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**Атипичная занятость во Франции и Германии.**

Atypical Employment in France and Germany

Д и с с е р т а ц и я на соискание степени магистра по основной образовательной программе высшего образования по направлению 040100 «Социология», профиль «Европейские общества» / MA «Studies in European Societies»

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**Abstract**

**Germany and France are two neighboring countries with the largest economies in continental Europe. Both of them suffer from the phenomenon of labour market segmentation which was a response to global economic changes. This segmentation is characterised by dual employment protection, i.e. leaving the regulations for permanent regular workers almost unchanged, the countries increased flexibility only for non-standard employees at the margin. Such liberalisation brought about the whole range of atypical contractual arrangements. Comparing such widespread forms of atypical work as part-time job, fixed-term employment and temporary agency work, we trace similarities and differences in the incidence of these atypical employment relations among certain groups of people, influenced by national principles of employment organisation in both countries.**

**Key words: atypical employment, labour market regulation, part-time work, fixed-term contract, temporary agency work, Germany, France.**

**Германия и Франция – две соседние страны с крупнейшими экономиками в континентальной Европе. Реакцией на глобальные экономические изменения явилась сегментация трудовых рынков в обеих странах, которая характеризуется двойной системой охраны труда. Оставляя регулирование занятости постоянных работников практически без изменений, государства увеличили гибкость в отношении нетипичной трудовой деятельности, что породило целый ряд нестандартных контрактных соглашений. Сравнивая в данной работе такие распространенные виды атипичной занятости, как неполное рабочее время, срочная занятость и заемный труд, мы увидим сходства и различия в их применении, исходя из национальных особенностей регулирования рынков труда.**

**Ключевые слова: атипичная занятость, регулирование рынка труда, неполное рабочее время, срочная занятость, заемный труд, Германия, Франция.TABLE OF CONTENTS**

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**Introduction**

The increased expansion of globalisation processes where economies though different but still are interrelated, acts a considerable pressure on governments and business to adapt to changes remaining competitive at the same time. Stable unemployment particularly enforces states to loosen legal regulations and thus diversify working contractual arrangements to involve more citizens into labour market. Such policy is intended to enhance economic performance of the country on the whole.

Atypical employment is not a new phenomenon in the context of European labour market but the rise of the former in the 1990s of the last century gave birth to most heatable debates across countries. The trend has been investigated by many researchers among whom are such scholars as B.Keller and H.Seifert (2012), Eichhorst and Marx P. (2010), Messenger J.C. and Wallot P. (2015), Michon F. (2011) to name but a few. Their contribution to the research will be considered in this paper.

The **object** of our research is atypical employment in Germany and France. The **subject** of our investigation is similarities and differences in implementation of various nonstandard contractual arrangements. Our **research** **question** is formulated in this way: how and why do certain atypical work forms (part-time, fixed-term, temporary agency work) differ in the national contexts of Germany and France? For realisation of this research the following objectives are due to achieve:

* To find out the meaning of 'atypical';
* To describe traditional and new forms of nonstandard employment relationships;
* To find out the correlation between 'atypical' and 'precarious';
* To consider theoretical approaches to labour market segmentation and flexibilisation;
* To describe welfare state and employment regime in Germany and France;
* To examine labour market and employment regulation in both countries;
* To review and compare the implementation of such traditional flexible forms of employment as part-time work, fixed-term employment and temporary agency work;

The main analytical contribution of this study is to understand better how the three atypical work forms have gained in importance in a situation of labour market flexibilisation and interpret the main driving forces for their expansion. In our study we focus on the analysis of part-time, fixed-term and temporary agency work in a comparative framework which will allow us to find out the main points of discrepancy or similarity specific for Germany and France.

To achieve the objectives of the study we use **quantitative** **methods** of secondary data. We mainly focus on national contributions to the investigation of the phenomenon under consideration, though having surveyed international literature on this question as well. Particular emphasis was made on women as there is evident increase in their participation in labour market; and young people since they are first to be hit in case of crisis. The major part of statistics was taken from OECD.Stat.

The **structure** of this study is divided into 4 chapters and responds to the analytical tasks described above. The 1st chapter begins with the definition of atypical employment, non-universality of which caused proliferation of terms. Here we also give rather encompassing lists of traditional and newly emerged forms of atypical employment, as well as discuss the difference between 'atypical' and 'precarious'.

The 2nd chapter examines the organisation of employment in Germany and France including theoretical approaches to its segmentation and flexibilisation. We also outline the main tendencies in labour market and employment regulation, followed by exploring the differences in German and French training systems which are either of great help or not so in search of permanent employment.

In the 3rd chapter we consider the implementation of such atypical contractual arrangements as part-time work, fixed-term employment and temporary agency work in Germany and France. We do a comparative analysis of these work forms based on specific features of employment organisation in both countries discussed in the previous chapter.

In conclusion (the 4th chapter) we answer our research question presenting the main findings of investigation.

1. **Definition of atypical employment and trends**
   1. **What is atypical employment?**

Atypical employment is not a newly emerged phenomenon. In the work ''International comparison of atypical employment: differing concepts and realities in industrialized countries'' Kazuya Ogura (2005) gives a brief review of the evolution of the analyzed concept since the establishment of capitalism and traces the origin of the notion in Europe. Ogura points out that no definitive theory of the latter is available. Citing Shimada (1991) he refers to the French labour law (which stipulates that a ''labour contract without fixed contract term is considered typical'' (Article L121-5))[[1]](#footnote-1) and noticed that 'atypical labour contract' ultimately related to fixed-term and agency work after the 1980s[[2]](#footnote-2). Therefore, it is assumed, 'atypical' was rendered from the French 'atypiques' (from the French ''Contrats de travail atypiques'' (atypical labour contract)) and came into usage all over Europe as well as in Japan (ibid.).

Despite being quite a processed issue in academic and political arena, the notion of atypical employment as a reality lacks any unified definition. The concept of atypical employment takes a great amount of forms used in the academic literature on the discussed issue. Kalleberg (2000) provides the whole range of terms with reference to the researchers applying them in their studies. So one can come across *'alternative work arrangements'*, *'market-mediated arrangements'*, *'nontraditional employment relations'*, *'flexible staffing arrangements'*, *'flexible working practices'*, *'vagrant or peripheral employment'*, *'vulnerable work'*, *'precarious employment'*, *'disposable work'*, *'contingent work'* (ibid., p.341).

The common feature of the above-mentioned forms lies in that this phenomenon is mostly considered through comparison (or better opposition) to typical, standard employment relationships. European Industrial Relations Dictionary defines it in the following way:

*Atypical work refers to employment relationships not conforming to the standard or ‘typical’ model of full-time, regular, open-ended employment with a single employer over a long time span. The latter in turn is defined as a socially secure, full-time job of unlimited duration, with standard working hours guaranteeing a regular income and, via social security systems geared towards wage earners, securing pension payments and protection against ill-health and unemployment[[3]](#footnote-3).*

A great diversity of terms as George and Chattopadhyay (2015) point out, describing the working arrangements which deviate from standard ones makes it difficult to compare cross-national studies. Researchers from various states tend to use particular terms from the list denoting the related categories in a different way which leads to much coincidence and thus confusion. George and Chattopadhyay (2015) give an example when one and the same 'contingent work' indicates employment for short period as well as part-time working arrangements which still may imply permanent labour relations without any termination (ibid.). To add to this Quinlan (2015) explains that such overlaps are possible because of focusing on a couple of work categories rather than scrutinizing the whole spectrum of work arrangements. Moreover, the analysis is further complicated by multiple jobholding (typical of hospitality industry) or ambiguous employment status of some workers (when workers in industries like hospitality or construction can be either self-employed or work through an agency on a regular basis) (Quinlan, 2015)

It is also highlighted by George & Chattopadhyay (2015) that exactly the proliferation of multiple terms constitute obstacles as for researchers themselves to compare data from different countries (since national statistics differentiate), as well as for policy makers to initiate a programme of adequate and appropriate reforms in the labour market regulation (ibid.). The same authors make reference to Pfeffer and Baron who, in their opinion, gave the most influential definition of non-standard workers and categorized them into three main groups:

* workers with limited temporal attachment to the organisation (temporary or short term contracts);
* workers with limited physical attachment to the organization (at-home workers, virtual workers, teleworkers);
* workers with limited administrative attachment to the organization (contract workers, agency temporary workers)

According to another classification they distinguish *external workers* and *casual workers* emphasizing different aspects of atypical work. In the first case we have different firms with outsourcing principle and in the second one limited commitments between employer and employee are meant (ibid., p.2-3).

Still another aspect which many researchers confusingly refer to the intrinsic feature and indispensable part of all types of non-standard work is precariousness. But that deserves particular consideration (as there are certain limitations) and will be examined after we have given a survey of the types of atypical employment.

Now we shall proceed to the forms non-standard employment takes.

* 1. **Traditional atypical employment relations**

***Part-time* work is supposed to be the most wide-spread form. Keller and Seifert (2012) refer to it as the traditional form of non-standard employment. Part-time is characterised by fewer weekly working hours in comparison to those on permanent full-time contracts. Pay is correspondingly reduced. It is worth mentioning that specific legal thresholds vary across countries. Generally it makes fewer than 35-30 hours per week. In some cases contracts stipulate very short hours or even no predictable hours at all, and then it will refer to some other category like on-call work which is considered below.**

**A specific German version of part-time employment is *minijobs* emerged with the so-called Hartz laws. Interestingly enough this type implies not a certain temporary dimension but the financial one, i.e. an employee earns below the threshold of 450 € (since 2013). Keller and Seifert (2012) stress the necessary distinction to be made within this contractual type: it can be the only job or an additional one but the first case prevail (70% of all mini-jobs) (ibid.)**

**Another German peculiarity *is midi-job with* monthly earnings between 450,01-850 €. More than one third of these employees work full-time (ibid., p.6). Therefore we can discern here a certain risk of precariousness which will be discussed later on.**

**Kalleberg (2000) pays attention to the fact that part-time in Europe has a reference to marginal employment with implicating low pay and low wage. Though he admits country differences regarding this type of employment which represents either marginalisation strategy, which provides employers with cheap labour or an integration strategy used to retain valued workers.**

***Fixed-term employment* implies certain period of contract termination either indicating the reasons for that or not.**

**As we have already mentioned above, many researchers like Keller and Sefert (2012) or some ILO representatives** (ILO, 2015) **do not designate between fixed-term and temporary work. The latter, however, make fixed-term work a part of temporary employment, together with project or task-based contracts, seasonal and casual work (which we describe separately further on). There are differences among countries in regulating this form of employment relations concerning the nature of work, duration of contract and number of renewals.**

***Agency work (or leased labour or labour hire*** (Quinlan, 2015)***,temporary help agency, temp agency, temporary agency work, or TAW)* constitutes triangular contractual arrangements according to which *''a worker is deployed and paid by a private employment agency to perform work for a user firm''*** (ILO, 2015)***.***

**In addition to agency work Quinlan (2015) refers also *franchising* and other types of structured *subcontracting* to multilateral employment relations.**

***Self-employment* is a form of ambiguous employment relationships when for instance ''the respective rights and obligations of the parties concerned are not clear''** (ILO, 2015)**. They distinguish two groups of workers in this category:**

* + - ***solo self-employed* or *one person business/ family business* or *Me, Inc.* and *family company*** (Keller B., 2012, p.3,11) who have ''neither an employer nor a wage contract and are responsible for their own tax arrangements'' (Kalleberg, 2000, p.355). Kalleberg also calls them 'individual contractors' highlighting that they are not employees (ibid., p.356). Ogura also adds that family members assisting them are called family workers (Ogura, 2005) ;
    - ***dependent*** (ILO, 2015)(Keller & Seifert, Atypical employment in Germany. Forms, development, patterns, 2012) ***self-employed* provide services for business under a civil or commercial contract but depend on a couple of clients concerning their income and receive direct instructions regarding the implementation of work** (ILO, 2015)**.**

**Eichhorst et al. (2016) mention also *quasi-dependent self-employment* giving however no hints what is meant: does it refer to either of the above-mentioned groups or is it a separate type?**

**Some authors** (Quinlan, 2015) **combine dependent self-employment and subcontracting as the forms of outsourcing.**

***Seasonal work*** is a form of temporary employment marked by the definite period of the year (e.g., harvest time) and a certain sector (e.g., tourism industry). It should be noted that compared to the permanent workforce a seasonal worker can lose much in terms of statutory entitlements (e.g., dismissal protection), benefits (e.g., pension) and specific working conditions (like training or health and safety)[[4]](#footnote-4)

***Telework*** is defined as remote work carried out on the regular basis at home with the use of information technology (the Internet, email and telephone)[[5]](#footnote-5). One should distinguish this type of employment from ***homeworking*** which refers to people working also at home but on tasks like knitting or stuffing envelopes. The latter (sometimes called ***'outworkers'***) tend to suffer from poor working conditions and low social protection. On the contrary, a teleworker may hold a rather high position (i.e. be highly paid and valued) in a company and simply on their own initiative change the office for home[[6]](#footnote-6).

***Casual worker*** is defined by Eurofound as 'a worker on a temporary employment contract with generally limited entitlements to benefits and little or no security of employment. The main attribute is the absence of a continuing relationship of any stability with an employer, which could lead to their not being considered ‘employees’ at all'[[7]](#footnote-7).

The authors of ''Working time in the twenty-first century'' (ILO, 2011) also add to this category ***on-call working*** and ***zero-hours*** contracts which stipulate no predictable time for work. Interestingly enough, these types are subpoints in marginal part-time with very short hours.

It is worth highlighting that ***on-call work*** is distinguished from ***on-call hours*** ''under an employment contract that otherwise specifies working hours, common, for example, in the medical profession'' (ILO, 2015, p.3)

***Apprenticeship*** (or internships) is in most research excluded along with freelancers, one-euro jobs for work experience (Keller & Seifert, Atypical employment in Germany. Forms, development, patterns, 2012) (in some studies, though, freelancers are related to dependent self-employed). Ogura (2005), however, make vocational trainees a separate group of atypical workers who do their work at an enterprise in exchange for being trained and though little but still paid. Additionally the term ''subsidized contract'' can be found in research literature.

Shift work, night work and holiday work are considered by Ogura atypical as well and are called ***''unsocial forms of employment''*** (ibid., p.15).

**In the *Exploratory analysis of fourth European working conditions survey* they differentiate the following types of employment:**

* **standard (indefinite full-time employment contract taken as a reference category);**
* **atypical employment (temporary agency work or fixed-term contract of more than six months);**
* **very atypical employment (no contract, very short part-time with less than 10 hours a week or fixed-term contract of six months or less)**
* **residual category (apprenticeships and other non-specified contracts)** (Eurofound, 2010)**.**
  1. **New forms of employment**

In this section we examine newly[[8]](#footnote-8) emerged forms of employment having agreed that since new forms are all non-conventional we refer them to atypical types as well.

Taking into consideration the adverse side-effects of labour market flexibilisation, the more prominent sound the calls for flexicurity[[9]](#footnote-9). Flexicurity is a rather new concept in academic and political discourse, so there is no unified definition of this term. Still the fundamental principles can be distinguished. Following the communication ''*Towards Common Principles of Flexicurity''* presented by the European Commission (2007) we define flexicurity as ''an integrated strategy to enhance, at the same time, flexibility and security in the labour market''. So the two components are considered to complement rather than oppose to each other. Given the striking segmentation of present employment realm, the Commission together with the Member States aim at complementation of both dimensions. Four policy components to implement flexicurity were elaborated:

* Flexible and reliable contractual arrangements;
* Comprehensive lifelong learning;
* Effective active labour market policies;
* Modern social security systems (European Commission, 2007).

**Researchers from Eurofound made an** executive **summary of *new forms of employment* operating in Member States. Surprisingly, it is not emphasized that these are atypical or non-standard working arrangements but examined in correlation with flexible and inclusive labour markets** (Eurofound, 2015)**. But in view of close interrelation between flexibility and non-standard employment, we will consider new types also atypical, particularly because, as it is indicated in the summary, they are characterized by ''unconventional work patterns and places of work, or by the irregular provision of work'' (ibid., p.1).**

**So since around the year 2000 there have emerged the following phenomena:**

* ***employee sharing*** [[10]](#footnote-10)**(when an individual works for a couple of employers thus making full-time permanent employment);**
* ***job sharing* (when workers several part-timers are hired for a specific job making thus a full-time position);**
* ***interim management* (a highly skilled expert from the outside is employed to solve a certain problem at an enterprise);**
* ***casual work* (has been discussed earlier);**
* ***ICT-based mobile work* (job can be done from any place at any time via modern technologies);**
* ***voucher-based work* (''the employment relationship is based on payment for services with a voucher purchased from an authorised organization that covers both pay and social security contributions'' (ibid., p.1));**
* ***portfolio work* (an individual does small assignments for a number of clients)**
* ***crowd employment* (large tasks are divided among 'virtual cloud'of workers);**
* ***collaborative employment* (where ''freelancers, the self-employed or micro enterprises cooperate in some way to overcome limitations of size and professional isolation'' (ibid., p.2))**

**The following new forms are identified in Germany and France:**

Table 1 - New forms of employment (Eurofound, 2015)

|  |  |  |
| --- | --- | --- |
| **Germany** | **Germany and France** | **France** |
| **Crowd employment** |  | **Interim management** |
|  | **Employee sharing** |  |
|  | **ICT-based mobile work** |  |
|  | **Collaborative employment** |  |
|  |  | **Casual work** |
|  |  | **Voucher-based work** |

* 1. **. Debates on precariousness**

**Precarious employment is an issue of most heatable debates on academic and political arena. It is asserted that the ultimate form of precariousness is informal economy** (ILO, 2011)**. At the beginning of our work we have remarked that most studies and policy makers equal atypical and precarious employment. There is really much overlap but the two types do not coincide. Bispinck and Schulten (2011) differentiate main-risk dimensions in employment leading to precariousness:**

* ***Income* (low and irregular pay);**
* ***Employment* (no entry to enter the labour market, lack of career prospects);**
* **Working time (from extremely short and irregular to extremely long hours);**
* ***Social security* (no access to social security system);**
* ***Participation* (limited possibilities of interest representation)** (Bispinck & Schulten, 2011)**.**

**Among all of the above mentioned pay is considered the core dimension. This accounts for the fact even full-time permanent employees are under precarious conditions if they earn less than two-thirds of the median wage (i.e. not enough to maintain adequate living standards) or, e.g., their working conditions are not regulated by any collective bargaining and thus they suffer abuses. Binspinck and Schulten (2011) state there were one-fifth of full-time but precarious employees.**

**At the same time not all atypical employment falls into this category. Many studies admit that for instance so-called 'voluntary' part-time female employees succeed in keeping work-life balance and combining career with family commitments. Though, as Wagner (2014) remarks, such women can still be considered in hazardous conditions since they lack financial self-sufficiency and depend much on the family bread-winner, so that marital stability is of crucial importance.**

**Another interesting type of working arrangement is presented by telework (see above for the definition) which, in our opinion, is by no means precarious though still considered atypical.**

**In the following chapter we examine the main features of labour market segmentation which gave rise to various forms of atypical employment in Germany and France. At first we discuss how the dualism is expressed in each of the cases and then summarize convergent and divergent characteristics.**

1. **Organisation of employment in Germany and France**
   1. **Theoretical frameworks of labour market segmentation and flexibilisation.**

As we have already cited Ogura (2005), non-standard forms of employment were discussed in 1970s of the **last** century. Since that period global world has experienced significant changes regarding work arrangements. Quinlan (2015) gives a brief outline of the major phenomena in this realm. Among others he lists the following:

* Employment status variations, increase of fixed-term, on-call, casual workers as well as 'conversion'[[11]](#footnote-11) of employees to self-employed subcontractor status;
* Outsourcing of activities by employers ('off-shoring'[[12]](#footnote-12)), growth of temporary employment agencies and leased labour firms;
* An expansion of remote/mobile, tele-work, homework;
* Decrease in employment duration together with job security (Quinlan, 2015, p.1).

The driving power to such transformations was given by shifts in business/employment practices, deterioration of collective bargaining and softening of the regulatory policies of governments for the sake of flexibility (ibid.), i.e. flexibilisation of labour market. Quinlan also finds it critical to recognise that the upsurge in atypical contractual arrangements went hand in hand with such remarkable shifts in workforce of many countries as ageing of the population, greater female participation and (what is crucial) ''historically unprecedented use of migrant workers (including internal migrants) including those on temporary visas (guest workers, tourists and students) and undocumented workers'' (Quinlan, 2015, p.2)

The trend towards labour market flexibilisation dates back to the 1980-1990s of the last century when global economic changes enhanced competition among countries, organisations and workers. The growing rate of unemployment resulted from incapabilities of governments to provide everyone with full-time wage job (Kalleberg, 2000)[[13]](#footnote-13).

Four types of flexibility are distinguished:

* Numerical (employers' ability to adjust the size of workplace organizations to the changing economy using temporary workers (Kashefi, 2007));
* Functional (the ability of employers to deploy or redeploy workers from one task to another with minimal interruption in the work process (ibid.));
* Temporal flexibility (the possibility to adjust working time and working hours according to the needs of employer and employee (Barbieri, 2009));
* Wage flexibility (possibility to adjust wage levels (ibid.)).

The outcomes of such flexibilisation, however, are rather controversial. On the one hand, following the ‘integration scenario’, both employers and employees benefit from labour market flexibilisation. If the former may gain more profit by streamlining production and reducing costs, the latter (particularly low-qualified or even unemployed) gain access to the labour market. Consequently, this improves economic performance on the whole (Giesecke & Groß, Temporary employment: chance or risk?, 2003).

On the other hand, according to the cleavage scenario, the outcomes may be quite the opposite. With the rise of atypical work arrangements, employees ''lose much of their bargaining power'' (ibid., p.163). As regards efficiency of production, it is more increased by stability rather than flexibility (Giesecke & Groß, 2003). Besides, greater use of non-regular contracts may undermine the employer's ability to meet the changeable market of new technologies and products where a trained and committed worker is of crucial importance (Rubery, 2003). So we can see that ''greater flexibility does not always imply greater potential to adapt and respond to change'' (ibid., p.141).

As a result countries all over the world, and European ones in particular, suffer from the so-called labour market segmentation, i.e., ''the division of the labour market into separate submarkets or segments, distinguished by different characteristics and behavioural rules'' (Deakin, 2013, p.iii).

Moreover, segmentation theory which classifies atypical employment relations as either those increasing 'internal' flexibility (e.g., part-time work as a firm-internal resource) or those promoting 'external' flexibility (fixed-term contracts and agency work) (Giesecke, 2009) implies also the distinction between 'insiders' and 'outsiders'. The former are workers with long-term contracts who benefit from stringent labour market protection; and the latter are employees with non-standard contracts with little or no protection. Such dualisation enhances social inequality though not to the equal extent across Europe.

Now we shall proceed to theoretical framework of labour market segmentation. Deakin (2013) gives an overview of three perspectives which bring various economic, legal and developmental dimensions to the fore.

***Economic perspectives*** (internal labour market theory, efficiency wage theory, insider-outsider theory, feminist economic theory)

*Internal labour market theory* originates from the 1970s and divides the labour market into 'primary' and 'secondary' segments. The former is characterized by stable firm-specific employment whereas the latter by unskilled, low-paid and short-term jobs. While the primary market is underpinned by official red tape, unrestricted competition predominates in the secondary one. Deakin (2013) points out that it was consistent with *human capital theory* which deals with interdependence between the employment duration and reciprocal contributions to firm-specific training. George and Chattopadhyay (2015) provide some explanation to that. It is the strategic value of human capital that predetermines which contract to conclude, standard or nonstandard one. When the workforce enhances the company's performance then the latter should be convinced that the worker is attached to firm and related human resource practices with long-term contract. In case of low strategic value of human capital the company concludes short-term contracts (when the human capital is not unique or rare) or certain partnership with third party organisations for provision of services which are exceptional but not of the strategic value for the company (e.g., legal or financial advisors). Similar logic can be traced in *transaction cost considerations* where long-term standard contracts are concluded if interests of company and workers coincide.

As Deakin (2013) notes these investigations were followed by *efficiency wage theory*. These arguments draw to certain reflection of external market prices on the worker's efficiency pay and company's need to stimulate labour force with internal payment systems as well as job security arrangements. In other words, if employers cannot control worker's capabilities and motivation without cost, and job-specific investments are of crucial importance, they have to raise payments together with other elements of the work bargain above the opportunity or market-clearing wage. When remuneration of labour does not fully reflect prices, work is superseded to the secondary market where competition is further exacerbated. This reserve labour force acts as a disciplinary threat of job loss for those in primary sector thus displaying a positive side-effect of employer's bargaining strategy (ibid.).

*Insider-outsider theory* is based on the same logic though shifting attention to the impact of trade unionism in segmenting the labour market.

*Feminist economic theory* highlights the traditional household division of labour as a source of segmentation. Women are said to be in a disadvantaged position both within the household (where their labour is unrated) and in the labour market (where they suffer from occupational segregation, inequality in wages, training, security and employment-related benefits. From this viewpoint laws aimed at eliminating this gender-specific discrimination at labour market will mitigate the effects of its segmentation as well (ibid.).

***Legal perspectives*** (the standard employment relationship model, reflexive labour law)

The previously mentioned economic theories give proposals of how special laws can counteract the segmentation of labour market. But as a matter of fact legislation itself can trigger segmentation. This theory is considered to be originated in German legal and sociological writings of the 1980s and to have much in common with *institutionalist* approach in sociology putting the role of labour legislation in regulating labour relationships to the fore. Here *standard employment relations* do not only present an ideal model for legal interventions but also a reference point for protection, selection and incentivisation.

Standard employment relationship differs across countries displaying various experiences in industrialisation and labour relations developments. Deakin provides an example of Germany where legislation clearly stipulates the demarcation line between standard and atypical forms of employment, and Britain where standard employment used to be a tendency within the collective bargaining system (before certain amendments in labour regulation).

It is also noted that the model of standard employment relations has been challenged by globalisation and political factors of deregulation policies, all resulting in outsourcing, subcontracting and increased female participation in the labour market.

Within the contrasting *reflexive labour law theory* two main implications can be found. The first one stresses that economic pressures do not find immediate reflection in law as it is an autonomous social system. Despite the functional role of law in regulating of employment it is still path-dependent at that and yields to certain internal discourses. According to the second one the efficiency of legal system is not predetermined and highly depends on social actors' self-regulation.

Correlation between segmentation phenomenon and legal form of standard employment lies in that the stricter standard working arrangements are protected the higher pressure on the law to allow the emergence of alternative flexible forms of employment. Citing Rogowski, Deakin emphasizes that ''reflexive labour law teaches deregulation that it is dependent on the willingness of the targeted social systems to respond to its demands'' (ibid., p.6)

***Development perspectives*** (mechanisms for addressing informality)

Standard employment as a point of reference is rather controversial in the context of developing countries where most employees experience difficulties in entering regular employment so that transferred model of standard employment from developed economies to those still experiencing industrialisation would be a failure. This is explained by the specificities of post-colonial societies and nonuniformity of trade conditions between developed and developing countries and therefore tailored forms of state intervention are required. Regarding this segmentation theory standard employment relationships cause informality and result in the need for flexibility, i.e. other work forms (Deakin, 2013).

These theoretical arguments can be brought together to establish three main reasons for using atypical forms of employment:

* cost advantages (remuneration of nonstandard employees are lower than that of standard ones);
* flexibility advantages (nonregular workers can perform various tasks, in various locations and be hired in short order);
* technological changes (which make atypical employment possible) (George & Chattopadhyay, 2015).

Examining the workforce segmentation in Germany, Eichhorst and Kendzia (2014) distinguish *institutional theory*, *functional* arrangement of labour market and closely linked with the latter *concept of skill formation.*

## Welfare state and employment regime.

In this section we will examine how welfare regimes demarcate the differences in employment systems across countries, structure work organization and patterns of labour market activity thus influencing the expansion of nonstandard work forms.

Rubery and Grimshaw (2003) provide some typologies of welfare states. According to the first one, described by Esping-Andersen, there exist three types of welfare capitalism: social democratic model (Sweden), neo-liberal model (the USA) and corporatist model (Germany, France). The key difference between these regimes lies in the extent of labour decommodification (i.e. ''the degree to which individuals, or families, can uphold a socially acceptable standard of living independently of market participation''[[14]](#footnote-14)). Here we are interested in such points of corporatist model as high share of domestic services and high wages for men, lower wages for secondary workers. In this insurance-based welfare system state enforces insurance policies for citizens to protect themselves against the loss of income through unemployment and to provide for their old age (Rubery & Grimshaw, 2003).

The corporatist welfare system (to which both Germany and France refer) does not only add to the division of labour market into high and low status workers but also demarcates the gender division of labour viewing men as single breadwinners and restricting women's role to that of household commitments. The latter are provided with welfare payments through their insured spouses; and children and elderly care is provided by transfer payments to households rather than directly by public services. Such welfare mechanisms as taxation, benefit systems or insurance-based rights cover both men and women given that the former actively participate in labour market and the latter are in stable marriage with employed men.

In contrast, alternative classification by Lewis (1992) distinguishes strong, modified and weak breadwinner model. The first one is similar to the corporatist or German system as mentioned above. France fits to the modified model which supports strong male breadwinner model in some respects and weak male breadwinner in other, i.e. French women are encouraged by social and tax policy to remain in the household on the one hand, yet developed provision of child care assistance make full-time participation in labour market affordable.

* 1. **Labour market and employment regulation.**

Rubery and Grimshaw (2003) point out that countries all over the world fail to provide their entire workforce with sufficient high quality jobs. In order to cut unemployment and exploit the most human resources states with strict labour market regulation are advised to follow American model and generate low-paid jobs. Germany, for instance, used to heavily rely[[15]](#footnote-15) on high-quality jobs primarily in manufacturing which together with tax subsidies from welfare state provide reasonable standard of living for a man and his family.

Besides, there is direct correlation between child care provision and employment participation of women. The main instruments of support to families in this respect are leave arrangements, care provision and schooling. Good childcare provision is guaranteed from a young age in France; whereas in Germany effective provision starts from the age of three. However, short school days as a rule finishing by lunchtime present a greater obstacle for German working women. French pupils meanwhile can stay at school till evening (Rubery & Grimshaw, 2003). So we can see that France creates better opportunities for changing the traditional household division of labour.

As to the gender division of labour within both paid and unpaid work it is influenced by the view on women in wider politic and societal conditions, i.e. as mothers, workers or citizens. In the first case maternity impacts labour market participation (Germany). In the second case maternal commitments have to conform the needs of employment regime (the US). And in the third case women enjoy equal rights to participate in wage work (Sweden). Concerning France, it promotes the image of women as mothers to stimulate demographic growth; but at the same time women are supported by the state in either case whether staying at work (by childcare provision) or staying at home (by generous benefit provision for women with two or more children[[16]](#footnote-16).

Recent decades have witnessed continuous increase in women employment based on the pursuit of economic independence almost disregardless of assistance from the state or labour market. Women are said to be employed in flexible and disposable labour whose participation is influenced by available job opportunities and whose labour cost is lower than that of men; therefore they can be often found in part-time employment. Here women suffer certain inequalities concerning earnings, career development and training. Despite all the negative side-effects, however, part-time workers can successfully keep work-life balance, particularly when the alternative is unemployment and/or inappropriate care arrangements.

Moreover, women tend to raise their educational level which facilitates their activity in the labour market and enables them to choose higher level types of employment. Though there are still those employed in traditional low-wage services with all the negative implications (Rubery & Grimshaw, 2003).

* 1. **Training systems**

It would not be superfluous to pay attention to the national systems of training in Germany and France since it is exactly what precedes the entrance to the labour market and thus explains specificities of various non-standard employment arrangements.

German labour market is characterised as ***consensus-led occupational*** one (OLM) in contrast to the French ***state-led internal*** labour market (ILM). Following Rubery and Grimshaw (2003) we distingyish the following points of divergence.

Firstly, *system of training* differs in that internal labour market model provides only workplace-related training; whereas in occupational labour market training combines part-time college-based education with on-the-job training through work experience. It is employers' responsibility to design and implement training in ILM; and in OLM training is regulated by all social partners – state, employer associations and trade unions.

Secondly, as to the *skills development*, in OLM there exist broad occupational criteria according to which skills are designed and certified; in case of ILM skills are elaborated narrowly to reflect specific needs and requirements of a company and therefore are not confirmed since they vary across organisations.

Thirdly, through *delivery of training* workers attain particular social and economic status. In ILM only a position within the company is guaranteed and status depends on the reputation of enterprise at that; in OLM broad qualification is acknowledged across companies within particular sector of economy.

This results in the range of job opportunities: a worker enjoys inter-firm mobility within the OLM and restricted to intra-firm mobility in ILM.

Rubery and Grimshaw (2003) emphasize that economy-wide, institutional regulation of training marked by high standards and wide coverage has brought international respect to **Germany**. Regulation is performed by social partners involved in co-determination, i.e. state, employers and unions. The costs of such 'dual system'[[17]](#footnote-17) of apprenticeship are distributed between the actors of another tripartite structure: state provides off-site general training, employers cover the costs of workplace training and at last workers themselves pay for the period of apprenticeship (two to three years), though indirectly, by accepting low rate of remuneration in comparison to standard adult rate. This often leads to the direct hiring of an employee, without their being unemployed. Such system gives a chance for internal career advancement as well as inter-firm mobility secured by general occupational credentials.

In case of **France** it is the state which primarily responsible for the provision of training with more emphasis on general academic education and less stress on vocational training. According to Rubery and Grimshaw (2003) workplace apprenticeships are not that common in French companies as in German ones and if they are present they are characterized by poor reputation being an option for the low-skilled and therefore considered a cost rather than an investment[[18]](#footnote-18). As a result opportunities are strongly polarized reflecting the gap between high level of managerial training and unsystematic education of manual workers (ibid.).

So expanded opportunities of skill development facilitate vertical mobility of an employee within the given firm thus fostering workers' commitment to the organization or in the opposite case low-skilled employees are confined to marginal employment which is hardly stable or secured by social benefits.

As a matter of fact, as Rubery and Grimshaw (2003) observe, strategies of raising employee's qualification may clash with pressures for firm flexibility so that companies would rather turn to subcontracting than to pay training costs even for the core workforce thus adding to the spread of atypical employment.

1. **Atypical employment in the national contexts of Germany and France**

Further on we describe nonstandard work arrangements in Germany and France. We will examine implementation in both countries of such already traditional (due to the emergence in 1970-1980s) forms of atypical contracts as part-time, fixed-term employment and temporary agency work.

* 1. **Part-time work**

The prominent nowadays trend towards more flexible employment presented earlier an attempt to avoid layoffs in times of crises and periods of raising unemployment. For governments it was a kind of job creation and employers protected their core workforce not without pursuit of flexibility and cost containment thus maintaining their productivity and competitiveness.

Having examined a bulk of literature on the discussed phenomenon we cannot but agree with Quinlan (2015) that there is evident and significant overlap between part-time and temporary work. Though, this is not the rule. Part-time work may be also stipulated in open-ended contracts particularly in order to save firing-hiring costs and retain valuable workforce. The expansion of part-time employment is considered to be consistent with female labour supply together with the growth of service economy. Rubery and Grimshaw (2003), however, emphasize the absence of any universal relation between the availability of part-time work and the integration of women into the labour market. Reduced working hours can be also used as a scheme to approach early retirement.

Findings from the 2015 annual report of the European Jobs Monitor, which looks at employment developments over 2011–2014 show that part-time along with temporary work and self-employment continuously replace traditional full-time contracts with the latter becoming the privilege of workers in the best-paid jobs (Eurofound, 2015, p.25). The same source notes the highest growth of part-time in the lowest pay category (e.g., retail worker, cleaner, helper)

### Germany

Germany belongs to the countries with strict employment protection level[[19]](#footnote-19), i.e. labour legislation strongly regulates individual as well as collective dismissals. In this connection Rubery and Grimshaw (2003) provide an interesting example of 'imaginative'[[20]](#footnote-20) scheme introduced by Volkswagen. Because of excess power and productivity improvements in 1990s the company was about to make nearly 30,000 employees redundant. Though direct labour cuts present the easiest solution, still such massive ''dismissal for operational reasons adjusted to production''[[21]](#footnote-21) would have been quite expensive from a legal point of view (because of great influence of works councils in co-determination). This state of affairs forced Peter Hartz, industrial relations director of Volkswagen, to search alternative ways out. As a result working time was reduced from 36 to 28.8 hours per week without wage compensation.

As can be seen from the figure 1 part-time rate has not strikingly increased during the last decade (from 24.0 to 27.6), still constituting a rather high share of total employment. Both men and women raised the indicators by 3 % (7.8 to 10.8% and 43.8 to 47.0% respectively)

Figure 1 - Incidence of part-time employment (%)

Source: OECD.Stat

Figure 2 - Part-time employment to total employment (%)

Though Figure 2 shows that women still account the largest part of this employment type, the major change , however, from 2005 to 2014 has been made in favour of men (from 17.8 to 20.8%).

Many researchers (Wagner, Keller and Seifert, Rubery and Grimshaw) relate the long-term increase in part-time work with the growing female participation in the labour force (Figure 3).

Figure 3 – Share of part-time employment by gender (%)

The high share of women in part-time is explained by family reasons: particularly, as for instance Keller and Seifert (2012) note, most women voluntarily opt for such employment and we can assume they do so to succeed in work-life balancing. Statistic data support such a statement. As OECD.Stat (Figures 4 and 5) shows, the share of involuntary part-timers, and female ones in paricular, has decreased for the last decade.

Figure 4 - Incidence of involuntary part time workers

Source: OECD.Stat

Figure 5 - Incidence of involuntary part-time workers, women (%)

Source: OECD.Stat

Wagner (2014) however, provides a different reason for the state of affairs. Inter alia she emphasizes such factors as relatively stable male breadwinner model and underdeveloped infrastructure of childcare provision, a number of legislative norms such as family tax splitting to name but a few. Besides, concerning the voluntary basis of female part-time, Bispinck and Schulten (2011) suggest that personal and family obligations might be considered to a certain extent involuntary.

Moreover, this trend together with increased share of male part-time find reflection in a recent legislative development which promoted part-time work among male and female parents. According to Eurofound (2015) a new scheme (*Elterngeld Plus*) of the given parental allowance was enacted starting from January 2015. It statutorily motivates mothers to choose such employment type and fathers to reduce their working hours in favour of childcare.

The regulation of part-time work is stipulated by the Act on part-time and fixed-term employment (*Teilzeit und Befristungsgesetz, TzBfG*) inacted in 2000. In companies with 15 and more employees the latter have a right of transition from full-time to part-time. In the context of equal treatment policy part-timers are liable to social security contribution and in general their rights are the same as those of full-timers (Eurofound, 2015). Besides, because of the membership in the European Union, German labour law is strongly influenced by EU legislation. Non-discrimination of part-timers, improvement of the quality of part-time work as well as facilitation of its development on a voluntary basis are key principles enshrined in the framework agreement on part-time work implemented in Council Directive 97/81/EC of 15 December 1997.

So far we have considered *standard* type of part-time. There also exist two specific versions of German *marginal* part-time, 'minijobs' and 'midijobs', enshrined in Social Code Book IV. As we have already discussed in the first chapter of this work, 'minijobbers' were not liable to taxes and social insurance contributions within the threshold of 450 Euro/month until 2013 and consequently lacked social protection. As Eichhorst and Hassel (2015) point out, both employers and employees were not interested in exceeding this threshold, thus resulting for the former in reduced labour costs and acting for the latter ''as a strong disincentive to earn or work more'' (Eichhorst & Tobsch, 2013). Since 2013, however, minijobs as well as midijobs (with the threshold of 850 Euro/month) statutorily guarantee retirement benefit, though there is an option not to pay any contributions to retirement, health or employment security. Employers make a single payment to security systems (Eurofound, 2015).

The major problems of this employment type are low wage far from that to maintain substantial standard of living; and formal barriers which ''impede the transition to longer part-time or full-time jobs''[[22]](#footnote-22). Eichhorst in his another collaborative work with Keiser (2006) noticed that the ultimately targeted group of unemployed or low-skilled[[23]](#footnote-23) are rarely involved in these minijobs, but are rather crowded out by those with regular first job, students, spouses and pensioners (so we can assume that the first problem is not that acute for them).

Despite specific taxation and insurance at this job, labour law does not treat such workers differently, ensuring them dismissal protection, collective agreements, fixed-term contract rules etc.. Knuth (2014), however, underlines that it is only theory and in practice there is a different state of affairs (particularly, sick pay and leave entitlement are not secured).

* + 1. **France**

As can be seen from the figure 6, French part-time has not shifted somehow during the last decades, showing more or less sustainable 12-14% of total employment.

Figure 6 - Part-time employment to total employment (%)

Figure 7- Share of part-time employment by gender (%)

As we can see from the figure 7 women constitute a majority of part-timers. Figures 8 and 9 show that such type of employment bears mainly involuntary character. It has already been discussed that French women tend to prefer work on a full-time basis, due to developed care provision and modified male breadwinner model.

Figure 8 - Incidence of involuntary part-time workers (%)

Figure 9 - Incidence of involuntary part-time workers, women (%)

A minimum working time in this concern of at least 24 hours was introduced in 2014, representing two-thirds of a standard full-time job, thus being rather high. In this case employer may prefer to hire short-term employees, than those on such stable part-time. Coquer (2015) point out, however, that social partners' agreements may require certain exemptions, such as computing total working time in order to allow employee to hold several part-time jobs or work for another employer.

Moreover, Fagan et al (2014) note that French part-time work is often fixed-term (though can also be open-ended) with ''atypical, late shedules''[[24]](#footnote-24) (probably, meaning unsociable working hours) and insecure employment conditions. They also refer to Ulrich and Zilberman who differentiated six categories of French part-timers, ranging from mothers working four days a week, to young people with less regular hours in low-skilled and less secure employment.

Table 2 - Typical categories of part-time work in France

|  |  |  |
| --- | --- | --- |
|  | Percentage of part-time jobs | Characteristics |
| Part-time work to cope with childcare responsibilities | 31 | Long and regular hours (4 days a week, ~30hrs)\* with no unsociable hours, typically in public sector, administration and banks. Usually with two children, aged 30-49 years. |
| Part-time work in health, education and commerce | 19 | Long but irregular hours (4 days a week, ~30hrs), often at weekend or evenings, typically in public hospitals. Usually younger workers in established couples. |
| Short part-time jobs with regular hours in services to households | 22 | Short hours, typically in services to households such as cleaning. Usually older workers without children and non-working partner. |
| Part-time work based on having multiple employers | 9 | Working 5-6 days per week, medium to long hours (21-30hrs),often involving both Saturday and Sunday. Often low-skilled work. Usually without children. |
| Part-time work based on temporary contracts | 14 | Short hours work (less than 18 hours) based on a limited number of days (3 or less) involving unsociable working times. Usually younger workers 15-29 years living in parental home, often men. |
| Assisted part-time contracts | 5 | Short hours work (18-21 hours) based on a 5-day week and not involving unsociable working hours. In sectors such as public administration, health, manual work and health promotion. Usually younger workers 15-29 years living with parents, often men. |

Note: \* the four-day school week in France has allowed women to work four longer days, but also required them to take care of their children on Wednesdays or find other alternatives.

Source: Fagan et al 2014.

Those hired for a few hours a day (a kind of marginal employment) in France are similar to minijobbers in Germany. As we have discussed earlier, part-time work is being promoted in Germany. Similarly, French employees are given the right of parental leave on a part-time basis, in combination with cash benefits. However, governments and unions are said (Fagan et al, 2014) to focus more on cutting full-time working hours than part-time aiming at more equal distribution of paid work among men and women. Due to this policy together with comprehensive childcare provision female workers and young mothers in particular, tend to opt for full-time jobs with shorter hours (ibid.) to avoid underemployment[[25]](#footnote-25) how part-time is generally viewed in France (Michon, 2011). OECD analysis showed that French part-timers with short working hours rarely tend to move to full-time jobs. (Fagan et al, 2014).

## Fixed-term employment (temporary work)

* + 1. **Germany**

The definition of this atypical form was provided in the first chapter. Temporary employment comprises a whole range of various work arrangements (e.g., on-call work, seasonal work) differing in employment conditions, regulatory protections and entitlements, within one and the same country and even state sector (Quinlan, 2015). Fixed-term contracts can be concluded for a period of training (apprenticeships), or probation (to check worker's suitability for the job); to replace an employee on parental leave or to realize a specific project of fixed duration (Vogel, 2013). The Law on Part-time and Fixed-term Contracts (*Teilzeit und Befristungsgesetz, TzBfG*) under which temporary employment is regulated, differentiate two categories of fixed-term contracts: those with objective justifications and those without. In the latter case fixed-term contracts are possible up to 2 years or up to 4 years when launching a new business, with maximum 4 successive contracts (or up to an entire length of 2 years) (OECD EPL Database, 2015).

Figure 10 - Germany: Temporary employment (%)

As we can see from figure 10, the share of fixed-term employment has not changed much during the last decades, and present around 13% of total employment, exceeding the international average in this respect (Eichhorst et al, 2010)

Keller and Seifert (2012) find it remarkable that new contracts are fixed-term in almost half of the cases. It is not surprising and particularly relevant for countries with stringent employment protection, to which Germany, as well as France refer. In the wake of labour market reforms of the last decades restrictions on flexible work forms were softened. Provided non-negligible firing costs on open-ended contracts, fixed-term contracts were introduced to make hiring easier so that employers could accomodate short-term peaks in labour demand. Though with time it has become a separate type of employment (Eichhorst, 2014; Eichhorst et al, 2010).

Table 11 - Fixed-term employment, young people (%)

From the figure above we can see that more than 50% of young people in Germany are involved in temporary employment, with more than a half of that point engaged in apprenticeship and vocational training (Eichhorst et al, 2010). For both the youth and the rest of temporary employers, fixed-term contracts act as extended probationary period helping employers to identify good matches between workers and jobs (and workers in their turn have promotion to permanent work in perspective). Though as with other atypical types of contractual arrangements fixed-term workers, low-skilled in particular, suffer high risks of recurring temporary employment, German statistical data show that ''job entries based on initial fixed-term employment are more stable than comparable entries via permanent contracts'' (Eichhorst, 2014, p.6). And famous dual system of vocational training obviously plays not the last role in the foregoing evidence therefore speaking in favour of stepping-stone hypothesis of fixed-term work, rather than that of dead-end.

* + 1. **France**

Temporary employment in France is more frequently referred to as fixed-term work (*the* *CDD*, *Contract Durée Determinée)[[26]](#footnote-26)*, not to confuse with temporary agency work. It comprises a range[[27]](#footnote-27) of subsidized contracts and traditional temporary contracts, each having specificities in regulation, e.g., the need to be authorized by sectoral collective agreements or the right for unemployment benefits. It is mainly observed in certain industries such as household services, health, education, agriculture, especially among women, white-collared and unskilled (Michon, 2011).

Figure 12 - France: Temporary employment (%)

Source: OECD.Stat

The general rule in that fixed-term contract is not meant for durable work related to standard permanent activity of the company, but for specified and temporary assignment[[28]](#footnote-28). This is enshrined in EC directive (the same as for Germany), which requires objective reasons for such contractual arrangements. However, there are always abuses like, e.g., concluding seasonal contracts all the year round due to sequence of seasons (Lokiec, 2010). Statutorily the following valid cases for entering fixed-term contract are distinguished:

* Replacement of a salaried employee;
* Replacement of a non-salaried worker;
* Temporary increase in workload;
* Delay before a new employee can begin employment on an open-ended contract;
* Seasonal employment;
* Jobs for which the use of fixed-term contracts is common practice (OECD EPL Database, 2015)

If necessary, fixed-term contracts may be renewed (once), by extending the initial contract and not by concluding a new one. Maximum cumulated duration of such contracts depends on the reasons, varying from 9 to 24 months but generally 18 months (ibid.).

Like in Germany, French young people are also mainly found in fixed-term contacts, which act as a screening device for employers. Méhaut (2008) points out that around a third of such entries move to open-ended contractual arrangements. However, the remaining two-thirds end in unemployment, supporting dead-end hupothesys, which is quite the opposite with Germany, obviously, due to the latter's famous vocational training.

* 1. **Temporary agency work**
     1. **Germany**

Despite nonstandard tripartite arrangement under labour law this type of employment can be full-time and permanent (Seifert, 2010). As with the case of fixed-term work, temporary help agency was intended to overcome staff shortages and as Bispinck & Schulten (2011) point out, it had been of limited importance in Germany until Hartz reforms. Since then it primarily serves the purpose of stabilising the company's profits and putting pressure on permanent staff (ibid.).

Working time and level of pay are stipulated by contract signed by worker and agency. The client company in which the work is carried out also provides instructions what work and how is to be done (ibid.).

Figure 13 - Temporary agency employment, men (%)

Source: Bispinck & Schulten, 2011

Figure 14 - Temporary agency employment, women (%)

Source: Bispinck & Schulten, 2011

TAW has increased the incidence in service sector, though is still mainly found in manufacturing. Most agency workers (around 71%) are male involved in the metalworking and electrical industry or casual employees in other manufacturing industries (Keller & Seifert, 2012).

The legal framework for regulating legal temporary agency work aims to impede abuses in recourse to this employment type. TAW was substantially deregulated in 2003 (Hartz reforms), allowing no legal limit on assignments, restrictions not on number of assignments but of TAW renewals (which are then classified on principles of fixed-term contracts) (OECD EPL Database, 2015). Due to abuses of agency workers in contrast to comparable employees, equality in pay and treatment were stipulated as a general principle (if other deviations are not determined in collective agreements). In sectors with strong influence of trade unions and works councils, the problems of wage gaps as well as of transition to permanent employment were successfully managed. In 2015 reregulation of temporary agency work was announced by the government. Agency work was expected to become more restricted again with introduction of a maximum assignment period of 18 months and equal remuneration in the wake of nine months of work with a user company (Eichhorst & Hassel, 2015). However, by April, 2016 the law has not been established with both draft bills being halted. Employers stress the need to avoid any new administrative burden focusing more on labour market integration of refugees (Kraemer & Vogel, 2016).

* + 1. **France**

National Institute of Statistics and Economic Studies (INSEE) defines temporary employment (or 'interim', or 'temping') as a three-way relationship where client companies are provided ''with employees who, in return for an agreed payment, are employed and paid to that effect by the temporary employment company (or temping agency)''[[29]](#footnote-29). Two contracts are signed:

* a *labour supply contract* (between the temporary employment agency and the client company);
* an *assignment contract* (between the temporary employment agency and the employee)[[30]](#footnote-30).

The French Labour Code prescribes rights and obligations of both the employers to secure both temp workers ("Intérimaires"[[31]](#footnote-31)) from a highly diffused temporary work and permanent employees from unfair competition of the former. (Michon, 2011).

The principle of equal treatment is also high on the agenda. However, it is not realized in all the cases. Temp workers often suffer from worse conditions, concerning, e.g., less stable working hours, but they enjoy the same bonuses related to the job itself (e.g., for danger, meals, etc.). Besides, although temp employees do not objectively receive seniority bonus (because of short work duration), they are entitled for specific precariousness bonus (statutorily 10% of the wage if higher remuneration is not stipulated by collective agreements) (ibid.).

TAW is primarily found in manufacturing (e.g., car and food industries) and construction. Mostly young men, blue-collared (38.4% of unskilled and 39.4% of skilled blue collars) are observed in this type of employment (ibid.).

* + 1. **Comparative analysis**

To summarize we can distinguish the main convergent and divergent points in implementation of the three above-mentioned contracts.

We can see striking difference between **part-time** in Germany and France. In both cases it is predominantly female. However, whereas in Germany more than 80% constitute voluntary part-timers, with the last 20% opting for more working hours, it is just the other way round with France, where part-time is mostly involuntary and therefore highly discriminating regarding inequalities in wage, career, social security coverage. That is the reason why this type of employment is viewed as underemployment. In research studies child care provision is considered the main reason for such discrepancy: child care provision is more developed in France than in Germany (where the traditional pattern of male breadwinner predominates at that).

Whereas such French version of marginal employment (short hours of part-time work) is associated with low wages or high risk of becoming unemployed, German part-time prove to be an effective instrument to overcome crises with minimum job reduction (and even a sort of job creation).

As to the German specific version of marginal employment, it is expressed in the well-known mini-jobs. The core dimension here is not the working hours but the threshold in monthly earnings of 450 EUR above which an employer is already liable to taxes. As a result this mini-job serves as an incentive to work and earn more. In some industries like retail, hotels and restaurants mini-jobbers tend to crowd out permanent stuff, though as a matter of fact minijobs are more frequently occupied not by the targeted group of unemployed or low-skilled, but by those with regular first job, students, spouses and pensioners.

**Fixed-term employment** is marked by a certain period of termination and is often used as a probation period for internships. In Germany it is a major stepping stone to permanent employment, whereas in France it can be perceived as dead-end. Probably this discrepancy in job transition is due to the different training systems. The German dual vocational training combines off-site general training with competence-based on-the-job training which provides possession of recognized occupational qualification. The absence of such system in France leads to employer-led on-the-job training with guaranteed position only within the firm. Notably where workplace apprenticeships exist in France, they generally have a very low reputation and are treated as a cost rather than an investment. This presumably accounts for low youth employment rate at 27.8% in contrast to 46.4% in Germany. Thus the burden of labour market adjustments is disproportionally shifted onto the shoulder of the youths. It also accounts for different youth unemployment rate: Germany – 7.3%, France – 24.7% (OECD.Stat, 2015)

Temporary agency employees in both countries save an organisation the expenses involved in screening, administering and supervising workers. Still in Germany the incidence of **TAW** is lower than in France (1.9% and 2.1% correspondingly. Though similar in often precarious working conditions, German and French agency workers differ in remuneration, the latter enjoying more equality through a whole range of bonuses.

1. **Summary**

In our work we examined atypical employment in Germany and France. Our main task was to find how and why do certain atypical contractual arrangements differ in the national contexts of Germany and France. For that we found out the meaning of 'atypical', gave the list of traditional (part-time, flixed-term, TAW, self-employment, etc.) and newly emerged (employee sharing, collaborative employment etc.) forms of nonstandard work. We also discussed in what way 'atypical' relate to 'precarious' coming to the conclusion that atypical is precarious only when the worker's life is endangered.

To compare the three most widespread atypical types of work we examined the organisation of employment in both countries. It turned out that though similar in stringent employment protection which had to be deregulated to cope with unemployment, the countries differ in particular in female participation due to more modified male breadwinner model as well as more developed public care provision in France rather than in Germany. Moreover, entering the labour market through atypical contracts German young people tend to be given permanent work more often than French youth, for whom nonstandard jobs act as dead-end due to differences in training systems. This, obviously, accounts for the current strikes of young people in France who warn against further deregulation of labour market.

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1. Ogura, 2005, p.12 [↑](#footnote-ref-1)
2. making a remark that this particular type of workers was already discussed in 1970s. [↑](#footnote-ref-2)
3. <http://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/atypical-work> [↑](#footnote-ref-3)
4. http://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/seasonal-work [↑](#footnote-ref-4)
5. http://www.oxforddictionaries.com/definition/english/telework [↑](#footnote-ref-5)
6. http://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/homeworking [↑](#footnote-ref-6)
7. http://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/casual-worker [↑](#footnote-ref-7)
8. Relatively new, the extension of which started in 2000s in contrast to those considered traditional (Ch.III.2) known since 1970-1980s. [↑](#footnote-ref-8)
9. The flexicurity model, first implemented in Denmark in the 1990s, is a combination of easy hiring and firing providing flexibility for employers, and high benefits for the unemployed providing security for the employees. This must be combined with training to increase job mobility

   http://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/flexicurity [↑](#footnote-ref-9)
10. It is considered ''an innovative form of work organisation which combines flexibility for companies with less precarious working conditions for workers'' (Lang, 2015) [↑](#footnote-ref-10)
11. Quotes of Quinlan (2015) [↑](#footnote-ref-11)
12. Quotes of the author. [↑](#footnote-ref-12)
13. The unemployment rate in Europe came to average ten per cent, whereas in the United States of America this figure made from four to six per cent. Thus it was thought that something went wrong in Europe and organisations like the OECD and employer groups enforced European governments to deregulate labour markets with the aim of flexibilisation. However, some countries within the EU (Denmark, for instance) outperformed the US during the same period despite different forms of labour market regulation. Though the deregulated US model facilitated job creation and extensive flows out of unemployment, it still generated low wages as well as low productivity jobs, whereas the economic performance of the EU was estimated by total factor and labour productivity (Rubery & Grimshaw, 2003). [↑](#footnote-ref-13)
14. Citation from G.Esping-Andersen ('The three worlds of welfare capitalism') given by Rubery and Grimshaw (2003, p.87) [↑](#footnote-ref-14)
15. And the trend is still preserved in this or that way [↑](#footnote-ref-15)
16. Men are mostly viewd as workers or citizens; their reproductive role is considered secondary (Rubery & Grimshaw, 2003). [↑](#footnote-ref-16)
17. Quotes of Rubery and Grimshaw (2003, p.121) [↑](#footnote-ref-17)
18. And even a number of policy initiatives have not changed the situation (Rubery & Grimshaw, 2003) [↑](#footnote-ref-18)
19. 3.0 out of 6 for permanent workers and 1.8 for temporary employees, 2013, OECD [↑](#footnote-ref-19)
20. Rubery and Grimshaw 2003, p.188 [↑](#footnote-ref-20)
21. Extract from P.Garnjost and K.Blettner, 'Volkswagen: cutting labour costs without redundancies', in J.Storey (ed.), Blackwell Cases In Human Resource and Change Management, (Oxford: Blackwell, 1996) [↑](#footnote-ref-21)
22. Eichhosrt, Marx, & Thode, 2010, p.8. [↑](#footnote-ref-22)
23. The growth in mimijobs as the sole source of income was registered only in the period immediately after related Hartz laws, between 2003-2005. (Knuth, 2014). [↑](#footnote-ref-23)
24. Fagan et al, 2014, p.36 [↑](#footnote-ref-24)
25. It is frequently translated into Russian as «неполная занятость, неполный рабочий день» which is not that correct in our opinion, since it overlaps with part-time and reflects no negative connotation. So it would be more appropriate to translate it using secondary variants, such as «работа, не соответствующая квалификации; частичная безработица». [↑](#footnote-ref-25)
26. In contrast to the other of the two main types of contract – open-ended (the CDI, *Contract Durée Indeterminée)* [↑](#footnote-ref-26)
27. Méhaut (2008) estimated more than 15 various fixed-term contracts. [↑](#footnote-ref-27)
28. Otherwise (in case of circumvention) employee has a right by the courts to requalify it as an open-ended contract (INSEE, http://www.insee.fr/en/methodes/default.asp?page=definitions/contrat-trav-duree-determinee.htm) [↑](#footnote-ref-28)
29. <http://www.insee.fr/en/methodes/default.asp?page=definitions/interim.htm> [↑](#footnote-ref-29)
30. Ibid. [↑](#footnote-ref-30)
31. Ibid. [↑](#footnote-ref-31)