Atypical employment in Germany. Forms, development, patterns

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Summary
This article deals with recent developments of atypical employment in Germany, its present extent and current patterns. In its introductory remarks it differentiates between standard employment and atypical forms. It then describes the development and structures, enabling an analysis of the long-term consequences. It goes on to introduce a crucial distinction between atypical and precarious employment on the basis of explicitly defined criteria. The article ends by presenting certain explanations to a large extent missing in existing research.

Résumé
L'article examine les évolutions récentes de l'emploi atypique en Allemagne, l'ampleur du phénomène et ses caractéristiques actuelles. Une partie introductive est consacrée aux différences entre l'emploi standard et les formes atypiques. L'article décrit ensuite le développement et les structures de ces formes pour pouvoir se livrer à une analyse des conséquences à long terme. Il introduit ensuite une distinction essentielle entre emploi atypique et emploi précaire sur la base de critères explicitement définis. L'article conclut en présentant certaines explications du phénomène qui dans une large mesure sont ignorées de la recherche existante.

Zusammenfassung
Der Artikel behandelt jüngere Entwicklungen atypischer Beschäftigungsformen in Deutschland, beschreibt ihren Umfang sowie ihre Entwicklungsmuster. Die einleitenden Bemerkungen unterscheiden zwischen Normalarbeitsverhältnis und atypischen Formen. Danach werden Entwicklung und Strukturen der einzelnen Formen beschrieben, die eine Analyse der langfristigen Folgen ermöglichen. Anschließend werden Kriterien definiert, die eine grundlegende Unterscheidung

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The issue

The various forms of atypical (non-regular or non-standard) employment are neither a new phenomenon nor restricted to individual countries. Though the specific forms it takes differ significantly from country to country, its overall increase over the last two to three decades constitutes a general trend (Houseman and Osawa, 2003; JILPT, 2011; Schmeißer et al., 2012). Since the major labour market reforms of the mid-2000s in Germany, it has been attracting increasing public as well as academic interest (Giesecke, 2009). The growing interest in atypical employment has been triggered by its increasingly negative social consequences. Whereas the vast majority of contributions focus on individual forms, especially agency work and mini-jobs, we will be taking a broader approach, discussing all forms.

This article does not present new findings based on own microeconomic analysis, instead summarizing existing partial surveys, dealing with long-term developments, the present extent and current patterns in Germany and thus providing a comprehensive and up-to-date overview, so far lacking. The first section focuses on definitions and delimitations, differentiating explicitly between standard (or normal) employment (Normalarbeitsverhältnis) and various atypical forms. The second section describes the development and structures, enabling an analysis of the long-term social consequences. It covers the period since German unification in 1990, an important milestone for labour market developments. It goes on to introduce selected precariousness criteria, expanding the perspective beyond wages, the most frequently used indicator. This multidimensional approach enables us to distinguish not only between atypical and precarious employment but also between various criteria and degrees of precariousness. Finally, the third section presents some theoretical explanations that are, in contrast to empirical descriptions, underdeveloped in existing research.

Definitions and delimitations

Atypical employment is usually defined in purely negative terms, in contrast to standard employment (Kalleberg, 2009, 2011; Mückenberger, 1985, 2007; Standing, 2011). Constituting a mixture of employment categories summarized for statistical purposes, its heterogeneous forms need to be explicitly differentiated in any empirical analysis. A frequently used point of departure is standard employment, characterized by the following features:

- full-time employment with an income sufficient to cover independent subsistence;
- a permanent employment contract;
- full integration into social security systems (particularly pension rights, but also unemployment and health insurance);
- a defined two-way work and employment relationship (excluding a triangular relationship between an agency, employee and hiring company); and
- the employee receives instructions direct from the employer.
As in other comparative research (Kalleberg, 2000, 2011; Vosko, 2010), we use this term as a nominal definition and exclusively in an analytical rather than a normative sense for two reasons. The procedural reason is that we need an unequivocal point of departure and reference. The substantive reason is that social security systems in major continental western European countries, especially in Germany as a conservative welfare state (Esping-Andersen, 1990), strictly refer to these criteria (the so-called principle of equivalence). Individual entitlements are closely interrelated with the already listed criteria of standard employment.

Atypical forms deviate from standard employment in terms of at least one of the above criteria:

- Part-time employment (Teilzeitarbeit), the traditional form, is characterized by weekly working hours less than those defined by collective agreements for standard employment (generally 35 to 40 hours); with pay and benefits proportionally reduced.\(^2\)
- Marginal employment (or so-called mini-jobs) (geringfügige Beschäftigung) represents a specific German version of part-time employment that was extended in 2003/2004 by the so-called Hartz Laws. Monthly earnings deriving from these so-called ‘mini-jobs’ must not exceed a threshold of currently €450 (for details see Section 4).
- The Hartz Laws also introduced so-called ‘midi-jobs’, another German peculiarity, where monthly remuneration is between €451 and €850.
- Fixed-term (or temporary) employment (befristete Beschäftigung) means that the contract ends automatically after a specified period; existing legal provisions on dismissal protection apply only during the duration of the contract, not at the end. There are two sub-forms. There is either no necessity to indicate specific reasons for concluding such a contract or various reasons are acceptable (among others, replacement for parental leave or extended periods of sickness).
- Agency work (Leih- or Zeitarbeit), or temporary agency employment in other national contexts, differs from all other forms because of its tripartite relationship between the employee, the agency and the hiring company. This peculiarity causes the important triangular link between the employment relationship (between the agency and the employee) and the work relationship (between the hiring company and the employee). Companies making use of this form have to pay the agency an extra premium on top of the (comparatively low) wage that employees are paid.
- Views differ as to whether self-employment (Selbstständigkeit) should be considered a form of atypical employment. We are including this form in our analysis because of its long-term consequences for social security, especially pensions (for similar approaches, see Houseman and Osawa, 2003; Vosko, 2010).\(^3\) We do not include the complete group but focus on the sub-group without other employees – so-called solo self-employment.

The demarcation lines between these forms are not always clear-cut. First of all, individual forms can be combined, for example agency or part-time employees can have a parallel fixed-

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\(^2\) Existing studies differ in differentiating between full-time and part-time employment, and boundaries are blurred (Statistisches Bundesamt, 2012). We categorize part-time employment as an atypical form because it provides an insufficient level of integration into social security systems, especially pension and unemployment benefits.

\(^3\) For an introduction and overview see Keller and Seifert (2007). See also the information platform of the Institut für Arbeitsmarkt- und Berufsforschung (IAB) structured according to various criteria: http://infosys.iab.de/infoplattform/thema.asp.
term contract. Furthermore, the distinction between full-time and part-time employment depends on the selected threshold of weekly hours. The number and proportion of atypical employees obviously varies according to these definitions.

**Development and structure**

*Development and extent*

Since the early 1990s, all forms of atypical employment have been on the increase in Germany, albeit at differing rates and departing from different starting levels.⁴

- Part-time employment is the most widespread form (more than 26 per cent of all employees), and above the EU average. Its long-term, more or less steady increase, independent of the state of the economy, is closely related to the growing participation of women in the labour force. Women account for more than 80 per cent of all part-time employees, mainly on account of parallel family responsibilities — the well-known gender gap persists and even exceeds the EU average (Brenke, 2011). There are two sub-groups, one voluntarily working part-time, and the other preferring to work longer hours; about 20 per cent are involuntary part-timers (Statistisches Bundesamt, 2011). Thus there is a certain mismatch between preferences of part-time workers and their employers.

- More than 20 per cent of all employees, second only to normal part-timers, fall into the mini-job category.⁵ Following the amendments to the Hartz Laws there was initially a marked increase (from 17 to about 20 per cent between 2003 and 2004); though the level has since more or less stabilized at this albeit high level. Within this form another, more far-reaching explicit distinction has to be made regarding inclusion in social security systems. A mini-job can either be the sole job or a second (or even third) job in addition to standard employment (see the section on deregulation for details). The first form (mini-job as sole job) is dominant, accounting for almost 70 per cent. The dominance of mini-jobs as the sole job is definitely more problematic in terms of social policy regulation. Furthermore, about one-third of these workers would prefer to work longer hours, were appropriate offers available (Brenke, 2011).⁶

- The share of the new form of midi-jobs (at about 3.7 per cent of all employees) is relatively small in comparison with mini-jobs, but greater than agency work. About 30 per cent of these workers work more than 21 hours a week;⁷ pointing to low hourly wages on account of the statutory €850 monthly income threshold.

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⁴ One word of caution concerning data, especially time series from various sources, has to be added. First of all, in Germany there is no comprehensive, representative dataset for all forms (as is, among others, the case for the US, see Houseman, 2001). For some forms (such as part-time or agency work) uninterrupted time series are available. The legal-institutional preconditions of other forms (such as marginal employment) have been changed; existing figures cannot therefore be compared because their base of reference is different. For some new forms (such as mid-jobs) there are only shorter time series.

⁵ There are certain, not precisely quantified overlaps between regular part-time and mini-jobs. Separate forms therefore cannot be added.

⁶ This percentage includes a certain proportion (almost a third) of students and pensioners.

⁷ Data from SOEP, 2010.
- Fixed-term employment has grown slowly to about 10 per cent, a modest increase compared with other forms.\footnote{Higher figures are frequently quoted. These include apprentices whose contracts are by definition limited and should therefore be excluded.} What is of note is that currently almost half of all new employment contracts are fixed-term.

- Agency work continues to account for only a relatively small segment of the labour market and, in purely quantitative terms, constitutes the least important atypical form (just over 2 per cent). Compared with other EU Member States, such as the UK or the Netherlands, its share is relatively low. However, it has doubled since the introduction of the Hartz Laws in 2003, triggering a disproportionate level of public discourse on this type.

- It is not always possible to distinguish precisely between dependent employment and self-employment (frequently also referred to as bogus self-employment or dependent self-employment), as the criteria and demarcation lines tend to be volatile (Vosko, 2010). Recent empirical analysis indicates that solo self-employment has increased from 4 to almost 7 per cent of the total workforce (see Table 1). Due to the introduction of specific labour market instruments this variant is, at present, even more frequent than self-employment (Keller and Seifert, 2011).

Making prudent use of the above definitions and excluding overlaps, the proportion of atypical employment has increased to cover more than one-third of the workforce. In the early 1990s, it was only about 20 per cent (see Table 1). This significant expansion indicates that atypical employment has ceased to constitute a minority segment of the labour market that could be easily excluded from any analysis. Standard employment as the (traditional) norm is on the decrease, while atypical forms constitute an increasingly common exception. The expansion of total employment between 2005 and 2008 was largely due to an increase in atypical forms, in particular mini-jobs and agency work (Statistisches Bundesamt, 2008); in contrast to these increases, fixed-term contracts stagnated (at about 10 per cent) (see Table 1). The most recent increase, since 2010, is to a great extent due to part-time and agency work (Bundesagentur für Arbeit, 2012a).

To sum up, the composition of the labour force is undergoing significant changes. In view of this development, the term ‘pluralization/differentiation of forms of employment’ provides a more appropriate description of the changes than the frequently used reference to a ‘crisis’ or even ‘erosion’ of standard employment (for others, see Standing, 2011). This increasing share of atypical forms does not mean, however, that standard employment has become obsolete. In comparative terms, Germany does not constitute an exception. Irrespective of the type of welfare state (social democratic, conservative, or liberal), an increase in atypical forms can be observed in the majority of EU Member States (above all in the old ones) (Schmid and Protsch, 2009; Schmeißer et al., 2012).

**Structural aspects**

Employees in these forms of employment differ according to their typical socio-demographic criteria, such as gender, age and level of qualifications as well as the sector (Bellmann et al., 2009).

- In most atypical forms women are over-represented, to a greater (as in part-time) or to a lesser extent (as in fixed-term employment). The only exceptions are agency work, because of its distribution across male-dominated sectors (Puch, 2008) and solo self-employment. In
Table 1. Development of atypical employment in Germany 1991–2010.

<table>
<thead>
<tr>
<th>Year</th>
<th>Total employment in 1,000 (1)</th>
<th>Part-time employment(^a) in 1,000 (2)</th>
<th>Marginal employment(^b) in 1,000 (3)</th>
<th>Only marginal employment in 1,000 (4)</th>
<th>Agency work(^c) in 1,000 (5)</th>
<th>Total employment without apprentice-ship in 1,000 (6)</th>
<th>Fixed-term employment without apprentice-ship in 1,000 (7)</th>
<th>Solo self-employment as percentage of total workforce</th>
</tr>
</thead>
<tbody>
<tr>
<td>1991</td>
<td>33,887</td>
<td>4,736</td>
<td>14.0</td>
<td>32,323</td>
<td>2,431</td>
<td>7.5</td>
<td>1.383</td>
<td>4.1</td>
</tr>
<tr>
<td>1992</td>
<td>33,320</td>
<td>4,763</td>
<td>14.3</td>
<td>31,891</td>
<td>2,495</td>
<td>7.8</td>
<td>1.378</td>
<td>4.1</td>
</tr>
<tr>
<td>1993</td>
<td>32,722</td>
<td>4,901</td>
<td>15.0</td>
<td>31,151</td>
<td>2,221</td>
<td>7.1</td>
<td>1.412</td>
<td>4.3</td>
</tr>
<tr>
<td>1994</td>
<td>32,300</td>
<td>5,122</td>
<td>15.9</td>
<td>30,958</td>
<td>2,322</td>
<td>7.5</td>
<td>1.446</td>
<td>4.5</td>
</tr>
<tr>
<td>1995</td>
<td>32,230</td>
<td>5,261</td>
<td>16.3</td>
<td>30,797</td>
<td>2,388</td>
<td>7.8</td>
<td>1.515</td>
<td>4.7</td>
</tr>
<tr>
<td>1996</td>
<td>32,188</td>
<td>5,340</td>
<td>16.6</td>
<td>30,732</td>
<td>2,356</td>
<td>7.7</td>
<td>1.641</td>
<td>5.1</td>
</tr>
<tr>
<td>1997</td>
<td>31,917</td>
<td>5,659</td>
<td>17.7</td>
<td>30,436</td>
<td>2,453</td>
<td>8.1</td>
<td>1.752</td>
<td>5.5</td>
</tr>
<tr>
<td>1998</td>
<td>31,884</td>
<td>5,884</td>
<td>18.5</td>
<td>30,357</td>
<td>2,536</td>
<td>8.4</td>
<td>1.789</td>
<td>5.6</td>
</tr>
<tr>
<td>1999</td>
<td>32,497</td>
<td>6,323</td>
<td>19.5</td>
<td>30,907</td>
<td>2,842</td>
<td>9.2</td>
<td>1.876</td>
<td>5.5</td>
</tr>
<tr>
<td>2000</td>
<td>32,638</td>
<td>6,478</td>
<td>19.8</td>
<td>31,014</td>
<td>2,744</td>
<td>8.8</td>
<td>1.842</td>
<td>5.6</td>
</tr>
<tr>
<td>2001</td>
<td>32,743</td>
<td>6,798</td>
<td>20.8</td>
<td>31,176</td>
<td>2,740</td>
<td>8.8</td>
<td>1.821</td>
<td>5.6</td>
</tr>
<tr>
<td>2002</td>
<td>32,469</td>
<td>6,934</td>
<td>21.4</td>
<td>30,904</td>
<td>2,543</td>
<td>8.2</td>
<td>1.858</td>
<td>5.7</td>
</tr>
<tr>
<td>2003</td>
<td>32,043</td>
<td>7,168</td>
<td>22.4</td>
<td>30,513</td>
<td>2,603</td>
<td>8.5</td>
<td>1.960</td>
<td>6.1</td>
</tr>
<tr>
<td>2004</td>
<td>31,405</td>
<td>7,168</td>
<td>22.8</td>
<td>29,822</td>
<td>2,478</td>
<td>8.3</td>
<td>2.076</td>
<td>6.6</td>
</tr>
<tr>
<td>2005</td>
<td>32,066</td>
<td>7,851</td>
<td>24.5</td>
<td>30,470</td>
<td>3,075</td>
<td>10.1</td>
<td>2.291</td>
<td>7.1</td>
</tr>
<tr>
<td>2006</td>
<td>32,830</td>
<td>8,594</td>
<td>26.2</td>
<td>31,371</td>
<td>3,389</td>
<td>10.8</td>
<td>2.317</td>
<td>7.1</td>
</tr>
<tr>
<td>2007</td>
<td>33,606</td>
<td>8,841</td>
<td>26.3</td>
<td>31,906</td>
<td>3,291</td>
<td>10.3</td>
<td>2.323</td>
<td>6.9</td>
</tr>
<tr>
<td>2008</td>
<td>34,241</td>
<td>9,008</td>
<td>26.3</td>
<td>32,323</td>
<td>3,106</td>
<td>9.6</td>
<td>2.306</td>
<td>6.7</td>
</tr>
<tr>
<td>2009</td>
<td>34,203</td>
<td>9,076</td>
<td>26.5</td>
<td>32,558</td>
<td>3,026</td>
<td>9.3</td>
<td>2.356</td>
<td>6.9</td>
</tr>
<tr>
<td>2010</td>
<td>34,459</td>
<td>9,196</td>
<td>26.7</td>
<td>32,856</td>
<td>3,157</td>
<td>9.6</td>
<td>2.383</td>
<td>6.9</td>
</tr>
</tbody>
</table>

\(^a\) April in each case.

\(^b\) End of June in each case.

\(^c\) Mini-Jobs on an €400 basis.

Note: In 2010 marginal employees were not separately indicated in the statistics. The figure is the sum of marginal employees including those in private households.

other words, there is a clear gender-specific bias in forms of atypical employment. Findings from comparative analyses also highlight this fact (Houseman and Osawa, 2003; Vosko et al., 2009). The majority of women (55 per cent in 2010) work in atypical forms – their ‘new normality’ – thus reinforcing the existing gender-specific segmentation of the labour market. Though the traditional male breadwinner model of employment has gradually lost importance, the increasing participation of women in the labour force (at present approximately 72 per cent in Germany) is closely linked to the growth of atypical forms, especially part-time employment and mini-jobs. By contrast, the proportion of women in standard employment has slightly decreased since the 2000s.

- As far as education levels are concerned, there is no unitary distribution. Unskilled individuals more frequently hold atypical jobs than those who have completed an apprenticeship (Berufsausbildung) or tertiary education. Moreover, the current form of employment does not necessarily correspond to the level of education attained (amongst other things, due to interruptions in employment because of children, or longer spells of unemployment). Higher qualifications are more frequent in the case of fixed-term employment and solo self-employment.

- Atypical employment can be found in all age groups, though younger employees (15 to 24 years) with fixed-term contracts are clearly over-represented in all forms (with the exception of part-time and solo self-employment). The modest increase in the number of fixed-term employees does not indicate any specific age distribution. The likelihood of moving on to a permanent job increases with the level of education (Hohendanner, 2010).

- Non-natives are more frequently employed in atypical forms than Germans, with non-EU foreigners more frequently affected than citizens from other EU Member States (Statistisches Bundesamt, 2008).

- Furthermore, forms of atypical employment are unevenly distributed across sectors, with a major concentration in the service sector. Part-time employment (as a percentage of overall employment) is to be found above all in health (36 per cent) and education/teaching (33 per cent). Fixed-term contracts are mainly used in health/social services (15 per cent), education/teaching (22 per cent) and non-profit organizations (18 per cent) (Hohendanner, 2010). Mini-jobs are concentrated in the retail (15 per cent) and hotel and catering (25 per cent) sectors (Statistisches Bundesamt, 2010).9

- By contrast, agency work is mostly found in manufacturing, though the service sector is gaining in importance. The majority of these employees (71 per cent) are male and work mainly in the metalworking and electrical but also in other industries (such as transport, logistics and security) (Bundesagentur für Arbeit, 2012b).

**Risks of precariousness**

The recent boom in atypical employment obviously leads to an increase in various social risks. It is therefore necessary to clarify the relationship between atypical and precarious employment (Rodgers and Rodgers, 1989). In both political debate and academic discourse, both terms are often used as synonyms (for others, see Dörre, 2006; Standing, 2011). However, this popular approach remains indeterminate and unfocused: first, it does not differentiate between various dimensions of precariousness (discussed in detail below); secondly, it fails to take various contextual factors (among others, individual vs. family income) into consideration; and thirdly, it constitutes an

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9 These data are not strictly comparable because they are derived from different sources.
either-or category that does not allow a more far-reaching distinction between existing degrees of precariousness.

We introduce four objective, quantifiable dimensions of precariousness that have to be considered jointly. It should also be remembered that, though the risks are generated during employment, their consequences often occur also after the end of the individual’s working life. It is of utmost importance to take into consideration the fact that these frequently neglected consequences of atypical employment extend right into retirement – far beyond the period of active participation in the labour market (Fuller, 2009). In the conservative welfare state of Germany social security entitlements, especially pensions, are dependent on the length of participation in the labour force as well as the level of contributions.¹⁰

The four dimensions of precariousness are:¹¹

- A wage is usually defined as precarious in comparative analysis (according to ILO and OECD criteria) if it is less than two-thirds of the median hourly wage.
- Employment stability is defined as the opportunity of continuous employment rather than holding a specific job. While the latter represents the traditional form of job security, the former constitutes the current, much broader version of stability. A lack of employment security is an indicator of precariousness.
- Employability can be regarded as a precondition of employment stability. This is the lifelong ability of an individual to find and maintain employment – and even to adjust to structural change (primarily by means of further training and the acquisition of additional qualifications). Since the late 1990s, this concept has played a major role as one of the four original pillars of the European Employment Strategy (COM(2011) 11 final). Access to company-based further training constitutes the crucial dimension.
- Integration into the different branches of social security (pension, health and unemployment insurance) with special emphasis on the pension system. Individual entitlements are strictly dependent on this integration, whereby a distinction needs to be made between entitlements deriving from one’s own employment and entitlements derived from activities of others.

Numerous empirical surveys show that all forms of atypical employment bear a higher risk of precariousness. With regard to the first criterion – wages – all forms are disadvantaged compared to standard employment when individual characteristics are examined. There are differences not only between standard and atypical employment but also between various atypical forms (Brehmer and Seifert, 2008). They are particularly evident in the case of marginal workers (Anger and Schmid, 2008), less so in the case of agency workers (Sczesny et al., 2008). The risk of receiving only a precarious wage is at least eight times higher for marginal (female) workers than for comparable (female) workers in standard employment (Table 2). The wage gap is smaller for fixed-term (Giesecke and Gross, 2007) and part-time employees (Wolf, 2003).

Even if one takes the individual household context into account, the wage gap between standard employment and all forms of atypical employment creates problems for subsistence levels, increasing the risk of poverty during and after working life. Currently almost 4 per cent of all employees receive wage support payments due to their low incomes (Möller et al., 2009). The

¹⁰ In Germany they are based on the above-mentioned criteria of standard employment (see Section 2) and financed by contributions from employers and employees, based on the principle of equivalence.
¹¹ A much broader and more general concept of precariousness is introduced by Kalleberg (2009).
majority of employees in the low-wage sector, characterized by comparatively high growth rates throughout the 2000s, have mini-jobs.

The recent European Directive on temporary agency work (2008/104/EC) establishes the principle of equal treatment between agency workers and standard employees with regard to basic working and employment conditions. The Directive allows, however, for exemptions, especially with regard to wages, at national level (Article 5(2)). More recently a number of social partners have agreed on additional sectoral wage supplements (Branchenzuschläge) dependent on the duration of an assignment (Schwitzer and Schumann, 2013).

There are also significant differences in employment stability. In particular agency work (Brenke and Eichorst, 2008; Kvasnicka, 2008) and, by definition, fixed-term employment (Boockmann and Hagen, 2006; Giesecke and Gross, 2007) are unstable compared with standard

### Table 2. Risks of precariness.

<table>
<thead>
<tr>
<th></th>
<th>Women</th>
<th>Men</th>
</tr>
</thead>
<tbody>
<tr>
<td>of having to work for a precarious wage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>as an agency worker is</td>
<td>4.2 times</td>
<td>6.4 times</td>
</tr>
<tr>
<td>in marginal, permanent employment is</td>
<td>8.5 times</td>
<td>9.9 times</td>
</tr>
<tr>
<td>in marginal and fixed-term employment is</td>
<td>15.1 times</td>
<td>18.4 times</td>
</tr>
<tr>
<td>as in the case of standard employment</td>
<td></td>
<td></td>
</tr>
<tr>
<td>of becoming unemployed after a year</td>
<td></td>
<td></td>
</tr>
<tr>
<td>as an agency worker is</td>
<td>3.6 times</td>
<td>3.1 times</td>
</tr>
<tr>
<td>in marginal, permanent employment is</td>
<td>0.8 times</td>
<td>insignificant</td>
</tr>
<tr>
<td>in marginal and fixed-term employment is</td>
<td>2.0 times</td>
<td>insignificant</td>
</tr>
<tr>
<td>as in the case of standard employment</td>
<td></td>
<td></td>
</tr>
<tr>
<td>of taking in-company further training courses</td>
<td></td>
<td></td>
</tr>
<tr>
<td>as an agency worker is</td>
<td>insignificant</td>
<td>insignificant</td>
</tr>
<tr>
<td>in marginal, permanent employment is</td>
<td>0.4 times</td>
<td>0.3 times</td>
</tr>
<tr>
<td>in marginal and fixed-term employment is</td>
<td>0.1 times</td>
<td>0.3 times</td>
</tr>
<tr>
<td>as in the case of standard employment</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: Brehmer and Seifert, 2008.

12 In the early/mid-2000s there were competing collective agreements. DGB affiliates formed a bargaining coalition and concluded agreements with major employers’ associations. The Christian trade unions (Christlicher Gewerkschaftsbund, CGB) signed another, less favourable contract with smaller employers’ organizations. The Federal Labour Court (Bundesarbeitsgericht) later declared the latter contracts to be invalid because the CGB unions did not fulfil the criteria required for recognition. In any event, concluded wages were lower than for comparable jobs in the hiring company.

13 The average length of employment of agency workers has increased: Whereas in 1999 only 38 per cent were employed for at least three months, 10 years later the figure was 56 per cent (Bundesagentur für Arbeit, 2010). Conversely, this means that 44 per cent are not employed for longer than three months. To this extent, this remains a form of relatively short-term employment. About one-half of fixed-term employees succeed in transferring into permanent employment (Hohendanner, 2010). Another survey indicates that the majority of the other half ends up in other fixed-term jobs or not employed at all (Gensicke et al., 2010).
employment. For agency workers the risk of becoming unemployed after a year is at least three times higher than for comparable standard employees (Table 2). By contrast, open-ended part-time working is even more stable than standard employment (Brehmer and Seifert, 2008).

Atypical employees are also disadvantaged in their access to company-based further training (Baltes and Hense, 2006; Reinowski and Sauermann, 2008). For marginal employees the likelihood of participating in company-based further training is less than half that of employees in standard employment. Opportunities to improve one’s own employability on both the internal and external labour market are limited, because risks of precariousness can be cumulative and atypical employees do not have the necessary financial resources to compensate for missing opportunities in access to further training by taking the initiative on their own. There is a danger of falling into a vicious circle consisting of repeated periods of atypical employment punctuated by phases of unemployment. Difficult to break out of, this circle causes considerable long-term social risks for the individual concerned. The risk of being caught in a ‘trap’ is higher for mini-jobs and agency work than for part-time and fixed-term contracts.

The risks of precariousness described above could be regarded as less serious, were forms of atypical employment to serve mainly as a stepping stone to the standard labour market, i.e. only constituting a short-term transitional period. However, such upward mobility is limited. When fixed-term contracts end or when agency workers lose their jobs, the probability of returning to similarly precarious forms is higher than for standard employment (Gensicke et al., 2010).

To sum up, the risks of precariousness are considerably higher in all atypical forms, notwithstanding the fact that standard employment is also not completely free of these risks (among others, income-related ones). They also lead to the conclusion that not all forms of atypical employment are subject to the same degrees of precariousness. A voluntarily chosen part-time job on the basis of an open-ended contract does not necessarily create problems in the short and medium term, when income and financial needs are supplemented by another income (based on standard employment). In this case, part-time employment makes family and work life more compatible. Combining the four criteria of our multidimensional perspective, we are able to identify an obvious ranking, ranging in degrees of precariousness from part-time work (lowest), via fixed-term and agency work, to mini-jobs (highest).

In the long term, the insufficient integration of such individuals into the pension system is of relevance. They are unable to build up any significant pension entitlement on account of their low levels of contributions resulting from long periods of part-time employment or an entire working career spent in mini-jobs, but also from periods of unemployment after the expiration of fixed-term jobs. These result in individual claims to pension benefits in the low-income category. The changes that have occurred in types of employment increase the risk of old-age poverty for the individuals concerned (Hinrichs, 2008). For decades, this issue was regarded as having been solved in Germany, with only 2.6 per cent of retirees currently having an income of less than 60 percent of the median income (Wissenschaftlicher Beirat, 2012). But the increasing trend towards atypical employment means that the issue of old-age poverty will re-emerge in the future – unless appropriate measures are taken.

**Reasons for the increase in atypical employment**

In the existing literature (on Germany as well as other countries) there are plenty of empirical studies on atypical employment that focus on various aspects, such as individual forms and their
development, distribution across sectors, socio-demographic data of employees, etc. There are, however, next to no explanations of the more recent phenomena.

This obvious lack of explanations to supplement (empirical) descriptions is surprising for various reasons. In quantitative terms, these forms have gained in importance, currently, as indicated, constituting more than one-third of overall employment. They therefore cannot be ignored any longer. In qualitative terms, the new microeconomics of the labour market are (implicitly or explicitly) oriented towards the legal framework of standard employment and provide unsatisfactory explanations for atypical forms (Ehrenberg and Smith, 2011; Franz, 2009). General explanations include globalization, an increase in international competition, structural change, demographic composition and diversity of the labour force as well as the spread of neoliberalism.14 These categories are too general and indeterminate; furthermore, such macro approaches lack a micro foundation.

The development of one, and only one, global explanation proves to be impossible on account of the enormous heterogeneity of individual forms, whose only common denominator is the fact that they lack at least one central feature of standard employment. In other words, the ‘one-theory-fits-all-forms’ strategy is not very promising. We therefore distinguish between two levels of analysis: micro-level explanations (various transaction costs and specific forms of flexibility) put the interests of individual companies and management first, whereas explanations at the macro or structural level (among others, deregulation) argue from a broader perspective and include politically and economically motivated strategies. Measures have been introduced in various countries (Kalleberg, 2011). However, they refer strictly to peculiarities of the legal-institutional framework at national level and are therefore unable to provide generally valid explanations. These measures are of quite general nature; we apply the relevant ones to specific forms of atypical employment.

**Deregulation**

Over the last two to three decades, various deregulation measures have been given priority in virtually all countries (Kalleberg, 2011), extending the scope of flexibility. Deregulation constitutes a necessary but not a sufficient precondition for the increase in atypical forms of employment. Though an important factor, it is not the only driving force. From an empirical point of view, deregulation ‘creates’ various dimensions of precariousness.

In Germany, the previous legal framework was regarded as constituting a significant obstacle to coping with the long-lasting unemployment problems (for others, see OECD, 1994). Existing employment protection legislation was considered as an exogenous cost factor for companies, preventing them from adapting to a rapidly changing environment driven by technological change, globalization and fluctuating demand. Since the mid-1980s, different governments have deregulated the legal framework step by step. The most far-reaching reform was undertaken in 2003/04 by the ‘Laws on Modern Services in the Labour Market’, the so-called ‘Hartz Laws’, (‘Gesetze für moderne Dienstleistungen am Arbeitsmarkt’) which deregulated agency work, fixed-term employment and marginal employment (mini- and midi-jobs) with the aim of promoting the use of atypical forms and thus raising overall employment levels.

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14 We do not deal with the ongoing discussion on ‘rigidities’ of standard employment, especially of employment protection legislation, and the demand for outright deregulation.
The legal framework for atypical employment has been changed as follows:

- **Part-time employment** (excluding marginal employment): In 2001 the Part-Time and Fixed-Term Employment Act (Teilzeit- und Befristungsgesetz) facilitated the expansion of part-time employment to a certain degree, through entitling employees to move from full- to part-time employment (but not vice versa).

- **Marginal employment** represents a specific form of part-time employment that is defined in terms of remuneration below a certain level (€450). The Hartz Laws added two further categories: mini-jobs and midi-jobs. For mini-jobs the existing limit on weekly working time (a maximum of 15 hours) was abolished.\(^\text{15}\) Consolidated contributions to social security systems and taxes amount to 30 per cent and, in contrast to all other forms of employment, are paid exclusively by the employer. These rules apply both to employees working exclusively on the basis of a mini-job as well as to those holding a mini-job as a second job (in addition to a standard job). With regard to the other form of marginal employment, midi-jobs with a monthly income of between €451 and €850, there is a so-called ‘sliding zone’ (Gleitzone), where social security contributions rise gradually from low to regular levels.

- **Fixed-term employment**: Since the mid-1980s (Beschäftigungsförderungsgesetz – Employment Promotion Act) the maximum duration of fixed-term contracts without an objective cause has been successively extended from originally six months to the current two years. Deviations are possible by collective agreement. In the German legal context, this form has to be explicitly distinguished from agency work and its triangular relationship mentioned in the introduction.

- **Agency work**: The Hartz Laws led to a far-reaching deregulation of agency work, removing the maximum length of any assignment (Höchstdauer der Überlassung), formerly limited to two years, the ban on synchronizing the employment and work contract (Synchronisationsverbot), as well as the ban on reassignment (Wiedereinstellungsverbot).\(^\text{16}\) In return, the principle of ‘equal pay for equal work’ was introduced. Collective agreements are, however, allowed to deviate from this general rule and thus permit comparatively lower wages.

- **Self-employment**: The Hartz Laws introduced a new form of solo self-employment, the so-called Ich-AG/Familien-AG (one person business/family business) to be subsidized for a maximum duration of three years. This additional form of start-up grant was temporarily limited and terminated in August 2006, when it was merged with the similar, more traditional instrument of so-called bridging allowances (Überbrückungsgeld) to form a new, unified subsidy scheme for start-ups (Existenzgründungszuschuss). The opportunities for self-employment (Selbstständigkeit) were broadened to create additional employment opportunities.

   Looked at from an empirical perspective, not all forms of atypical employment were affected equally or at the same time. In the early/mid-2000s, deregulation measures, especially the Hartz

\(^\text{15}\) There is a special rule for mini-jobs in private households that is supposed to prevent illicit work. The overall number of officially registered contracts has remained small (at about 250 000).

\(^\text{16}\) The ban on synchronization meant that the duration of the employment contract (between the agency and the employee) had to exceed the duration of the first work contract (between the hiring company and the employee). The ban on reassignment meant the employees could be rehired after having been dismissed. Furthermore, the Hartz Laws introduced a new form of agency work, the Personnel Service Agencies (Personalserviceagenturen). Since then this form was abolished.
Laws, had a significant impact, immediately increasing the two new forms of atypical employment, mini- and midi-jobs, as well as agency work. Deregulation of fixed-term employment dates back to the mid-1980s and has been eased several times, leading to continuous but comparatively limited growth.

The long-term increase of part-time employment has not, or at least not primarily, been caused by deregulation measures but by the steady increase in the participation rate of women in the labour force (so-called feminization). As already mentioned women constitute the overwhelming majority of part-timers because they are primarily in charge of family tasks and care but need an additional income and a sufficient supply of affordable child care. There is a partial coincidence of interests on ‘both sides of industry’ that is leading to an increase of part-time work.\(^\text{17}\) This form is mainly supply-side driven.

Quite frequently ‘globalization’, or the changed division of the labour between countries and growing competition, is supposed to constitute the main driving force for the general increase in atypical forms of employment. The discussed distribution of these forms across industries illustrates however that this assumption can only be true to a certain extent. Major forms, such as part-time work, fixed-term contracts, and mini-jobs are concentrated in service sectors (such as health/social services, retail, hotel and catering) that constitute expanding domestic sectors hardly affected by internationalization or globalization. The increase of solo self-employment has also not been caused by processes of globalization but by political decisions taken at national level. Only the increase in agency work points in the opposite direction, with this form dominant in manufacturing industries exposed to international competition with cost pressures on product markets and strong cyclical demand.

All in all these various steps towards deregulating the labour market broadened the scope for flexible labour input. The flexibility provided for in the specific traits of individual atypical forms and the deregulation measures that we have described in some detail point in the same direction and can be combined: part-time, mini- and midi-jobs have extended the room for manoeuvre for internal-temporal flexibility, whereas fixed-term and agency work have broadened the opportunities for companies and management to gain external-numerical flexibility.

**Flexibility**

Deregulation has broadened the scope for flexible work arrangements. The basic argument is that, in times of increasing competitive pressure, flexibility can be increased to a considerable degree by introducing and extending atypical forms.\(^\text{18}\) Various forms fit, primarily specific objectives of management and companies, especially cost-saving and efficiency needs. The choice between the heterogeneous forms is primarily determined by the performance targets that management intends to achieve. This does not necessarily exclude employees’ interests in certain forms, particularly in flexible working time arrangements.

One basic distinction frequently applied in contemporary analysis is between internal and external forms of flexibility, i.e. those without or with access to the labour market outside of the company. National labour markets differ according to their legal-institutional peculiarities. In

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\(^\text{17}\) The above-mentioned Part-Time and Fixed-Term Employment Act also indicates that not all measures are to be strictly considered as deregulation. This Act includes a number of – albeit weak – new rights of employees. Furthermore, legal changes of solo self-employment also do not constitute deregulation in the strict sense of the word.

\(^\text{18}\) Flexibility has often been reduced to the employment protection legislation (EPL) indicator introduced by the OECD (1994). This indicator is, however, too narrow and lacks certain important dimensions.
Germany, the internal version is more important because collective bargaining provides a variety of opportunities to adjust to fluctuations in demand (Herzog-Stein and Seifert, 2010; Möller, 2010) whereas in the UK and the US the external one is more appropriate.

A further sub-distinction, less widely spread, can be traced back to an early proposal by Atkinson (1984), later adopted by the OECD (1986). It distinguishes between numerical, functional and wage (or more comprehensively, monetary) flexibility and was exclusively developed for standard employment. It needs, however, to be broadened and adapted to cover atypical forms as well. Internal ‘temporal flexibility’ is a further category, allowing companies to synchronize their short-term (Table 3) demand with labour input in order to avoid the cost of idle labour capacity. Though the table above refers primarily to dependent employment, it also includes solo self-employment.

The application and combination of these distinctions enables us to clarify the relationship between company-specific flexibility (or adaptability) needs and the selection of atypical forms of employment. Thus, employers’ choices are determined by the relative costs of individual forms. Mini- and midi-jobs increase the degree of internal-temporal as well as monetary flexibility whereas part-time employment is primarily related to internal-temporal flexibility. Fixed-term and agency work constitute typical forms of external-numerical flexibility and affect non-core workers, while protecting core workers against market fluctuations.

This external-numerical function of agency work became obvious during the economic crisis. In mid-2008 the sharp increase in agency work seen throughout the 2000s was abruptly reversed (Table 1), being followed by an equally sharp decline. Around mid-2009, when the economy started recovering, figures increased again, peaking in 2011. During the crisis many companies obviously used agency work as a highly flexible form of employment. Agency workers can be quickly integrated into certain sections of a work organization, assigned to standard tasks requiring only low skills, and just as quickly dropped – without the burden of redundancy costs.

The other form of external-numerical flexibility, fixed-term contracts, also shows a pro-cyclical but less marked development.

**Transaction cost arguments**

Some authors have tried to explain the expansion of atypical forms by means of human capital and transaction costs (Nienhüser, 2007; Sesselmeier, 2007; Neubäumer and Tretter, 2008). The first
two took the demand side of the labour market as their point of departure, arguing that in times of volatile demand for goods and services, atypical forms (above all agency and fixed-term work) can reduce labour and redundancy costs and, at the same time, increase flexibility in terms of deployment of human resources. The latter paper also looked at the supply side, stating that the use of atypical forms also enables companies to generate external revenues in times of crisis and declining demand, as no core employees have to be dismissed (Neubaümer and Tretter, 2008). If those employees, in whose training considerable resources have often been invested, were made redundant, companies would not be able to benefit from a full return on their investment. They would also face high redundancy payments for employees with long tenure. Moreover, as there is no guarantee that these individuals would be re-employed once demand recovers, their uninterrupted employment avoids recruitment and induction costs (among others, for entry training). On the other hand, when taking on agency workers, account has to be taken of transaction costs for their induction, information and supervision.

It is further argued on the basis of transaction costs that the greater division of labour means that induction costs have declined, particularly for unskilled jobs in the service sector, thereby reducing the costs of hiring (Nienhuëser, 2007; Neubaümer and Tretter, 2008). In addition, at least in cases where redundancy payments are involved, the costs are lower when the period of employment is shorter. To this extent, it can be advantageous for companies, in addition to their core workforce, to have a second, peripheral group of employees recruited on a short-term, highly flexible basis. This function is of particular importance in manufacturing industries greatly dependent on business cycle fluctuations. The 2008/09 crisis illustrates very well how various forms of working time reductions have enabled companies to maintain their core workforce despite a sharp drop in demand, while at the same time radically reducing their use of agency workers (Herzog-Stein and Seifert, 2010).

This transaction cost argument is, however, unable to explain the rising share of marginal employment. In the services sector demand is less volatile and such costs are, therefore, of minor importance. Furthermore, part-time work – as indicated, the most important atypical form in quantitative terms – can hardly be explained by transaction cost arguments because it constitutes fairly stable employment.

Our (somewhat eclectic) approach adds another layer of explanation. Regulation, the legal instrument of the state as a corporate actor, defines the legal-institutional framework for the way enterprises function. The deregulation seen in recent decades has broadened enterprises’ room for manoeuvre, especially with regard to flexibility. Existing concepts of flexibility have therefore been broadened and applied to forms of atypical employment.

Conclusions
This article has demonstrated that all forms of atypical employment found in Germany have gained in importance over recent decades, though to differing degrees. This development has, however, led to an increase in various short-term and long-term social risks that have been neglected for quite some time. All indicators of precariousness (wages, employment stability, employability, pensions) point to higher risks for atypical forms than for standard employment. Various empirical analyses show that atypical forms also differ with regard to their degrees of precariousness, with mini-jobs and agency work entailing higher risks than fixed-term and part-time employment. The length of time spent in atypical forms of employment increases the risk of poverty in old age.

Furthermore, the article has discussed some of the underlying reasons for the expansion of atypical employment. Various deregulation measures have broadened the scope of forms of
flexibility. This greater room for manoeuvre has provided companies with new opportunities to reduce labour and transaction costs. All in all, these more recent developments strengthen the already existing segmentation of labour markets into core and marginal parts, with mini- and midi-jobs, fixed-term employment and agency work belonging to the latter. Or, to use a different terminology, ‘insiders’ and ‘outsiders’ are nowadays more clearly separated. However the current heterogeneity of atypical forms means that these explanations are still not complete and require further elaboration. We have proposed the first steps.

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