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## Trade union responses to precarious employment in Germany

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**Trade Union Responses to Precarious  
Employment in Germany**

**Dr. Reinhard Bispinck / Dr. Thorsten Schulten**

**WSI-Diskussionspapier Nr. 178**

December 2011

**German Report to the Project  
“Bargaining for Social Rights” (BARSORI)  
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## Content:

<b>Introduction</b>	<b>1</b>
<b>1. Precariousness in the German labour market</b>	<b>4</b>
1.1 Forms of atypical and precarious employment	4
1.1.1. Part-time work	4
1.1.2. Temporary contracts	6
1.1.3. Training/apprenticeship contracts	8
1.1.4. Temporary agency work	10
1.1.5. Dependent self-employment	12
1.2 Dimensions of precarious employment	14
1.2.1. Incidence of low wages	15
1.2.2. Job security, labour and social security rights	20
1.3 Summary: Incidence of precarious employment in Germany	26
<b>2. Trade union strategies against precarious employment – an overview</b>	<b>28</b>
2.1 Change of legislation in order to limit, prevent or even forbid certain forms of precarious employment	28
2.2 Collective agreements to improve the conditions of precarious employment and to limit its use	30
2.3 Organising workers in precarious employment and giving them practical help and assistance	33
2.4 “Good work” as a trade union counter model against precarious employment	35
<b>3. Trade union strategies against precarious employment – four case studies</b>	<b>38</b>
3.1 Tackling low wages	38
3.2 Temporary Agency work: Limiting and regulating	42
3.3 Representing dependent self-employed workers	46
3.4 Apprentices: More training capacities and takeovers	51
<b>4. Conclusion</b>	<b>57</b>
<b>References</b>	<b>59</b>

## Introduction

Precarious employment has been at the heart of political debate in Germany for years. The declining importance of full-time and non-limited employment is associated with a growing number of workers who, due to their employment status, are confronted with low job security and little influence on their working situation. Many workers are only partially covered by the protection of the labour law and their chances to secure their livelihood by working are generally poor. The creeping increase of different forms of precarious employment is, however, not an inevitable trend with the character of a law of nature. On the contrary, it is the result of multiple economic, social and political factors ranging from changes in the economic framework conditions to new approaches of personnel policy at company level. Most importantly, however, it was the political deregulation of labour market institutions and labour protection which made the spread of precarious employment possible.

In the case of Germany the deregulation of the labour market has taken place since the 1980s and was justified in the name of competitiveness, which was claimed to require a “more flexible” labour market. Later on, against the background of high unemployment, the deregulation of labour markets was justified as the only way to create new jobs. For more than two decades this neoliberal view of the labour market became widely accepted in Germany by most of the political parties, industry and business associations, and also large parts of the scientific community. It was also rather hegemonic in the media and the public discourse (Dullien and von Hardenberg 2009).

It was, in particular, the *red-green* Federal Government which in the first half of the 2000s implemented numerous legislative changes in the labour and social law in order to make the labour market “more flexible”. Among them were the famous so-called “Hartz laws” which led to a more fundamental reconstruction of the German labour market. Hereby, it was the explicit aim to strengthen the market forces which was assumed to be the best way to create more growth and jobs. The consequences of this far-reaching deregulation of the labour market have been growing social insecurity and an increasing importance of precarious employment. As one important element of this strategy Germany had “established the best low pay sector in Europe”, as it was proudly proclaimed by the former German chancellor Gerhard Schröder at the World Economic Forum 2005 in Davos (Schröder 2005).

Considering all the negative social side-effects of this policy, the voices which call for a re-regulation of the labour market have become more prominent in recent years. Especially the German trade unions have always taken a different view and have tried to develop concepts and strategies to tackle the problem of precarious employment both at a political level as well as in the field of collective bargaining and on the shop floor.

In this paper we will analyse this process of “bargaining for social rights” in different areas of precarious employment. First of all this requires some clarification of terms and definitions. In order to describe non-standard forms of employment which differ from the “standard” form of full-time and non-limited employment the most common term used in the German debate is “atypical employment” (Eichhorst et al. 2010, Keller and Seifert 2011a, 2011b, Wagner 2010, Wingerter 2009). The latter usually covers all forms of part-time work, fixed-term contracts and temporary agency work as well as economically dependent forms of self-employment. Atypical employment is usually distinguished from “precarious employment” as the latter also involves dimensions such as pay, access to social security, the possibility to have a choice of working times, job security, career prospects etc. (Weinkopf 2009). Although there are great overlaps, not all forms of atypical employment are necessarily precarious. “Voluntarily” part-time work, for example, might be seen as a non-precarious form of employment, especially if it takes place in a certain household context. On the other hand, there are also standard forms of employment which might be seen as precarious, as, for example, those in full-time employment with a high incidence of low pay.

In our analysis we will elaborate five different forms of atypical employment: part-time work, temporary contracts, training/apprenticeship contracts, temporary agency work, and dependent self-employment. We will first give a brief overview of the extent and development of these forms of employment. Subsequently we will analyse some dimensions of precariousness where we focus on the incidence of low wages and deficits regarding job security, labour and social rights.

In the second part of this paper we will discuss the strategic responses of German trade unions to the increase of precarious employment. Hereby, we will distinguish between four different approaches: First, unions can demand and lobby for changes in legislation in order to limit, prevent or even forbid certain forms of precarious employment. Secondly, the unions can conclude collective agreements to improve the conditions of precarious employment and to limit its use at sectoral or company level. Thirdly, union can develop

practical help and assistance to precarious workers and recruit them as union members. Finally, the unions can promote their own vision of “good work” as a counter model against precarious employment.

After a general overview on the different union strategies we will present details in four case-studies of how the unions act in the following areas:

- low wages
- temporary agency work
- dependent self-employed workers
- apprentices

Despite the great variety of problems and approaches all the selected cases make clear that precarious employment has become a top priority on the agenda of German trade unions.

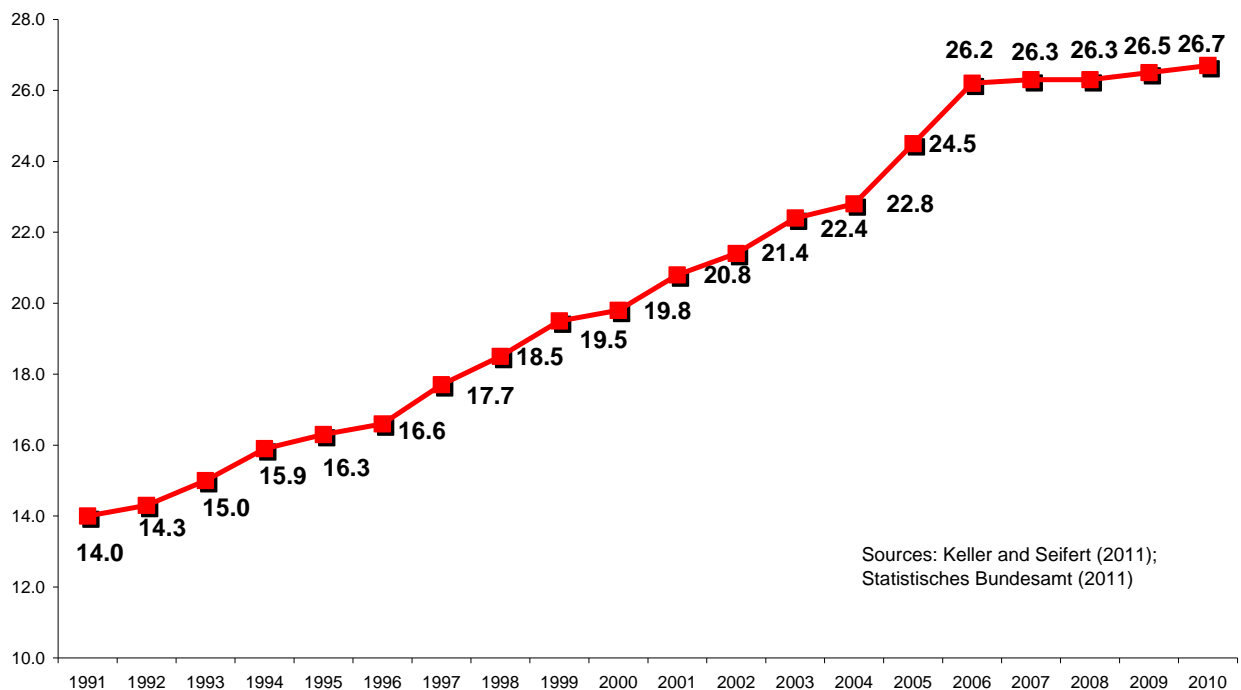
# 1. Precariousness in the German labour market

## 1.1 Forms of atypical and precarious employment

### 1.1.1 Part-time work

Since the early 1990s Germany has seen a continuous increase of part-time workers which signifies a structural change within the German workforce (Brenke 2011). According to figures provided by the German Federal Statistical Office, the number of part-time workers almost doubled from 4.7 million in 1991 to 9.2 million in 2010 (Seifert 2011; Statistisches Bundesamt 2011). While at the same time the number of full-time workers decreased from 29.2 million to 23.7 million. The percentage of part-time workers of all workers augmented from about 14% in 1991 to nearly 27% in 2009 (Figure 1).

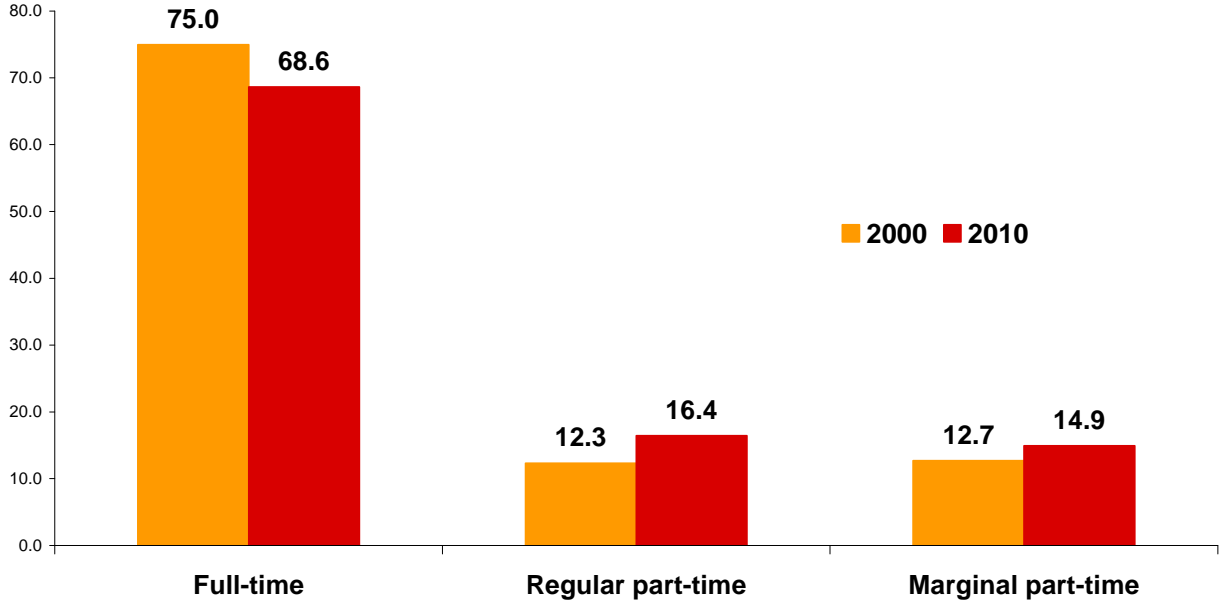
Figure 1: Part-time employees in Germany, 1991-2009 in %



In Germany there exist two forms of part-time work: the *regular* part-time work and the *marginal* part-time work which is often also called “mini-jobs“. The latter describes a special form of part-time employment with a monthly payment of up to 400 euro, where employees do not have to pay taxes or social security contributions while the employers only pay a fixed rate of 30% (13% for health insurance, 15% for pension insurance and 2% for taxes). In terms of working time there is no legal limit, but most of the mini-jobs are below 15 hours per week.

According to figures provided by the Federal Employment Agency, which slightly differ from those provided by the Federal Statistical Office, during the last decade both regular and marginal part-time employment showed a steady increase. In 2010 about 16.4% of all employees were in regular part-time, while 14.9% worked only marginal part-time (Figure 2). The significance of marginal part-time is even higher, if one also takes into account those mini jobs which are carried out as an additional job. In total there are about 7.3 million mini-jobs, of which about 4.9 million are held by workers as the sole job and 2.4 million as a side job (Bundesagentur für Arbeit 2011). Both regular and marginal part-time have a strong gender bias because in 2010 more than 83% of all regular and more than 66% of all marginal part-time employees were women. In contrast to that, nearly two thirds of all full-time employees are still male.

Figure 2: Full-time, regular part-time and marginal part-time employees in % of all employees in Germany, 2000 and 2010\*

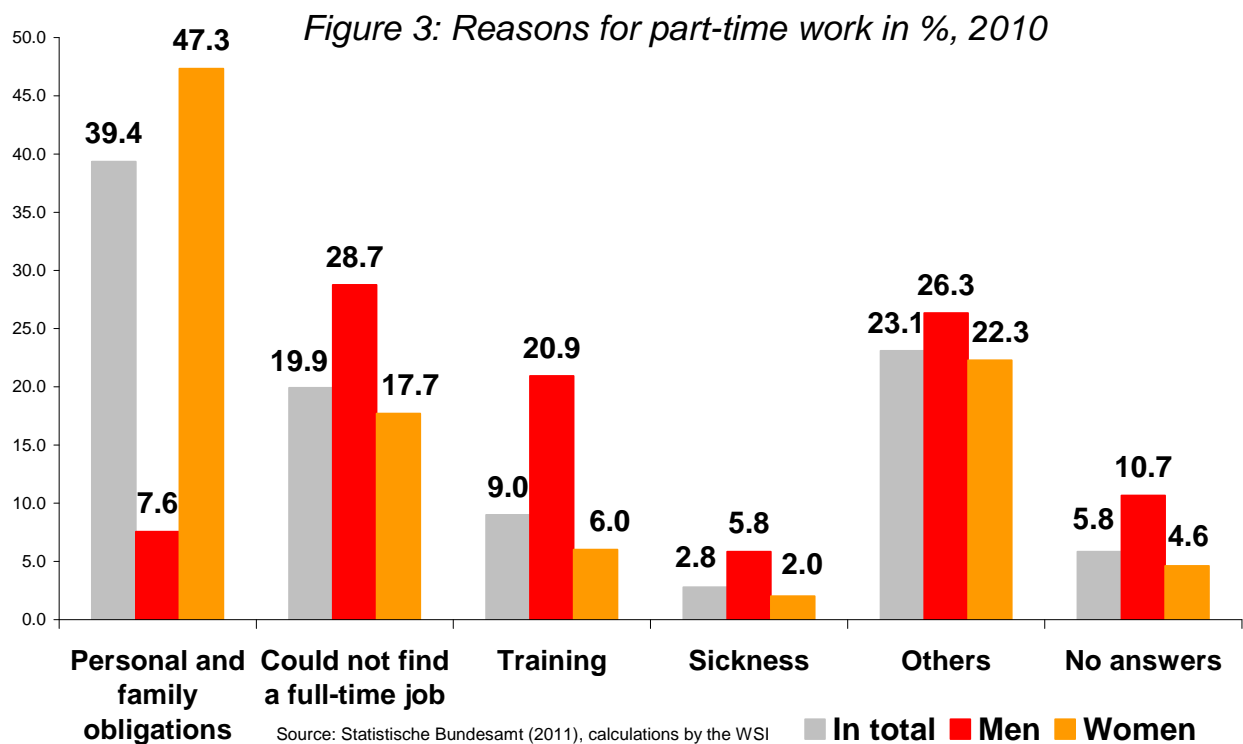


Source: Federal Employment Agency, calculations by the WSI

There is a broad consensus in the German debate that not all part-time work can be considered precarious (Eichhorst et.al. 2010 Keller and Seifert 2011a, 2011 b). There are, however, two indicators which can help to contain the proportion of those engaged in the form of precarious work among part-time employees. First, most studies treat marginal part-time as a form of precarious employment (Weinkopf 2009). A second indicator is related to the question whether or not part-time work is undertaken on a voluntary basis. According to a representative survey of the Federal Statistical Office, 29% of men and



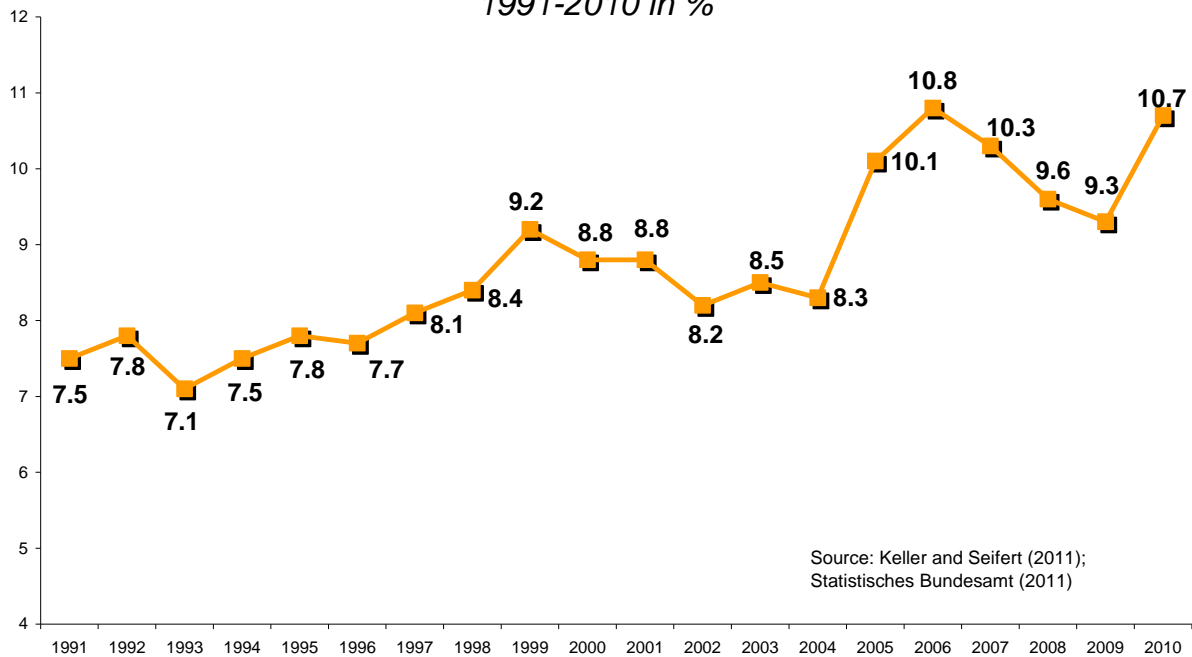
18% of women said that they work part-time, because they could not find a full-time job (Figure 3). Altogether there are more than 2 million employees working part-time on an involuntary basis (Statistisches Bundesamt 2011). Moreover, almost half of all women said that they are working part-time because of personal and family obligations which might be seen – at least partly – also as involuntarily.



### 1.1.2 Temporary employment

In 2010 there were about 3.5 million employees with a fixed-term contract, with an almost equal distribution between men and women (Statistisches Bundesamt 2011). During the past two decades the proportion of employees with a fixed-term contract has shown a slight increase from 7.5% in 1991 to 10.7% in 2010 (with some variations in between (Figure 4)). There was a relatively strong increase from 2004 to 2006 due to a relaxation of the legal provisions for temporary work. According to the “Act on Part-time and Temporary Employment“ (*Teilzeit- und Befristungsgesetz*) of 2004, fixed-term contracts are allowed not only if there are objective reasons (i.e. a time-limited funding for a contract or a project), but also without any justification - for a period of up to two years or even up to four years in newly established companies. Before 2004 there were much stricter restrictions for the use of temporary employment.

Figure 4: Employees with fixed-term contract in Germany, 1991-2010 in %



Between 2007 and 2009 there was a certain decline in the percentage of temporary employment. As a result of the economic crisis, companies often did not renew fixed-term contracts. In 2010, however, the percentage of temporary workers started to increase again.

The real dynamics of temporary employment in German can be seen when considering the new hires only. While in 2001 about 32% of all newly hired employees had a fixed-term contract, in 2009 nearly half of all those newly hired (47%) were employed on a temporary basis (Hohendanner 2010). There is also a strong over-representation of younger workers as, for example, in the age group 20 to 25 years, almost half of all workers have only a fixed-term contract.

### *1.1.3 Vocational Training / Apprenticeship*

The typical form of vocational training and apprenticeship in Germany is not precarious employment as such. The broadly accepted main target of the apprenticeship system is to provide young people with comprehensive skills and knowledge in order to open the way for an occupational career. Nevertheless, vocational training is associated with social risks that need to be tackled.

In Germany, following full-time compulsory education, the vast majority of young people tries to secure a vocational training placement. The essential element of the German vocational system is the “dual system”. The system is referred to as dual because training is carried out in two places: at the workplace and in a vocational school (part time). In 2011, the dual system provides vocational training and competences for some 348 recognised training occupations. The programmes in the dual system usually take 3 years, but in some cases the training can be two or three and a half years. The vocational training in the dual system is based on the Vocational Training Act (VTA) of 1969 (amended in 2005). The law regulates, among other points, the terms of commencement and termination of the contract and the rights and obligations of the trainees and the employers. The companies sign contracts with applicants under private law and train them in line with the binding provisions of the vocational training directives. This is monitored by the „competent bodies“, mainly the chambers of industry and commerce, crafts, and agriculture. The trainees are automatically members of all branches of the social security system (health, care, pension and unemployment) and at company level they are entitled to elect a trainee representation according to the Works Constitution Act. Pay and the general working conditions are stipulated in sector-wide collective agreements.

In 2008, approximately 48 % of all pupils in any one academic year started training in the dual system, 18 % started training in the school occupational system and 34 % went into a transition system because they were unable to find an apprenticeship.

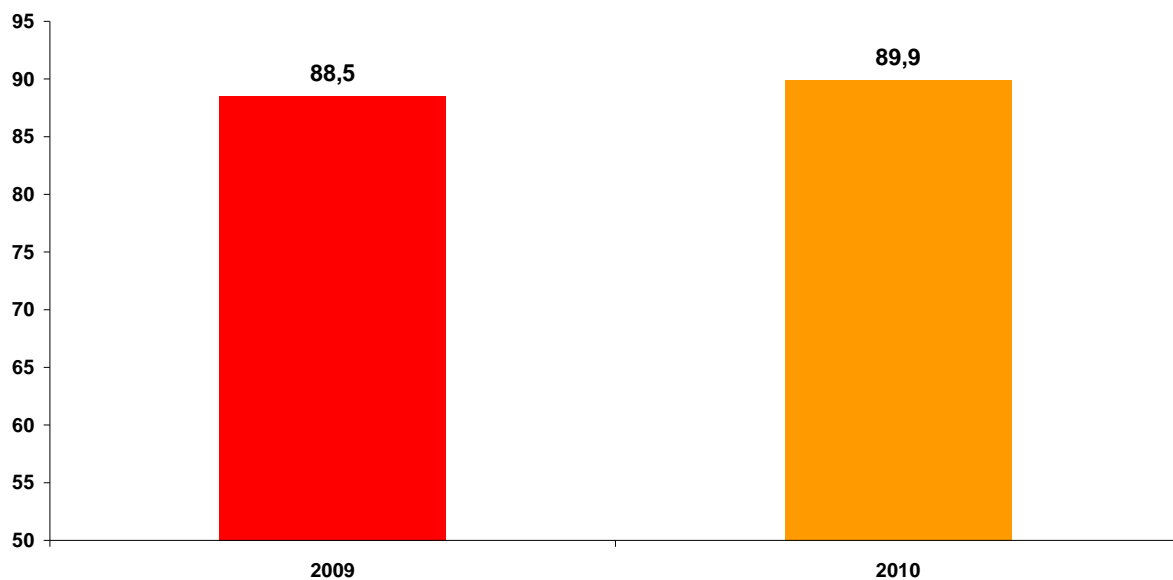
The social risks for young people in the dual system are twofold: the first threshold is the transition from school to vocational training. The entry into the vocational system, i.e. to get an apprenticeship contract, is often very difficult. Every year a remarkable share of young adults remains without a contract. Often they enter the transition system (e.g. periods of practical training, vocational school, schools of general education) in hopes of a

subsequent apprenticeship. The second hurdle is the transition after a successful completion of the vocational training to a (permanent) contract.

The insufficient supply of training places is a long-standing problem. At first glance the current ratio of supply and demand of training places seems to be quite balanced, since the official statistics show figures about 100.7% and 101.5% for 2009 and 2010 respectively. But care is required: these overall figures conceal potential imbalances for certain regions, sectors and occupations and, above all, they do not include all factual applicants for training places. Using an enlarged and therefore more realistic supply-demand ratio of training places (i.e. including those applicants who have applied in previous years for an apprenticeship without success) the figures look much worse (*Figure 5*).

As stated above, a remarkable proportion of young school leavers enter a transition system, which consists of a great variety of measures with different contents. Evaluation studies show that after completing the first measure, up to one half of the participants begin a regular vocational training (Beicht 2009).

*Figure 5: Supply-demand-ratio of training places 2009 and 2010*



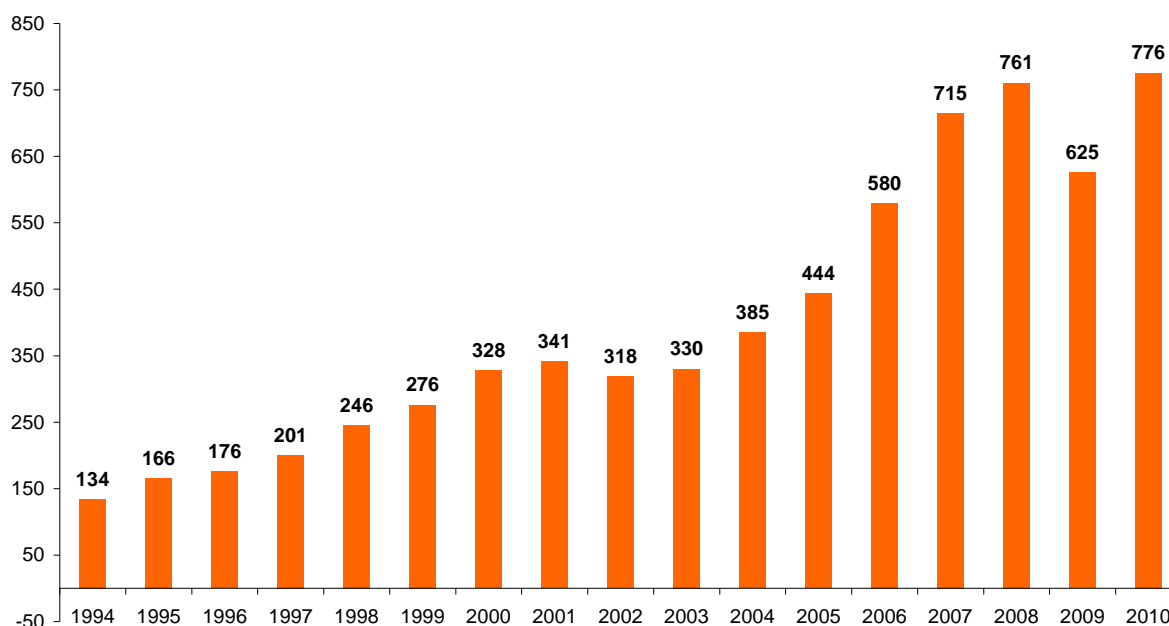
Source: BIBB 2011, Datareport

### 1.1.4 Temporary agency work

The legal basis of temporary agency work (TAW) is the Temporary Employment Act which was adopted in 1972 and since then often has been changed. A far-reaching deregulation of TAW took place in 2003 (see 1.2.2)

Temporary agency work has long been of only limited importance in Germany. Until 2000 only about 1 % of all regular employees subject to social insurance contributions were temporary agency workers. Since the labour market reforms in 2003, temporary agency work has become of increasing importance. Following the deregulation of legal requirements for temporary agency work it turned out to be very attractive for both the agencies and the hiring companies. This is reflected in the rapidly rising number of temporary agency workers. Since then TAW has been used no longer only to overcome staff shortages, it is also used systematically in many companies to stabilise the profits and to put pressure on permanent staff (Holst 2009).

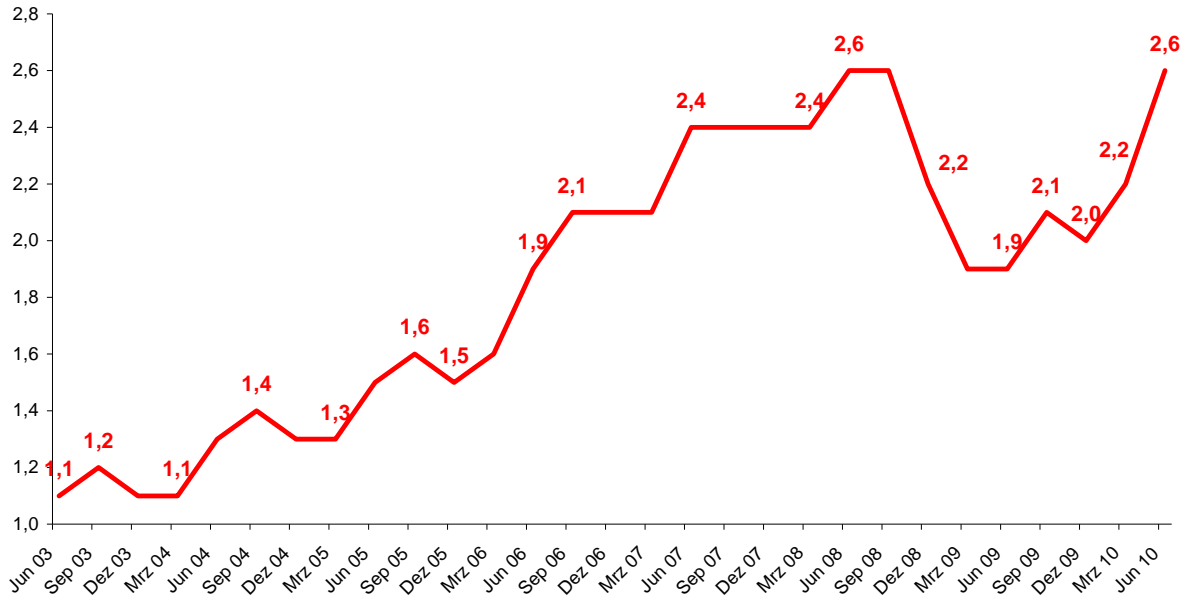
Figure 6: Temporary agency workers 1994-2010  
annual average, in 1,000



Source: Federal Employment Agency, Statistics on temporary employment

In 2003 the number of agency workers amounted to about 376,000 persons and increased steadily up to 793,000 in 2008. As a result of the crisis the number of agency workers dropped sharply to 513,000 in March 2009 but the economic recovery in Germany caused a rapid increase again. According to recent data the level reached in March 2011 was about 860,000 agency workers (IW-Zeitarbeitsindex April 2011). The share of temporary agency employment has more than doubled from 1 to 2.6 %

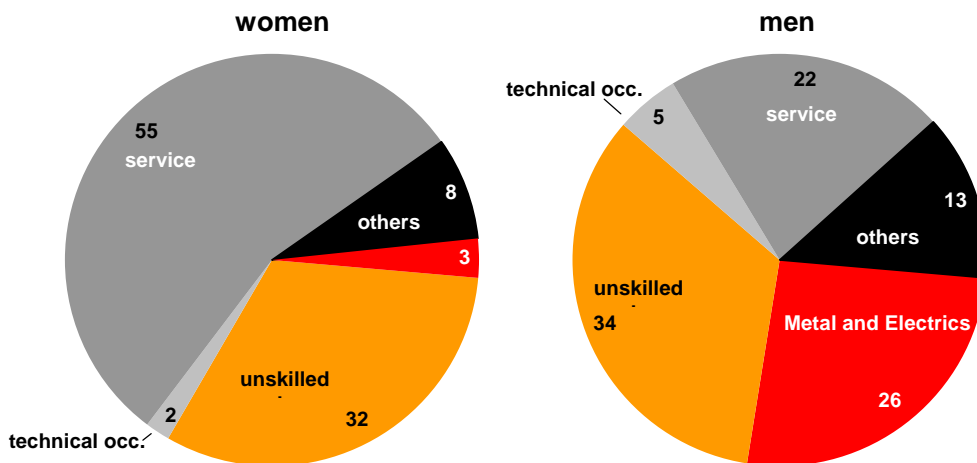
Figure 7: Share of temporary agency workers in % of all employees subject to social security 2003 - 2010



Source: Federal Employment Agency

In 2010, 72 % of the agency workers were men in comparison to 78 % in 2000. Male workers are mainly active in the manufacturing industry and often as unskilled labourers, whereas women are mainly active in the service sector.

Figure 8: Temporary agency workers by occupation and gender, 2010



Source: Federal Employment Agency

Most temporary agency workers work full-time. In June 2010 there were 644,000 full-time agency workers in comparison to only 62,500 working part-time. The number of marginal

part-timers amongst the temporary workers has increased over the last 5 years to 81,000 employees. 50,700 of them depend only on a mini-job.

#### *1.1.5 Dependent self-employment*

Precarious employment exists not only among employees but also among self-employed workers who often practice a “precarious entrepreneurship” (Bührmann and Pongratz 2010). There is a significant proportion of economically dependent or pseudo self-employment which is formally independent but de facto has a more or less “employee-like” status. According to the German “Act to Promote Self-Employment“ (*Gesetz zur Förderung der Selbständigkeit*) of 1999, dependent self-employed are characterised by at least five criteria: They usually...

1. have no other regular employees;
2. work for a very few or even only one contractor;
3. perform the same type of work that is also carried out by regular employees;
4. carry out the same work as an employee prior to the present job;
5. cannot provide evidence of entrepreneurial activities (Vogel and Dribbusch 2009).

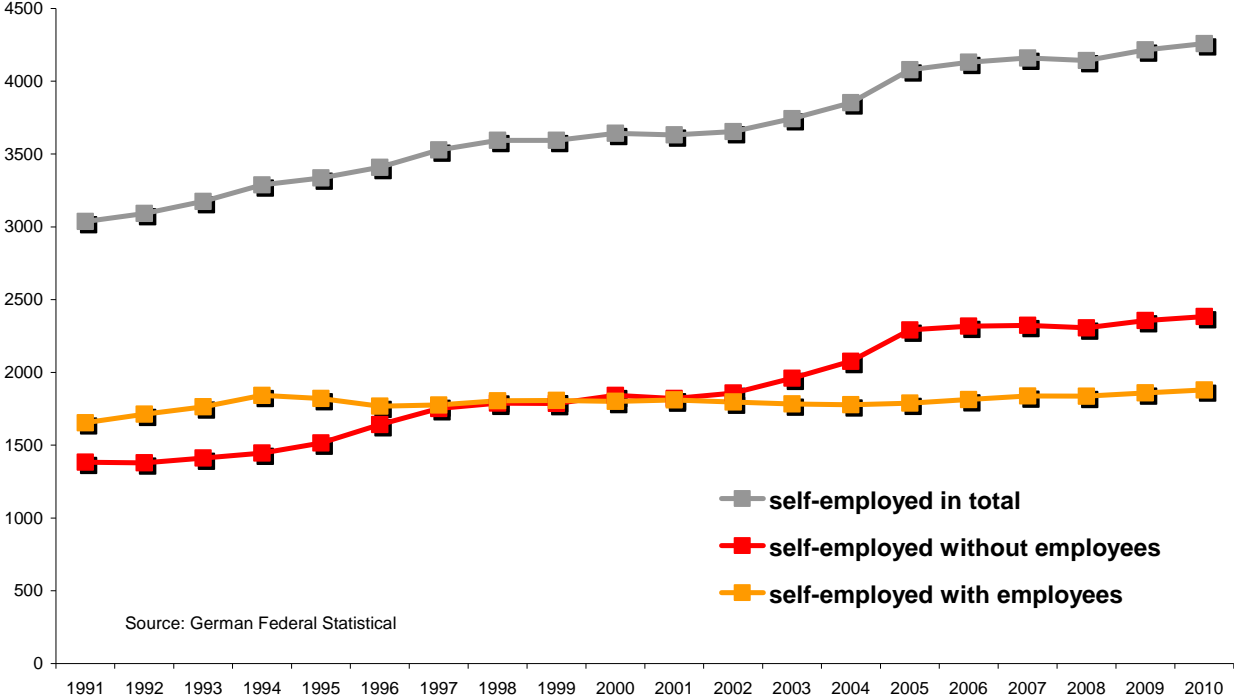
In addition, the German Federal Labour Court has developed further criteria for defining dependent self-employment, such as the dependence on the contractor’s instructions in terms of place and time of work, its incorporation in the organisational structure of the contractor or the use of the contractor’s production equipment (ibid.).

Finally, the potential precariousness of self-employment arises not only from the degree of economic dependence but also from the working conditions (which are often low paid and involve extraordinarily long working hours), the uncertain and unsteady amount of work and the incomplete access to social security (Kock 2008).

As precarious self-employment includes various aspects and dimensions, it is rather difficult to have exact figures on its spread and importance. One statistical indicator which is often used in studies on atypical employment is the distinction between self-employed with and without employees including freelancers and contract workers. The latter, which are also often called „solo self-employed“, are seen as a group which comprises a much higher proportion of precarious employment.

During the past two decades Germany saw a continuous increase of self-employed from about 3 million in 1991 to about 4.3 million in 2010 which is around 11% of the total labour force (Figure 9). While the number of self-employed with employees increased only slightly by 200,000, the large amount of 1 million new self-employed was solo self-employed (Kelleter 2009; Koch et.al. 2011). In 2009 the total number of solo-self-employed amounted to around 6% of the total labour force. About 63% of them were men.

Figure 9: Self-employed in Germany 1991-2010, in 1,000



The notable increase of solo-self-employment in Germany was partly the result of political decisions in order to promote its development. While at the end of the 1990s the main political attitude was to limit, or even to abolish, dependent and precarious self-employment, from 2003 this changed fundamentally as part of a more far-reaching reconstruction of the institutional and regulatory framework of the German labour market. As part of the so-called “Hartz laws” the German government had strongly promoted the development of solo self-employed (so called “Ich-AGs”) by providing special start-up grants for the unemployed to set up their own business.

Traditionally, solo-self-employment has always been particularly widespread in certain branches such as the media and entertainment sector. In more recent years the strongest increase of solo-self-employed could be observed in all kind of business-related services (Kelleter 2009; Koch et.al. 2011). Apart from that, there was also a strong increase in the



construction sector, where within ten years the number of solo-self-employed almost doubled from 66,000 in 1998 to 129,000 in 2009 (Destatis 2010). The latter was partly the result of changes in the German Trade and Crafts Code in 2004 which has eased the possibilities to set up a self-employed business for professions such as bricklayer, tiller, plumber or carpenter. There is some evidence that in both the business-related services and the construction sector, regular employees have been replaced by dependent self-employed workers in order to circumvent higher labour costs determined by collective agreements (Gross 2009).

## **1.2 Dimensions of precarious employment**

In principle, the provisions of social and labour law apply to all employees in Germany. The principle of non-discrimination is to prevent unequal treatment of different groups of employees. In real working life, and under the given welfare system, things look different. The working conditions of different groups of employees differ widely and the social risks are very unequally spread depending on the specific employment status. The same holds true for the social protection. The following main-risk dimensions can be distinguished - which in practice often produce precariousness:

- *Income:* Low and irregular pay is for many workers in precarious employment an existential threat. The share of low income earners of an employee group is a reliable indicator for the extent of this risk.
- *Employment:* Few chances to enter the labour market, the instability of employment and the lack of career prospects are the significant elements of precarious employment.
- *Working time:* From extremely short working times and irregular working hours to extremely long working times; the scope of distressing working time arrangements which are typical for many precarious jobs is wide.
- *Social security:* The lack of access to the social security system and insufficient social benefits are often characteristics of precarious employment
- *Participation:* Many of those involved in precarious employment have a marginalised position at work and only limited possibilities of participation and interest representation.

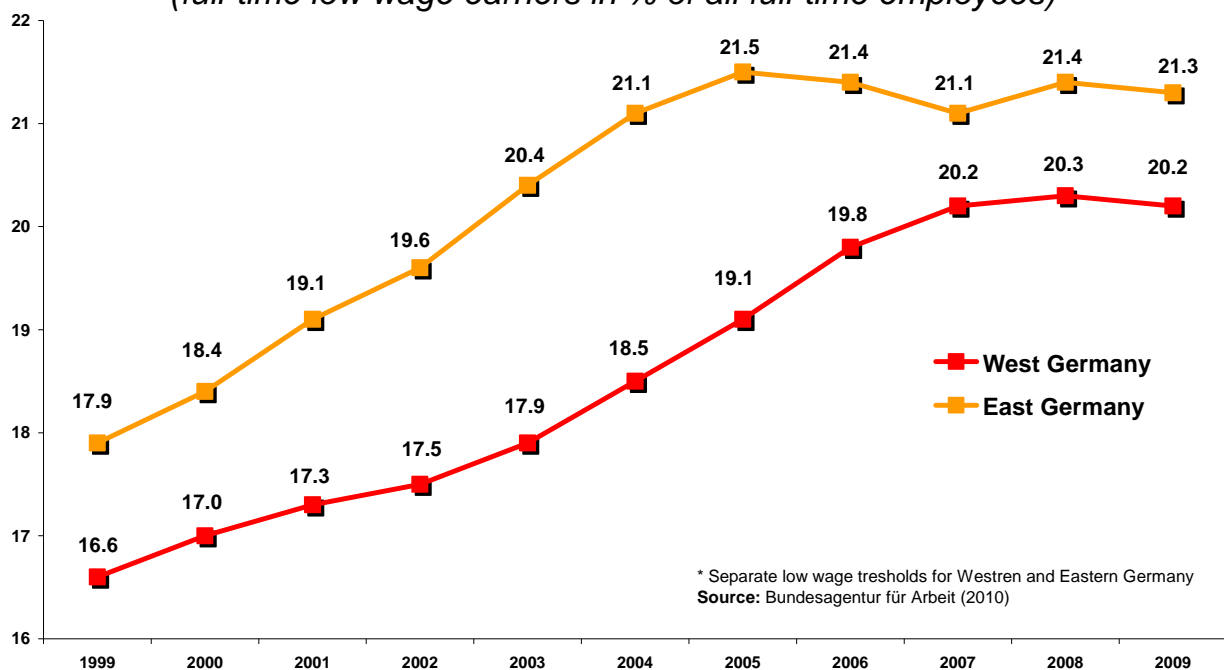
The risks overlap and are often closely interlinked. Frequency and intensity are identified differently between the segments of precarious work as the following facts and figures will show.

### 1.2.1 Incidence of low wages

#### Full-time employees

Since the end of the 1990s Germany has been faced by a sharp increase in the low wage sector (Kalina and Weinkopf 2010; Schulten 2011a). According to figures issued by the Federal Employment Agency, at the end of 2009 there were about 4.5 million full-time employees who earned less than two thirds of the median wage. This corresponds to 22.3% of all full-time employees in Germany (Bundesagentur für Arbeit 2010). Since the median wage in east Germany is still around 30% lower than that in west Germany, many studies take separate low wage thresholds for both parts of Germany. Consequently, based on this fact, between 1999 and 2009 the percentage of full-time low wage earners increased from 16.6% to more than 20% in west Germany and from nearly 18% to more than 21% in east Germany. As low pay is a core dimension of precarious work, about one fifth of full-time employment in Germany has to be considered as precarious employment.

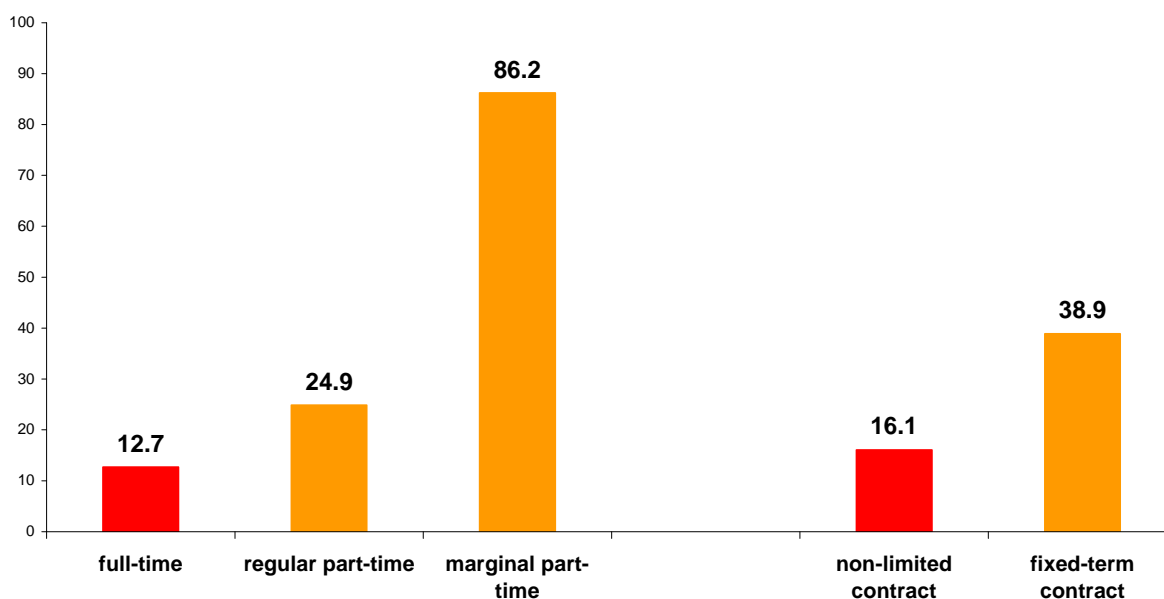
*Figure 10: Low-wage sector in Germany, 1999-2009  
(full-time low wage earners in % of all full-time employees)\**



### *Atypical forms of employment*

Following another calculation of the low-wage sector made by the Institute for Work, Skills and Training (IAQ) which includes not only full-time but also part-time employees, in 2008 Germany had a total of about 6.55 million low wage earners (Kalina and Weinkopf 2010). Since the mid-1990s the low wage sector has increased by more than 2 million people. All in all, the incidence of low wages is much higher among atypical forms of employment than among standards forms. While in 2008, according to the IAQ study, only 13% of full-time employees received a low wage, it was 25% among regular part-time employees and even 86% among marginal part-time workers. A major difference also existed between workers with a non-limited and a fixed-term contract. While 16% of the former worked in the low wage sector, it was 39% among workers with temporary contracts.

*Figure 11: Proportion of low wage earners in different groups of employees 2008, in %*



Source: Kalina and Weinkopf (2010)

### *Apprentices*

Based on the VTA, apprentices in Germany have the right to “reasonable compensation”. Most of the trainees are paid according to the agreement on apprentices’ pay (regulated in collective agreements). The relevant data show that the pay differs according to sector, years of training and region. Compared to the collectively agreed basic pay of skilled workers in the first year of work, the apprenticeship pay in the 3<sup>rd</sup> year is between 30 and 60 %.

Table 1: Collectively agreed apprenticeship pay 2010 (average of all occupations)

Region	year 1	year 2	year 3
West	614	687	761
East	544	615	672

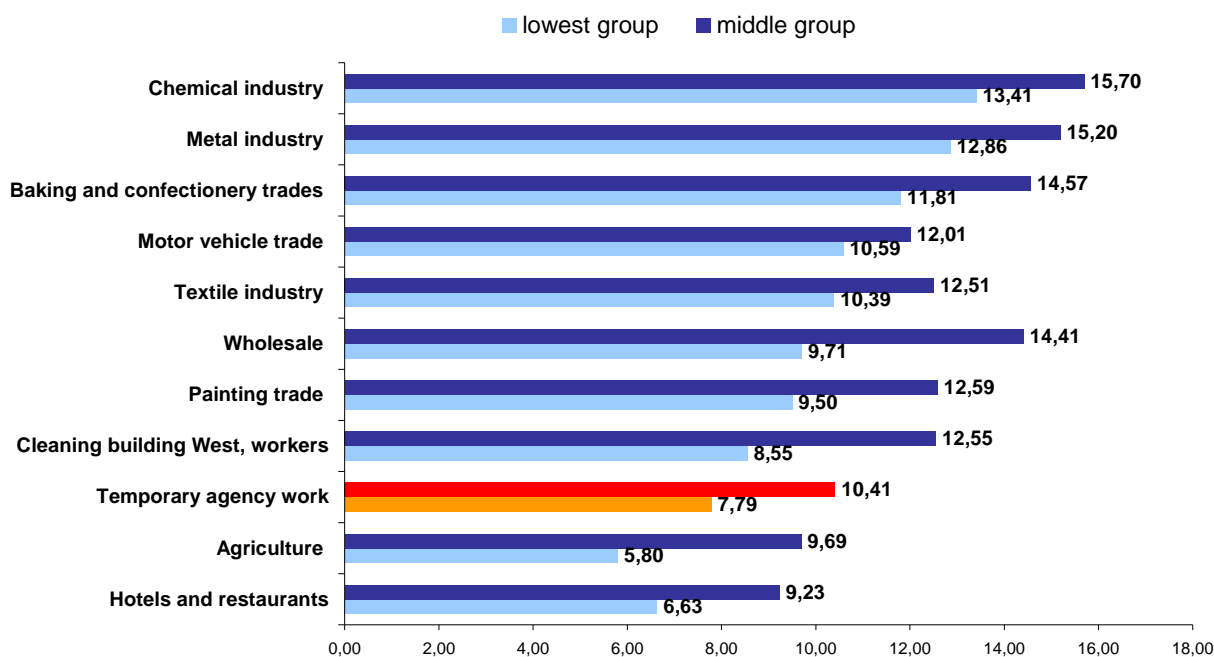
Source: BIBB Press release of 5 January 2011

Rather low rates were paid, for example, in the professions covering carpenters (west: 536 €/east: 397 €), painters and decorators / painters and varnishers (west: 421 €, east: 388 €), hairdressers (west: 451 €, east: 269 €), florists (west: 460 €, east: 312 €) and bakers (west: 500 €, east: 390 €). Payment for employers not covered by a collective agreement may deviate from these amounts, so that the overall income situation is probably worse than described above.

### Temporary agency work

Compared to the wages in other sectors the basic pay in collective agreements for TAW is rather low as the following table shows:

Figure 12: Collectively agreed basic pay\* in Euro per hour



\* Without additional payment, agreements from North-Rhine-Westfalia as of: June 2011  
Source: WSI Collective Agreement Archive

Temporary workers, who are mostly graded in the lower wage groups, are poorly paid; many of them cannot make a living on their income. Recent statistics show that the average monthly gross pay is only 1,456 € in west Germany and 1,224 € in east Germany. These figures apply to full-time employees subject to social security contributions.

Differentiated by income groups we see the following picture: 10.5 % of the full-time agency workers in the whole of Germany earn less than 1,000 euro per month, in east Germany the share is double (21 %). A further fifth earns only between 1,001 and 1,200 euro, in east Germany it is more than a quarter. In the income group with 1,201 - 1,400 euro gross pay per month amounts to nearly a fifth of employees in Germany. Only a minority of the temp agency workers earn more than 2,000 euro per month (19.1 %), whereas this applies to about 70 % of the whole workforce of the economy.

*Table 2: Monthly gross pay for full-time employees liable to social security in %*

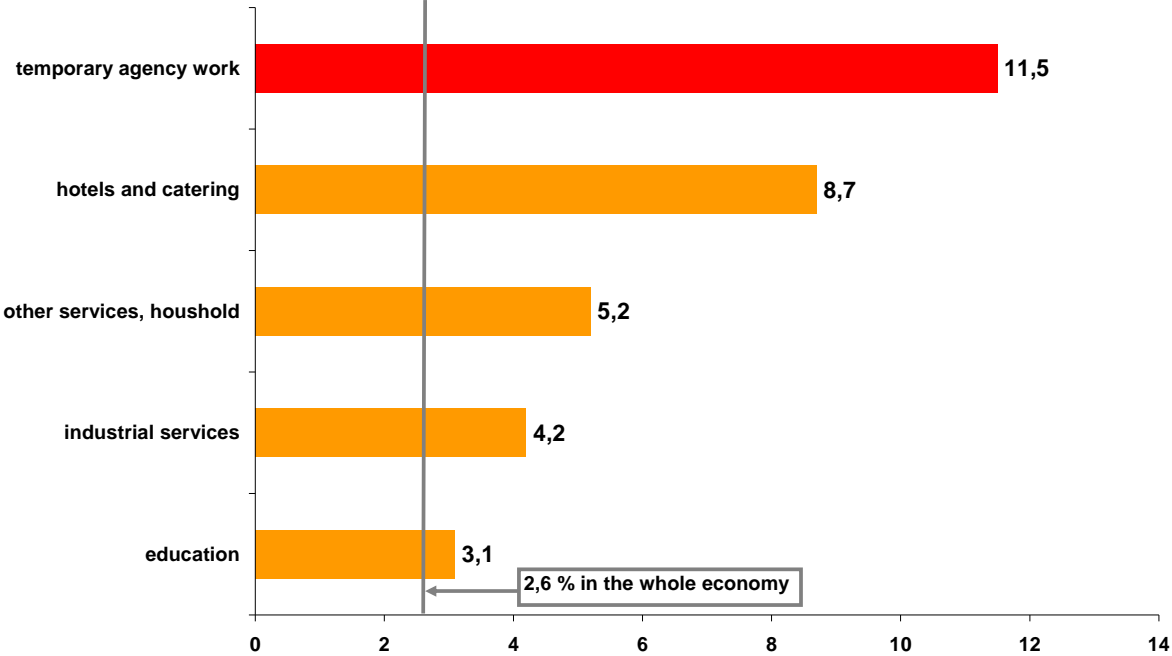
Monthly gross pay in euro	Full-time employees all sectors	All temporary workers	Temporary workers east (incl. Berlin)
up to 1,000	5.3	10.5	21.0
1,001 – 1,200	3.2	21.7	26.4
1,201 – 1,400	4.2	18.4	19.8
1,401 – 1,600	4.8	13.6	12.6
1,601 – 1,800	5.2	10.3	6.9
1,801 – 2,000	5.6	6.4	4.1
more than 2,000	71.7	19.1	9.2
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>

Source: DGB, Destatis

In west Germany, on average the middle income of all full-time employees is 2,805 euro compared to 1,456 euro for temporary agency workers. With comparable working hours this is an income differential of 48.1 %. Normally, an income below 50% of the median income is regarded as a poverty wage. In east Germany wages are generally lower and the income differential smaller, but temporary workers nevertheless earn, on average, 40 % less than full-time employees. Even taking into account the different qualification structure, the income differential remains remarkable.

The risk of living in poverty is much higher for temporary agency workers: 11.5 % in Germany are dependent on basic social assistance (“Hartz IV benefits”), whereas only 2.6 % of all employees subject to social security receive assistance (see *Figure 13*).

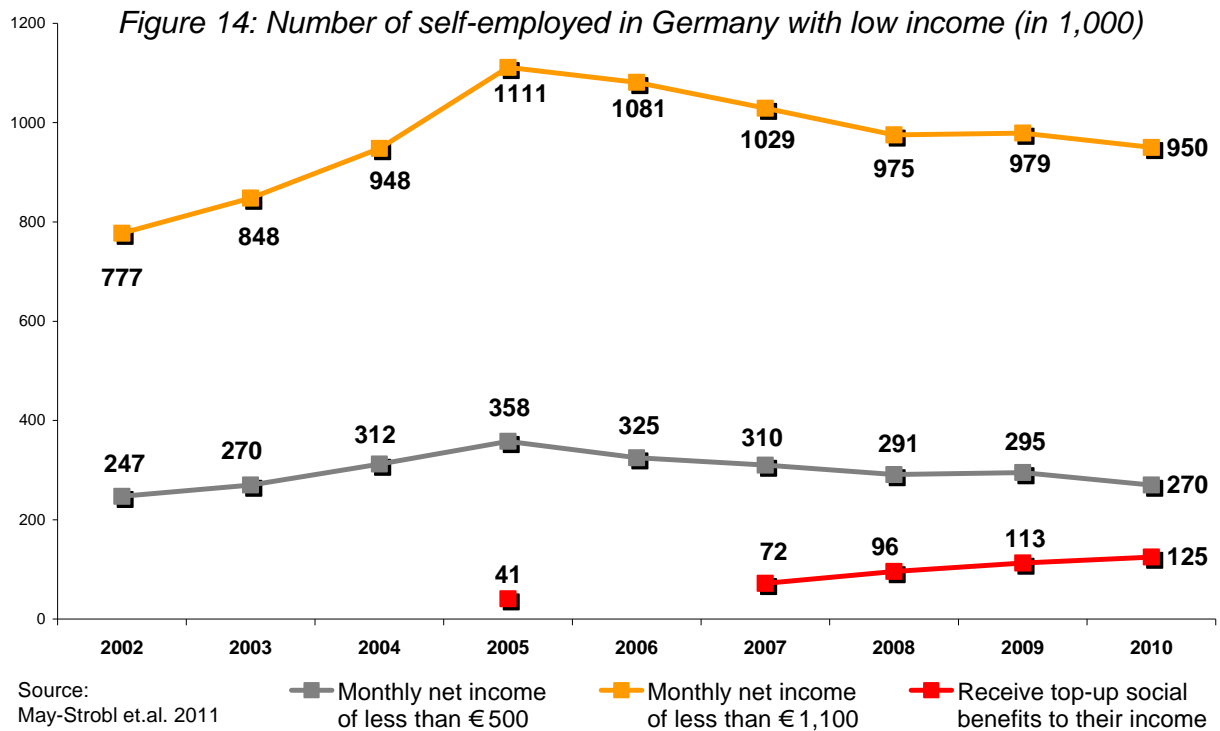
*Figure 13: Employees with basic social assistance 2010 in %*



Source: Bosch 2011, Federal Employment Agency

*Self-employed*

The problem of low pay is not only limited to employees. On the contrary, there is a significant number of self-employed workers who have a rather low income (Koch et.al. 2011; May-Strobl et.al. 2011, see also *Figure 14*). In 2010 nearly one quarter of all self-employed in Germany had a monthly net income of less than 1,100 euro. About 270,000 even had a monthly net income of below 500 euro. The number of self-employed with a low income increased significantly in the first half of the 2000s. Since then it has decreased slightly but has remained at a relatively high level. There was also a strong increase in the numbers of self-employed who – because of their low income - received top-up social benefits from the state. Most of these 127,000 self-employed workers were solo-self-employed.

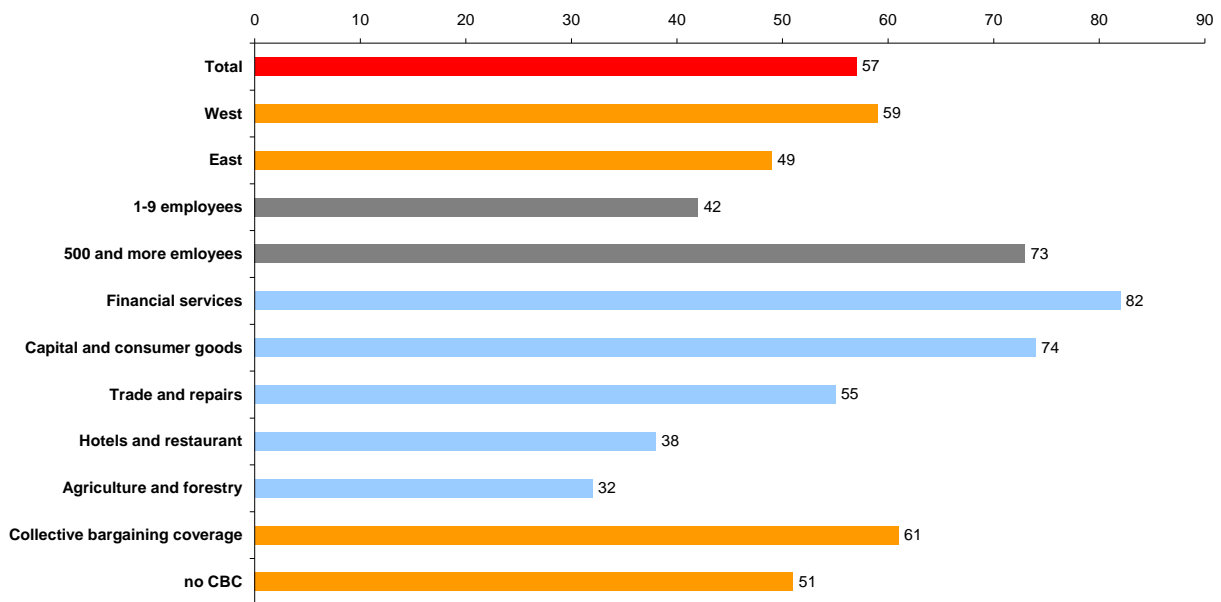


## 1.2.2 Job security, labour and social security rights

### *Apprentices: Take-over problems*

Being taken into regular employment by the company after the completion of vocational training is not the rule. Recent data (2009) show that just over half of the apprentices were taken on by their training company. The rate varies depending on region, company size, sector and collective bargaining coverage. Companies covered by a collective agreement show a takeover rate of 61 % whereas non-covered companies have a rate of only 51 %, in west Germany the take-over ratio of 59 % is higher than the 49 % in east Germany. In big companies the chance of getting an employment contract is better than in small businesses, and the same applies when comparing sectors such as the financial services (82 %) and hotels and restaurants (38 %) (*Figure 15*).

Figure 15: Takeover after vocational training 2009



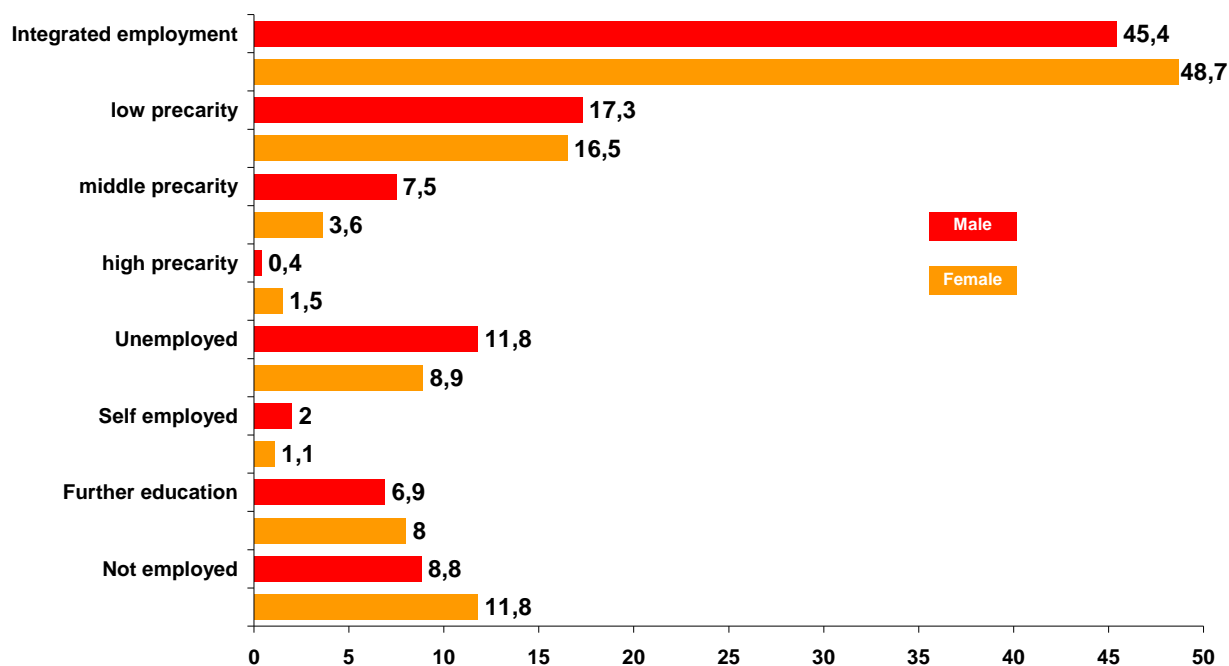
Source: IAB-Panel

Since apprentices can change the employer after completion of their training and look for other job opportunities, the overall takeover rate will probably be higher. However, according to research result of the Federal Institute for Vocational Education and Training (BIBB) it remains a relatively high percentage of unemployed apprentices. About one third of apprentices is unemployed after completion of training - with a greater proportion (48 %) seen in the east and a smaller proportion (31 %) in west Germany.

A more differentiated picture can be obtained from the data about the situation three years after successful apprenticeship. Less than half of the ex-apprentices have integrated employment. Between 20 and 25 % have a more or less precarious job and 9 to 12 % are unemployed. The others are in further training, are self employed or unemployed.



Figure 16: Precarity and unemployment up to 3 years after successful apprenticeship 2000 - 2008, in %



Source: BIBB, Datareport 2011

### Temporary agency work

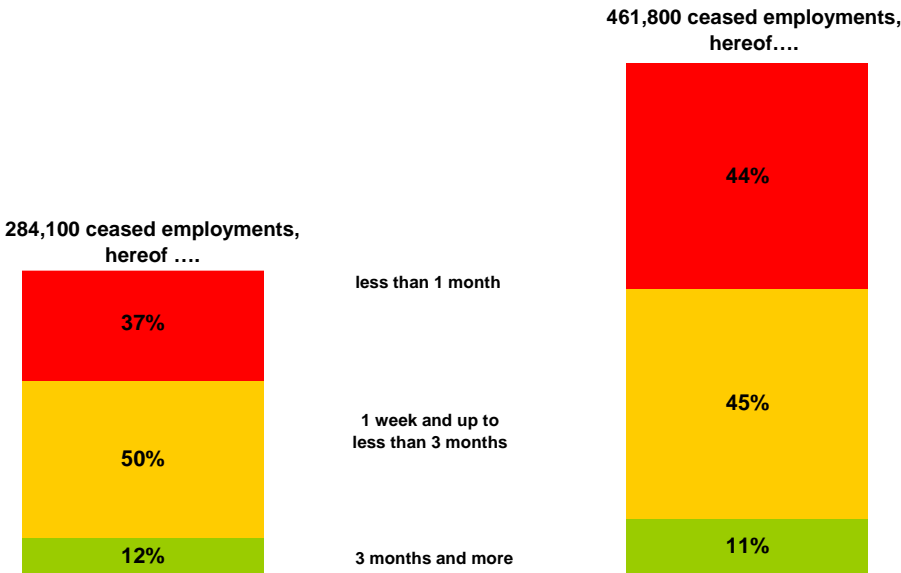
Temporary agency work is a sector in its own right. It is legal only under the provisions of the “Temporary Employment Act” (*Arbeitnehmerüberlassungsgesetz, AÜG*). Since it was first enacted in 1972, there have been numerous changes made to it. The labour market reforms in 2003 (Hartz-reforms) have largely deregulated the legal framework. They eliminated the special prohibition of time-limitation, the prohibition of synchronisation, the prohibition of re-employment as well as the limitation of temporary employment of a client down to 2 years. What was added, in turn, was the so-called equal-treatment clause which provides for temporary employees to be employed only under the same conditions as regular employees of the company doing the employing: same wages, same working hours, same vacation times and same special payments. Only a collective agreement can abrogate this legal requirement, which has been done in various agreements between trade unions and different employers associations or single temporary agencies.

Meanwhile there have been two amendments to the law: To prevent possible malpractice a new provision was adopted in 2011 which prohibits that employees be laid off and subsequently hired by the same company under worse conditions than a temporary

worker. In addition, a possibility to establish a lower wage threshold via collective agreement was introduced, but up to now the already existing collectively agreed minimum wage of 7,79 € (west Germany) and 6,89 € (east Germany) has not been declared generally binding by statutory order. In the opinion of the trade unions and other critics these stipulations are insufficient (see 2.2.1).

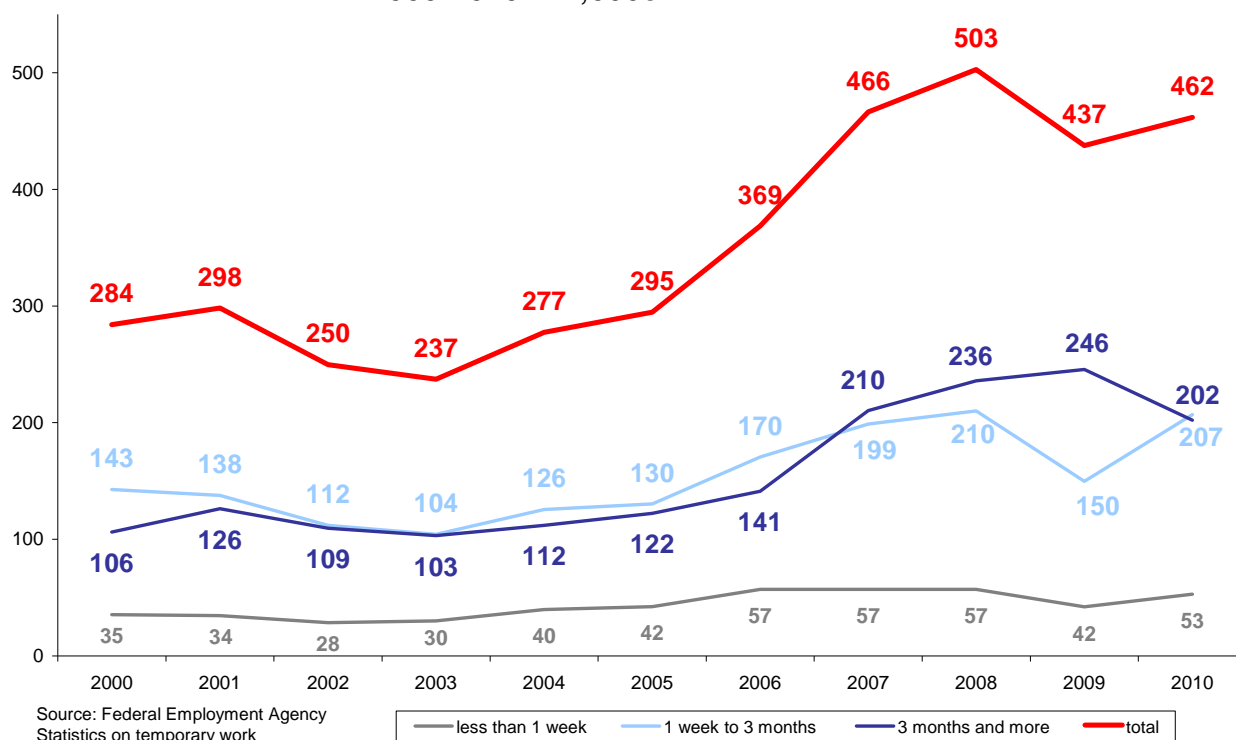
Nearly half of the newly-hired agency staff was previously unemployed for up to one year, more than a third were employed and less than 10 % were unemployed for more than one year or were not employed. That seems to prove that there is a chance to find a new job via temporary work, but a look at the statistics shows a different result: The duration of a temporary employment relationship is usually very short: more than half of the temporary employment contracts ends after less than three months. Over time the share of temporary workers with a contract longer than 3 months has increased from 37 % (2000) to 44 % (2010).

*Figure 17: Period of employment in the field of temporary work, June 2009 - June 2010*



Source: Federal employment agency

Figure 18: Termination of contracts and duration  
2000-2010 in 1,000s



Otherwise one can interpret the fact that the high proportion of formerly unemployed people in the temporary agency sector thus identifies the low attractiveness of this industry, but not their function in bridge employment (Bosch 2011).

### Self-employed

Since the German social security system is very much centred on dependent work, self-employed workers are usually not covered by the statutory insurance system including unemployment, health, age-care and pension insurances (Schulze Busch 2010). For a long time, those who were self-employed had no possibilities to gain access to the statutory insurance system but had to rely on their own private insurance arrangements. Only a few groups of self-employed as, for example, in the media and entertainment sector created their own sector-based insurance systems. Against the background of an increasing number of dependent self-employed, however, some more recent legal initiatives have created the possibilities for the latter to get at least selective access to the statutory insurance system.

Since 2006, self-employed workers can voluntarily contribute to the public unemployment insurance scheme (Koch et.al. 2011: 42ff.). The possibility is, however, restricted to those

self-employed who have already contributed to the unemployment insurance scheme and received unemployment benefits before they started their own business. As a contribution to the unemployment insurance the self-employed have to pay a fixed amount which is determined independently from the respective income. The unemployment benefits, however, depend on the job and qualification of the self-employed. In practice, between 2006 and 2009 more than 300,000 self-employed became part of the public unemployment scheme (ibid: 44)

Until 2009 there was no obligation for the self-employed in Germany to have a health insurance. The compulsory insurance was introduced in order to make sure that self-employed persons also contribute to the public health insurance funds. In the meantime most self-employed are insured by private health insurance companies. Former employees, who became self-employed, have under certain conditions also the possibility to be covered by the statutory health insurances. The rate of contribution is determined by law and is a certain percentage of the actual income. However, for those who are self-employed there is a fixed minimum contribution of around € 300 per month. Although there are exceptions for extraordinary cases for individuals with a very low income, for many who are self-employed the minimum contribution to health insurance often creates a relatively high financial burden.

Regarding pension insurance, the German social law provides an obligation to contribute to the statutory pension scheme for a few groups of self-employed workers such as persons in a skilled trade, persons involved in care, midwives, journalists and artists etc. as well as for self-employed persons working only for one contractor or receiving financial support from the Federal Employment Agency (Berndt 2009). At the end of 2009 this group amounted to more than 250,000 persons who amounted to more than 6% of all self-employed persons (Deutsche Rentenversicherung 2011). In addition to that, there were about 340,000 persons who were covered by the statutory pension system on a voluntarily basis, most of whom were also self-employed. The large majority of the self-employed, however, have only private pension insurances.

The fact that there is a relatively large proportion of self-employed with a rather low income also has an impact on their expected pensions. There are studies which estimate that about 10% of all self-employed do not contribute sufficiently to pension insurance in order to get a pension which will be above the statutory basic security at old age. About

one fifth of all self-employed will live in relative poverty after retirement with a pension below 60% of the median income (Ziegelmeier 2009).

### 1.3 Summary: Incidence of precarious employment in Germany

Since the 1990s Germany has seen a significant increase in various forms of precarious employment. However, due to the fact that the concept of precariousness includes some vagueness which creates further methodological and statistical problems it is impossible to identify an exact figure of numbers of workers involved in precarious employment in Germany. The same holds true even for the distinction between standard and atypical employment. Although it is statistically possible to identify some groups of atypical employees, because of various overlaps they can not just be added. Despite all methodological problems the Institut für Arbeitsmarkt und Berufsforschung (IAB) of the German Federal Employment Agency has recently published an overview of figures according to which as a rule of the thumb about 40% of the total labour force can be considered as having an atypical employment relationship (IAB 2011).

*Table 3: Groups of employees with a high incidence of precariousness, 2010*

	Number of persons in 1,000	in %
Full-time employees with low wage*	4,464	11.5
Marginal part-time	3,344	8.6
Involuntary part-time	2,026	5.2
Part-time because of family obligations	4,003	10.3
Employees with fixed-term contracts	3 523	9.0
Temporary agency workers	776	2.0
Solo self-employed	2,383	6.1
<b>Total labour force</b>	<b>38,938</b>	<b>100</b>

\* 2009

Source: Statistisches Bundesamt (2011), Schulten (2011a), calculations by the WSI

The relation between atypical and precarious employment is rather uncertain: Not all workers in atypical employment are also automatically in precarious employment, while there is a significant number of standard workers – in particular those with low wages – who must be considered as being in precarious employment. In order to tackle this problem we identified various groups of employees which displayed a high incidence of precariousness (*Table 3*). These include full-time employees with low wages, certain groups of part-time workers (marginal part time, involuntary part-time, part time because of family obligations), employees with fixed-term contracts, temporary agency workers as well as solo self-employed. Again, because of various overlaps it is not possible to simply add these groups. However, it could help to make a rough estimation, according to which at least on third of the total workforce in Germany has to be considered as being in precarious employment.

## **2. Trade union strategies against precarious employment – an overview**

German trade unions see precarious employment as being inconsistent with the traditional German model of a social market economy. For the unions the growth of precarious employment has led to increasing inequality and injustices which might become a “ticking time bomb” for the economic and social order of German capitalism (DGB 2007). Therefore, the unions have yet again called for a fundamental u-turn in the development of the German labour market in order to stem the further spread of precarious employment and return to non-limited jobs with full access to social and labour rights as the standard form of employment. In recent years campaigns against different forms and dimensions of precarious employment have moved more and more into the centre of trade union activities.

In principle, German unions have followed four strategic approaches to tackle the problem of precarious employment:

1. Change of legislation in order to limit, prevent or even forbid certain forms of precarious employment
2. Collective agreements to improve the conditions of precarious employment and to limit its use.
3. Organising workers in precarious employment and giving them practical help and assistance.
4. The development and promotion of a union vision for “good work” (*Gute Arbeit*) as a counter project against precarious employment.

In the following we will give an overview of the different trade union strategies before providing some case studies on selected union projects which discuss the issues in more detail.

### **2.1 Change of legislation in order to limit, prevent or forbid certain forms of precarious employment**

The rapid increase of precarious employment was made politically possible by a far-reaching de-regulation of the labour market. Although this policy had started to take effect in the 1980s, it was, in particular, in the first half of the 2000s that the then ‘red-green’

Federal Government suspended many of the former restrictions on various forms of precarious employment such as marginal part-time, temporary employment, temporary agency work or dependent self-employment. All these instruments of deregulation were implemented in the face of resistance from the unions who have always criticised these policies for having far-reaching negative social consequences with no positive economic effects.

Consequently, the unions today are demanding the re-introduction of much stronger legal restrictions in order to limit, prevent or even forbid certain forms of precarious employment. The United Services Union - Ver.di, for example, adopted at its latest Congress in September 2011 a detailed programme for legal changes which includes the following proposal (Ver.di 2011a):

- *the abolition of marginal-part time employment (mini-jobs).* The union strongly criticises the fact that in some sectors – as, for example, retail trade – employers have already replaced a high number of regular workers by employees holding a mini-job only. Consequently, the union demands that the state stop its practice of subsidising marginal-part-time work through the provision of reduced taxes and social security contributions.
- *the right for part-timers to get a full-time job:* In Germany it is only allowed for full-time workers to reduce their working time towards part-time. Considering the high number of involuntary part-time workers in Germany, Ver.di calls for a legal provision to also give part-timers the right to change again to a full-time job.
- *a much stricter legal limitation for the use of fixed-term contracts:* Ver.di demands that fixed-term contracts without any valid reasons should be no longer possible. The possible reasons for fixed-term contracts should be restricted to a few objective issues such as the limited substitution of certain employees (e.g. those on parental leave) or limited funding within a project. Moreover, temporary workers should be entitled to privileged consideration when permanent jobs are being filled.
- *stricter regulations for temporary agency work:* According to Ver.di (as well as all other German unions - see also IG Metall 2011b), it should no longer be allowed for employers to replace regular employees with temporary agency workers. Instead, the role of temporary agency work should again be reduced to its basic function of providing help for employers in the event of an exceptionally high amount of work. Therefore, the most important demand for the unions is that



temporary agency workers should receive the same payment and the same working conditions as regular workers from the first day of their job. Moreover, Ver.di even calls for temporary agency workers to be paid 10 percent more than regular workers as a kind of “risk premium” (see also the case study in chapter 3.2).

- *stricter regulation for the employment of student apprentices and other interns:* According to the unions there is a strong tendency for companies to use student apprentices and other interns for regular work, while providing them with often rather poor payment or even no payment at all. Ver.di therefore wants to regulate their working conditions in order to guarantee them an adequate minimum level of pay.
- *full access for dependent self-employed workers to social security:* Considering the growing number of dependent self-employed workers Ver.di demands legal changes in order to guarantee them full access to the statutory unemployment, health and pension system (see also the case study in chapter 3.3).

Apart from the legal re-regulation of various forms of precarious employment, probably the most important current legal initiative of the German trade unions is the campaign for the introduction of a statutory minimum wage. As Germany has seen a sharp increase in the number of low wage earners among both non-standard but also regular workers, the introduction of a statutory minimum wage is seen by the unions as a crucial instrument to stem precarious employment in Germany (see the case study in chapter 3.1). Since the extension of the low wage sector in Germany is at least partly the result of a significant decline in the collective bargaining coverage, the unions also demand a legal strengthening of collective agreements through a broader use of legal extension.

## **2.2 Collective agreements to improve the conditions of precarious employment and to limit its use**

Collective bargaining is the classic instrument for unions to improve working conditions and pay. In principle, this applies also to precarious workers. However, as the collective bargaining coverage in Germany is only about 60 %, there are significant groups among precarious workers who are not covered by any agreements. Therefore, these instruments are rather limited.

There are basically two tasks for the unions: First, they have to make sure that all collectively agreed standards e.g. higher wages, shorter working hours, longer holidays, etc. also apply to precarious workers. Secondly, they can push for special provisions which directly address precarious workers in order to reduce their income and social risks. Regarding the latter, the unions have tried to reach agreements, in particular concerning low pay, marginal part-time employment, temporary agency work, employment security and further training:

### *Low pay*

The limitation of low wages has always been a core aim of the wage policy of trade unions. In many bargaining rounds the unions have called for an above-average wage increase for the low-wage earners. However, such attempts have been only partially successful, as many employers want to maintain larger wage dispersion especially in the lower wage segment. While an above-average wage increase for low wage groups is still rather seldom, the most widespread instruments are lump sum payments, which give a proportionally larger plus for low-wage earners, albeit with only a one-off effect.

The unions are also faced with a more structural problem: in many sectors there are agreed wage grades which are at a very low level. The unions had accepted these low wage grades because in certain sectors they would otherwise have run into the danger of getting no agreement at all. There are still about 13% of all agreed wage grades which are below the unions' demand of a general minimum wage of 8.50 euro per hour (Bispinck and WSI Collective Agreement Archive 2011).

Finally, in recent years the unions have tried to conclude more and more sectoral minimum wages which afterwards are later extended to the whole sector on the basis of the German posted workers law. In the meantime, there are sector-wide minimum wages in eleven branches (see the case study in chapter 3.1).

### *Marginal part-time employment*

During the past decade one of the fastest growing forms of precarious employment in Germany was the increase of marginal part-time employment with a rather low number of hours worked, (so-called “mini-jobs”). In some sectors as, for example in retail trade, the unions have tried to limit the marginal employment through collective agreements and to give employees the opportunity to increase their working-time. In practice, however, the rules turn out to be only recommendations which are not enforceable and therefore often have a very limited effect.

### *Temporary agency work:*

In recent years the unions have changed their strategy in regulating working conditions for temporary agency workers. After the extensive deregulation of temporary agency employment in 2003, unions first tried to settle adequate pay and working conditions in special collective agreements with the temporary agencies. Some agencies, however, signed agreements with “yellow unions” (the so-called Christian trade unions) which were very much below the level agreed by the DGB affiliates. As a result of the negative trade union competition, even the DGB agreements could not avoid the situation which ensued and the gap between the collectively agreed basic pay for temporary agency workers and the agreed pay in the user companies remained very large. More recently, the unions have therefore tried to enforce the principle of "equal pay for equal work" through works agreements in companies using the agency employees. In some cases the unions have also managed to limit the use of temporary agency workers (see: case study in chapter 3.2).

### *Young people /trainees:*

Collectively agreed regulations for apprentices have found a certain distribution. They are mainly directed at the supply of training capacity and at the permanent takeover after apprenticeship. More recently, the integration of disadvantaged young people in training has been made the subject of collective bargaining (see case study in chapter 3.4).

### *Further training:*

The regulation of further training has become a topic of collective bargaining. The identification of training needs, the rights of the employees and works councils, the promotion of disadvantaged groups, the coverage of cost have become the subject of collective agreements in an increasing number of sectors (Seifert and Busse 2008). In the

collective bargaining agreement for the metal industry in North-Rhine Westphalia, for example, it is stipulated that in determining the training requirements the needs of older workers, part-time workers, workers with family responsibilities and of unskilled workers have to be considered. Also in the chemical industry the agreement requires that the needs of special groups of employees such as older workers, employees on rotating shifts or employees during and after parental leave are to be considered. In the collective agreement for the printing industry it is regulated that a part of the annual expenses for vocational training has to be specifically provided for the qualification of women.

### **2.3 Organising workers in precarious employment and giving them practical help and assistance.**

There is a broad notion that trade unions mainly represent the “insiders” or the core workers of a company where they have the bulk of their membership. Indeed, the union density among non-standard groups of employees such as part-time or temporary workers is much lower than that of regular workers (Biebeler and Lesch 2006; European Commission 2011). For the unions the representation of both the core and the (usually more precarious) peripheral workforce is not always free of contradictions. This holds particularly true in times of economic crisis when the peripheral workforce might be used as a flexible adjustment mechanism while the secure position of the core workforce is maintained. During the recent crisis in 2008 and 2009, for example, the temporary agency workers and other workers with limited contracts were the first who had lost their jobs. On the other hand precarious workers might be seen by standard workers as being a threat to their own status. For the employers precarious workers became de facto an instrument to discipline the core workforce in order to make them accept all kind of social concessions (Dörre 2011).

After the unions had focused for a long time almost exclusively on the limitation and prevention of precarious employment, during the last decade they started to develop various initiatives to provide practical help and assistance for those in precarious work and to organise them (Aust and Holst 2006, Holst et.al. 2008, Vandaele and Leschke 2010). There are at least three reasons why the organisation of precarious workers is more and more being seen as one of the major challenges for trade unions. First, the fact that employees in precarious employment already amount to about one third of the total German workforce simply cannot be ignored by the unions any longer. This is all the more

true since the 1990s when German trade unions have been faced with a continuing decline in membership, so that precarious employment might provide the chance to recruit new members. Finally, the improvement of working conditions for precarious workers does not only require better and stricter regulations, but also a certain organisational power to enforce them.

For the unions the organisation of precarious workers is in many respects much more difficult than that of regular workers. The traditional channels of recruitment through the company often do not work because precarious workers have often rather short working hours and a high degree of fluctuation. More importantly, they are often in a less protected situation and a rather weak position against the employer. Altogether, this makes many of them rather reluctant to get in touch with trade unions, especially if the overall work environment is more hostile to the unions.

The unions have tried to respond to this situation basically in two ways. First, they have started to build up new structures which provide practical help and assistance for precarious workers on an individual basis. Secondly, they have developed special organising and recruitment campaigns for certain groups of precarious workers.

In order to get in touch with precarious workers the unions have developed various information platforms (<http://ratgeber-ungesicherte-jobs.dgb.de/>) and published advice booklets (Ver.di 2011c). There is a particularly wide range of information for temporary agency workers within the framework of the union campaigns for equal pay and conditions run by IG Metall (<http://www.gleichearbeit-gleichesgeld.de>) and Ver.di (<http://www.hundertprozentich.de>). As a pilot project in 2007, the DGB regional organisation of Oldenburg-Wilhelmshaven was first local union which opened three local “information offices for precarious workers” where both union and non-union members could get individual support (Goldenstein et.al. 2009). Other regional union organisations have followed this example or set up special information hotlines. For dependent self-employed workers Ver.di has even founded its own consultancy company (see: case study in chapter 3.3).

While the provision of information and support can also be used as one instrument to recruit precarious workers, the unions have also started to develop special recruitment campaigns. Although German unions do not have a strong tradition in active recruitment policy, more recently they have discovered more Anglo-Saxon approaches of organising which they try to adapt to the German institutional environment (Bremme et.al. 2007).

Many recent organising campaigns in Germany have had a strong focus on precarious employment. Ver.di, for example, initiated cooperation with the Service Employees' International Union (SEIU) from the USA for an organising project in security services which is known for very low wages, extraordinary long working hours and a widespread use of atypical forms of employment (Dribbusch 2008). The Metalworkers' Union IG Metall has put a special emphasis on the recruitment of temporary agency workers. As it has been proved rather difficult to organise temporary agency workers at the level of the agencies, IG Metall has begun to recruit them at the level of the contracting companies in metalworking. The unions have also set up special networks for temporary agency workers at local level (<http://www.igmetall-zoom.de>).

## **2.4 “Good work“ as a trade union counter model against precarious employment**

Over the past few years the unions have successfully attempted to provide a positive alternative to the process of the precarisation of the labour market and the world of work. With the concept of "Good Work" they have succeeded in receiving attention in the social debate regarding the changes at the workplace and linking the various facets of the humanisation of work together. With numerous activities within the enterprises, in collective bargaining and at the social level, the campaign of the unions has been gaining ground. They have found support from allies and actors in different sectors of politics, society and academia (Schröder and Urban 2011).

According to a study by the government-led project “Initiative Neue Qualität der Arbeit” (INQA), which carried out a broad survey involving more than 5,000 workers, the widely-accepted essence of the question “What is good work?” can be seen as follows: *“Work is always rated as being particularly satisfying and positively experienced when it offers as many development, influencing and learning opportunities as possible and is characterised by good social relationships. At the same time, it must prevent inappropriate loads. If work impacts on health too much, this cannot be offset by so many development and learning opportunities, creative and social potentials. Vice versa, work which is*

*described by the employees as not being a negative burden but not as exciting and promoting is also far removed from good work. Thirdly, income also plays a major role. If it does not secure a livelihood or it is in a very unfair relationship to performance, this is perceived by the workers as an inappropriate load and has an impact on daily work. The greater the lack of these three main factors good work is, the more frequently dissatisfaction, frustration and resignation dominate the picture which workers paint of their current work. Moreover, these workers report frighteningly often of a high degree of health disorders on working days and, subjectively speaking, consider it rather improbable that they will be able to maintain their workability under these conditions up to retirement age” (INQA 2007: 34).*

Since 2007 the German Confederation of Trade Unions (DGB) has also regularly organised an employee survey on actual working conditions. On this basis, the DGB “Good Work Index” is determined. It can be considered as a representative employee rating of the overall quality of their work, which at the same time can also be differentiated by groups of employees, types of employment, sectors, etc. (<http://www.dgb-index-gute-arbeit.de>). With these results, the unions try to influence the political debate, but they are also the basis for their own operational activities at company and sector-collective bargaining level

The unions have launched several practical initiatives to promote the project "Good work". IG Metall was the pioneer when in 2004 it launched its campaign, and initially pursued three main priorities:

- To give the work a healthy level - to limit working hours and work pressure.
- Work that is age appropriate and conducive to the enhancement of learning
- Reduction of precarious employment - reduce distress and risks.

From the outset the project was scientifically evaluated (IG Metall Projekt Gute Arbeit 2007). Papers, workshop concepts, practical guidelines and software tools have been created for the various topics. These were tested in the factories and experiences were exchanged. It was important from the perspective of the IG Metall to link different policy areas: health and occupational safety, sectoral-bargaining policy and works council activities.

As an outstanding project of the United Services Union (Verdi) and the Union of Food and Catering (NGG) in this field, the “minimum wage initiative“ is to be mentioned, which was taken up and supported by the DGB and its other unions. At the centre of the campaign are a variety of activities to enforce a statutory minimum wage - which is seen as a core precondition for “Good Work“.

The Mining, Chemical and Energy Union (IG BCE) has chosen to actively shape demographic change. With collective agreements on demographic change, it has created content guidelines and a procedural framework that is used as the basis for activities at company level. The agreements compromise work organisation and working time, health promotion, training, securing of human resources and knowledge transfer as well as family and career, as the most important issues for the demographic change.

In all recent trade union congresses (DGB 2010, ver.di 2011a, IG Metall 2011b) the importance of the campaign for “Good Work“ has been stressed and more activities have been concluded in order to promote a counter model against precarious employment.



### **3. Trade union strategies against precarity – four case studies**

#### **3.1 Tackling low wages**

In recent years probably the most comprehensive and visible campaign of the German trade unions against precarious employment has been the one against low wages (Sterkel et.al. 2006; Wallraff et.al. 2011, see also: <http://www.mindestlohn.de/>). After Germany was faced by one of the fastest increasing low wage sectors in Europe, the unions successfully started to scandalise low wages which have often been below the subsistence level. With their demand for decent wages, which should enable employees to live without additional support from the state, the unions have gained great support among the German public.

In order to tackle the problem of low wages the unions are following two strategic approaches: First, they are campaigning for the introduction of a national statutory minimum wage as a general wage floor for all workers in Germany. Secondly, the unions want to strengthen sector-wide minimum wages above the national minimum wage on the basis of extended collective agreements.

##### *Introduction of a national statutory minimum wage*

The German collective bargaining system, as it was developed in the 1950s, has a strong notion of collective bargaining autonomy where employers and trade unions conclude agreements without any interference from the state. This holds true in particular for wages, where in contrast to other issues such as working time or holidays, there exists no statutory minimum provision at all. For a long time the system was strongly supported by both bargaining parties and neither the employers nor the unions saw any need for a statutory minimum wage. On the contrary, the union were afraid that a statutory minimum wage, as it exists in many other European countries, would increase the free-rider problem and would undermine the unions' bargaining power.

Since the 1990s, however, German collective bargaining has undergone some significant changes (Bispinck et.al. 2010). Most importantly, there has been a continued decline of the collective bargaining coverage from about 80% in the early 1990s towards about 60% in 2010. While in traditional sectors, such as manufacturing or public services, the bargaining coverage is still rather high, it is particularly low in some private service sectors which represent the bulk of low wage earners (ibid). Moreover, in some sectors the unions

have signed collective agreements with rather low wage levels because otherwise they would not have been able to conclude an agreement at all (Bispinck and Schäfer 2006).

In the second half of the 1990s some trade unions started a debate on how to tackle the problem of a growing low wage sector in Germany. As in many branches the unions were too weak to address this problem through the traditional channels of collective bargaining, it was the small Trade Union of Food, Beverages, Tobacco, Hotel and Catering and Allied Workers (NGG), which as the first German trade union had called for the introduction of a national statutory minimum wage in 1999. Later on this demand was taken over by the United Services Union (Ver.di) and from the mid-2000s both unions started a political campaign to push for a national minimum wage.

Originally, the initiative taken by the service sector unions - NGG and Ver.di - was seen rather sceptically by some of the other unions. In particular the unions representing the manufacturing sector such as the German Metalworkers' Union (IG Metall) and the Mining, Chemicals and Energy Industrial Union (IG BCE) were initially against a statutory minimum wage, which they considered to be in contradiction with the principle of collective bargaining autonomy. After long and controversial debates among the unions, the Confederation of German Trade Unions (DGB) took a final decision at its congress in 2006, where a large majority voted in favour of a national statutory minimum wage. The DGB originally called for a minimum wage of 7.50 euro per hour. At the 2010 congress the DGB raised its demand to 8.50 euro per hour which is the minimum amount single employees need in order to have no further entitlements for additional state benefits. The demand is also in line with the minimum wage levels of other western European countries (Schulten 2011b). The introduction of a national minimum wage of 8.50 euro per hour would affect more than 5.8 million workers in Germany (Kalina and Weinkopf 2010).

The campaign of the unions has insofar been very successful as polls have continuously shown that a great majority of people in German endorse the introduction of a statutory minimum wage. The demand for a minimum wage has also been taken over by all major political opposition parties such as the Social Democrats, the Greens and the Left Party. Although the current federal government, which is run by a coalition of the Christian Democrats and the Liberals, has officially rejected the demand for a national statutory minimum wage, growing numbers within both ruling parties are beginning to argue in favour. At their party convention in November 2011 the Christian Democrats adopted even a resolution which calls for a strengthening of wage floors in Germany (Schulten

2011d). Therefore, it is not unlikely that Germany will sooner or later introduce a national statutory minimum wage.

### *Strengthening collectively agreed minimum wages at sectoral level*

Apart from a national statutory minimum wage, the German trade unions have also strongly campaigned for the strengthening of collectively agreed minimum wages especially in those sectors where the wage levels are well above a possible national wage floor (Bispinck and Schulten 2008). With the adoption of the German Posted Workers Law in 1996 the German government created a new possibility to declare certain conditions of a collective agreement - such as an agreed minimum wage - as generally binding for the whole affected sector. Originally, the idea was to make sure that posted workers from other EU countries received certain minimum conditions as laid down in the European Posted Workers Directive. In the meantime, however, the German Posted Workers Law has become a more general instrument to establish collectively agreed minimum wages for both natives and foreign workers.

In the beginning the application of the Posted Workers Law was limited to the construction sector and some related trades such as painting, roofing etc. In the meantime it has also been extended to other sectors such as the care sector, commercial cleaning, security services or the waste disposal industry. All in all, in November 2011 there were eleven sectors with collectively agreed minimum wages which were extended on the basis of the Posted Workers Law (*Table 4*). In three further sectors a minimum wage has been agreed, but has not yet been extended. The same holds true for temporary agency work where it is planned to make the collectively agreed minimum wage generally applicable on the special legal basis of the Law on Temporary Agency Work. For the future, the unions demand that the application of the Posted Workers Law be extended to the whole economy, so that in every sector there is the possibility to agree a sectoral minimum wage which is generally binding.

*Table 4: Sectoral minimum wages due to extended collective agreements\*, in euro per hour*

	<b>West Germany</b>	<b>East Germany</b>
Care sector	8.50	7.50
Commercial Cleaning		
interior cleaning	8.55	7.00
facade and window cleaning	11.33	8.88
Construction		
non-qualified workers	11.00	9.75
qualified workers	13.00	
Electronic Trade	9.70	8.40
Industrial Laundries	7.80	6.75
Mining related services		
non-qualified workers	11.53	11.53
qualified workers	12.81	12.81
Painting		
non-qualified workers	9.75	9.75
qualified workers	11.75	
Roofing	10.80	10.80
Scaffold builders	9.50	9.50
Security Services	6.53-8.60	6.53
Waste Industry	8.33	8.33
<b><i>Not yet in force:</i></b>		
Forestry services	10.52	10.52
Further Training		
administrative staff	10.71	9.53
pedagogic staff	12.28	10.93
others	7.60	7.60
Stone Carvers	11.00	9.75
Temporary Agencies**	7.89	7.01

\* On the basis of the German Posted Workers Law

\*\* On the basis of the Law on Temporary Agency Work

Source: WSI Collective Agreement Archive (Effective November 2011)

In most sectors with collectively agreed minimum wages they are well above the amount of 8.50 euro per hour which is demanded by the unions for a national statutory minimum wage. However, in some sectors the unions also accepted collectively agreed minimum wages near to - or even below that threshold. As the unions do not have the power to conclude higher wages in these sectors, they justify the conclusion of lower wages as a second-best solution as long as there is no general minimum wage.

Currently there is also a more general debate going on among the unions on whether or not they should sign collective agreements with wage grade levels below their own

demand of 8.50 euro per hour. According to a recent study carried out by the WSI Collective Agreement Archive, 13% of all wage grades in German collective agreements are still below that threshold (Bispinck and WSI Tarifarchiv 2011). Ver.di, for example, has taken the position that collective agreements with wage grades below 8.50 euro per hour should be signed only in exceptional cases which have to be confirmed by a special collective bargaining committee at national level. Other unions, however, have stated that as long as there is no national statutory minimum wage they need to continue with agreements providing lower wage grades, as otherwise they would run the danger of getting no agreement at all.

### **3.2 Temporary Agency work: Limiting and regulating**

The equal treatment clause of the Temporary Employment Act, which provides the relevant regulatory framework, has led to the country-wide coverage of temporary agency work by three competing collective agreements. The agreements have allowed the agencies to deviate from the equal treatment clause.

For several years, three sets of competing collective agreements have existed at the sectoral level:

- the DGB bargaining association with German Association of Private Employment Agencies (*Bundesverband Zeitarbeit*, BZA) and
- the Association of German Temporary Employment Agencies (*Interessengemeinschaft Deutscher Zeitarbeitsunternehmen*, iGZ) and
- the CGB bargaining association (*Christliche Gewerkschaften Zeitarbeit and PSA*, CGZP) with the employers' Association of Medium-Sized Personnel Service Companies (*Arbeitgeberverband Mittelständischer Personaldienstleister*, AMP)

German courts have long questioned the legitimacy of CGZP. A ruling of the Federal Labour Court of 2011 stated that the CGZP is not legitimated to negotiate collective agreements because it does not fulfil the legal requirements. As a consequence temporary workers affiliated with CGZP can sue for equal pay, going back as far as 2005.

### *Regulating equal pay by works agreements and collective agreements*

The exact coverage rate is not known but it is assumed that in the case of the three agreements mentioned above the coverage rate is close to 100%. Employment contracts in agencies that do not belong to one of the three employers' associations usually refer to one of the three collective agreements mentioned above to circumvent the equal treatment obligation.

The more the undermining of earning and working standards in the hiring companies came to light, the stronger became union criticism of the negative impact of TAW (IG Metall 2008, DGB 2009). Especially the IG Metall launched in 2008 a campaign against the abuse of TAW and put the principle of equal pay back on the agenda (*Initiative Leiharbeit fair gestalten: Gleiche Arbeit - Gleiches Geld* (<http://www.gleichearbeit-gleichesgeld.de>)). The union strategy in the companies included the following steps:

- Research on the extent and impact of temporary agency work at company level
- Information and mobilizing of employees and agency workers - claim for equal pay
- Actions at shop floor level to enforce agreements
- Establishing agency work as a permanent topic

At company level the union pushed for works agreements to improve pay and conditions for the temporary agency workers (*Besser-Vereinbarungen*). Until autumn 2011, about 1,200 of those agreements were concluded, in the best possible case they provided for equal pay. In addition to that, in some companies IG Metal also concluded restructuring agreements which – among others – contain a maximum limit for the use of temporary agency workers (see Box 1). The union succeeded in organizing about 10,000 temporary agency workers in the first year of the campaign.

**Box 1: Examples for works agreements to improve pay and conditions for the temporary agency workers and to limit their use at company level:**

In February 2011 at **Bosch in Eisenach (Thuringia, East Germany)**, a leading automobile supplier, the IG Metall, concluded a works agreement for a term of five years (Thüringer Allgemeine, 12 February 2011). This agreement provides for temporary workers to receive an hourly wage of 11.71 euro, instead of the previous 6.41 euro. This agreement will give agency workers the same basic pay as the permanent staff of this plant. In addition, late-, night- and weekend-surcharges will be calculated on the basis of the higher wage. Also new is the continuation of payment for sickness and holidays. It was also agreed to reduce the quota for temporary work. At the Bosch plant in Eisenach there are about 250 temporary workers - that is a ratio of about 14 percent. Nationwide there are about two percent of temporary workers at Bosch.

Another example is the agreement with **the AGCO Company regarding the plant in Bäumenheim (Bavaria)** where the well-known Fendt tractors are produced (Augsburger Allgemeine, 13 April 2011). Because of the favourable economic conditions it was possible that the council could enforce the equal pay for agency workers and permanent staff. At the production site in Bäumenheim there are currently 85 temporary workers employed. The works council and management negotiated a four-point package, valid until end of 2012. Through the agreement, the employees will be significantly better-off. The temporary workers will get the same pay as permanent staff. To make that happen, the parent company, AGCO of Fendt Bäumeheim, increased payments to the temporary agency. Furthermore an annual quota was agreed. A maximum of ten percent of temporary workers may be employed at the plant. In addition, at the end of the year the employees will receive for the first time a performance-based premium of 900 euro. In order to respond to fluctuations more effectively, the working time account has been extended to minus 150 and plus 300 hours. Trainees will be given a permanent contract after the apprenticeship. So far there has been continued employment for one year only.

In October 2011 IG Metall announced the conclusion of a so called "future agreement" at **Airbus in Hamburg** which aim to safeguard employment and production in Germany (IG Metall Küste 2011). Among other the works agreement foresees a limitation in the use of temporary agency workers. From 1 Januar 2012 the number of temporary agency workers and other workers with a fixed-term contract has to be limited to 20 percent of the total workforce. In 2012, at least 300 temporary agency workers have to be offered a permanent employment contract. Moreover, temprary agency workers will receive equalpay and working conditions from the 4<sup>th</sup> month of employment.

In November 2011 IG Metall and the leading driveline manufacturing company ZF Friedrichshafen concluded a landmark agreement according to which temporary agency workers have to be paid the same wages as for the ZF core workforce. In addition, the agreement determine that the company is allowed to use a maximum number of 380 temporary agency workers (out of 8,700 employees in total). The maximum operating time for temporary agency workers was limited to maximum of 6 months for production workers and 24 months for technicians and engineers in higher salary groups. The information and participation rights of works councils on temporary and contract work have been extended. In return, the IG Metall has agreed to extend the (paid) working hours for certain groups of employees.

### *Collective agreement - steel industry 2010*

The first sector-wide collective agreement with stipulations regarding equal pay was concluded in September 2010 in the steel industry. As the bargaining round took place amid signs of recovery in the national economy in general and the steel industry in particular, IG Metall was in a very strong position. In addition to the demand for a 6% wage rise, the union chose this sector as a pilot case to reach the first collective agreement on equal pay for temporary agency workers. The union believed that employers in this industry were more likely to concede to this provision as the wage levels of temporary workers were already similar to those of the core workforce in many cases. The union made it clear that it would only accept a settlement which included an agreement on temporary agency work.

The new collective agreement stipulates that employers must commit themselves to securing pay levels for agency workers that are the same as those received by workers starting a job at the company they are contracted to. If temporary agency workers are paid less, the companies will be liable to compensate them for not being paid properly. This obligation to pay compensation does not apply if the steel company can prove that it has contractually obliged the temporary work agency to secure proper pay (Dribbusch 2010).

In some other sectors the union also put the equal pay issue on the bargaining agenda, e.g. printing industry, retail trade and others, but they did not reach similar agreements. It is expected that in the bargaining round in the metal industry the regulating of temporary work will be an issue at stake.



### *Metal industry - Bargaining round 2012*

In the run-up to the bargaining round 2012 in the metal industry, IG Metall announced that it will regulate the TAW in this sector as well. The claims relate to the following points:

- Creation of an effective right for the works councils to refuse consent in matters concerning the use of temporary agency workers with collective bargaining arbitration board as a conflict regulation.
- Conclusion of a voluntary company agreement for the regulation of temporary agency work, especially on the occasion, volume, duration, areas of employment, transfer.
- Expansion of information and consultation rights of the works council in the use of contract workers.

In preparatory discussions both sides of industry want to explore the scope for possible solutions.

As far as the principle of equal pay is concerned, IG Metall is involved in exploratory talks with the main associations of German Temporary Employment Agencies about a step-by-step-plan for the pay of the temporary workers to be aligned to the collectively agreed pay in the metal sector, depending on the length of service.

### **3.3 Representing dependent self-employed workers**

Until the 1990s self-employed workers were largely excluded from German trade unions. If at all organised, they were members of trade associations which usually only represent certain occupations or professions (Vogel and Dribbusch 2009). The only exception was the media sector, where the unions had a long tradition of organising independent journalists and other freelance media workers. It was the former Media Trade Union (IG Medien) and its predecessor organisations which for decades were the only trade unions in Germany with a special policy for the self-employed (Blaschke and Mirschel 2007).

During the 2000s however, with the growing importance of dependent self-employed workers, the German unions started to discover them as a new target group. After five trade unions including IG Medien had merged into the United Services Union (Ver.di) in 2001, Ver.di took over the policy on self-employed workers from the former Media Union and tried to extend it to other service sectors (Pernicka et.al. 2007). As the first union in

Germany, Ver.di claimed to be also a “union for self-employed workers” (Ver.di 2007) and established separate structures within its organisation to represent them (<http://freie.verdi.de/>). In total, Ver.di has about 30,000 members who are self employed - which is about 1.4% of its overall membership (Ver.di 2011b). More than 80% of self-employed Ver.di members still come from the media sector, where they represent about 16% of all organised media workers. All in all, Ver.di has by far the largest group of self-employed union members.

Besides Ver.di, in the meantime the German Union of Education (GEW), as well as the German Trade Union for Building, Forestry, Agriculture and the Environment (IG BAU), have also opened their organisations to self-employed members. Both unions, however, number only a few thousand self-employed workers and have not yet developed separate representation structures for them. Finally, at the congress of the Confederation of German Trade Unions (DGB) in 2006, it was for the first time that all DGB affiliates recognised the need to represent the interests of dependent self-employed workers and to improve their often precarious working conditions (DGB 2006).

In principle, there are three ways unions can support dependent self-employed workers. First, they can give practical help for individuals by providing, information, advice, legal protection etc. Secondly, they can start political lobbying to influence the legal framework conditions for the self-employed, e.g. in the field of social security. Thirdly, they can try to conclude collective agreements in order to determine certain minimum conditions for the contracts between the self-employed workers and their contracting companies. Among all German trade unions, Ver.di has by far the most advanced policy strategy towards self-employed workers. Therefore, in the following it will be presented as an example for all three strategic approaches.

### *Practical support*

The organisation and representation of dependent self-employed workers pose some new challenges for trade unions which are rather different from their traditional constituency (Pernicka 2006). First of all, unions have to accept that self-employed work has its own character and cannot be regulated as strictly as the work of most dependent workers. As Ver.di has pointed out in its “basic programme for the self-employed”, the unions need to overcome a pure negative notion and have also to recognise the positive aspects of being self-employed - such as having no direct superior and having a more self-determined form of work with a more flexible arrangement of working time (Ver.di 2009). Furthermore, the

unions have to deal with the fact that self-employed individuals are a rather heterogeneous and highly individualised group of workers who cannot be addressed through the traditional channels at the workplace, whether that is a plant or an office.

Considering the special character and working situation of self-employed workers, a key instrument in connecting to them for the unions is the provision of efficient and comprehensive services. Ver.di therefore has established a separate consulting firm called "Mediafon" which specialises in consulting self-employed workers. Originally, Mediafon was set up as a pilot project, with financial support from the German government, by the former Media Trade Union in 2000 (Rehberg and Stöger 2004). It started as a kind of call-centre that self-employed media workers could turn to when they had questions or needed support regarding their work situation. In the initial period between October 2000 and January 2004 Mediafon received more than 12,000 telephone inquiries (ibid: 116).

Since the services for self-employed workers enjoyed great demand, Ver.di decided to continue with Mediafon at its own expense, after the first government-financed pilot period ended in 2005 (Blaschke and Mirschel 2007). Mediafon was transformed into a formal independent consultancy, while its services were made available to self-employed workers outside the media sector. In the meantime, Mediafon is a well established service agency and provides comprehensive support for self-employed workers on matters such as contract negotiation, remuneration and social security (<http://www.mediafon.net>). The services can be used by both trade union and non-trade union members. While for Ver.di members the service is for free, non union members have to pay a certain advising fee which they will get back, if they become union members within one month after the consultation. Mediafon also provides legal support and protection for self-employed workers, but this is, according to the trade union statutes, limited to trade union members only. Mediafon has also become an important instrument for Ver.di in the recruitment of new members. In the first four years almost half of the self-employed workers, who had contacted Mediafon, were non-union members, of which 15% jointed Ver.di after consultation (Rehberg and Stöger 2004: 159f.).

Considering the often rather isolated work situation that self-employed workers are usually in, one important aim of Ver.di has been the creation of networks among both unionised and non unionised self-employed workers in order to become a "platform for solidarity" (Ver.di 2009). Ver.di has provided regularly workshops and seminars on

various aspects of self-employed work. Furthermore, it has supported initiatives for regular freelancers' meetings at regional and local level and the establishment of professional networks (<http://freie.verdi.de/vernetzung>). Finally, Ver.di has also organised special seminars for trade union activists and has tried to further develop its trade union structures for self-employed workers at regional level which, according to the judgement of the unions, are still very much underdeveloped (Ver.di 2011b). As a great majority of the self-employed trade union members still come from the Media Sector, it is one major aim of the union for the future to concentrate more on self-employed workers in other sectors covered by Ver.di - such as health and care, further training, transport or information and telecommunications.

### *Political lobbying*

Apart from providing practical support for dependent self-employed workers, Ver.di also wants to give them a voice in the public debate and aims to represent their social interests in the political field (Ver.di 2009). Among other points Ver.di has lobbied for legal rules to regulate a fair remuneration for self-employed workers, especially when they are hired by public authorities or companies. The union has also demanded more state support in order to make further training for self-employed workers more affordable. Furthermore, it has been active in lobbying for a more self-employed friendly legal regulation of copyrights.

The core of Ver.di's political work, however, is related to the social security system where it constantly demands better access and better conditions for self-employed workers (Ver.di Bundeskommission Selbstständige 2011). From the union point of view, it was a great success that from 2009 onwards the health insurance also became obligatory for self-employed workers. The same holds true for the unemployment insurance where since 2006 at least some groups of self-employed have had the possibility to become part of the statutory system on a voluntary basis. However, the contributions that self-employed workers have to make to health and employment insurance are both determined by a flat-rate calculated on an assumed average income. In practice this leads to a strong disadvantage for those self-employed workers with rather low incomes, who have to pay proportionally high health insurance contributions. Ver.di therefore calls for a recalculation of the contributions for self-employed workers on the basis of their actual income.

Regarding pension insurances, Ver.di demands that both the statutory insurance system as well as the state programmes for the promotion of private provisions be opened up to a larger group of the self-employed. Finally, the unions argue for a more fundamental reform, so that the contracting firms would become involved in the payment of social security contributions for their self-employed workers - as is the case for dependent workers (ibid; DGB 2006).

### *Collective agreements for the self-employed in the media sector*

In principle, self-employed workers in Germany fall under the antitrust law which generally prohibits arrangements on prices. However, since the mid-1970s the German Collective Agreement Act (§12a) provides the possibility to conclude collective agreements for employee-like persons (*arbeitnehmerähnliche Personen*). The latter are defined as self-employed workers who usually have no employees and work mainly for one contractor (Neuvians 2002). After the unions had successfully lobbied for such an amendment to the German Collective Agreement Act, they signed the first collective agreements for dependent self-employed in 1976 and 1977 which covered freelance journalists working for public broadcasting and daily newspaper companies (Blaschke and Mirschel 2007). Until today these are the major collective agreements covering self-employed workers Germany.

Currently, Ver.di has signed company agreements with all twelve national and regional public broadcasting companies (<http://www.rundfunkfreiheit.de>). In most cases dependent self-employed journalists, who earn a certain amount of their income from a single company (i.e. one third of the income), are either included in these agreements or they have separate agreements. These agreements usually determine minimum fees, as well as certain minimum conditions, such as holidays or sick pay. The minimum fees are often increased along with the regular increases of wages and salaries.

One of the most advanced agreements for dependent self-employed workers is the nation-wide “collective agreement for employee-like freelance journalists at daily newspapers” which determines the professional fees for articles and pictures ([http://dju.verdi.de/freie\\_journalisten/tarifvertrag\\_ftaz](http://dju.verdi.de/freie_journalisten/tarifvertrag_ftaz)). This agreement is valid for all self-employed journalists who received at least one third of their income in the preceding six months from one single employer.

More recently, Ver.di has also reached a collective agreement for freelance TV and filmmakers who have a temporary contract for the period of a certain project. Currently, Ver.di and the German Union of Education (GEW) are campaigning together for a collective agreement for freelance lecturers who work mainly for the public adult education centres (*Volkshochschulen*). For the future it is the principle aim of the unions to conclude collective agreements also for further groups of “employee-like“ self-employed workers in other sectors. For the moment, however, in most sectors the unions still lack the organisational power among self-employed workers in order to bring the major contracting companies to the bargaining table.

### **3.4 Apprentices: More training capacities and takeovers**

Neither the willingness of companies to offer vocational training nor the subsequent takeovers of the apprentices are currently subject to mandatory statutory regulations. Since the 1980s the unions and some political parties have called for a statutory training levy in order to set an incentive for more and better vocational training. The basic idea is that employers who do not offer any, or an insufficient number of training places, have to pay a certain amount of money. This money serves as a fund to support companies providing vocational training.

But all attempts to introduce such a scheme have failed up to now. The last intensive debate on this concept took place in the first half of the 2000s when the training situation was especially bad. In 2004 the governing *red-green* coalition presented a law to safeguard vocational training (*Berufsausbildungssicherungsgesetz 2004*). According to the draft law, all employers with an apprenticeship ratio below 7 % should pay a training levy. The political resistance to this draft measure was enormous and in consequence the federal government put the plans for the law on hold and instead set up a national pact for training and young skilled staff jointly with the main associations of German industry (*Nationaler Pakt für Ausbildung und Fachkräftenachwuchs in Deutschland*) (Bundesregierung 2004). The employers made a pact, covering three years, to provide an annual average of 30,000 new training places. The question of whether this pact was successful was highly controversial. In autumn last year (2010) attempts to involve unions in the meanwhile prolonged pact failed because the unions did not accept employers' demands for a shorter training period in many training occupations and also more flexible

occupational health and safety provisions for young people. There have also been some joint initiatives with respect to training issues with union participation at federal state level.

### *Collective Bargaining*

The unions have always made efforts to regulate the situation of vocational trainees through collective agreements. The range of regulations varies from detailed agreements with precise regulations for whole sectors to non-binding appeals and vague commitments.

The construction industry is an example of one sector where collective agreements have been of great importance because they regulate the financing of the vocational training in detail. According to the agreement all companies of the sector are obliged to pay contributions to a provident fund (*Sozialkasse Bau*) which compensates the companies actually involved in the training for a large part of the operational costs. The successful functioning of this collective agreement is the result of the legal extension to all employers which prevents the free-rider problem. This model of collectively agreed regulation in the construction industry is undoubtedly a successful one, but a transfer of this scheme to other sectors has not so far taken place due to different framework conditions amongst the branches, differing views held by the unions and even more so because of the resistance of employers' associations.

From the mid-1990s onwards the unions in many sectors negotiated stipulations to promote vocational training in another way. This reflects the impact of the recession of 1992/93 which brought about a deterioration of the situation concerning training and employment for young people (Bispinck et.al. 2002, Beicht and Berger 2003). The collective agreements have focused essentially on two issues: the development of vocational training capacity at company level and the takeover of the trainees after completion of their apprenticeship.

### *Training capacities*

In numerous sectors the collective agreements contain the request to maintain and expand the capacities for training. But often it is not more than an appeal to the employers without a binding commitment. However, there are a few exceptions where the unions succeeded in negotiating binding provisions on that issue.

### *Chemical industry*

For more than ten years the social partners in the chemical industry have regularly concluded agreements on vocational training.

- Under the headline “Future through vocational training” (“*Zukunft durch Ausbildung*”) the agreements set out a concrete figure for the number of training places the companies in the sector have to offer. At regular intervals the current training development in the sector is examined and where necessary corrected. In addition to that the parties established regional boards on training issues in order to discuss and promote training activities at a decentralised level.
- In the bargaining round 2010 the agreement was reorganised. It stipulates that the employers are obliged to offer 9000 training places for the years 2011, 2012 and 2013. Detailed provisions were made regarding: the definition of the supply of training places, the examination of the data base and the results in the year 2013.
- Regardless of these stipulations, as a general rule it is stated: ‘Vocational training takes precedence over the takeover of apprentices’.

### *Metal industry*

Due to the regionalised collective bargaining structure in the metal industry, there is no industry-wide agreement on training issues. It is up to the regional union organisations to take the initiative. There is one outstanding example:

- In the region of Lower Saxony the IG Metall was, for several years, successful in achieving agreements on arrangements which prescribed precisely the number of training places for the sector.
- A review by the bargaining parties has been provided as of 1 November each year.
- Efforts of social partners shall be made to promote the training in IT occupations, in order to provide training places with a forward-looking perspective.

Another example is Bavaria where in 2007 a fixed-term collective agreement was designed to help create up to 1,000 training places. The collective agreement provided that an employer and an employee of a company could share training allowances for additional training places. This was planned to work as an incentive for companies to create additional positions. The financial contribution made by the workers was to be



taken from the next pay increase. Per employee it was a one-off payment of 35 euro. Employers were to carry the other half of the additional costs of training. According to figures provided by the Bavarian Employers Association (Bayern Metall), which the IG Metall accepted, the agreement led to 1,135 additional training places (sandwich students included), however, only 63 of them were financed using the collectively agreed regulations. The IG Metall is of the opinion that the agreement caused a moral incentive rather than a financial one. So the agreement was prolonged in 2009 with slightly modified provisions:

- The provision of additional training places is based on a voluntary company agreement.
- The collectively agreed costs of an average of 40,000 euro per apprenticeship, covering a period of at least 3 years, will be financed equally by employers and employees.
- The one-off contribution may not exceed 0.1 percentage points of the employee's wage increase in 2010, calculated for 1 year.
- Trainees will contribute a one-off payment of 5 euro.
- Employees who are not covered by collective agreements contribute to the costs.
- An employer will provide additional training places for the purposes of paragraph 1, if for the training period 2010/2011 they hired more trainees (with a regular training period of at least three years) than the average for the preceding four years (2006 – 2009).

According to the union there is no record of any application of this provision and the employers did not publish any figures. The agreement is no longer valid in the bargaining round 2012.

### *Takeover of apprentices*

There are a lot of collectively agreed regulations concerning the takeover of the apprentices after successful completion of the training. They differ mainly on the question of whether the takeover is temporary or permanent. In most collective agreements a temporary takeover is provided. A number of collective agreements nevertheless provide a combination of several variants, particularly of temporary and permanent takeover or the full-and part-time contract. It should be noted that in some cases the takeover is only

“in principle” guaranteed and bound to procedural regulations. The employer can refrain from taking over the apprentice for personal reasons or because of urgent employment problems in the company. Over the years it has been possible in some cases to extend the limit of the takeover, typically from 6 to 12 months. In some sectors no regulations exist (*Table 5*).

*Table 5: Collectively agreed takeover after apprenticeship*

<b>Sector</b>	<b>Duration</b>
Banking	12 months
Chemicals industry	12 months
Construction	-
Insurance	-
Metal industry	12 months
Motor vehicle sales and servicing	6 months
Printing	12 months
Public Service	12 months
Real estate and housing industry	-
Steel industry	unlimited
Textile and clothing (West)	-

Source: WSI-Tarifarchiv

### *Further regulations*

The unions have tried repeatedly to implement innovative solutions through various collective bargaining initiatives. In the chemical industry there exist, since the late 1980s, collectively agreed schemes to help disadvantaged young people when starting an apprenticeship and to integrate them into working life. In the collective bargaining agreement of 2011 it was expressly agreed that the programme “Career start“ would continue.

In 2010 in the metal industry, the bargaining parties agreed on a collective agreement “Future in education“ (*Zukunft in Bildung, ZIB*). It allows apprentices who have a contract of at least 12 months to interrupt their employment for further training measures. For the first time the agreement created a framework that makes it possible for employees to take advantage of measures towards further education and second-chance education without having to dissolve the employment relationship (Ohl 2011).

### *Campaign “Operation Takeover”*

The activities of the IG Metall are part of a comprehensive strategy to put the problems of the young generation at first place on the union’s agenda (IG Metall Vorstand Ressort Jugendarbeit und -politik 2009). In 2009 the IG Metall launched a campaign “Operation Takeover” (*Operation Übernahme*). The campaign is, as the union puts it, “about the future, safety and perspectives of the young people” – the main target is to enforce the takeover of the apprentices after their apprenticeship and, more generally, to improve their career chances and working conditions. The union summarised the concept in a charter entitled: “Young Generation – Work: Safe and Fair”. The arguments are as follows: At times about 50 percent of the trainees do not get an employment contract after their apprenticeship. The majority of them are unemployed. Overall in the group of young people the unemployment rate is almost twice as high as in the remainder of the employed population. With no real work experience a completed apprenticeship quickly loses its value, because businesses usually look for experienced workers. It is only the unlimited takeover of an apprentice which provides them with an entry into professional life (IG Metall 2011a).

In October 2011 the union added pressure and emphasis to their demands by organising a national day of action with more than 20,000 participants. In the next bargaining round 2012 the union will urge the employers to agree on a permanent contract for all vocational trainees after the apprenticeship as well as on stipulations for improving access to education for disadvantaged young people. The first reactions of the metalworking employers were negative: they emphasised that enforcing employers to take over apprentices will affect the willingness of the employers to provide training places. In the steel industry, however, IG Metall managed to conclude a new agreement in November 2011, which foresees an unlimited takeover of all apprentices.

## 4. Conclusion

Since the mid-1980s Germany saw a continuing increase of precarious employment which now amounts to one third of the total labour force. The latter include not only a growing number of atypical workers with marginal or involuntary part-time and/or fixed-term contracts but also a significant proportion of regular workers with a full-time and non-limited contract but with rather low wages and poor working conditions. For a long time there was a hegemonic view in Germany that the increase of precarious work was inevitable in order to make the labour market more flexible. The latter was seen as a necessary precondition to improve competitiveness and to promote growth and employment. Consequently, former governments followed a policy of deregulation of labour markets and workers protection which makes the increase of precarious employment possible.

The question whether or not precarious employment has really led to a better performance of the German economy is somewhat contested. While there is a widespread perception both within and outside of Germany that the labour market reforms of the 2000s would have contributed largely to the decrease in unemployment, more critical studies have shown that the deregulation of labour protection did not influence the number but mainly the quality of the newly established jobs (Sturm and van Treeck 2010). Moreover, the increase of precarious employment and, in particular, the rapid growth of low-wage earners have been identified as the major source of the extremely moderate wage development in Germany during the 2000s which led to a strong economic underperformance of the German internal market (Joebges et.al. 2009, Schulten 2011c).

The German trade unions were among the few who had always taken a much more critical view and had emphasised the enormous social and economic costs of precarious employment. They also have become aware that increasing precarious employment created a significant threat to their own power basis. This holds true not only because the union density has been much lower among precarious workers but also because the latter has become a highly suitable instrument to discipline the remaining standard workers who have become more and more afraid of losing their protected status.

In response to this the unions have developed various initiatives to support and recruit precarious workers. They have also tried to conclude collective or works agreements in order to improve their working conditions. There has been some remarkable success and examples of good practices in single areas or companies. All in all, however, the reach of

the union initiatives has been rather limited to date. This is due to the fact that precarious workers often work in areas and sectors where the traditional institutions of German industrial relations are relatively weak. Many precarious workers are, for example, not covered by collective agreements.

Since the increase of precariousness in Germany is mainly the result of its deliberate political promotion through deregulation of workers protection, for the unions it is, first of all, the responsibility of the state to re-introduce a much stricter labour regulation. As the president of IG Metall put it at the recent union's congress: "*Collective bargaining policy is not the repair shop for policy failures*" (Huber 2011). In recent years the unions have been campaigning for some major policy projects against precarious employment, such as the introduction of a statutory minimum wage or the re-establishment of equal pay for temporary agency workers. These campaigns have been successful insofar as – according to several polls – a strong majority of German people now supports these union demands. In general, it seems to be that the public discourse has taken a much more critical stance on precarious employment. Therefore, there might be at least some chances that after two decades of labour market deregulation, Germany will in the future turn again towards a policy of more labour market protection.

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