

The socialisation of labour market risks – the case of Germany

by

Nicola Düll  
Kurt Vogler-Ludwig

Economix Research & Consulting  
Kolosseumstr. 1  
D-80469 München

Email: [duell@economix.org](mailto:duell@economix.org)  
[Vogler-ludwig@economix.org](mailto:Vogler-ludwig@economix.org)

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## Abstract

### **The socialisation of labour market related risks – the case of Germany**

Germany has been known for many decades for its generous welfare system. The “German model” has been characterised by a comparatively low degree of wage dispersion and, in contrast to Anglo-Saxon countries, the “working poor” phenomenon does not appear to shape the labour market. However, the persistently high level of unemployment in Germany consumes much of the advantages of social protection. Recent social and labour market reform measures are targeted at re-individualising labour market related risks and the cost of social protection.

In a first step, this paper is going to analyse the distribution between individual risks and “socialised risks” and will ask for the interrelationship between stable jobs, “insecure” or “precarious” jobs and unemployment in Germany and the political management of these risks. An overview on the incidence and the distribution of labour market risks in Germany by taking a comparative (European) approach will be given. It will also look at the dynamics and the flexibility at the labour market in terms of transitions between these categories.

The second part of the paper will analyse the institutional and political context as well as the economic rationale for delivering the specific distribution between individual and socialised labour market risks. It will then concentrate on recent reform debates concerning both the welfare State and the regulation of the labour market and discuss the balance between labour market flexibility, job quality and social security. A basic question for the political debate is the presumed trade-off between quantity and quality of jobs. Thus, the search for a new “flexibility – quality – security regime” needs to make reference to both, the Anglo-Saxon and the Scandinavian model. Finally, it needs to be asked whether the current German reforms can be looked at as representing a social compromise being able to solve the unemployment problem.

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## 1. The understanding of labour market related risks

Germany has been known for many decades for its generous welfare system and comparatively low wage dispersion. In contrast to Anglo-Saxon countries, the “working poor” phenomenon does not shape the labour market, and job stability still seems to be high. Beneath the labour market of stable, protected and high wage jobs, the basin of precarious jobs was slowly filled with marginal, insecure and hidden jobs. Most importantly however, the persistently high level of unemployment in Germany and the rising burden of social expenditure raised the principal question whether this model is still successful, and triggered the introduction of basic reforms of the German social system. As social protection emerged as a barrier to economic growth and a high level of employment, the question of a revised but equitable distribution of risk became evident

This paper is going to analyse the distribution between individual risks and “socialised risks” through an international comparison of labour market models in Europe<sup>1</sup>. In the first part it mirrors the German situation against other European countries, and provides an analysis of the German approach in the second part.

Labour market related risks may encompass a number of dimensions<sup>2</sup>:

- (i) the risk of instability, insecurity of the employment trajectory/career prospects;
- (ii) the risk of earning a low pay and getting a low income;
- (iii) the risk of being exposed to a detrimental work environment and job content;
- (iv) the risk of having bad or second hand social protection.

These risks can be linked to employment, but there is also the risk of being (permanently) excluded from the labour market. To disentangle these risks we introduce the notion of “precarious” employment for those jobs that generate some of the above mentioned risks and which can also be named “poor jobs”. It will be important to analyse the relationship between stable jobs, “precarious” jobs and unemployment. Thus, the question of labour market segmentation arises as the outcome of a lack of flexibility: Is there a conflict between the quantity and the quality of jobs, is a new combination possible, and of what type is the new flexibility – quality – security regime?

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<sup>1</sup> The paper is based on the project „European Study on Precarious Employment (ESOPE)”, prepared within the 5<sup>th</sup> Framework Programme for Social Science of the European Commission, and in co-operation with the Centre d’Études de l’Emploi (CEE), Paris, Centro di Ricerche Economiche e Sociali (CERES), Rome, ICAS Institute, Barcelona, and the Warwick Institute for Employment Research, Coventry.

<sup>2</sup> Rodgers 1989

## 2. Job Stability, precarious employment and unemployment in Germany

Stable employment relationships characterise the German labour market since a long time. According to an ILO study, around 60% of male wage-earners in Germany can expect to keep their jobs for more than 15 years, as against 45% in Canada and 35% in Australia (Auer and Cazes 2000, p. 394). This can be taken as an indication for a strict segmentation between employed and unemployed workers on the German labour market.

Indeed, high unemployment figures and in particular a high share of long-term unemployed are shaping the German labour market. As early as the beginning of the 1980s, continuously growing non-cyclical unemployment marked the end of the full employment era. In the wake of every recession, the numbers of unemployed increased sharply, reaching a new maximum in 2003 with 4.4 million. German unification contributed to the problem of unemployment as economic restructuring reduced the number of competitive jobs in the New Länder significantly. German unemployment rates reached the level of 10.5 % in 2003 and the share of long-term unemployed moved up to 32 % (Bundesagentur für Arbeit 2004).

Unemployment risks, however only partially represent precarious employment. The switch between employment and unemployment can be used as a measure of insecurity of jobs. Long-term unemployment constitutes a measure of permanent exclusion from job opportunities. However, if labour market risks are understood in a wider context, the measurement of labour-market related risks, as defined above, is multi-dimensional and thus more difficult in particular for international comparisons. It was one of the objectives of the ESOPE research project to analyse strengths and weaknesses of different types of measures (Düll 2003).

The attempt of a European-wide comparison of the extent of “precarious jobs” can be made on the grounds of the Third Survey on the Working and Living Conditions undertaken by the European Foundation for the Improvement of Living and Working Conditions in Dublin. The last survey undertaken in 2000 allows measuring different indicators of precarious employment in all EU countries. It combines individual data in a structured sample for 21,800 cases for 15 EU countries, excluding the accession countries of Central and Eastern Europe.

As precarious employment needs to be perceived as a multidimensional phenomenon, eight different indicators were constructed:

- lowest income quartile

- job tenure < 1 year
- fixed term or temporary employment agency contract
- low intellectual job content
- high degree of *Fremdbestimmung* (heteronomy)
- harassment (mobbing) during the last 12 months
- working unsocial hours
- bad physical job environment

The indicators are combined in radar charts and presented for the total of the labour force, and its subgroups (gender, age, occupation).

There are two main categories separating precarious workers from non-precarious workers, age and gender:

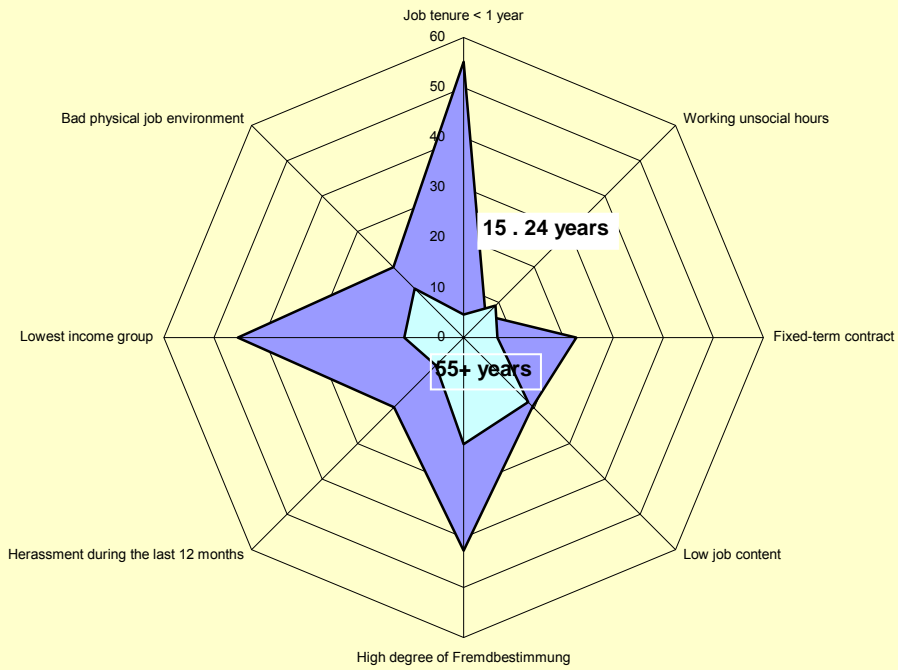
- With regard to age, young people take the bulk of insecure, low-paid, short-term and guided jobs. While young people take many of these disadvantages compared to older workers, they are not involved to the same degree in working unsocial hours (at night and weekends).
- With regard to gender, men are more hit by bad physical work environment while more women are more often found in low qualification and insecure jobs with low income. In addition they are more affected by physical and sexual harassment.

As compared to the EU average, in Germany, especially the problem of unsocial working time and bad physical working conditions seem to be less pronounced. As the analysis of this data revealed, the European countries diverged quite significantly in the incidence of the different indicators: In the case of the UK, the high share of women in low income groups is striking, while in Spain in particular the share of workers with tenures under 1 year and with fix-term contracts as well as the share of workers in a bad physical working environment is striking.

### Age groups

Germany

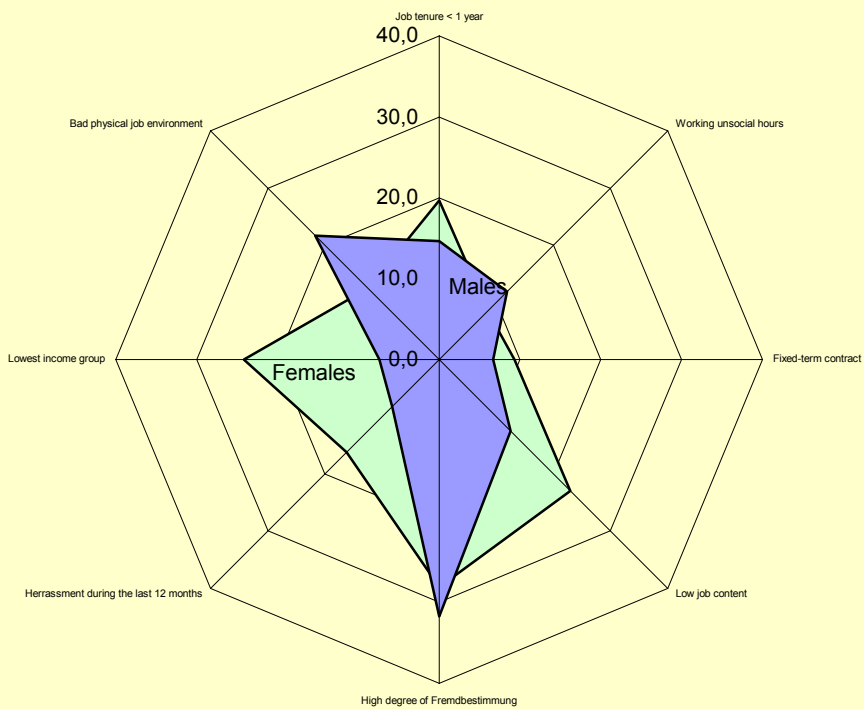
% share of persons employed



### Gender

Germany

% share of persons employed



European Foundation for the Improvement of Living and Working Conditions, Dublin

The incidence of the different indicators of precarious employment, or more generally of major labour market risks differ widely across European countries as can be shown by the following table.

**Share of employees encountering different types of labour market related risks in selected European countries, 2000**

	<i>Germany</i>	<i>Denmark</i>	<i>France</i>	<i>Italy</i>	<i>UK</i>	<i>Spain</i>	<i>EU 15</i>
Job tenure < 1 year	16,8	28,5	20,6	17,1	22,7	23,3	19,4
Working unsocial hours	10,4	7,3	14,2	15,1	13,2	18,3	13,4
Fixed-term contract	7,8	6,4	10,8	7,7	9,8	22,2	10,0
Low job content	16,9	6,2	12,5	20,7	14,6	21,7	16,6
High degree of Fremdbestimmung / low degree of autonomy at work	30,2	17,5	29,6	28,7	27,7	37,6	29,3
Mobbing during the last 12 months	11,6	12,0	15,5	5,1	21,1	7,9	13,4
Lowest income group	14,5	18,0	17,9	14,0	18,2	14,0	16,1
Bad physical job environment	17,8	16,3	28,5	20,9	22,0	34,5	23,1

European Foundation for the Improvement of Living and Working Conditions (Third Survey on the Working and Living Conditions, 2000)

The Survey data indicate that the German labour market is less flexible than in the UK, France, Spain and in Denmark. However, flexible labour markets do appear to bring about different realities. While in Spain job tenures under 1 year are linked to fixed-term contracts, this holds not true for Denmark and the UK and even France. Furthermore, labour market flexibility in Denmark seems to be linked to a high quality of the jobs in terms of working hours and job content and also autonomy at work as compared to Germany. In contrast, the Spanish labour market is shaped by a bad physical job environment, low degree of autonomy at work, a low job content and working unsocial hours. Furthermore, we know from Eurostat data, that a high share of contracts are lasting less than six months and often even only a few weeks in Spain. It should also be added that different data on the temporal dimension of jobs differ widely in level, but the basic differences between the countries remain. The first conclusion of the analysis of this data would be that labour market flexibility per se does not necessarily entail a high level of “bad jobs” and a high level of labour market risks in general, and that on the contrary the stability of jobs is per se not a guarantee for a low level of labour market risks.

Table 1

## Unemployment and long-term unemployment in 2002 in selected countries

	<i>Unemployment rate (% of labour force 15+)</i>	<i>long-term unemployed rate (in % of labour force)</i>
Germany	8.6	4.0
France	8.7	2.7
Italy	9.0	5.3
Spain	11.3	3.9
UK	5.1	1.1
Denmark	4.5	0.9
EU 15	7.7	3.0

Source: European Commission, Employment in Europe 2003

As the link between flexibility of the labour market and the incidence of labour market related risks is far from being evident, a more detailed analysis of the features of the labour market related risks is useful. With regard to the forms of insecure employment, the main categories in Germany are the following:

- a) Marginal employment (*geringfügige Beschäftigung*) increased significantly between 1987 and 1997 to a level of 3.8 million, and it remained at a high level even after the law was changed. However, estimations made by different institutions vary quite significantly between roughly 2 million and nearly 5 million persons being in “marginal employment” without having a “main employment” for the year 1998/99.<sup>3</sup> In general, marginal employees carry out easy tasks, receive low pay, have no training and no career perspectives, are not collectively represented and are less well insured (especially with regard to public pensions and unemployment insurance). Despite the “bad” quality of the jobs, only a share of the marginally employed can be considered to be in precarious employment, because the temporal dimension is decisive. Marginal employment is more likely to correlate with “precarious” employment for those groups with longer periods of marginal employment, in particular married women, women with children and persons with low skill levels. They represent an important group among the marginally employed. Persons trapped in marginal employment often work in sectors such as trade, private households, catering and cleaning. But there are other important groups of marginally employed that cannot be considered to be in a precarious situation. Particularly in the case of young persons in education or training, marginal employment does not represent precarious employment. The same is true for a number of the women and retired persons. In 2003 a law was passed to further ease “marginal employment”. In the context of the labour market reforms linked to the so-called “Hartz-Konzept” two forms of “marginal employment

have been agreed: so-called “mini-jobs” (with a monthly wage up to 400 Euro) and “midi-jobs” (with a monthly wage between 400 and 800 Euro) with gradually reduced social security contributions.

- b) Fixed-term employment rose slightly over the 1990s. Non-subsidised temporary employment often represents a transitional phase between training and permanent employment (by the same or another employer), particularly if the duration of the fixed-term contract lasts at least a year. This finding probably applies to the majority of fixed-term contracts. In fact, temporary employment doubled during the 1990s among persons aged 25 years and under. However, temporary employment also rose among foreign workers. This group of workers is more likely to be “trapped” in insecure forms of employment. Finally, a third type of temporary employment is the subsidised fixed-term contract (in particular in eastern Germany). The corresponding labour market programmes have been heavily criticised for not succeeding in bringing a significant share of persons into permanent employment.
- c) Temporary agency work is still at a low level in Germany but has been on the increase.
- d) “Dependent self-employment” (*Scheinselbständigkeit*) has received much attention in Germany in recent years. This form of employment increased over the 1990s but still remains at a low level. The “dependent self-employed” represent an extremely heterogeneous group of workers. There is no data about the transition between this type of self-employment and other employment forms, but this form of employment might have longer spells for a number of persons.
- e) The volume of “hidden employment” is by definition difficult to assess. Undeclared work is concentrated among immigrants, often working illegally. The sectors with the highest shares of undeclared workers are the agricultural sector; community, social and personal services (e.g. cleaning, care work); the crafts sector; and construction. Hidden employment can be regarded as precarious employment.
- f) If wages are too low to ensure an income level above the poverty line, that employment might be regarded as precarious. According to the report of the federal government on poverty and wealth in Germany, the “working poor” do not represent an important group among the poor in Germany. In 1998 their share amounted to 3.4% of the working population; the share of the poor<sup>4</sup> in the whole population was about 5.8% (Bundesministerium für Arbeit und Sozialordnung 2001). In western Germany, the rate of working poor and the poverty rate have been decreasing since the mid-1980s. Even though

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<sup>3</sup> Helmut Rudolph (2003): Mini- und Midi-Jobs. Geringfügige Beschäftigung im neuen Outfit. IAB Kurzbericht Nr. 6, 23.5.2003

<sup>4</sup> Defined as below the 50%-threshold of the median and the new scales of the OECD.

Germany's rate of working poor is comparatively low (in particular when compared to the United States; Hanesch 2000), it is worthwhile analysing its distribution by sector. Low wages can be found in particular in retail trade, restaurants and private services (Buslei and Steiner 1999). Although in Germany, the problem of "working poor" is less debated and less relevant than in the Anglo-Saxon countries, however, in the context of "new poverty" affecting families, the growing share notably of families with children despite labour income has been acknowledged.<sup>5</sup> However, it has been stated in the German case, that poverty resulting from low income constitutes a transitional rather than a permanent problem for most families.

- g) Collective bargaining: The interest of those in precarious employment are often not defended by trade-unions. This is also due to the fact that in general, atypical forms of employment are widespread in micro-enterprises and in small businesses, and are therefore less often covered by collective agreements than workers with "regular employment relationships". Moreover, small enterprises have in general no works council. But in medium-sized and large companies as well, workers in precarious employment are generally worse off than core workers, because works councils and trade unions traditionally defend the interests of core workers first. Furthermore, precarious workers are rarely unionised. In sector case studies it has been shown that in some sub-sectors, like external call centres (call centres as independent enterprises and not as a unit of a large company), collective bargaining doesn't hardly exist.

In order to fully grasp the degree of insecurity and the distribution of labour market risks as well as to assess the implications of precarious employment for the individual and for the society as a whole it is crucial to analyse, whether the labour market might enable workers to improve their situation in the long-term, especially in regard to employment and income stability. Thus, the key question is whether precarious employment can be regarded as a transitional phase to enter the "regular" labour market or whether it is a step into a permanent situation where people are trapped in precarious employment. Rotation between unemployment and employment is characterising precarious employment, employment instability, and reflects a general labour market risk for specific groups of persons. Permanent precarious employment, however, generates labour market segmentation which might show the features of exclusion and discrimination.

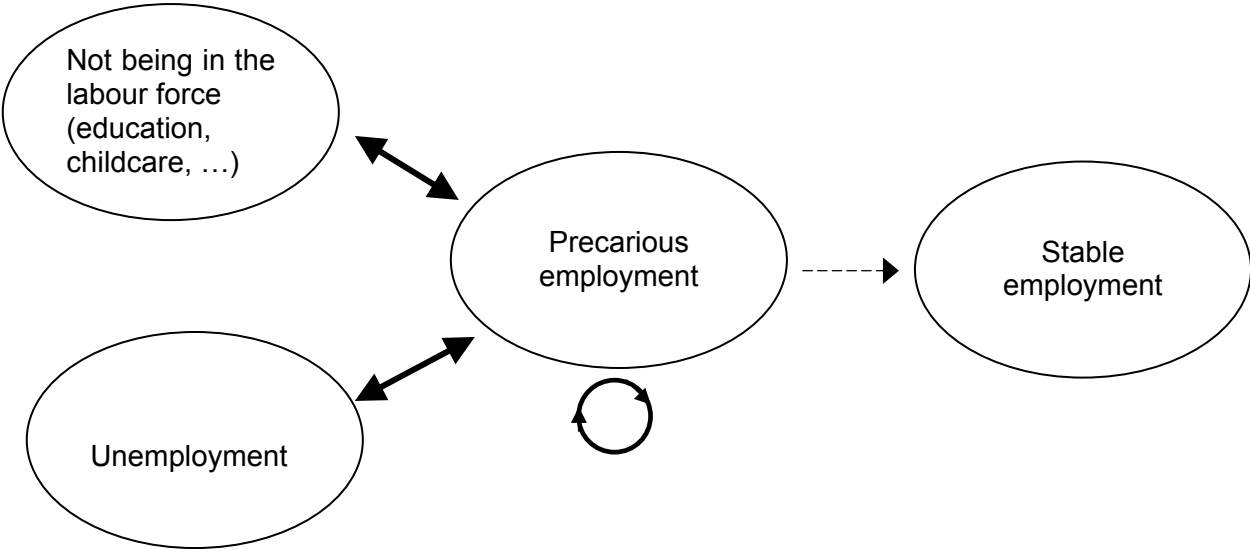
With reference to labour market theory a distinction can thus be made between the partition model of labour markets with no or narrow bridges between the labour

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<sup>5</sup> In 1995, according to an evaluation of the socio-economic panel about 1,3 million households with head aged between 25 and 55 years were identified as working poor (Strengmann-Kuhn 1997).

market segments (Sengenberger 1978, 1987) and the queuing model with broad transitional labour markets (Schmidt 1996 and Thurow). Therefore, the size and the permeability of transitional labour markets determines the type of precarious employment. The transition between non-employment, unemployment and employment can be characterised by a period of “unstable” or “insecure” employment. These periods will be short if labour market flexibility is high and segmentation rules are weak. The problem of segmentation arises if this period in precarious jobs is long and can hardly be terminated by moving into a permanent and stable job. In this case the period is terminated by unemployment or labour market exits (Figure 1). Precarious employment, therefore, has to be analysed from a dynamic perspective for which the volumes of entries, exits and job rotation within and between labour market segments are central indicators. In parallel, the duration of employment and unemployment which are correlated to these flow indicators are relevant comparative figures. Most importantly, however, precarious employment has to be analysed from a dynamic individual perspective which reveals the career paths of workers and unemployed persons. Such an analysis will provide the required information on the determinants of precarious employment.

**Figure 1     The precariousness trap**



In the case of Germany, the transitional type of precarious employment is mainly found among young workers (see above) while segmentation lines exclude older workers from the labour market. Empirical analysis of job entries revealed that

unemployed aged 55 years and more who are unskilled and have health problems have only an 8% probability finding a job, compared to the 60% probability of skilled workers younger than 55 and without health problems (Karr 1999). This indicates that exclusion also is a multi-dimension phenomenon.

To sum up, there is evidence to indicate that atypical employment represents a transitional period for the majority of the workers, young workers in particular. However, for those facing higher labour market risks – for example because of a low skills level, devaluation of human capital due to discontinuous working biographies, previous unemployment, in particular long-term unemployment, or nationality – insecure forms of employment usually do not ease the way to permanent employment. Those persons then become trapped in precarious employment. Thus, for those excluded from the “regular” labour market, precarious employment represents an alternative to unemployment but does not represent a bridge to permanent employment.

The German labour market is still shaped by its dual structure, with insiders retaining a great deal of power and benefiting from a high degree of employment stability, and outsiders who must bear the bulk of numerical flexibility and who are not collectively represented. They are unemployed or are working under insecure conditions. Labour market regulation fosters this kind of labour market segmentation, using full-time jobs with average incomes as a standard model. In parallel, social policy regulations contribute to the permanent exclusion from work of substantial parts of the labour force, thus reducing the volume of labour supply and the competitive pressure on the permanent employment segment. Through this approach, the German regulatory system avoided a great amount of marginalisation, permanent marginalisation in particular. However, it created a different type of dualism in the society between those in work and those out of work,

Under these conditions, precarious employment in Germany shows particular features:

- a) For the vast majority of young persons, insecure employment is more likely to represent a transitional phase between training and permanent employment. The fact that the share of young workers among the “atypical” employees is nevertheless low has to be attributed to the “dual” vocational training system which is successful in reducing labour market risks for young people. The transition from apprenticeship to work, however, is a critical phase in job careers.
- b) In contrast, older workers are less affected by temporary employment but are more often excluded from work.

- c) Women are more likely to be in precarious employment than men because their working biographies are often more discontinuous. Atypical or insecure forms of employment among women who re-enter the labour market often do not represent a transitional phase, but rather a medium- or long-term situation. The most widespread form of atypical and insecure employment among women is marginal employment, whereas temporary agency work is typically the domain of men. But as discussed earlier, female marginal employment is only partly perceived as a problem in terms of “bad employment conditions”, because it is argued that this type of employment relationship coincides with the preferences of a number of the women.
- d) Atypical forms of employment for the low-skilled are very likely to involve aspects of precarious employment. Low-skilled persons face a higher unemployment risk and have more difficulties integrating into the labour market. Consequently, the transition from atypical to regular employment is also more difficult.
- e) Immigrants are more likely to be in precarious employment than Germans, and they are most likely to be trapped in it. This is linked to their skills structure and to the specific workplaces they are assigned to, but also to discrimination on the labour market. In many cases they are overqualified for their tasks. Because the educational and skills deficiencies of second and third generation immigrants in Germany, their labour market risks are still above average, and this is reflected in higher unemployment rates. Nonetheless, new employment opportunities for non-nationals and in particular for new immigration groups have risen in the low-skilled service sector segment. Moreover, it can be assumed that non-nationals coming from outside the European Union, in particular from the Central and Eastern European countries, are often working within the hidden economy, as they are often working without a work permit.
- f) Those who show cumulated labour market risks, for example unskilled, female foreigners, are especially likely to become trapped in precarious employment.

### 3. The institutional context: labour market regulation and the social welfare State

#### 3.1. The German social welfare model

The social compromise established in after War Germany was based on the idea of the “soziale Marktwirtschaft” (social market economy) and the tradition of Bismarck’s social policy. The idea was to create a dynamic market economy sharing its welfare rather than concentrating it on specific social groups. Compared to the Anglo-Saxon countries, a general generous social welfare system was created based on the willingness to limit insecure employment and to create similar living conditions to all groups of the population. This was done by pro-active measures rather than general anti-discrimination policies, which other countries, the United States in particular, had followed. The government has the constitutional responsibility to consider the creation of equal living conditions in all regions (Art. 106 GG), and political majorities always were in favour of improving the homogeneity of the society. Policy action was developed along six main streams:

- Minimum income provision by social benefits to avoid poverty.
- Improvements of working conditions by and social security of workers to reduce the risks of working life.
- Collective wage bargaining to avoid inverse reactions of labour supply.
- Restriction of labour supply to reduce unemployment and the number of working poor.
- Training policies to improve the competitiveness of workers.
- Group specific policies to reduce discrimination on the labour markets.

The German welfare state which emerged from this policy programme is endowed with a comprehensive budget for social policy: Overall expenditure on social policy rose from 21.1 % of GDP in 1960 to 31.9 % in 2000 as the following Table shows. There was a continuous relative increase of expenditure during the sixties and seventies, when the systems of health care and pensions were developed extensively. During the seventies the compensation of unemployment risks started to influence many areas of social policy – not only the unemployment insurance system – leading to a continuous expansion of expenditure. The efforts by the conservative government to reduce social expenditure during the nineties remained rather limited and were more than offset after German unification in 1990.

**Table 2**  
**Social Budget**

Germany

Social expenditure as % of GDP

Area	1960	1970	1980	1990	2000*
Matrimony and family	3.6	4.7	4.9	3.7	4.8
Health	5.8	7.3	10.0	9.6	10.9
Employment	0.6	0.8	1.6	2.0	3.1
Aged persons and bereaved	9.2	10.3	11.9	11.2	11.9
Miscellaneous areas	1.9	2.0	2.3	1.3	1.2
Total	21.1	25.1	30.6	27.8	31.9

\* Germany; before 2000 western Germany only

Source: Statistisches Bundesamt.

### 3.2. Minimum income provision by social benefits

Based on the welfare state principle of the German constitution, the Federal Administrative Court took a ground breaking decision in 1954: every person needing help has the legal title to receive public assistance.<sup>6</sup> This was new because until then, public relief was seen as a provision given by the municipal authorities on their own considerations.

According to the Federal Social Benefits Law (Bundessozialhilfegesetz, BSHG), public aid is provided to persons who are not able to gain the means of subsistence by their own capabilities. This is a legal guarantee to receive at least the subsistence minimum from public budgets without any explicit time limit. The provision is subsidiary to self-help and to the help of third persons. This means that every applicant for assistance has to use his working capacities to earn the means of subsistence for himself and his dependents. He or she has to search for a job and to accept reasonable jobs. Otherwise the entitlement will be lost. Jobs can also be provided by public authorities in the area of public work. Social benefits are means-tested including income and property of first grade relatives. They are complemented by the financial support of housing (*Wohngeld*) which covers the minimum standards for housing space. Complementary laws are the Youth Welfare Law (*Gesetz für Jugendwohlfahrt*) which regulates the promotion and integration of young people, and the Benefits Law for Asylum Seekers (*Asylbewerberleistungsgesetz*) which creates a separate benefit regulation for these persons.

The level of social benefits has to follow the “wage distance rule” (*Lohnabstandsgebot*), which says that the benefits paid to a household with up to five persons have to be lower than the average net income of a worker, including child benefits and housing allowance (§ 22 BSHG). The data in Table 3 show, that the wage

distance is wide for persons without children. Together with the rising number of children, however, the distance is narrowing rapidly. This is due to the fact that wages are paid as efficiency-oriented remuneration while social benefits are demand-oriented. Moreover, average wages for unskilled workers in manufacturing industries are well above wages in other industries, (the service industries in particular), and are generally above minimum wages in many sectors.

As a consequence, little incentives to work are given to persons in bigger households, to persons in low wage jobs, and to persons with a low individual productivity. It is therefore criticized by some economists that the low-wage labour markets are dried up on both, the supply and the demand side and that social benefit regulations create unemployment to a substantial amount (Sinn et al. 2002). Social benefits create a reference for minimum wages as workers – as far as they are eligible for social benefits – will not accept a job without a sufficient premium on non-working income, so the argument. Collective agreements consider social benefits as a reference for the fixing of the lowest wage levels, and employers take these wages as their reference for minimum productivity standards. Low wage jobs can hardly be created under these conditions.

**Table 3**  
**Social Benefits**

Unskilled workers in manufacturing industries, western Germany, 1999

	Average disposable income	Social benefits	Wage distance
	€ per month	€ per month	%
Single person			
no child	1281	604	52,9
1 child	1353	992	26,6
2 children	1496	1307	12,6
Couple			
no child	1578	958	39,3
1 child	1713	1238	27,7
2 children	1870	1499	19,8
3 children	2074	1770	14,6

Source: Bundesministerium für Arbeit.

The fact that precarious jobs in the sense of low income jobs only exist to a very limited amount in Germany can certainly be attributed to these social benefits regulations. On the one side, vacancies in the lowest tariff wage groups can hardly be filled.<sup>7</sup> On the other side there are high numbers of unskilled workers being unemployed, and even among the social benefits recipients the number of employable persons is estimated to 800,000 out of 2.7m. Unemployment of unskilled workers

<sup>6</sup> Bundesverwaltungsgericht, Entscheidung vom 24.6.1954, 1/159.

<sup>7</sup> According to the Council of Economic Advisors, in 1999 less than 3 % of the workers were employed in the lowest tariff groups (Sachverständigenrat 2000, Table 29).

rose more rapidly than unemployment in total. The unemployment rate of unskilled workers moved up to 24 % compared to 10 % on average.

The drying up of precarious (low wage) jobs by social benefits is a success of welfare policy but at a high price. The number of social benefits recipients continuously rose during the last decades together with unemployment levels and total expenditure for social benefits increased to 23b € annually at the end of the nineties. This was and still is a high financial burden for the municipalities which contributes to the vicious tax-wage-unemployment-circle. Alternative concepts were therefore developed during the last years to overcome the negative employment effects of social benefits (see below).

However, generous social benefits do not per se cause high unemployment as the Danish way demonstrates (see next section). Nevertheless, the system limits the growth of low-wage jobs.

### 3.3. Social security and precarious employment in Europe

The cross-national analysis of 'normative systems' pointed to a great heterogeneity in the national definitions of what is considered 'acceptable' (*zumutbar*, in German<sup>8</sup>) with regard to jobs (Barbier et al. 2002). This is the case for

- (i) the characteristics (contracts; income; social protection; working conditions) of jobs of employed persons;
- (ii) the characteristics of the job or training offers made to unemployed persons or to social benefits recipients, which defines the type of jobs they cannot refuse if they want to retain their entitlements;
- (iii) the *de facto* acceptance of a particular degree of exposure to precarious or bad quality jobs for certain groups (the young, the older, women) or for certain sectors and industries (for instance, the domiciliary care sector, the cultural sector, the service sectors).

This is also reflected in the generosity and the design of the unemployment system: 'Suitability' and 'acceptability' also constitute a dimension of the obligations of the unemployed and the nature of sanctions they are exposed to when they do not comply with the administrative rules. If acceptability standards are high, like in Germany, the unemployed are not forced into precarious employment relationship. It is exactly the

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<sup>8</sup> A different, but comparable notion in the UK context might be 'fairness', whereas in France, the notion of '*droits acquis*' could also be compared.

contrary for the UK, where the unemployed are very actively pushed into jobs, as they are on the market.

It is clear (especially in Germany, France and to a lesser extent in Italy) that early retirement schemes and provisions of substitutive benefits have been an effective policy instrument to shift older people out of the labour market and, doing so, to prevent them from being exposed to employment precariousness or to bad quality jobs at their older age. If, as common knowledge now contends, these policies are no more sustainable because of demographic reasons and budgetary constraints, alternative policies will have to be designed, which do not seem to exist in anyone of the five countries studied, where only embryonic reflections have started about the ergonomics of old age employment situations. In the case of the UK, we have seen indeed that elderly workers are more likely to be in precarious jobs as no such generous protection applies to them.

The following table gives an overview of the generosity of welfare systems in selected countries in Germany, France, Italy, Spain and the UK

**Table 4**

<b>Dimensions</b>	<b>Germany</b>	<b>France</b>	<b>Italy</b>	<b>Spain</b>	<b>The UK</b>
1. Legal employment relationship	Yes	Yes	Yes	Yes	No
% not covered by standard employment	5	10	9	30	Not relevant
2. Unemployment protection	3-tier <sup>9</sup>	3-tier	Insurance	Insurance and assistance	Assistance, flat rate
Comparative generosity/duration	Generous	Generous	Weak	Weak	Weak
3. Tax credits and social contributions reductions	Marginal	Extensive	Weak and unequal	Weak and unequal	Extensive
Comparative role	Individual subsidy (social cont.)	Subsidy to employers contributions + tax credits	Targeted subsidies to employers	Targeted subsidies to employers	Incentives to work Substitute to welfare
4. Assistance	Yes	Yes	No	Yes	Yes
Comparative generosity	generous	medium	Not relevant Weak	Weak	Weak

Source: Barbier and al., 2002

The comparison of the generosity of the social welfare system and the incidence of precarious employment leads to the assumption that there is an interrelationship

<sup>9</sup> In Germany and France, the 3-tier systems are currently reformed more into 2-tier systems (2004)

between the welfare system and the management of labour market related risks.

The policy analysis leads to different models:

(1) No significant problem of employment precariousness exists in countries which combine two characteristics: a relatively general equalitarian orientation (wages, incomes, statuses) and a generous social protection system. (mainly Scandinavian countries, but also the Netherlands) (Barbier et al. 2002).

(2) Compared to these countries, Germany tends to fit best in this model, however: it is less generous, less equalitarian and brings about more unemployment.

Nevertheless, the argument holds also for Germany, that the supply of labour for precarious employment is restricted due to the fact that the social protection system is relatively generous.

(3) France also shows a comparatively generous social protection system, even though it is less generous than the German one and the incidence of precarious employment is higher as compared to Germany

(4) In Spain, Italy and the UK, the social protection system is not generous. In these three countries precarious employment reaches actually a higher level. Thus, in the UK, where individuals loose their jobs, there are strong financial incentives for them to re-enter the labour market because payments from Jobseekers' Allowance and/or Income support (means tested social security) are low relative to wage levels (Hogarth et al. 2002). In the same way in Spain, low coverage and low unemployment benefits entails intensified pressure for accepting precarious and temporary employment (Frade et al. 2002).

### **3.4. Minimum labour conditions by collective agreements**

At the end of 2001, 57,595 collective agreements were registered in Germany by the Federal Ministry of Labour (Bundeministerium für Arbeit und Sozialordnung 2002) in its public register of collective agreements. Many of these agreements are amendments to earlier treaties but nevertheless 30,361 basic agreements on wages and labour contract regulations were valid at that time. These agreements covered 90 % of the employees in Germany with very few branches left out, like legal and consulting services, religious and political institutions (including employers' associations and trade unions), and parts of the new economy.

Collective bargaining in Germany has left the path of a minimum standard policy since decades and has switched to a policy of income distribution and regulation of working conditions. It was during the nineteen fifties when the improvement of minimum standards was dominating collective negotiations. This policy was supported by the labour courts which limited the scope for low-wage payments e.g. in the case of low-

wage groups for women. At the end of the sixties, the income distribution had become the central matter of debate and spontaneous strikes of the workers in many parts of the country forced the trade union leadership to change their policy. Supported by shrinking unemployment and rising labour shortage a period of rapid re-distribution in favour of wage earners started. In 1974 it took the Public Workers Union (Gewerkschaft Öffentlicher Dienst) only a 3 day strike to achieve an 11 plus on their wages, a success which was corrected afterwards by the anti-inflation policy of the Bundesbank and by a steady re-distribution in favour of capital incomes.

During the seventies and eighties, high and rising unemployment forced the trade unions to lower their wage claims and to stipulate for the re-distribution of labour. Working time reduction became the central instrument of their policy for which they achieved a major break-through in 1984 when the target of the 35 hours week was fixed in many agreements. This was amended by early retirement programs and workplace protection agreements against rationalisation.

During the nineties the defence of the tariff wage system against various hazards began to determine collective bargaining policy. After German unification, the western system of collective bargaining was transferred to the New Länder without substantial change. However, the system was not fully applicable to the economic and labour market situation and thus revealed its limitations. The acceptance of the system remained rather low. The share of eastern German companies belonging to the tariff system is estimated to be only  $\frac{1}{3}$  and the share of workers covered by collective agreements is at  $\frac{1}{2}$  (Bellmann 1999). There were some efforts to force employers into collective agreements by strikes. But the trade unions had to confess that the cost burden resulting from the regulations were too heavy for parts of the companies. At the end they allowed for exemptions to vulnerable companies.

Moreover, the system of collective bargaining continued to weaken. The secular trend of decreasing membership at both, trade unions and employers' associations was an alarming sign which forced the organisations to react.

- In 1996 the law on minimum standards for cross-border services (*Arbeitnehmer-Entsendegesetz*) was passed which forced foreign companies in the construction business to pay German minimum wages to their workers at German sites. In the construction sector wage competition with foreign companies had become a serious risk for German companies and workers. After very controversial debates the central organisations of the employers' associations agreed upon the introduction of generally binding minimum wages in this sector.

- In 1999 the Federal Labour Court (*Bundesarbeitsgericht*) decided that trade unions can force companies by suit to apply collective agreements. Before this decision such suits could only be submitted by individual workers.
- In 2002 the Law on Tariff Loyalty (*Tariftreuegesetz*) was passed, which threatens companies in the construction and local traffic sector with penalties if they do not pay wages customary at place. Moreover, penalties for illegal work and clandestine employment were raised. A register for unreliable companies was established which allows public institutions to exclude these companies from public contracts.

The social partners joined the “Bündnis für Arbeit, Ausbildung und Wettbewerbsfähigkeit” (union for employment, training and competitiveness) proposed by the government in 1998. This was a revival of the “Konzertierte Aktion” (concerted action) of the sixties and concentrated on training issues, placement services, ageing workers and international benchmarking of labour market policies. The important question of collective bargaining and wage policy was excluded.

The system of collective bargaining is highly influential as can be shown by simple regression between the growth rates of tariff wages and virtual wages as paid by the companies. The correlation is highly significant and the correlation coefficients are above 0.7 in all sectors investigated (Vogler-Ludwig 2001). The most impressive and most important result, however, is the fact that wage policy in Germany achieved the stability of wage relations over decades. The wage relations between different skills groups – as shown in the Table below – were compressed during the sixties and seventies and remained stable thereafter. Contrasted to the enormous rise of unemployment rates for less skilled workers this result means that wage determination is largely independent from the level of unemployment, internal and external labour markets do not communicate.

## Wage relations

Table

Virtual wages in manufacturing, construction, trade, banking and insurance  
Unskilled women = 100

Employee	Skills group	1960	1970	1980	1990	2000 *
<b>White collar</b>						
Male	High skill level	301	274	252	263	253
	Medium skill level	220	208	190	193	182
	Lower skill level	153	154	143	140	131
	Unskilled	132	134	123	114	111
Female	High skill level	236	215	197	210	204
	Medium skill level	166	161	151	155	149
	Lower skill level	115	116	113	115	114
	Unskilled	100	100	100	100	100
<b>Blue collar</b>						
Male	Skilled	169	158	150	148	147
	Trained	157	143	134	133	125
	Unskilled	136	128	120	120	113
Female	Skilled	114	112	112	115	123
	Trained	108	104	104	104	103
	Unskilled	100	100	100	100	100

\* Wester Germany until 1990, Germany afterwards.

Source: Statistisches Bundesamt

Wage compression set incentives for employers to increase productivity and to reduce the demand for low-skilled labour. Companies preferred to employ better skilled persons and to substitute simple jobs by machinery and the re-organisation of work. This argument will be discussed in more detail in the next section.

### 3.5. The economic context: the rationale of competitiveness

One of the reasons for Germany's comparatively low incidence of precarious employment lies in the German production model, which relies on a high-wage/high-productivity strategy. This strategy, combined with a high degree of labour market regulation, implies a high degree of employment stability (firm-specific knowledge, search costs, etc.). Thus, the flexibility needs of the firms have been met through a mixture of different flexibility strategies, including efforts to make working time more flexible and functional flexibility. Increasing external and numerical flexibility has become part of the overall flexibility strategy for a number of reasons and has contributed to the spread of atypical employment. Not only the flexibility strategies of

the core industries but the growth of the service sector in particular has created precarious employment. The sectors showing higher shares of insecure forms and (most likely) of precarious employment are the low-value-added service sector industries, in particular the service sector industries related to personal services, the construction industries and, to a lesser extent, the manufacturing industries.

It can be assumed that the growth of precarious employment is linked to employment expansion and that it alleviates the unemployment problem only to a small degree (mostly through subsidised fixed-term contracts). Subsidised fixed-term labour contracts have been widely criticised for substituting permanent employment with precarious employment. However, overall it is not clear to what extent “regular employment” relationships are being substituted by atypical forms of employment and to what extent new jobs are being created through expanding flexibility potentials. The use of atypical employment as a transitional phase has been on the increase.

#### **4. Searching for a new flexibility – quality – security balance at the labour market**

##### **4.1. The German debate on labour market regulation and flexibility**

Labour market researchers with a neo-classical orientation interpret the increase in precarious employment as a side-effect of an “overregulated” labour market that impedes or even eliminates the laws of the market and thus seriously interferes with employment adjustments to changed macroeconomic conditions. These researchers basically agree with the demand for deregulation as a labour market policy. From this point of view globalisation tendencies in the world economy reinforce the problem because international competition exerts more and more pressure on the high unit labour costs of German industrial products and the high cost of services, with negative effects on employment. The relocation of production facilities to low-wage countries generates a growing need for deregulation on the German labour market. The high regulation density appears as a pure “luxury” that no longer can be maintained. (as expressed for instance by the Sachverständigenrat)

Departing from contract theory and efficiency wage theory, however, labour market regulation is still regarded by many labour market researchers as fostering the stability of employment relationships and, in this context, enhancing the productivity of the economy. Labour law and collective agreements are perceived by proponents of this approach as an instrument for avoiding market failures (e.g. inverse supply reactions on decreasing wages). They also argue that the standardisation of employment contracts by means of law and collective agreements saves on diverse

negotiation costs. Moreover, the standardisation of the relationships induces contract-related investments which in turn create an interest in long-term relationships. One main cause of market failure is asymmetric information, which can prevail on both sides of the labour market, for example with regard to employers' implicit "career promises" and employees' performance promises. Standardised and transparent employment relationships can have a positive effect on both the willingness to perform and the employers' investment in human capital. It is also argued that job security in the sense of lower risks of dismissal may have a positive effect on the willingness to perform (Buttler and Walwei 1994, Hoffmann and Walwei 1999).

Thus, for a number of years an important strand of German labour market research was concerned with the question whether an erosion of the normal employment relationship could be observed. For decades the starting point for German labour market research was the fiction of the "regular employment relationship" (*Normalarbeitsverhältnis*), with atypical employment defined as a deviation from the criteria of this concept. Despite the lack of a clear and binding definition of the "regular employment relationship", labour market researchers often regard the following characteristics as constituting this type of relationship: the notion applies to a gainfully employed person who works full-time for only one employer on the basis of a permanent work contract, and who contributes to the social security system and works outside the home (as defined by researchers of the Institute for Employment Research [IAB] of the Federal Employment Service: Dostal et al. 1998, Hoffmann and Walwei 1998).

Finally, there is a strand of arguments highlighting the positive effects of new employment forms (transitional labour markets) and arguing for employment policies to adapt to the needs for flexibility. The "transitional labour market" approach argues that the model of continuous and dependent full-time employment must be given up. Thus, researchers of the *Wissenschaftszentrum Berlin* have suggested replacing this norm with a regulatory notion of transitional labour markets, in the sense of a complementary element to the innovation and investment strategies required to solve the employment crisis. Transitional labour markets are defined as institutionalised arrangements which allow or support changes in employment status or the combination of labour market work with other socially useful activities. The use of wage subsidies for lower income groups or hard-to-place people is one element of this strategy; legally or contractually bargained entitlements to transitional employment constitutes a further element (Schmid 1998).

An important part of the scientific debate among economists is directed towards the questions of how much regulation is needed in order to set a stable framework for the

production of high-value-added goods and services and, from another perspective, to what extent are the present employment regulations impeding flexibility.

The persistently high unemployment figures and the increasing financial burden of the welfare State are increasingly putting a question mark at the German model. Wage rigidities at the bottom of the wage scale are perceived by some labour economists as the root of the unemployment problem. At present, the debate is focusing on a combination of social policy reforms and wage-cost subsidies in order to permit the development of a low-wage sector (Bender et al. 1999, Buslei et al. 1999, Karr 1999). The debate on “marginal” employment is also strongly linked to the reforms of the social security system.

## **4.2. Policy reforms: The Agenda 2010**

The German policy debate on unemployment and social reform experienced a significant rebound when the red-green government presented its new concept “Agenda 2010” in March 2003 (Bundesregierung 2003). This policy programme for a whole decade includes eight areas of policy reforms, like taxes, labour market policies, education and training, health and pensions and others. It is an ambitious programme which concentrates on social reforms, labour market flexibility, activation of unemployed and tax reforms as the key to create additional employment. This strongly contrasts to all preceding programmes which used economic growth policy as their main employment policy instrument. The change happened after 25 years of rising unemployment and shrinking growth. Nevertheless, the Agenda 2010 still is highly controversial in the policy debate and receives only limited support by German voters.

The Agenda 2010 was prepared by a long-lasting discussion on the reform of the social system and on the basis of two major Commissions, the “Hartz Commission” who developed a labour market policy reform programme and the “Rürup Commission” who suggested a reform concept for the social security system. Both reports include the restriction of social benefits and – most importantly – the gradual individualisation of labour market and income related risks. Thus, these programmes can be expected to change the nature of precarious employment, and will lead Germany in this regard closer to other European countries, the Scandinavian countries in particular.

The reform concept of the Agenda 2010 includes several parts which are directly or indirectly related to precarious employment:

- Protective regulations against dismissals were suspended for small companies up to ten employees (until now the limit is five employees), and regulations favouring redundancy payments and start-up companies were defined.
- A large reform package was defined for the organisation of public employment service (Bundesagentur für Arbeit), and its active labour market policy. The target is to shorten unemployment periods, create transitional labour markets through (publicly supported) temporary work agencies, promote self-employment among unemployed workers, and to create more low-pay jobs by tax exemptions for jobs up to monthly incomes of 800€.
- Social security systems were scrutinised by the Rürup Commission to reduce non-wage labour costs and to raise the efficiency of social programmes. In particular, public health insurance introduced a wide range of cost cutting measures. This included supplementary payments by patients and the privatisation of certain risks (e.g. prosthesis, sickness payment). Public pension systems were reformed by a reduction of early retirement, and by a long-term adjustment of pension levels to rising longevity. A special programme for older workers allows fixed-term contracts from the age of 52. In addition, retraining of older worker is supported.
- The reform of income taxes has reduced average tax burden by 5 to 22 %. Lower income household received the highest relative tax reduction. By 2005 the entry tax rate will be lowered to 15 % and the maximum marginal tax rate will be reduced to 42 %.

This programme was evaluated as a cautious but nevertheless necessary step towards a more flexible labour market, a reduction of the high tax wedge in Germany, and the stabilisation of public social insurance systems (Sachverständigenrat 2003: 600). First impacts are predicted by some experts in rising numbers of marginal employment (“Mini” and “Midi” Jobs) and the reduction of health insurance deficits. However, many experts also express their doubts about the effects of the labour market reforms on their potential for job creation. The evaluation of labour market policy measures was recently launched.

## 5. Conclusions

In comparative terms the German model may still be described by a low volume of “bad jobs”, but at the same time a persistence high unemployment stocks. Social policy, collective bargaining and labour market policies together achieved this result

during the previous decades. However, the German route of socialising labour market related risks suffers from multiple threats, in particular high unemployment and the financing of the welfare state. Basic social values and norms have now been questioned. Germany is certainly not opting for an Anglo-Saxon model with a high volume of “bad” and insecure jobs and a low level of welfare provisions, but nevertheless, it is coming closer to these ideas and a trend towards re-individualising social labour market risks can be observed.

The impact of the current reforms is difficult to predict at this stage, but it is rather questionable whether the implemented reforms can create substantially more jobs in the “bad job sector”. Furthermore, the reforms might not break segmentation lines as, as those being now permanently excluded from the labour market are likely to be trapped in insecure employment. It might be, however, that the actors change their strategies over the long-term.

Germany’s search for a new flexibility–quality–security regime is far from being free of serious social conflicts. The conservative government under Helmut Kohl shied away from basic social reforms for 16 years of government due to strong opposition from political parties, unions, and voters. It is one of the astonishments of history that a social-democratic government is now convinced of the importance and urgency of the reforms, and is going to revise the social model for which it fought during the last decades. This might be taken as an indication of the seriousness of problems which Germany actually faces. But this also involves substantial political risks, as the red-green government lost support for its policy in a series of recent elections. There might be the danger that the present political leaders will lose their jobs, but there is little indication that the reform programme will be fundamentally changed. It seems that a ‘consensus’ about the principal direction of reforms goes across the different political camps and that little opposition to the current reforms can be organised. The name of the Chancellor appears to be a question of secondary importance for the reform process.

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