

# Introduction

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‘In some Member States employment protection legislation creates labour market rigidity, and prevents increased participation in the labour market. Such employment protection legislation should be reformed to reduce over-protection of workers with permanent contracts, and provide protection to those left outside or at the margins of the job market.’

Annual Growth Survey (European Commission 2010:7)

‘EPL reforms [...] appear as a key driver for reviving job creation in sclerotic labour markets while tackling segmentation and adjustment at the same time.’

(European Commission 2012: 4)

## 1. Arguments for labour market deregulation

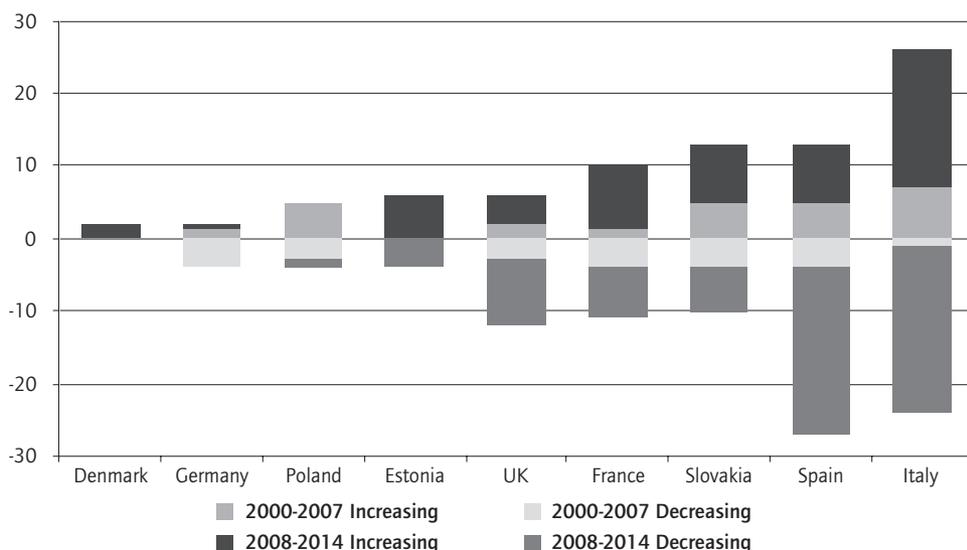
These two quotes are indicative of the efforts of the European Commission to argue that the levels of employment protection in at least some EU Member States have had harmful economic effects. More recent policy-oriented documents have appeared more cautious and nuanced. Definite statements are replaced by phrases such as ‘often it is argued’ (European Commission 2015: 30), ‘theory suggests’ (European Commission 2016: 91) and ‘in some circumstances’ employment protection legislation ‘may’ have negative effects and ‘may’ generate duality in labour markets (European Commission 2016: 91). This has not led to a visible change in policy recommendations. Nevertheless, there is an implicit, and welcome, acceptance that empirical evidence backing such policy recommendations is at best inconclusive. In this book we go further arguing, on the basis of experience in a large sample of EU Member States, that reducing employment protection does not bring economic benefits but also that post-crisis changes have led to increases in precarious employment and hence more pronounced, rather than reduced, labour market segmentation.

The target of criticism from the European Commission, following other international agencies and particularly the OECD, has been the extent and forms of protection against arbitrary dismissal, both individual and collective, enjoyed by employees in EU Member States. Legislation and court decisions, often backed or extended by the results of collective bargaining or by established practices, may prevent individual dismissals without good cause and require notice and compensation in cases of redundancy. However, these protections became subject to strong criticism from economists in international agencies. They were blamed for creating an inflexible, or ‘sclerotic’, labour market and hence for resulting in higher unemployment, higher long-

term unemployment, lower productivity growth and labour-market segmentation that left part of the population denied access to secure jobs (see e.g. Bentolila *et al.* 2011; European Commission 2010, 2012; Blanchard 2006; Blanchard and Portugal 2001; Rueda 2006).

Such reasoning stimulated pressure from the European Commission in the aftermath of the 2008 crisis for reductions in employment protection, reflected in the Country Specific Recommendations to individual Member States (see e.g. review in Clauwaert 2014) and, even more forcefully, in the terms required of the so-called Programme Countries (Greece, Ireland, Portugal and Cyprus) and others that sought EU, or other external, help to handle public debt crises, including Spain and Italy. This has led to changes in laws to make individual dismissals easier and to make collective dismissals simpler alongside a reduction in the scope and effectiveness of collective bargaining. There have in some cases been some compensating improvements for protections of certain kinds of more precarious employment, but the overall trend, albeit with big differences in its strength between countries, has been towards less regulated labour markets.

Figure 1 Number of EPL reforms before and after the crisis in selected EU countries, by direction of measure – increasing (positive values) or decreasing (negative values) protection



Note: Direction of reform classified by the European Commission.  
 Source: Labref database, <https://webgate.ec.europa.eu/labref/public>

Figure 1 illustrates the intensity of labour market reforms in nine countries analysed in more detail in this volume: Denmark, Germany, Poland, Estonia, UK, France, Slovakia, Spain and Italy. The number of measures differs greatly across countries, but a trend has been towards more reforms after 2008 with the majority reducing the protection for workers. This is most visible in the cases of Italy and Spain, while France

and Slovakia experienced a more balanced distribution of reforms that went in both directions. Nevertheless, labour market performance in the crisis, as becomes clear below, bears no obvious relationship to the extent or direction of these reform efforts. Some implemented many changes, without obvious benefits, while some changed very little, notably Poland and Germany, and seemed to fare relatively well after 2008.

Another measure of the deregulatory trend is the OECD Employment Protection Legislation (EPL) index that covers a selection of legal provisions in the area of employment protection. This is discussed in detail by Myant and Brandhuber (Chapter 1 in this volume) who indicate a number of serious limitations to its application. Nevertheless, it is widely used both in academic studies and in providing supporting arguments for policy measures, and provides a starting point for comparisons between countries. A high figure indicates a high level of protection and changes in the index in the period 2008 to 2013 (latest available at the time of writing) are summarised in Tables 1 and 2.

**Table 1** Strictness of employment protection – individual and collective dismissals (regular contracts, ordered by level of index in 2013)

|          | 2008  | 2009  | 2010  | 2011  | 2012  | 2013  | Change 2008-2013 |
|----------|-------|-------|-------|-------|-------|-------|------------------|
| UK       | 1.713 | 1.713 | 1.713 | 1.713 | 1.713 | 1.618 | -0.095           |
| Estonia  | 2.328 | 2.328 | 2.066 | 2.066 | 2.066 | 2.066 | -0.261           |
| Slovakia | 2.635 | 2.635 | 2.635 | 2.635 | 2.165 | 2.256 | -0.379           |
| Spain    | 2.660 | 2.660 | 2.660 | 2.558 | 2.558 | 2.284 | -0.376           |
| Denmark  | 2.275 | 2.275 | 2.275 | 2.320 | 2.320 | 2.320 | 0.045            |
| Poland   | 2.391 | 2.391 | 2.391 | 2.391 | 2.391 | 2.391 | 0                |
| Italy    | 3.032 | 3.032 | 3.032 | 3.032 | 3.032 | 2.794 | -0.238           |
| France   | 2.870 | 2.823 | 2.823 | 2.823 | 2.823 | 2.823 | -0.048           |
| Germany  | 2.978 | 2.978 | 2.978 | 2.978 | 2.978 | 2.978 | 0                |

Source: OECD database, version 3

**Table 2** Strictness of employment protection – temporary employment (ordered by level of index in 2013)

|          | 2008  | 2009  | 2010  | 2011  | 2012  | 2013  | Change 2008-2013 |
|----------|-------|-------|-------|-------|-------|-------|------------------|
| UK       | 0.417 | 0.417 | 0.417 | 0.417 | 0.542 | 0.542 | 0.125            |
| Germany  | 1.542 | 1.542 | 1.542 | 1.542 | 1.542 | 1.750 | 0.208            |
| Denmark  | 1.792 | 1.792 | 1.792 | 1.792 | 1.792 | 1.792 | 0                |
| Poland   | 2.333 | 2.333 | 2.333 | 2.333 | 2.333 | 2.333 | 0                |
| Slovakia | 2.167 | 2.167 | 2.167 | 2.417 | 2.292 | 2.417 | 0.250            |
| Italy    | 2.708 | 2.708 | 2.708 | 2.708 | 2.708 | 2.708 | 0                |
| Estonia  | 2.292 | 2.292 | 2.292 | 2.292 | 2.292 | 3.042 | 0.750            |
| Spain    | 3.500 | 3.500 | 3.500 | 3.167 | 3.292 | 3.167 | -0.333           |
| France   | 3.750 | 3.750 | 3.750 | 3.750 | 3.750 | 3.750 | 0                |

Source: OECD database, version 3

The values suggest wide variations in protection for workers in stable employment relationships. The highest level of protection is recorded in Germany and the lowest in the UK. If the level as such is important, then we would expect a poor labour-market performance in Germany and a very good performance in the UK. Other countries should lie somewhere between them with Spain and Denmark around the middle of the range. If change is important, and the EPL index declined in six out of the nine countries analysed, then Poland and Germany would look likely to be poor performers, with no change in the measure, while Slovakia and Spain should have done well. Denmark even saw an increase, so we might expect a worsening labour market performance there. As we shall see, the actual outcomes are completely at odds with such predictions.

Table 2 shows the EPL index for temporary employment, which broadly measures the difficulties confronting employers in using fixed-term contracts. The highest figures are recorded for France, Estonia and Spain, which might point to low use of such contracts in those countries. The lowest figure is for the UK, suggesting a likelihood of large numbers on fixed-term contracts. In fact, the UK has a very low rate of fixed-term contract use while Spain has the second highest in the EU, surpassed only by Poland (see Table 3 further in the chapter).

In addition to the cross-country differences in levels of protection for regular and temporary contracts, the differences between the two within countries have received increasing attention from researchers and policy-makers. Calculating such a gap has become fairly easy as the two EPL indexes are measured on the same scale, creating an impression of their comparability. The gap in employment protection between regular and temporary contracts, together with the tightness of legislation for permanent contracts, is seen as a factor encouraging employers to favour fixed-term contracts. Thus reducing the 'EPL gap' is hypothesised to reduce dualism by leading to greater employment on permanent contracts. However, changes in the index on fixed-term contracts were generally small and the reduction of protection rights for regular contracts was not matched by a comparable tightening of conditions for temporary workers. The value remained unchanged in four out of the nine countries. It declined in Spain and increased in the UK, Germany, Slovakia and Estonia.

In assessing the effects of levels of and changes in EPL, two questions are important. The first is whether labour market deregulation has made any contribution to increasing employment and reducing unemployment for any significant groups. The conclusion is that there is no evidence to support any such hypothesis. The second is whether deregulation has had an effect on segmentation and here the indications are that any such effect has been negative, leading to worsened conditions for employees in the form of more precarious employment and fewer, rather than more, opportunities to find permanent and secure jobs.

To reach these conclusions we rely on detailed case studies of the sample of nine European countries (Chapters 3-11). That has not been the most commonly used method. Much of the past literature has used quantitative statistical analysis, relating changes in employment to changes in various indicators of labour market policies and institutions. We believe this method to be insufficient and, as indicated below, it has in fact failed to

provide clear answers as to the effects of EPL on employment and unemployment, and still less in demonstrating other effects on labour market behaviour. The need for a case study approach is justified in what follows, with a brief description of the theoretical bases for predictions of the negative effects of EPL and summaries of the differing labour market performances across the chosen sample of countries.

## 2. The uncertain results from past research

Interest in employment protection legislation as a cause of unemployment is comparatively recent, really taking off in the 1990s and encouraged by the OECD Jobs Study (OECD 1994). That gave support to the view that the USA benefited during the 1970s and 1980s compared with Europe from freer market forces. A measure was developed – the OECD’s EPL index – facilitating comparisons over time and between countries. Academic studies proliferated, many pointing to a relationship between poor labour market performance and employment protection (e.g. Layard *et al.* 1991; Scarpetta 1996; Siebert 1997; Nickell 1997; Nickell *et al.* 2005). Another body of literature has assessed these claims critically, pointing to the absence of any such relationship (e.g. Howell *et al.* 2007; Schömann 2014; De Stefano 2014; Avdagic 2015). It seems that claims of a link are very sensitive to the choice of countries and time periods for comparison, a point that does not encourage confidence in the existence of any significant relationship. Indeed, the OECD’s *Employment Outlook* of 2016 repeats a previous conclusion that ‘flexibility-enhancing EPL reforms’ have, ‘at worst no or a limited positive impact on employment levels in the long run’ (OECD 2016: 126).

These empirical studies tested hypothesised relationships derived from logical reasoning (OECD 2013: 69–70). However, there is no unequivocal theoretical argument pointing to net negative consequences from employment protection for employment, for productivity growth or for labour market segmentation. Instead, there are three lines of reasoning that can point in different directions and that give no indication of the likely strength of any possible effects. They can therefore be given credence only when backed by clear empirical evidence.

In relation to unemployment, logical reasoning suggests two possible effects from strict employment protection, the more obvious being that it will discourage dismissals at times of falling demand. The less obvious effect, pointing in the opposite direction, is a disincentive to increase employment at times of high or rising demand for fear that it will be difficult to shed unwanted labour should hard times return in the future. Plausible discouragements to recruitment include short trial periods, tough terms for collective or individual dismissals and restrictions on altering workers’ terms of employment once they have been settled. Nothing can be concluded from reasoning alone either as to which of these two possible effects will be the more powerful or as to their significance, especially when set alongside other factors influencing employment.

The second line of reasoning links EPL to productivity. The postulated mechanism runs through its effects on turnover – high rates are assumed to increase the chances of getting the right person in the right job – and on the possible ease of making structural

changes in the economy. However, any relationship between turnover and productivity could run in either direction. Employment protection might be judged positively, insofar as it could lead to higher productivity and the maintenance of higher employment levels by encouraging commitment and skills acquisition. Reducing turnover and creating a stable labour force is advocated in much of the advice for human resource management practice and seen as increasing ‘the returns to investment in human and organisational capital’ (CIPD 2013: 15).

These two effects might both apply, but in different sectors. Indeed, precisely that difference has been used as one of the bases for postulating different varieties of capitalism (Hall and Soskice 2001), with differing degrees of employment stability, that can be as successful as each other but in different sectors and different kinds of innovation activities. However, there remains no reason to assume that employment protection legislation will have a big effect on productivity, either positive or negative, especially since, as indicated by Myant and Brandhuber (Chapter 1), job moves are mostly voluntary with dismissals counting for only a small proportion. Any conceivable positive effects would be likely only after a longer time period and the issue is therefore not pursued further in this book which concentrates on the effects of changes made from 2008.

The third line of reasoning relates to labour market segmentation. Here, the argument is that protection in a secure part of the economy has encouraged employers to offer new recruits only fixed-term contracts which are, by definition, less secure. Lower standards of protection for permanent contracts might be expected to reduce the barrier to entry into stable employment for more vulnerable workers. However, there are two reservations to expecting EPL to be a cause of segmentation.

The first is that many other factors put groups of workers at risk of exclusion and weaker protection may well exacerbate this risk. This is discussed by Rubery and Piasna in Chapter 2, which is devoted to the issue of labour market segmentation. Indeed, employment protection rights are an indicator of power relations between employees and their employers. Lowering protection will change the balance of power in favour of employers, leaving vulnerable workers less able to resist poorer conditions of work and employment offered by employers. This will increase rather than reduce segmentation. Evidence from a number of the countries studied here is consistent with the view that employment deregulation is one of the explanations for the growth in precarious forms of employment as economies started to recover from the crisis of 2008.

The second reservation is the doubtful appropriateness of the dividing line between two particular formal contract types as a proxy for a dividing line between primary and secondary labour market segments. An insecure permanent contract, or no formal contract at all, may offer no more, or even less, security to an employee than a formal fixed-term contract. Again, empirical evidence is required to demonstrate any significance of the division between these formal contract types. One researcher puts it thus: ‘... presenting the regulation of standard employment contracts and particularly the relevant regulation of dismissal as the main cause of segmentation in the labour market is unconvincing’ (De Stefano 2014: 261).

Evidence in the chapters that follow justifies doubts over the importance of protection for permanent contracts as a cause of segmentation. Examples from a number of countries show employers using temporary contracts when laws made this possible. Stronger protection on permanent contracts may in some cases make this more attractive, a hypothesis referred to by Vlandas in relation to France (Chapter 9). However, either legislative changes making temporary contracts possible, as in Italy and Spain in earlier periods, or a learning process in which employers saw how to take advantage of opportunities made available within existing laws, as examined by Lewandowski and Magda in relation to Poland (Chapter 7), appear as the crucial stimuluses. Reducing protection on permanent contracts need therefore make little difference to employers' preference for using the kinds of contracts that are more advantageous to themselves. When new employees lack legal protections, collective strength or favourable labour market conditions, employers are very likely to consider more casual forms of employment as more favourable to themselves.

Thus any link between EPL, both on permanent and temporary contracts, and labour market segmentation remains unclear from logical reasoning. It requires empirical evidence which will need to use a more appropriate indicator of dualism than just the numbers with permanent and fixed-term contracts.

### **3. The need for case studies**

Using individual case studies makes it possible to set the effects of particular legislative changes and employment protection legislation in general in a wider context. There are many other factors affecting economic and employment development, including the macroeconomic situation, public spending policies, changes in sectoral structures and policies on employment promotion and protection. It is very difficult to separate out the effects of changes in legislation which, in view of the importance of other factors, may anyway be relatively small. Comparisons between countries that ignore these contextual factors may give highly misleading results.

An illustrative example is an attempt by the OECD to show the effects of labour market deregulation in Estonia in the crisis and post-crisis period in comparison with the two other Baltic republics. It appeared that unemployment had fallen slightly more rapidly in Estonia following EPL reforms (OECD 2016: 139-143). However, making a credible claim that this might represent a causal relationship would depend on eliminating the effects of all the other differences among the Baltic republics. Most obviously, account would need to be taken of their different export structures, different industrial structures, different patterns of inward investment, the different consequences of the financial crisis – in relation to the fate of the banks and to effects on construction sectors which were of different sizes – different patterns of public spending and the different levels of help for investment from EU funds. The unemployment rate is also a measure of questionable value in countries experiencing high, but different, varying and possibly inaccurately recorded, levels of emigration, as was the case in the Baltic republics both before and after the financial crisis. In short, we need greater knowledge of the countries

concerned. When all relevant factors are taken into account it would seem unlikely that the small reduction in Estonia's employment protection would figure as an important factor not least when, as indicated by Eamets, Masso and Altosaar in Chapter 5, the fall in Estonian unemployment preceded the changes in employment legislation.

The individual country cases also enable us to follow the effects of labour market deregulation beyond just the effect on unemployment, or employment, levels. It is possible to a certain extent to give an assessment of the effects on labour market segmentation through the impact on precariously placed employees.

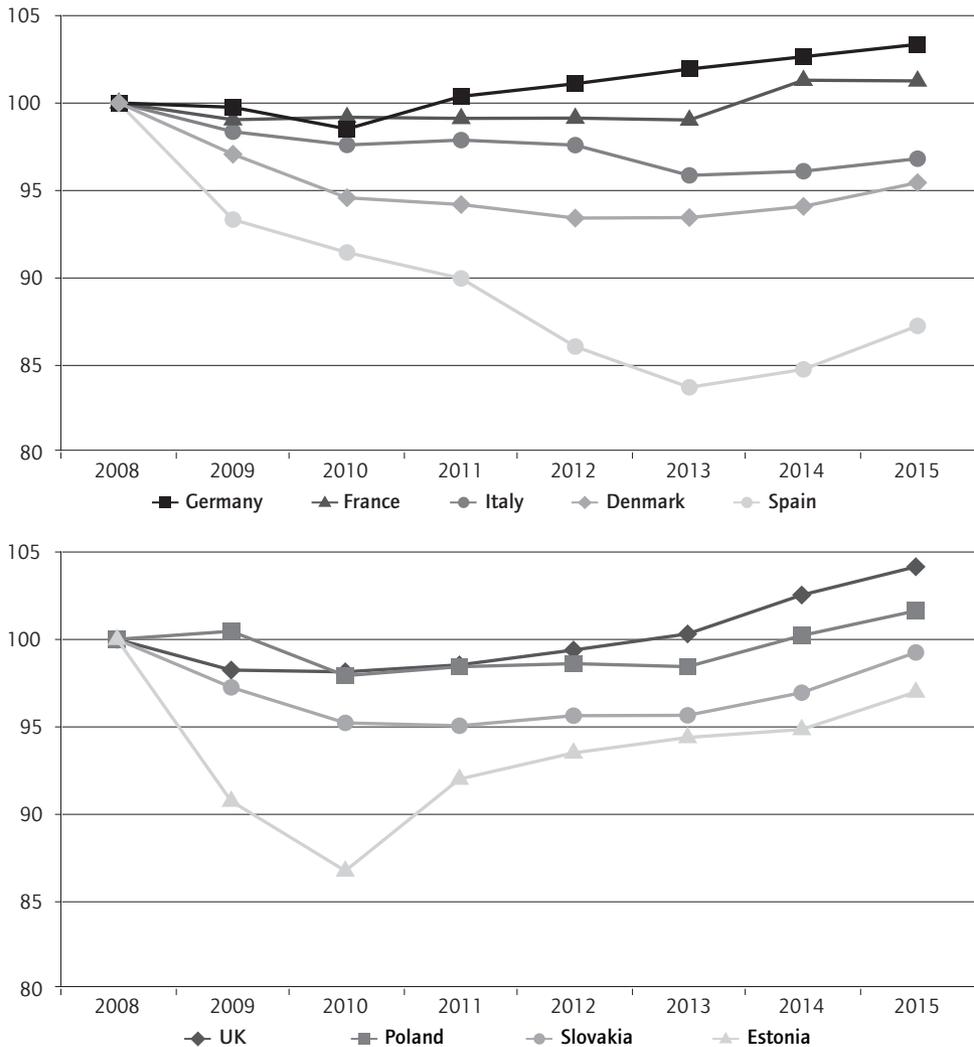
It is also possible to take note of de facto deregulatory measures that do not appear in the OECD EPL index, such as the introduction of significant charges for pursuing unfair dismissal cases in the UK or the exclusion from some protections of employees in firms below a certain size in Germany, covered respectively by Grimshaw *et al.* and Jaehrling in Chapters 11 and 8. It is also possible, to some extent, to set deregulatory reforms in the context of other changes in legal provisions and benefits, such as changes in pension and unemployment insurance systems which may have played a role in Denmark, covered by Refslund, Rasmussen and Sørensen (Chapter 10) and Spain, covered by Muñoz-de-Bustillo and Esteve (Chapter 3). The study of Italy by Fana, Guarascio and Cirillo (Chapter 4) illustrates the importance of institutional and historical backgrounds by showing significant differences within the one country in the impact of changes following deregulatory reforms.

Above all, individual case studies can take account of the differences in economic developments which were the most important factor behind changes in employment and unemployment.

#### **4. The context for the country case studies**

The developments in employment numbers differ across the countries analysed in this volume, thus offering a good representation of the variety of national experiences of the crisis. Figure 2 illustrates changes in total employment over the 2008-2015 period, relative to the stock of jobs in each country at the onset of the crisis in 2008. There is no clear geographical or regime-type divide between the countries, with Spain, Estonia and Denmark experiencing the biggest proportional losses in employment. The trend towards recovery can be observed in all cases, albeit with different intensities, but the underlying mechanisms here are not the same either. For instance, some differences can be related to migration which was predominantly inward in Germany and the UK and predominantly outward in Spain and Estonia. The extent of the deregulatory effort (as illustrated in Figure 1) certainly does not coincide with any improved capacity for job creation. Germany, for instance, managed quickly to resume and then maintain the upward trend in job creation without the help of any deregulatory reform in the post-crisis period that would show up in the OECD's EPL index.

Figure 2 Developments in the stock of employment (2008=100)



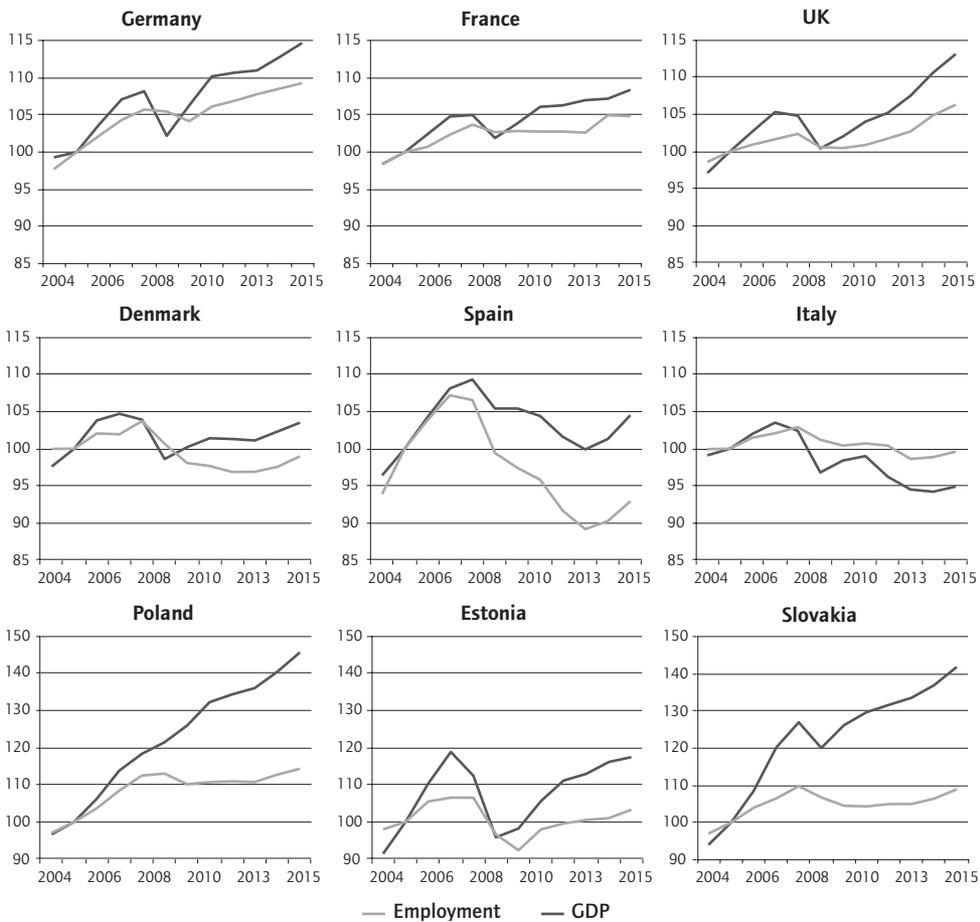
Source: Eurostat (EU-LFS, lfsa\_pganws). Age 15-64

The principal cause of changes in employment was changes in the level of economic activity, measured in Figure 3 by GDP. This followed slightly different trajectories with a fall in 2009 in all countries apart from Poland, and then a further decline in those subsequently subjected to measures of sharp austerity which, from the current sample, applies to Spain and Italy. The relationship between GDP and employment changes also differs between countries. They moved most closely together in Spain while employment appeared the most resilient to GDP changes in the UK and Germany.

A simple comparison using the graphs presented here casts doubt on the importance of EPL as a major determinant of employment levels. Setting countries alongside each

other shows both similarities and differences. Thus, for example, there is a remarkable similarity in development over the whole period in employment and GDP between Poland and Slovakia, albeit with GDP suffering during the crisis more in Slovakia than in Poland. This stems in large part from their different economic structures, with Slovakia much more dependent on motor vehicle exports which were hit by low demand in 2009. However, that crisis effect made little difference to the overall dynamic. The similarity in trends between the two countries is noteworthy in view of the remarkable difference in the number of labour market reforms implemented: between 2008 and 2015, there was only one measure targeting employment protection legislation introduced in Poland but there 14 such measures in Slovakia, as indicated in Figure 1. Accordingly, the latter country experienced the biggest net fall in the EPL index for regular contracts of any of the countries considered here while Poland experienced no fall at all (see Table 1).

Figure 3 Employment and GDP changes, 2004-2015 (2005=100)



Note: the vertical scales are different in the cases of Poland, Estonia and Slovakia from those for the other six countries.  
 Source: Eurostat (nama\_10\_gdp; ifsa\_pganws), own calculations

A large part of the explanation for these differences in employment elasticity in relation to GDP growth lies in different economic structures (cf. Myant *et al.* 2016). The crisis hit the construction sector particularly hard and this led to rapid declines in employment in those countries that had been experiencing construction booms, notably Spain and Estonia. Manufacturing was generally slower to shed labour as were public services which, in a number of countries, suffered instead from pay reductions.

The differing weights of particular sectors is therefore important in explaining aggregate employment changes. In fact, the growth in quasi-public service jobs in Germany, as shown in Chapter 8, explains much of that country's employment growth. These jobs were largely taken by women, many coming into the labour force, rather than by the former employees of declining sectors. The new jobs also often took the form of insecure, part-time positions such that total hours worked and the total numbers in permanent employment were below their 1991 levels in 2015.

Differences between labour market institutions and policies could also play a role in determining labour market outcomes, but more clearly in the kinds of employment relationships on offer than in total levels of employment. The UK labour market, described in Chapter 11, appears to be the least regulated, with laws setting a ceiling rather than a floor to employment practice. Reaching this level is not possible for all employees not least because awareness of the available protections and routes to their enforcement are very imperfect. The result is a large body of insecure employment, as is also the case in Germany where much of the labour force is excluded from the higher levels of protection afforded to those with regular contracts.

Different forms of insecure employment had varying fates through the economic crisis. Those with temporary contracts could be expected to lose their jobs the most rapidly. Thus a high level of temporary employment in Spain may have made it particularly easy to reduce the overall labour force. However, as indicated by Muñoz-de-Bustillo and Esteve in Chapter 3, many on permanent contracts were also dismissed in this period, contrary to an expectation that they might enjoy considerable security of employment.

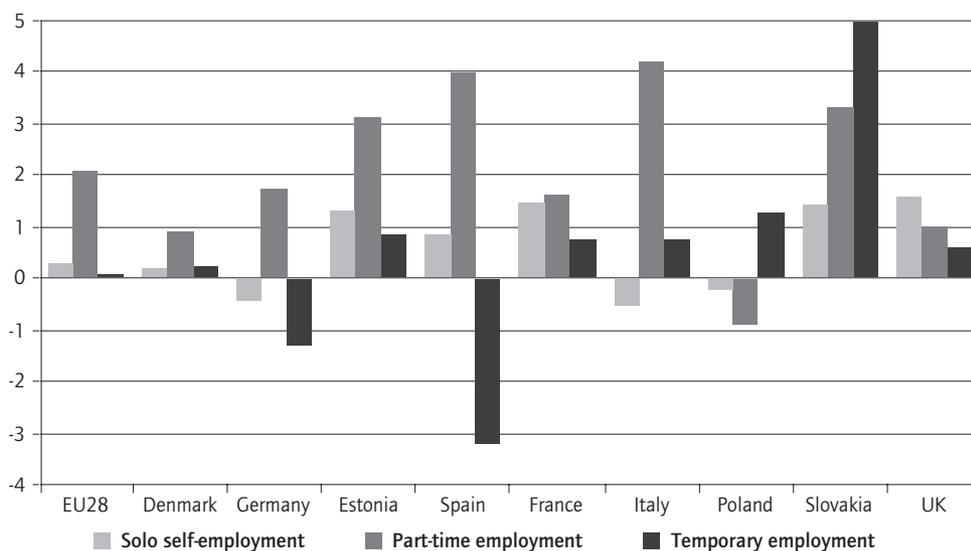
Overall, as indicated in Table 3, there was a visible move towards non-standard forms of work in the years after the crisis. However, the patterns differ across countries, with some forms of atypical work gaining ground in one country but diminishing in another. This is illustrated in Figure 4, which shows a breakdown for three forms of non-standard employment: solo self-employment, fixed-term contracts and part-time work, for the EU as a whole and the sample of nine countries. In some, but not all, cases the incidence of all forms increased. The shift between 2008 and 2015 towards part-time work is very clear for all countries apart from Poland. In Italy and Spain, the share of part-time work increased the most, by over four percentage points in this period. Solo self-employment increased most visibly in the UK, Slovakia, France and Estonia. The share of fixed-term contracts increased in the majority of analysed countries, with the exception of Spain and Germany.

Table 3 Non-standard employment, share in 2015 and change 2008-15

|          | 2015                 |                      |                      | Change in percentage points 2008-2015 |                      |                      |
|----------|----------------------|----------------------|----------------------|---------------------------------------|----------------------|----------------------|
|          | Solo self-employment | Part-time employment | Temporary employment | Solo self-employment                  | Part-time employment | Temporary employment |
| EU28     | 10.1                 | 19.6                 | 12.0                 | 0.3                                   | 2.1                  | 0.1                  |
| Denmark  | 4.5                  | 24.7                 | 8.0                  | 0.2                                   | 0.9                  | 0.2                  |
| Germany  | 5.3                  | 26.8                 | 11.8                 | -0.4                                  | 1.7                  | -1.3                 |
| Estonia  | 5.6                  | 9.5                  | 3.1                  | 1.3                                   | 3.1                  | 0.8                  |
| Spain    | 11.6                 | 15.6                 | 20.9                 | 0.9                                   | 4.0                  | -3.2                 |
| France   | 6.7                  | 18.4                 | 14.2                 | 1.5                                   | 1.6                  | 0.8                  |
| Italy    | 15.7                 | 18.3                 | 10.8                 | -0.5                                  | 4.2                  | 0.8                  |
| Poland   | 14.1                 | 6.8                  | 22.2                 | -0.2                                  | -0.9                 | 1.3                  |
| Slovakia | 11.9                 | 5.8                  | 8.9                  | 1.4                                   | 3.3                  | 5.0                  |
| UK       | 11.4                 | 25.2                 | 5.2                  | 1.6                                   | 1.0                  | 0.6                  |

Source: own calculations from EU-LFS (Eurostat [lfsa\_egaps; lfsa\_eppgan; lfsa\_etgaed])

Figure 4 Change in the share of atypical forms of work in total employment, 2008-2015, age 15-64, in percentage points



Source: own calculations from EU-LFS (Eurostat)

This confirms that no single dividing line between two contract types can adequately express the extent of labour market segmentation. Nor can there be a one-size-fits-all solution to reduce labour market segmentation, as it takes multiple and diverse forms across the EU. Indeed, there are indications, although not firm evidence, that when one form of casual employment is made more difficult employers may shift to another. Thus in Slovakia, as discussed by Fabo and Sedláková in Chapter 6, a reduction in 2012 in the use of one form of casual arrangement was followed shortly afterwards by a growth in fixed-term contracts with no effect on the total employment level. In the UK, as argued

in Chapter 11, a toughening of the rules on temporary agency work in 2011 was followed by a rapid increase in zero-hours contracts. The Italian case (Chapter 4) may indicate a different phenomenon whereby employers react to financial incentives by offering formal, but insecure, contracts to previously unregistered workers.

It remains to be proven to what extent these differences in forms of employment relationship should be seen as indicative of labour market segmentation. In view of the general trend towards lowering employment standards and protections for all workers, it is more appropriate to talk about multiple and intertwined forms of precariousness that are not linked to any particular kind of work contract. Rather than legal rules, it is employers' practices that shape the form and extent of precarious work. The economic crisis only exacerbated the scope for employers' discretion in this regard.

Another question is whether it is possible to move from one type of employment contract to another. In other words, whether temporary contracts are a stepping stone into permanent contracts or a dead end. For this, information is needed on job flows; and the evidence from a number of the case studies points rather towards the dead end conclusion. In Estonia, the transition from unemployment is likely to be to a temporary contract and from that back to unemployment. In Germany, the chances of moving into permanent work are particularly poor for temporary agency workers and for those on so-called mini-jobs. In France and Poland, too, temporary work offers limited prospects for further advancement, especially for vulnerable groups of workers.

## 5. Conclusions

This introductory discussion, backed by the detail in individual chapters, points to two general conclusions. The first is that the regulation of employment does not stall job creation and that the role of the legal provisions governing dismissals has, in terms of their influence on employment systems, been over-estimated. This is in line with much of the previous research, but it conflicts with much of the recent policy advice. A remarkable finding from Slovakia is the continual insistence from employer organisations that strengthening the protections, as has periodically happened with changing governments in that country, would lead to less labour recruitment whereas individual employers have, in practice, made no changes to their employing practices. They evidently know that recruitment policy should be governed by other considerations, such as the state of demand and predictions of its future development.

The second is the increased use of non-standard forms of employment as economies have recovered from the crisis. This is contrary to the claims that labour market segmentation is exacerbated by protections for permanent contracts. It rather implies that the opposite hypothesis is closer to the truth; namely, that reduced EPL, alongside unfavourable labour market conditions and sometimes weak enforcement even of the laws that do exist, goes with a weakened position for labour and hence a stronger position for employers. The enthusiasm of employers for using casual forms of employment whenever possible can be illustrated from the experience in Poland, where fixed-term contracts have spread through the public sector, covering

broadcasting and education among other sectors, with no means for employees to offer serious opposition.

It can be added that an increasingly casualised labour force is likely to carry substantial social and economic costs. These would include the psychological effects of insecurity; the emigration of skilled and qualified individuals; the lack of employer interest in advancing the skills of the disposable workforce; restricted access to credit and, hence, social advancement; and a reluctance or inability to invest in pension schemes. Such themes have yet to be included in studies of the effects of employment security. They are also beyond the scope of this volume which focuses only on the current and recent policy agendas of reducing employment protection.

To that end, the following chapters set out the experiences of the nine countries in detail, preceded by two chapters on general themes: the OECD's EPL index; and labour market segmentation. Together, they confirm the weak foundations of policies for reducing employment protection and the need for alternative policies that could reduce labour market segmentation by expanding reasonable levels of protection and security to all employees.

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