

»Atypical Employment« is Becoming a Norm, but have Pension Systems Responded Yet?

A Comparison of Six European Countries

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- More than one-third of European workers are now employed in »atypical« forms of work, and the trend is growing. For example, part-time employment has already become normal in the Netherlands, solo self-employment in Italy and fixed-term employment or contract work in Poland.
- The income of those in atypical employment is usually below average. Women are particularly affected. Men form the majority only in solo self-employment, although women are catching up here, too.
- Atypical employment tends to be very »dynamic« in the sense of a multitude of transitions from one form of employment to another and goes hand in hand with increased risk of unemployment and thus discontinuous earnings. This has particular implications for social security, especially old age pensions.
- Against this background, the best old age pensions are those that guarantee (poverty preventing) basic social security regardless of a person's employment history (good examples include the Netherlands and Denmark, while the United Kingdom is a bad example). Increasingly problematic are state old age pension systems that are strongly oriented to the equivalence principle and are contribution- and insurance-based (Poland, Italy and Germany).
- Trade union representation rights for »atypical employees« are often legally curtailed and have been further reduced over the past ten years, and not only in countries under Troika programmes. More recently, however, a number of promising trade union strategies have been identified in dealing with atypical and often precarious employment.



»Atypical Employment Relations« are Increasing Throughout Europe¹

Throughout Europe the proportion of »normal employment relationships« – in other words, permanent full-time work – is falling relentlessly. In many countries atypical employees – that is, agency workers, employees on fixed term contracts, solo self-employed, the marginally employed and part-time employees – make up a considerable proportion of total employment, with a share of well over one-third.

Not all forms of atypical employment are necessarily precarious, but we can assume that there is generally a greater risk of precarity for atypical employees than for those in normal employment. For example, their risk of

receiving a low wage is particularly high. They are also at a disadvantage when it comes to access to social security systems and the application and implementation of labour and codetermination rights.

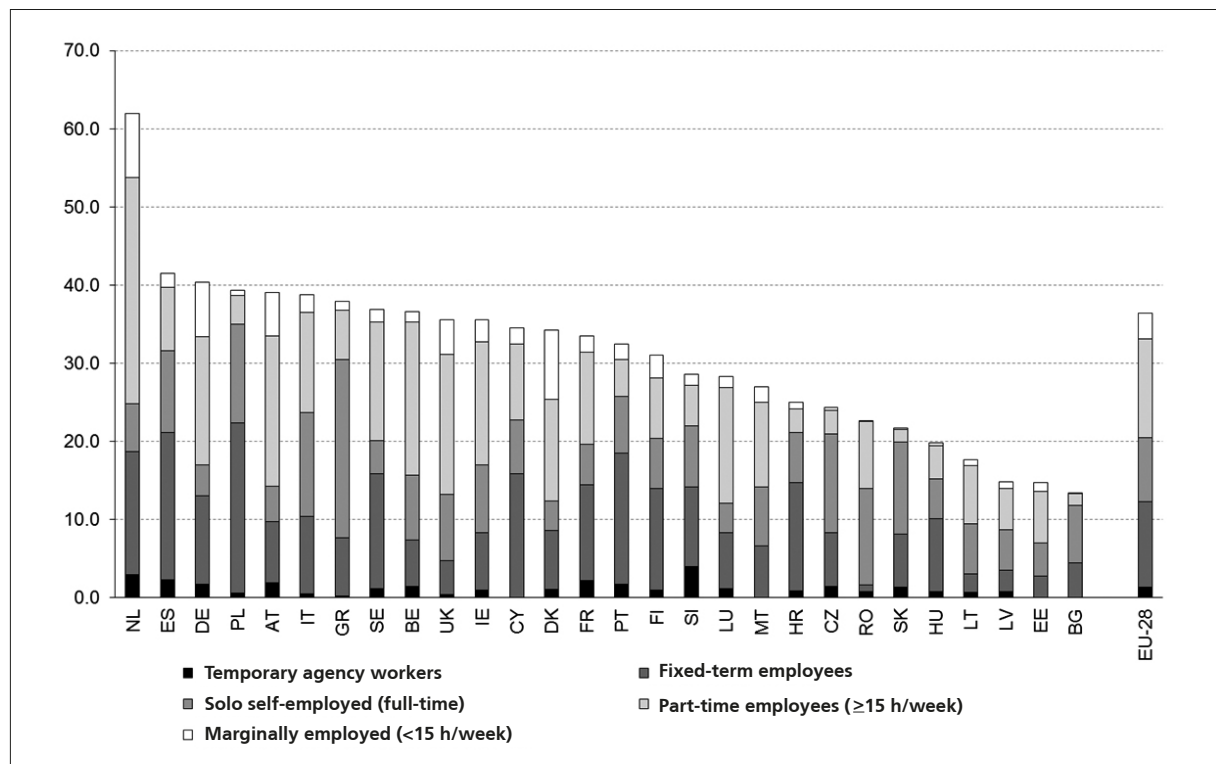
Throughout Europe the proportion of atypical employment is rising, especially in labour-intensive sectors, for example, construction or commercial cleaning. Labour market polarisation has intensified since 2008 because of the financial and economic crisis and its aftermath. At the same time, unemployment has increased in most European member states and the proportion of people out of work for more than 12 months doubled between 2008 and 2013, according to European Commission estimates. This has particular consequences for the lower segments of the labour market. As a result of labour market »reforms« oriented towards »activation« in many countries pressure on the unemployed to accept even atypical and often precarious employment has increased.

Our focus here will be to examine which systems of old age insurance offer »atypical employees« the best rights

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1. All empirical data from this investigation and more detailed analyses are contained in the long version of the study, Karin Schulze Buschhoff (2015), *Atypische Beschäftigung als Herausforderung für die Alterssicherung und die gewerkschaftliche Interessenvertretung – ein europäischer Vergleich*, FES; online at www.fes.de, September 2015.

Figure 1: Proportion of Atypical Employees out of all Employees (aged 15–64), by Individual Forms, 2014 (%)



Source: Eurostat, Labour Force Survey, author's calculations.

and opportunities. Our assumption is that, in future, employment histories will become even more characterised by »discontinuities«; that is, that employees will sometimes be in fixed-term employment, part-time employment or solo self-employment, sometimes be well paid and sometimes experience periods of unemployment in the course of their working lives.

More Than One-third of European Employees are Already in »Atypical Employment«

In many countries of the EU28 atypical employment is widespread: 36.4 per cent of all employees were in atypical employment in 2014. In 20 EU countries the number of atypical employees increased during the period from 2006 to 2014. However, there are considerable differences in the development dynamics of individual countries. In what follows we shall thus look at the differences and similarities between Denmark, Germany, Italy, the Netherlands, Poland and the United Kingdom.

Atypical Employment – Different in Each Country

In the present comparison the Netherlands has, with 62 per cent in 2014, by far the largest proportion of atypical employment and in the period from 2006 to 2014 also registered the largest increase in atypical employment (more than 7.7 per cent). Particular increases were observed in the shares of fixed-term employment (increased to 15.7 per cent), solo self-employed (to 6.1 per cent) and part-time employees (to 29 per cent). By contrast there was a slight decrease in the proportion of marginally employed. The classification »atypical« has thus long been inappropriate for the Netherlands with regard to part-time employment because there it is rather the norm than the exception.

In the other five countries the proportion of atypical employees made up over one-third of total employment in 2014, with 34 to 40 per cent. In Germany the proportion of atypical employment in the period 2006–2014 rose only slightly, to 40.3 per cent. This rise is based on the increase in part-time employment with working times of at least 15 hours per week. In Denmark during the same period the proportion of atypical employees grew somewhat more than in Germany, which can be attri-

buted above all to the increase in marginal employment, as well as part-time employment (with working times of at least 15 hours a week) and of solo self-employment.

In Italy the proportion of atypical employment has increased beyond all other forms of employment. Only the proportion of solo self-employed has fallen slightly (to 13.2 per cent). In the present six-country comparison Italy and Poland remain at the forefront with regard to the proportion of solo self-employed out of total employment, however.

In the United Kingdom there have been increases particularly in the proportion of solo self-employed (to 8.4 per cent) and of part-time employees (to 17.9 per cent). Marginal employment, by contrast, has fallen (to 4.5 per cent).

Poland is the only country in the present national comparison that has registered a decrease – albeit modest – in the proportion of atypical employment in the past eight years, although starting from a comparatively high level (39.3 per cent in 2014). Workers employed on the basis of a service contract do not appear to categorise themselves as »self-employed«, according to the results of Eurostat surveys.

Women and Young People are Particularly Prominent Among Atypical Employees – But Men are Catching Up

With the exception of Poland, the present six-country comparison shows that *women* are in atypical employment more often than men. This results primarily from the high proportion of part-time work among women: in 2014 the proportion of women in part-time employment across the EU, at 21.7 per cent, was more than four times higher than the proportion of part-time men. On the other hand, solo self-employment is a typical employment form among men: at 10.9 per cent it is more than double the proportion of solo self-employment among women.

It is notable that although atypical employment overall predominantly affects women the proportion of men in atypical employment has risen since the mid-2000s in all countries other than Germany, especially in the Netherlands.

Italy**The Jobs Act 2014 –
Labour Market Reforms to Combat Precarity?**

In December 2014 the comprehensive labour market reforms of the Jobs Act were adopted after months of heated argument. The abolition of employment protection for unlimited contracts was the most controversial step here.

The particularly precarious employment contracts known as »*co.co.pro*« (*contratto a progetto* or project-based contract) were abolished because employees were being employed on this basis for years. The possibility of imposing fixed term contracts without a substantive reason remains, however, with a maximum duration of 36 months. Apart from that, the range of application of so-called »*buoni lavoro*« or work vouchers has been extended. Employees can in this way be employed by the hour for an hourly wage of, at present, 7.5 euros without a formal employment contract. The range of application of unlimited agency work has been liberalised, although the number of agency workers in a given company has been restricted to a particular percentage. Social insurance for unemployment has been improved, on one hand, but on the other hand has been linked with disciplinary sanctions (Schreiner 2015; OECD 2015).

United Kingdom**Too Much Flexibilisation?
»Zero Hours Contracts« Do Not Have to Guarantee a Minimum Number of Hours**

According to the Office for National Statistics, in August 2014 there were around 1.8 million of these »employment contracts that do not guarantee a minimum number of hours« (Pyper and Dar 2015; McGaughey 2015).

This form of contract provides that the employee work on demand, when the employer has need of them. If there is no need or no work, there is no payment.

The regulation of zero-hours contracts was a key election issue before the parliamentary elections in 2015. In particular, the use of »exclusivity clauses« (a contractual obligation on the part of the employee to work only for one employer, regardless of the number of hours actually worked or services provided) is coming under increasing criticism.

Poland**Where Labor Laws Are Not Applicable:
»Employment Relationships« Under Civil Law**

So-called service contracts are becoming more and more important in the Polish labour market. As »employment relationships under civil law« (*umowy cywilno-prawne*) they are not subject to labour law. Labour law regulations – for example, in relation to minimum wages, working time, vacation and overtime – thus do not apply. Social security protection is also not prescribed, so that a growing number of employees are not insured.

Labour inspections in 2012 revealed that around 20 per cent of the employees of the companies inspected were employed on the basis of so-called service contracts. An estimated 50 per cent of employees under 24 years of age are employed on the basis of a service contract rather than a regular employment contract (Trappmann 2014: 12).

Furthermore, *young people* (15–29 years of age) are most often in atypical employment, followed by the oldest workers (55–64 years of age). Only in the United Kingdom are older people in atypical employment more than younger people. On the other hand, solo self-employment is a typical employment form among older people. In 2014, in Poland, while 6.4 per cent of 15–29 year-olds were solo self-employed, among 55–64 year-olds the figure was 16.1 per cent.

Incomes of Atypical Employees are Generally Below Average

A comparison of monthly net incomes of full-time employees reveals substantial differences between »normal« and atypical employees. Only around one in five employees on a fixed contract or working for an agency, but in full-time employment received a monthly net income above the net median income of all dependent employees in the same country. By comparison, almost two out of three »normal« full-time employees receive this.

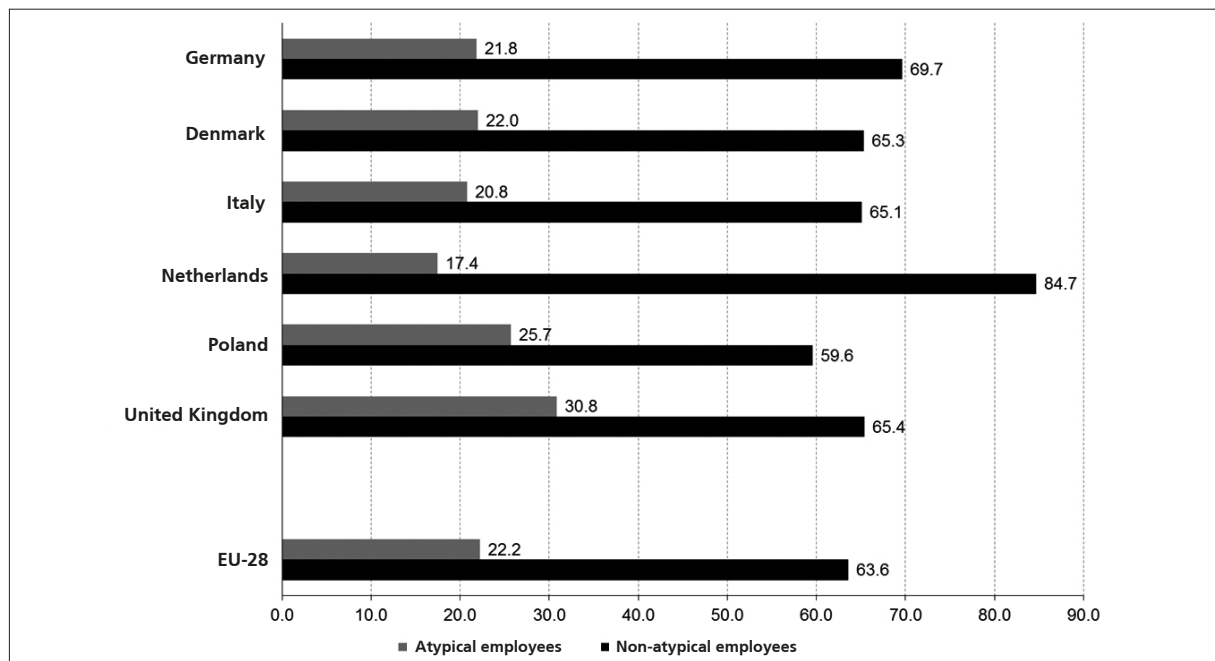
The difference between atypical and »normal« employees with regard to income distribution is particularly substantial in the Netherlands.

Atypical Employment is Part and Parcel of Discontinuous Employment Histories

A considerable proportion of atypical employees come under more than one category. For example, they work both part-time or in marginal employment *and* on the basis of a fixed term contract or as solo self-employed. In the six countries we studied this proportion ranged from 9.5 per cent in Denmark to 27.7 per cent in the Netherlands (EU-wide 15.2 per cent) in 2014.

In addition, atypical employment often goes hand in hand with erratic, intermittent employment histories. Various studies show that solo self-employment, fixed-term employment, temporary agency work and part-time employment are comparatively unstable forms of employment. They are associated with a multitude of

Figure 2: Proportion of Atypical and Non-atypical Full-time Employees with a Monthly Net Income Above the Average, 2014 (%)



Note: The figure shows the proportion of dependent full-time employees whose monthly net income is above the monthly net median income of all dependent employees in the relevant country. Atypical employees here include all those who are dependently employed full-time in agency work and/or in fixed term employment.

Source: Eurostat, Labour Force Survey, author's calculations.

transitions from one form of employment to another, as well as a heightened risk of unemployment. This high dynamism can, indeed, be positive in the sense that frequent change can help to enhance employability and high flexibility can correspond to employees' individual preferences. High dynamism is particularly valuable when it has a bridging function, for example, from atypical employment in the low wage sector to standard employment and a living wage. However, the transition from a job in the low wage sector to better paid employment is often particularly difficult. Low paid employees who find a new job after being unemployed generally remain in the low wage sector. Low wage employment and, in particular, marginal employment often turn out not to be bridges to the regular labour market, but rather a segment of the labour market in which these employees remain »trapped«.

Trade Unions Approaching Atypical Employment²

The long-term trend of increasing atypical employment goes hand in hand with a similarly long weakening of traditional trade union instruments. This is partly due to the ongoing structural transformation of the economy and partly to deliberate »reforms to improve competitiveness«.

Recently some European trade unions managed to highlight the interests of atypical employees, especially agency workers, also in collective bargaining. Since the 1990s, furthermore, new trade unions have been founded or specialised units established in existing trade unions with the purpose of organising temporary agency workers or solo self-employed in particular.

Looking at the countries in this study it becomes clear that the biggest Danish trade union federation LO and its member organisations have begun only in recent years to develop new strategies and activities directed towards atypical employees (Mailand and Larsen 2011: 3).

2. A large part of the results in this report are based on publications of two joint research projects financed by the European Commission: »Bargaining for Social Rights« (BARSORI), Agreement Ref. VS/2010/0811 and »Bargaining for Social Rights at Sector Level« (BARSORIS), Agreement Ref. VS/2013/0403. Cf. Keune (2011), Keune and Ramos (2015), Boonsstra et al. (2011), Simms (2011), Burrioni and Carrieri (2011), Mailand and Larsen (2011), Bispinck and Schulten (2011) and Schulten und Schulze Buschoff (2015).

Particular efforts have been made to improve the situation of temporary agency workers by means of collective agreements. There have been some initial successes in the attempts to contain temporary agency work by means of collective agreements, for example, by trade unions in Germany, Italy and the United Kingdom.

Trade unions in Germany, the Netherlands, Italy and the United Kingdom have developed special organisation strategies and campaigns for atypical employees. On top of that, trade unions in Germany and the Netherlands are conducting political campaigns for »dignified work«, »decent work« and »equal pay for equal work«.

The introduction of a statutory minimum wage (Germany) or the adaptation and increase of minimum wages that reduces the race to the bottom to pay the lowest wages is very high up the trade unions' agenda in all the countries we investigated, with the exception of Denmark.

Atypical Employees, too, Need Trade Union Representation Rights

The proportion of employees in Europe whose working conditions and income are regulated by collective agreements is falling sharply. The weakening of collective bargaining systems, which has again been on the increase in the course of implementing crisis management policies, has made it difficult for trade unions to represent the interests in particular of atypical employees.

In countries in which employment by a company is a legal prerequisite of trade union membership many atypical employees are de facto being deprived of their right to organise. Among the countries examined here it is in Poland in particular that legal changes would be necessary to give all atypical employees even a chance of having their interests represented by a trade union. Given the enormous expansion of service contracts and commission contracts, which to date have not been subject to labour law, Polish trade unions, which have recently been more willing to engage in conflict, are calling for new legal regulations so that in future those on service contracts and the solo self-employed can join a union. The struggle to enshrine curbs on extreme provisions in service contracts in law is also on the agenda of the trade unions in other countries, such as Germany.

Dealing with atypical or precarious employment has become a key issue in national industrial relations in many countries. At the EU level, however, the aim of budget consolidation is increasingly dominant in relation to atypical employment.

Impetus from Brussels: Budget Consolidation is Crowding Out the Fight Against Poverty

While in the 1980s and 1990s the European Commission extended its social policy competences today it is falling short of the achievements of that period. In the 1980s and 1990s social dialogue was strengthened, for example, in the form of the systemic inclusion of the social partners. In the 1990s this was used to introduce labour and social policy regulations in areas in which the legislative process was blocked within the framework of the Community method (Schellinger 2014). Social partner agreements played an important role in all this, introduced by the European Commission in the Council of Ministers in the form of proposed directives.

In this way a number of legally binding minimum standards came into being on atypical employment: the regulations on working conditions for part-time work (RL1997/81/EG), fixed term work (RL1999/70/EG) and temporary agency work (RL2008/104/EG).

Since the beginning of the 2000s and in particular since the euro crisis, however, the importance of social dialogue has declined. At the same time, there has been a recalibration in favour of supply-side economics, which seeks above all to push the flexibilisation of labour markets. The idea now is to provide social security for employees not by means of labour market and social policy regulations but rather primarily through »investment in human capital« (Schellinger 2014).

The employment and poverty targets of the Europe 2020 Strategy can no longer be achieved. The employment rates of 20–64 year-olds in the 28 countries of the EU have not risen, but rather fallen, on average. The number of people under threat of or in poverty has increased in the EU28 by 10 million since 2008/2009, to 124 million, instead of falling (Hacker 2014).

In the white book on pensions published by the European Commission in 2012 a »more economics-orient-

ed reading of pension policy« is evident (Natali 2012). The objectives now dominant at the EU level recommend financial consolidation in the form of lower levels of services and benefits in public provision, combined with elements of minimum social security. The European Commission favours raising the statutory pensionable age, as well as more private saving and provision (Schmähl 2012; Hacker 2013).

In the Troika programme countries measures such as relaxing the law on atypical employment, reducing minimum wages, weakening bargaining coverage and abolishing employment protection are being implemented. Even though in some instances these measures are time-limited they lead to social disparities and palpably counteract social policy goals, such as reducing poverty (Schellinger 2014).

Achieving social policy objectives, such as reducing poverty, depends to a considerable degree – besides the development of income and working conditions – on social security, in particular public provision for old age in individual countries.

Public Pension Schemes for Atypical Employees by Country Comparison

With regard to the old age provision of atypical employees the action required at national level varies, depending on the arrangements of the respective social security system, but especially in relation to the protection of those in marginal employment and solo self-employed. These employees are sometimes not covered by public social insurance systems at all or their treatment is much worse than that of people in normal employment.

The »First Pillar« Is Decisive

- In Poland, Italy and Germany state old age pension systems are clearly insurance-based and oriented strongly to the equivalence principle. Here gaps in a person's employment history and low income are directly reflected in pension levels. Given the barely redistributive effect of these employment-centred pension systems one fears there will be a substantial increase in old-age poverty among atypical employees in these three countries in the future.

- Basic pensions, that represent citizen or resident entitlements, do a good job of protecting people against poverty because neither employment nor (changing) activity status in themselves play a role in who receives them. In Denmark and the Netherlands all residents, regardless of employment and activity status are insured by the state basic social security system. Benefits in both countries are sufficient to prevent poverty.

- The United Kingdom, by contrast, is currently planning a reform aimed at standardising basic provision and the income-related system in the form of a »single tier pension«, with relatively low benefits and only marginal minimum protection. These proposals are otherwise very much in line with the current ideas of the European Commission. The idea is to create a state minimum protection system in which, although all those in active employment – including solo self-employed – would be covered, private provision would increasingly be expected. This system offers atypical employees inadequate protection against old-age poverty.

- As far as old age provision is concerned, the dominant objective at the EU level is financial consolidation of state budgets by means of cuts in benefit levels in state provision for old age. The European Commission's recommendation to raise the pensionable age is being implemented by all the countries we looked at. Gradually, all six countries are raising the retirement age to 67 years, albeit with different schedules.

- In the face of demographic change and, in particular, the political prioritisation of budget consolidation people in European countries are expected to provide for their old age either privately or at company level. The European Commission recommends the expansion of both private and company provision; furthermore, despite the experiences of the financial crisis, this is supposed to be in forms dependent on the capital markets (Schmähl 2012; Hacker 2013). This approach pays no attention to the particular situation of atypical employees, whose generally low income severely curtails their ability to save.

- In particular, solo self-employed and employees with discontinuous employment histories are often excluded from company pensions because of their lack of a (long-term) service record.

- In many European countries there are compensation mechanisms to protect low earners from old age poverty. Social compensation for lower employment incomes exists primarily in the public system and is more difficult to implement in company and private old age provision, which is mainly market-related. Among the countries in this study there is no such compensation – or very little – in Italy, Poland and Germany. The intermediate gross income replacement rates of average and low earners are almost identical in the insurance-based, contribution-related state pension systems of these countries, which are strongly oriented towards the equivalence principle.

In order to adequately integrate increasingly flexible employment histories in state old age provision and in other social security systems a perspective needs to be taken that takes account of the whole individual working life including periods of erratic income and gaps. Protection against these risks is insufficient in many European countries. What can be done if old age pension systems can no longer cope with changing employment patterns?

First, options related to gainful employment come to mind, such as regulating working and income conditions. To be specific, this might include strengthening collective agreements and adequate wages, as well as curbing precarious employment and preventing bogus self-employment and the abuse of service contracts.

A second approach involves reforms of pension insurance systems. In particular insurance-based systems that are strongly oriented towards the equivalence principle must explicitly shift away from the defined-benefit principle on which they have been based hitherto if they are to be able to take better account of flexible employment histories and there must be more robust redistribution. In this way, indeed, other notions of justice would also be realised and objectives re-balanced. Basic Social Security systems, such as those in the Netherlands and Denmark, are based not on the defined-benefit principle, but on the idea of needs-based justice. By granting all residents a standard basic pension sufficient to prevent poverty, regardless of employment or contribution record, these systems are better able to cope with the risks arising from increasingly flexible labour markets than explicit defined-benefit systems.



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