EMPLOYMENT PROTECTION UNDER FIRE: WHY LABOUR MARKET DEREGULATION WILL NOT DELIVER QUALITY JOBS

Jason Heyes and Paul Lewis, University of Birmingham, UK

Introduction

The search for a basis for economic recovery is currently preoccupying policy makers in Europe and elsewhere. Confronted with persistently high and in many cases mounting unemployment, many governments have sought to dilute employment protections in the hope that this will stimulate a recovery in the jobs market. Advocates of labour market reform, including the current UK government, claim that a weakening of employment protections will encourage employment growth by reducing the costs of dismissing workers, thereby encouraging firms to hire workers and supposedly improving the employment prospects of labour market ‘outsiders’. This is not a new argument: during the 1980s and 1990s, strong employment protections were alleged to be acting as a break on employment growth in the economies of continental Europe. The key to jobs growth, according to the OECD (1994) as well as many mainstream labour economists, therefore lay in more flexible labour markets.

In recent years the supposed positive impact of labour market deregulation on jobs and economic performance has been questioned (e.g. Simonazzi and Villa, 1999; Storm and Naastepad, 2009; Oesch, 2010) Furthermore, evidence indicates that the rate of job loss following the onset of the 2008 economic crisis was lower in countries with relatively strong employment protection than in those with weakly regulated labour markets (Heyes, 2011; Appelbaum, 2011). Nevertheless, employment protections have been widely targeted by policy makers desperate to kick-start economic growth. Several governments have relaxed rules relating to dismissals and the employment of workers in temporary posts, while others are planning to do so.

Whether weaker employment protections will stimulate employment growth is clearly open to question. Moreover, while attention is currently focused on the quantity of jobs, it is also necessary to consider the potential impact of labour market reforms on the quality of work and inequality, issues that have become submerged in the hunt for ways of stemming the growth in unemployment. This paper will address these issues by providing an analysis of labour market developments in EU member states since the start of the economic crisis. Drawing on official EU and OECD statistics, the paper will examine the relationship between employment protections and the rate of employment since 2007. We suggest that employment protections have played an important part in cushioning the impact of the 2008 financial crisis on employment in certain EU member states. The paper also considers the implications of the crisis for the incidence of non-standard employment. Our findings suggest that the extent of involuntary part-time and temporary employment has tended to increase since the start of the crisis. We consider the implications of this development for the incidence of in-work poverty. The paper concludes by assessing the extent to which the labour market policies currently being espoused by the European Commission are likely to deliver a substantial increase in good quality jobs.

From deregulation to flexicurity…. and back again?

The consequences of employment protection legislation (EPL) for the labour market have long been debated by economists and policy makers. The relationship between employment protection and
unemployment has been of particular concern. Orthodox economists (e.g. St Paul 2004) claim that restrictions on dismissal contribute to unemployment by presenting firms with a disincentive to hire labour, thereby preventing labour market clearing. Employers supposedly take into consideration potential future costs of dismissal, which leads them to recruit fewer workers than they otherwise might. Furthermore, employment protection supposedly reduces both inflows and outflows from unemployment, enabling employees (‘insiders’) to extract higher wage increases from employers while exacerbating long-term unemployment (to the detriment of ‘outsiders’). The policy prescriptions that flow from this analysis include a weakening of employment protections and a reduction (or elimination) of minimum wages, which are deemed harmful to the employment prospects of low-skilled workers.

The belief that EPL is harmful to the labour market became particularly widespread from the late 1970s. During the 1980s and 1990s it was common for economists to make unfavourable comparisons between the supposedly over-regulated and sclerotic labour markets of Continental Europe and the flexible labour markets of the US and UK. It was claimed that relatively weak EPL in the latter countries has delivered relatively strong employment growth, serving as an example for other countries to follow. The case for greater labour market flexibility was also strongly supported by international organisations. The OECD’s (1994) Jobs Study presented a synthesis of the evidence supporting the case against EPL and advocated policies aimed at reducing restrictions on dismissals. During the 1980s and 1990s employment protections were weakened in many EU countries, with much of the reduction being associated with measures to facilitate an extension of fixed-term employment (OECD 2004). In Germany, the ‘Employment Promotion Act’ (Beschäftigungsförderungsgesetz) of 1985 reduced restrictions on the use of fixed-term contracts, a process that was furthered in the early 2000s by the implementation of the recommendations of the Hartz Committee (Eichhorst and Marx 2011). Restrictions on employers’ freedom to make use of non-standard contracts were similarly loosened in Belgium in 1991 and in France in 1993, following the introduction of a law that cut employers’ social security contributions in respect of part-time workers, contingent on employers making certain commitments to their employees. This is not to say that there was an untrammelled ‘race to the bottom’: employment rights were strengthened for some groups within some countries (for a discussion of Italy, see Michelotti and Nyland 2008) while in some of those countries with the weakest EPL (such as the UK) there was an improvement in the 1990s, largely due to the need to implement European social policies. Nevertheless, across much of Europe the general tendency was for employment protections to be weakened. This development coincided with a weakening of trade union organisation and collective bargaining institutions in several European economies.

Not all economists were persuaded that labour market deregulation would deliver overwhelmingly beneficial outcomes; indeed those rooted in institutional economics and other heterodox approaches tended to stress the potential benefits of EPL and other constraints on managers’ freedom to dismiss. Some suggested that institutional constraints might serve to encourage investments in training and improvements in the quality and effectiveness of the management function (e.g. Freeman and Medoff 1984). Others argued that EPL would encourage feelings of job security on the part of workers, thereby increasing their commitment and cooperation and leading in turn to a positive impact on productivity growth (Buchele and Christiansen 1999). Similarly, Nolan (1994) argued that strong institutions of worker representation and constraints on dismissals might propel firms down a skill and technology-intensive path to competitiveness by closing off the potential to complete on the basis of low wages and labour intensive production methods. Doubts were also expressed concerning the robustness of the empirical case for weaker EPL. Nolan (1994) noted that union decline in the US
during the 1970s had coincided with unemployment rates above the European average and that apparently improved labour market outcomes in the 1980s had coincided with an apparent reduction in industrial dynamism. In a related vein, Freeman’s (1988) analysis of US employment suggested that between-state variations in unemployment were unrelated to differences in trade union density, thereby casting doubt on the supposed negative influence of labour market institutions. Other studies called into question the supposed wider benefits of greater labour markets flexibility for the economy. Buchele and Christiansen’s (1995) study of the G7 from the early 1970s to the late 1980s uncovered a strong correlation between economic performance, wage growth and employment rights while Michie and Sheehan (2003) demonstrated that use of non-standard contracts by UK firms was negatively associated with the probability of making product or process innovations (Michie and Sheehan 2003). Summing up the evidence at the end of the 1990s, Nickell and Layard (1999: 3209) concluded that ‘time spent worrying about strict labour market regulations, employment protection and minimum wages is probably time largely wasted’.

Within the EU the prospect of a general levelling down of EPL to levels associated with the UK and Ireland appeared to be rejected in the 2000s as the European Commission instead began to advocate flexicurity, defined as an ‘integrated strategy to enhance, at the same time, flexibility and security in the labour market’ (European Commission 2007: 10). According to the Commission, the introduction of greater contractual flexibility along with active labour market measures and increases in lifelong learning would promote employment, reduce the duration of unemployment and improve the prospects of labour market ‘outsiders’. Interest in flexicurity was initially stimulated by the experiences of Denmark and the Netherlands during the 1990s. Having previously experienced persistently high unemployment, both countries subsequently appeared to enjoy among the lowest unemployment rates in Europe while maintaining relatively generous unemployment benefits. The ostensible cause was an increased emphasis on active labour market measures, combined with only moderate amounts of employment protection. Policy makers have since treated both countries as examples of ‘good practice’ in relation to labour market policy (Sels and van Hootgem 2001), even though the effectiveness of Danish and Dutch activation measures has been questioned (e.g. van Oorschot 2004: 25).

While the Danish example in particular appeared to point in the direction of weaker EPL, the Commission adopted an ambiguous position, albeit one that that was clearly sceptical about the benefits of EPL. The Commission argued that achieving flexicurity would require policies that promoted ‘employment security’ rather than ‘job security’ (European Commission 2007, p. 7). It also claimed that strict protections against economic dismissal further disadvantaged vulnerable workers, including the long-term unemployed, and encouraged ‘recourse to a range of temporary contracts with low protection – often held by women and young people – with limited progress into open-ended jobs’ (European Commission 2007, p. 12). Efforts by European policy makers to secure support for a common set of flexicurity principles in 2007 resulted in a de-emphasising of implied threats to employment protections and job security so as to appease flexicurity ‘sceptics’, including trade unions and some (particularly southern) EU member states (Mailand 2010). Since the onset of the crisis, however, the Commission has come to adopt a less ambiguous position in relation to EPL. Supply-side reforms of the labour market are central to the European Commission’s proposals for generating economic growth in the aftermath of the crisis. The Franco-German initiated ‘Euro plus pact’, adopted in March 2011, called upon Eurozone countries to pursue flexicurity, although governments were expressly directed to consider the ‘sustainability’ of the security aspects (e.g. unemployment benefits, pensions) (European Council, 2011). The Commission’s 2011 Joint Employment Report similarly emphasized that unemployment benefit schemes should ‘provide the right incentives to work’ and
called for greater sanctions for non-compliance. A renewed scepticism about the consequences of strong employment protection legislation can also be detected in the report, which recommends ‘removing institutional obstacles that prevent proper functioning of Members States’ labour markets’ (EPSCO, 2011: 9). In addition, the distinction between job security and employment security, which was submerged during the process of securing agreement to the common flexicurity principles (Mailand, 2010), has resurfaced: the Commission once more insists that ‘the flexicurity concept […] is a policy approach geared less towards the protection of jobs, and more towards the protection of people’.

Reflecting the mood at the European level, several EU member states have taken steps to dilute the strength of EPL. Typical measures have included longer ‘probationary periods’ for new recruits, cuts in severance pay and weaker negotiating and consultation rights for employee representatives. The UK government, for example, has increased the qualifying period of tenure for claims of unfair dismissal from one year to two and has made it harder for dismissed workers to seek justice by creating new financial restrictions on access to Employment Tribunals. At the time of writing the government is considering plans to make it simpler for firms to dismiss ‘under-performing’ workers. In Slovakia, changes to the Labour Code that were approved in 2011 have resulted in weaker constraints on dismissals, the withdrawal of a right to redundancy payments for dismissed workers who continue to work for an employer during their notice period and an extension in the maximum duration of fixed-term contracts. In Spain, reforms introduced in 2012 have relaxed restrictions on dismissals by firms that forecast losses and have allowed small firms to hire workers on one-year probation periods (during which time employees can be dismissed without compensation). The government also cut compensation for wrongful dismissal. In Italy, provision has been made for local-level collective agreements to deviate from national standards in relation to issues such as dismissals and non-standard employment, as set out in legislation and national collective agreements. In the wake of a general strike in 2011, the government of Portugal and the General Workers’ Union (UGT) signed a new labour agreement that provided employers with increased freedom to define the criteria for dismissals while cutting severance pay and the maximum duration of unemployment benefits. In January 2012 changes to the Czech labour code came into force. The provisions included lower severance pay for workers lacking long job tenures and increased freedom for employers to dismiss workers on sick leave, although employers’ ability to make repeated use of fixed-term contracts was restricted. Finally, a revision of Hungary’s Labour Code, which is due to be implemented in mid-2012, will see an end to employment protection for mothers on maternity leave and older workers while introducing new restrictions on rights to severance pay.

The ostensible cause of labour market reform has been the desire of policy makers to improve competitiveness and boost employment growth. The extent to which current reforms will help to generate new employment growth remains to be seen, but past evidence does not provide a secure basis for optimism. Moreover, while it is understandable that policy makers should be focusing on the number of workers in employment given the current economic situation, there are other issues that need to be considered, in particular the implications of labour market deregulation for job quality. The analysis that follows draws on European Labour Force Survey and OECD data in order to address three key issues. The first issue is whether variations in employment protections help to explain national differences in employment rate changes since the start of the economic crisis. In principle, countries with relatively robust employment protections might be expected to experience less severe job losses than those with weaker protections, all other things being equal. Our findings provide some support for this argument, although they suggest that the beneficial effects of employment protections
are time-limited. Furthermore, we find that reductions in youth employment since the start of the crisis are unrelated to variations in the strength of EPL across EU member states.

The second issue considered in the next section is whether the crisis has precipitated an increase in non-standard, and potentially less secure, form of employment. Studies suggest that EPL influences a country’s mix of standard and non-standard forms of employment (Bassanini and Duval 2006; Layard et al. 2005; OECD 2004). Strong EPL might encourage employers to make use of time-limited contracts, as has arguably been the case in Spain, whereas in countries with weak EPL the incentive to employ workers on fixed-term contracts might be correspondingly weak. Our findings suggest that rates of part-time and fixed-term employment have changed relatively little since the start of the crisis. However, a number of countries have experienced substantial increases in involuntary participation in non-standard employment.

The final issue that we consider is that of in-work poverty. We demonstrate that the risk of in-work poverty tends to be greater for workers in part-time and temporary jobs than for those with full-time or permanent employment. Furthermore, the risk of in-work poverty is shown to have increased in a number of EU member states in the period since the start of the crisis.

Findings

Employment1 and employment protection2

The economic crisis has had a substantial impact on the labour markets of European Union (EU) member states. Between 2008 and 2009 employment in the EU-15 fell by 3.2 million while the rate of unemployment increased from 7.1 percent to 9 percent.

Examining the employment performance of the EU-15 countries following the crisis we find mixed results with regard to the relationship to EPL. Looking at the group of countries whose employment rate has fallen between the first quarter of 2006 and 2012, it is clear that the largest falls have been in those countries which have experienced greatest fiscal distress and in response have implemented draconian austerity measures (Figure 1 below). The timing of the declines and implementation of austerity differ between these countries. The data indicates that significant falls did not begin until Q3 2008 in Ireland and Spain, and a year later in Greece and Portugal, consistent with commentators who have described a first phase of the crisis characterised by fiscal stimulus, monetary expansion and bank bail-outs in order to prevent financial collapse (e.g. Heyes, Lewis and Clark 2012:228-9). Of this ‘distressed’ group, Greece, Spain and Portugal have high EPL, while Ireland has low EPL (see table 1 below). Of the remaining countries, Denmark experienced the largest fall followed by the UK, both with low EPL, then Italy with medium EPL (see Table 1).

---

1 All employment data is sourced from the EU LFS via Eurostat.
2 Employment protection data is sourced from OECD.stat
Figure 1 – EU-15 countries with falling employment rates, 15-64 year olds, Q1 2006 – Q1 2012

The employment rate is defined as the total of employed persons, people aged 15 and over who worked for at least one hour in the reference week for pay profit or family gain, as a percentage of the same age population (Eurostat 2012a).

Table 1 – OECD Employment Protection Legislation (EPL) Index 2008 for the EU-15

<table>
<thead>
<tr>
<th>EPL Score 2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low</td>
</tr>
<tr>
<td>Denmark</td>
</tr>
<tr>
<td>Ireland</td>
</tr>
<tr>
<td>Sweden</td>
</tr>
<tr>
<td>UK</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

* EPL index between 0 (least restrictions) and 6 (most restrictions).

**The index combines three sub-index scores on Protection of permanent workers against (individual) dismissal, Regulation on temporary forms of employment and Specific requirements for collective dismissals.

*** EU-15 unweighted average is 2.43 and the OECD unweighted average is 2.25.

The remaining countries have been stable or rising in their employment rates, with the performance of Germany and Austria particularly impressive (See Figure 2). As seen in Table 1, the majority of these countries have a medium EPL score with Luxembourg and France in the high group. Hence on the aggregate employment rate, there is little to indicate that countries with lower EPL have performed better than those with higher EPL scores. In fact, if we remove those countries whose public sector debt profile has meant that the shock of the financial crisis has been felt most severely, it is Denmark and the UK, both with low EPL that have exhibited relatively poor performance.
Taking the EU-15 countries together, we regressed the change in employment rate on the 2008 EPL score to see if there is a statistically significant aggregate effect (see figures 3 and 4). We observe a weak positive relationship between these two measures, which is stronger in the first phase immediately subsequent to the crisis, measured q3 2006 – q3 2009, although the effect is not statistically significant. This finding provides limited support to the previously outlined argument that higher levels of EPL may act to limit job losses in the face of macroeconomic shocks. Not only will it be more difficult for employers to lay-off workers, but the dependency of ‘high road’ manufacturing and services upon a highly-skilled workforce, encouraged by institutional systems complementary with medium and high EPL, creates incentives for employers to retain trained workers through downturns. One documented mechanism for achieving this in the first phase of the crisis was the extensive use of part or short-time working, particularly in those countries whose employment rates have been most resilient. Under short-time working measures, workers experience a reduction in their normal hours of work (sometimes referred to as ‘partial-unemployment’) and receive either a reduced wage or unemployment benefit for the hours that they would otherwise have worked (Bosch 2010). In Germany, which made extensive use of short-time measures, the maximum duration of support was extended from 6 to 24 months and the number of German workers in short-time work increased from an average 20,000 per month in 2007 to a peak of 1.5 million during 2009 (Heyes forthcoming).
Figure 3 – EU15 Scatterplot of EPL2008 and Change in the rate of Employment, q3 2006 – q3 2009

Figure 4 – EU-15 Scatterplot of EPL2008 and Change in the rate of Employment, q1 2006 – q1 2012
The crisis has had a disproportionate impact on workers with low levels of educational attainment, young people, migrants and those in temporary employment. Across the EU15, the unemployment rate among people aged 15-24 years, which stood at 15.3 percent in 2008, reached 19.2 percent in 2009. As can be seen from Figure 5, some countries such as Germany experienced a small reduction in the rate of youth unemployment. Elsewhere, however, youth unemployment increased, dramatically so in some cases.

Figure 5: Unemployment rates for workers aged 15-24 years, 2007-2009

While stringent employment protections are sometimes mentioned as a cause of high youth unemployment, unemployment rates for young people have also increased in countries that have relatively lax rules on hiring and dismissals. In 2009, the unemployment rate for workers aged 15-24 years was around 20 per cent in the UK and 25 per cent in Ireland (European Commission, 2010). These rates were comparable with, and in some cases substantially greater than, those found in countries with much stronger employment protections (e.g. in Germany and Austria the youth unemployment rate remained under 11 per cent while in the Netherlands it was less than 7 per cent). On the whole, those countries that experienced relatively modest increases in unemployment among older workers, such as the Netherlands, Austria and Belgium, also experienced comparatively mild increases in youth unemployment. Increases in unemployment among young workers have tended to be most substantial in countries that have also witnessed large increases in unemployment among older workers (notably Spain and Ireland). As shown in Figure 6, national differences in youth employment rates appear to be unrelated to variations in the strength of employment protections across the EU15 member states.
Given the suggested mechanism through which companies and employees were able to respond to the initial shock of the financial crisis it is important to examine how the composition of work in terms of part-time and temporary contracts has developed. Looking at changes in the part-time employment rate the countries do not clearly group and whilst the correlation with the EPL score is negative, meaning that greater increases in part-time work are associated with lower levels of employment protection, it is not statistically significant. There is also no evidence of a significant increase in part-time work in any of the countries during the first-phase of the crisis as has been suggested in the literature (See figure 7). Because the categorisation of part-time, with the exception of the Netherlands, is on the basis of ‘a spontaneous answer given by the respondent’ (Eurostat 2012a), it is possible that workers temporarily transitioned to short-time working did not categorise themselves as

3 Part-time in the Netherlands is defined as working less than 35 hours per week.
part-time when interviewed for the EU LFS, hence failing to capture this temporary increase in the statistics.

Figure 7 – Part-time employment rate, EU-15 countries, 15-64 years, Q1 2006 – Q1 2012

*Part-time employment rates represent persons employed on a part-time basis as a percentage of the same age population.

All countries show an increase in the part-time rate, with Ireland having the largest increase of over 6% and Belgium, Denmark, Austria, Italy, Portugal and the Netherlands over 3% during the period. Germany only increased by 0.1% and the UK by 1.2%. Looking at the underlying levels of part-time employment, with the exception of the Netherlands at 49%, countries were in a range between 7% and 26% at the beginning of 2012. Whilst the part-time employment rate is also negatively correlated with the EPL score, suggesting that countries with lower levels of employment protection utilise part-time work to a greater extent, again the relationship is not statistically significant. Hence EPL is not a good explanation of the relative levels or changes in part-time employment since the crisis.

Temporary employment

Examining changes in the percentage of employees on temporary contracts similarly provides no clear groups, and as with changes in the part-time employment rate a negative but non-significant correlation with EPL. With the exception of Spain, which experienced a 9.6% fall but still has a higher rate than all other countries, and Ireland, which increased its temporary rate by 4.6%, the other countries maintained fairly stable trend rates during the period (see figure 8). Greece and Portugal showed a slight parabola with an increase in the proportion of temporary contracts subsequently falling back to their starting points. This may be interpreted as employers’ altering the composition of work from permanent to temporary contracts in response to the crisis, but ultimately having to reduce
employment in both categories due to the severity of recession. There is a positive correlation with change in part-time employment but it is not statistically significant.

In terms of levels, the countries are similarly bunched as with part-time employment, between 6% and 24%, but with clear individual differences. A potential explanation for these differences results from disaggregating the EPL scores; the level of regulation of permanent employment establishes an incentive for employers to use temporary contracts, whilst the level of regulation of temporary forms of employment determines the extent to which such contracts may easily be created. Given the UK’s low EPL score for permanent workers it is understandable that temporary contracts are the least used in the EU-15. The next lowest user, Luxembourg, has the potential incentive through a high EPL for permanent workers, but lacks the capacity, through the similarly high protection afforded temporary workers. Spain is something of an outlier in terms of its temporary employment rate due to relatively high EPL scores for both permanent and temporary workers.

Figure 8 – % of employees on temporary contracts, EU-15 countries, 15-64 years, Q1 2006 – Q1 2012

Involuntary non-standard work

While the overall rates of part-time and temporary work have generally changed relatively little, in a large number of cases the proportion of those workers who are in non-standard work involuntarily has increased dramatically. This suggests that increases in non-standard work are largely being filled by workers who would prefer full-time and permanent contracts. It may also be the case that some workers that previously were satisfied with non-standard work are no longer, possibly due to falling real wages, reduced tax credits and benefits, and/or reduced household employment creating pressure for employed members of households to generate a higher income.
A number of measures of involuntary non-standard work are statistically significantly correlated at the 1% level. The change in the involuntary part-time and temporary rates between 2006 and 2011 are highly correlated across the EU-15 at 0.76, suggesting that the same countries have experienced increases in both measures. Similarly, the average levels of both types of non-standard employment between 2006 and 2011 are correlated at 0.71. However the changes are not significantly correlated with their starting levels in 2006 and neither changes nor levels are significantly correlated with EPL score. This means that the extent of pre-crisis involuntary non-standard work and the degree of employment protection are not good predictors of post-crisis movement in these measures.

Looking at the particular countries, we can identify groups of risers and stable/fallers (see figures 9-12).

**Figure 9 - EU15 countries with a rising proportion of involuntary temporary workers, EU-15 countries, 15-64 years, Q1 2006 – Q1 2012**

---

4 The levels of both measures are also significantly correlated at 2006 or 2011.

5 The change in involuntary temporary employment is negatively correlated with EPL at -0.48 and significant at the 10% level.
The increase in involuntary temporary work was greatest in Ireland and the UK. Whilst the low EPL scores for these countries are associated with a low incidence of temporary contracts, it is clear that both their use and the involuntary nature of this type of employment is increasing in response to the crisis. Why this should be the case where EPL is not restrictive of permanent work requires further research. Smaller increases are observed in the fiscally distressed countries of Spain, Greece and Portugal but from involuntary levels already over 80%. Whilst the trend and level of involuntary temporary contracts are common across these countries, the rates of temporary employment to which they apply are not. Greece had less than half the proportion of temporary contract workers of Spain and Portugal in 2012, which is potentially due to weaker employment protection of permanent workers. Finally, Italy demonstrates a medium increase and finishing level.
Figure 11 – EU15 countries with a rising proportion of involuntary part-time workers, EU-15 countries, 15-64 years, Q1 2006 – Q1 2012

Considering involuntary part-time work, it is clear that the most fiscally distressed countries of Greece, Spain, Ireland and Italy began a rapid increase from 2008, with Portugal following from 2009. As discussed earlier there is no clear relationship to EPL for this group; the commonality is their shared distress. The other significant risers, although at a much slower rate, include the UK,
Denmark, Sweden and the Netherlands, with the latter from a very low base. This is potentially a result of the relatively low levels of EPL in these countries which may indicate that part-time work is easier to implement and force upon workers.

The majority of the other countries have displayed relatively stable rates of involuntary non-standard work with the exception of Germany since 2010 and Belgium since 2008, which have experienced drops in involuntary part-time employment. This likely reflects the relative strength of these economies and falling employer pressure for part-time work.

The tentative findings from this analysis are that countries tend to use and increase involuntary temporary and part-time work together suggesting that they are both forms of employment that allow employers to cope with macroeconomic shocks. The level of EPL applying to permanent and temporary workers might be thought to serve as a predictor of the extent to which countries will use involuntary temporary contracts, but in fact this appears not to be the case. Post-crisis increases have been observed in the most fiscally distressed countries, with involuntary part-time work increasing more than temporary contracts, perhaps because it is less regulated in the Southern European countries. However, we are also seeing increases in the UK, Denmark, Sweden and the Netherlands, albeit from lower levels, which whilst not directly incentivised by relatively low EPL may be possible because of it.

**Working poverty**

Working poverty is defined as individuals who have been employed for more than half of the recorded period and whose equivalised household disposable income is less than 60% of median. Disposable household income includes:

- all income from work (employee wages and self-employment earnings)
- private income from investment and property
- transfers between households
- all social transfers received in cash including old-age pensions (Eurostat 2012b)

Hence, we take it to include tax credits and other cash benefits but exclude non-monetary income components including universal services. Although the measure is at an individual level, it is calculated at the household level and therefore takes into account not just the income, mainly earnings, of individual workers, but of all members of the household of working age. Therefore, differences between countries could result from differences in earnings inequality but also could be due to average differences in the working composition of households.

Working poverty is calculated across two different dimensions – full-time or part-time employment and temporary or permanent contracts. We have examined the comparative levels of these measures in 2005 and as an average between 2005 and 10, how these rates have changed during this period, and, whether they correlate with each other and EPL scores.

---

6 Rates of working poverty are calculated through the EU-SILC ‘Standards of Income and Living Conditions’ programme and are available via Eurostat.

7 The last year for which data is available and the first year for which it is comprehensive across the EU-15.
Starting with the null results, we find that the starting and average levels of working poverty are not significantly correlated with EPL except for full-time workers where there is a positive correlation at the 5% level of 0.52 for 2005 and 0.55 for the period. This suggests that higher levels of employment protection result in higher levels of full-time working poverty, contrary to the strong insider argument that is the accepted criticism of high EPL countries. However, upon further examination it becomes clear that if Spain, Portugal, Greece and Italy are excluded, that there is not a statistically significant relationship and EPL appears to have very little bearing upon the level of full-time working poverty. These countries have relatively high levels of household income inequality as indicated by their GINI coefficients, between 0.31 and 0.38, and this is likely associated with high levels of in-work poverty (Heyes, Lewis and Clark 2011: 234). The extent to which in-work poverty is attributable to high EPL in these cases requires further research, but certainly there is not a clear relationship when looking at the other low and medium EPL countries. Changes in the levels of working poverty are also not significantly correlated with EPL and neither are they correlated with the starting levels of these measures in 2005.

In terms of levels, the part-time and full-time risks are highly correlated, 0.81 at 1% significance level, as are temporary and permanent, 0.63 at 5% significance level. Full-time, but not part-time, is also correlated with both temporary and permanent risk, 0.57 and 0.63 at the 5% level. Post-crisis change in the risk of in-work poverty is correlated between temporary and permanent contracts, 0.55 at the 5% level, but not between full-time and part-time or between the two dimensions. These findings indicate that the level of risk of in-work poverty tends to be related across full and part-time, temporary and permanent workers within each country, i.e. if it is relatively high in one it is likely to be so in all. It also suggests that where it is increasing, it is doing so for both temporary and permanent workers, but is experienced differently between full and part-time. Although correlated, there is a higher level of risk for those in part-time work than full-time and for those on temporary contracts compared to permanent ones. This is indicated by each country being to the left of the 45 degree bisector in figures 13-14. Only the Netherlands has very close full and part-time risk, perhaps providing a partial explanation of why it has such a high incidence of part-time work relative to other EU15 countries. The UK has the closest temporary and permanent risks, which is likely to be a reflection of the low incidence of temporary contracts and their acceptance in professional services roles.

---

8 Surprisingly, Luxembourg is also an outlying country with a level of full-time working poverty comparable with the Mediterranean countries.
Figure 13 – Scatterplot of the risk of in-work poverty for full and part-time workers, averaged 2005-10, EU-15 countries

Figure 14 - Scatterplot of the risk of in-work poverty for temporary and permanent workers, averaged 2005-10, EU-15 countries
Examining change by country provides some surprising findings. It is clear from figure 15 that changes in the risk of poverty associated with permanent contracts has been within a narrow band with the majority of countries within +/-1%. Germany is an outlier at +2.5%. Changes in the risk associated with temporary contracts has been much more diverse. The largest risers have been Sweden – 10.6%, Germany – 7.6%, Belgium – 6.3%, the Netherlands – 2.5%, Spain – 2.4% and Italy – 2%. The distressed countries of Ireland, Greece and Portugal have actually had the greatest reduction in risk, albeit from very high levels for the latter two (see Fig.13). The UK has experienced a reduction of 0.9%.

Looking at changes in full and part-time risk (Fig. 16), it is full-time that is in the narrower band, but not as tight as for permanent workers, between -2% for Austria and 2.7% for Ireland. The changes in risk for part-time work are more spread out, with three broad groups. An increasing risk group, around 5%, which includes the distressed countries of Portugal, Spain and Greece, and also Germany and Denmark⁹. A distinct reducing risk group which includes Austria, Finland and Ireland, and the remainder of countries clustered around the origin. As already mentioned these changes are not correlated with EPL or the starting levels of in-work poverty risk.

What these findings are indicating is that changes in the risk of poverty associated with temporary and part-time work are diverse across the EU-15, with a wide range, which if continued would lead to further deviation in levels between countries and greater decoupling from the risks associated with permanent and full-time work today in certain countries.

Figure 15 – Scatterplot of changes in the risk of temporary and permanent contract working poverty, EU15, 2005-10

---

⁹ Data for risk of in-work poverty by temporary and permanent contracts is not available for Denmark, only full-time and part-time.
Conclusion

Over the past thirty years, state support for labour market protections has weakened, resulting in a tendency towards liberalization that has occurred across most developed economies. In promoting its flexicurity agenda the European Commission has insisted that the focus of policy should be on delivering employment security - in the sense of ensuring workers are able to make successful transitions in the labour market – rather than job security. European policy makers have claimed that strong employment rights represent a threat to jobs and competitiveness, that ‘generous’ income replacement rates create disincentives to work and that supply-side measures directed at improving ‘employability’ and labour market flexibility will deliver jobs and growth. The crisis has, however, served to cast doubt on many of these assumptions.

The crisis has demonstrated the value of state interventions to protect jobs. In countries such as Germany and Austria, proactive measures to safeguard jobs through working time adjustments cushioned the impact of the economic crisis on the labour market and helped to prevent a substantial increase in unemployment. It is also possible that constraints on firms’ ability to dismiss workers have served to encourage a focus on internal sources of adjustment in the face of economic downturns. Our analysis suggests that many countries with relatively strong employment protections experienced fewer job losses than countries in which employment protection was relatively weak. However, while employment protections helped to stem job losses in the initial phase of the crisis, high levels of EPL have not prevented subsequent substantial job losses, particularly in those countries that have been most affected by debt crises and pressures from international financial interests and the European
Commission. The governments of these countries have begun to deregulate their countries’ labour markets in the hope that employers will be encouraged to take on workers. The experience of Ireland, which has relatively low levels of EPL, suggests that cutting employment protection is unlikely to spur employers to embark on a hiring spree while economic conditions remain turbulent and consumer demand depressed. The relatively poor performance of Denmark’s labour market, previously held up as a model of flexicurity to which other countries might aspire, also suggests a need to revise the assumptions that have underpinned European Commission policy prescriptions on recent years.

It also seems unlikely that a further erosion of employment protections will do anything to address the relatively disadvantaged position of young workers. Young workers in countries with weak employment protections have suffered alongside those in countries where employment protection is relatively strong. Indeed, our findings suggest that EPL has had little or no influence on the labour market prospects of young European workers. The notion that weaker employment rights improve the position of vulnerable workers and encourage greater social inclusion is therefore not a compelling one.

Our findings also highlight a number of developments that have implications for the quality of jobs in Europe. The marked increase in involuntary participation in part-time and temporary employment points to the additional difficulties that many European workers now face in securing ‘standard’ employment. In addition to experiencing greater insecurity, workers in non-standard employment tend to be disadvantaged in relation to access to training (ETUI-REHS 2007; Forrier and Sels 2003). As we have shown in this paper, fixed-term and part-time jobs are also associated with an increased risk of in-work poverty. Some countries have sought to reduce constraints on employers’ ability to make use of fixed-term contracts. This strategy would appear to be antithetical to the achievement of European Union goals related to poverty reduction. In addition, previous research evidence suggests that labour market reforms directed at weakening employment protection and increasing non-standard employment may also reduce employers’ incentives to innovate (Freeman and Medoff 1984) and erode the trust, cooperation and worker participation necessary for the introduction of new processes and products (Buchele and Christiansen 1999; Storm and Naastepad, 2009).

The notion that workers’ security can be assured through training opportunities designed to enhance their ‘employability’ – a claim that has been central to the EU’s flexicurity agenda - now appears highly implausible. While highly-educated workers have suffered less compared to those with lower levels of education, the unemployment rate for highly-educated workers nevertheless increased after 2007 in most EU member states. Those countries that have experienced the most serious difficulties and that have gone furthest in imposing austerity (e.g. Ireland, Spain and Greece) are experiencing high levels of unemployment among graduates. Europe’s problem, therefore, is not a lack of highly educated and skilled labour but a lack of employment opportunities. The most important challenge now confronting policy makers is how to increase demand for labour. In the early stages of the crisis, Keynesian policy solutions were briefly embraced as government sought to prevent economic collapse by injecting massive fiscal stimuli into their economies. The Keynesian moment has now passed. With the introduction (or imposition) of austerity measures across much of Europe and the adoption of the ‘Euro Plus Pact’ by the members of the Eurozone, attention has once again focused on supply side reform, including the further deregulation of labour markets. However, our findings suggest that it is unlikely that a further weakening of employment protections will produce sustained improvements in aggregate employment. The result may instead be increased insecurity and an increased risk of in-work poverty.
The task for policy makers should be to develop measures that will serve to reduce exposure to risks. This will require improved regulation of markets, including financial markets, and a willingness on the part of policy makers to impose obligations upon employers, including improving employment rights in respect of training and training leave, ensuring additional support for workers facing redundancy and reversing the current move to dilute consultation rights in respect of dismissal. As spelled out in the European Trade Union Confederation’s ‘Athens Manifesto’, which was agreed at the 2011 ETUC Congress, reducing risk also requires that social rights ‘should take precedence over economic freedoms’. The current tendency across Europe, however, is towards a strengthening of employers’ economic freedoms and a weakening of workers’ social rights.

References


10 As Freeman (2010: 170) has noted, however, ‘Twenty or so years of flexibility reforms have accomplished essentially nothing towards insulating workers from the economic disaster wrought by laissez-faire capital markets’


