OECD Input to the Netherlands Independent Commission on the Regulation of Work

(Commissie Regulering van Werk)

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BETTER POLICIES FOR BETTER LIVES

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Executive Summary

The Dutch labour market is among the top performers in the OECD – particularly when it comes to job quantity and job quality. Employment is high, unemployment low; workers, on average, earn high wages, and they face less labour market insecurity and experience less job strain than in most other OECD countries. Poverty among the working age population is comparatively low, but the employment gap for disadvantaged groups could be narrowed and the gender labour income gap is large (explained, to a large extent, by the high share of women in part-time employment).

Despite this relatively good performance, there are concerns in the Netherlands about the high level of, and strong growth in, non-standard employment. The Netherlands is an outlier in the OECD as far as non-standard employment is concerned. Almost one in five workers in the Netherlands are on a temporary contract (compared to one in eight less than two decades ago, and less than one in ten across the OECD on average). Only four OECD countries have seen an increase in self-employment over the past two decades and, of these, the Netherlands has experienced the fastest growth. Moreover, 90% of this growth can be accounted for by the rise in own-account workers (i.e. self-employed without employees). The Netherlands also has a high share of Temporary Work Agency workers and there are indications that the incidence of variable-hour contracts (contracts without fixed working hours) is the highest among European countries.

Non-standard work can bring benefits in terms of flexibility for both employers and workers. A diversity of employment contracts can offer much-needed flexibility to employers to adjust workforces and working hours in response to fluctuating and unpredictable demand, but also to workers whose preferred work schedules do not fit standard working hours. Because of the flexibility that it offers, self-employment can also help some workers overcome employment barriers and stay in (or enter) the workforce.

However, a high share of non-standard work is not necessarily associated with higher productivity or even employment, and the impact on labour market resilience may be negative. The self-employed (and own-account workers in particular) are, on average, less productive than employees with equivalent characteristics. Similarly, smaller firms are less productive than bigger ones. The type of self-employment growth observed in the Netherlands (i.e. primarily older, own-account workers) is unlikely to lead to significant productivity gains and employment growth. The international literature also indicates that excessive use of temporary workers tends to reduce productivity growth, which can be partially explained by lower firm-level investments in the training of non-standard workers. Finally, there is evidence that high shares of non-standard employment (combined with strict employment protection legislation on standard contracts) may lower the resilience of labour markets to economic shocks since such contracts are more cyclical in nature. Moreover, non-standard workers are less likely to be covered by unemployment benefits in the case of employment loss, which reduces the effect of automatic stabilisers.

Workers in non-standard employment often experience lower job quality. In most countries, including in the Netherlands, self-employed workers are not covered by labour market regulations, have reduced access to social protection and skills programmes, and are not able to unionise or bargain collectively. Many self-employed workers are in a strong

bargaining position vis-à-vis their clients and will not need such protections. However, some self-employed workers are more vulnerable: they either share characteristics (and, therefore, vulnerabilities) with employees, or they have few outside options. The power imbalances that such workers face are often worsened by their inability to bargain collectively. In some cases, workers may even be forced into false self-employment and, as a result, be stripped of the rights and protections to which they are entitled. Even for less vulnerable self-employed workers, there may be a need to strengthen protections – particularly in cases where risks are non-entrepreneurial in nature (e.g. sickness and incapacity). While other types of non-standard workers (e.g. temporary workers and those with variable-hour contracts) are, in theory, better covered by labour and social protections, they may still struggle to gain access in practice. Greater employment instability is likely to result in a greater need for support and will require possible adjustments to social protection measures that were designed around stable forms of dependent employment.

Increases in non-standard employment have contributed to increases in inequality, and there is no evidence that a higher share of non-standard employment is associated with better employment rates among, for example, individuals with disabilities. Previous OECD research has shown that, because many non-standard workers are worse off in many aspects of job quality, such as earnings, job security or access to training, a rise in non-standard employment tends to contribute to higher inequality. There is also little evidence that high shares of non-standard employment, by themselves, result in higher levels of participation among some under-represented groups, such as people with disabilities.

The growth and the level of non-standard employment in the Netherlands are exceptional and are to a large extent driven by differences in taxes and regulations across employment forms. While globalisation and technological change may have contributed to the growth in non-standard employment in the Netherlands, the main drivers are institutional. In particular, there are very large differences in the tax treatment of self-employed and dependent workers in the Netherlands (much more so than in other countries), which create strong incentives for employers and workers to prefer self-employment over dependent employment. The absence of mandatory pension contributions for the self-employed is a significant factor driving the tax and social contribution differential in the Netherlands. In addition to these tax incentives, the cost of hiring standard employees in the Netherlands is driven up by high sickness-related payments as well as high severance pay in case of dismissal, while it remains relatively easy (compared to other countries) to hire workers on temporary contracts.

The Netherlands is at an important juncture and urgent decisions need to be taken about the kind of labour market that is desired in the future. Unless gaps in tax treatment, social protection, and regulation between employment forms are narrowed, the segmentation of the Dutch labour market is likely to worsen and may reach a point of no return. As more workers and employers rely on advantageous fiscal and regulatory treatments, it will become more and more difficult politically to reverse the situation. Yet seeking short-term profit and tax avoidance may be short-sighted when it means reduced protections in the future as well as less investment in training. Further growth in flexible employment forms may end up undermining existing social protection systems, and may also lead to further increases in inequality and reductions in job quality, with no clear gain in terms of either productivity or employment. Past experience with reforms also suggests that it is better and less costly to be proactive and carry out reforms during an economic upturn, rather than to be reactive and wait for a crisis to make changes. Moreover, countries with significant labour market dualism, as measured by a high share of fixed-term contracts in employment

(such as the Netherlands), experience lower short-term costs and greater benefits from reforms that lower the relative use of fixed-term contracts.

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1. Introduction

Technological change and the emergence of new forms of work are having a significant impact on labour markets across OECD countries. At the same time, preferences around work (how, when and where it is carried out) are changing. These trends challenge policy makers into thinking about how to ensure that labour market, social and training policies continue to be both relevant and effective in promoting better jobs for all.

In response to these challenges, the Government of the Netherlands announced in November 2018 that it was setting up an independent commission to look at what labour market rules, regulation and taxation should look like in this future world of work. The commission, led by Hans Borstlap, has been asked to report back by 1 November 2019.

In this context, the OECD has been asked to provide evidence to support the work of the commission. In particular, the OECD was asked to summarise the evidence it has produced and gathered over the years to help the commission answer some of the key questions that it has been asked to address, including: the interactions between employment regulation, productivity and inequality, on the one hand, and trends in non-standard work and its drivers, on the other.

This report addresses these key questions. On some issues, the evidence is strong and convincing. In other areas, there is a need for further work. A key cross-cutting message, however, is that the future of work will largely depend on the policy decisions countries make. While it is true that the future is already here and labour markets are already changing, with the right policies and institutions in place, the opportunities that digitalisation and globalisation will bring can be seized, and the risks mitigated.

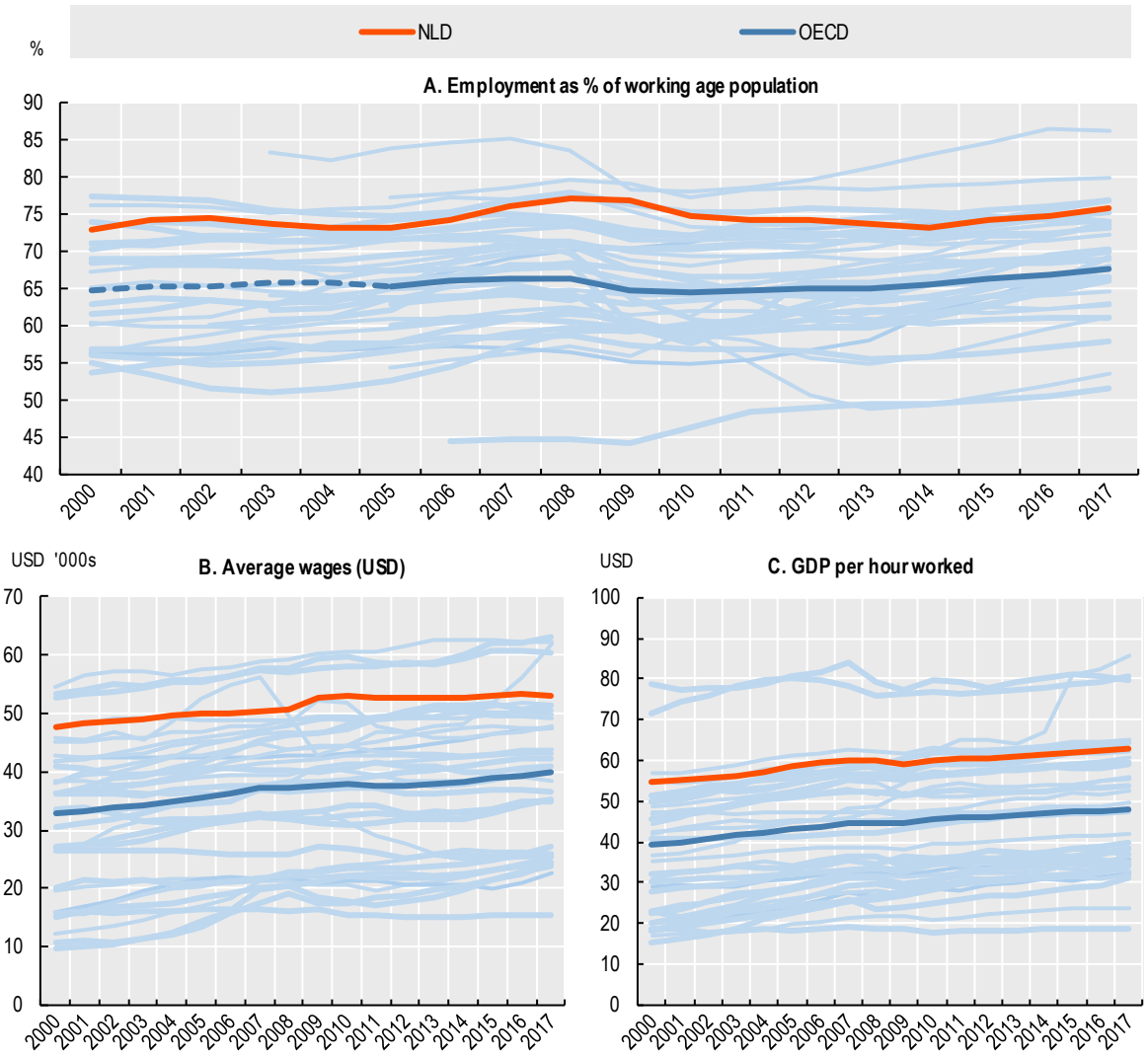
The report is structured as follows. Section 2 documents recent trends in non-standard work across the OECD and Section 3 explores the drivers of non-standard employment. Sections 4 and 5 discuss the relationship between non-standard work and productivity, on the one hand, and inclusiveness and job quality, on the other. The final section discusses some of the recent policy trends observed in other OECD countries with respect to non-standard work.

2. Recent Tends in Non-Standard Work across OECD Countries

The Netherlands has a strong labour market. With average wages of almost USD 52 000 in 2017 and one of the highest employment rates within the OECD, the Dutch labour market can make a claim to being one of the healthiest among developed economies (Figure 2.1). Further, the Netherlands has a highly productive workforce. In 2017, a Dutch worker produced USD 63 for every hour worked, well above the OECD average of USD 48.2.

Figure 2.1. The Dutch labour market outperforms the OECD average

Evolution of key labour market indicators within the OECD.



Note: **Panel B:** The OECD average prior to 2005 is the unweighted average of available countries.
Source: OECD.Stat.

The new OECD Jobs Strategy (OECD, 2018[1]) highlighted the strong overall performance of the labour market in the Netherlands. In a dashboard of nine indicators measuring job quantity, job quality and inclusiveness, the Netherlands scored at or above the OECD

average in all but one measure. Employment is high, unemployment is low; workers, on average, earn high wages, and they face less labour market insecurity and job strain than in most other OECD countries. Poverty among the working age population is comparatively low, but the employment gap for disadvantaged groups could be narrowed.[1] The only measure where the Netherlands performs below the OECD average is the gender labour income gap. The annual average income of Dutch women is 46% less than that of men, while in the OECD as a whole this gap is only about 38%.

Despite this good labour market performance, one source of concern in the Netherlands has been high levels and growth in non-standard work. Recent years have seen a growth in temporary contracts and self-employment, as well as in contracts with no guaranteed working hours. These trends raise questions about worker protections and the sustainability of social protection systems.[2]

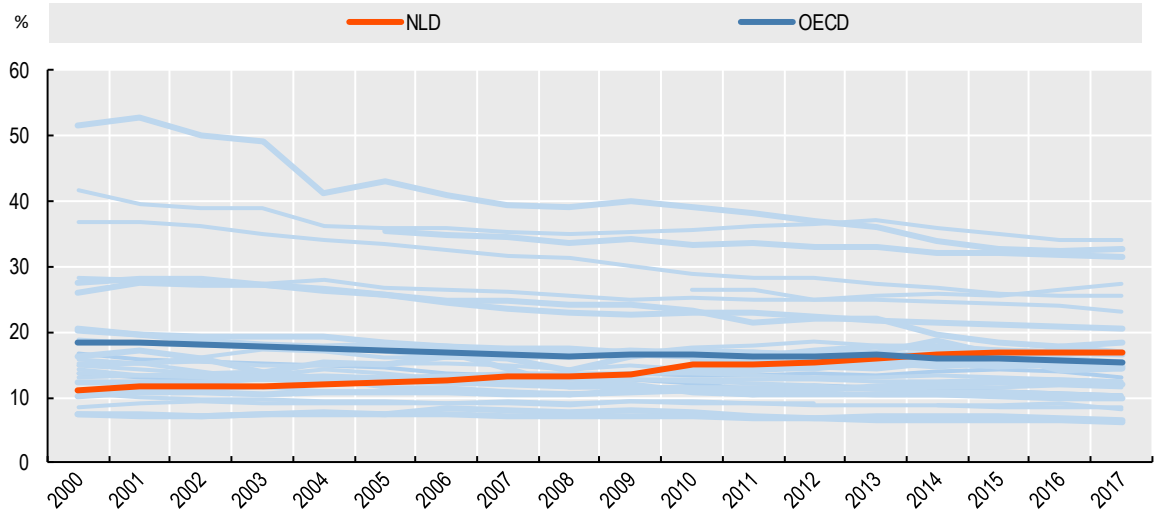
2.1. Self-employment

In general, across the OECD, a decline in the agricultural sector has led to a corresponding decline in self-employment. However, the Netherlands bucks this trend (Figure 2.2). While still close to the OECD average, the rate of self-employment in the Netherlands increased 5.6 percentage points between 2000 and 2017 to 16.7% of total employment (i.e. a 50% increase). This represents the largest increase of the four OECD countries with growing self-employment over the period: the Czech Republic, France, the Netherlands, and the United Kingdom. On average, within the OECD, self-employment fell by 3.1 percentage points.

Despite increasing levels of self-employment in the Netherlands, many OECD countries still have a higher incidence. Within Europe, Turkey, Greece, Italy, Poland, the Czech Republic, and Portugal all had higher levels of self-employment in 2017.[3] Outside Europe, Mexico, Chile, Korea, and New Zealand also had higher rates.[4] However, self-employment rates have been falling for all of these countries, except for Chile and the Czech Republic. The Netherlands had one of the lowest rates of self-employment in 2000, and it now exceeds the OECD average.

Figure 2.2. Self-employment has been on the rise in the Netherlands

Self-employment as a share of total employment

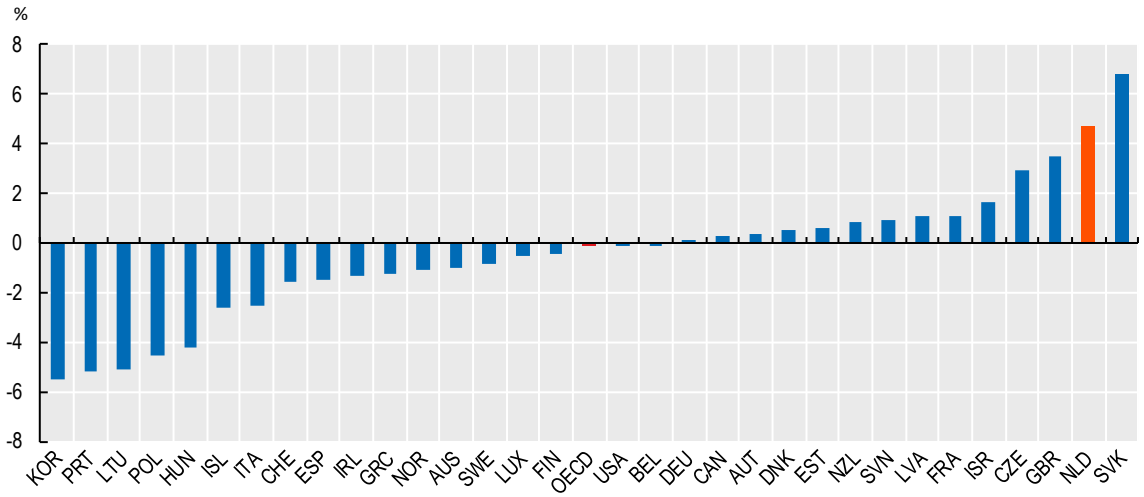


Note: A part-time worker is defined as a worker that usually works less than 30 hours per week in their main job.
Source: OECD.Stat.

Almost all of the increase in self-employment in the Netherlands has been in own-account work. Own-account workers are a subset of the self-employed who do not have employees. Between 2000 and 2017, the share of these workers in total employment rose 4.7 percentage points (Figure 2.3). While rising own-account work is a trend in a number of OECD countries, the Netherlands has experienced the second largest increase (second only to the Slovak Republic). Overall, own-account work represents 90% of the total increase in self-employment in the Netherlands.[5]

Figure 2.3. The Netherlands has seen one of the largest increases in own-account workers

Change in own-account workers as a share of total employment, 2000 to 2017[a]

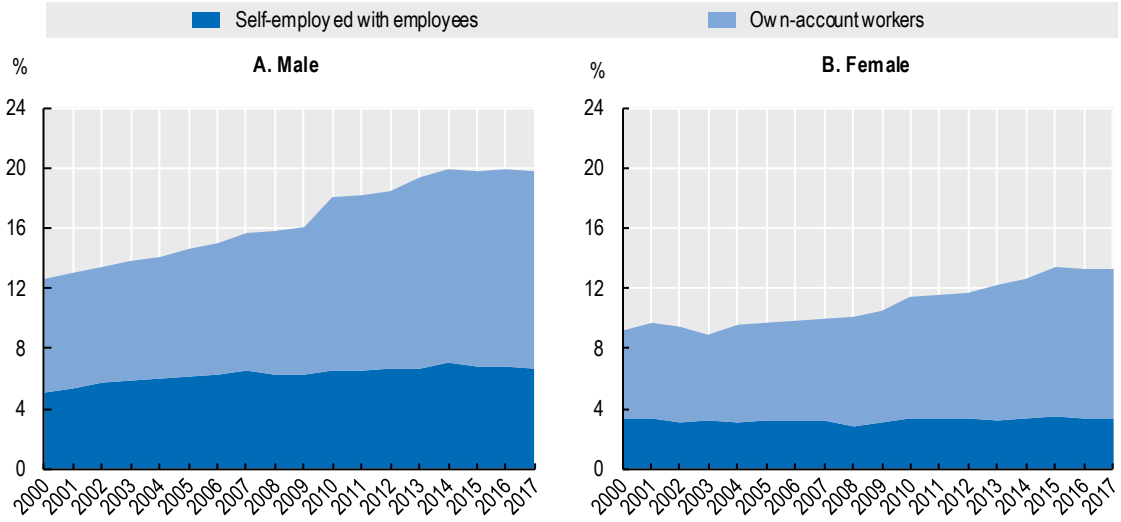


Note: The OECD average is the unweighted average of the depicted countries. Own-account workers are defined as those self-employed workers without employees.
a) Year 2000 data for Luxembourg and Italy are from 2003 and 2004, respectively, due to breaks in the data for these countries.
Source: OECD Gender - Entrepreneurship database.

A sizeable share of these new own-account workers have been men (Figure 2.4). Men are more likely than women to be self-employed, either with employees or without, and own-account work in men has increased by 5.5 percentage points since 2000, compared to an increase of 4.0 percentage points for women. As a result, in 2017, a fifth of working men in the Netherlands were self-employed, of which two-thirds were own-account workers. For women, the numbers are lower. In 2017, 13.2% of working women were self-employed, of which 75% were without employees.

Figure 2.4. Own-account work accounts for almost all of the increase in self-employment in the Netherlands

Decomposition of self-employment by type and gender, as a share of total employment

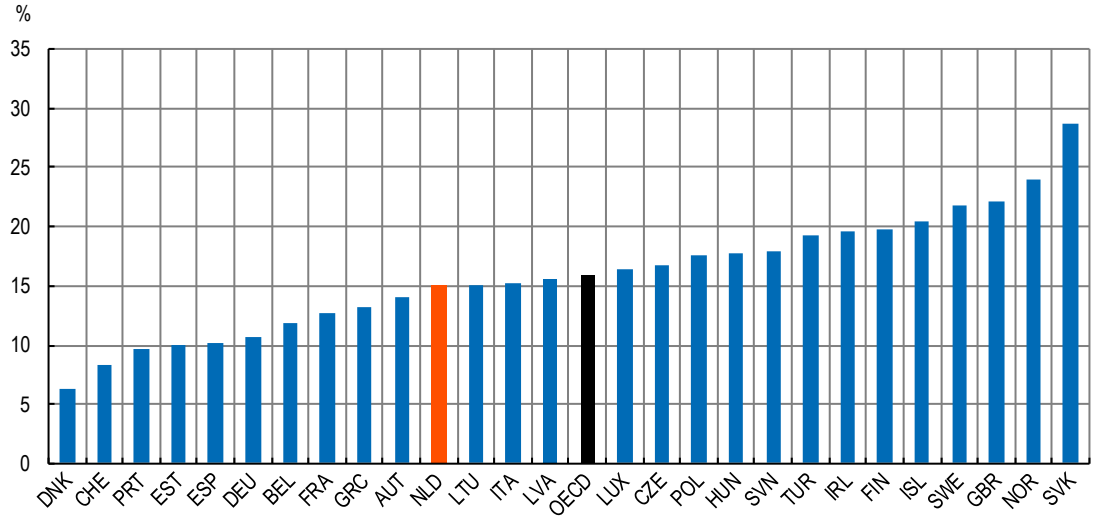


Note: Own-account workers are those self-employed workers who have no employees.
Source: OECD calculations based on OECD Gender - Entrepreneurship database and OECD.Stat Annual Labour Force Summary Tables.

In some cases, own-account workers only (or primarily) work for one client. This subset of own-account work is referred to as the (financially) dependent self-employment There is currently limited evidence on the prevalence of dependent self-employment in OECD countries. Recent data from a special module of the European Labour Force Survey suggests that 15% of the self-employed in the Netherlands are dependent self-employed (close to the OECD average of 16%) (Figure 2.5). There is evidence that this type of work relationship is more common in some sectors such as business services and construction (The Netherlands Ministry of Finance, 2015[2]).

Figure 2.5. The incidence of own-account workers who generally have one dominant client

Dependent self-employed as a percentage of the self-employed, 2017



Note: OECD unweighted average of countries shown. Dependent self-employment is defined as those own-account workers who generally have one dominant client.
Source: OECD calculations based on the EU Labour Force Survey, Eurostat.

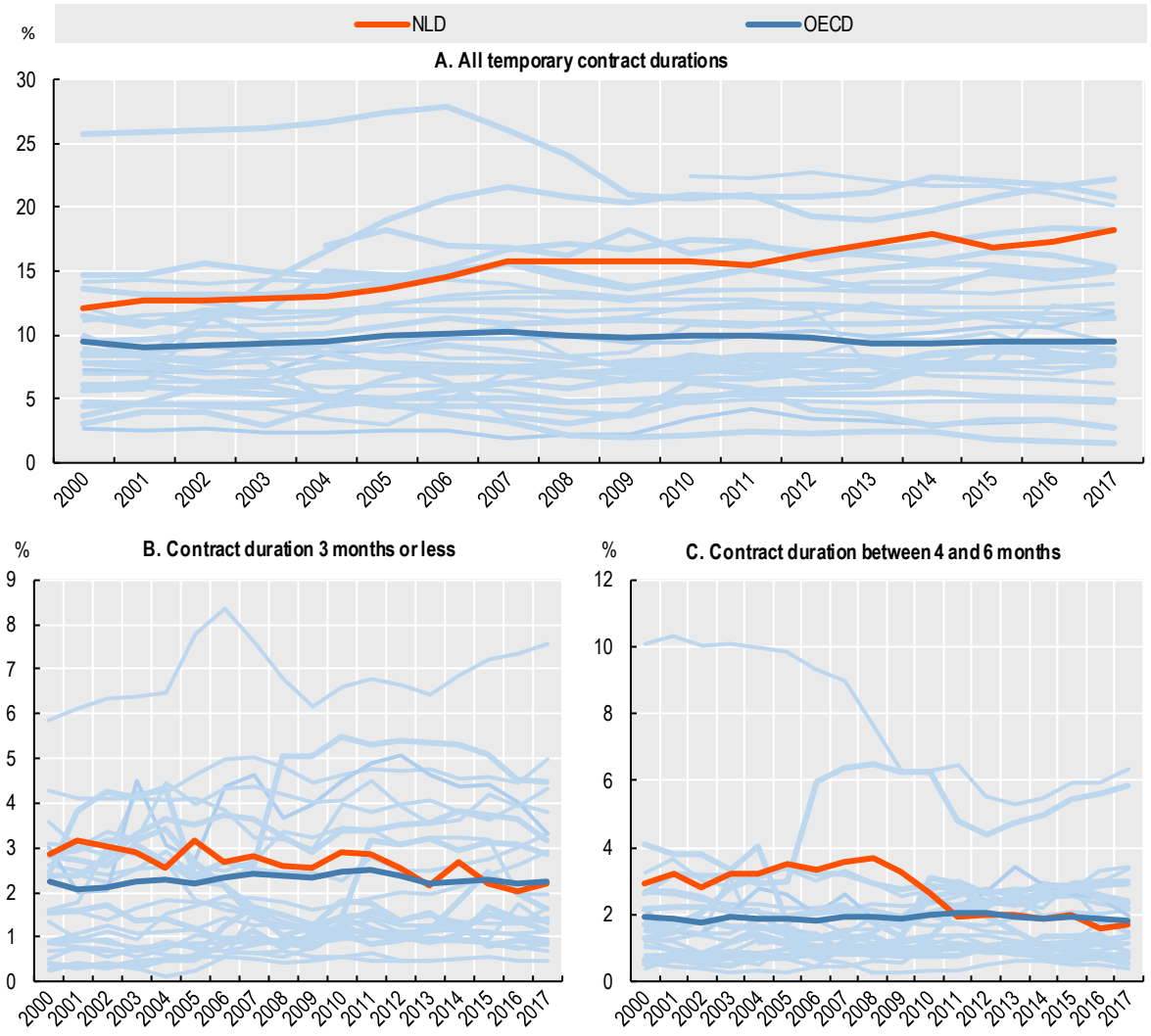
Another issue (further discussed below) is false self-employment. These are individuals who are classified as self-employed but essentially work as employees – whether by mistake or deliberately so by employers in order to avoid employment regulations, fiscal obligations, and workers' representation. Similarly, workers can misclassify themselves as self-employed to avoid taxes. Note that the dependent self-employed (discussed above) are not necessarily falsely self-employed. Usually, there also need to be elements of subordination and control in the working relationship before an employment relationship would be labelled as false self-employment.

2.2. Temporary work

Temporary work in the Netherlands has steadily increased since the turn of the century, to the point that almost one fifth of all employment was temporary in 2017 (Figure 2.6). In 2000, 12.1% of total employment in the Netherlands was temporary. In 2017, the rate was 18.2%. This places the Netherlands in the upper tier of OECD countries in terms of the share of temporary employment, on par with Portugal and Korea, but still below Spain, Chile, and Poland.

Figure 2.6. Temporary contracts are prevalent in the Netherlands

Temporary work of various durations, as a share of total employment



Note: A part-time worker is defined as a worker that usually works less than 30 hours per week in their main job.
Source: OECD.Stat.

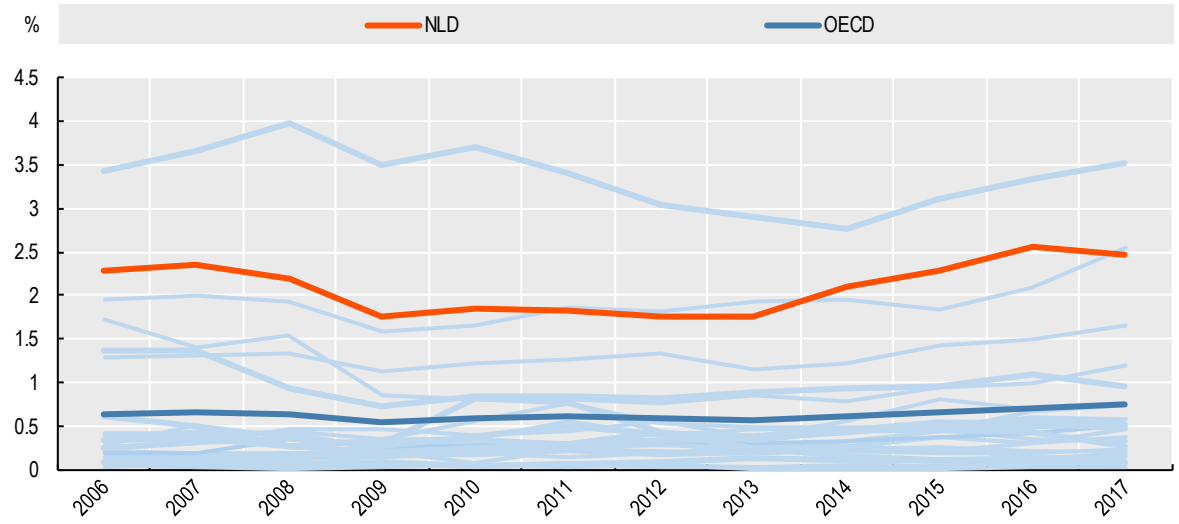
Despite the increase in temporary work, the incidence of contracts of very short duration has been on the decline. In 2017, temporary contracts of durations between four and six months represented about 1.8% of all employment, or 9.5% of temporary work. Contracts of even shorter durations represented about 2.2% of employment (12% of temporary workers - Figure 2.6). In both cases, these shares were above the OECD average at the turn of the century and have declined to near the average by 2017. As a share of temporary contracts, these levels are some of the lowest in OECD. The increasing use of temporary contracts in the Netherlands seems to have favoured longer duration contracts.

Temporary work agency (TWA) work is also relatively common in the Netherlands.[6] In 2017, almost 2.5% of all Dutch employment was with temporary employment agencies, the second highest in the European Union after Slovenia and well above the average of

0.75%. While dipping during the financial crisis, the share of workers with temporary work agency contracts has been broadly stable since 2006 (Figure 2.7).

Figure 2.7. Temporary agencies have relatively higher uptake in the Netherlands

Contracts with temporary work agencies in the Netherlands, as a share of total employment



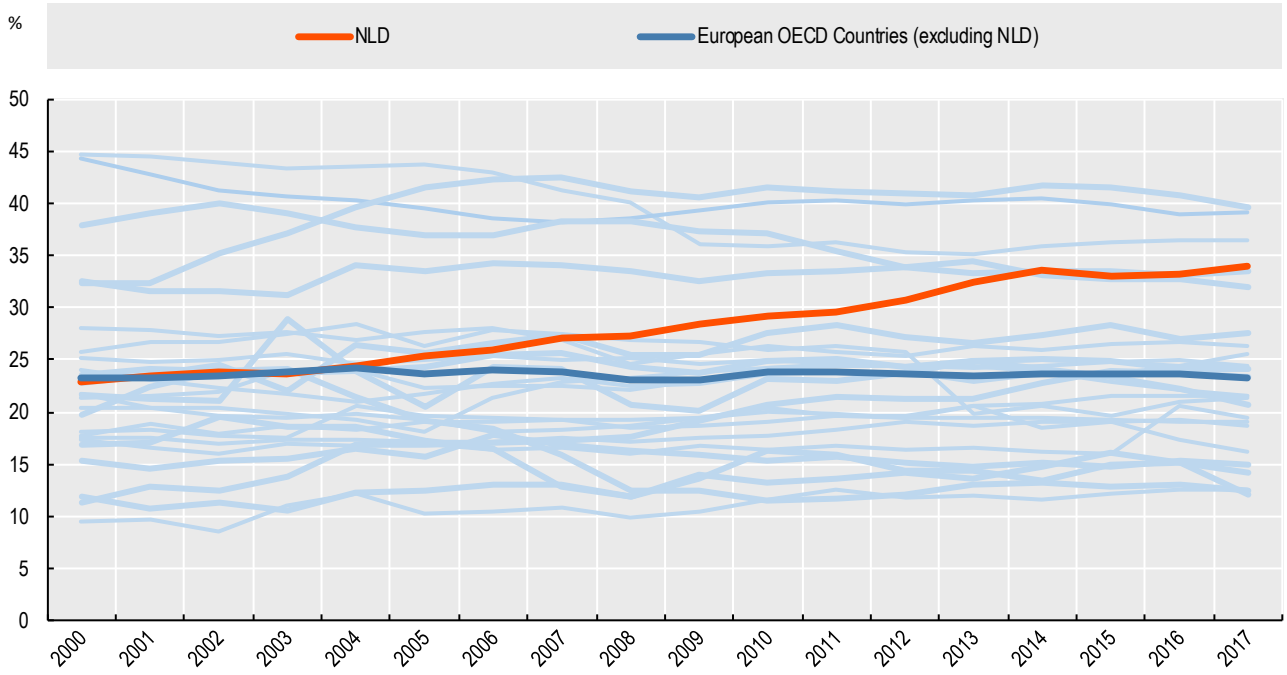
Note: The OECD average is the unweighted average of European OECD member countries.
Source: EU-LFS.

2.3. Temporary and self-employment combined

Figure 2.8 shows how the share of temporary contracts and self-employment in the Netherlands has increased from 23% of total employment in 2000 to 34% in 2017 – a 48% increase (the second fastest growth rate after the Slovak Republic only). By contrast, the combined share of temporary contracts and self-employment in other European OECD countries has remained constant at 23% on average. In many countries, it has even fallen over this period – e.g. -17% in Germany and -18% in Spain. The Netherlands is now among the countries with the highest overall share of such employment arrangements among European OECD countries (exceeded only by Spain, Greece and Poland).

Figure 2.8. "Flexible" work has grown faster in the Netherlands than in most other European OECD countries

Temporary contracts and self-employment as a share of total employment



Source: OECD calculations based on EU-LFS.

2.4. Variable-hour contracts

Many countries consider part-time work as a form of non-standard employment (OECD, 2019[3]). While the share of part-time workers in the Netherlands is, by a wide margin, the highest in the OECD, high levels of part-time employment have historically played a major part of the Dutch 'flexicurity' system (Bovenberg, Wilthagen and Bekker, 2008[4]).

However, the high numbers of part-time workers means that an above average number of Dutch workers suffer from time-based underemployment (MacDonald, 2019[5]): they want to work more hours, but cannot find them. That being said, as a share of part-time work, the rate of underemployment in the Netherlands is among the lowest in the OECD, suggesting that most part-time workers are satisfied with their hours allocations. Correspondingly, part-time work is not considered non-standard in the Netherlands (OECD, 2018[6])

The share of employees considered short part-time (i.e. working less than 20 hours per week in their main job) is also relatively high in the Netherlands compared to other OECD countries. In 2017, just under 21% of dependent workers were short part-time in the Netherlands, which represented 53.5% of all part-time workers.[7] This was above the OECD averages of 15% and 44.5% as a share of dependent work and part-time work, respectively. Further, in the Netherlands, more than 40 per cent of establishments employ at least some of their workforce for fewer than 15 hours per week (ILO, 2016[7]), implying that short part-time work is pervasive.[8]

The high prevalence of short part-time work may be partly related to the common use of variable-hour contracts in the Netherlands. Variable-hour contracts are a special form of part-time work with variable or unpredictable hours. These contracts consist of an arrangement between a worker and a firm where a firm calls on the worker when work is available. Although internationally comparable data on these types of contracts is lacking, there is some evidence that variable-hour work is the fastest-growing type of flexible work arrangement in the Netherlands. In 2016, there were 551 thousand variable-hour workers in the Netherlands, making up about 6.6% of total employment (Burri, Heeger-Hertter and Rossetti, 2018[8]). Preliminary evidence suggests that the incidence of variable-hour work in the Netherlands is the highest among European countries (ILO, 2016[7]).[9]

3. Drivers of non-standard forms of work

Trends in non-standard work vary across countries. On average, there has not been much change since 2000 across the OECD on average: the share of self-employment is slightly down; own-account work has barely changed; temporary contracts are also constant; and the share of TWA contracts has increased slightly (but from a very low base). The OECD averages conceal heterogeneity across countries. The Netherlands, for example, experienced strong growth in these forms of employment.

This section summarises the international evidence on the drivers of non-standard forms of work, paying particular attention to developments in the Netherlands. It suggests that growth in non-standard work in the Netherlands is driven to a large extent by institutional factors:

- Large differentials in the tax treatment between employees and the self-employed can shift employer-employee preferences toward self-employment, and can encourage misclassification.
- Similarly, the relative cost of complying with stringent employment protection regulations can encourage firms to seek alternative contractual arrangements, such as temporary contracts or self-employment arrangements – particularly where hiring on such contracts is easy and less costly.

Technological change and globalisation are also likely contributors to the growth in non-standard employment across the OECD. However, the growth and the level of non-standard employment in the Netherlands are exceptional, which suggests a more significant role for institutional factors. The implication of this is that the level of non-standard work is, to a large extent, a result of historical policy choices and can be influenced by future policy choices.

3.1. Tax and social contributions

This section discusses the role of fiscal incentives (comprising tax and social contributions) in driving own-account self-employment, and compares the labour income tax system in the Netherlands with other OECD countries.

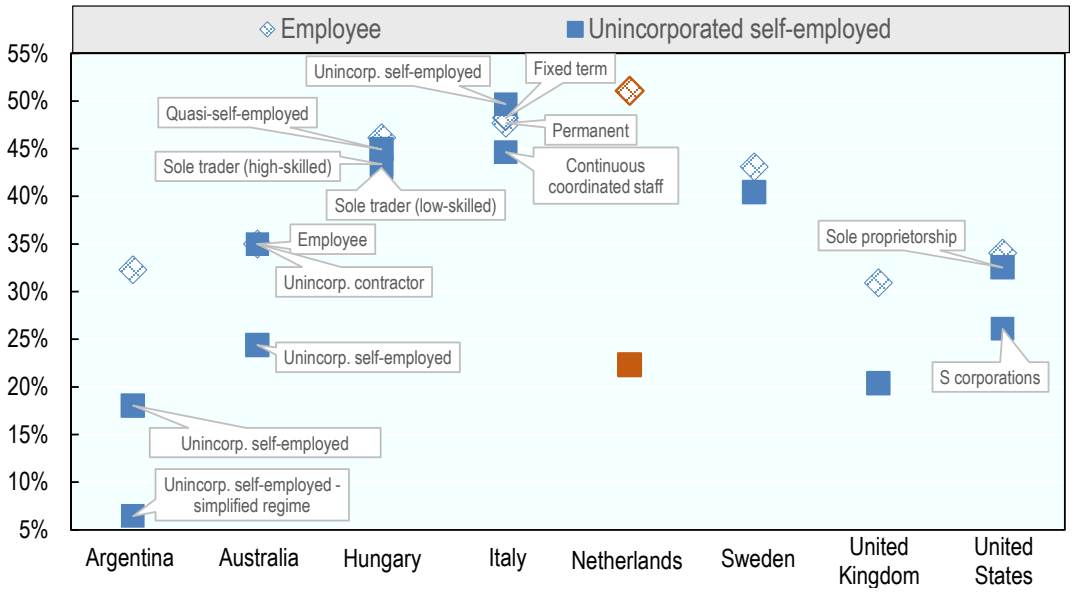
In many countries, the self-employed have lower tax and social contribution liabilities than employees. Social contribution liabilities may be lower as a result of lower social protection entitlements, reflecting the entrepreneurial risk borne by the self-employed as well as some implementation challenges (such as how to prove loss of unemployment). Self-employed workers may also be able to benefit from tax incentives aimed at encouraging innovation and entrepreneurship. As a result, and whether these differences are justified or not, non-wage costs are often higher for standard employees than for the self-employed and, at times, this differential may be large enough to shift employer-employee preferences toward self-employment, and could even encourage misclassification.

A recent study by the OECD (Milanez and Bratta, 2019[9]) investigates the potential tax arbitrage opportunities provided by different tax systems by assessing the extent to which the tax and social contributions rates for self-employed workers differ from those for standard employees according to 2017 rules. It analyses tax treatment in the Netherlands, as well as in seven other countries: Argentina, Australia, Hungary, Italy, Sweden, the United Kingdom and the United States.

The Netherlands has the greatest difference in payment wedges among the countries included in the analysis (Figure 3.1), suggesting greater potential for tax arbitrage opportunities across employment forms. The payment wedge is a measure of the net amount that government receives as a result of taxing labour income, including social security contributions and non-tax compulsory payments. Higher values indicate a disincentive to work, in the sense that higher payment wedges imply reduced take-home pay for workers and higher total labour costs for employers. Thus, to the extent that firms are able to select among employment forms, they will prefer to offer employment contracts with minimal payment wedges.[10]

Argentina, Australia, the United Kingdom and the United States also display considerable differences in payment wedges. Hungary, Italy and Sweden show little difference in payment wedges between different employment forms, suggesting low potential for tax treatment to drive preferences over work arrangements.

Figure 3.1. Comparison of payment wedges calculated at average gross earnings by employment type, 2017



Note: Some countries have multiple unincorporated self-employed or employee statuses (with different payment wedges), differentiated by labels above. The vertical axis shows the payment wedge in percent. These payment wedges were calculated using the average gross earnings in each country in 2017. A self-employed worker is described as "unincorporated" if they have not organised his/her own company as a corporation. The tax treatment of incorporated self-employed workers is shown in the full analysis.
Source: (Milanez and Bratta, 2019[9])

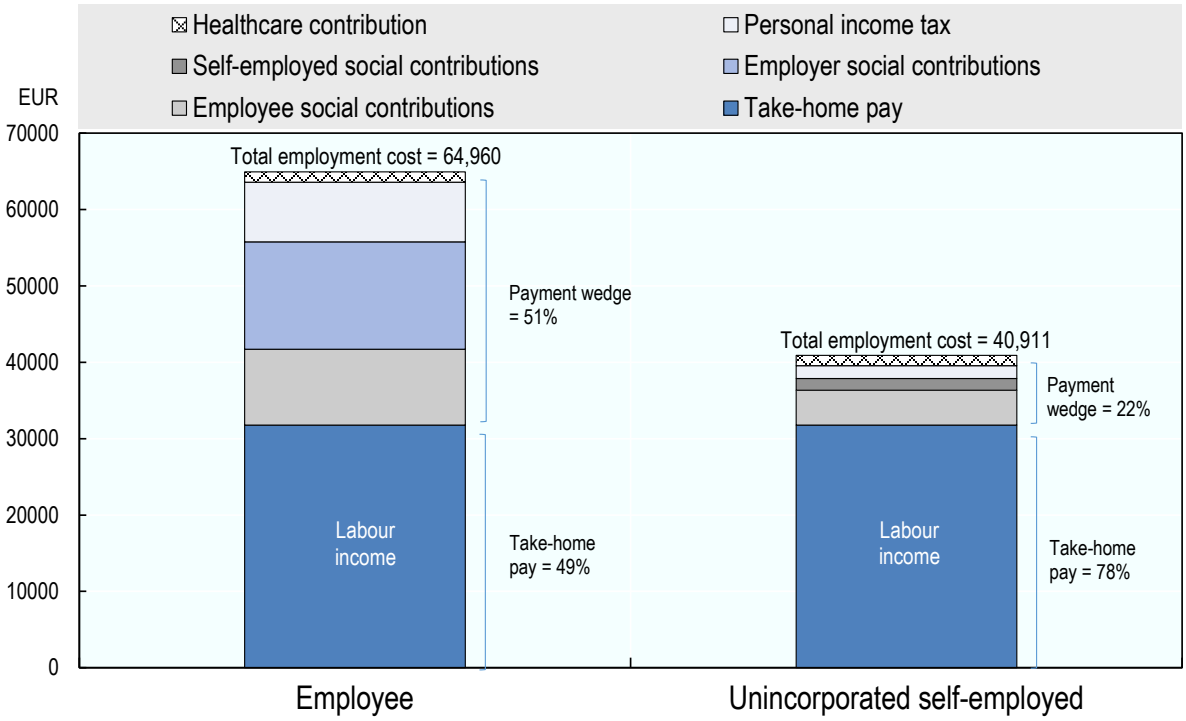
The lower employment cost for an unincorporated self-employed contractor relative to an employee in the Netherlands is attributable to two key differences in tax treatment (as can be seen in Figure 3.2):

- Firms that contract self-employed workers are not liable for employer social contributions on the worker's behalf and the workers themselves are not liable for the equivalent of employer social contributions (the biggest component of which is pension contributions[11]).

- The unincorporated self-employed are eligible for two tax provisions that reduce the individual's personal income tax liability:
  - A private business ownership allowance (*zelfstandigenaftrek*), which allows eligible individuals to deduct a lump sum of EUR 7 280 from gross profit;
  - A profit exemption for small businesses (*MKB-winstvrijstelling*), which allows eligible individuals to deduct 14% of profits net of the private business ownership allowance.

Considering an unmarried individual without children and earning the gross average wage for employees, the firm could pay a total employment cost of EUR 40 911 (with a payment wedge of 22%) for an unincorporated self-employed contractor instead of EUR 64 960 for a standard employee (with a payment wedge of 51%). This represents a total labour cost saving for the firm of 37%.

Figure 3.2. Decomposition of the total employment cost by employment type: Netherlands (individual take-home pay held constant)



Source: (Milanez and Bratta, 2019[9])

It seems likely that a tax differential of this magnitude would provide strong incentives for own-account self-employment. However, the ultimate dynamics governing agreement of a particular working arrangement will also depend on the balance of bargaining power between firms and workers.[12] For instance, where workers have low bargaining power relative to firms, they may not have a choice in the employment form under which they are engaged. Bargaining power will also determine which party actually captures the benefit of tax reductions aimed at self-employed workers. The Netherlands Ministry of Finance (2015[2]) indicated that own-account workers at the higher end of the wage distribution can

use their bargaining power to gain benefit from the lower costs, while firms profit from the tax advantages at the lower end of the wage distribution by negotiating low fees.

Overall, it is probable that the large differential in the tax treatment of employees and self-employed workers in the Netherlands has had a strong influence on the rising incidence of own-account self-employment. This was the conclusion of the Dutch Ministry of Finance, which called for closer alignment in terms of tax treatment for entrepreneurs and employees. A similar situation exists in the United Kingdom where, in 2017, the tax advantage that comes with self-employment equates to a subsidy of GBP 1 240 per self-employed person per year (Adam, Miller and Pope, 2017[10]). According to the Institute for Fiscal Studies, this tax system encourages people to work for their own business rather than be an employee, while the lower tax rates are not justified by differences in employment rights or compliance burdens and are not well targeted at encouraging entrepreneurship.

In the Netherlands, in addition to a tax incentive, it is also likely that procedures for declaring employment status to the tax office have facilitated growth in own-account self-employment. Until a few years ago, the system placed the responsibility for declaring the correct employment status on the worker rather than the contracting firm, with the result that employers face little risk in encouraging workers (potentially in a weak bargaining position) to falsely declare themselves as self-employed. Under the 2016 Assessment of Employment Status (Deregulation) Act, liability for all insurance and tax payments should fall on the firm, where a contractor is found to be an employee. However, enforcement of this new measure has been suspended until 2020 following very negative reactions from both firms and self-employed individuals.

3.2. Employment protection legislation

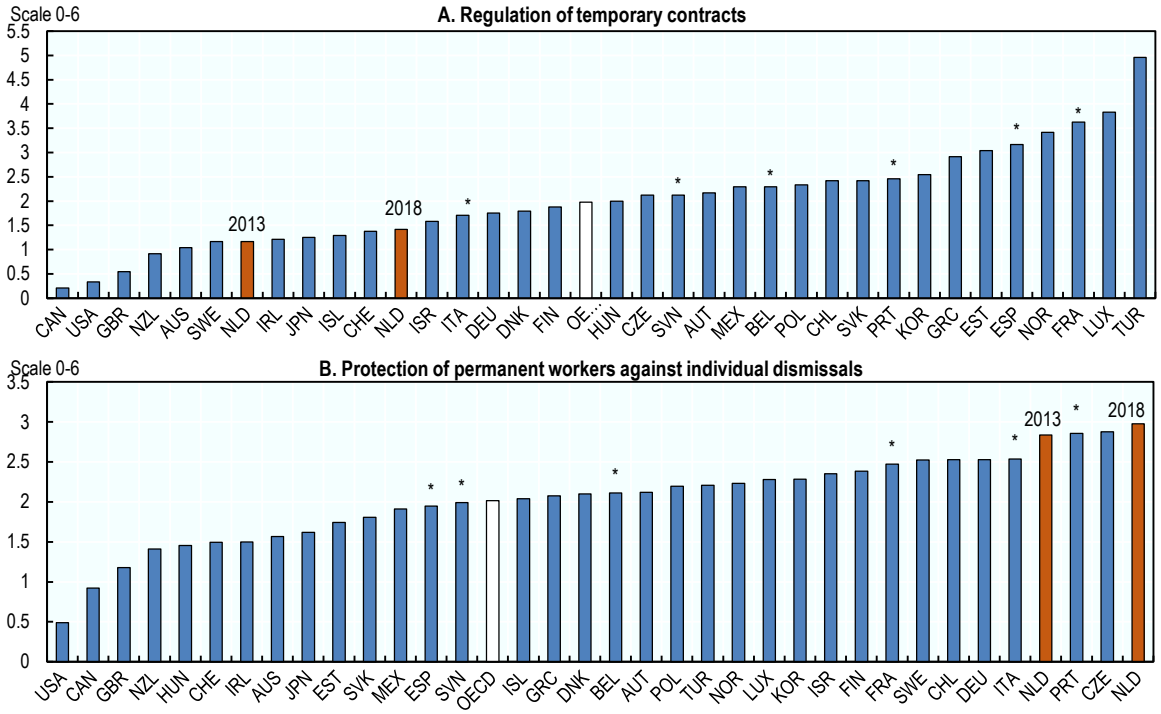
Employment protection regulations attached to permanent (or open-ended) contracts can drive non-standard work if the relative cost of complying with these regulations encourages firms to seek alternative contractual arrangements. This section examines the international evidence on the link between employment protection legislation and the prevalence of non-standard employment.

Recent work by the OECD permits a comparison of the stringency of employment protection legislation in the Netherlands with other OECD countries. Figure 3.3 shows the results of an interim update (to *preliminary* 2018 figures) of the OECD Employment Protection Legislation (EPL) index carried out for the Netherlands as well as a selection of other OECD countries that have implemented major reforms in this area between 2013 and 2018. Countries for which preliminary 2018 figures are available are marked with an asterisk.

- Panel A shows that the stringency of regulation of the use of fixed-term contracts or temporary-agency workers in the Netherlands increased between 2013 and 2018, although it is still less stringent than in most other OECD countries. The increase was driven entirely by the 2015 Work and Security law (*Wet Werk en Zekerheid*), which reduced to two years (from three) the maximum period for successive fixed-term employment contracts with the same employer, with the aim of limiting the use of temporary employment contracts.[13] The 2017 coalition agreement (2017[11]) included a proposal to reverse this change.
- Panel B suggests that the Netherlands has some of the most stringent legislation in the OECD for individual dismissals of workers on permanent contracts. One of the

main reasons for this is the high *procedural inconvenience* in the notification procedure for dismissal in the Netherlands, which bears a high weighting in the construction of the indicator. While the EPL indicator gives a lot of weight to this component, in practice the procedural requirements in the Netherlands do not place a disproportionate burden on employers in the Netherlands. The indicator for the Netherlands therefore does not fully reflect reality. Another reason why the EPL indicator in the Netherlands is so high is the relatively high level of severance pay for a no-fault dismissal (which is particularly the case at long tenure). In 2013, Spain and Portugal were the only OECD-EU countries with more generous levels of severance pay and Portugal has since reduced this dramatically. Proposals in the 2017 coalition agreement (2017[11]) to make employees eligible for severance pay from the start of their contracts would mean that temporary workers are likely to be eligible for severance pay, but would also represent a further tightening of employment protections.

Figure 3.3. Employment protection legislation in Netherlands



Note: Higher values indicate more stringent legislation. Data refer to 2018 (preliminary updated figures marked with an asterisk *) and 2013 (unmarked). The measure in panel A considers the circumstances where temporary contracts can be used, the number of times they can be renewed and their cumulative duration. The measure in panel B considers i) notification and consultation requirements for employers engaging in a dismissal process; ii) notice periods and severance pay in the case of fair dismissal; and iii) difficulty of dismissal, i.e the permissible grounds for dismissal and the repercussions for the employer if a dismissal is found to be unfair.
Source: OECD indicators on employment protection (database), www.oecd.org/employment/protection.

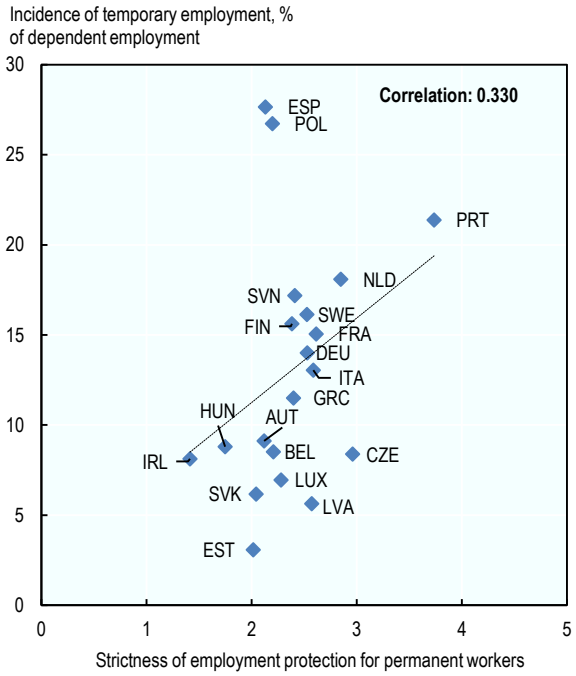
An OECD working paper (Baker et al., 2018[12]) found a link between employment protection legislation and the prevalence of self-employment. Using data for European countries for the period 1995-2013, the researchers find that the stringency of employment protection legislation for permanent workers has a significant positive impact on

low-skilled self-employment but a significant negative impact on high-skilled self-employment.[14] The authors posit that when protection is high, high-skilled workers opt for permanent employment to benefit from the protection. At the same time, high employment protection may encourage low-skilled workers (and their employers/clients) to circumvent the resulting high labour costs by moving to self-employment. This suggests that direction of the impact of employment protection legislation on self-employment depends on the individual's bargaining power (lower for low-skilled workers).

Further OECD research argues that employment protection legislation is a key determinant of the degree of labour market dualism, in terms of the extent to which employment is divided between protected permanent contracts and temporary contracts (OECD, 2016[13]). When strict employment protection legislation for permanent contracts is combined with liberal regulations for temporary contracts, firms react by substituting temporary for permanent workers (since the former are cheaper to terminate at the end date of the contract), with no long-run effect on employment.

As suggested by Figure 3.4, this substitution effect tends to be stronger and the use of temporary contracts higher, the stricter the employment protection on permanent contracts. This is consistent with econometric findings in Bassanini and Garnero (2013[14]) for a large number of OECD countries as well as Hijzen et al. (2017[15]) for Italy and Centeno and Novo (2012[16]) for Portugal.

Figure 3.4. Employment protection, temporary work and contractual segmentation



Source: OECD Employment Database for the incidence of temporary employment and OECD Indicators of employment protection, www.oecd.org/employment/protection.

3.3. Sickness-related payments

From the firm's perspective, sickness-related payments are another factor that can push up non-wage labour costs for standard employees. In many OECD countries, employers are

obliged, by law or through collective agreement, to cover sick-pay costs for a certain period. The length of this period and the share of the wage to be paid, however, differ drastically across countries.

Employers in the Netherlands are legally obliged to cover 70% of wage costs during the first two years of sickness and to facilitate and promote the return to work of sick employees, enforced with financial measures. This was extended from one year to two years in 2005. The duration of Dutch employers' sick-pay obligations is longer than in many other European OECD countries, such as the United Kingdom (six months), Austria (6-12 weeks), Germany (six weeks), Italy (up to 180 days), Luxembourg (13 weeks for white-collar workers) and Switzerland (up to six months, varying with tenure) (OECD, 2018[1]).

The Netherlands is the OECD country that has gone furthest in terms of giving employers a long-term responsibility to pay for sick leave and sanctioning them (as well as employees) when insufficient efforts are taken to support a return to work (OECD, 2015[17]). This should encourage employees and employers to cooperate to find working arrangements appropriate for the returning employee's (partial) work capability. The Dutch sickness management system has been shown to be successful in reducing sickness absence and new claims for disability benefits.

At the same time, the sickness management system is also likely to contribute to labour market segmentation. From the firm's perspective, sickness-related payments do not have to be paid in respect of contracted self-employed workers, nor in the first six months of a fixed-term or variable-hour contract. As such, sickness-related payments and reintegration obligations are another factor that contributes to the differential in non-wage labour costs between standard and non-standard contracts.

3.4. Technological change and globalisation

While trends in non-standard work have been mixed across OECD countries, most countries have experienced growth in at least one form of non-standard work. This prompts the question of to what extent global trends such as technological change and globalisation are driving growth in non-standard work.

There is little direct and robust evidence of the link between these mega-trends and the share of non-standard work. However, there is some indirect evidence to suggest that globalisation and technological change may have contributed to a growth in non-standard employment across OECD countries – through structural change and labour market polarisation, on the one hand, and through the emergence of new business models and forms of work, on the other.

3.4.1. Labour Market Polarisation

The OECD Employment Outlook 2017 (2017[18]) showed that labour market polarisation (the process by which the share of middle-skill jobs declines relative to the number of low- and high-skill jobs) has been pervasive across OECD countries, including the Netherlands. Empirical studies comparing the explanatory power of alternative theories of polarisation in individual countries have generally concluded that technology and globalisation are the two main forces at play – see Acemoglu (2011[19]); Goos (2014[20]). Because these factors have developed hand-in-hand, it can be difficult in practice to disentangle the effect of each.

Polarisation is partly driven by de-industrialisation, i.e. a structural shift from manufacturing (a sector in which standard employment relationships used to be more common) to services (where non-standard contracts are more prevalent). Previous OECD research has confirmed that polarisation has contributed to the growth in non-standard employment and showed that, in most EU countries between the mid-1990s and 2010, the jobs disappearing in the middle of the skills distribution have tended to be standard work contracts, while job gains in high- and low-skill occupations have tended to be in non-standard work (defined in that report as own-account self-employed, temporary, and part-time work) (OECD, 2015[21]). The Netherlands is one of the countries for which this is most apparent.[15]

3.4.2. New business models and forms of work

Competitive pressures and new possibilities afforded by advances in technology are likely to have contributed to innovation in business models and ways of working, including the increased use of non-standard employment arrangements. Technology has promoted this trend by facilitating the outsourcing not only of jobs, but also of individual tasks, as it has significantly lowered the transaction costs involved in doing so and made it possible even for small and medium enterprises to outsource. Technology has also enabled individuals to have greater choice about where and when they work, and part of the increase in non-standard forms of work may reflect a desire for more flexible ways of fitting work around other responsibilities. Notably, technology has enabled the emergence of platform work in which an application or website matches customers and clients, by means of an algorithm, with workers who undertake tasks in return for money. While platform workers still account for a small share of total employment, their number is growing.

3.4.3. Evidence from the Netherlands

As a small, open economy, it is plausible that the labour market in the Netherlands has been disproportionately affected by the global trends of technology and globalisation.

In particular, the Netherlands is one of the OECD countries with the highest growth between 1975 and 2017 in international trade (as measured by imports and exports as a percentage of GDP), suggesting a high level of integration in global value chains (GVCs) whereby different stages of the production process are distributed across countries and regions (OECD, 2019[22]).

While the use of information and communications technologies (ICT) in the workplace more than quadrupled in the Netherlands between 1995 and 2015, this placed it in the middle of the pack in terms of growth among OECD countries for which EU KLEMS data are available (OECD, 2019[23]).

A peer review commissioned by the European Commission (2018[24])[16] summarises the literature on the links between globalisation and technology and non-standard work in the Netherlands and suggests a mixed picture. Some studies find that in Dutch sectors with higher exposure to globalisation (i.e. operating internationally and/or with strong export orientations), there seems to be large variation between firms (de Haan and de Beer, 2016[25]) or even fewer flexible contracts (de Beer, 2018[26]) than sectors that are oriented towards the domestic economy. Another study finds globalisation to be positively associated with growth in flexible employment, but not related to growth in own-account self-employment (Scheer, de Graaf-Zijl and Hoekstra, 2016[27]). The European Commission (2018[24]) also presents mixed evidence on the impact of technology on flexible employment, citing Scheer et al. (2016[27]) and de Beer (2018[26]). The problem

with all these studies is that it is very difficult to establish causality, and the methodologies used tend to merely pick up correlations.

While platform workers still account for a small share of total employment, their number is growing. A 2017 study estimated that about 4.9% of workers in the Netherlands undertook weekly crowd work on platforms such as Werkspot or Helpling (Huws, Spencer and Syrdal, 2017[28]).[17]

4. Non-standard Forms of Work and Productivity

How non-standard forms of work affect productivity is important for determining whether and to what degree policy should encourage or discourage them. This does not negate other considerations. Workers and firms may prefer non-standard forms of work for personal reasons including greater flexibility, or to alleviate perceived regulatory or tax burdens. If non-standard forms of work also increase productivity, the gains in output possess the potential to alleviate any ill effects of excessive use of non-standard work (e.g. on job quality and inclusiveness – see Section 5).

This section reviews the literature on the effects of non-standard forms of work and productivity. The consensus of academic research leans towards a negative effect of non-standard forms of work on productivity. The results imply that high levels of non-standard work lead to suboptimal productivity growth, and different policies around non-standard work can increase productivity.

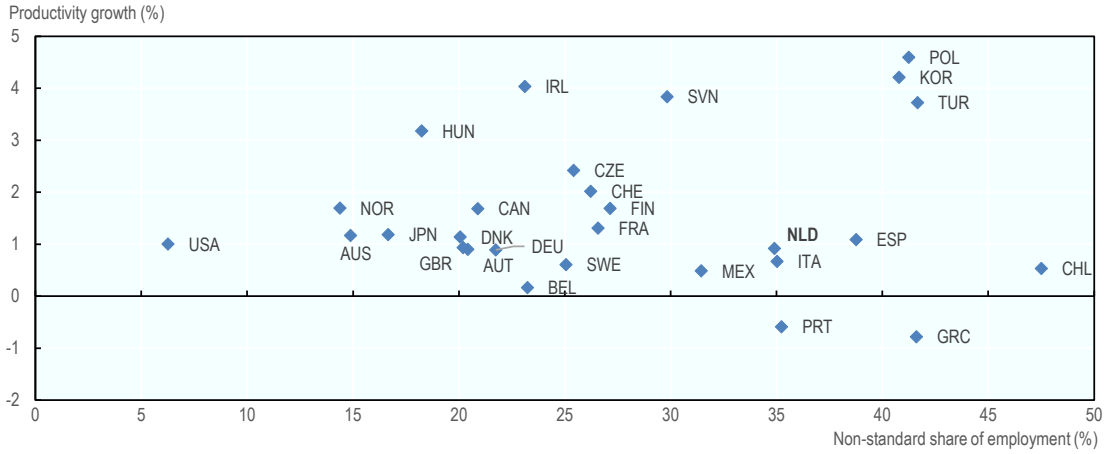
Across different methodologies and types, non-standard work results in reduced productivity growth. At a macro-level there appears to be little correlation between productivity growth and non-standard work. There is little direct evidence on the relationship between self-employment and productivity. However, the self-employed earn less than comparable workers in formal employment, and there is a long established literature documenting a positive relationship between the employment size of firms and their productivity. The research examining the relationship between the share of temporary contracts in a firm or country and productivity is much better established. Likely caused by behavioural responses of workers, the consensus of the literature is a negative relationship between the excessive use of temporary contracts and productivity growth.

4.1. There is little correlation between macro measures of non-standard work and productivity growth

At a macro level there does not appear to be a strong contemporaneous connection between levels of non-standard work and productivity growth. Figure 4.1 shows the cross-country correlation among OECD countries of non-standard work and productivity growth in 2017. The correlation is positive, but weak, with a correlation coefficient of 0.094. A few countries, Poland, Korea and Turkey, combine high levels of non-standard work (over 40%) with high productivity growth. Ireland and Slovenia, however, experienced similar productivity growth but with rates of non-standard work below 25% and 30%, respectively. At a glance, there does not appear to be strong evidence that countries which more heavily rely on non-standard work experience greater productivity growth.

Figure 4.1. Little relation between non-standard work and productivity growth

Non-standard share of employment and productivity growth, 2017



Source: OECD.Stat

A higher incidence of non-standard work is associated with reduced labour market resilience. A higher share of temporary contracts decreases resilience by amplifying the unemployment and employment responses to a negative economic shock. Unemployment is higher and employment is lower 2-4 years after a negative economic shock in countries that rely on a relatively higher share of non-standard workers (OECD, 2017[29]). In addition, unemployment benefits play an important role in boosting spending power for the unemployed, and by extension the economy as a whole, during a recession. The self-employed are less likely to have access to full or partial unemployment benefits, which dampens the impact of unemployment insurance as a macroeconomic stabiliser (OECD, 2019[30]).

4.1.1. Strictness of employment protection leads to reduced labour reallocation

The ability for workers to move quickly and seamlessly between firms is essential for productivity growth. Higher productivity firms require workers in order to grow, and for their productivity advances to filter through the economy. This generally requires workers to move from lower to higher productivity firms, or to employment from non-employment. In addition to helping higher productivity firms grow, job-to-job movements across firms speed the adoption of new technologies and improved management practices (OECD, 2018[31]). The gains from this reallocation are not trivial. The empirical literature finds that although firm entry and exit account for the greatest share of productivity growth due to reallocation, labour reallocation across firms represents a positive contribution to productivity growth and can be substantial (Bartelsman, Haltiwanger and Scarpetta, 2009[32]; Hsieh and Klenow, 2009[33]; Eric Bartelsman, Haltiwanger and Scarpetta, 2013[34]).

Non-standard employment, and in particular laws governing employment on open-ended contracts, play in an important part in determining the size of worker reallocation. Gross job and worker flows vary significantly across OECD countries. Job flows are largest in the United States and the United Kingdom at around 25% of total employment every year compared to countries such as Germany and Slovenia where job flows average around 15%.

Cross-country and industry studies find a negative relationship between the strictness of employment protection legislation and worker and job flows (OECD, 2009[35]). In particular, the research focuses on the costs of EPL (*de jure*, and *de facto*) associated with dismissing workers on permanent contracts.

Countries with strict employment protection for workers on open-ended contracts generally experience reduced productivity growth. Although in theory stricter employment protection could foster productivity growth through greater worker incentives to train or put forth effort, the induced reduction of labour reallocation outlined above likely dominates. Bassanini, Nunziata and Venn, (2009[36]) show that dismissal protections depress productivity growth in industries where they are more likely to bind. The impact on flows could be operating due to reduced innovative activity (Griffith and Macartney, 2014[37]), or because strict dismissal protections on open-ended contracts lead to the increased use of temporary contracts which generally lowers productivity growth (Section 4.2).

Evidence from previous reforms indicates a slight increase in productivity after relaxing strictness of employment protection on permanent contracts

Evaluations of reforms to non-standard work generally find positive increases to productivity in the medium term. The most readily used estimates of the effect of non-standard employment on productivity growth looks at changes in the strictness of employment protection for open-ended contracts to identify changes in productivity growth. Using cross-country evidence from 16 OECD countries over 20 years of reforms, Bassanini, Nunziata and Venn, (2009[36]) find that a half point reduction in the OECD EPL indicator for the strictness of individual or collective dismissals on open-ended contracts increases business sector productivity growth by 0.2 percentage points to 0.1 percentage points. For perspective, this is roughly equivalent to abolishing all severance payments at any tenure in the Netherlands. Thus, reductions in employment protection for workers on open-ended contracts would likely increase productivity growth, but any effects would ultimately be small.

4.2. The self-employed are on average less productive than formal employees

Although there are few studies directly examining the effect of self-employment on productivity, a range of perspectives indicate that self-employment is, on average, less productive (although, of course, there is significant heterogeneity). The self-employed without employees can be considered the smallest firm and their productivity is then comparable to small firms. There is an established literature finding that productivity increases with the employment size of firms, which suggests that own-account workers are likely less productive than established firms with employees. Studies attempting to compare similar workers in formal employment and self-employment find that own-account workers earn less. Although it is hard to tell *ex ante* which own-account workers are entrepreneurs who will rapidly add employees and drive productivity growth, there are some telling characteristics. In particular, entrepreneurs tend to be middle-aged and begin adding employees quickly.

4.2.1. Direct comparisons find that own-account workers are less productive than firms

A first glance at available productivity statistics suggests that self-employed firms without employees are less productive than firms with employees. Estimates of value-added, and output per hour of work show that own-account workers produce less than firms with formal employees do (Baldwin and Chowhan, 2003[38]; Baker and Gielens, 2018[39]). These summary statistics should be viewed with caution, however. Workers who forsake paid employment to become own-account workers are unlikely to be representative of their country's labour force, likely differing in their chosen industry, demographic profile, as well as unobservable characteristics (Section 5.3.1).

Workers select into self-employment for a variety of reasons, and simple aggregate comparisons are likely to suffer from bias. Workers selecting into self-employment may have higher latent ability, new insights into production or organisation in a particular industry, or different tolerances for risk. These attributes may bias observed productivity differentials making the self-employed appear more productive than they would be in formal employment. Conversely, workers may choose self-employment to enjoy greater autonomy and flexibility over their working hours, which they may be willing to trade for lower earnings and lower observed productivity.

Studies comparing the earnings of paid employees to those of own-account workers, and which take selection concerns seriously, find that workers in paid employment earn more. Own-account workers earn both less initially than paid employees, and experience lower earnings growth in their jobs (Hamilton, 2000[40]; Bruce and Schuetze, 2004[41]; IMF, 2019[42]).[18] One reason may be that own-account workers generally lack access to training and train at lower rates than paid employees do (OECD, 2018[1]).[19]

Drawing firm conclusions from earnings or productivity comparisons requires caution due to underreporting of income from self-employment. Across countries, numerous studies find that the self-employed underreport income not just to tax authorities which shows up in administrative data (Feldman and Slemrod, 2007[43]), but also on surveys (Hurst, Li and Pugsley, 2014[44]). The income earned and revenue generated by self-employment is a key component to assessing the productivity of the self-employed. Even after correcting for selection problems, if income is under-reported, that may bias earnings estimates, and by extension productivity estimates for the self-employed down. Given the difficulties associated with estimating productivity differences for the self-employed, any conclusions drawn specifically from studies of earnings or income from the self-employed should be viewed with caution.

Own-account workers as the smallest "firm"

Another approach to disentangling the productivity of the self-employed is to consider own-account workers as the smallest firm. There is a developed literature examining how productivity varies by firm employment size (van Ark and Monnikhof, 1996[45]; Eric Bartelsman, Haltiwanger and Scarpetta, 2013[34]; OECD, 2017[46]). The literature finds that, as firm employment increases, productivity generally increases as well. This relationship holds across time and countries in both developed and developing economies (Amin and Islam, 2015[47]). If one is willing to accept that an own-account worker is relatively similar to a standard firm with one to three employees, extrapolating along the same employment-productivity relationship leads to the conclusion that the self-employed without employees are less productive than the average employees in most firms.[20][21]

4.2.2. Are own-account workers entrepreneurs who grow their businesses?

Deducing productivity differences between own-account workers and formal employment by looking only at cross-sectional differences misses some of the story. Young firms, which tend to start small, are responsible for the majority of job growth (Haltiwanger et al., 2017[48]). Across OECD countries, most employment is in large firms, but most employment growth comes from rapidly expanding small firms (OECD, 2017[49]). This growth is propelled by innovations and higher productivity in the smaller firms who look to grow quickly. It seems reasonable then to consider the dynamic productivity effects of self-employment rather than just cross-sectional comparisons.

The majority of new, own-account self-employed do not grow. In fact, most fail within the first few years of founding (OECD, 2017[50]). To answer whether the growth in own-account work will result in higher productivity growth, the question turns to whether the growth in self-employment demonstrated in Section 2 is caused by new entrepreneurs who intend to grow their start-ups, or by workers who seek self-employment for other reasons.

Entrepreneurs tend to be middle-age and grow their firms quickly

Non-employer firms that add employees usually do so within the first year of founding. Using administrative data augmented with survey data from the United States, Fairlie and Miranda (2017[51]) show that most non-employer businesses never add any employees, and the ones that do, do so mostly within the first year of operation. In addition, they find that men are more likely to add employees, which is consistent with OECD findings of a significant gender gap in entrepreneurs (OECD, 2017[52]).[22]

It is commonly assumed that high-growth entrepreneurs are young, but recent research casts doubt on that perception. Most research finding that entrepreneurs are young comes from small surveys either in, or adjacent to, the high-tech industry (Frick, 2014[53]). They find that entrepreneurs from successful firms are young, under 35 years old on average. Newer research using administrative data on high-growth start-ups, or extending outside of the United States, finds that the average age of founders of growth-oriented start-ups is older, with the distribution squarely around middle-age rather than young (Azoulay et al., 2018[54]; Breschi, Lassébie and Menon, 2018[55]).[23]

The rise in self-employment in the Netherlands is mostly driven by workers of retirement age

The most notable feature of the rise in self-employment in the Netherlands is the increasing share of own-account workers at or near retirement age. The share of young and prime age workers who are self-employed has not moved appreciably in the past 15 years. The growth in the share of self-employment in the Netherlands is due almost entirely to workers aged 55 to 75 (Baker and Gielens, 2018[39]). There are many potential reasons for the greater share of older workers in self-employment, including a gradual bridge to retirement (Section 5.3.1). Given the previous research showing that growth-oriented entrepreneurs tend to be middle-aged, and results from the Netherlands showing lagging performance in producing high-growth gazelles (ter Weel et al., 2017[56]), it seems unlikely that the observed growth in self-employment in the Netherlands will result in an increase in productivity.

4.3. Excessive use of temporary contracts is associated with diminished productivity

4.3.1. Firm and worker incentives on temporary contracts push down productivity

The interaction between employment protection legislation for open-ended contracts and the laws regarding the use of temporary contracts is complex. Every country has their own unique laws and de facto processes governing dismissals on permanent contracts as well as the use of temporary contracts. Changing one or the other will affect the distribution of jobs across contract types (Section 3.1). Section 4.1.1 showed how overly strict employment protection for workers on permanent contracts restricts labour reallocation and dampens productivity. The discussion to follow will restrict itself to the productivity effects of marginal changes in the share of workers on temporary contracts.[24] The consensus of this literature is that a greater share of temporary workers results in negligible to lower labour productivity (Bassanini, Nunziata and Venn, 2009[36]; Lisi, 2013[57]; Damiani, Pompei and Ricci, 2016[58]; Ortega and Marchante, 2010[59]).[25]

How productivity changes with the changing share of temporary contracts depends on the incentives for worker and firm investment in the employment relationship. The literature tends to find that higher shares of temporary workers lead to less firm-level investment, which reduces productivity. The shorter anticipated tenure of temporary workers means firm investments are less likely to survive a cost-benefit analysis. For example, temporary workers generally have reduced access to training compared to permanent employees (OECD, 2007[60]; OECD, 2014[61]; OECD, 2019[62]) (Section 5.4). Lisi and Malo, (2017[63]) find that this is one mechanism reducing productivity for temporary workers. Restricting the use of temporary contracts may also raise productivity by increasing capital, capital per worker (Cappellari, Dell'aringa and Leonardi, 2012[64]; Baek and Park, 2018[65]) and R&D investments (Kleinknecht, Van Schaik and Zhou, 2014[66]).[26]

Studies examining worker investment in a job match are more ambiguous. Specifically, worker effort on a temporary contract affects productivity. Here the theoretical results are ambiguous and hinge on the probability of a contract converting from temporary to permanent. If workers have a high probability of contract conversion, they may put forth more effort to send a positive signal of how they would perform as a permanent employee. If conversion rates are low, workers on temporary contracts may put forth less effort preferring to shirk on the job or spend effort searching for their next employer. Empirical studies are sparse in this area, but they tend to find mixed results on the effect of temporary contracts on effort depending to some extent on how likely it is a worker can expect conversion (Engellandt and Riphahn, 2005[67]; Dolado, Ortigueira and Stucchi, 2016[68]).

4.3.2. Variable-hours may lead to lower productivity

Variable-hour contracts are difficult to measure, and there are no studies examining their effect on productivity. Variable-hour contracts are a labour contract where the worker is not guaranteed a set number of hours. Workers are effectively on-call with managers free to call them in at a moment's notice, or send them home when demand dips below expected levels (Machin, Datta and Giupponi, 2018[69]). There are many potential motivations for the rise in variable-hour contracts (Section 3), the most obvious and ubiquitous is the desire of managers to better match staffing levels with fluctuating demand.

Although variable-hour contracts are a type of part-time contract (and are often open-ended contracts), in practice they are comparable to temporary contracts in terms of the flexibility they give employers in adjusting their workforce. The provision of temporary contracts in

most OECD countries allows firms to more easily adjust staffing levels in the face of stringent employment protection for permanent contracts. The time horizon for a firm's decision to hire on temporary contracts is usually a quarter to several years, where a firm may need temporary workers to respond to the business cycle, or unforeseen staffing shortages (e.g. workers out on maternity leave or long-term illness). Variable-hour contracts operate in the same way, but on a daily or weekly basis rather than quarterly or annual.[27]

This report is not aware of direct evidence of the effect of variable-hours contracts on productivity, but some recent empirical research suggests the relationship may be negative. Mas and Pallais, (2017[70]) find that applicants for a call centre position in the United States are willing to give up close to 20% of their earnings to avoid irregular schedules set on short-notice by their employers. This suggests that most workers have a strong aversion to working at times when they are not scheduled. From a call centre in the Netherlands, Collewet and Sauermann, (2017[71]) find that workers who have to work more or fewer hours in a given day than for which they were originally scheduled are less productive. The available research is far from concrete, but it suggests that workers do not want to work variable hours, and when they have to, their productivity decreases.

5. Non-Standard Forms of Work, Job Quality and Inclusiveness

Non-standard work, while providing flexibility to both employers and workers, is not clearly associated with higher productivity (Section 4). Non-standard work (and self-employment in particular) may help certain people overcome barriers to participate in the labour market, but it also raises important questions about job quality. This is not to say that all non-standard employment is poor quality employment. Indeed, standard jobs can be low quality, while non-standard ones can be high quality.

On average, however, job quality tends to be lower among non-standard workers. Sections 5.1 and 5.2 review the evidence on disparities in job quality between workers in standard and non-standard employment, including their effect on overall inequality. Workers in non-standard employment face higher job insecurity, and there is little evidence that this is compensated for by higher wages (OECD, 2014[72]). They are also less likely to participate in training; be covered by collective bargaining; and have access to social protection (OECD, 2019[73]). In addition, the self-employed are less likely to be protected by labour law legislation (including employment protection and minimum wages). This may be fine for many self-employed workers, but it may present a challenge for those who are more vulnerable and who have little bargaining power.

Section 5.3 concentrates on the link between self-employment and employment opportunities, on the one hand, and the risks to job quality and inclusiveness, on the other. Self-employment offers the ability for workers who desire non-standard schedules to remain in employment, although it does not appear to raise employment rates for people with disabilities. The self-employed also face the highest obstacles to accessing social protection.

There are at least three important questions to answer as far as social protection for the self-employed is concerned. First, which self-employed workers should be covered? Some self-employed are highly successful entrepreneurs, while others share vulnerabilities with employees, and therefore need basic protections. Second, there are questions as to whether the self-employed should be protected against certain risks which are not entrepreneurial in nature. Finally, even though protection may be desirable in practice, there are many practical difficulties in extending protections to the self-employed. The section discusses these difficulties including the challenges faced by voluntary insurance schemes.

Section 5.4 then turns to workers on temporary contracts. The section reviews the literature on whether temporary contracts act as stepping-stones to formal employment, or traps whereby workers cycle in and out temporary employment. The section concludes by examining whether temporary workers are compensated for their more precarious employment contract.

5.1. Job quality tends to be lower for non-standard workers

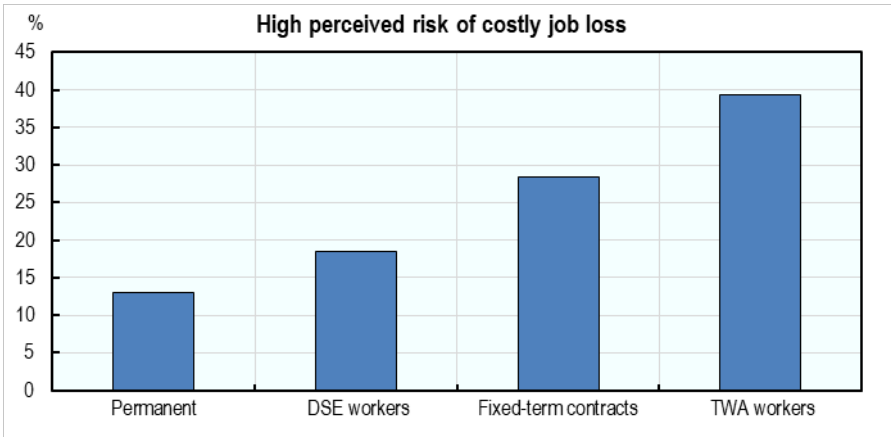
5.1.1. Non-standard workers feel less secure in their jobs

Workers on non-standard contracts feel less secure in their jobs. On average, only 13% of permanent employees perceive that they have a high risk of costly job loss, against 18% of dependent self-employed workers (DSEW), 28% of fixed-term employees and 39% of Temporary Work Agency (TWA) workers (Figure 5.1). While it may be possible that such workers are willing to trade off job security for higher wages, there is no evidence of a wage

premium for non-standard workers. In fact, there appears to be evidence of a wage penalty in many countries (OECD, 2014[61]).

Figure 5.1. Perceptions of job insecurity by type of contract

Percentage of workers in each category, 2010



Note: The figure reports the estimated percentage of those who agree or strongly agree that they may lose their job in the next six months but do not agree or strongly agree that they can easily find another job with a similar salary. Reported rates for permanent workers are averages of the raw responses. For each other type of contracts, the difference with permanent contracts is estimated on the basis of a linear probability model with dummies for gender, country, nine age classes, three education levels, nine occupations, 21 industries, nine tenure classes, nine firm-size classes and an unemployment spell before the current job spell. The estimated difference is then added to the average for permanent workers. The sample excludes workers with more than eight years of job tenure. DSE: Dependent self-employed; TWA: Temporary work agency.
Source: (OECD, 2014[61]).

5.1.2. Non-standard workers are less likely to be covered by social protection

Non-standard workers are less likely to have statutory access to social protection, but the extent to which they are covered varies greatly by the type of non-standard employment and the risk. Workers on temporary contracts are usually covered for most types of social protection, but in practice gaps can be substantial. The self-employed, however, have little or only partial statutory access to social protection in most OECD countries.

Figure 5.2 looks at the extent to which countries provide statutory access to self-employed workers. Unemployment benefits are the least accessible branch of social protection for non-standard workers. Eleven of the 28 countries (including the Netherlands) do no not offer any kind of unemployment protection for self-employed workers (bottom left panel)

The rules for accessing incapacity benefits – covering short-term sickness, work accidents and disability – vary across countries and type of non-standard work. In all three of these schemes, statutory access for non-standard, dependent employees is mostly similar to standard employees. However, only 14 of the 32 countries shown in Figure 5.2 offer similar access to benefits for self-employed workers – and these do not include the Netherlands (top right panel). Statutory access is weakest in the case of accidents at work.

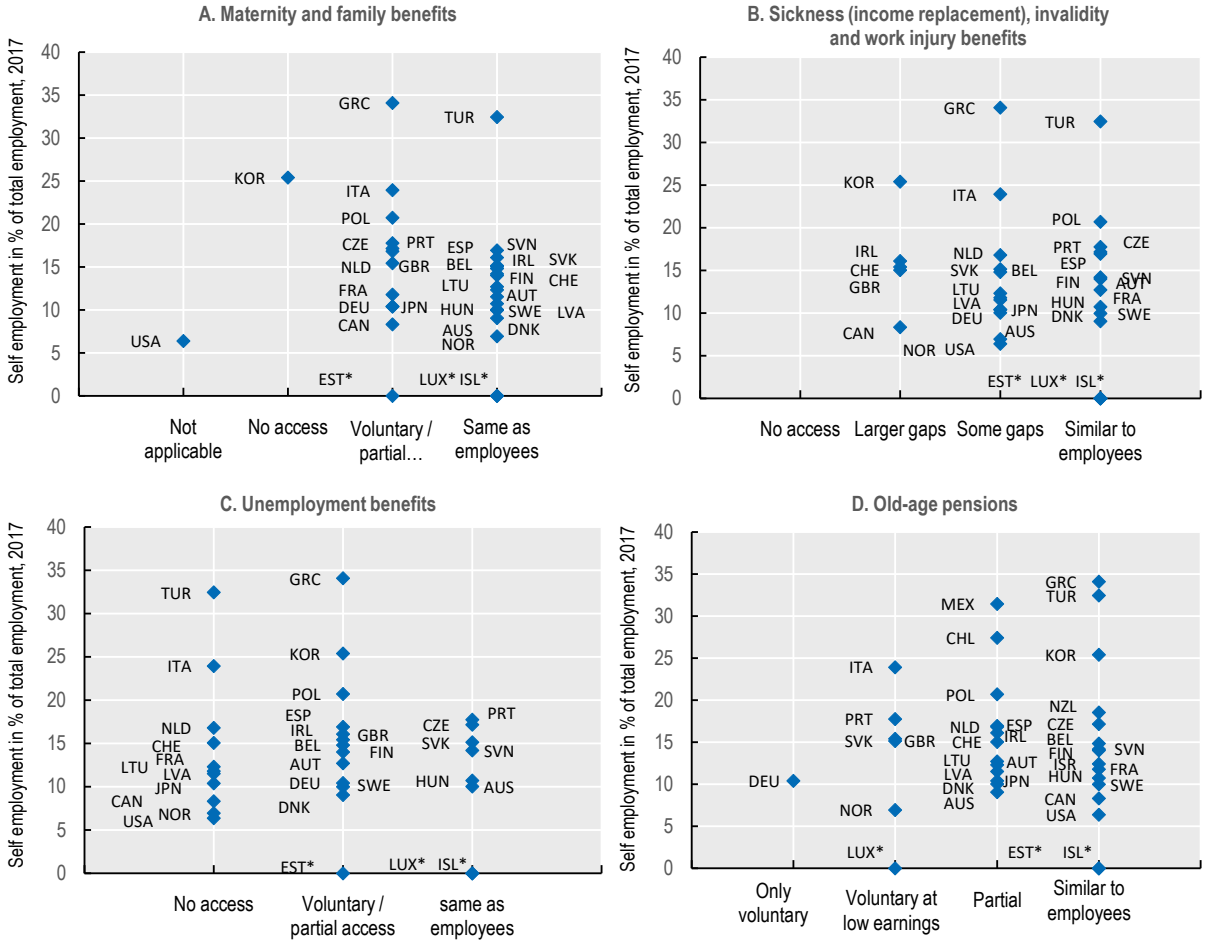
When contingencies are independent of a specific job, protection for non-standard workers is more easily available. For instance, social assistance or minimum income schemes are typically financed through general tax revenue, and legal entitlement rules are based on need, regardless of past employment type, duration or stability. Family benefits, such as

child allowances, are typically universal or means-tested, and statutory access to maternity benefits, which are often contributory, also tends to be similar for workers in standard and non-standard forms of dependent employment.

Finally, pension rules often differ between the self-employed and dependent employees (bottom right panel). In some countries, the self-employed can voluntarily join earnings-related schemes that are mandatory for employees (e.g. Germany and Australia). Chile has sought to incorporate the self-employed into the mandatory pension scheme through auto-enrolment since 2008. Opt-out provisions were retained, however, and the majority of the self-employed have continued to opt out so far. A few countries provide the self-employed with partial pension coverage, reducing both contributions and benefits in the mandatory scheme, or they subsidise pensions of the self-employed through a more favourable benefit formula. For instance, in Denmark, Japan, the Netherlands, and Switzerland contributions for the self-employed are mandatory for the basic pension pillar only.

Figure 5.2. Statutory access for independent workers is often limited

Statutory access to social protection for the self-employed compared to dependent employees ("employees"). By social protection branch and incidence of self-employment, 2017



Notes: Gaps between standard dependent employees (full-time open-ended contract) and self-employed workers. "Partial access" to benefits can arise if a) eligibility conditions, benefit amounts or receipt durations are less advantageous for self-employed workers; b) insurance-based and non-contributory benefits co-exist and individuals can access only the latter (e.g. only basic pension and not earnings-related); or c) the self-employed can choose to declare a lower contribution base while dependent employees pay contributions on full earnings (possibly subject to a ceiling). "No access": compulsory for dependent employees but self-employed are excluded. * Data on self-employment incidence is missing/incomplete for Estonia, Iceland and Luxembourg and refers to 2015 for the Slovak Republic and to 2014 for Latvia.

Maternity and family benefits: "no access": access to neither maternity benefits nor family allowances, "voluntary/partial access": voluntary or partial access to both schemes, or full access to one, but no access to the other. "Not applicable": schemes do not exist.

Sickness, invalidity and work injury benefits: "no access": access to none of these benefits, "larger gaps": less than full access to all of the benefits and no access to at least one; "some gaps": no access to one benefit and at least partial access to the others, or voluntary or partial access to all three benefits; "similar to employee": at least partial or voluntary access to all benefits, and at least full access to one.

Old-age pensions: "voluntary at low earnings": coverage is generally similar to employees but opt-out is possible if earnings are below a certain threshold. "Similar to employees": mandatory coverage as for employees but contributions may still differ.

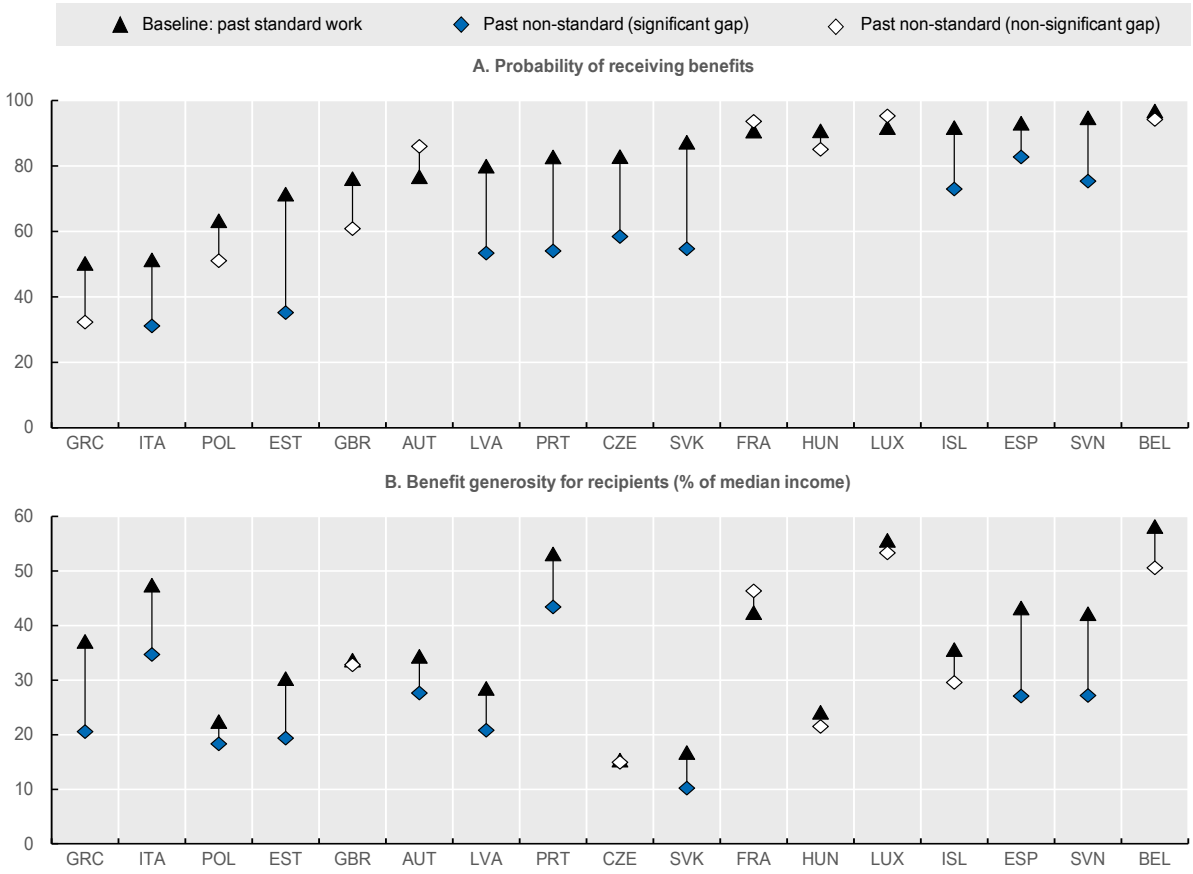
Source: Pensions: OECD (2017[74]), MISSOC (2018[75]), Social Security Administration (2018[76]). Working-age benefits: Australia: Whiteford and Haron (2018[77]), European countries: adapted from Spasova et al. (2017[78]), Canada, Japan, Korea: Information provided by country delegations to the OECD, USA, SSA and ISSA (2017[79]). Share of self-employment: OECD (2018), "Labour Force Statistics: Summary tables" and OECD Employment and Labour Market Statistics (database).

Comparisons of legal eligibility rules give an incomplete, and possibly misleading, picture of the support that is available for non-standard workers. For example, temporary workers in most OECD countries have the same statutory access to social protection as permanent workers, but they may struggle to access social protection because they fail to meet the necessary earnings or contributions thresholds. In addition, they may face different costs in claiming benefits, which may dissuade them from applying. In addition, while they may have legal access, this may only be on a voluntary basis, and many may choose to opt out if they perceive future benefits as small relative to the immediate individual cost.

OECD research shows that, in some countries, the gaps in social protection for non-standard workers are large compared to statutory access (Figure 5.3). Workers engaged in independent work, short-duration, or part-time employment are 40-50% less likely to receive any form of income support during an out-of-work spell than standard employees (e.g. Czech Republic, Estonia, Latvia, Portugal and Slovak Republic) (Fernández, Immervoll and Pacifico, 2019[80]). Accessibility gaps can be especially large for the self-employed. For non-standard workers who do receive support, the level of benefits that are available during an out-of-work spell are often markedly lower than for standard employees (e.g. Greece, Italy, Slovenia and Spain).

Figure 5.3. In practice, non-standard workers receive little support in some countries

Overall support package for working-age individuals, 2014-15



Note: Predicted benefit receipt during an entire year comparing (i) an able-bodied working-age adult who is out of work, had uninterrupted full-time dependent employment with median earnings in the preceding two years, and lives in a two-adult low-income household without children ("baseline: past-standard work", triangle-shaped markers), and (ii) an otherwise similar individual whose past work history is "non-standard": mostly in part-time work, mostly self-employed, or interrupted work patterns during the two years preceding the reference year ("past non-standard", light and dark diamond-shaped markers). Additional results for different categories of non-standard work are available for some countries (see main text).
Statistical significance refers to the gaps between baseline and comparator cases (90% confidence interval). Full-time students and retirees are excluded from the sample. Details on data and model specification are summarized in Fernández, Immervoll and Pacifico (2019[80]). The data source (EU-SILC) covers additional countries but they are excluded here because effective sample sizes were small (e.g. Ireland, Lithuania), because the required micro-data were entirely unavailable (Germany), because key employment-status variables are recorded only for one individual per household (Denmark, Finland, the Netherlands and Sweden), or because of partial or partly conflicting information on income or benefit receipt (Norway).
Source: OECD calculations using EU-SILC panel data.

5.1.3. Non-standard workers are under-represented by trade unions

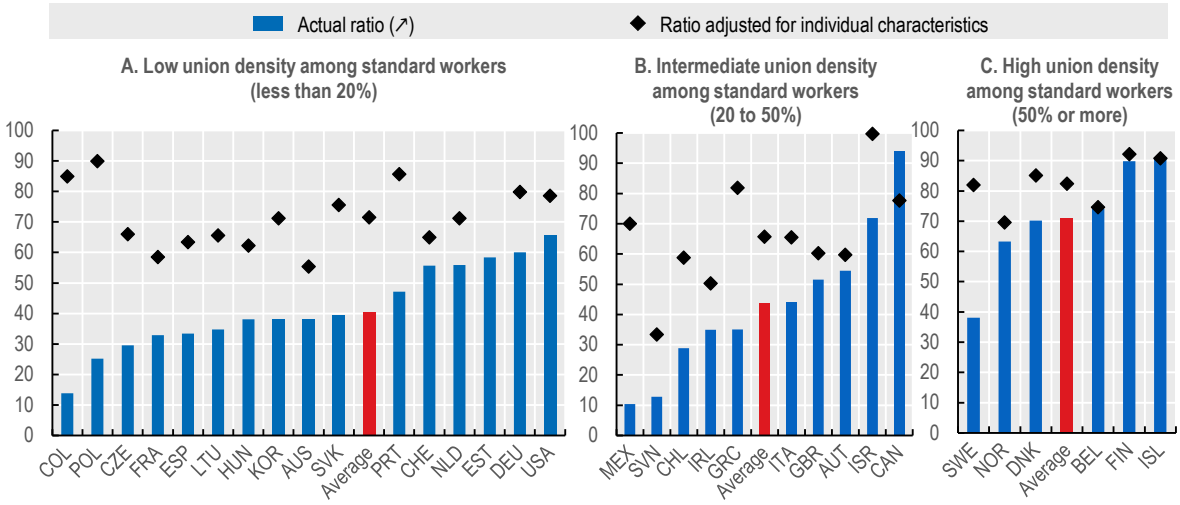
Non-standard workers are under-represented by trade unions. With the exception of Israel, this is the case even when controlling for composition effects (gender, age, education, industry, occupation, firm size and part-time vs. full-time employment) (Figure 5.4). On average, when controlling for composition effects, the ratio of trade union density among non-standard workers relative to standard workers is not significantly higher in countries

where trade union density among standard workers is higher and is remarkably similar across countries in all three panels of Figure 5.4. This suggests that the lower unionisation of non-standard workers does not depend on country-specific characteristics but rather reflects difficulties in organising non-standard workers that are inherent to the non-standard status itself.

This under-representation reflects both practical difficulties in organising non-standard workers and the historical focus of collective bargaining on standard employees. There are also legal obstacles to collective bargaining for some non-standard workers such as the self-employed. Indeed, while labour law grants all salaried employees – whether in a standard or non-standard relationship – an undisputed legal right to collective bargaining, for workers usually classified as self-employed this right may be seen as infringing competition law. This is the case even though the ILO Convention on the right to organise and bargain collectively refers to *workers* in general.

Figure 5.4. Non-standard workers are underrepresented by trade unions

Actual and adjusted ratio of trade union density among non-standard workers relative to standard workers (%), latest available year



Note: Countries are grouped by degree of unionisation among standard workers. Figures refer to 2010-12 for Greece and the Slovak Republic; 2013 for France; 2015 for Germany and Hungary; 2016 for Finland; 2014-16 for Austria, Belgium, the Czech Republic, Denmark, Iceland, Israel, Italy, Lithuania, the Netherlands, Norway, Poland, Portugal, Slovenia, Spain and Switzerland; 2017 for Canada, Chile, Colombia, Estonia, Ireland, Korea, Sweden, the United Kingdom and the United States; and 2018 for Australia and Mexico. Average is the unweighted average of countries shown in each panel (excepted Estonia in Panel A).

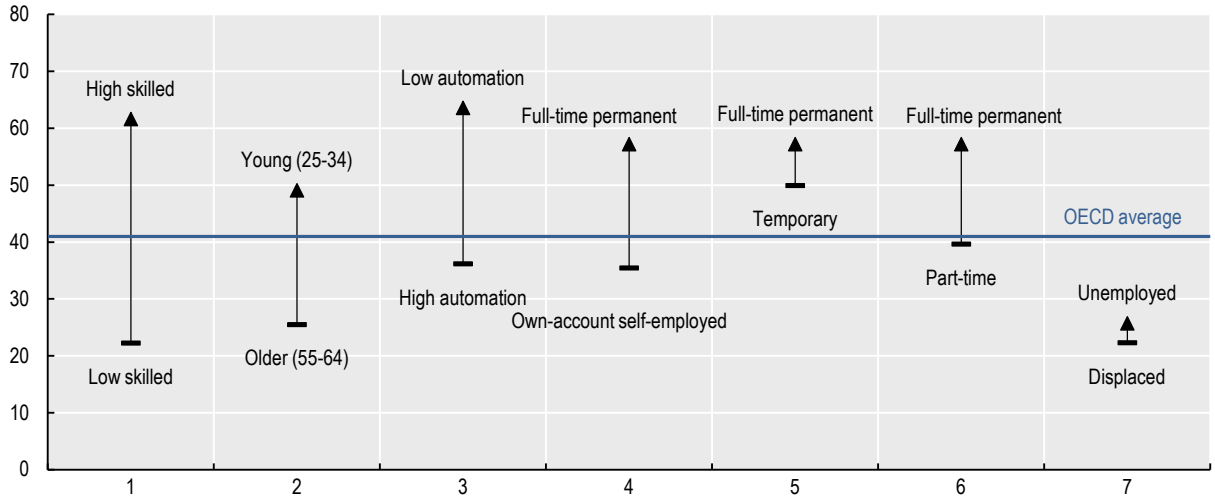
5.1.4. Non-standard workers are less likely to participate in training

Workers in non-standard contracts receive significantly less training than workers in full-time, open-ended jobs (Figure 5.5). This is particularly the case for own-account workers. However, one should be careful in interpreting the differences in the incidence of training between groups as a causal relationship. Differences in training incidence by contract type are particularly difficult to analyse because, at any given point in time, less skilled workers are both less likely to have a regular open-ended contract and less likely to participate in job-related training. To the extent that ability is not accounted for in simple descriptive statistics, one might incorrectly attribute the observed training pattern to

contract type while, in fact, this might at least partly reflect differences in unobserved ability. Similar arguments apply to the other groups discussed above. However, even after controlling for the characteristics of workers, non-standard workers remain less likely to participate in training.

Figure 5.5. Participation in job-related training by group, OECD average

Share of adults (age 16-65) in each group that participate in training, 2012/2015



Note: Share of adults who participated in formal or non-formal job-related training over the previous 12 months. Data refer to 2012 for most countries, except for Chile, Greece, Israel, Lithuania, New Zealand, Slovenia and Turkey where they refer to 2015. Low (high) skilled refers to adults who score at level 1 or below (levels 4 or 5) on the PIAAC literacy scale. High (low) automation refers to adults at high (low) risk of automation. Own-account workers are the self-employed without employees. Temporary refers to workers on fixed term or temporary work agency contracts. Part-time refers to adults who work less (more) than 30 hours per week. Full-time permanent are adults in full-time jobs with an indefinite work contract. Unemployed refers to all unemployed who have not been dismissed for economic reasons in their last job; displaced refers to unemployed adults who have been dismissed for economic reasons in the last job. The OECD average (40%) refers to the unweighted average participation in job-related training among all adults among OECD countries participating in the Survey for Adult Skills (PIAAC).
Source: Survey of Adult Skills (PIAAC) (2012, 2015), http://www.oecd.org/skills/piaac/.

5.2. Non-standard work is associated with lower bargaining power for workers, higher inequality, and a lower labour share

The findings in the previous section lead to the conclusion that workers on non-standard contracts have seen a reduction in bargaining power. The differential rates of collective bargaining, the threat of termination for workers on temporary contracts, and the general feeling of insecurity for non-standard workers leads to gaps in bargaining power compared to their employers. This manifests itself in lower wages for workers in non-standard employment (Section 5.1), which adds to general wage inequality. It also influences how much of national income is shared with workers, and how much is returned to the owners of capital. Known as the labour share, the amount of national income that goes to workers in the form of wages, benefits and total compensation, it too influences inequality.

The labour share has been falling across OECD countries over the last three decades. The labour share was stable across OECD countries for much of the post-war period, but it has declined since the early 1990s from 66.1% to 60.7% (OECD, 2012[81]). There are a host of

theories why the labour share has fallen. One set of theories emphasises the role of changing megatrends affecting OECD economies including capital deepening, and greater import penetration. Another set of hypotheses emphasises that the decline in the labour share has not been uniform across OECD countries, and that there is room for domestic policy levers to moderate or accelerate its decline (Pak and Schwellnus, 2019[82]).

Research on employment relationships and the labour share finds mixed results. The research focuses on relaxing the strictness of employment protections for workers on open-ended contracts. This is a new and recent line of research, and the effects of changing EPL protection are theoretically ambiguous for the labour share. Relaxing EPL could lower the cost of labour compared to capital, which would increase the labour share. Conversely, reducing the stringency of EPL weakens workers' bargaining power, which would reduce the labour share. The early results suggest tentative evidence that the first channel dominates, and that decreasing EPL strictness for permanent contracts leads to an increase in the labour share (Cette, Lopez and Mairesse, 2016[83]; Pak and Schwellnus, 2019[82]). However, other studies find the opposite effect (Ciminelli, Duval and Furceri, 2018[84]), or no effect at all (Checchi and García-Peñalosa, 2008[85]). Unfortunately, the current literature does not address non-standard work other than through strictness of EPL for non-standard workers.

In short, non-standard work results in significant inequalities between workers. Workers on non-standard contracts earn less, suffer from higher insecurity, and are less likely to participate in collective bargaining and training. In addition to inequalities among workers, there is some preliminary evidence that stricter EPL protections for open-ended contracts may negatively affect the labour share, though that conclusion is more tentative, and it is unclear whether that operates through non-standard employment. The rest of this section addresses the particular challenges faced by own-account self-employed workers and workers on temporary contracts.

5.3. Balancing flexibility with social protection for the self-employed

Self-employment provides flexibility for workers whose personal situations may preclude holding formal salaried employment. However, the flexibility of own-account workers also means they may find it difficult accessing social protection in systems based around formal salaried employment. This section discusses the flexibility self-employment offers, while analysing some of the unique issues own-account workers face in accessing social protection, collective bargaining, and training.

5.3.1. Self-employment may keep workers in employment whose schedules do not conform to jobs in formal employment

There is some evidence that self-employment, because of the flexibility that it offers, may help certain individuals overcome barriers to labour market participation. Self-employment can act to keep people in employment when family demands or personal preferences require more flexibility than can be offered by standard wage and salary work. Women, on whom household responsibilities still disproportionately fall, may desire more hours flexibility and turn to self-employment to fill that gap (Lombard, 2001[86]). Women in self-employment tend to perform more child-care duties and spend less time working than comparable women in formal employment (Gurley-Calvez, Biehl and Harper, 2009[87]).

Self-employment can also ease the transition from full-time wage employment to retirement. Researchers have come to view the transition from full-time work to retirement

as a process rather than an abrupt stop. Self-employment often works as a bridge, keeping older workers in employment who otherwise would be forced to keep working or exit employment entirely (Fuchs, 1982[88]). The key distinguishing features of self-employment as a retirement bridge concern two traits. First, workers of retirement age who become self-employed generally work reduced hours, which diminish over time. This is likely due to the unavailability of reduced hours in their formal full-time jobs matched with their desire for gradual retirement. Second, workers using self-employment as a bridge to retirement frequently change occupations. This distinguishes them from workers joining self-employment for other reasons, who generally see no decrease (and often even an increase) in hours, and typically stay in the same occupation. (Ramnath, Shoven and Slavov, 2017[89]).

Self-employment often takes the form of unemployment insurance for workers who become unemployed. Spells of self-employment are much more likely to be preceded by a spell of unemployment than formal wage and salary work (Biehl, Gurley-Calvez and Hill, 2014[90]). Self-employment acts as supplemental income for those in unemployment, and may act as an outlet for workers who have poor prospects in formal wage and salary employment (Evans and Leighton, 1990[91]). These findings are further supported by research showing that one of the key drivers of self-employment is the generosity of unemployment insurance. Countries with less generous unemployment insurance tend to have a higher share of self-employed workers (Baker et al., 2018[12]).

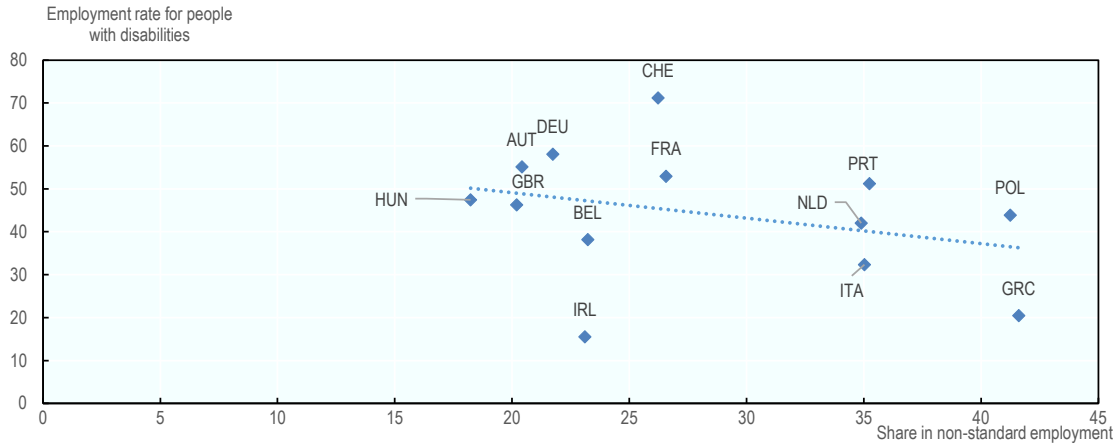
There is evidence of a U-shaped pattern describing the relationship between education and propensity to be self-employed (Blanchflower, 2000[92]). Workers with the highest education and the lowest education are more likely to be self-employed. The causal interpretation is less clear. For the low-educated may have difficulty breaking into formal employment and use self-employment as a way to make ends meet by piecing together various short-term engagements. For those with the highest education, self-employment may be a way to engage various clients who find their skills in demand, or self-employment represents entrepreneurial activity as they strike out on their own.

5.3.2. Self-employment does not appear to impact employment rates for people with disabilities

In addition to workers who desire a non-standard work schedule, there is an argument that self-employment could help people with disabilities into employment. Employment rates for people with disabilities are substantially lower than employment rates for those without disabilities across OECD countries (OECD, 2010[93]). Current thinking around disability policy emphasises the need to move people with disabilities into work to both alleviate spending on disability benefits, but more importantly to facilitate social inclusion among those with disabilities.

Figure 5.6. Non-standard employment does not encourage employment for people with disabilities

Incidence of non-standard work and employment rates for people with disabilities, 2017



Notes: Share in non-employment is the share of all employment regardless of identification with a disability.
Source: EU-SILC and OECD.Stat

Across OECD countries, the incidence of non-standard work is negatively correlated with employment rates for people with disabilities. Within the countries in the sample **(**Figure 5.6**)**, when the incidence of non-standard employment rises, employment rates for workers with disabilities decline. The negative relationship is even stronger when examining the relationship between self-employment and employment rates for people with disabilities. When the focus is narrowed to temporary employment, the relationship becomes positive, but only weakly so. It is important not to put too much weight on these cross-country correlations. Calculating employment rates for people with disabilities is limited by data availability which leaves only a small subset of OECD countries to account for the correlation. Moreover, one should resist the temptation to find a causal interpretation for the correlation. Countries that tightly regulate non-standard employment are also likely to be proactive about moving people with disabilities into employment across a range of policy interventions.

The correlations do suggest that changes in the incidence of non-standard work are unlikely to meaningfully affect employment rates for people with disabilities. Comparative studies find that workers with disabilities are employed on temporary contracts or are self-employed at roughly the same rates as workers without disabilities (OECD, 2010[94]).[28] Current best practices across OECD countries for boosting employment rates for people with disabilities revolve around mandated employer obligations to hire, accommodate and retain people with disabilities as well as providing employers financial support for these mandates (OECD, 2010[95]). In short, non-standard work in general, and self-employment specifically, do not appear to play a meaningful role in supporting employment for people with disabilities.

5.3.3. The self-employed often struggle to access social protection

Many of the social protection schemes for the self-employed in the Netherlands are voluntary, which invites the problems of moral hazard and adverse selection.

The self-employed run into the problem of proving their inability to work. For example, for the self-employed there is no employer to verify genuine unemployment to be distinguished from gaps in payments from clients (OECD, 2019[73]). Similarly, it may be difficult for the self-employed to prove the event triggering incapacitation or disability happened on the job. In addition, the problem of adverse selection implies that workers with relatively little risk will opt out of insurance (if given the option to do so) leaving only those who need it most (Section 5.3.4). This could undermine the sustainability of such social protection schemes.

The self-employed also face difficulties paying for social protection due to their dual role as employer and employee. In some social protection systems the self-employed need to pay both the employer and employee contributions. However, the self-employed earn less than comparable employees in salaried employment (Section 4) and this double contribution issue can be prohibitively expensive if clients are not willing to pay additional fees to cover the employer-side contributions. In practice, contributions are sometimes reduced for the self-employed, or this is a sufficient reason for exempting the self-employed from coverage. In all cases, the double contribution issue is a major barrier to extending social protection to the self-employed.

In addition to the problem of double contributions, the high variance of self-employment income makes bringing the self-employed into existing social protection schemes difficult. The self-employed have less control over when they are paid compared to workers in formal employment, and pay may come in large lump sum amounts sporadically. The result is higher income volatility compared to workers in formal employment (OECD, 2011[96]). This higher income variability makes it difficult to calculate contributions and benefit entitlement, even on an annualised basis. Furthermore, the self-employed have some control over when they are paid with the potential to shift income across years and possibly circumvent certain means testing provisions (OECD, 2018[6]).

Table 5.1. The self-employed in the Netherlands have some gaps in social protection coverage

Selected social protection coverage for the self-employed in the Netherland and peer countries.

Country	Old-age	Invalidity	Maternity	Sickness	Accidents at Work	Unemployment
NL	Partial	Voluntary	Partial	Voluntary	Voluntary	None
BE	Full	Full	Full	Full	None	None
FR	Full	Full	Partial	Partial	None	None
DE	Partial	Partial	Partial	Partial	Voluntary	None
DK	Full	Full	Full	Full	Voluntary	Partial
GB	Partial	Partial	Partial	Partial	None	Partial

Note: Table refers to statutory access to social protection for the self-employed. Full means the self-employed has access to the full statutory benefit scheme. With partial, the self-employed are entitled to some part of the scheme when a formal employee would receive the entire benefit. None means the self-employed are not entitled to the scheme, and voluntary means there is some way for the self-employed to opt-in voluntarily.
Source: Table adapted from Spasova et al., (2017[78]).

Given the challenges the self-employed face with many social protection systems, it is not surprising to find they find themselves shut out partially or completely from many social protection programmes. The Netherlands shows particular gaps in coverage compared to peer countries (Table 5.1). The Netherlands provides no explicit unemployment benefits for the self-employed, while peer countries Denmark and the United Kingdom provide at least partial benefits. Similarly, for sickness and invalidity, only voluntary contributions

are required where peer countries provide accesses to at least partial benefits. For accidents at work, the Netherlands' reliance on a voluntary contribution system is an improvement compared to most peer countries who fail to provide any sort of protection, but it still presents its own set of problems.

5.3.4. Acceptable risks or genuine gaps in coverage?

The remainder of this section addresses a few of the social protection schemes in the Netherlands and the benefits they provide, as well as the challenges to the self-employed. Specifically, for each type of social protection, the discussion will focus on what risks are covered for the self-employed, and what parts of the system may make access difficult. The discussion will also touch on what options exist for the design of social protection systems to better include the self-employed comparing the Netherlands to other OECD countries where appropriate.

Unemployment insurance is not available to the self-employed in the Netherlands

Of all social protections granted to standard employees, unemployment insurance is the least accessible to the self-employed. In at least 11 OECD countries, there is no statutory unemployment coverage for the self-employed, and for many more significant gaps in coverage exist (OECD, 2019[73]). Adverse selection is the biggest problem facing unemployment insurance for the self-employed. The self-employed have inside knowledge of the condition of their business activities and the self-employed with less risky income streams may elect not to buy insurance, or may only elect to begin paying into the system when the risk of unemployment is high (OECD, 2018[6]).

There is a legitimate philosophical question of whether the self-employed should be covered by unemployment insurance. Variable income and to a lesser extent lower wages from self-employment are generally known in advance by a worker considering striking out on their own, or at the very least are a reality to which they quickly acclimate. For many it is a risk worth taking (Kremer, Went and Knottnerus, 2017[97]). However, there are some self-employed who share characteristics, and therefore vulnerabilities, with employees. One such group is the financially dependent self-employed – i.e. own-account workers who depend primarily (or entirely) on one client for their income. There may be a stronger argument to provide unemployment insurance to these workers (which is done in Portugal, for example) (OECD, 2019[3]).

Some OECD countries provide unemployment benefits to the self-employed despite the problem of adverse selection. The solutions fall into one of two categories. Countries can institute a commitment mechanism which is costly to the self-employed either to ensure that they pay premiums, or to credibly signal that they are genuinely unemployed and not gaming the system (OECD, 2018[6]). In Austria, for example, the self-employed have six months to decide whether to opt into a voluntary unemployment benefit scheme, which is then binding for at least 8 years. This circumvents problems of adverse selection to some extent, but it requires the self-employed to commit to costly payments right when they are starting their business. Sweden requires the self-employed to prove that they have administratively closed their business before collecting unemployment benefits. Given the high administrative costs of starting a business in the first place, this acts as a strong disincentive for the self-employed to claim benefits during times of gaps of income rather than genuine unemployment.

In addition to credible commitment mechanisms, OECD countries can provide unemployment benefits in which funding and benefit receipt is divorced from contributions

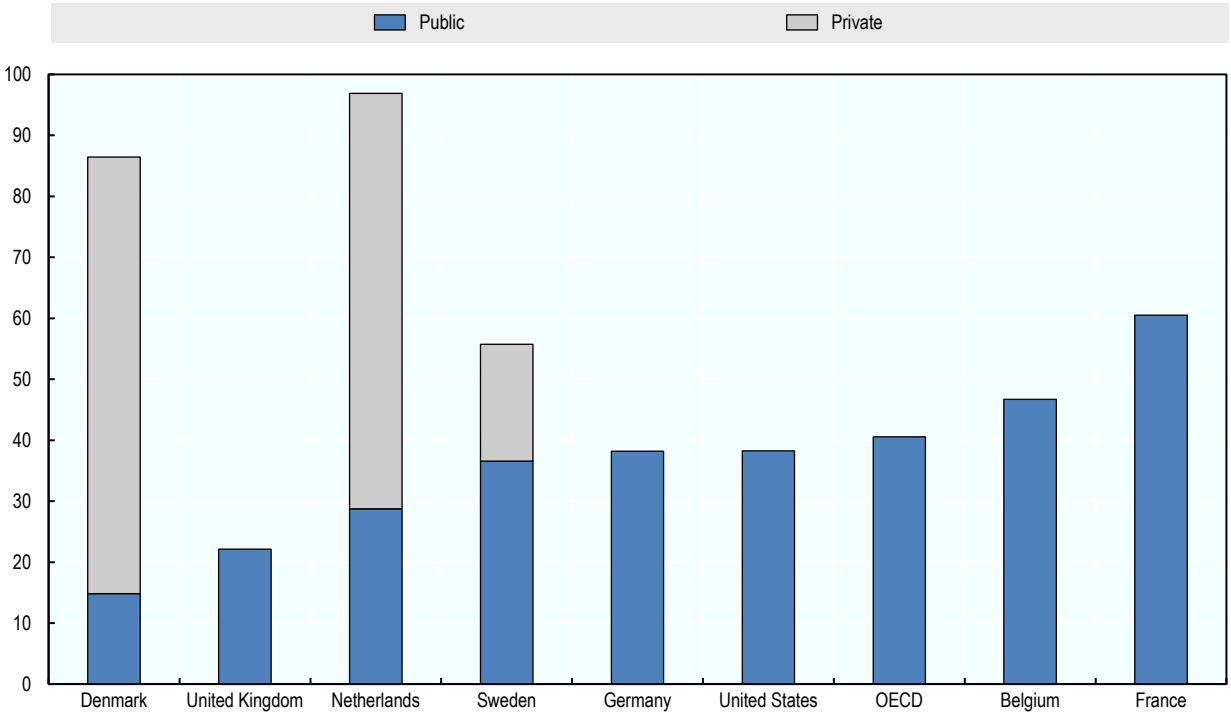
from employment. Sweden, for example, has a two-tiered system consisting of universal basic unemployment benefit, which covers the self-employed, and an optional, more traditional, earnings-based unemployment benefit. In countries that provide a universal basic unemployment benefit, funding often come from taxes on all income on an annualised basis, and benefit eligibility is means-tested based on a minimum income over the previous year, or multiple years (Spasova et al., 2017[78]). When combined with effective administrative proof of unemployment or job search, a basic unemployment benefit can protect the self-employed while limiting adverse selection.

The self-employed are guaranteed a minimum pension in the Netherlands, but they must contribute to access a full pension

The costs of old-age and pension coverage for the self-employed needs to be weighed against the risks that workers may not have sufficient funds to retire. If the self-employed are adequately saving for retirement, gaps in pension coverage may not pose a problem. In the Netherlands (as in most countries), this may not be the case. There is evidence that own-account workers, particularly those with lower earnings, may not have enough saved for retirement including compared to what they had planned (Mastrogiacomo and Alessie, 2015[98]). The reasons for this most prominently include the prohibitive cost of contributions, but also myopia on the part of the self-employed (de Graaf-Zijl, Scheer and Bolhaar, 2018[99]).

The Netherlands operates on a two-tier old-age and pension system. The first tier is a minimum benefit based on years of residency available to everyone, including the self-employed, at a statutory retirement age. The second tier consists of compulsory occupation or firm pensions available to anyone in salaried employment financed through employer and employee contributions. The second tier only covers the self-employed on a voluntary basis.

Figure 5.7. Gross pension replacement rates from mandatory public and mandatory private schemes for an average earner



Source: (OECD, 2017[100])

The difference in replacement rates between the first and second tier is large in the Netherlands. The first tier universal basic pension benefit provides a little under 29% gross replacement rate for someone with average earnings (Figure 5.7). The second tier provides close to an additional 62% gross replacement rate for the same average earner. For two similar workers, one in self-employment and one salaried employed by a firm, the difference in expected pensions, absent private saving, is large. In particular, the salaried worker will receive a pension with an almost 100% replacement rate.

Closing the gap in replacement rates between the self-employed and salaried workers poses a few challenges. First, the generous second tier pension available to salaried employees is financed through employer and employee contributions, which would likely be prohibitively expensive for many self-employed. On the other hand, it may make sense to bring the self-employed at least partially into the second tier pensions. The basic first tier pension is below the OECD average replacement rates for mandatory pension contributions. Given evidence that many self-employed do not make any pension contributions, this could leave many with very little in retirement. Second, the tax wedge between the self-employed and salaried employees (Section 3.1) is largely the result of the difference in required pension contributions. Having the self-employed contribute into the second tier will go towards closing the tax wedge.

In the Netherlands, social protection for workplace injury, incapacity and sickness rely on voluntary contributions

The self-employed in the Netherlands have access to protection against workplace injury, incapacity and sickness, but they rely on voluntary contributions. Voluntary contribution schemes typically result in poor coverage and high premiums. Allowing some workers to opt out of social protection may compromise the functioning of the system due to adverse selection. The reason is that workers with little need for insurance will not contribute, while those who are a relatively high risk for claiming benefits will decide to opt in. Allowing the "good risks" to opt out of the system will generally lead to high premiums and/or minimal benefits (Akerlof, 1970[101]). Countries that have experimented with voluntary contribution systems for the self-employed have generally found limited success (OECD, 2019[73]).

Workplace injury, incapacity and sickness are genuine risks to the self-employed, and there are other options for coverage beyond voluntary participation. First, just as with unemployment benefits, participation can be made mandatory, which if enforced, will eliminate many of the problems around adverse selection. Second, peer countries such as Belgium and Denmark provide sickness and invalidity protection through revenues collected from general taxation. The self-employed have slightly different procedures for how their entitlement is calculated, and how benefits can be collected, but coverage is otherwise the same as for salaried employees (Spasova et al., 2017[78]).

Individuals are myopic and do not evaluate risk well

One might not worry that the own-account self-employed are exempt from some social protection systems because they can voluntarily purchase insurance or arrange their own retirement savings. The argument is that rational, forward-looking workers will be able to accurately assess their risks of invalidity or sickness, and purchase insurance, if necessary. For retirement savings, workers can patiently and diligently save enough of their earnings to provide for a secure retirement without the need for forced savings via compulsory pension schemes. Leaving aside the problems of voluntary insurance schemes (adverse selection, as previously discussed), there are established strands of research which find that humans struggle to plan over long horizons, and they often have difficulty assessing risk. These two facts leave a role for government in helping workers save for retirement and insure against risks.

A long strand of research finds that humans are impatient, and will not adequately save for retirement if left to their own devices. Economists long believed (or simply modelled) that humans were forward-looking and would smooth consumption over their lifetime to provide adequate retirement savings. However, across various strands of literature, empirical findings consistently find that humans are myopic, and will not adequately smooth consumption over their lifetimes (Laibson, Repetto and Tobacman, 1998[102]; Skinner, 2007[103]; Baugh, Ben-David and Park, 2014[104]). This result holds in the Netherlands where the own-account self-employed primarily rely on their own savings for retirement, and where roughly 25% say they have not made any pension arrangements (de Graaf-Zijl, Scheer and Bolhaar, 2018[99]).

In addition to myopia, humans have also been found to perform poorly when asked to assess risks. A long literature also documents a lack of financial sophistication among consumers including knowledge of insurance products (Lusardi and Mitchell, 2014[105]). Examples of misperceptions of risk, or lack of knowledge of available insurance against such risks, include long-term care (Boyer et al., 2017[106]), flood risk (Bernstein, Gustafson and Lewis,

forthcoming[107]), and mortality (Hudomiet and Willis, 2012[108]). The results generalise quite easily to sickness and in particular to invalidity. Mandatory coverage through either general taxation or compulsory subscription to an insurance alleviates the need for workers to assess these risks on their own, and shifts the burden to professional actuaries.

5.3.5. The self-employed and other forms of job amenities

Competition laws leave the self-employed out of collective bargaining

The self-employed are mostly unable to collectively bargain due to prevailing competition laws in OECD countries. Anti-trust policy in OECD countries is concerned with protecting consumers from the negative effects of market concentration and uncompetitive practices by firms. The prevailing law and statutory interpretation regard the self-employed as independent firms. Attempts by the self-employed to collectively bargain by setting rates for work performed as well as working conditions have been met with rulings of collusion and anti-competitive behaviour by competition authorities (OECD, 2019[109]).

The recent plight of rideshare workers in Seattle illustrates how the self-employed are unable to bargain collectively. In order to help the wages and working conditions of drivers on ridesharing platforms, the city introduced an ordinance to allow the workers to collectively bargain with ridesharing companies. The ordinance found itself challenged in court because it violated anti-trust laws. In the United States, workers on ridesharing platforms are considered independent contractors and not employees. The city is still waiting for a resolution, and it seems likely a final resolution will be held up in litigation for some time.

There are some countries forging different paths for granting collective bargaining rights to the self-employed (see Section 6.2.3). Many OECD countries have long given collective bargaining status to certain occupations and industries where workers are technically self-employed without employees, but employers exercise significant bargaining power over workers. Examples of occupations where employers have disproportionate bargaining power over a collection of independent self-employed workers include freelance musicians, actors, and writers/journalists. Australia even allows independent businesses (including own-account workers) to negotiate collectively with suppliers or customers. The competition authorities tightly regulate this right, but it can be granted if it is believed to be to the public's benefit (OECD, 2019[109]).

The self-employed are less likely to participate in training

As noted previously, the self-employed are less likely to participate in training than salaried employees. Research on the effect of self-employment on the propensity to train is sparse, and suffers from selection concerns. The self-employed have different characteristics than workers in salaried employment, which make them difficult to compare. Interpreting the difference in training rates causally is therefore difficult, and the lack of studies cleanly identifying the effect of self-employment is wanting.

Recent research attempts to adjust for observational differences between the self-employed and formal employees. It finds that the self-employed are less likely to participate in training after holding various demographic and job characteristics constant (OECD, 2019[62]). The authors further explore the reason for the reduced likelihood of training. They find that it comes down to time and money. Compared to formal employees, the self-employed are more likely to cite a lack of time due to work or personal obligations,

as well as the cost of training. It is important to emphasise, however, that this is just one study, and more research is needed before drawing firm conclusions.

5.4. Temporary contracts provide less pay on average, and may not lead to a standard contract

5.4.1. Fixed-duration contracts may be more "trap" than "stepping stone"

Fixed-term contracts can provide a gateway into the labour market for some groups who would otherwise find it difficult to find regular employment. The promise of fixed-duration contracts holds that by allowing for a foothold in the labour market, they can act as a springboard into regular employment of indefinite duration. This may not be true, however, and workers on temporary contracts may cycle between them and unemployment, scarring workers due to reduced training (Section 4.3), and condemning them to years of revolving temporary contracts. Which way this works in practice is an empirical question, with many years of research investigating this question across a range of countries.

Across OECD countries, when the use of fixed-term contracts is more liberal, conversion rates decline. OECD (2018[110]) shows that a higher use of temporary work is associated with a significantly lower probability that a person with a fixed-term contract will have an open-ended contract three years later. In other words, a higher incidence of temporary contracts increases labour market segmentation, thereby transforming fixed-term contracts into a trap rather than a stepping stone into more stable employment

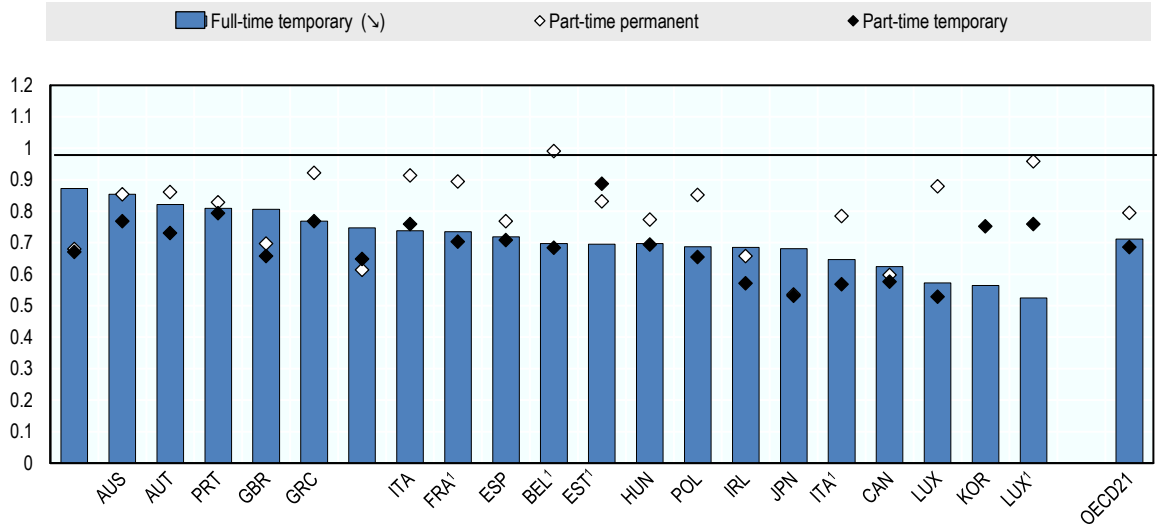
The sum of the research suggests that the relationship between fixed-duration contracts and conversion to open-ended employment contracts is more mixed. The best evidence for whether temporary contracts act as stepping stones comes from changes in legal rules regarding the use of temporary contracts. Examining cohorts of young workers in Spain before and after the liberalisation of temporary contracts, García-Pérez, Marinescu and Vall Castello (2018[111]) find that workers after the reform had more employment and unemployment spells, and spent less time in employment overall. Other studies find that fixed-term contracts may be helpful for gaining open-ended contracts (Booth, Francesconi and Frank, 2002[112]; Berton, Devicienti and Pacelli, 2011[113]). While fixed-duration jobs may be a stepping stone into employment for some workers, this only holds for workers who can quickly convert them into formal employment (García-Pérez and Muñoz-Bullón, 2011[114]; Cockx and Picchio, 2012[115]).

5.4.2. Workers do not seem to be compensated financially for the greater risk of unemployment on fixed-duration contracts

The evidence regarding contract type and wages is mixed. Workers on fixed-duration contracts tend to be lower educated and younger than workers on indefinite contracts and one would expect by simply comparing average wages between the two groups that fixed-term workers would be paid less. When examining similar workers and attempting to isolate the effect of fixed-term contracts, the theoretical predictions are less clear. The greater threat of unemployment from contract termination on fixed-term contracts is a disamenity, and theory would predict that workers would need to be paid more to accept this contract type. However, workers' acceptance of fixed-term contracts may signal their lower bargaining power in the labour market, and this may extend to wages as well as contract duration implying lower wages.

Figure 5.8. Earnings ratio between standard and non-standard workers (standard workers = 1), 2012

Median hourly wages, employees only.



Note: Sample restricted to paid workers aged 15-64, excluding employers, self-employment, student workers and apprentices. Temporary contracts for Australia include both casual and fixed-term work.
1. For seven EU-SILC (European Union Statistics on Income and Living Conditions) countries for which information on monthly wages is not available in the cross-sectional files, hourly wages are imputed from the 2012 longitudinal EU-SILC files, except Estonia and the Slovak Republic which are from 2010. Specifically, hourly wages are calculated as annual earnings divided by annual hours worked. Annual employee earnings are available from the survey, while annual hours worked (total weeks work*hours worked per week) are derived using monthly vectors of labour force activity (PL211A-PL211L) and as well as weekly hours worked variable (PL060). All wages are expressed in national currency units and are CPI adjusted. Hourly wages are computed as monthly earnings divided by the total number of hours worked per week (x4).
Source: (OECD, 2015[21]).

When generalising across all occupations, the wage premium for fixed-term contracts is zero or negative. Across OECD countries, workers on temporary contracts earn about 70% of workers on open-ended contracts (Figure 5.8). More detailed research at the individual country level generally supports these findings. In particular, studies attempting to cleanly identify the effect of fixed-duration employment on wages in the Netherlands find that shorter durations lead to lower wages, although the opposite may be true for workers on zero-hour contracts (De Graaf-Zijl, 2005[116]; van der Wiel, 2010[117]).

Workers tend to be paid less on fixed-term contracts, but the effect differs depending on where the worker is in the wage distribution. Workers in high-pay professions tend to be paid more, or equal to workers on contracts with indefinite duration. The negative effect of fixed-duration contracts is most pronounced for workers at the bottom of the wage distribution (Bosio, 2014[118]). Workers in occupations which require higher levels of training, or who are scarce in the labour market, are paid about the same or sometimes more on fixed-duration contracts.

The greater cycling between unemployment and employment on fixed-duration contracts leaves temporary workers with gaps in social protection. Workers on temporary contracts are covered by social protection just as standard workers. If temporary contracts are not converted, workers have a risk of non-employment until another opportunity arises. For social protection schemes connected to employment, for example most OECD pension

systems, which rely on firm and employee contributions, the gaps in employment generated by cycling through temporary contracts will leave workers with a lower pension in old age (OECD, 2019[73]).

6. Recent Policy Trends in Responding to Non-standard Work

While both the level and growth in non-standard work in the Netherlands are high relative to other OECD countries, many other countries are facing similar challenges. Informed in part by a recent survey by the OECD and the European Commission of how countries are responding to these challenges (OECD, 2019[119]), the discussion below summarises the key initiatives taken in some of the areas of most relevance to the Netherlands, namely:

- Addressing incentives for non-standard work, including reducing tax discrepancies between employment and self-employment and tackling contractual segmentation; and
- Extending social protection, collective bargaining rights and other rights to workers in the "grey zone" between dependent employment and self-employment.

The final section discusses the political economy behind reforms such as these, considering conditions and factors that can enhance their support and maximise their benefits.

6.1. Addressing incentives for non-standard work

While some firms and workers will require additional flexibility beyond that offered within a standard employment relationship, growth in non-standard forms of work should not be driven solely by firms' attempts to cut costs by circumventing labour market regulations and minimising their tax liabilities. This section describes efforts to reduce differences in regulatory and tax treatment across different forms of work.

6.1.1. Reducing tax discrepancies between employees and self-employed

The Netherlands took some steps to reduce tax discrepancies between employees and self-employed soon after the publication of the 2015 inter-departmental policy research report on own-account workers (2015[2]). In 2016, the government introduced a tax credit for low-income employees, which had the effect of halving the cost difference for employers between hiring employees and self-employed at minimum wage levels. To shift the responsibility for classification onto firms (and away from workers in weak bargaining positions), there was an attempt to place liability for all insurance and tax payments on to the firm, where a contractor is found to be an employee. However, enforcement of this new measure was suspended until 2020 following very negative reactions from both firms and self-employed individuals. The latter argued that the new law was making them lose work as firms became more hesitant in recruiting self-employed workers.

The next government proposed some further measures in its 2017 coalition agreement (2017[11]). Tax deductions for the self-employed would be limited to the basic rate, reducing the cost difference for firms between employees and self-employed at higher income levels. Additionally, to ensure that low-income self-employed would not undercut employees, self-employed with hourly earnings under 125% of the minimum wage were to be automatically classified as employees unless they worked for a firm for a short time and did not perform the firm's core activities. There would also be a "high-rate" of EUR 75 per hour, whereby workers who charge more than this will be able to opt out of any tax on earnings or insurance schemes if the work they provide lasts less than one year or they do not perform the firm's core activities. The Netherlands is not the only country attempting

to address incentives for choosing self-employment over other employment forms, as shown in the next section.

Similar to the Netherlands, in Ireland and the United Kingdom, reviews of tax differentials between employees and self-employed workers have resulted in recommendations that they be reduced. Both countries have faced challenges in implementing these recommendations.

As mentioned in section 3.1, an effective subsidy of GBP 1 240 per self-employed person per year (Adam, Miller and Pope, 2017[10]) was found in the United Kingdom via tax advantages said not to be justified by differences in employment rights, social protection or compliance burdens, and which are not well-targeted at encouraging entrepreneurship. The independent Taylor Review of modern working practices (United Kingdom Department for Business, Energy & Industrial Strategy, 2017[120]) suggested that the rates of social contribution paid by employees and self-employed people be more closely aligned, while expanding social protection coverage for the self-employed (such as providing parental leave). An increase in social contributions for self-employment was announced in the Spring 2017 budget but this was later reversed after significant public backlash. In the government's response to the review (United Kingdom HM Government, 2018[121]), it acknowledged that the differences in rates were no longer justified but said that it had no plans to revisit the issue.

A 2018 report by the Irish Department of Employment Affairs and Social Protection on the use of intermediary-type structures and self-employment arrangements (2018[122]) recommended reducing the differential in social contribution rates between employees and self-employed. The group reported a strong rationale for increased social insurance rates for self-employed workers to reduce distortive effects, reflect increases in their social insurance entitlement, and reduce Exchequer revenue losses. However, in Budget 2019 (announced in October 2018) intentions were announced to extend contributory unemployment benefits to the self-employed by the end of 2019. Without a commensurate increase in social insurance rates for self-employed workers (no change was announced in Budget 2019), this would be expected to further increase the divergence between social contributions and entitlements for self-employed workers.

6.1.2. Tackling contractual segmentation

This section describes two possible approaches to tackling contractual segmentation:

- Making hiring on temporary contracts more difficult and costly;
- Easing the employment protection of permanent workers in countries where this is overly restrictive.

In the Netherlands the stringency of regulation of the use of fixed-term contracts increased due to the 2015 Work and Security law (*Wet Werk en Zekerheid*), which reduced to two years (from three) the maximum period for successive fixed-term employment contracts with the same employer. However, the 2017 coalition agreement (2017[11]) announced intentions to roll back this restriction to three years, which would effectively loosen restrictions around the use of fixed-term contracts.

As discussed in section 3.1, in 2015 the Netherlands also took steps to simplify the system for dismissing an employee. Also part of the 2017 coalition agreement was a package of measures to "shrink the gap" between open-ended and fixed-term employment contracts, e.g. reducing barriers to dismissal in cases of multiple grounds for dismissal, extending probationary periods (to five months) for new employees on open-ended contracts,

reducing the entitlement to paid sick leave, and reducing firms' unemployment insurance contributions for open-ended contracts.

The new OECD Jobs Strategy (OECD, 2018[1]) describes the tendency over the past decade for reforms in OECD countries to ease the employment protection of permanent workers, focusing on limiting the possibility of reinstatement in the case of unfair dismissal and the extension of the probation period. At the same time, there has also been some tendency to restrict the use of temporary contracts and temporary-agency work, although reforms have tended to be modest. Some examples are provided in the following sections. The recent convergence in the protection of open-ended and fixed-term contracts stands in marked contrast with developments during the 1990s, when many countries deregulated hiring on temporary contracts, while maintaining stringent rules for regular contracts.[29]

Making hiring on temporary contracts more difficult and costly

Many countries have attempted to limit the use of fixed-term contracts by placing restrictions on when and for how long firms can use them. In some countries, these restrictions have been accompanied by increases in the social contribution rates for fixed-term contracts, with the intention of forcing firms to internalise any negative externalities associated with these types of contracts.

- The *Decreto Dignità* in Italy, issued in July 2018, has introduced a rule that, after 12 months, it is only possible to renew a fixed-term contract if the firm provides specific justification. At the same time, the maximum overall duration of successive fixed-term contracts has been reduced to 24 months (down from 36) and the maximum number of renewals has been reduced from five to four. Italy has also imposed higher unemployment insurance contributions for fixed-term contracts, with further increases upon each renewal. There are also compensating rewards if the contract is converted into a permanent job.
- A new Labour Code came into force in Lithuania in July 2017 which: decreased the maximum overall duration of successive fixed-term contracts from five years to two (with some exceptions); imposed a minimum notice period for work relationships of more than a year; and provided for severance pay where the relationship lasted for over two years. The Labour Code reform also doubled the rate of unemployment insurance contributions for fixed-term contracts compared to open-ended contracts.[30]
- Germany's 2018 Coalition Deal included an agreement to limit the number of fixed-term contracts concluded without an objective reason per firm, and to reduce the maximum duration from 24 to 18 months (if an objective reason is provided, the maximum is five years).

Easing employment protection on open-ended contracts

Some countries have also attempted to encourage employers to hire on open-ended contracts by extending or clarifying the conditions for economic dismissal and limiting the costs of unfair dismissal.[31]

While reforms of employment protection legislation that reduce dismissal costs can be associated with short-term decreases in employment and wages, these effects are reversed within a few years on average (OECD, 2016[13]). Moreover, these losses are less significant when reforms are implemented during an economic upswing. Countries with significant labour market dualism, as measured by a high share of fixed-term contracts in employment

(such as the Netherlands), experience lower short-term costs and greater benefits from reforms that lower the relative use of fixed-term contracts. Evidence from country case studies shows that these benefits tend to materialise relatively quickly. In the long-run, more flexible dismissal legislation on permanent contracts is associated with greater average wages, consistent with previous studies of the relationship between EPL and productivity (see section 4).

As one example, Spanish EPL reforms in 2012 eased the conditions for a fair dismissal, specifying that a redundancy is always justified if the company faces a persistent decline in revenues or ordinary income and that the employer does not have to prove that the dismissal is essential for the future profitability of the firm. Monetary compensation for unfair dismissal was reduced by more than 25% and a much lower ceiling was introduced. At the same time, the reform removed a worker's right to interim wages between the effective date of dismissal and the final court ruling. The reforms took place close to the lowest point of the economic crisis when Spain had some of the highest levels of fixed-term contracts of the OECD.

The OECD estimates that the Spanish reforms had no short-term consequences on unemployment (2014[123]). One reason for this was that the reforms were accompanied by a simultaneous decentralisation of collective bargaining and measures allowing employers to achieve greater internal flexibility to avoid redundancies (e.g. by adapting hours worked, wage and working conditions). Baseline estimates suggested that, in the two years following the reforms, the average share of open-ended contracts in new contracts increased by 3.1 percentage points or 45% – a large impact in economic terms. The reforms also appeared to have sped up transitions from unemployment towards permanent contracts (in particular for workers entering unemployment after a temporary contract), thereby reducing the duration of unemployment spells and contractual segmentation. However, the share of temporary contracts in new contracts remained high and the internal flexibility measures may have also helped to save the jobs of workers on fixed-term contracts, meaning that there was no obvious and immediate impact on the proportion of fixed-term employees.

Between 2011 and 2015, Portugal reduced the stringency of EPL by significantly reducing severance pay and easing the definition of fair dismissals. Prior to the reforms, Portugal was a significant outlier among OECD countries in terms of EPL stringency for individual workers on permanent contracts and the regulations brought them closer in line to the EU average. Against a backdrop of rising unemployment and easing EPL, Portugal widened the safety net provided by unemployment benefits (while reducing the maximum duration in an attempt to reduce long-term unemployment) and strengthened its activation framework. At the same time, the Portuguese Government granted additional flexibility towards the middle of 2012 to firms facing economic difficulties to adjust working time instead of employment and they froze the national minimum wage between 2011 and 2014; reduced compensation for overtime work; and cut public sector pay.

The OECD described these reforms as a move in the right direction in a 2017 review (2017[124]), but called on the Portuguese government to further narrow the regulatory gap between permanent and temporary contracts to tackle labour market segmentation. Preliminary analysis suggested that the reductions in severance pay may have had a positive impact on on-the-job search (a lead indicator of job-to-job flows), hiring and the share of hiring on permanent contracts. At the same time, the preservation of accumulated severance pay entitlements appears to have protected existing workers from an increased risk of

dismissal as a result of the reforms. In the long run, the cuts in severance pay were expected to result in significant gains in both productivity and growth.

6.2. Extending rights to workers in the "grey zone"

Many countries acknowledged the potentially vulnerable position associated with workers who sit in the "grey zone" between dependent employment and self-employment. These workers are genuinely difficult to classify as either self-employed or dependent employee as they share characteristics of the self-employed (e.g. they can choose when and where to work; they use their own equipment) in addition to some characteristics of employees (e.g. they cannot set their own rates of pay, they may have to wear a uniform, they cannot be replaced in executing their tasks by someone else).

Because of this, it can be argued that some of the labour rights and protections given to employees should be extended to workers in the "grey zone" as well. The challenges for policymakers are to identify the workers in the "grey zone" and decide which labour laws and protections should be extended to them (as well as how). Some different approaches are described in this section.

6.2.1. Extending rights and protections to the financially "dependent" self-employed

Several countries have already identified financially "dependent" self-employed (i.e. own-account workers who depend for a large share of their income on a single client/employer) as groups to whom particular employment rights should be extended. The definitions and eligibility criteria associated with these groups varies between countries. In countries that extend rights to "dependent self-employed" workers, the eligibility criteria generally rests on relying on a single client for a particular share of the worker's income (as in Portugal, Slovenia and Spain). In Germany, workers are "employee-like" persons if they: i) work on the basis of a contract for service or a contract for work and services for other persons; ii) do so personally and essentially without collaboration with employees; and iii) receive 50% of their income from a single client (33% for artists, writers and journalists). In Canada, "dependent contractors" cover "those non-employment work relationships that exhibit a certain minimum economic dependency, which may be demonstrated by complete or near-complete exclusivity". In Sweden, there is no precise definition but dependent contractors include "any person who performs work for another and is not thereby employed by that other person but who occupies a position of essentially the same nature as that of an employee" (Rönnmar, 2004[125]).

The purpose of these statuses varies significantly. In Portugal, it opens up access to social protection (unemployment insurance, parental benefits, sickness and invalidity protection, as well as old age and survivors pensions). In Germany, employee-like persons have freedom of association, the right to collective bargaining, and the right to minimum leave of four weeks (Däubler, 2016[126]). In both Canada and Sweden, dependent contractors also have a right to collective bargaining and need to be given reasonable notice of the termination of the contractor relationship. There has been recent discussion in Canada about extending employment rights to certain contractors whose status lies in between employee and independent contractor (OECD, 2019[119]), In Spain, the TRADE category has access to a wide range of rights and protections, including: minimum wage, annual leave, entitlements in case of wrongful termination, leave for family or health reasons, and the right to collective bargaining (Cherry and Aloisi, 2017[127]).

6.2.2. Using a more vaguely defined "intermediate" or "third" worker category

Other countries have relied on a vaguer definition of an intermediate (or "third worker") category to which some of the rights and protections of employees have been extended, though not all. These third worker categories often combine elements of financial dependency with elements of control/subordination.

In the United Kingdom, the statutory category of "worker" was introduced to broaden the reach of employment regulations and to include individuals who had been excluded from employee status by a judiciary taking a very narrow interpretation of the term. The worker category is not precisely defined but is intended to cover any individual who works under a contract to provide a personal service, independently of whether he/she has a contract of employment. These workers are entitled to protection against discrimination under the Equality Act 2010 – implying also a right to equal treatment with standard employees in basic working conditions. In addition, they are covered by selected labour regulations including those on working time, holiday pay and the minimum wage.

While the original intention of the worker category was to broaden the reach of protective employment regulations to a greater number of workers, the creation of this separate category of workers may have shifted the objective of litigation down from obtaining employee status to merely obtaining worker status – as has been evidenced in recent court cases involving ride-sharing services.

In Italy, a "semi-subordinate" worker category was initially created to increase flexibility in the labour market and to reduce labour costs. "Semi-subordinate" workers were characterised by: a certain continuity and length of the working arrangement; the individual nature of the service being provided; and some subordination to the client. Employers of these workers paid social protection contributions at a reduced rate relative to employees and faced less stringent rules for termination. This created clear incentives for employers to replace "standard" employees with workers in the less protected (and cheaper) intermediate category. In response to this situation, recent reforms in Italy have all but abolished these contracts (Cherry and Aloisi, 2017[127]). Both in terms of social protection and termination of contracts, the rules have gradually been aligned with those of employees on fixed-term contracts.

These two examples from Italy and the United Kingdom illustrate the dangers inherent in creating an intermediate category of worker where the boundaries of this category are vaguely defined or where it is created to introduce more flexibility in the labour market. The spirit of reforms to employment regulation and social protection should be to extend rights and broaden the reach of these protections to vulnerable workers who were previously excluded, and not to create opportunities to take rights and protections away from workers who previously had them.

6.2.3. Extending collective bargaining rights to certain self-employed workers

The standard approach in antitrust enforcement has often been to consider all self-employed workers as undertakings and therefore any collective agreement reached by self-employed workers as a cartel. Yet, there is an argument for extending collective bargaining rights to workers in the "grey zone" and to self-employed workers with little or no bargaining power (so that rates of pay are set unilaterally by their employers/clients) who cannot easily switch to work for other employers/clients.

As noted above, collective bargaining has already been extended to "dependent" or "employee-like" self-employed workers in the "grey zone" in Canada, Germany, Spain and

Sweden. Countries could also adopt a pragmatic approach vis-à-vis groups of self-employed most exposed to unbalanced power relationships. In many cases, regulators and enforcement authorities have taken a case-by-case approach to avoid a strictly procedural analysis of cases involving those workers with little or no bargaining power and exit options. Moreover, in several countries (e.g. in France, Italy, Spain, etc.), independent unions of platform workers are de facto negotiating working conditions for their members even if they are classified as self-employed without any intervention from national antitrust authorities (OECD, 2019[23]). The risk associated with this route is that it potentially creates uncertainty since it could be reversed without any legislative reform.

Another avenue that has been followed by a few OECD countries is to introduce explicit exemptions to the cartel prohibition for certain forms of self-employed, sectors or occupations. For instance, in 2017, the Irish Parliament introduced exemptions from competition law for three professions (namely voice-over actors, session musicians and freelance journalists) and at the same time, opened the possibility of collective bargaining to the "fully dependent self-employed". Trade unions applying for the exemption must prove that this would have "no or minimal economic effect on the market in which the class of self-employed worker concerned operates", nor "lead to or result in significant costs to the State".[32] In Australia, the Competition and Consumer Act 2010 generally requires businesses to act independently of competitors. However, the Act allows businesses to collectively negotiate with suppliers or customers, where such action is assessed as being in the public benefit.

6.2.4. Ensuring adequate social protection for the self-employed more generally

Some countries are attempting to extend social protection to the self-employed more generally, e.g.:

- In Chile, the lower house of congress has approved a bill that will provide mandatory health and pension coverage for contract workers and the self-employed earning more than roughly twice the average national wage. Currently, these workers contribute to the system only through voluntary contributions. Contributions are expected to increase gradually until 2027, at which point they will equal the rate currently applied to "regular" employees (17% of the gross salary).
- Germany plans to introduce a pension obligation for self-employed workers in the current legislative period while Ireland plans to introduce unemployment benefit for self-employed workers in November 2019.
- Recent changes to the social security systems have brought benefits for self-employed workers closer to the benefits of employed workers, in terms of sickness, unemployment and childcare insurance in Portugal (in 2018); and healthcare and pension insurance in Slovenia (since 2013).
- In France, the legislature has granted certain rights to platform workers through the August 2016 *El Khomri law* (or *loi Travail*), including special provisions for accidents insurance. If workers earning more than EUR 5 100 per year from platform work voluntarily insure themselves against the risk of occupational accident or illness, the platform must provide reimbursement.

6.3. Political economy of policy reforms

To ensure that policy reforms achieve their stated goals, it can be helpful to understand what conditions and factors are conducive – or otherwise – to successful implementation. A chapter in the most recent OECD Jobs Strategy (2018[128]) is dedicated to the important topic of the political economy of reforms, showing how proper timing, design and sequencing, as well as communication can enhance support for a reform and maximise its benefits.

6.3.1. Timing

The current positive economic outlook in the Netherlands should be conducive to the successful implementation of required policy reforms. Over the last decade, reform activity in OECD countries has typically been counter-cyclical, and therefore more reactive than pro-active. However, the evidence clearly suggests that structural reforms tend to have the smallest – if any – side effect on employment when implemented in good times. For example, while reforms of employment protection legislation that reduce dismissal costs are associated with short-term decreases in employment and wages, these decreases are less significant when reforms are implemented during an economic upswing (OECD, 2016[13]).

There may also be reason to act sooner rather than later to narrow the gap in fiscal and regulatory treatments between standard and non-standard forms of work. As more workers and employers rely on advantageous fiscal and regulatory treatments, it is likely to become more and more difficult politically to reverse the situation (as shown by the example of the United Kingdom).

It is useful to consider that many successful reforms take two years or more to prepare and adopt. This time for framing a specific reform is often preceded by a multi-year period of "pre-work", in which problems and proposals are debated and studied. While governments should be ready to use political "windows of opportunity" when they open up, doing so may create problems if it leads to excessive haste.

It is also not unusual for reforms to take several attempts. In the Dutch context, the enforcement of new policy that would shift liability for insurance and tax payments to the firm in cases of misclassification, has been suspended until 2020 following very negative reactions from both firms and self-employed individuals. But blocked, reversed or limited early reforms need not be seen as failures: they may play a role in undermining the status quo. Successful labour market reforms have often followed earlier setbacks, which helped set the stage for subsequent, sometimes far-reaching reforms.

6.3.2. Design and sequencing

Many reforms involve winners and losers, which can weigh on their political support. Further, reforms may also give rise to significant short-term costs despite being welfare-enhancing in the longer term. Such costs can fuel people's resistance to reform and hence make politicians less inclined to undertake the reform in the first place. However, by paying careful attention to the design of reforms and their sequencing (where there are multiple), policy makers can find ways to overcome these challenges.

As one example, one way to avoid a spike in dismissals after a job dismissal reform is the introduction of "grandfather clauses". These clauses preserve entitlements of existing workers, for example by applying the new rules only to new hires. The limited available

evidence, including from Portugal (OECD, 2017[124]), suggests that grandfather clauses help avoid the short-term negative effects of EPL reforms and can even have a small positive effect on employment in the short run. Grandfather clauses have, however, the downside of delaying the desired reform effects on allocative efficiency.

Strategic sequencing of a series of reforms can enhance outcomes. For instance, before implementing major reforms to social protection, collective bargaining or lifelong learning systems to deal with an excessively high number of non-standard workers, it may make sense to first recalibrate the incentives driving the choice of contract so that a desired level of non-standard workers is achieved. In doing so, the number of firms and workers resistant to the major reforms may be reduced and the costs associated with the major reforms may be minimised. Another argument for gradualism is that, as governments have a limited amount of political capital, it is best if they allocate it to one reform at a time.

Packaging reforms can also enhance synergies and reduce their transitional or distributional costs (OECD, 2016[13]). For example, the impact of a flexibility-enhancing EPL reform can be cushioned by packaging it with a simultaneous expansion of active labour market programmes.

6.3.3. Communication and collaboration

To ensure success, reforms require political leadership and commitment. An electoral mandate for reform can also help bolster support and ensure that reforms are not unwound in the face of short-term costs. Generally, a strong leadership and evidence base, rigorous evaluation after the reform and effective communication (including by using new technologies) can help ensure success of a reform and continued support. In Germany, the implementation of the 2003-2005 reforms to active and passive labour market policies was explicitly tied to an evaluation mandate.

Another element that facilitates the adoption and implementation of good reforms is high levels of co-operation and trust between the government, employers and workers. Through the collective bargaining process, the social partners can play a key role in addressing concerns about non-standard forms of work, e.g. improving working conditions and ensuring a level playing field for firms. However, as the share of union members declines and the share of non-standard workers rises, trade unions may find it more and more challenging to address the gaps between standard and non-standard employment by themselves. In this case, the state may need to adopt an increased role in regulating and setting minimum standards for vulnerable workers, to address these gaps and tackle labour market segmentation. For example, against a backdrop of declining trade union membership, Germany introduced a federal minimum wage in 2015.

Notes

[1] The low-income rate is defined as the share of working aged persons (aged 18 to 65 years) living with less than 50% of median equivalised household disposable income. For the employment gap for disadvantaged groups, the benchmark group is prime-aged males.

[2] Unless stated otherwise, all statistics in this section are expressed as a share of total employment. This could slightly distort international comparisons since the employment rate in the Netherlands is comparatively high and, therefore, more individuals on the margin of labour market participation are included in the statistics, which could artificially inflate the share of workers in non-standard contracts in the Netherlands. However, a robustness check has shown that all international comparisons still hold when the statistics are expressed as a share of the total labour force instead.

[3] The respective self-employment rates for these countries were: Turkey (32.7%), Greece (34.1%), Italy (23.2%), Poland (20.4%), the Czech Republic (17.1%) and Portugal (17.0%).

[4] Mexico (31.5%), Chile (27.4%), Korea (25.4%), and New Zealand (18.5%).

[5] The OECD statistics published here may vary slightly from those published by Statistics Netherlands. The figures cited here are for 2017, the latest year for which comparable figures for all OECD countries are available, and also cover a slightly different age group (15 to 65 as opposed to 15 to 75).

[6] Not all TWA workers have temporary contracts. Some will have a permanent contract with the agency itself.

[7] The definition of part-time work used in this report follows a common internationally comparable definition of workers who usually work less than 30 hours in their main job.

[8] The ILO uses the following definitions: “substantial part-time” (21–34 hours per week); “short part-time” (20 hours or less); and “marginal part-time” (fewer than 15 hours per week).

[9] Notably, a number of European countries have taken measures to ban or heavily regulate on-call work (Broughton, Biletta and Kullander, 2010[141]; O’Sullivan et al., 2015[142]).

[10] In this example, the worker’s net take home pay is held equal across employment forms. For the sake of an example, and assuming the worker puts no value on any benefits derived from the tax contributions, this makes the worker indifferent between contract types in order to analyse the firm’s perspective. Results based on the inverse of this exercise (holding the firm’s total labour cost equal in order to analyse the incentive workers face to be hired as a standard employee or as a contractor) are shown in (Milanez and Bratta, 2019[9]). The study also presents findings across the full income distribution.

[11] In the Netherlands, self-employed workers can choose whether to opt into the second pillar of the pensions system. The absence of mandatory pension contributions is a significant factor driving the tax and social contribution differential in the analysis. For workers with strong preferences for flexibility in their level of pension saving (e.g. because they feel that they already have sufficient coverage through previous periods of employment or because of a partner’s pension plan), this may be a particularly strong driver towards self-employment.

[12] There may be a wide range of other factors that determine workers’ and firms’ preferences for one contractual arrangement over another, such as social protection coverage, preferences around flexibility and control, industrial structure, age profile of the population, etc. While self-employed workers will generally have less social protection coverage, they may find it easier to meet the eligibility criteria for some means-tested benefits, such as housing subsidies.

[13] While the regulations are now more stringent, the OECD Future of Social Protection Volume (2018[6]) noted that the effectiveness of these measures in actually reducing the share of temporary work was not evident, in part because it was hard to disentangle the effect of various elements of the law (which also included a new incentive to hire people for shorter periods) and changing economic circumstances.

[14] The two contrasting findings cancel each other out in aggregate results, with no significant relationship found between employment protection legislation and overall self-employment or overall own-account self-employment.

[15] Additionally, the Netherlands is the only country in the analysis to see a decrease in standard work at every skill level.

[16] The same publication also considers whether cultural factors specific to the Netherlands be driving non-standard work , saying that long-term institutional changes may have led to an environment in which flexible work has become an "accepted phenomenon" among both workers (Remery, van Doorne-Huiskes and Schippers, 2002[140]) and company cultures (de Beer, 2018[26]). On the other hand, Weistra (2016[129]) says there are no indications to support the idea that culture is a cause of the high level of self-employment.

[17] This estimate may be on the high end, as the survey used an online survey method, which favours technologically adept respondents. Also, only 1.6% of respondents earned at least half of their income from online platforms.

[18] Although most studies find the returns to self-employment are lower than similarly paid employees, Daly (2015[130]) finds there is no earnings penalty for short spells of self-employment.

[19] If workers in paid employment are paid roughly their marginal product of labour, a comparison of earnings in paid employment and earnings from self-employment functions as a rough proxy for productivity differences between the two groups.

[20] Within OECD countries, most employment is concentrated in firms with at least 50 employees (OECD, 2017[49]).

[21] The relationship between firm size and productivity may not be as robust in the service sector, which relies on capital much less for production (Berlingieri, Calligaris and Criscuolo, 2018[131]). Own-account work is mostly concentrated in service industries, which implies some caution for interpreting the relationship between firm size and productivity.

[22] Among more difficult to measure characteristics, the literature has identified a mixture of personality traits (Levine and Rubinstein, 2016[132]), prior business experience (Lafontaine and Shaw, 2016[135]), and historical urban industrial composition (Glaeser, Kerr and Kerr, 2015[133]) as determinants of entrepreneurial success.

[23] Not just confined to entrepreneurship, evidence on scientific breakthroughs shows that discoveries are happening at much later ages for researchers than in the past (Jones, 2010[134]).

[24] In practice, changing the strictness of employment protection for permanent contracts will also change the share of temporary contracts.

[25] The conclusions change depending on the nature of temporary contracts. Work contracted to temporary employment agencies is generally found to increase productivity initially. The relationship is humped-shape implying an inflection point beyond which increases in temporary agency employment diminish productivity (Nielen and Schiersch, 2014[136]).

[26] Looking at firing costs in the United States, Autor, Kerr and Kugler, (2007[137]) temper these conclusions by finding capital deepening but declining productivity.

[27] The logic is identical to Boeri and Garibaldi, (2007[138]) and their analysis of the provision of temporary contracts but analysed on a daily, rather than yearly basis. This is just a theoretical prediction, however, and any behavioural effects may change the ultimate sign of productivity.

[28] Part-time work is one type of employment that disproportionately employs workers with disabilities.

[29] The OECD Jobs Strategy also discusses as a possible approach convergence in termination costs across contract types, where full convergence would effectively imply moving to a single or unified

contract all existing contracts are replaced by a single open-ended contract, with the level of protection increasing in tenure.

[30] At the same time, the new labour code introduces the possibility to use fixed-term contracts for work of a permanent nature (as long as they do not account for more than 20 per cent of all contracts concluded by the firm).

[31] As the OECD Jobs Strategy (2018[1]) explains, there is little indication that strict employment protection contributes to better job quality. While employment protection reduces the risk of involuntary job loss, and hence objective concerns over job security, it also reduces the probability of finding another job.

[32] The 2019 OECD Employment Outlook (2019[23]) notes that the amendment has attracted many criticisms and is being currently debated in the ILO.

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