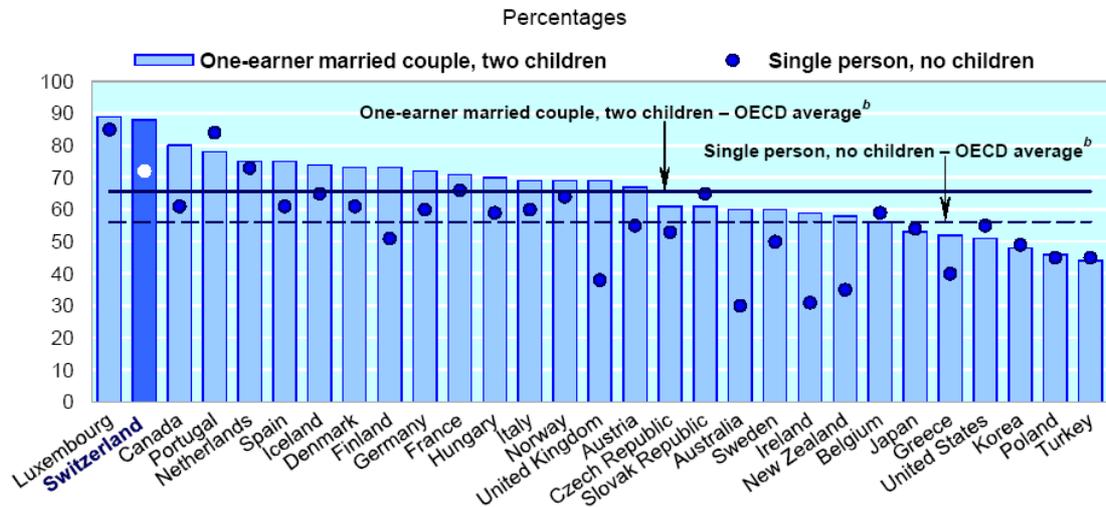
Source: Schmid (2010), p.130. Labour force participation (OECD Employment Outlook 2009); temp-agency work (CIETT, see chapter 1, table 7). Labour force participation rates refer to persons aged 16-64 in UK, US, ES, SE; temp-agency penetration rates refer to 2007 in DK, HU, IE, IT, PT.

\* Temp-agency penetration rate = average daily number of temporary agency workers full-time-equivalent as a percentage of total employment.

**Figure 9: Employment rates of women in Korea compared to United States, EU-21 and Germany**



**Figure 10: Net replacement rates<sup>a</sup> of unemployment, OECD countries, 2008  
(taken from Duell et al. 2010, p. 89)**

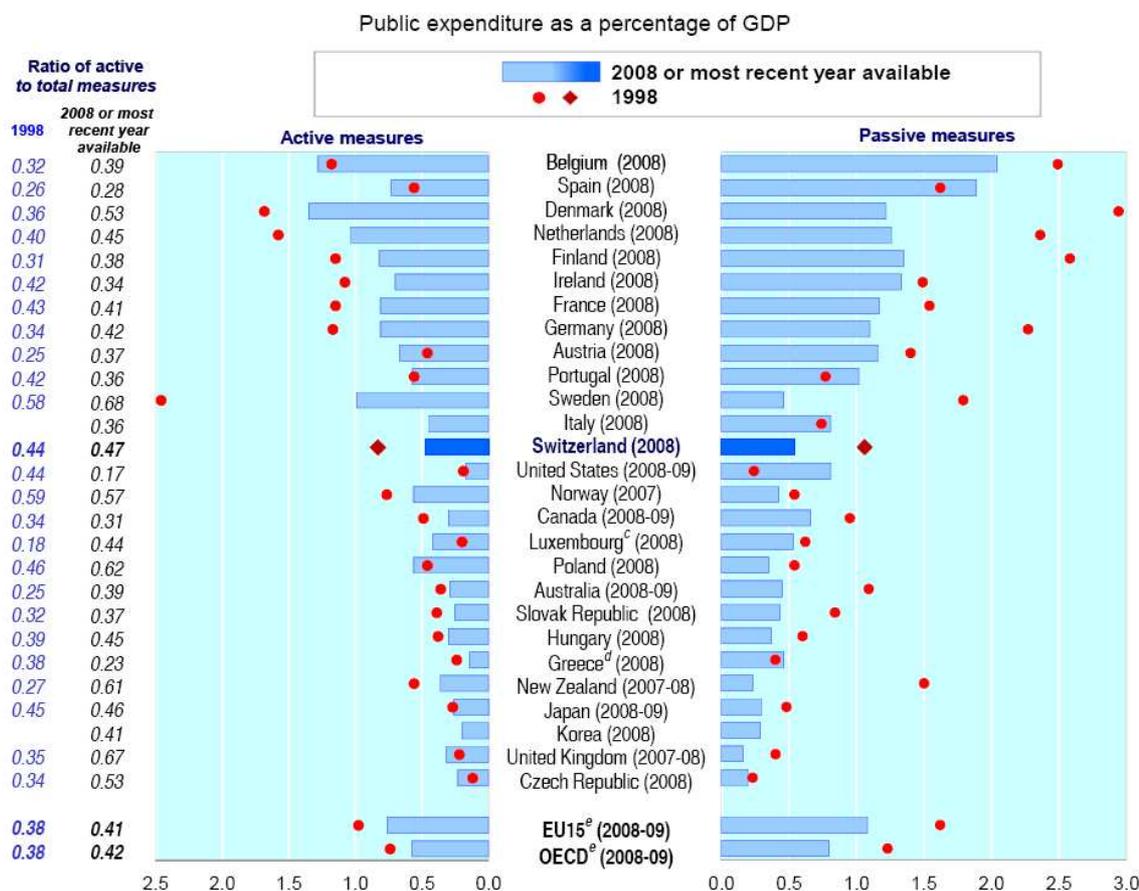


a) Net replacement rates for two family types during the initial phase of unemployment. Data refer to the ratio of household net income after becoming unemployed to household net income on 100% of average earnings (AW).

b) Unweighted average of countries shown.

Source: OECD Tax-Benefit Models, [www.oecd.org/els/social/workincentives](http://www.oecd.org/els/social/workincentives).

**Figure 11: Active and passive labour market measures<sup>a</sup> in OECD countries<sup>b</sup>, 2008 versus 1998 (taken from Duell et al., 2010, p. 43)**

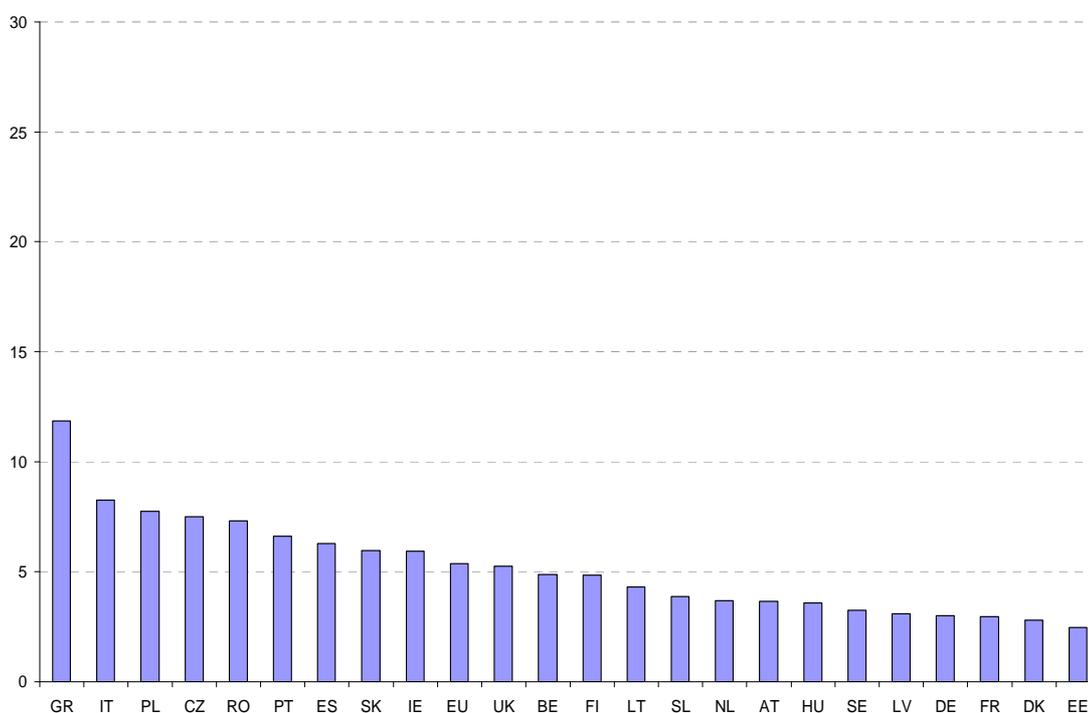


Countries are ranked in decreasing order of the total of both active and passive measures.

- a) Active measures refer to Categories 1-7, passive measures to Categories 8-9 of the *OECD/Eurostat Labour Market Programme database*.
- b) Iceland, Mexico and Turkey are excluded.
- c) For Luxembourg, data refer to 1997 instead of 1998.
- d) For Greece, active measures are calculated as the sum of Categories 1.1 and 2-7. Data refer to 1999 instead of 1998.
- e) Unweighted averages for countries where both active and passive measures are shown, except Italy for EU15; Italy and Korea for OECD, respectively.

Source: *OECD/Eurostat Labour Market Programme database*. For further country notes, see OECD (2010b), *OECD Employment Outlook: Moving Beyond the Jobs Crisis*, Statistical Annex, Table K.

**Figure 12: Full-time self-employed (own account workers) in EU-member states as percent of working-age population (age 15-64) , 2008**



Source: Eurostat, Labour Force Survey; own calculations. Note that the measurement is in terms of employment rate, i.e., as percent of working-age population and not (as often in the literature) as a share of total employment. Reading example: In Germany (DE), about 3 percent of the working age population are full-time self-employment without own employees, i.e. ‘freelancers’. In Greece, the figure is about 12 percent, in the UK about 10 percent, in the small Baltic state Estonia only 2.5 percent. In Germany, the share of ‘freelancers’ in percent of total employment is about four percent; including part-time own-account workers, the share increases to about 6 percent, still a relatively small number compared to most other EU-member states.

## Annex II: Regulations

### 1. Directive 2008/104/EC of the European Parliament and of the European Council of 19 November 2008 on temporary agency work<sup>51</sup>

#### Main points:

#### Article 2: Aim

The purpose of this Directive is to ensure the protection of temporary agency workers and to improve the quality of temporary agency work by ensuring that the principle of equal treatment, as set out in Article 5, is applied to temporary agency workers, and by recognising temporary work agencies as employers, while taking into account the need to establish a suitable framework for the use of temporary agency work with a view to contributing effectively to the creation of jobs and to the development of flexible forms of working.

#### Article 5: The Principle of Equal Treatment

1. The basic working and employment conditions of temporary agency workers shall be, for the duration of their assignment at a user undertaking, at least those that would apply if they had been recruited directly by that undertaking to occupy the same job. For the purposes of the application of the first subparagraph, the rules in force in the user undertaking on: (a) protection of pregnant women and nursing mothers and protection of children and young people; and (b) equal treatment for men and women and any action to combat any discrimination based on sex, race or ethnic origin, religion, beliefs, disabilities, age or sexual orientation; must be complied with as established by legislation, regulations, administrative provisions, collective agreements and/or any other general provisions.
2. As regards pay, Member States may, after consulting the social partners, provide that an exemption be made to the principle established in paragraph 1 where temporary agency workers who have a permanent contract of employment with a temporary-work agency continue to be paid in the time between assignments.
3. Member States may, after consulting the social partners, give them, at the appropriate level and subject to the conditions laid down by the Member States, the option of upholding or concluding collective agreements which, while respecting the overall protection of temporary agency workers, may establish arrangements concerning the working and employment conditions of temporary agency workers which may differ from those referred to in paragraph 1.
4. Provided that an adequate level of protection is provided for temporary agency workers, Member States in which there is either no system in law for declaring collective agreements universally applicable or no such system in law or practice for extending their provisions to all similar undertakings in a certain sector or geographical area, may, after consulting the social partners at national level and on the basis of an agreement concluded by them, establish arrangements concerning the basic working and employment conditions which derogate from the principle established in paragraph 1. Such arrangements may include a qualifying period for equal treatment. The arrangements referred to in this paragraph shall be in conformity with Community legislation and shall be sufficiently precise and accessible to allow the sectors and firms concerned to identify and comply with their obligations. In particular, Member States shall specify, in application of Article 3(2), whether occupational social security schemes, including pension, sick pay or financial participation schemes are included in the basic working and employment

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<sup>51</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:327:0009:0014:EN:PDF>.  
Underlining or italics are from the author.

conditions referred to in paragraph 1. Such arrangements shall also be without prejudice to agreements at national, regional, local or sectoral level that are no less favourable to workers.

5. Member States shall take appropriate measures, in accordance with national law and/or practice, with a view to preventing misuse in the application of this Article and, in particular, to preventing successive assignments designed to circumvent the provisions of this Directive. They shall inform the Commission about such measures.

## **Article 6: Access to employment, collective facilities and vocational training**

1. Temporary agency workers shall be informed of any vacant posts in the user undertaking to give them the same opportunity as other workers in that undertaking to find permanent employment. Such information may be provided by a general announcement in a suitable place in the undertaking for which, and under whose supervision, temporary agency workers are engaged. [...]

5. Member States shall take suitable measures or shall promote dialogue between the social partners, in accordance with their national traditions and practices, in order to: (a) improve temporary agency workers' access to training and to child-care facilities in the temporary-work agencies, even in the periods between their assignments, in order to enhance their career development and employability; (b) improve temporary agency workers' access to training for user undertakings' workers.

## **2. Regulation of fixed-term contracts according to TzBfG, § 14<sup>52</sup>**

1) The termination of the works contract is allowed if it can be justified by objective reasons. Such a reason exists if

1. the demand of the labour service exists only for a limited period of time,
2. the limitation of the period is due to the end of education or study in order to ease the transition of the worker into employment,
3. the worker covers the tasks of another worker,
4. the characteristic of the work allows a limited period of time of the contract,<sup>53</sup>
5. the limitation is related to a probation period,
6. the reason are lying in the personality of the worker,
7. the worker is paid by public budgets which are targeted for fix-term employment by legal regulation,
8. the limitation of the period is based on a court settlement.

(2) A fixed-term contract without an objective reason is allowed up to two years; also within this period, up to three extensions of the fixed-term contract are allowed. A limitation of the period according to clause 1 is not allowed if a fixed-term or open-ended contract with the same employer had existed before. The number of extensions or the duration of the limited period of time can deviate from clause 1 by collective agreement. [...].

(2a) Within the first four years after the start of a firm, fixed-term contracts without a reason are allowed up to four years; also during the whole period multiple extensions are permitted.

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<sup>52</sup> Free translation into English was provided by the author.

<sup>53</sup> This is often the case in employment that is combined with training or education, in particular in the area of academic work (researchers).

However, this is not valid for start-ups based on legal restructurings of companies or corporations. [...].

(3) Also, a fixed-term contract without an objective reason is allowed up to five years, if the employee has reached the age of 52 at the beginning of the fixed-term contract and if this employee was unemployed for at least four month or in a respective labour market policy measure. Within this period, multiple extensions of the contracts are permitted.

### **3. ILO recommendation on (non-standard) employment relationships**

ILO (2006) R 198 Employment Relationship Recommendation: „National policy should at least include measures to ... (b) combat disguised employment relationships in the context of, for example, (...) other relationships that may include the use of other forms of contractual arrangements that hide the true legal status, noting that a disguised employment relationship occurs when the employer treats an individual as other than an employee in a manner that hides his or her true legal status as an employee, and that situations can arise where contractual arrangements have the effect of depriving workers of the protection they are due (...).“