



## **QUALITY OF JOBS AT RISK!**

### **AN OVERVIEW FROM THE ETUC ON THE INCIDENCE AND RISE OF PRECARIOUS WORK IN EUROPE**

On 13<sup>th</sup> and 14<sup>th</sup> March, European heads of state and government will meet in the Lisbon Spring Council to discuss and set out new guidelines for employment policies in Europe for the next three years. Their main message might be to say that Europe is creating new jobs and that all that needs to be done is to implement the existing agenda of structural reforms.

#### **MORE BUT NOT BETTER JOBS**

However, such a conclusion is too complacent. Instead, the message from the ETUC to the heads of governments is that the Lisbon agenda does need change, even major change. Yes, Europe has been creating many, even millions of new jobs. But the quality of these jobs leaves much to be desired and precarious, dead-end jobs are spreading.

- In the EU-27 as a whole, some 32 million workers (14.5%) are on fixed-term contracts. Ten years ago, in 1997, fixed-term work was limited to 22 million or 11, 5%.
- About 40 million or 18% of all workers are now working part-time, up from 32 million in 1997. In fact, much of the increase in employment rates since 2000 can be explained by the rise in part-time jobs and the employment rate, expressed in full time equivalents, has hardly moved between 2001 and 2006 (from 58,2 to 58,9%).
- One fifth of these part-time workers were doing so because they were not able to find a full-time job. Their share has increased rapidly from 15% in 2002 to 20% now. Another large chunk of part-timers (some 60% of them) find it difficult to combine work and family life, pointing to the fact that lack of care facilities and long and/or inflexible working hours are keeping skilled workers trapped in incomplete and usually unrewarding and lower skilled jobs.
- 31 million workers or 15% are earning a poverty wage. 8% of workers, and in absolute numbers this concerns some 17 million workers, are actually living in poverty – the working poor phenomenon.

These are European averages. However, these averages hide the fact there exist important pockets of precarious work situations, with some groups of workers (women, youngsters, migrants, older workers) and some countries being hit the most. The material presented in the country

overview in the attachment and based on reports from ETUC national affiliates documents the latter. For example, there are:

- 6 million temporary workers in Spain,
- 5 million vulnerable workers in the UK at risk being denied their employment rights,
- almost 3 million 'false' self-employed in Italy working for one single employer,
- 6 million workers in Germany in jobs paying poverty wages,
- 80% of all new hires in France done on a fixed-term basis.

All these figures are alarming. They call into question the much heard claim that Social Europe is doing well and that social policy and worker rights can be put in the 'freezer'. They also refute the argument that European labour markets are rigid and inflexible. If anything they show that there are situations of 'excessive flexibility' in European labour markets which need to be tackled urgently if Europe is to improve both its social as well as its economic outcomes.

#### BAD JOBS DRIVING OUT GOOD JOBS

In order to create new jobs in a globalising economy - or so the traditional argument goes - Europe needs more flexible labour markets, less protection for workers and more freedom for business to use workers according to production needs and to fire them.

However, experience with more than two decades of misguided structural reform shows that the impact of weakening workers' rights on job creation is highly overrated. Labour market flexibility does not create more jobs. What it does do is to turn what otherwise would have been 'regular' jobs into precarious ones:

- Fixed-term contracts are being abused to keep the same worker in the same job and the same firm for months and years in a row, without giving the worker the protection and the terms of a permanent contract.
- Part-time contracts offer 'bad' employers the possibility of offering workers a formal part-time working schedule while employing them in reality on a full time basis, in many occasions not paying taxes on the extra wage.
- In too many cases, flexible contracts have nothing to do with business's needs for flexibility but are simply used to cut costs by undercutting wages and working conditions of regular workers. Temporary agency work is a prime example in those cases and countries where the temporary agency worker is not paid the user firms' wage levels.
- Public sector employer practice is another example. Although the public sector is not subject to globalisation and international competition, flexible and precarious contracts are often used to

push labour costs down, a trend which is reinforced by the pressure from the Maastricht deficit reduction criteria.

- Despite the existence of trial periods in permanent contracts, allowing employers to 'test' whether new hired workers are suitable for the job, temporary agency work and chains of fixed-term contracts have become the general entry gate for young workers and inactive people re- entering the labour market.
- Macro-economic research (see for example the 2006 OECD Employment Outlook) finds that there is no clear link between job protection and employment protection on the one hand and overall job performance on the other hand. Lowering job protection does not create new additional jobs; it transforms existing stable jobs into unstable contracts, thereby pushing workers into insecurity.
- Research based on household surveys finds the same results: Too much and uncontrolled labour market flexibility degrades the quality and security of existing jobs by making them insecure and unstable.

A second myth that needs urgent debunking is that precarious work practices are not the responsibility of business but the fault of 'insiders' who are too well protected (although it is employers who establish the precarious work practices in the first place, trying to play protected but weak insiders against less- or unprotected workers!). According to this line of thinking, labour law protecting prime age 'insiders' in regular open-ended contracts is leaving employers no other choice than to reflect the full burden of global competition and flexibility on new entrants (younger workers) or weaker categories of workers by giving these 'outsiders' short term and unstable temporary contracts. The policy implication is that the deregulation of workers' rights should be complete and not limited to reforms 'on the margin'.

However, this is a highly contradictory argument. On the one hand, the argument acknowledges that a permanent, open-ended contract is highly valuable and necessary to ensure workers are real 'insiders'. At the same time, it is proposed to downgrade the value of a permanent contract, to reduce its protection. And since market competition ensures 'water is always flowing to the lowest point'<sup>1</sup>, the open-ended contract would need to become as flexible as the most flexible temporary work contract. This makes no sense. It is the perverse logic of 'legitimising the illegitimate'. The end result would be that all contracts would be open-ended contracts, offering only limited security to workers and creating a casualised and insecure work force. This is a fake or paper solution, not a real one. Instead, what needs to be done is to ensure upward convergence by improving the protection for all workers, especially for those workers on atypical contracts as well as ensuring atypical contracts remain the exception and do not become the general rule.

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<sup>1</sup> For example, some ETUC affiliates report that even in countries and sectors where only one week's notice needs to be given, employers are still looking to push for contracts allowing dismissal within the next hour.

## PUTTING JOB QUALITY AND THE FIGHT AGAINST PRECARIOUS WORK AT THE HEART OF THE NEW EUROPEAN EMPLOYMENT STRATEGY

All this demonstrates that the heads of government meeting this week at the Lisbon Spring Council cannot go on as if it were "business as usual". The European employment guidelines need urgent change and rebalancing. They should focus more on the quality of jobs being created and not only on the quantity of jobs.

How to do this? By rediscovering the European Social acquis and by re-upgrading its role and importance. The European Social acquis consists of social directives and social partner agreements. It formulates a number of key principles addressing precarious work situations while at the same time providing business with the adaptability they need. Here are some of the most important principles of the European Social acquis:

- Permanent, open-ended contracts should remain the general rule. fixed-term contracts are to be accepted to the extent they remain the exception.
- Member states should therefore put limits on the use of fixed-term contracts, either by limiting its use, by limiting the number of renewable contracts or/and by limiting the number of years during which workers can be employed in a fixed-term contracts with the same firm.
- Part-time workers should have equivalent rights (wages, access to social security, firm organised training) compared with full time contracts.
- In case of restructuring, collective redundancies should be the option of the very last resort.

In other words, the European Social acquis is 'flexicurity avant la lettre'. The problem however is that the principles of the European Social acquis are not always implemented as they should be:

- What to think of labour law allowing chains of fixed-term contracts for more than ten years?
- What to think of labour law where part-time jobs are excluded from overtime payment and holiday pay/ pension benefit schemes on the extra hours being worked?
- What to think of labour law where whole groups of workers (young workers, older workers) are excluded from the right to have a stable job?
- What to think of labour law allowing triangular employment relationships (temporary agency work, subcontracting) to disrespect the principle of equal treatment by paying less for equal work?

Practically, the ETUC invites the European Spring Council to do two things:

- First of all, the Council should decide to add a new guideline to the European Employment Strategy calling upon all member states to examine and to propose measures in their national reform plans how to improve the implementation of the letter and the spirit of the European Social acquis.
- Secondly, the Council should urge the Commission to develop a new chapter in the Lisbon Community Action Plan, focusing on enlarging the European Social acquis. Indeed, the Social acquis does not address in an adequate way precarious practices such as false self-employment, starvation wages, atypical work arrangements that become traps, non-voluntary part-time work and more generally the lack of flexibility in working time from the standpoint of compatibility between work and family life. For the ETUC, the following themes should be given priority:
  - A temporary agency work directive with the objective of guaranteeing the strict principle of equal pay for equal work.
  - Guaranteeing not only equivalent but also transitional rights to atypical workers so that atypical work becomes a stepping stone rather than a trap of insecure employment.
  - Complementing the working time directive, not only by eliminating the 'opt-out' but also by introducing the collective right for workers to request flexible working hours, a full-time contract, a part-time contract, or a return to a full-time/part-time contracts.
  - A review to reinforce the directive 'parental vacation' to improve the reconciliation of family.

## **ATTACHMENT: COUNTRY OVERVIEW<sup>2</sup>**

### **AUSTRIA**

Many work contracts, mostly for workers under the age of 30, contain 'flexibility' clauses. These clauses transform wages into 'all-in' wages without overtime payment; give the employer the power to decide unilaterally on flexible hour schemes as well as the power to extract repayment of training costs when the worker is leaving the job. On average, 18% of overtime is not being paid. A quarter of a million of workers are on atypical contracts, with three quarters of them being women. Many of these workers face a high risk of poverty.

### **BELGIUM**

#### *Main problems with precarious work*

False independent workers are identified as a main problem. Although Belgian law or/and collective bargaining practice provides a framework to control the excesses of flexibility, there is no solution to the problem of so-called 'autonomous workers' in Belgium. This is a problem in particular when employers use workers from Central and Eastern Europe as so-called self-employed, thereby avoiding to pay collectively agreed wages or even the statutory minimum wage as stipulated in the posted-workers directive.

There exists a well-defined framework for temporary agency work obliging equal pay and limiting the use of temporary workers to particular and exceptional situations. However, there is pressure from business to extend the use of temporary work and use it in general as a way to enter the labour market.

#### *Interesting practice to control for excessive flexibility*

Employer abuse of using chains of fixed-term contracts are controlled for by labour law: There is a maximum of 4 successive fixed-term contracts over 2 years with the same employer. After that, fixed-term contracts are regarded as an open-ended contract.

Belgium labour law also blocks very small part time. A labour contract needs to provide at least one third of the weekly hours worked by a full timer. In practice this means labour contracts not less than 13 hours a week. This avoids abuse of employers writing out zero or two hour contracts and thereby keeping workers in a very dependant and weak position. On the other hand, it does not prevent employers from shifting

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<sup>2</sup> \* marks information based on Ires study

the burden of fluctuations in business on to workers from the moment the employee has reached its minimum of 13 hours a week. A too standard practice is also to pay all hours worked over the minimum of 13 hours unofficially, thereby undermining government revenue and denying their workers with full access to social benefits.

The federal employment agency has recently started up action on social dumping practices whereby workers from mostly Eastern and Central European countries are employed while disrespecting the posted workers' directive. The method is to contact social partner representatives from the different sectors and try to reach a sector agreement on how to regulate and control this kind of practice. Several such agreements have been concluded (construction, cleaning, transport sectors).

Finally, there is a new legal initiative (dating from December 2006) to fight false independent workers. The law fixes three sets of criteria to assert the legal nature of the employment relationship: general criteria to be used to determine whether there's a subordinate employment relationship, criteria which should not be used and criteria that are sector specific. A special Commission to oversee the implementation of this law has been installed.

## **BULGARIA**

Particularly vulnerable on the labour market are youngsters, people with low education and skills, rural women, young mothers and persons with disabilities and older employees. To a large extent they agree to take jobs with low pay and poor working conditions even if these do not always match their qualifications or are not appropriate for career advancement. The recent Gallup International survey has shown that 27% of Bulgarians do not expect to keep their jobs more than 2 years.

Full time employment and permanent labour contracts still prevail in Bulgaria. In 2006, 5.9% of the employed were on a fixed-term contract, while the proportion of part-time employees was 1.5%.

Women, young people aged 15–24 years and people aged over 55 years represent a significant proportion of part-time and temporary employment. For most of these workers, both part-time and temporary employment is a compulsory decision imposed by the lack of other options, rather than a free choice.

The typical pattern of precariousness in Bulgaria, similar to the situation in some of the post communist countries, is the high levels of undeclared work and the concentration of young people there. The informal employment consists of numerous forms (unpaid work in a family business, an employment contract with the main wage sum paid in cash 'under the counter', and most commonly work without a labour contract).

A survey carried out by the Bulgarian Industrial Association (BIA) and the Bulgarian Industrial Capital Association (BICA) shows that the grey sector in Bulgaria covers about 35% of the economy. Special attention was paid to the wide-spread practice of 'envelope wages'. National Social Security Institute estimates show that about 18-20% of the employed do not pay social security contributions and ¼ of employees received higher than declared wages.

Hidden employment has been identified in the JAP (2002) as a significant problem of the established structure of the labour market in Bulgaria, estimated to account for 20% to 36% of the GDP in 2000, placing the workforce in precarious low productivity jobs, with inadequate working conditions and without employment and social security protection.

#### *Social partners practice*

An increasing effort has been made in recent years to combat undeclared work and to encourage companies to 'emerge' from the shadow economy. Among them are legislative amendments, including an obligatory registration of labour contracts and negotiation of minimal social security thresholds. Tax and social security contribution incentives to encourage 'emergence' from irregular work do not seem to have halted significantly the spread of the phenomenon.

Under the pressure of trade unions the Labour code has been amended to put an end to the widespread practice of organising a succession of fixed-term contracts.

Trade unions also opposed to the adoption of Law on Temporary agency work as they consider the employment status of temporary agency workers unclear and in contradiction with general labour and social legislation.

## **ESTONIA**

#### *fixed-term contracts*

2,3% of Estonian employees work under a fixed-term contract. fixed-term contracts are mostly used in case of seasonal work, for replacement of an employee who is temporarily absent. The average duration of a fixed-term contracts in 2005 was 2,187 years and for 60% of these contracts the duration is less than two years.

#### *Economically dependent workers*

There have not been any studies on economically dependent workers in Estonia. The use of economically dependent work is increasing, particularly in certain sectors of the economy, such as construction.



It is generally assumed that economically dependent employment is related to either forced self-employment or tax evasion. In some occupations, it is common practice to use self-employed persons instead of employees, as is the case, for instance, with taxi drivers, postal workers or hairdressers. It is also assumed that economically dependent workers are not fully aware of their rights or indeed of the shortcomings of being self-employed rather than being a regular employee. No specific regulations currently refer to economically dependent workers.

However, due to the increasing number of self-employed persons who work together with other workers – under supervision and in an employer-created environment – an amendment of the Occupational and Health and Safety Act was passed in parliament at the end of 2006. Previously, accidents affecting self-employed persons were registered as domestic accidents, even though these may have happened while working. With the new legislation in place, accidents affecting self-employed persons will be investigated as work accidents, but only in a situation where the self-employed person is working together with other people. In this case, the employer for whom the self-employed person works must report the accident. Moreover, if a self-employed person works with other employees for one employer, they must participate in joint 'work and safety' activities with these other workers.

The rise in the minimum rate for social security contributions, which has been under revision for the last few years, is also of concern to economically dependent workers. Replacing employees with self-employed persons gives the employer the possibility to transfer some tax obligations to the self-employed. Moreover, the self-employed persons still receive social guarantees, such as public health insurance, although they do lose out in benefits, which depend on the level of tax contributions.

In order to bring the self-employed persons' tax contributions up to the minimum contributions of other employees, the minimum income basis for calculating tax contributions was raised in 2008.

## **FRANCE**

### *Main problems with precarious work*

In France, fixed-term contracts have become the 'normal' contract to hire workers: Almost 75% of all new hires take the form of fixed-term contracts. The share of fixed-term work in total employment has gone up from 6% in 1980 to 13% now, with 44% of all youngsters on fixed-term contracts. The majority of new hirings (80 %!) is done through fixed-term contracts, with especially youngsters being hit by this. This overdependence on fixed-term contracts creates problems with social rights such as holiday pay, sickness leave, maternity...). In particular,

workers on fixed-term contracts do not enjoy their first three days of sickness being paid, even if this concerns a worker that has been with the same company but in a chain of fixed-term contracts for years.

Moreover, it is not clear whether fixed-term work is functioning like a 'stepping stone': Whereas three quarters of youngsters with a degree succeed in moving out of temporary work into a permanent contract after a period of seven years, this is not the case for those youngsters not holding a degree where only half of them transit from temporary into permanent contracts.

part-time work is spreading and touches women and low skilled workers in particular. 17% of workers are part-time and 30% of those part-time jobs are low skilled jobs and involuntary part-time.

French policy to exonerate social security contributions on low wages is producing perverse effects. It is blocking wage policies and negotiations, promoting the development of low productive jobs and dragging down professional qualifications.

#### *Interesting practice to control for excessive flexibility*

Temporary agency workers are known to have much less access to training. In France, a special levy is charged on temporary work agencies and these revenues are then used to provide temporary agency workers with training.

On 11<sup>th</sup> of January, social partners signed an agreement on the modernisation of the labour market with the aim of tackling some of the problems described above.

## **Finland**

### **Precarious work and precarious contracts in Finland**

#### *Description*

fixed-term contracts have been largely used in the public sector while in private sector contracts are more often made with temporary work agencies. During last years precarious work in temporary work agencies has increased. While living costs are rising earning a salary that can afford decent living has become more and more problematic in fixed-term jobs. Especially in southern part of Finland and in the capital city area irregular incomes make it impossible to keep up decent standard of living.

In the municipal sector about 25 % of all contracts of employment are fixed-term contracts and they are especially common among young women and in healthcare and social sector. Another problematic area is education in municipal as well as in state sector. According to recent

statistics more than 35 % of contracts of employment at universities were fixed term.

Also temporary work agencies hire their workforce mainly by fixed-term contracts even when employees may have been working for them several years.

In industrial sector the number of fixed-term jobs has decreased while the work done by workers from temporary work agencies has increased significantly. For example at technological industry the number of employees who are working for temporary work agencies is more than 6 %. In private service sector workers of temporary work agencies are widely used in hotels and restaurants.

Part-time work is specific problem in private service sector. In commerce and cleaning sector most of the employees are part-time workers. In these sectors full time employment is available only for very few of those who would like to work full hours.

fixed-term and part-time workers as well as people working on for temporary work agencies or on other kind of temporary contracts (fake self employment or entrepreneurship) are often quite unsure about continuity of their work or worried about the reference employer may give after the contract. Therefore they are also very shy in demanding their rights. This is especially truth when it comes to lawsuits where claimant has to be individual worker even when union takes care of the proceedings and expenses. Lack of precedents also means that below mentioned changes in legislation have not so far been very efficient.

#### *What has been done?*

During economic depression in mid 1990s the unemployment rate climbed close to 17 %. Many workers were willing to take what ever kind of work while employers were very cautious in hiring new workforce. Number of fixed-term contracts of employment and other temporary work arrangements rose.

Since then development in labour markets has lead in a dual direction where increase of precarious work and lack of workforce are present at the same time. Finding solutions and means to decrease the problems of precarious work has been ranked very high in trade unions' strategies.

At the end of 1990s unions trusted "neutrality of expenses". The main idea was to remove all differences that made fixed-term work cheaper than work within undetermined contracts. For example legislation concerning contributions to pension fund and annual holidays were changed.

At the beginning of 2000 Employment Contracts Act was renewed and Directives 1999/70/EC (concerning the framework agreement on fixed-

term work) and 97/81/EC (concerning the framework agreement on part-time work) were fully implemented. Priority was given to employment contract that is valid indefinitely. Contracts made for a fixed term on the employer's initiative needed to have a justified reason or they were considered to be valid indefinitely. Part-time workers were given the right to get additional working hours before employer is allowed to hire a new employee. Rules concerning temporary work agencies demanded that if there is no collective agreement binding the agency the payments to its employees have to follow the collective agreement of the user company. Employee is also entitled to have same conditions of work as employees of the user company and some obligations of employers are divided between TWA and user enterprise.

Assuring equal rights for annual holidays for all workers regardless of the amount of working hours was also among the main reasons to renew Annual Holiday Act in 2005.

Newest changes in legislation like Act on the Contractor's Obligations and Liability when Work is Contracted Out (2007) and Act on Co-operation within Undertakings (2007) gave shop steward and workers representatives' rights to get information about fixed and part-time contracts as well as the contracts made with temporary work agencies. Workers representatives in the user enterprise are also entitled to represent the employees of temporary work agency. These changes make it possible for workers representatives to take issues up with employer without worker involved having to ask for it.

## **GERMANY**

Precarious jobs are on the rise in Germany as well. Labour market policy is much behind this trend. Cuts in unemployment benefit systems, together with 'active' labour market policies forcing workers to take up jobs paying 30% below collective bargained wage agreements, as well as mini-jobs and 1-euro jobs drive workers into the sector of low paid, insecure jobs:

- part-time employment is increasing rapidly and has reached around 25% in 2007. For two thirds of part timers their job is the main source of income. One quarter of part timers mainly live from income from their partner. And the remaining ten percent of part timers are essentially on social security benefits. 84% of all part timers are women.
- Mini jobs (monthly income limited to 400 euro) are problematic, not only because the wage offered is very low but also because they are not covered by social security (in case of sickness for example). It is estimated that the social security systems loses some 4 billion in social contributions through this system if mini jobs. The number of mini jobs continues to increase and some 6, 6 million workers are now in this system (third quarter 2007).

- Temporary agency workers: There are now some 750.000 temporary agency workers, mainly employed in large companies. Temporary agency work is used by employers to undermine the bargaining position of trade unions: Wage demands considered too high (or wage concessions that employers consider too low) are sanctioned by resorting to temporary agency workers. They are paid very low wages, sometimes as low as 5 euro an hour. In principle, German labour law imposes the principle of equal pay for equal work. In practice however, competition between trade unions has led to collective bargaining agreements using the possibility of deviating from the equal pay principle. Substitution effects are substantial: In 25% of companies using temporary agency workers, regular employment is shrinking. Temporary agency work does not function as a 'stepping stone' but as a 'bad job trap': Only 15% of workers transit to permanent employment while the remaining workers tend to suffer a worsening of their professional qualifications.
- fixed-term workers: 8.1% of employees, mainly youngsters are on fixed-term contracts. Their number is slowly increasing.
- 1 euro jobs: There are some 350,000 such jobs, touching around 750,000 workers a year (1 euro jobs can be occupied for six months). Such a job allows the unemployed to top up their benefits with some 140 euro per month. Only 15% manage to enter the regular job market, the rest remains in the unemployment benefit system.
- Low wage workers: 6.5 million are working for a low wage (lower than two thirds of the median wage). This concerns one in five (dependant) employees. On average, a low wage worker in West-Germany was gaining 6.86 euro and 4.86 euro in East Germany. The share of skilled or trained workers in the low wage sectors has gone up from 58% in 1995 to 67% now. Driven by policy measures such as mini-jobs, agency work and falling collective bargaining coverage, the low wage sector has expanded over the past years. Germany now has the largest low wage sector of European continental countries and its share (in total employment) of 22% is comparable with the UK and almost as high as in the US (25%). Upward mobility out of the low sector is limited and as low as in the UK.
- There exists a generation of 'trainees for free': 40% of them receive no pay.

## **HUNGARY**

There is general practice to employ workers as a small/semi entrepreneur. Ongoing legislation tries to make the distinction between workers and entrepreneurs clear. Recent legislation also forces firms that are borrowing workers from other firms to pay an equal wage.

## **IRELAND**

Ireland combines a policy of open borders for migrant workers with a loosely or even poorly regulated labour market. The consequence of this is that a 'race to the bottom' has appeared over the past years. In particular, migrant workers are not always being paid the 'going rate' for the job, or not even the minimum wage. This has led to concerns over displacement of regular, decent paid jobs by jobs paying poverty wages. This trend of poverty wages is accompanied by a disproportionate increase in self employment, bogus self employment, the use of temporary work agencies to avoid employer responsibilities and long chains of subcontracting out the work.

### *Interesting practice*

The ICTU is using the instrument of national social pacts to address this race to the bottom. In the new agreement (Reversing the trends – towards 2016), commitments to strengthen worker rights and prevent a race to the bottom were secured.

## **ITALY\***

One of the drivers of Italian labour market reform introducing precarious work has been the European economic policy framework: With fiscal policy constrained by the Maastricht regime and with a devaluation of the national currency no longer possible in the monetary union, 'labour' is seen as the only factor of adjustment by policy makers.

As a result, and especially under the Berlusconi government (see Biagi law) Italy has indeed introduced a wide 'variety' of labour contracts, allowing business to force workers into insecure working conditions:

- 'Collaboration' contracts have formalised the so-called '*parasubordinare*' a category between the statute of regular workers and self-employed. In many cases, these workers are doing the same job as regular workers but without (full) access to social security rights. In 1995, these 'collaboration contracts' have been made 'official' by charging social security contributions which are however substantially lower than the contributions to be paid on regular workers. The effect is that the number of '*parasubordinare*' has been tripled from 1 million workers (1996) to 3 million workers (2004). A quarter of these workers are employed by the public sector. Ninety (!) percent of them are working for a single employer.

Self-employed workers take up 27% of total employment in Italy, a figure that is substantially higher than in the rest of Europe

- The incidence of fixed-term workers, taking up 13.6% of total employment, is not that dissimilar compared with the European average. However, half of all new hirings are done through fixed-term contracts and the share of fixed terms in total employment has been rising rapidly from 7.4% in 1995 and 10% in 2000.
- 'Insertion contracts' allow workers aged 18 to 29(!) years, long term unemployed between the age of 29 and 32 years, older unemployed over 50 years and female workers(!) in almost all regions to be hired at a wage level that is two categories lower than the level corresponding with the qualifications necessary for the job. The counterpart of employers providing training to these workers is practically absent.
- 'On call' contracts allow the employer to call upon the worker in function of business activity. If workers have to be permanently available, a special compensation is paid. However, no social security contributions are to be paid on this availability fee.
- Job-sharing: A contract through which two employees share the work. Dismissing one worker automatically dismisses the other worker, a modality which is highly problematic when the two workers in question are a couple.
- Part-time work has been increasing rapidly as well from 8.4% in 2000 to 12, and 8% in 2005. Reductions in social security contributions have been specifically targeted to promote employers who hire workers on a part-time basis, in particular young, female and older workers. The 2003 Biagi law also weakened the role and possibilities of trade unions to limit and negotiate the introduction of part-time work in the enterprises.

### *Interesting practice*

Italian trade unions try to negotiate collective agreements with employers which 'stabilise' and re-regulate the use of these forms of work. For example, in 2003, an agreement was signed for the sector of call centres stipulating that the share of '*parasubordinare*' workers should be gradually reduced from 80 %(!) to 40%.

In close consultation with social partners, the recent Prodi government has been keen on ending the employers' abuse of this chaos of work contracts. A first offensive against the deregulation of the Italian labour market has been the 2007 budget which includes a reduction in taxes on labour. The modalities of this tax cut are such that open-ended contracts are promoted over other forms of contracts. At the same time, the social contribution advantage that the statute of '*parasubordinare*' enjoyed is being reduced; this in turn provides the financial room to cut the overall tax wedge on labour. In this way, the Italian government is rewarding

'good' employer behaviour while having 'bad' employers pay the cost of the flexibility they extract from workers.

The 'underground economy' has also been tackled by introducing the obligation to inform of a new hiring at least one day before the start of the work contract. This, together with more assertive supervisory activity from the Labour Ministry, has led to the regularisation of some 420.000 irregular and/or undeclared workers.

More recently, the Law 247/07 has taken measures to implement the 'Welfare protocol' that was negotiated by social partners:

- A maximum limit of 36 months to successive fixed-term contracts with the same company in the same job.
- 'On call' contracts have been abolished with the exception of the tourist, entertainment and show-biz sectors.
- 'Staff-leasing' has been abolished as well, from 1<sup>st</sup> January 2008 on.
- Flexibility clauses in part-time job legislation (change of time schedules, extension of duration of work) are no longer governed by individual but by collective bargaining.

However, co.co.co workers remain a problem, especially because of the self-employment nature of these contracts; workers are severely underpaid and pushed into poverty. Also, business seems to be discovering that traineeships are a new 'grey area' that can be used to recruit young people at no cost while being easily replaced.

## **LITHUANIA**

Main problems regarding precarious work in Lithuania have to do with temporary work contracts, with subordinate employment relationships being transformed into civil law 'services' contracts and even employers simply breaking the law by employing workers without any labour contract whatsoever. Some 15% of all workers in Lithuania are casual workers.

## **NETHERLANDS**

In the Netherlands, the FNV estimates that around 1.9 million workers are so-called 'flex-workers' (defined as contracts under one year, on-call contracts, less than 12 hours weekly working time. 'Fake' independents are not counted in these figures). While getting a new job, fixed-term contracts have become the rule. From a total of 1 million of job vacancies in 2005-2006, two thirds were filled in by temporary contracts offered with the prospect of getting a permanent contract. In only 16% of cases, the fixed-term contract was linked with a temporary job as such. The remaining 20% of hiring was done by providing an open-ended contract immediately.



There are around 879.000 independent workers in the Netherlands. One in three of these are suspected to be economically dependant workers. Developments in the postal sector, where workers sign contracts to deliver for example 1,000 packages against a piece rate compensation, are worrying.

Transition rates out of flexible work are rather low. This is illustrated by temporary agency workers. Even in years where the economy is growing robustly, only one third of them have access to a permanent contract afterwards.

The liberalisation of the temporary agency sector has led to some abuses. One in four temps' appears to be working for agencies not paying social security contributions or not paying collectively agreed wages.

Labour law is limiting fixed-term contracts to a maximum of three contracts over a maximum of 36 months, after which the contract becomes open-ended. However, collective agreements can and are deviating from this by specifying more contract renewals and/or a longer period than 36 months.

### *Interesting practices*

A substantial reduction of on-call workers has been achieved by installing minimum work sessions of three hours (up to 15 hours a week), by increasing contractual working hours to average number of hours worked over the past three months. Many of these on-call workers have received a part-time work contract instead. However, a new trend in retail and home care is to offer a part-time contract with 50% fixed working hours whereas the employer is free for the other half of the working time to call upon the worker at any moment of the working week. This implies for example that a part-time contract of 10 hours translates itself into the worker being available over 70 hours a week.

Another measure is tackling the false self-employed workers by transforming each regular working relationship with a single employer of 20 weekly hours over at least three months into a regular working contract.

Collective bargaining agreements, followed by the 'flex-wet' have installed a right for workers to request a reduction in working time as well as a right to reverse their previous choice.

Some trade unions (media, construction, services) have organised the self-employed and are seeking to include fixed minimum rates of compensation for the self-employed in collective bargaining agreements.

The overall strategy of the trade union is to prevent that flexible work would become more cheaply for the employer than regular work.

Collective agreements try to set limits to flexible work practices. And by allowing flexible deployment of workers on regular contracts, differences between flex-workers and permanent workers are kept as small as possible. In general, trade unions are not against any form of flexibility that is in the interest of workers. However, the FNV does reject the abuse that is made of flexibility and the fact that this is leading to poor wages, poor working conditions and insecurity of workers.

## **NORWAY**

### *Main problems with precarious work*

One tenth of workers are in temporary employment, mostly youngsters. Temps' may be excluded from pension schemes and their high turnover results in employers showing no interest in upgrading their skills. There are also problems with access to housing loans.

In Norway, 27% of the employees work part time (44% of the women, and 13% of the men in the work force). However, a large number of part-time workers (mostly women) wish to work more and are "underemployed". In the last quarter of 2007 there were 93,000 underemployed in Norway, or 14% of the total number of part-time workers.

Employers may abuse part-time work to avoid contributing to pension arrangements.

### *Interesting practice*

The Working Environment Act contains important measures to fight precarious work situations:

1. If an employee has been employed for more than four consecutive years in the same company, the employee is considered being permanently employed.
2. part-time workers have a preferential right to a post with extended hours when there is a relevant vacancy in the company.
3. The working environment act also limits the use of temporary jobs to exceptional cases (when warranted by the nature of the work and the work differs from that which is ordinarily performed in the undertaking, when it concerns a temporary replacement, for trainees). However, the follow up of this principle is low in services sectors where trade union density is limited.

## **POLAND**

### *Main problems with precarious work*

The share of fixed-term workers has risen enormously, from 4% in 1999 to 26% in 2005. 60% of youngsters are on fixed-term contracts. There is a rapid growth in temporary agency work as well. atypical workers such as these are excluded from training.

One tenth of the workforce is self-employed, with many of these depending on one single 'employer', especially in the health and social care sectors.

## **PORTUGAL**

More and more workers (some 34%) find themselves in a situation of precarious work, with 17% of them in independent work and 13% in fixed-term contracts. Many fixed-term workers actually take up permanent jobs. There are also problems of seasonal workers without a contract, of on-call work and of informal workers. Temporary agency work is used even in situations not allowed for by labour law. And some temporary agency firms are themselves operating illegally.

## **SPAIN\*<sup>3</sup>**

### *Main problems with precarious work*

Spain is the unfortunate 'champion' of temporary contracts. About one third of all workers or about 5 million workers have a fixed-term contract, a share that has not gone down much despite the good economic performance of the Spanish economy which has more than halved unemployment from a level of 20% to 8% at present.

One consequence of the high incidence of fixed-term work is that many fixed-term workers have difficult access to unemployment benefits, since such access is restricted to workers with a minimal period of social security contributions of 12 months. Indeed, two thirds of fixed-term contracts are contracts of six months duration or less.

The big rise in the share of fixed-term work in the second half of the eighties is to be attributed to active labour market policies, targeting a certain public (long-term unemployed, female workforce,...), and providing substantial tax cuts and tax advantages for employers taking on such workers on a temporary basis. In 1992 for example, half of temporary contracts were concluded in the context of such employment policies. In return, the fact that the relative incidence of temporary work did not really fall over the recent period of growth is to be found, again, in the Maastricht regime of fiscal policy. To consolidate public finances, only a quarter of vacant jobs in the public sector are being filled up with regular

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<sup>3</sup> Also based on information received from UGT-E

working contracts, with the rest of open places going to temporary work contracts.

### *Interesting practice*

In May 2006, social partners and government concluded a social agreement with the intention of tackling the problem of precarious work. The agreement contains the following measures:

- A limit to temporary work: After more than 24 months of fixed-term contracts in the same enterprise and for the same job over a reference period of 30 months, the contract is converted into an open-ended contract.
- Employer bonuses (from 850 to 3,200 euro) to be paid annually when target groups (women, youngsters, long-term unemployed,) are offered an open-ended contract.
- Employer social security contributions are being cut, with a 5.5% contribution for open-ended contracts and a 6.7% contribution for fixed-term contracts.
- Involvement of social partners in Labour inspection services to follow up the illegal use of temporary contracts in firms and sectors where the share of fixed-term workers is particularly large.

Another interesting policy measure is the new legal statute for autonomous workers that are in the making. If at least 75% of total income of a self-employed worker is provided for by one single client, then the worker gets additional protection: A written contract then becomes obligatory and the rate of compensation is governed by 'agreements of professional interest'. These agreements are negotiated between employer and user associations on the one hand and autonomous workers' associations (with links to the trade union movement) on the other hand. Labour courts are authorised to intervene in case of conflicts or non-respect of the agreements.

What is the provisional evaluation of these two measures?

- Over 2007, both the numbers as well as the share of fixed-term workers have decreased from 5.5 million or 34.4% to 5.2 million or 30.9%. Meanwhile, the number of employees on permanent contracts has increased from 10.5 to 11.6 million.
- The share of fixed-term work has fallen significantly in the private sector (from 35.8% to 32.9%), less so in the public sector (from 26.2 to 25.7%).
- The fall in fixed-term work was noticeable in all sectors except for agriculture, mining and education.
- Nevertheless, and despite the social agreement, temporary work practices remain a structural and too widespread phenomenon of the Spanish economy.
- Concerning the law on 'autonomous workers', this law has given social and collective protection to three million of autonomous

workers depending on a single employer. The law has also installed a new information right for enterprise councils and worker representatives to have a copy of all contracts involving dependant workers at their disposal. Nevertheless, vigilance from trade unions is necessary on the implementation of the law but also on the danger that employers might try to substitute regular contracts for autonomous workers.

## **SLOVENIA**

The increase in flexible employment and flexible work organisation is resulting in higher uncertainty and more intensification of work. According to the Fourth Survey on European Working Conditions, the intensification of work is the highest in Slovenia among the 31 countries analysed. Young workers are the most affected. Since several years, fixed-term work contracts represent the highest share of new hiring in Slovenia (75% in 2007). 41% of all new hiring concerns fixed-term contracts for young workers between 15 and 24 years of age. The share of fixed-term contracts in this age category runs up to 68% - the third highest level in Europe.

Also, the number of atypical workers (project workers, workers posted to another employer) is rising. For workers involved, this creates uncertainty, much less attachment to the company so less innovation. These workers also have less access to credit and loans (53% of young men and 45% of young women between 18 and 34 years of age live at home with their parents). It is therefore no big surprise that precarious, insecure work also has negative consequences on fertility. Despite good social policies, youngsters are postponing the decision to have children to a later age out of concern for the insecure labour market position they find themselves in.

## **SLOVAKIA**

### *Main problems with precarious work*

The labour code allows the chaining of fixed-term contracts over three years. Moreover, the labour law allows this over an indefinite time span 'if there are reasons to do so', which is like giving a blank cheque to employers willing to abuse the situation. For certain workers (nurses, care services, workers in small enterprises) the law does not set any limit. In Slovakia, a fixed-term contract can be ended immediately.

Slovakian labour law also allows 'trading licences', thereby creating 'false independents'. Employees performing identical work in the same work place are then paid different compensation and have unequal access to social security.

part-time workers have a reduced dismissal notice of two weeks instead of two months. Conversion into full time contracts rarely takes place.

### *Interesting practice*

To increase the respect of labour laws, government is considering higher fines, which are now limited to an average of 1 euro per case.

## **SWEDEN\***

### *Main problems with precarious work*

Since 1997 the use of fixed-term contracts is no longer limited to certain specified cases (such as for example a temporary increase in activity or replacing permanent workers that are on leave or on sabbatical). However, workers can not be hired on a fixed-term basis for more than 12 months over a period of three years while there's also a maximum of five persons per enterprise. Collective bargaining contracts can deviate from these rules. A contested reform in 2000 allowed local bargaining to agree upon these deviations, whereas before 2000, this deviation could only be done through centralised bargaining. fixed-term work increased from 14.4% in 1996 to 16% in 2000. More recently, the time limit to fixed-term work has been loosened from 12 to 24 months.

Another even more striking development concerns the increase in part-time work since 2000, from 19.4% of all workers to 24.7% in 2005. Behind these figures hides, amongst other things, the problem that employers are abusing part-time work contracts by combining these with practices of 'on-call' work.

## **UNITED KINGDOM**

### *Main problems with precarious work*

The UK has a high share of part-time workers. Unlike the Netherlands, UK part-time workers have no or reduced access to essential social rights (pensions, maternity, unemployment benefits).

Low pay is widespread in the UK: Over 20 (28)% of the UK population has an income lower than 60 (50)% of median income and the probability of transiting from a low paid job into a better paid one is one of the lowest in the European Union.

Temporary work is less widespread in the UK (around 6%) than in the rest of the EU. But at the same time temporary workers receive no protection so that their pay is on average some 17% lower compared to workers with open-ended contracts. Access to additional pension schemes, sickness and holiday entitlements is also rather unlikely if one is a

temporary agency worker in the UK. Even over the run of their full career, workers who once occupied a temporary job, earn on average a wage that is 12% (8.8%) lower for men (women).

This structure of part-time, temporary contracts, results in one third of workers not having sickness leave rights. (Half of UK firms do not pay anything during the first three days of sickness). Lack of decent legal protection or organised trade unions at work is resulting in one in five workers or about 6 million workers in total being vulnerable to abuse from their employers in the UK.

*Interesting practice to control for excessive flexibility*

- Clear regulation and criteria on distinguishing dependant workers from self-employed workers.
- Introduction of a statutory minimum wage in 1999.
- Limiting of trial period during which unfair dismissal cannot be contested by the worker from 24 to 12 months.