

PART 1

Atypical employment contracts in the Accessor countries and generally within the EU

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In all of the eight Accessor countries atypical employment contracts are seen as having increased in number over the last twenty years. This has occurred through a proliferation of alternative forms of contract, in a context of economic crisis and globalisation; the development of new technologies; an overall decline in employment rights, with a focus on new strategies that promote flexibility and reduce labour costs. Deregulation is also cited as having led to a disruption of the labour market, in economies that traditionally have been strong, such as Germany. However, the impact of the economic crisis while encouraging the growth of some forms of typical work, in some countries has also led to a reduction in the more stable forms of atypical work in others. In Italy nearly two in every three contracts issued in recent years were for a fixed-term. In Sweden fixed-term contracts have grown to represent one in six (15 per cent) of all employment contracts, so that these now are considered almost the norm. There has also been a growth in on call and zero-hours' contracts, particularly in relation to young workers. In France the growth in atypical work is identified as developing from the 1980s onwards, with a six-fold multiplication in the number of workers on fixed-term contracts and a four-fold increase in the number third-party contracts, with similar increases in interneer or trainee contracts. In Germany, for example, it has been estimated that one in five young, qualified workers has completed at least one work placement and in half the cases there was no remuneration, while in the other half it was not enough to live on. There some nine million current contracts could be described as atypical. The Belgian expert also identifies atypical work as having its early manifestations towards the end of the 1990s but until 2010 was limited to two types – part-time work and fixed-term contracts. However more recently there has been a mushrooming of other forms of atypical work, including freelance, agency and sub-contracted work; seasonal and occasional work, together with domestic work under a new state supported system to encourage the formalisation of work in the domestic household sector. Seasonal work which is sometimes defined as atypical is more likely to be sector-specific, concentrated in the construction, agriculture, tourism and forestry sectors.

There is no definitive data on the extent of the variety of forms of atypical contracts. The national report from Italy suggests anywhere between 19 and 46, according to which organisation is making the calculation. The French national report lists eight forms of contract contained within the overall definition of a fixed-term contract. The UK report lists nine separate forms of contract, further divided dependent on the nature of the employment relationship. The Belgian national report lists six main types. The Slovenian report subdivides work in seven main types. The Spanish report identifies fixed-term contracts as the principle form of atypical work. In many of the Accessor national reports atypical work is associated with female employment as well as with low pay, creating a section of the labour force defined both by gender and by pay. However, while female labour is dominant in all countries among those in part-time employment, there is also evidence of a growth of male work under this type of contract. In Belgium, for example, the proportion of men in part-time work, while still representing less than one in ten of all part-time workers, nearly doubled in size between 1999 and 2010. In Germany low paid work has increased sharply over the last 15 years, thus increasing both atypical and very atypical work, with the proportion of those on low wages increasing from 17.7 per cent in 1995, to 23.1 per cent in 2010, a 30 per cent increase. Atypical types of contract are also identified as associated with young workers in practically all of the eight countries in the study, although some also refer to atypical work (in particular, fixed-term contracts) as being associated with older (over the age of 50) workers. In Belgium the phenomena of atypical work is increasingly associated with young workers at the

beginning of their entry into employment. In Slovenia precarious work is determined by gender (female) age (old and young) and social class.

While the focus of this report is on forms and typologies of atypical employment it is important to highlight that informal work – in other words work with no contract – is a factor of the labour markets in all of the countries in the study and impacts more generally to shape the labour market. At 2009 Eurobarometer survey suggests that around five per cent of workers in the EU27 had done at least some informal work over the previous year.

1.1. Definitions.

A number of the national reports have provided a definition of atypical work in their country context. In the majority of cases, atypical work is defined in relation (or opposition) to typical work, with the latter seen as full-time, permanent, direct employment. The French expert report defines atypical work as 'types of employment which in one way or another, derogates from the norm of work based on a contract of indefinite length and full time'. The Slovenian expert report defines precarious work as where contracts 'have the capacity to reduce social security and work security'. The German expert report defines a job as atypical 'when it does not provide any old age insurance above the basic provision, or does not allow provision to be made for old age without State support'. The Belgian national report defines typical work as 'standard based on a work relationship, derived either from private law or statute, that is full-time, with an indefinite contract length, with relatively fixed hours, with a work relationship based on there being a single legal entity as the employer and that is linked to a specified work location and a career that can be programmed for'. Atypical work therefore consists of 'all forms of work which are set apart from the standard, either in relation to working hours, the geography of work or the degree of sub-ordination'. The French expert report categorises two work categories: 'those who are outside the norm in relation to their employment hours and their work stability and would include fixed-term, internee contracts and probationary contracts. The second category is distinguished from the norm based on the length of working hours and monthly salary.'

1.2. Data on atypical work.

The Accessor national reports give some indication of the coverage of different forms of atypical work and this data has been supplemented by data taken from recent EU level surveys. The table below provides data for the eight countries in the study comparing it to the data for the whole of the EU.

It is important to note that while there has been a growth in atypical work in all of the countries of the study, and generally within the EU27, as the above demonstrates, standard employment continues to account for the overwhelming majority of contracts in the countries under study. In the UK, for example, the majority of UK workers continue to work on what might be termed 'typical' standard contracts - that is full-time permanent contracts, although full-time employment fell in the period 2007 to 2011, while part-time employment increased. In Germany, while the proportion has fallen, two-thirds of those of working age are employed on 'typical' contracts, although in 1998 this was nearer three-quarters.

The fact that a contract is not 'typical' does not mean per se that workers engaged under such contracts are necessarily disadvantaged, in terms of the social protection norms available to

them. In principal the obligation of 'no less favourable treatment'³ should apply in all EU states in the case of part-time workers, those on fixed-term contracts and those on agency contracts, although Member State derogations apply in the case of the latter two forms, with the UK, for example, offering lower levels of protection to agency workers and excluding those on fixed-term contracts who are not in a direct employment relationship, from entitlement to equal treatment.

Table 1: Data on the forms of contract in the study countries

Country	Full-time employment	Part-time employment (2013)	Permanent contracts (2013)	Fixed-term contracts (2013)	Agency work (2006)	Self-employed (2010)
Slovenia	90%	10%	84%	16%	1%	
UK	74%	26%	93%	6%	5%	14%
France	82%	18%	84%	16%	2%	13%
Belgium	75%	25%	92%	8%	1%	16%
Sweden	75%	25%	85%	15%	2%	10%
Germany	73%	27%	86%	14%	1%	11%
Italy	82%	18%	87%	13%	<1%	21%
Spain	84%	16%	78%	22%	n/k	13%
EU27	81%	19%	86%	14%	1-2%	15%

Source: Accessor national reports, cross referenced with Arrowsmith (2006), the *Study on Precarious work and social rights*, and the European Labour Force Survey 2013⁴

1.3. Forms of employment contracts.

The term 'forms of contract' for the purpose of this report is used to identify the nature of the employment relationship between the individual performing the work and the individual or organisation for whom the work is performed. The principal forms of contract are thus:

The *standard form*: where work is performed directly for the individual/organisation which requires it. Such work may be typical, for example where it is full-time and of indeterminate length, however, it may also be atypical, dependent on the type of work contract as identified in the following section of this report. In all of the countries in the study the standard form of work includes both contracts of service and contracts for services; however, in the UK the law

³ This principle is the basis of anti-discrimination provisions in the UK and requires that individuals be treated in the same way.

⁴ http://epp.eurostat.ec.europa.eu/portal/page/portal/employment_unemployment_ifs/data/database

distinguishes between these two forms, allocating a greater range of employment protection to the former in comparison to the latter⁵. All other categories of work draw on a model based on distanced relationships which generally result in a reduction in employment rights. These main forms are explored below.

Forms of work within the category of distanced relationships. The first category is those who work through *employment agencies*. A study by the European Foundation for the Improvement in Living and Working Conditions (Arrowsmith, 2006)⁶ estimated that in the EU15 States plus Norway (there was no robust data for the EU12 States) in 2007 around one to two per cent of the labour force worked through agencies, accounting for between 2.5m and 3m workers and that temporary agency work had 'expanded rapidly in almost all countries, especially in the mid- to late 1990s'. The European Confederation of Private Employment Agencies (Eurociett) states that there are around 33,000 private employment agencies operating in Europe (Eurociett, 2012). Young people dominate within agency work. According to Eurociett on average 57 per cent of agency workers in Europe are aged less than 30 (Eurociett, 2012). Arrowsmith (2006) found that 31 per cent of the agency workforce in Germany consisted of those under the age of 25; 34 per cent in Spain; 31 per cent in France; 27 per cent in Italy; 46 per cent in Sweden (under the age of 31); and 51 per cent in the UK (under the age of 30).

In agency work workers will in theory have a degree of employment protection, at least in compliance with the Directive 2008/104/EC, although in the case of the UK, these rights have been narrowed through national legislation. However, despite the Directive, in practice, according to the Accessor national reports, agency workers often do not have all of the rights of those on typical contracts or do not have the capacity to access them. Over the last decade, the use of temporary agency work has increased markedly in most of the Accessor countries. In Sweden agency work was prohibited until 1993 as it had been opposed by the trade unions because they viewed it as a way of lowering wages. However, more recently a collective agreement has been signed with the agency employers. In Germany too, agency work is generally low paid, with wages in the sector having fallen over the last ten years. Periods of employment are also very short, with only half of all agency contracts in 2010 lasting more than three months.

Although agency work still accounts for just 1.5 per cent of all employment, this proportion has almost trebled in the last twenty years. Estimates by the European Confederation of Private Employment Agencies for the UK suggested that in 2005 there were some 6,000 officially designated employment agencies operating through 14,400 branches and sourcing 1.2 million workers a day

⁵ In the UK the 'typical' standard contract is normally defined as a 'contract of service' whereby the employee agrees to work, under the direction of the employer, in return for pay. A person who is employed under a contract of employment will have access to the full range of employment and social security rights, although these may be dependent on length of service (for example, for rights to protection against unfair dismissal⁵ an employee must have worked for at least two years for the same employer and this is also the case with regard to redundancies⁵). Welfare rights may also be dependent on contributions made. A 'worker', in contrast is someone whose work is regulated under a 'contract for services'. Here the law tests whether the individual has a degree of control over her/his work, can for example determine how it is done and when, utilises their own equipment and takes responsibility for the payment of taxes and National Insurance. While this definition includes genuinely self-employed workers, the UK courts have often extended it to include workers who might otherwise be seen as being directly employed⁵. Those defined as 'workers' have limited employment and social security rights. They have for example, no right to protection against unfair dismissal (no matter how long the period of employment) and limited rights to welfare protection.

⁶ Arrowsmith, J., 2006. *Temporary Agency Work in an Enlarged European Union*. Luxemburg: Office for Official Publications of the European Communities.

(5% of the national workforce). The Commission on Vulnerable Employment (COVE)⁷ suggested that, as a proportion of all temporary work, agency work accounted for 17.1 per cent of all temporary work in the UK in 2007, compared with 13 per cent in 1997. In Germany the number of recruitment operators increased from 6,910 in 1994 to 16,600 in 2010. There too agency work has grown from employing around 170,00 workers in 1996, to nearly 900,000 by 2011. In Slovenia there are estimated to be more than 160 registered agencies, with around 6,500 workers registered through them. In Belgium agency work is only a small fraction of atypical work even though it is more likely to diverge from the standard, in particular when it concerns information technology, consultancy work, events' organiser and so forth. The Italian Accessor report points to increased employment costs from this form of contract. Agency work is identified in the Accessor national reports with an increase in the number of labour law violations.

Subcontracted work is also a form of contract where the relationship between end user and employee is at a distance. The Accessor Belgian report states that this is primarily used for temporary work cover but is now also used as a probationary period for all young workers.

The third category consists of *self-employment*, sometimes categorised as 'false self-employment' where the actual employment relationship is based on dependency and where self-employment is in reality nominal, mainly aimed at the avoidance of tax and social insurance. Both the Spanish and the UK national reports refer to false self-employment as a form of atypical contract and in the case of the former the number of those self-employed workers who are included within the national insurance system is relatively stable, at around 13 per cent of all workers in the scheme. Self-employed workers are often, in reality, tied to a single client, particularly in the transport of goods as well as in certain forms of franchising. Such workers are falsely self-employed in so far as their work relationship resembles that of dependent workers, with fixed hours and paid holidays. They can also be found in professional types of employment, such as in private schools, large companies and even within the journalism profession. In Spain the trade unions have challenged this form of false self-employment, with more than 3,000 claims taken each year, but, according to the Spanish Accessor report 'even this could represent just the tip of the iceberg'. The Italian Accessor report uses the term 'para-subordinate' to refer to this employment form and asserts that this form of employment is only independent in a technical form and assumes a position of vulnerability on the part of the worker. Reference was also made to freelance work where workers find themselves in a grey area between dependent and non-dependant work.

1.4. The typology of atypical contracts.

As already noted the range of atypical contracts is very wide and in some countries a large number of types of contract have been identified as within the category of atypical contracts. To give just one example, the Italian expert report lists 26 typologies of subordinate work: *'Dependent fixed-term work; fixed-term work; fixed-task work; seasonal; special contract terms in agriculture; indeterminate, part-time horizontal; indeterminate part-time mixed; indeterminate part-time vertical; fixed-term part-time horizontal; fixed-term, part-time mixed; fixed-term, part-time vertical; training contracts; retraining contracts; work and training contracts; apprenticeships: 1st, 2nd and 3rd type; fixed-term management contracts; indeterminate length management contracts; on call*

⁷ TUC Commission on Vulnerable Employment (2008) *Hard work hidden lives*, www.vulnerableworkers.org.uk/files/CoVE_full_report.pdf.

work; zero hours contracts without the obligation to take up work; job sharing; private household work; and homeworking.'

However, for the purposes of this report these categories will be reduced to *two main typologies of atypical contract*. The first consists of: *fixed-term contracts* – whether based on time or on project completion; and *part-time contracts* – where hours contracted to work are less than the standard full-time work. These two types are subject to specific legal regulation guaranteeing an element of employment protection to workers.

The second typology draws on Broughton's definition of '*very atypical contracts*' and consists of six main categories which are analysed below.

With regard to all of these typologies of contract, whether or not they promote precariousness depends on the nature of the contract. For example, part-time work that is subordinate and where the worker is employed directly by the employer; where the type of work has been freely chosen by the worker; and where the hours available meet the workers' economic and social needs; where social insurance contributions are made; and where there is entitlement to welfare benefits; may not amount to precarious work. However, where the contract is through a sub-contractor or other third party agent; where part-time work is involuntary; or where the hours are too few to sustain a decent standard of living, then part-time work would be assessed differently and might bring it into the category of '*very atypical contracts*'.

Part-time contracts In most Accessor States the definition of part-time work generally includes all working fewer than full-time hours. Females are much more likely to be working part-time than are males in all of the Accessor countries. In France females are four times more likely than men to be in part-time work and young people are also more likely to work part-time. Part-time work in France is also seen as providing the greatest evidence of precarity for female workers and the average working hours of part-time workers are 23 hours a week, compared to 41 hours for a full-time worker. In Sweden part-time work is also predominantly female and mainly confined to certain sectors, like cleaning and caring for the elderly and although there is a right to no less favorable treatment, in practice for those on short hours' contracts it has proved hard to enforce their rights. In the UK part-time workers are normally defined as where contracts provide for less than 30 hours a week, and such contracts may be permanent or temporary. In Belgium full-time working hours have declined in the last two decades, whereas part-time working hours have increased, so that the gap between the two has reduced from 22 hours in 1984 to 17 in 2009. Forty-four per cent of women work part-time, compared to nine per cent of men. Eighty per cent of those undertaking part-time work is female and is almost always carried out in female-dominated sectors. Indeed Belgium is one of the EU Member States with the highest proportion of women working part-time (44 per cent), compared to the medium for the EU15 of 37 per cent and of the EU27 of 32 per cent. The expert report for Belgium points out that while in the main it is associated either young workers, part-time work is also undertaken by those over the age of 50, in situations where they are reaching the end of their working life. In the UK 74 per cent of all part-time workers are female, although the number of men working part-time has grown. The expert reports also note a growth in involuntary part-time work. In the UK nearly one in five workers on a part-time contract (18 per cent) was working under such arrangements because they could not find a full-time job.

Fixed-term/fixed-task (temporary) contracts Defined as contracts whose duration is determined by either a period of time or by a fixed task are also subject to regulation through the transposition of Directive 1999/70/EC which limits the number of renewals of fixed-term contracts and which provides a right to no less favorable treatment. Such contracts can either be based on a fixed-term or a fixed-task – the latter being where the length of the contract is not determined at the start but is based on the time needed to perform the contractual task. Temporary work increased its share of overall paid employment in the EU (then 15, now 27) countries over the last twenty years from 8 per cent to 14 per cent⁸. In all temporary work represented 30 per cent of all paid jobs created between 1987 and 2007⁹. In those Accessor countries where national law was seen as operating effectively then problems were not associated with fixed-term/task work. As the Swedish expert report notes: 'where fixed-term contracts are substituting for workers away from work or are for seasonal work there are no major problems since the work is well-regulated through the law and collective agreements, which actually include provision for time for workers to map out their career paths.' In Slovenia too, fixed-term/task work is primarily used to cover for absent workers.

Most of the expert reports identified women as being a majority among fixed-term workers, with the French expert report noting that 'women are more often employed on fixed-term contracts than are men'. In Spain fixed-term/task work is predominantly young, compared to the other typologies of employment, where the ages range throughout the period of working life. In the UK just over one and a half million workers (1.595m), representing 6.3 per cent of the all employees work under fixed-term contracts. This is an increase on the 5.3 per cent in 2008, as calculated by Broughton¹⁰. Four in ten of those on temporary contracts (40.2 per cent) were working under those arrangements because they could not find a permanent job. In Germany the proportion of those on fixed term contracts grew by 50 per cent, from six per cent at the start of the 1990s to around nine per cent by 2008, with most of the growth among young workers in the 25 to 34 age group, where fixed-term contracts rose from 8.2 per cent to 18.8 per cent, a 129 per cent growth. The majority of new hires are now employed in fixed-term contracts. The growth in fixed-term employment has been assisted through legislative intervention, for example, in Italy the laws of 1997, 2003 and 2012.

It is sometimes argued that fixed-term work, while of itself more precarious, leads to offers of permanent employment, but none of the national expert reports suggest that this has occurred. Indeed in relation to Germany, the national expert cites data showing that between 10 per cent and 15 per cent of those on fixed-term contracts are unemployed within a year.

1.5. Very atypical contracts.

Broughton,¹¹ in her Eurofound study, defines very atypical contracts as those 'based on the principle of 'absolute' divergence from the standard employment relationship' and as encompassing three main categories of workers:

- Workers with no employment contract;

⁸ www.eurofound.europa.eu/areas/industrialrelations/dictionary/definitions/fixedtermwork.htm

⁹ *Study on Precarious work and social rights*, Final report.

¹⁰ Broughton, A. (2010) *Flexible forms of work: very atypical contractual arrangements*, European Foundation for the Improvement of Living and Working Conditions

¹¹ *Ibid.*

- Workers who report working a very small number of hours (less than 10 hours a week);
- Workers who hold a temporary employment contract of six months or less;

To these three categories can be added apprentices, unpaid family members and those in free-lance or false self-employment.

Other categories which could be added, based on the Accessor study, are students and those in mini jobs. The German national expert cites the measures introduced by the Hartz Commission, and in particular 'Agenda 2010', as creating mini jobs, although the point is also made that the labour market reforms which Germany has experienced are not solely as a result of the Hartz measures. Nevertheless those in mini jobs are almost all low paid (86%) and are also more likely to be in agency work (68%), young (51%) and in fixed-term contracts (46%). Additionally for workers in atypical contracts such as those described in this section, working life often consists of movements across different typologies of atypical contract, rather than moving from atypical to typical. As a consequence they dominate among those who are low paid, young and female. As the French expert report notes: *'Such diverse forms of employment are not only, from on point of view or the other, outside the norm. They are also characteristic of an instability which assimilates precarity and is a response to unemployment. It is therefore often the same people who oscillate between fixed-term, agency, odd jobs and unemployment.'*

Workers on zero hours contracts come into the first categorisation of Broughton's very atypical workers. These are contracts with no specified working hours but where employees work only when requested by the employer and where there is no contractual obligation to offer a specific amount of work. There is little data as to the number of workers on zero hours' contracts. The Italian expert report points to the presence of such contracts which 'give no protection or employment rights to subordinate workers'. They may also include occasional workers who, on the basis of an amendment to the law in 2012 if earning no more than 5,000€ in a year can be paid in kind. The Swedish expert report states that, in relation to zero hours and on-call work, there is no collective bargaining coverage. There are no rights associated with more standard forms of employment and there are cases where workers are called in by text message and must respond to the call. Most of these are young workers, with 53 per cent of all workers on such arrangements being aged between 16 and 24. They are also more likely to be female than male. Broughton, analysing the 2004 WERS survey for the UK, suggested that around five per cent of workplaces employed at least some workers on zero hours' contracts. More recent data suggests that in the UK up to one million workers could be employed on zero hours contracts. Zero hours contracts are often tied to a lower level of social insurance contribution and this is one of the factors that make this type of contract attractive to employers, according to the Slovenian expert report.

Workers on a very small number of hours In some countries these may also be referred to as mini-jobs, where the state provides financial incentives to employers to recruit workers either for short periods of time or for few hours. In Germany, for example, this form of contract which provides basic welfare entitlements along with a very low hourly rate of pay has been used as a method to encourage young people into the labour market. Hakim (2004)¹² calculated that for the UK this around eight per cent of the UK workforce worked fewer than ten hours a week, suggesting that more than 2m people were working in contracts that offer a very small number of working hours.

¹² Hakim, C. (2004) Key Issues in Women's Work: Female Diversity and the Polarisation of Women's Employment (Contemporary Issues in Public Policy).

Recent ONS data shows that 470,000 people had usual working hours of less than six hours a week between December 2012 and February 2013. Women are much more likely to have contracts with very short working hours and of the 470,000 identified in that category 161,000 were male (34 per cent) and 309,000 (66 per cent) were female¹³. In Germany, women are more likely than men to be found in mini jobs, being over-represented in the sector of exclusively marginal, part-time work.

Temporary contracts of six months or less The Office of National Statistics reported in May 2012 that there had been a substantial move towards temporary workers, seeing 'quite marked increases over the last four years'¹⁴. There is little data on the length of fixed-term contracts in the EU. Broughton suggested that most fixed-term contracts in the UK will be of less than 12 months in duration.

Para-subordinate workers working by project or, as in the Italian case, as *co.co.co* who may either not be paid at all or be paid in kind, for example through vouchers.

Apprentices on government or employer training schemes In many Accessor countries there has been a growth in apprenticeships in response to the economic crisis and its particular impact on young people. There is a gender imbalance in some countries, in terms of who has access to an apprenticeship. For example, in France, 62 per cent of those aged under 25 holding apprenticeships are male. However, often the contractual rights that apply are very limited. In Italy, Art 1 of the law 92/2012 states that apprenticeships should be the primary model for the entry of young people into the world of work. In the UK the rise in apprenticeships between 2012 and 2013 was in the order of 30.5 per cent. In Belgium those on training contracts do not have access to all employment and social rights. The Spanish expert report highlights two forms of contrast which exclude workers from welfare rights: *training contracts and contracts for researchers and interns*, estimating that around 150,000 are in the second category. The former cover those workers aged between 16 and 25 who are without qualifications. The latter group consists of workers with qualifications and until recently this group had no social protection. The German expert report also observes a growth in internships particularly after completion of a period of study

Freelance or false self-employment This takes account of situations where the worker declares or is declared to be self-employed and therefore excluded from the obligation for the worker or the employer to pay social insurance or tax, but where consequently she/he is also excluded from a range of welfare protection. There are no accurate figures as to how many workers fall under this category but according to the UK expert from the 4.204m persons who were declared as being self-employed in February 2013, three million were working full-time. In Germany the expert reports surveys demonstrating the inappropriate use of service contracts, based on false self-employment, although the scale of false self-employment is difficult to measure. Males are more likely to be declared as self-employed than females, and in the UK 70 per cent of all self-employed workers are male. In some sectors, for example, construction, false self-employment is widespread, whereas in others, like the media, freelance contracts operate so as to provide little social protection to workers under such contracts.

Some of the Accessor expert reports refer to *de-localised work*, for example, work in call centers or work for sub-contractors as a type of atypical contract which is increasing. In Belgium, for

¹³Usual weekly working hours: www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcm%3A77-260600

¹⁴ www.ons.gov.uk/ons/dcp171780_266351.pdf

example, such workers may be placed in an organisation to work, but contractually may be employed by a third party. Homeworking or telework can be another form and data from Belgium suggests that around 13 per cent of workers do at least some of their work from home. There is also a gender dimension to this type of contract, with more men than women carrying out tele or home working. As the expert report from Slovenia notes, this type of contract often brings with it problems of social isolation and a lack of demarcation between work and private life, although despite this the law there guarantees no less favorable treatment.

The geographical location of a Member state will determine the extent of *cross-border working* and some of the Accessor expert reports refer to cross border work as a form of atypical employment. For example, the expert report from Slovenia points to its borders with Austria, Italy, Hungary and Croatia as a magnet for workers seeking higher rates of pay, but often excluded from social protection in the country where work is conducted. It has been estimated that more than 2,000 workers (out of a total workforce of around 700,000 works across the border from where they live.

Unpaid family members A few of the Accessor expert reports focus on family employment, identifying it as atypical, as for example in the Belgian expert report this type of work is described as 'carrying high risks of precarity, particularly in cases where there are family disagreements'. In the UK in February 2013 just over 100,000 people were identified as unpaid family members, a figure which had risen by 5.7 per cent over the previous year. In this category workers are unlikely to have access to social security rights available to employees or even to workers.

1.6. Atypical workers.

As the previous sections have demonstrated, the growth of atypical work does not imply that all sections of the labour force have been equally affected. All of the Accessor expert reports, together with the wider EU data, confirm that some workers are more likely to be negatively affected by having only atypical contracts available to them. Within these categories, women, young workers, in some cases older workers and migrants are dominant within the typologies of atypical work. This raises the question of its potential discriminatory impact on these sections of the labour force, particularly given the existing protections that should apply in relation to sex, age and ethnicity. Young workers are almost always identified with atypical work and in Belgium, for example, for those aged under 30, permanent work fell from 75 to 72 per cent between 2005 and 2010 and the proportion of young workers who feared that they might lose their jobs, has nearly doubled from 13 per cent to 22 per cent. Students are another group of workers more likely to be found in atypical employment as a consequence of their age, their need to provide for themselves financially and their limited choices for work that will allow them to combine it with their studies. The Slovenian expert report points to the fact that work contracts which are established for students are often abused by offering them to non-students as they do not come with the same levels of welfare contribution that otherwise would apply.

Migrant workers are more likely to be found in atypical employment, in particular in agency and temporary work. For example, in the UK by the end of December 2012 nearly 15 per cent of the workforce had a country of birth outside the UK. Non-UK country of birth workers had a lower employment rate than did UK workers, although for those from other EU countries the rate was higher than for the UK. In Spain the economic crisis has impacted on migrant workers, in terms of wage cuts and reductions in job protection.

1.7. The key features of atypical contracts.

The fact that these contracts are considered as 'atypical' does not necessarily imply that they do not have access to the same labour rights as apply to workers on full-time permanent contracts but there is a greater likelihood that this will be the case where contracts diverge from the standard. Broughton¹⁵ suggests that the consequences of atypical work are: lower pay; higher risk of mental health problems; greater job insecurity; less access to training and career opportunities; and low quality of jobs. However, what the Accessor study also shows is that atypical work is in constant evolution as new forms emerge bringing more workers into the ambit of atypical work. This is summed up in the expert report from Italy: *'All of these contracts have in common the fact that they are more flexible, less protected, cheaper, and together make up a labour market which is particularly segmented and operates negatively in the case of young workers who are condemned to live in conditions of flex-insecurity.'*

Atypical work is also described as 'nomadic' with workers moving from job to job, and from one category of contract to another. It is also sector specific, concentrated primarily in agriculture, construction, public administration, education, health and domestic care. It is, as already emphasised, gender biased, affecting women more than men; while the young are also disproportionately affected. Given that this pattern is observable in all eight of the Accessor countries, it implies that atypical work is structural to certain sectors or types of work. In every country in the study atypical work contracts are also on the increase and save in a few isolated cases, the national experts reported that atypical contracts have increased as a result of the economic crisis. In France the data suggests a growth from 16 per cent of all contracts in 1990 to 25 per cent in 2012, with part-time work increasing from 1.5m workers in 1980 to more than 4m workers by 2003. At the same time it is clear that atypical work contracts are often taken because there are no alternatives, not because this is the chosen type of contract. For example, evidence from France shows that in 2011, 28 per cent of those taking up part-time work had been seeking full-time employment. Under-employment is thus a major feature of atypical work, in particular affecting women workers, young workers and those without qualifications. The European Labour Force Survey 2012 finds that the proportion of under-employed part-time workers in the EU27 in 2012 increased to 21.4 per cent, amounting to in excess of nine million workers¹⁶. This results in a waste of productive work potential and furthermore is one that is exacerbating. Spain, as the Eurostat European Labour Force Survey 2012 demonstrates, is the Member State with the highest proportion of those in part-time work (54%) who would like to increase their working time.

Atypical contracts are more likely to be verbal, without a written form, and according to the Italian expert report this is twice as likely, in the case of those in atypical contracts, than in typical contracts. Furthermore atypical work is generally low paid working, placing workers in poverty. As the expert report from France notes, atypical work 'has become the symbolic characteristic of gender division in the labour market and has produced a large number of workers, above all poor women workers'.

The question to be raised is whether there are strategies that might combat the negative elements of atypical work, in particular its exclusion of social and employment protection. This is the focus of the followings sections of this report, but already it can already be observed, from the

¹⁵ Broughton (2010) www.eurofound.europa.eu/ewco/studies/tn0812019s/uk0812019q.htm

¹⁶ http://epp.eurostat.ec.europa.eu/cache/ITY_PUBLIC/3-19042013-BP/EN/3-19042013-BP-EN.PDF

existing data, that where collective bargaining is promoted, as in the case of Sweden, the negative consequences of atypical contracts can be eliminated or at minimum reduced.