EMPLOYMENT OBSERVATORY

Policies

Developments in employment policies in Europe.
Series produced by the MISEP network.

47 Autumn 1994

Employment in EUROPE

inforMISEP

European Commission
Directorate-General
Employment, Industrial Relations and Social Affairs

Developments at a Glance

Belgium: Supported by the introduction of a new social identity card, the fight against moonlighting is being extended to all sectors of the economy, with tougher sanctions for offenders.
In the Walloon Region an insertion contract has been introduced for unemployed persons aged up to 30, offering wage subsidies to employers.
Similar subsidies are now also available for small and medium-sized firms recruiting job-seekers to perform certain kinds of work.

Germany: The Employment Promotion Act of 1994 permits private job placement by agencies. Support for part-time work has also been provided by enabling the full-time wage to be retained as a basis for calculating unemployment benefit. Additional changes brought about by the law are the reduction in wage-compensation payments for those on job creation schemes (to 90% of collectively agreed wage rates) and the extension of the so-called "productive labour promotion" scheme, which previously only applied in East Germany, to the whole of the country.

Spain: In future the state job placement agency is able to commission private, non-profit job placement organisations. New regulations have been introduced concerning agency workers; temporary employment agencies must fulfil a number of conditions in order to be entitled to a permit. Agency workers have been given new rights. The labour market reform has strengthened collective bargaining and changed the workers statute so as to facilitate flexibility in classifying occupational group.

France: The highly controversial lower initial wage for young people on insertion contracts – which in the end was not introduced – is now being succeeded by a wage subsidy for employers recruiting young people.
A number of indicators have been developed and analyses conducted to measure the effectiveness of job placement by the ANPE.

Greece: Greek trade union legislation has been reformed with the aim of improving the dialogue between the social partners. Also envisaged is the modernisation of the labour market authority and a new financing mode, proposed by the social partners, involving two separate funds for vocational training and measures for the unemployed. The level of unemployment support has been increased.

Italy: Part-time contracts and contracts which maintain employment levels by reducing working time (solidarity contracts) are distinctive characteristics of the Italian labour market; they are of increasing importance.
The regional employment bureaux have found their place within Italy's labour market institutions. New government initiatives are expected in the autumn.

Ireland: A new three-year programme has been agreed between the government and the social partners. The parties to the agreement are keen to uphold the problem-solving consensus in the fields of competitiveness and employment.
The benefits available to those made redundant for economic reasons have been increased by means of a rise in the upper income limit used to calculate the benefit.
A new programme for community work for the long-term unemployed is to involve around 40,000 participants by the end of the year.

Luxembourg: A number of changes which came into effect in 1994 had already been introduced in 1993: social insurance contributions, for instance, are paid by the employment fund for a period of up to seven years for employers recruiting older long-term unemployed persons. Improvements have also been made to the procedures – social plan and consultation – which take effect in the context of redundancies for economic reasons. A new part-time employment law has been passed based on the principle of equality between full-time and part-time employment contracts with regard to social insurance entitlements.

Netherlands: Although the Dutch government is of the belief that working time reduction can help in the fight against unemployment, it intends to go its own ways on the issue.
A study has revealed virtually no change in the labour market situation of ethnic minorities.
In order to improve this situation a law has been passed on equality at work for ethnic minorities which came into effect on 1 July.
The effectiveness of the Youth Employment Guarantee Law is to be improved through greater efforts in placement activity prior to and after the period in which the law actually applies.
An independent commission is to evaluate the reorganisation of the labour market authority.

Portugal: Support for vocational training and a more flexible organisation of working time are to improve women's chances on the labour market.
The National Employment Observatory has improved knowledge of developments on the Portuguese labour market.

United Kingdom: A wide-ranging package of measures in support of further vocational training has been announced. Special support for small firms in the form of vocational training loans have been introduced.
The introduction, planned for 1996, of a "Job-seekers' Allowance" in place of the existing forms of unemployment support, will be subject to a means test after six months' entitlement. The government sees the new benefit as an additional instrument of its active labour market policy.

EMPLOYMENT OBSERVATORY

Policies

No. 47, Autumn 1994

The "Policies" bulletin is compiled on the basis of information provided by national correspondents. It is published in English, French and German.
The "Focus" part is conceived and edited by the MISEP secretariat. The opinions and analyses contained in this section do not necessarily reflect the opinions or views of the European Commission or the correspondents.
Signed articles are the sole responsibility of the author(s).

CORRESPONDENTS
Belgium: Joseph Remy (Ministère de l'Emploi et du Travail)
Denmark: Karen Thrysøe (Arbejdsministeriet)
Germany: Jochen Jahn (Bundesministerium für Arbeit und Sozialordnung), Detlef Hein (Bundesanstalt für Arbeit)
Greece: Dimitra Gana (Ministry of Labour)
Spain: Delmira Paz Seara Soto (Ministerio de Trabajo y Seguridad Social)
France: Henri Roux (Ministère de l'Emploi), Claudine Elhaik (Agence Nationale pour l'Emploi)
Ireland: Vincent Landers (Department of Enterprise and Employment)
Italy: Mariarosaria Damiani (Ministero del Lavoro e della Previdenza Sociale)
Luxembourg: Jean Hoffmann (Administration de l'Emploi)
Netherlands: Ronald van Bekkum (Arbeidsvoorzieningsorganisatie)
Portugal: Victor Viegas (Ministério do Emprego e da Segurança Social)
United Kingdom: Graham Archer (Department of Employment), John Frankham (Employment Service)

EUROPEAN COMMISSION
Jean-François Lebrun (DG V/A/2)

MISEP-Secretariat:

I. A. S. Institute for Applied Socio-Economics
Bundesallee 17, D-12161 Berlin
Tel. +49 30-85 08 00 51, Fax +49 30-85 08 00 52
Angelika Zierer-Kuhnle; translation: Max Guggenheim (French), Andrew Watt (English)
Scientific consultant: Peter Auer

Wissenschaftszentrum Berlin für Sozialforschung (WZB), Research Unit Labour Market Policy and Employment (responsible for evaluation): Günther Schmid, Peter Auer, Klaus Schomann; Karin Reinsch

Layout: pinkvain-fotosatz, Berlin
Printing: Druckerei Conrad, Berlin

MISEP

Contents

Overall Developments

Germany

Employment Promotion Act and Law on Moonlighting Come into Force

On 8 July 1994 the German upper house, the *Bundesrat*, completed its final deliberations on a number of social policy laws. As a result, among others changes the Employment Promotion Act and the Law amending the Law on the Prevention of Moonlighting and amendments to other laws were able to come into force.

Employment Promotion Act

The 1994 Employment Promotion Act is to come into force on 1 August 1994. The Mediation Committee of the *Bundestag* (lower house) and *Bundesrat* forced changes regarding the so-called productive labour promotion, the reduction in the basis for calculating support for those on job creation schemes and in the allowance for those on structural short-time working.

Extended scope for private job placement

Private job placement, which has been permitted for specific occupations and groups of people since 1 April 1994, can now be performed for all occupations and groups of people. Private job placement agencies require a permit from the Federal Labour Office. This permit will be granted to agencies considered suitable, reliable, financially sound and with appropriate premises. Job placement agencies may as a matter of principle only charge employers for their services.

Higher unemployment benefit under new part-time agreements

A real barrier for many employees who would like to reduce their working hours lies in the fear that, if they lose their job after the reduction, they will only be entitled to unemployment benefit based on the reduced hours. In view of this, in future unemployment benefit is to be calculated on the basis of the longer hours previously worked, rather than the hours last worked. This is subject to the condition that working time is reduced by more than 20% of the collectively agreed working hours and the longer working hours had been performed for at least six months and during the last three years. This provision only applies to part-time employment contracts reached after 31 July 1994.

Extension of productive labour promotion

Since 1 January 1993 a flat-rate wage cost subsidy has been available for unemployed persons working in measures to improve the environment, in the social services, and youth aid. This flat-rate wage cost subsidy is equal to the average cost of supporting an unemployed persons (unemployment benefit, unemployment assistance, social insurance contributions): it amounts to DM 1,585 per month. In line with the wishes of the new federal states and to assist in coping with special problems there, the field of application of this subsidy is being extended to work in mass-participation sport, the cultural sphere and in preparation for measures to restore historical monuments.

This measure, known as productive labour promotion (*produktive Arbeitsförderung*), is now to be extended to the old federal states as well – for the three initial areas (the environment, social services and youth aid). There the flat-rate wage cost subsidy amounts to DM 2,017 (1995: around DM 2,170). As in eastern Germany, the subsidy is set to expire at the end of 1997; the period of individual support may not exceed two years in the old, and three years in the new federal states.

Reduction in the basis for calculating support for those on job creation schemes

The subsidies available for job creation schemes are in future to be calculated on the basis of a figure of 90% of the wage paid for comparable, non-subsidised work. Given that not all the unemployed can be placed in such fixed-term activities financed out of public resources, it is felt that the difference between such income and the level of unemployment benefit should not be too wide and that as many such employment opportunities should be supported as possible out of the limited resources available. The Mediating Committee of *Bundestag* and *Bundesrat* raised the percentage figure used as a basis for calculation from 80% to 90%, dispensed with the proposed general ceiling for higher wages and postponed the introduction of the new measure until 1 January 1995. The cut in the basis for calculation also applies to the productive labour promotion.

Extension of the support for structural short-time working

The benefit available to those on "structural" short-time working, introduced in 1988, is used to cope with the structural changes under way in the steel and coal industries and in the new federal states. Whereas in the case of cyclical short-time working, continued employment in the firm must be ensured once the cyclical crisis has passed, this is not a requirement for the structural short-time working allowance. In the latter case the employees who would otherwise be made redundant are brought together in an independent organisational unit linked to their firm where they are to receive vocational training for other activities. Since the start of this year structural short-time working benefit has also been available for other branches undergoing major structural change, e.g. in the engineering industry and the armaments industry. The planned expiry of the provision at the end of 1995 left very little scope for the inclusion of new projects. The Mediation Committee has now postponed this time limit until the end of 1997.

Short training measures with continued entitlement to unemployment support

Many unemployed persons lack skills and qualifications that can be acquired in short-term measures – rather than longer-term retraining programmes. In many cases the lack of such skills means that they have scarcely any chance of obtaining work. With this in mind the trade unions (DGB) and the employers' federation (BDA) have jointly proposed that receipt of unemployment benefit or assistance should be able to be used for short-term training measures. This is now possible by virtue of a new provision under which the employment office may grant permission to take part in measures lasting up to 12 months if they are such as to provide knowledge and skills conducive to occupational reinsertion or to improving the chances of placement. In order to prevent the costs of employee training being passed on to contribution-payers, permission may not be granted if the measure aims to enable recruitment by an employer who employed the unemployed person in question during the previous three years or who offered employment to that person before his/her registering unemployed.

Facilitating labour market entry of those who have just completed training

In enterprises working short time, new recruits are normally not entitled to short-time benefit, as the aim of working short time is to prevent redundancies, but not to exacerbate employment problems. Exceptions to this basic principle can only be made if the recruitment was absolutely necessary. In future, those who have just completed their training are to be allowed to be recruited by such firms and to draw short-time working benefit.

Around 25,000 trainees either with learning difficulties, from ethnic minorities or socially disadvantaged, are currently in receipt of support in supra-firm institutions. It is often difficult to place members of these problem groups once they have completed their training. If such young people are left alone in this situation it can lead to personal instability such that the success of the training period is called into question. For this reasons, the relevant training institutions are to be permitted to provide an additional period of up to six months socio-pedagogical support where this is necessary to open up a job opportunity or helps maintain an existing employment relation and if this is desired by the young person in question.

Bridging allowance for the unemployed entering self-employment

The bridging allowance introduced in 1986 and available to recipients of unemployment benefit and unemployment assistance on entering self-employment, has proved its worth. According to a study conducted in 1988 only 14% of those receiving the benefit were again unemployed after a two-year period. In view of the difficulties of setting up a small business, this is a good result. The period of entitlement to the bridging allowance, previously normally ten weeks, is being extended to 26 weeks. In addition, the ceiling on the level of support of DM 300 per week is being abolished, so that the benefit can continue to be provided at the full level of unemployment assistance. Not only do those setting up a small business provide work for themselves, they also create jobs for others.

Further measures to facilitate conclusion of fixed-term employment contracts

In order to prevent the additional work generated by the onset of the recovery being performed by means of overtime, steps must be taken to facilitate recruitment. Studies have shown that the facilitation of fixed-term employment contracts introduced under the Employment Promotion Act of 1985 has proved positive, leading to additional recruitment. The provisions enabling such fixed-term contacts to be signed, extended until 1995 by the Employment Promotion Act of 1990, are now being extended for a further five years to the year 2000.

Extension of employment policy measures due to expire

In recent years a number of employment policy measures have been introduced which were due to expire at the end of 1995. They have now been extended by a further five years, expiring at the end of the year 2000. The extension applies to the following measures:

- support for young workers (under 26) taking part in part-time further vocational training while working part time and for those employed on job creation schemes;
- reduction in the age limit from 55 to 50 for wage-cost subsidies for the recruitment of unemployed elderly workers;
- easier access to unemployment benefit for the unemployed aged over 58 without the requirement of being available for work but with actuarial deductions to pension entitlement for this period;
- provision of vocational training allowance for unemployed persons under 25 to enable them to participate in an occupational preparation training scheme, irrespective of parental income and with a minimum level corresponding to the wage-compensation benefit previously drawn, provided that the person in question has been in paid employment for at least four – instead of the usual 12 – months.

No loss of unemployment assistance entitlement for those performing community work

Unemployed persons performing "additional" (i.e. not performed by private firms) community work as defined in Article 19, para. 3 of the Federal Social Benefit Law can now remain entitled to unemployment assistance if approved by the employment office.

Agency work made easier for the difficult to place

Agencies employing difficult-to-place job seekers through the employment office can terminate the employment relationship prematurely if the unemployed person then immediately joins the firm which had previously hired him/her through the agency.

Overall Developments

Law amending the law on combating moonlighting and amending other laws

This law came into force on 1 August 1994. The Mediating Committee of the *Bundestag* and *Bundesrat* have further tightened the laws on moonlighting; at the same time, the support for seasonal workers (for recipients of unemployment assistance) has been abolished. The most important measures contained in the new law are as follows.

Easier to prove cases of moonlighting

In future it will be easier to prove cases of moonlighting against both employers and contractors. It is, namely, no longer necessary to prove that "economic advantages to a considerable degree" have been attained. In future it is enough to show that "services or work" have been performed "to a considerable degree".

Fines for firms passing on contracts to sub-contractors operating illegally

It is now an offence for a company to commission work with a sub-contractor in cases where it is aware (or can reasonably be expected to be aware) that the sub-contractor is employing foreign workers without a work permit. This also applies in cases where more than one sub-contractor is commissioned. This change prevents firms passing on responsibility for illegal employment of foreign workers to sub-contractors.

Fines for those offering to perform moonlight work

Persons offering to perform craft services who are not listed in the Register of Craftsmen face a fine of up to DM 10,000 for advertising their services (e.g. by placing newspaper advertisements).

Information on those offering to perform moonlight work

Craft chambers are empowered to demand of those providing telephone services (especially the *Telecom*) information on the name and address of those advertising craft services under their telephone number alone. This right is also accorded to the public authorities at federal state level responsible for implementing the law to combat moonlighting.

Suspension from applying for public-sector sector contracts for firms which have acted illegally

Firms can be suspended from tendering for public-sector supply, construction or service contracts for up to two years if they have infringed the law against moonlighting, have been penalised for illegal employment practices or have misappropriated social insurance contributions. For the suspension to apply, the penalty must exceed imprisonment for more than three months or a fine of more than 90 daily rates (in the case of criminal offences) or a fine of more than DM 5,000 (in the case of a non-criminal offence).

Extension of the support available to the elderly disabled unemployed

The support available for the recruitment and employment of unemployed severely disabled persons aged above 55 is being extended. The duration of support has been extended from three to five years, and support from the equalisation levy (*Ausgleichsabgabe* – paid by employers failing to employ a sufficient proportion of disabled workers as required by law) is now also possible for employers who have not (yet) fulfilled their employment obligations under the law on the severely disabled.

Spain

The Labour Market Reform in Spain: Collective Bargaining and Functional Flexibility*

The article in Policies 46 on the Spanish labour market reform dealt with the passage of the Law modifying the Workers' Statute through Parliament, described the conditions of this modification and outlined its main elements.

The Law was enacted by the Spanish Parliament on 19 May 1994; it modifies certain Articles of the Workers' Statute and those regulations stipulated in the Ordinance on work processes and in the Law on infringements of social security law and related punishments which had to be amended due to the reform of the principal Law (i.e. the Workers' Statute). The following article will now examine two aspects: collective bargaining and functional flexibility of workers. The remaining topics related to this Law will be dealt with in the next issue (iMi 48).

Collective bargaining

The reform of the system of collective bargaining set out in Chapter III of the Workers' Statute targets two goals. First, to foster the further development of collective bargaining – consensus on agreements will become easier to attain through the participation of negotiators with appropriate authorisation in the bargaining committees. Second, at the same time to provide better possibilities for fixing terms in the agreements themselves so that the results achieved by the negotiating parties correspond as far as possible to the specific requirements of the sectors where they are to apply, and to the conditions prevailing at the time the agreements are signed.

The new regulations concerning authorisation for employers' associations to participate in negotiations above company level promote the first aim.

Prior to this reform, the Statute stipulated that for the negotiation of branch-level collective agreements the signatories from the employers' organisations must represent the majority of employers and employees in the relevant sector.

However, experience showed that once the extent to which these employers' associations really were representative was investigated, this regulation did not attach sufficient

* Law 11/1994 on modifying certain Articles of the Workers' Statute, the Ordinance on work processes, and the Law on social order offences and related punishments.

importance to the true weight of the associations' affiliated companies.

It thus became clear that to gauge the representative character of the employers' associations, in future only those associations should be considered whose members are "real" companies, i.e. they hire outside labour; consequently, self-employed individuals are excluded.

It is further stipulated that the negotiating committee for negotiations at the employers' end is sufficiently representative if the participating employers' associations encompass those companies which employ the majority of the workers affected by the collective agreement. However, this ruling may on no account serve to elbow to the edge of the negotiating table those organisations whose representativeness is based on the number of small businesses affiliated to them, even if they have less weight as far as the number of their employees goes. Hence it is stipulated that the above ruling must be compatible with the right of these organisations to participate in the negotiating committee, for if they are less significant due to having fewer employees, the number of companies affiliated to them ensures that they are sufficiently representative.

Finally, the ruling in effect before the reform, according to which agreements were passed in the negotiating committee following approval by 60% of each party's representatives, had led to numerous practical problems, since this percentage did not yield whole numbers when applied to the usual number of negotiators on the committee.

In reforming the legislation on representativeness it was decided to apply a more simple criterion, which still guarantees, however, that agreements are reached by sufficiently representative negotiators, just as this applies to the majority vote of the individual representatives.

This package of measures is clearly targeted at facilitating the conclusion of collective agreements in that it abolishes those inadequately justified regulations which previously constituted legal obstacles. Thus the goal is to achieve more collective agreements, which would reflect the greater significance and the new function accorded to collective bargaining by the reform.

In pursuance of the second goal of the reform – more adaptable collective negotiations – under the new terms branch-level collective agreements must observe so-called "opening clauses".

Thus the collective agreement itself specifies under which conditions its wage provisions are not applicable to companies where they would have a negative influence on the economic situation and as a result on employment stability.

In order to seal potential chinks in branch-level collective agreements, in regulating this issue the Law provides for a system whereby the non-application of a collective agreement is determined at the negotiation stage and thus in effect it refers the quest for solutions to such problems back to the agreement itself, by virtue of which it is the responsibility of the parity bargaining committee to resolve conflicts between companies and workers.

In order to resolve differences between the members of the parity committee and further discord which may arise in other circumstances, Law 11/1994 requires that collective agreements must at least accommodate appropriate mechanisms for resolving such conflicts.

Secondly, the Law explicitly stipulates that the parties to a collective agreement are entitled to renegotiate to rights which were recognised in the previous agreement. Thus, given new circumstances which may have emerged since the conclusion of the previous agreement, the parties negotiating a collective agreement enjoy complete freedom to adapt the terms to the new conditions.

Third, the Law stipulates that the terms of the new collective agreement are to be applied in companies, while unequivocally confirming the abiding validity of terms negotiated in previous collective agreements. This is in accordance with the tenor of the Law, which fosters the conversion of each collective agreement into a global regulatory instrument that is also appropriate for the conditions prevailing at the time it was signed.

Fourth, the Law presents an opportunity for the negotiating parties to also determine the long-term impact of the collective agreement beyond the agreed period.

Thus the negotiators are free to determine and to assess which specific aspects of the agreement are of lasting value, so that they may also apply after the collective agreement has expired and can remain in force until a new collective agreement is concluded, and to determine which other aspects should be strictly confined to the agreed period.

Since no agreement has been reached on this issue, a supplementary provision, corresponding to its predecessor, was established for all events. It stipulates that on expiry of those elements of the collective agreement pertaining to mutual obligations the remaining normative aspects remain fully in force.

These were the amendments made by the new Law to Chapter III of the Workers' Statute.

However, the Law has a much wider impact on the system of collective bargaining than outlined above, for the strengthening and development of collective bargaining itself form the objective basis and the main focus of the entire reform.

Thus numerous Articles of the Statute amended by the Law reflect new capacities granted to collective negotiations which expand the scope of their outcome to limits as yet unknown. The Law lays down certain principles governing all the terms of collective agreements which may be further developed or even amended by new agreements.

Two basic procedures are available:

- As yet Law 11/1994 stipulates only a few basic principles and leaves it to the negotiating parties to agree on their further development and realisation.
  The most characteristic example of this procedure is the regulation of the statutory wages system, as described in the following. Here a kind of legislative deregulation is

taking place in the sense that generally not all details are regulated by Law 11/1994 or the statutory norm, as was previously the case, rather these only deal with those aspects which are seen to be fundamental and necessary in the pursuance of a general and uniform standard. Thus the remaining details are left to be agreed at company and branch level by the negotiating parties.

- In other areas the complementary nature of the Law becomes apparent. A particular regulation for a specific issue is deemed necessary and explicitly laid down; however, at the same time the Law acknowledges that this general statutory regulation will not necessarily be the most practicable in all sectors or companies, and thus permits its modification at the various levels through agreement by the parties. Several Articles of the reform provide examples for this, the most characteristic of which is probably the regulation of maximum daily working time and maximum duration of trial periods. In these cases the complementary nature of the Law becomes apparent, i.e. it is only applicable if no contrary agreements have been reached in collective negotiations; and it confers extraordinary normative powers on collective agreements, to the extent that they can even override statutory norms.

Functional flexibility and categorisation of workers by occupation

In a world of constant change, in which companies are subject to perpetual demands to adapt to accelerated technological developments and fluctuating demand for their products, legislative bodies are aware that the functional flexibility of a company's workers, their ability to perform a variety of tasks, has become a factor which virtually determines the survival of the firm. The reform thus attaches particular importance to everything connected with occupational groups and functional flexibility. It was acknowledged that these were probably the greatest flaws in the system of industrial relations which existed before Law 11/1994, a system which in this respect was entirely the legacy of an archaic and corporatist interpretation of the "Ordenanzas Laborales y Reglamentaciones de Trabajo" (Work ordinances and regulations); these ordinances established functional inflexibility as an absolute value, by virtue of which elaborate definitions of occupational groups in the above regulations set the absolute limits to what one could demand of or obtain from a worker, regardless of whether he or she felt capable of developing other abilities.

With a view to rectifying this situation, the reform gives priority to more flexible definitions, starting with job commencement and the contractually agreed duties to be performed by the worker.

The earlier version of the Workers' Statute was founded on the assumption that it was necessary to assign workers to a certain occupational group on their recruitment – a subjective category in which they remained for the duration of the employment contract and which, through reference to the categories defined in the "Ordenanzas y Reglamentaciones", determined the nature of the duties agreed in the contract.

The revised Workers' Statute has changed this situation, without ruling out, however, that the previous system may continue to apply if the parties so desire, even if more objective and logical forms of job evaluation have been introduced.

Thus the primary objective is no longer to assign workers to particular occupational groups, but rather to reach a contractual agreement with them on the nature of the duties for which they have been recruited. In more figurative terms, the goal is no longer the recruitment of workers from "this or that group", rather of workers "for this or that task".

Nevertheless, the definition laid down in the employment contract must remain within the framework prescribed by the system of job evaluation operating in the company, since only thus can the workers' rights, which mainly determine wage rates and are derived from the workers' status with regard to the range of tasks carried out in the company, be correctly ascertained.

But in this sphere too, the reform is attempting to break away from the concept of "occupational group" as the only means available to companies for classifying criteria pertaining to occupation in that it permits more flexible systems of categorisation based on occupational levels or groups.

At the same time, the revised version not only offers the possibility of assigning – on conclusion of the employment contract – the duties agreed therein to one of the collectively agreed categories, groups or levels, but also the possibility of these duties comprising different categories, groups or levels, and, in extreme cases, of contracts incorporating arrangements for a diversified deployment of the worker.

In addition to these significant changes, functional flexibility is also subject to new regulations. As a supplement to the provisions set out in the previous version of the Workers' Statute, which allowed functional flexibility within occupational groups, there is now scope for mobility between equivalent groups, the aim being to facilitate mobility in those cases in which no collectively agreed decisions have been reached on definitions for specific occupational groups.

In practice, this means that the specific obligations assumed by the worker – and which the employer can thus demand of him – not only pertain to the occupational group specified in the contract, but also to all equivalent groups; equivalent groups are those composed on the basis of the same occupational skills.

The modifications introduced by Law 11/1994 represent an attempt to finally eradicate the difficulties and the intransigence inherent in previous legislation on occupational mobility which were reinforced both by the legacy of the provisions contained in the "Ordenanzas y Reglamentaciones" and the resistance to progress in this area yielded by collective agreements.

Ireland

Programme for Competitiveness and Work

A new three-year programme has recently been agreed between the Government and the social partners called the Programme for Competitiveness and Work (PCW). This Programme replaces the Programme for Economic and Social Progress (PESP) which expired at the end of 1993. The maintenance and creation of jobs is the main objective of the new Programme. The Programme contains a number of measures designed to improve the competitiveness of Irish firms with a view to creating the climate necessary for generating employment. Further measures to combat unemployment such as community-based work are also included in the Programme.

The pay terms of the new Programme have been pitched at a level so as to maintain the competitiveness of Irish companies whilst at the same time allowing employers to plan the future development of their enterprises with some degree of certainty. In addition the increases in pay provided for in the Programme will ensure, when taken together with budgetary measures, that employees, particularly those on low pay, will benefit in terms of increased take-home pay. The Government and the social partners have also committed themselves under the Programme to continue to develop the partnership approach to solving problems both at national and enterprise level. This commitment reflects the success achieved through consensus and partnership under the two previous national Programmes.

Luxembourg

Legislation for Employment Promotion

Two bills were passed in 1993 which introduced a range of substantial benefits granted on the recruitment of older and long-term unemployed persons, and brought in new legislation concerning collective redundancies, early retirement, and part-time work.

Recruitment benefits

Under the terms of the Law of 23 July 1993, the Employment Fund (*fonds pour l'emploi*) pays the social security contributions of both employer and employee when older or long-term unemployed persons are hired; the contributions are paid according to the system described in the table below.

Collective redundancies

The same law also brings a complete reform of regulations concerning collective redundancies. The necessity for this reform arose when the European Council Directive 92/56/CEE became national law. However, the new legislation encompasses more – and certain aspects encompass considerably more – than Community legislation.

Dismissal of at least 7 employees within 30 days and dismissal of 15 employees within a period of 90 days now count as collective redundancies. However, as regards calculating these thresholds, not only dismissals in the usual sense are taken into consideration (although at least 4 persons must be dismissed with notice), but also other contract terminations by the employer such as abrogation contracts and early retirement. The law leads to greater recourse to "social plans for the future" and consultation with staff representatives.

In cases of collective redundancies the period of notice for workers is set at 75 days; the Minister of Labour may extend this period to 90 days, or to 120 days for irregular dismissals.

Early retirement

The regulations on early retirement, which had acquired a permanent place in Luxembourg's legislation through the Law of 24 December 1990, were revised by the Law of 23 July 1993. The revision strengthened both the social function of the legislation and its role in relation to labour market policy. Two schemes in particular are significant in this regard. Firstly, a possibility to choose between early retirement and other forms of premature entitlement to an old age pension – of whatever kind – was introduced. Early retirement legislation has gained in significance as a result of this regulation. It allows companies experiencing difficulties to shed more staff, with better provisions for the financial security of those entering early retirement. Secondly, the law closed a gap in Luxembourg's social security net: it allows workers laid off for economic reasons and due to bankruptcy and those who lose their job in mass dismissals to pass from unemployment into early retirement as long as they fulfil the conditions for entering early retirement during the period of unemployment, and their company has previously concluded a collectively agreed contract on so-called adjusted early retirement (*préretraite-ajustement*).

Voluntary part-time work

Voluntary part-time work was adopted into the Labour Code in Luxembourg by the Law of 26 February 1993. This law grants, on principal, the same social protection given to full-time workers to workers who wish to work part time. At the same

Age of the unemployed person	Minimum period of unemployment	Maximum period for which the Employment Fund undertakes payment
Over 50 years	1 month	7 years
Over 40 years	12 months	3 years
Over 30 years	12 months	2 years

time, however, companies should not be faced with any additional obstacles which could hinder them providing part-time jobs for which there is a real demand. The law thus has a neutral stance regarding voluntary part-time work and creates neither incentives for, nor impediments to the conclusion of such employment contracts.

The employment contract must contain the following elements:

- the length of the working week
- the organisation of working hours
- limits and conditions concerning overtime for part-time workers.

Changes in the length and organisation of working hours and the overtime regulation require an agreement between employer and employees.

Overtime hours may thus only be worked if they have been contractually agreed beforehand and are carried out under the terms of this agreement. Overtime may not lead to the total hours worked exceeding the statutory or collectively agreed working time for full-time workers. All hours worked which exceed the contractually agreed part-time hours count as overtime. Part-time workers enjoy the same rights as full-time workers and their remuneration is in proportion to their working hours.

As regards calculating the years of service in the company, part-time work counts as full-time work.

Minimum wage

In accordance with the amended Law of 12 March 1973 on reforming the "supplemented minimum wage" and on the basis of the Government's biennial report, the Law of 26 February 1993 has increased "supplemented wages" for skilled and unskilled workers by 4,2% and the benchmark minimum wage by 6,2%. The difference of 1,9% will be equalised at the next increase, to be implemented in 1995.

Guilds

The active and passive right to vote in the elections of guilds and professional organisations was extended to all members, regardless of their nationality or whether they are residents or international commuters, by the Law of 26 February 1993 and the Grand Ducal Ruling of 13 July 1993.

The elections of November 1993 were carried out under these new terms.

Training

United Kingdom

New Measures Announced to Boost Vocational Education and Training

On 24 May Employment Secretary David Hunt, and Education Secretary John Patten, announced a new £300 million package to boost vocational training in the UK over three years from 1995. The new package was included in the Government's White Paper on Competitiveness. The main measures include:

- government investment of £107 million in accelerated modern apprenticeships for 18-19 year olds which will be organised by employers (see iMi 45);
- better depth and quality to individual careers advice for young people at ages 13, 15 and 17. An extra £87 million will be made available to help achieve this. Every school pupil will receive a statement of their entitlement to careers education and guidance. There will be extra training for careers teachers and careers officers;
- £63 million to be invested to update the skills of key employees in small firms, and enable them to pass those skills on to others;
- an Initiative to keep National Vocational Qualifications and General Vocational Qualifications up-to-date and consistent. £31 million will be spent on materials, syllabus and course review and teacher training;
- £23 million to be spent to give every young person one week's work experience before they leave education;
- encouragement for lifetime learning including a boost for Investors in People.

Mr Patten announced a wide range of others measures to raise standards and widen choice:

- a pilot scheme of vocational courses for 14-16 year olds, which puts more emphasis on English, Maths and Science;
- a new General diploma for 16-18 year olds, which will act as a quarterly check for employers and parents that the holder has mastered the core subjects;
- a voucher scheme to provide training in leadership and management skills for newly appointed head teachers.

Mr Hunt and Mr Pattten also announced that there would be closer links between Training and Enterprise Councils (TECs) and Further Education colleges. Colleges will need to ensure that their strategic plans reflect the needs of the labour market. Two new funds will be available to enable TECs to meet local skill needs and enhance competitiveness.

The White Paper promises consultation on learning credits, which give young people the power to buy their own education and training. The Government recognises the attrac-

tions of this as it would be consistent with its policy of promoting choice and diversity, but recognises that the change in funding arrangements would need careful preparation.

United Kingdom

Launch of Small Firms Training Loans

A new scheme to provide small firms in the UK with training loans was launched on 16 June 1994 by Lord Henley, Parliamentary Under-Secretary in the Department of Employment, together with the three participating UK banks – Barclays, the Clydesdale and the Co-operative Bank. While 88% of UK firms with over 500 employees have a training plan, this drops to just 17% of firms with less than 25 employees.

The scheme is designed to make available to small businesses loans of between £500 and £125,000, with the same flexible approach to training as the current Career Development Loans give to individuals. The loans will cover the costs of training consultancy as well as the actual training a small firm might want to undertake. Key features include:

- repayments deferred for up to 13 months. During this time the loan is interest free for the small business;
- loans available for up to 90% of the course fee and the full costs of teaching materials and other training-related expenses up to an overall average of £5,000 per trainee;
- up to 90% of the costs of hiring training consultants can be loaned to a maximum of £5,000;
- cost of cover for workers undergoing training, where necessary, may be included in the loan.

Alongside the banks, Training and Enterprise Councils and Local Enterprise Councils (in Scotland) will play a central role in the endorsement of loan applications.

Placement

France

Performance Indicators Implemented by the ANPE

Estimate of ANPE's "market share" in corporate recruitment

The quality of the service provided to job-seekers by the ANPE is largely contingent upon the volume and diversity of the job vacancies which the Agency is in a position to offer.

Consequently, one of the major challenges facing the ANPE is to attract the largest possible number of the jobs offers circulating on the labour market.

On the occasion of the signature of the first "Progress Convention" between the government and the ANPE, the will to achieve this aim manifested itself in the decision to develop a "market share" indicator.

Strictly speaking, the ANPE's market share should be defined as the ratio of the volume of vacancies passed onto the ANPE over the total volume issued on the labour market.

Such a definition has proved unworkable in practice. While the volume of job offers filed with the Agency is known, this is far from being the case for the total volume of job offers issued on the labour market, as no source of data is available to quantify it.

The approach adopted to overcome this obstacle involved assuming that to one job offer corresponds one hire. Statistics are available on recruitment which, although not entirely satisfactory, nevertheless provide generally acceptable approximations.

The indicator selected to quantify the ANPE's "market share" therefore represents the ratio between the volume of job vacancy offers taken in by the Agency and the total volume of persons hired by employers during the same reference period.

ANPE's Market share		
1990	1991	1992
20.8	20.4	22.7

Although this indicator is based on a precise definition, its calculation is not free from difficulties and uncertainties arising from the nature of the available sources.

While the method used to compute the job offers registered by the ANPE is exhaustive and enables detailed statistical processing, information sources on overall nationwide recruitment vary according to company size.

The calculation of the hiring volume in use since 1991 is an aggregate of three different sources:

- DMMO statements (Declaration of Manpower Movements) which are mandatory for all companies with a work force of 50 and over, except for agricultural enterprises;
- EMMO surveys (Survey on Manpower Movements) of companies

with 10 to 49 employees, with a sampling ratio of a quarter;
- processing of DADS statements (Annual Declaration of Wages to Tax Authorities) applicable to companies with under 10 employees.

The aggregate of the three above sources provides a largely reliable overall estimate of hiring volumes on a national scale. This is however not the case for smaller geographical units. With respect to the DMMO statements, the response rates vary according to the regions, and adjustments are then made accordingly, based on the assumption that both non-respondents and respondents have a comparable behaviour. As regards the EMMO surveys, the risk of error inherent to the response ratio is combined with the risk of error in the sampling ratio.

The "market shares" calculated at infra-regional levels should therefore be interpreted with great caution. Yet if it is to become a genuine indicator of operational performance, the ANPE obviously needs to produce a "market share" indicator reliable at such levels. The Agency is therefore currently investigating the possibility of using a new source of information on recruitment: the DPAE statement (Declaration Prior to Hiring).

This statement was initially introduced to control illegal employment, and was generalized on 1 December 1993. In comparison with the abovementioned sources of information, it presents a dual advantage:
- exhaustive count for all company sizes, and absence of any uncertainty inherent to sampling and response ratios,
- rapid availability of the data. Ultimately, the data will be available at M+1, i.e. within a deadline similar to the provision of information on the job offers registered with the ANPE.

Filling the vacancies registered with the ANPE

Results indicators

The quality of the service provided by the ANPE to its users (job-seekers and enterprises) is also contingent upon the capability to fill quickly the vacancies registered with the Agency.

This quality of service is assessed via indicators of the ratio of vacancy filling and the time required. These figures are produced monthly and cumulatively since the beginning of the year at M+3 days, and subsequently disseminated at all geographical levels (local agencies, Department delegations, Regional delegations and General Directorate), with a breakdown according to economic activity, company size, length of work contract and skill level.

These indicators are calculated as follows:
- ratio of overall vacancy filling: proportion of job offers followed by recruitment as compared with the total of all offers issued during the month. Strictly speaking, this figure constitutes an indicator of labour market fluidity rather than an indicator of the Agency's activity. Among other things it enables hard-to-fill job offers to be detected:
- ratio of vacancy filling via placement: proportion of job offers followed by the recruitment of an applicant sent by the Agency, as compared with the total of all offers issued during the month;
- time required for vacancy filling for unskilled jobs: proportion of unskilled job offers filled within less than 15 days as compared with the total of all unskilled job offers filled during the month;
- vacancy filling for skilled jobs: proportion of skilled jobs filled within less than one month as compared with the total of all skilled job offers filled during the month
- vacancy filling for executive jobs: proportion of executive job offers filled within less than three months as compared with the total of all executives job offers filled during the month.

Satisfaction survey

These indicatiors reflecting the performance of the ANPE as regards the processing of the job vacancy offers filed with the Agency are subject to regular monitoring, complemented with an annual satisfaction survey addressed to a sample of 30,000 establishments who called on the Agency's services for recruitment purposes.

The exercise consists on the one hand in assessing the degree of satisfaction of employers who filed a job offer with the Agency over the past year, and on the other in measuring the evolution of their satisfaction in comparison with the previous year.

The survey addresses several topics:
- satisfaction of employers as regards the processing of the job offers filed with the Agency (friendliness of ANPE agents, understanding of their needs, delay of response, follow-up of the offer)
- satisfaction of employers as regards the applicants screened by the ANPE (sufficient number, skills, motivation)
- ANPE's efficiency as compared with other means of recruitment used currently
- awareness, utilization and satisfaction as regards all other services offered to employers by the ANPE.

The sampling size selected is sufficient to produce nationwide results as well as results at the scale of Regions and Departments.

Spain

Reform of the Spanish Labour Market: Regulating the Activities of Temporary Employment Agencies

"Policies" no. 45 (pp. 8-10) reported on the Spanish labour market reform: The Royal Decree-Law 18/1993* abolished the obligation on employers to recruit workers solely through the state placement agency (*Instituto Nacional de Empleo* – INEM) by admitting private employment agencies on

* Converted by Parliament into Law 10/1994 (19. 5. 1994) on urgent employment measures.

a non-profit-making basis, subject to cooperation agreements with INEM. Article 2 permits the temporary hiring out of agency workers, subject to the condition that such activities are performed only by placement agencies meeting the requirements set out in the law.

On 1 June 1994 Parliament passed law no. 14/1994 (BOE – official legal gazette, 2 June 1994) regulating the activity of job placement agencies. The aim of this law, presented in summary form below, is to provide a legal framework for the activities of temporary employment agencies and thus to ensure that workers' rights are protected and social security maintained with the help of appropriate guidelines, limitations and controls.

Definition

A temporary employment agency is a firm which places workers with whom it has entered contracts of employment at the temporary disposal of user firms.

Necessary conditions for agency activity

- As in most EU countries, administrative approval is required to found a temporary employment agency. This permit is initially granted for one year; after three years a permanent permit can be granted.
- In order to obtain a permit, temporary employment agencies must show that they have guaranteed financial reserves of 25 times the statutory minimum (annual) wage; in the following years this reserve must be equal to 10% of the total wages paid by the firm during the previous financial year.
- Temporary employment agencies must be registered in a list of such agencies kept by the public administration, and must dedicate themselves exclusively to their constitutive function – the temporary hiring out of their employees.
- In order to be able to evaluate and control the impact of temporary employment agencies on the labour market as a whole, the labour market authority must be informed of each and every change in the title of the firm, the opening of new employment centres and the cessation of such activity; the labour market authority must also be allowed to inspect the employment contracts reached with agency workers.

The temporary use contract

- This is the agreement between the temporary employment agency – under whose authority the worker formally remains – and the user firm in which the worker is to perform certain services. This agreement must take the form of a written contract.
- The statutory conditions under which user firms may have recourse to the services of temporary employment agencies are defined as follows:
  (a) For a task or service the execution of which, while limited in time, is in principle of indeterminable duration. The contract is terminated when the task for which it was reached is completed.
  (b) In order to cope with special market demands, such as a particularly heavy work load or especially large volume of orders, with otherwise normal business activity. In such cases a contract may be concluded for a maximum of six months.
  (c) To replace workers in a company who have a guaranteed right to return to their jobs. The contract is valid for as long as the reason justifying the contract pertains.
  (d) To fill a permanent position temporarily until the selection process for the future, or the training of the current, employee has been completed. In such cases the duration of the contract may not exceed three months.

In addition the law stipulates that the services of temporary employment agencies may not be used in order to replace striking workers in the user firms, nor to perform tasks involving particular health and safety risks, nor to fill a position previously shed without good reason. Furthermore, employees may not be placed at the disposal of other temporary employment agencies.

As in other EU countries the law declares clauses preventing employees from joining the user firm once their temporary use contract has been terminated to be null and void.

Employment relations in the temporary employment agencies

- The workers contracted to perform services for user firms can be tied to the temporary employment agencies either by means of a permanent employment contract or one set to terminate conjointly with the expiry of the use contract.
- If the workers are employed under a fixed-term contract they are entitled to the rate of pay set out in the collective agreement reached with the temporary employment agency or – if this does not exist – to the pay rate stipulated by the collective agreement applicable to the user firm. This includes bonuses, bank holiday and holiday pay and a compensation payment on termination of the contract calculated as 12 days pay (pro rata) for each year of employment. If the workers are employed on permanent contracts, the usual regulations apply.
- The temporary employment agencies must meet their obligations to remunerate the workers loaned to the user firms, and to pay their social insurance contributions. A sum equal to 1% of the overall payroll is to be used for vocational training for the workers.

As far as the relationship between user firms and agency workers are concerned, the following points deserve emphasis.

- The user firm is obliged to inform agency workers of the risks associated with the work they are to perform and the corresponding protective measures to be taken.
- The firm is also obliged to permit temporary workers to use the firm's social facilities and, if it exists, transport to and from work, and, finally, to implement all the health and safety at work measures necessary to ensure that the social insurance institutions assume the costs of any accidents or occupa-

tional illnesses occurring during the contract period.

Finally, the law also contains a catalogue of legal infringements and sanctions. Particularly noteworthy in this context is the possibility of suspending a firm's business activities for a maximum of one year if particularly serious infringements occur repeatedly. Such offences include providing temporary workers to replace strikers or the performance of activities explicitly forbidden for this special form of employment relation.

It can be stated in conclusion that the regulation of temporary agency work in Spain is in line with the approach taken in the other Member States, that it is detailed and balanced, taking account of the interests of all concerned, particularly those of the agency workers, the principal legal good, who are protected throughout by the legislation. The law is also such as to prevent the emergence of "letterbox firms" which, by failing to abide by their obligations, would be certain to harm the interests of workers.

Italy

Regional Employment Bureaux

Regional employment bureaux (*Agenzie Regional per l'Impiego*) were set up on the basis of art. 24 of law no. 56 (26.2.1987). They are characterised as technical, project-oriented institutions whose task is to improve the match between demand and supply on the labour market, to support initiatives to promote employment, increase employment opportunities for disadvantaged groups, and to develop labour market policy programmes to help co-ordinate central government and regional measures on the labour market. In addition, the "agenzie" implement the directives issued by the regional employment committees (*Commissioni Regionali per l'Impiego*) They operate jointly with other offices and peripheral organisations of the Ministry of Labour by exchanging information, establishing workgroups and with the help of bilateral committees (art. 24, para. 2 of law no. 56/1987).

Their modes of organisation and operation are governed by decrees issued by the Ministry of Labour, which is also responsible for appointing the directors and setting the personnel contingents.

In analogy to its organisational structure, the following fields of activity can be distinguished:

1. Analyses of, and research into the labour market; in this context a number of data banks are also kept;
2. vocational training initiatives;
3. promotion and information policies, and finally
4. initiatives and measures to promote the employment of disadvantaged groups (the unemployed, immigrants, women, drug addicts, former convicts, the disabled etc.).

An additional field of activity for the employment bureaux, and one of growing importance, is the realisation of *conventioni* (agreements) according to Art. 8 of the ministerial decree. These agreements, whose aim is to promote employment, are reached with various parties – in particular with the trade unions – in order to obtain greater knowledge of regional labour market situations and vocational training. The following organisations and groups represent possible parties to such agreements:

- employers' federations (national association of artisans, trade association, industrial employers' federation etc.);
- workers' organisations;
- regional government;
- provincial government;
- chambers of trade;
- universities and educational establishments;
- various corporations and associations;
- the B.I.C. (Business Innovation Centre) which supports the setting up of small businesses.

Representatives of the employment bureaux participate in the mixed-composition committees which have been established in a number of large concerns, such as ENICHEM, Olivetti or Ferruzzi. One of the tasks of these groups is to represent the interests of the unemployed.

The following initiatives in support of disadvantaged groups on the labour market have been implemented:

- Projects to integrate immigrant workers from countries outside the EU (especially Albanians) into the labour market;
- providing support and advice for projects offering training and reinsertion support for former drug addicts;
- projects to reintegrate unemployed women into the labour market.

Netherlands

Placement of (Partially) Disabled Workers to be Performed Temporarily by the Sectoral Organisations

Under the proposed legislation on the "Organisation of the Social Insurance Institutions (OSV)" job placement of the (partially) disabled is temporarily to be performed by the sectoral social insurance organisations; in future, however, this task is to be assumed by the labour market authority.

Until now the Community Medical Service (GMD) has been responsible for this area. Their responsibility will end when the new law comes into force. Job placement for this target group by the labour market authority is currently being tested and evaluated in a number of pilot projects; Once these projects have been completed, the labour market authority will take over; until then responsibility is passed on to the sectoral organisations.

The law on the "Organisation of the Social Insurance Institutions"

stipulates that the performance of the social insurance institutions is to be supervised by independent experts. To this end the "Social Insurance Council" is to be transformed into a "Collegium for the Supervision of the Social Insurance Institutions". The sectoral organisations are also to take over the other tasks until now performed by the Community Medical Services. This means that health and disability insurance will be brought together under one institutional roof. An Institute of the Coordination and Harmonisation of the Activity of the Sectoral Organisations, the TICA, is to be set up as a provisional body.

Social Security, Unemployment Benefits

Belgium

The Fight Against Moonlighting

The fight against moonlighting is an important element of the government's programme. Complementary to already existing measures, the law of 23 March 1994, which contains a number of legal measures against moonlighting (*Moniteur belge*, 30. 3. 1994), provides for a substantial extension of legal sanctions and fines for those infringing certain provisions of social security law. In addition, the law contains a number of new regulations which should enable moonlighting to be combated more effectively. Finally, the Royal Decree of 30 March 1994 (*Moniteur belge*, 1.4.1994) has imposed stricter sanctions on employers guilty of fraud with regard to absence from work. This article describes the most important changes.

Hindering the Labour Inspectorate in its supervisory work

Those hindering the supervisory work of the Labour Inspectorate face a term of imprisonment of between one week and one year and/or a fine of between FB 1,000 and 5,000 (x 150). Because the maximum term of imprisonment is equal to one year, preventive detention can be ordered in cases of infringement.

The social identity card

The social identity card, already in use in the construction industry under the title of "personal card" (*fiche individuelle*), is now prescribed for all other sectors. This card is considered as a social document; the employer must hand it to the employee who must keep it at the workplace.

Two types of social identity card are foreseen:

- Social identity card A for workers in the construction industry and branches or categories of firms to be determined by Royal Decree;
- Social identity card B for all other sectors and firms.

Social identity card A is subject to a stricter regulatory regime and infringements will be punished more severely.

The details and precise form of application of the social identity card are to be determined by Royal Decree. The card is to take the form of a bank card and contain the following data: family and given name of the employee, place and date of birth, social insurance number, card number and duration of validity.

Pursuing infringements of the regulations concerning the holding of social documents

From now on a distinction is to be made between various types of offence when pursuing infringements of the regulations concerning the holding of social documents. The mildest sanctions are to apply for offences relating to the keeping of individual accounts and the social identity card B and infringements relating to the employment of students, which do not necessary constitute moonlighting.

Employers found guilty of the following offences face imprisonment of one week to three months and/or a fine of FB 26 to 500 (x 150):

- failing to provide a social identity card B or set up an individual account (*compte individuel*);
- failing to provide a social identity card B or set up an individual account within the prescribed time limits;
- failing to keep the card or account in the prescribed place;
- failing to keep the card or account for the prescribed period of time;
- failing to deliver them to the employee within the prescribed time limits;
- non-adherence to the other requirements relating to these documents.

The same punishments can be applied for the following infringements relating to the use of student employment contracts:

- failing to deliver them to the employee within the prescribed time limits;
- drawing them up using incomplete or misleading data;
- failure to pass them on to the inspectorate of social law;
- failing to keep the contract at the disposal of the inspectorate;

- non-adherence to the other requirements relating to such employment contracts.

Heavier penalties can be imposed for more serious infringements of the regulations governing student work. These include:

- failing to conclude a written contract;
- failing to establish or complete a contract within the prescribed time limits;
- failing to keep the contract in the prescribed place;
- failing to enter students on the personnel register;
- non-adherence to the other requirements.

Employers found guilty of one of these offences face imprisonment of one week to six months and/or a fine of FB 500 to 2,500 (x 150).

A third section relates to more serious offences, namely those in connection with the personnel register, the attendance register and the social identity card A. The following are considered to be serious infringements:

- failing to produce such documents;
- failing to produce or complete such documents in time;
- failing to keep the documents in the prescribed place;
- failure to keep the contractual documents for the prescribed period;
- failing to deliver them to the employee within the prescribed time limits;
- non-registering of an employee or including incomplete or misleading data in the documents;
- failing to meet the obligation to keep the documents at the disposal of the inspectorate of social law;
- failure to observe other requirements of the documents.

Employers found guilty of one of these offences face imprisonment of one week to one year and/or a fine of FB 1,000 to 5,000 (x 150).

Part-time work

Employers found guilty of one of the following offences now face imprisonment of one week to six months and/or a fine of FB 500 to 3,000 (x 150) (previously: one week to one month and/or FB 26 to 500):

- failing to adhere to the regulations prescribing the holding of a copy of the employment contract together with the labour code, and infringing the rules governing the announcement and maintenance of variable part-time hours;
- failure to keep the document containing complete and precise information on deviations from working time plans;
- employing part-time workers outside their specified working hours without recording this in the above-mentioned document;
- failure to use one of the alternative means of controlling part-time working hours in accordance with legal requirements while at the same time making use of the provisions of the law on part-time work;
- failure to adhere to the regulations governing overtime applicable to workers employed neither on the premises of the enterprise nor on a fixed building site;
- failure to retain the various documents required by the regulations for the prescribed period.

Administrative fines

If the public prosecutor decides not to pursue legal action or does not take a decision to this effect within the required time period, infringements of social security laws and decrees can be made subject to an administrative fine. The law on fines has also been amended in a number of areas. The more important changes are described below:

- The minimum fine for infringement of certain provisions of social security law is raised from FB 1,000 to FB 2,000. This applies only to minor offences.
- Parallel to the increase in the penalties for hindering supervision by the inspectorate and for infringements of the obligation to retain social documents or of the regulations governing part-time work described above, similar changes have been made to the law on administrative fines. Such infringements have been reclassified according to the gravity of the social security fraud they represent.
- If an employer commits several minor offences at the same time, the corresponding administrative fines are accumulated, although the total may not exceed FB 800,000. If several serious offences or minor and serious offences are committed, the upper limit on administrative fines is FB 4,800,000.
- The time period within which the public prosecutor must inform the relevant administration of the Ministry of Employment and Labour of its decision whether or not to pursue an offence is extended by one month to six months.
- In the case of a renewed offence within three years of the first fine being announced, the succeeding fine is doubled. This stipulation now applies to all infringements, whereas previously it applied only to serious offences.

Settlement

In certain cases, the settlement offer made by the public prosecutor to a employer infringing social security provisions may not be less than the minimum administrative fine. This applies to the illegal employment of foreign workers and the stipulations regarding absence from work, control of the social documents and part-time work.

Terms of prescription

The terms of prescription for legal action against infringements of a number of the provisions of social security law are extended from three to five years. The same applies to the term of prescription applying to the imposition of administrative fines.

Fraud in connection with absence from work

Previously employers found guilty of fraud linked to absence from work faced imprisonment of between one week and one month and/or a fine of FB 25 to 500. These penalties have been increased substantially. From now on employers face imprisonment of between one week and three months and/or a fine of FB 100 to 1,000 (x 150) for the following offences:

- refusing or failing to draw up, deliver or complete the prescribed documents under the conditions and within the time limits set by law;
- providing inexact or incomplete information which either could lead to the unjustified payment of benefits to workers or involve dismissals, temporary unemployment or part-time work;
- failing to provide the information required within the time limit set by the inspector or auditor regarding control of periods of absence from work or providing inexact or incomplete information;
- knowingly allowing an employee to be absent from work so as to report with fraudulent intention to the unemployment office.

A particularly severe penalty, namely imprisonment of between one week and one year and/or a fine of FB 1,000 to 5,000 (x 150), is foreseen for employers employing workers who at the time of inspection are not on the personnel register and who therefore are not entitled to unemployment benefit.

If the public prosecutor decides not to pursue legal action or does not take a decision to this effect within the required time period, the infringements mentioned above can be penalised with an administrative fine of between FB 10,000 and 100,000 and of FB 120,000 to 400,000 for employing unemployed persons not recorded in the personnel register.

If a renewed offence is committed within one year of conviction for one of the above-mentioned infringements, the penalty can be increased to double the maximum.

The term of prescription applying to legal action regarding the above-mentioned offences is five years from the act which gave rise to the action.

Ireland

New Ceilings on Reckonable Earnings Used in Calculating Employees' Entitlement under the Redundancy and Insolvancy Payment Schemes

In March, 1994, Ruairi Quinn, Minister for Enterprise and Employment, introduced two sets of Regulations which raised the ceilings on reckonable earnings used in calculating employees' entitlements under the Redundancy Payments Acts and the Protection of Employees (Employers' Insolvency) Acts from £13,000 per annum (£250 per week) to £15,600 per annum (£300 per week) with effect from 1 May 1994.

Under the Regulations made under the Redundancy Payments Acts eligible employees dismissed by reason of redundancy who are earning in excess of £13,000 per annum (£250 per week) will receive increased statutory redundancy lump-sum payments; under the Regulations made under the Protection of Employees (Employers' Insolvency) Acts such employees will receive increased payments in respect of debts such as wages, minimum notice, holiday pay etc. in the event of the insolvency of their employer.

Before making the Regulations the Minister, as required by statue, took account of average earnings in the transportable goods industries and also consulted with the Irish Congress of Trade Unions and the Irish Business and Employers' Confederation.

United Kingdom

Job-seeker's Allowance

In the Budget statement of November 1993, the UK Government announced that it would be introducing a new benefit for unemployed people, to be called Jobseeker's Allowance. From April 1996, this will replace Unemployment Benefit and Income Support for unemployed people.

The two existing benefits have different histories and different rules. Unemployed people may be entitled to one or both of them; and, in practice, most claiments apply for both. This causes confusion. Job-seeker's Allowance will be a single benefit, with rules that are simple and easily understood.

Under the new system, people who qualify for benefit because of their contributions to the National Insurance Fund will be eligible for a personal allowance for six months, and those with insufficient contributions, will be eligible for the Allowance on a means-tested basis. Subject to the conditions of receipt, this will be payable for as long as the claimant has a need for it.

Job-seeker's Allowance will form an additional plank of the Government's active labour market policies. It will be designed solely to help people while they look for work and receiving benefit. As a condition of receipt, unemployed people will have to be available for, and actively seeking work. In addition, claimants will have to sign a Job-seeker's Agreement, in which they will specify in advance the steps they will take to find work.

The Government plans to publish a White Paper on its proposals later in the year.

Job Creation

Belgium

The Walloon Region – Recruitment of the Unemployed within the Framework of Projects in Support of Small and Medium-sized Enterprises

The Decree of the Walloon Regional Council of 19 May 1994 (*Moniteur belge,* 3.6.1994) empowers the Walloon government to offer small and medium-sized enterprises a subsidy to partly offset the wage and social contribution costs incurred in recruiting unemployed persons to work on specific development projects. This Decree replaces, for the Walloon region, Royal Decree no. 123 of 30 December 1982 concerning the recruitment of the unemployed for certain economic growth projects in favour of small and medium-sized firms (cf. BIR B-v.8).

Firms entitled to the subsidy

In order to qualify for the subsidy firms must

- be run by a natural person or by a legal entity constituted in the form of a corporation, a European or other economic interest group; legal entities under public law are excluded;
- have at least one plant in the Walloon region;
- be a small and medium-sized firm according to the criteria set out below.

Medium-sized firms are those

1. which have 250 employees at most,
2. whose annual turnover does not exceed ECU 20 million or whose balance total does not exceed ECU 10 million,
3. and at most 25% of whose capital belongs to one or more firms not fulfilling conditions 1 and 2 which are neither (partially) publicly owned nor risk-capital firms, nor (subject to the condition that they do not exercise any form of control) institutional investors.

Small firms are those

1. which have 50 employees at most,
2. whose annual turnover does not exceed ECU 5 million or whose balance total does not exceed ECU 2 million,
3. and at most 25% of whose capital belongs to one or more firms not fulfilling conditions 1 and 2 and which are neither (partially) publicly owned nor risk-capital firms, nor (subject to the condition that they do not exercise any form of control) institutional investors.

In addition the firms must belong either to

- the industrial, craft, tourist, trade or service sectors, or
- the fishing, horticultural and forestry sectors, or
- the agricultural sector.

A number of sectors are excluded from the measure: banks, energy and water production and distribution, education and training establishments, the health service, the sport, leisure and cultural industries and the liberal professions not directly linked to the economic activities of small and medium-sized firms.

Furthermore, the firm must meet the obligations imposed by the following laws:

- the law of 17 July 1975 on bookkeeping and the firm's annual accounts;
- the legislation governing traineeships and the labour market integration of young people (cf. BIR B-iv.2);
- social security, taxation and environmental laws and decrees and the provisions applying to the relevant sector of the economy; where required the firm must commit itself to fulfilling the above-mentioned stipulations within a period of time set by the relevant section of the public administration.

The projects

By a development project is meant a program encompassing analyses or research with one of the following aims:

- the creation of new products, production processes or services or their significant technical improvement;
- assistance to, or promotion of exports outside the EU;
- promotion of renewable sources of energy and energy saving;
- saving raw materials;
- environmental protection, particularly through incentives to respect norms which are stricter than EU norms;
- respecting quality norms which are stricter than those applying in the Walloon region, Belgium or the EU.

A maximum of two projects per firm can be in receipt of support at any one time, and only then subject to the condition that they are oriented to different programmatic objectives.

Workers

The jobs for which grants are made must be performed by workers of the following categories:

- full-time unemployed persons drawing unemployment benefit or the waiting allowance;
- full-time unemployed persons who have voluntarily renounced unemployment benefit, have been continuously unemployed for six months or who were unemployed for at least six months in the year prior to their recruitment;
- job-seekers drawing minimum social benefit;
- unemployed persons whose entitlement to unemployment benefit has been suspended for at least a year due to long-term unemployment;
- unemployed persons working in sheltered workshops;
- the elderly unemployed who are not seeking work or those unemployed persons who for social or family reasons are not required to register as looking for work.

The firm in receipt of the allowance may not have cancelled a position comparable to one of the supported new jobs during the six months prior to making the application, nor may it cancel such a position until the end of the project.

The regional support measure is valid for the recruitment of at least one full-time job and for a maximum of five full-time workers per project.

The unemployed recruits will be employed under either a full or part-time employment contract; in the latter case working hours must be at least half full-time hours.

The employer must register the vacancy with the Local and Regional Office for Vocational Training and Employment (FOREM).

Without prejudice to more favourable collectively agreed provisions, the remuneration paid to the workers concerned may not be less than the initial wage to which workers performing the same or comparable functions in the Walloon region are entitled.

The value of the subsidy

For each worker the calculation of the subsidy is based on the annual earnings (including social insurance contributions) of an employee in the Walloon Region with comparable functions. A governmental decree will determine how this remuneration and the contributions are to be calculated.

During the first twelve months the subsidy will amount to 60% of this base figure. For the following twelve months it will amount to 50%. For unemployed persons above 40 years of age a subsidy of 60% will continue to be paid.

If the project cannot be completed within the time available, the firm may apply for a maximum of an additional twelve months a subsidy worth 33% of the basis for calculation. The reasons why the project could not be completed in the time allowed, why the continuation of the project is desirable and further support necessary in order to complete it must be given.

The subsidy rates of 60, 50 and 33% are increased to 90, 75 and 50% respectively for small firms and for medium-sized firms in the development zones set out in the legislation on support for economic growth.

The subsidy may not be combined with other grants provided by the Walloon regional government for the same case of insertion into working life.

Maximum level of support

The total value of the subsidy may not exceed 50% of the costs of the development project. The project costs are defined as the sum of the following forms of expenditure:

- personnel expenditure calculated as an element of the total necessary to complete the project;
- other expenditure calculated in the same way;
- instruments and equipment, real estate and buildings. These costs can only be included to the extent that such goods are actually used for the project. Thus such costs are to be divided into a component for the project and one for other uses of such goods;
- the services of consultants etc., including the acquisition of research findings, technical knowledge, patents etc.;
- overheads applying directly to the project.

This upper limit does not, however, apply to small firms recruiting exclusively workers from the following categories:

- full-time unemployed persons who have voluntarily renounced unemployment benefit, have been continuously unemployed for six months or who were unemployed for at least six months in the year prior to their recruitment;
- job-seekers drawing minimum social benefit;
- unemployed persons whose entitlement to unemployment benefit has been suspended for at least a year due to long-term unemployment;
- unemployed persons working in sheltered workshops;
- the elderly unemployed who are not seeking work or those unemployed persons who for social or family reasons are not required to register as looking for work.

Procedure

A decree to be passed by the Walloon Government will determine the forms and the provisions according to which firms will have to make an application for the subsidy.

In examining this request the utility of the project and its effects on employment, particularly with regard to sub-regional specificities relating to structural unemployment, will be analysed.

Once the project has been accepted a notice of award of the subsidy will specify the level of support and will in addition contain:

- a description of the project and its duration;
- the number of workers to be recruited and the number of jobs to be maintained by the firm for the course of the project, the skill profile required and a description of the jobs involved;
- the base figure for calculating the value of the subsidy.

The subsidy will be paid on presentation of proof of payment of the workers' pay and the social insurance contributions.

A decree will be enacted by the Walloon Government specifying the way in which implementation of this measures will be supervised and the date on which it will come into force.

Special Categories of Workers

Belgium

The Walloon Region – The Insertion Contract

A decree issued by the Walloon government on 24 March 1994 (*Moniteur belge*, 11.5.1994) has introduced modifications to the Walloon governmental decree of 8 July 1993 relating to the insertion contract for young job-seekers. This measure, based on recommendation made by the Walloon Estates General for Employment in the autumn of 1992, aims to integrate the young unemployed into the labour market by offering a grant to employers recruiting such workers.

Which employers are entitled to the grant?

The employer must be either a natural person or a legal entity constituted in the form of a commercial enterprise. He must perform a industrial commercial, artisanal, agricultural or service activity located in the Walloon region. The following types of employer are excluded from the measure: natural persons in public law, educational establishments, educational or occupational advisory centres, theatres, sports clubs, temporary employment agencies, employers employing solely domestic workers and care and lodging establishments.

Which job-seekers are targeted by the measure?

Young unemployed persons fulfilling all of the following conditions on the day prior to commencement of the insertion contract:

- they are unemployed with full benefit entitlement, i.e. they are in receipt of either unemployment benefit or the waiting allowance for all the days of the week;
- they are registered with the local and regional office for vocational training and employment (FOREM) as unemployed;
- are at least 18 years of age, but less than 30;
- are registered and resident in the Walloon region;
- are participating or have participated in an accompanying plan for the unemployed (*plan d'accompagnement pour chomeurs* – cf. iMi 40), within the framework of which they have signed an individual "accompanying agreement".

The insertion contract

The insertion contract is a permanent or fixed-term employment contract and is subject to the law of 3 July 1978 on employment contracts. In the case of a fixed-term contract the insertion contract must be valid for at least six months; the maximum period of employment is 12 months. In the case of part-time employment, working hours must constitute at least one third of the normal duration of full working time in the enterprise.

The advantage for the employer

An employer recruiting a young unemployed person under an insertion contract is entitled to a grant of FB 50,000 for each full quarter for which a full-time worker is employed.

This allowance is increased to FB 75,000 if the unemployed youth holds only one of the following certificates at the time of recruitment:

- primary school certificate
- leaving certificate for lower secondary education
- leaving certificate for the fourth school-year of the vocational secondary education
- leaving certificate for general upper secondary education.

In the case of part-time employment, the grant is reduced proportional to the working time agreed.

Stipulations for entitlement to the grant

The grant is available for four consecutive quarters following the quarter in which the insertion contract commences.

The grant is paid by FOREM at the end of each calendar quarter once the employer has produced the certificate to the Belgian Social Security Office (ONSS) for the quarter in question.

If the contract ends during a quarter, the working days performed in the first quarter are added to those worked in the last quarter in order to determine whether this can be considered a complete quarter of employment and so justify entitlement to the grant.

If the execution of the contract is suspended, entailing the non-payment of the worker's remuneration, the grant is to be deferred. This deferment may not last longer than 24 months. However, if the worker whose contract is suspended is replaced by a young unemployed person meeting the conditions stated above, the employer is entitled to the grant in line with the full quarters worked by the replacement worker.

Special obligations on the employer

In order to qualify for the grant an employer recruiting a person from the target group must clearly increase the size of his workforce as a result of the hiring. This increase in workforce strength must be established for each of the four quarters for which the grant is available.

- At the end of the three initial quarters justifying a grant the number of workers registered with the ONSS must be in excess of the number registered in the respective quarter of the previous year. The number of workers must increase by an extent equal to the number of grants paid to the employer.
- at the end of the fourth quarter the size of the workforce must be at least equal to that reported for the quarter in which the recruitment took place.

For this purpose the workforce does not include apprentices, nor the trainees taken on under Royal Decree no. 230 (cf. BIR B-iv.2).

The employer must

- provide the required information within six months of the end of the

relevant quarter; otherwise he loses the right to the grant in question;
- adhere to the legal requirements regarding the exercise of his activity and the tax and social security laws;
- abide by the law of 17 July 1975 on company book-keeping and annual accounts (if this law applies in his case);
- finally, the employer may not dismiss one or more workers in order to replace them with one or more unemployed young persons for which he then applies for a grant.

Limitations on entitlement

The grant cannot be combined with other support offered by the Walloon government for the same insertion in the labour process.

The grant is paid within the limits of the fiscal revenue available for the year in which the employer makes a claim for the allowance.

Sanctions

The employer must repay the grant if he
- obtained a grant in contravention to the regulations;
- fails to fulfil the above-mentioned duties between the time the application is made and the end of the period stated in the grant award.

The obligation to repay the grant is subject to a term of prescription of three years following the date of payment (five years in the case of fraud, theft, or fraudulent actions by the employer).

France

Support for the Initial Employment of Young People

Following the abrogation on 30 March 1994 of the decrees relating to the insertion contracts (*contrat d'insertion professionelle*) under the five-year law of 20 December 1993, a measure which had been the cause of great controversy, it was decided to implement an aid to the initial employment of young people (*aide au premier emploi des jeunes*) as a substitute. This new measure was defined by decree no. 94-281 (11 April 1994) and by a circular of 14 April 1994. The aim of the measure is to promote the integration of young people into the labour market, whether or not they have a secondary education diploma, by enabling them to acquire initial work experience in employment of sufficient duration to enable them to have a real chance of subsequent insertion. Under the new measure, employment contracts signed with young people aged between 16 and 25, and taking effect between 5 April 1994 and 31 December 1998, justify entitlement to government support where the young person does not meet the condition of prior paid employment entitling him/her to unemployment benefit. All those employers operating within the unemployment insurance regime (UNIDEC) are able to benefit from this measure: nationalised firms (industrial, commercial or other); mixed-ownership firms in which the state holds at least 30% of the capital; industrial or commercial public enterprises owned by local government or in which it has a majority shareholding. By contrast, private-sector employers are not eligible for the measure. Employers who have made workers redundant for economic reasons during the six months prior to the recruitment are not entitled to the support. The employment contract can be fixed-term in nature provided it is concluded for 18 months. The contact must be written. Only employment contracts specifying working hours equal to statutory working hours or the standard, collectively agreed working time for the branch or enterprise in question qualify for the support. Apprenticeship contracts, return-to-work contracts, employment-solidarity contracts, employment ensuing from employment-solidarity contracts, orientation contracts, adaptation contracts and training contracts are all excluded from the measure.

The level of support provided is set at FF 1000 per month for the first nine months of the contract. This figure is raised to FF 2000 for workers hired before 1 October 1994. Application for the allowance is to be made to the local ANPE office, either prior to recruitment or, at the latest, within a week of recruitment.

If the contract is terminated by the employer before the end of an 18-month period – irrespective of whether the contract is permanent or fixed-term – the employer is obliged to reimburse the state for the sum total of the support received under the measure; exceptions to this apply in cases of force majeure, gross misconduct by the employee or his/her resignation. At the end of the 18-month period the employer must write to the local ANPE office attesting the presence of the young person in the enterprise; this must be done within one week. If the employer fails to send this statement, he will be requested in writing to do so. If the employer again fails to meet this summons, he will be required to reimburse the state for the sum total of the support received under the measure.

It should be noted that this allowance may not be combined with any other public employment support measure, except for the reductions in social insurance contributions for recruiting a first, second and third employee. This new measure should help young people to find their first job, a problem which is currently very acute in France.

Ireland

Community Employment

A new programme entitled Community Employment was launched at the beginning of April 1994. It represents the drawing together of three programmes which have been operating for some years, namely the Social Employment Scheme, the Community Employment Development Programme and Teamwork. Details of these schemes are described in the Irish BIR.

The programme is operated by FAS, the State Training and Employment Authority, and its main focus is to provide temporary work opportunities for the long-term unemployed on projects sponsored by local groups and public bodies, which are for community and public benefit. The projects cover a wide range of areas including heritage, arts, culture, tourism, sport, the environment and education.

Projects must have the agreement of relevant trade unions, must not displace or replace existing jobs and must offer valuable work opportunities for participants. The projects can be approved for periods of up to two years subject to availability of funds, while participants are engaged for one year with provisions for extensions in certain circumstances. Participants work 39 hours per fortnight, which means that some work on a week-on-week-off basis while others work 19.5 hours every week.

While on the programme participants are paid a weekly allowance. The amount paid is related to the dependency status of the participant. The rates are as follows (from 27 July, 1994):

Participant without dependent: previously: IR£ 77.00	IR£ 79.30
Participant with adult dependent: previously: IR£ 110.70	IR£ 114.00
Each child dependent (full rate): previously: IR£ 12.80	IR£ 13.20
Each child dependent (half rate): previously: IR£ 6.40	IR£ 6.60

As such, a married participant with one adult and three child dependents (full rate) is currently paid IR£149.10 per week. In addition, participants retain any secondary social welfare benefits they were getting while unemployed. Participants are free to engage in other part-time work or activities outside of the time spent on the project.

While the main costs of the programme are met by FAS, sponsors of community/voluntary projects must come up with some local funding to assist with the cost of running the project. In addition to meeting the cost of the weekly allowance paid to participants, FAS also provides assistance towards the cost of supervision and materials. The level of assistance for supervision depends on the number of participants involved: projects of less than five participants get no assistance, while those with 25 or more participants could under certain circumstances be given assistance of IR£450 per week. Assistance of up to IR£12 per participant per week is also given for certain consumable materials and services.

In the case of public sector sponsors, a grant of IR£27 or £30 per week is paid, depending on certain conditions, to cover supervision and materials costs.

The intention is that in addition to valuable work opportunities participants will be given structured development and training opportunities. On a phased basis, FAS will provide funding and support to enable projects with eleven or more participants to organise development opportunities. The aim is to provide a minimum of 15 days of development modules in the first year to each participant. This structured development and training will be provided during project hours in addition, participants will be offered a small subsidy to help them undertake a training/education course.

The target is to have 40,000 participants on the programme by the end of 1994 at a projected cost of just over IR£183 million.

Netherlands

Increasing the Effectiveness of the Youth Employment Guarantee Law (JWG)

Until 1983 youth unemployment (25 years and under) rose more rapidly than among the over 25-year-olds. Between 1983 and 1992 youth unemployment was on the decline; since then, however, it has risen again, peaking at 126,000 persons. After each recession the level of youth (and indeed of general) unemployment was higher than in the previous period, marking a structural deterioration in the labour market situation facing young people. Even so, general active labour market policies are important for young people as they help to improve the functioning of the labour market.

The measure to promote the integration of young people into the labour market proceeds in three phases. In the first phase the employment offices seek to help those young people who have until then been unsuccessful to find a job or training. In cases where this is unsuccessful, the second phase begins and the Law on Guaranteed Youth Employment (JWG – cf. BIR NL-vi.4) takes effect. In the third and final phase JWG-youths must be placed in work or training by the employment offices.

Attempts to place young people during the first phase are relatively unsuccessful. If initial placement were better, up to 25% fewer young people would have recourse to the JWG. The employment offices could improve their placement rates by placing young people more effectively in the dual apprenticeship system and by recruiting specialised careers advisors for young people. In the light of this the central labour market authority has requested the employment offices to set target values for placing young people. These figures will be checked twice a year by the central labour market authority.

Studies have show that in 1992 68% of the young people registered with the employment offices found work or training on their own initiative and just 12% via the employment office. However, five months after recruitment an average of 39% of new entrants have already left their position. Moreover, many young people – the figure is estimated to be more than 80,000 – did not register with the employment office although they were without either a job or a training place. The majority of these young people, most of whom are women, come from ethnic minorities: the reasons why so many young people fail to register is to be the subject of more detailed investigations.

Other research evidence indicates that some 35% of JWG-young people leave the measure before it has been completed. Half of these find regular employment or training. This good result could be improved further by intensifying cooperation between the institutions employing young people under the JWG and the employment offices. Of the young people finding a job in 1993 52% obtained a permanent job, 35% were working on fixed-term contracts and 13% were employed with a temporary employment agency.

The only way to prevent a rise in the number of young people entering the JWG is to intensify and render more effective the job placement activity of the employment offices. In addition, the public administration (especially local authorities and the ministries) must employ more young people under the JWG. Participation in the JWG can also be improved by extending the measure into the private sector. An additional measure aimed at increasing participation in the JWG is the introduction – from 1 September 1994 – of a preparatory phase for those young people who for personal reasons are not yet available for JWG employment. During this phase young people will be able to improve their employment and training position by taking, for instance, language courses or conducting apprenticeship/work projects. In addition the extension of the target group is to be postponed by one year. In the government agreement of 1989 it was decided that by 1998 all unemployed job-seekers up to the age of 21 and all school-leavers up to the age of 27 should be entitled to employment under the JWG. In 1994 job-seekers up to 21 and school-leavers to 23 will be covered by the provisions. By postponing the expansion of the target group until 1 January 1996, the supply of JWG-youth in 1995 is reduced by around 2,000 potential applicants.

Working Time

Italy

Part-time Work in Italy

In Italy part-time employment relations are regulated by Art. 3 of Law no. 863-1984. This law permits workers who are available for fewer than the standard collectively agreed working hours to be registered in a separate job placement list, the so-called "ad hoc list". Registering in this list does not preclude the possibility of registering in the normal job placement list, however. In the part-time employment contract both the tasks to be performed and the working hours must be stipulated in writing. A copy of this contract must be sent to the labour inspectorate. A part-time employee may not perform tasks other than those listed in the employment contract.

In some respects the part-time employment contract has equal legal status to the full-time contract. The wage table, for instance, on which insurance against accidents at work and occupational diseases are based is the same as the collectively agreed wage table applying to full-time workers.

By following an appropriate procedure a worker can apply to have his/her part-time employment relations transformed into a full-time position.

Part-time employment is most widespread in the trade sector, where it is governed by plant-level agreements. A distinction can be drawn between two types of part-time employment relation:

1. Part-time employment relations resulting from the conversion of a previously full-time position.
2. those which are part-time from the outset.

According to figures provided by the Ministry of Labour (Directorate General for Labour Market Observation) a total of 1,633 collective agreements governing the conversion of full-time to part-time employment were reached in 1993. These agreements affect a total of 84,286 workers (64,720 women and 19,566 men), primarily in the service sector (with 55,535 workers affected), followed by industry (with 28,604 workers covered). The conversion of employment contracts largely takes place in small enterprises with between 1 and 49 employees.

As far as the second case is concerned (new recruitment), figures from the same source and for the same period (namely January to December 1993) show that 5,929 collective agreements for a total of 246,910 workers (181,729 women and 65,181 men) were reached. Here too, the service sector and industry are the areas most affected (with 187,485 and

58,815 contracts respectively); and here too, it is small firms with between 0 and 49 employees which have had greatest recourse to this measure.

It should be noted that the laws on part-time work currently in force are in the course of revision.

Italy

Solidarity contracts (*contratti di solidarità*)

Solidarity contracts are an important instrument of Italian labour market policy, offering an alternative to job cuts and redundancies. Such contracts can be signed within the framework of benefits provided by the special wage-compensation fund (CIG), procedures involving the worker mobility fund and in cases of mass redundancies (Art. 1, 4 and 24 of law no. 223, passed in 1991). The statutory provisions empower the social partners to conclude plant-level collective agreements reducing working hours and pay by more than 30% compared with standard, collectively agreed figures; the cuts in working time can be either on a daily, weekly or monthly basis. The advantage for the contracting partners comes in the form of government support, paid each quarter, and divided equally between the firm and the employees. As far as the level of public support is concerned, law 236/1993 sets out two possibilities, as follows.

1. If the collectively agreed working time reduction amounts to more than 20%, employers are entitled to a reduction in their social insurance contributions for those workers drawing wage compensation benefits from the special wage compensation fund (CIG) for the working hours lost. This reduction amounts to 25%, a figure which can be raised to up to 30% for firms in regions recognised as target regions nos. 1) and 2) by EC directive 2052/89.
2. If the working time reduction exceeds 30%, the above-mentioned figures are raised to up to 40%.

These measures apply until the solidarity contract is terminated (maximum duration: two year), but only until 31.12.1995.

The following worker-representation organisations are entitled to sign solidarity contracts with enterprise managements: plant level union representatives (*rappresentanze sindacali aziendali* as defined by art. 19 of law 300/1970), the regional (under art. 5 of law no. 164/1975), and the most important national trade unions.

The application procedure is as follows. The enterprise applying for the benefit must make an application according to a pattern pre-determined by the Ministry of Labour, and which must be accompanied by the following documents: (a) information on the enterprise; (b) the agreement with the trade union (original or certified copy); (c) list of the workers affected with precise details of the collectively agreed wage to which each worker is entitled before and after the reduction and the value of the difference for the entire period in question.

The application form together with the above documents must be handed in to the regional employment office responsible for the relevant area.

The employment offices are responsible for establishing the authenticity of the agreement signed with the union; specifically, they must check that

- the agreement was reached according to one of the procedures set out in art. 1, 4 and 24 of law no. 223/1991 (procedure for entitlement to support from the special wage-compensation fund, the mobility lists, etc.);
- the cut in working hours actually serves the aim of avoiding redundancies;
- the figures on the cut in working time given by the enterprise are within the statutorily permissible limits.

Once the regional employment office has completed its activities, the relevant documents are subject to further examination by the Directorate General for labour relations, which is responsible for granting the subsidies.

In addition law no. 236/1993 lists a number of branches for which solidarity contracts are considered particularly relevant. They include hotel and catering and public and private thermal baths in regions with serious employment problems.

If the enterprise wishes to return to regular working hours, a new agreement must be reached. For the duration of the solidarity contract the enterprise is not permitted to work additional hours beyond those agreed.

The law stipulates that the subsidy is to be paid within 45 days of the application being made; bureaucratic delays or postponements are not permissible.

A number of statistics will suffice to show the growing acceptance of this measure: to total of 12 billion lire earmarked by the Italian Government for solidarity contracts in 1993 were duly distributed. By the 20 May 1994 firms had already applied for a total of 10 billion lire, a figure which is already in excess of the financial resources set aside for the entire year.

Netherlands

Working Time Reduction Initiatives in Neighbouring Countries are of only Limited Applicability to the Netherlands

New initiatives to support working time reduction in France, Belgium and Germany are of only limited relevance to the Dutch situation. This is the conclusion drawn in a notice by the Minister of Labour and Social Affairs, de Vries, which was recently presented to parliament. This notice discusses recent developments and initiatives with regard to working time reduction in Holland's neighbouring countries and evaluates their utility for the Netherlands.

Although the Dutch Government accepts in principle that working time reduction can, under certain conditions, constitute a means of fighting unemployment, such reductions must not increase the cost burden on firms nor raise public spending. The Dutch Government takes the view that part-time work can be a particularly effective instrument in the fight against unemployment. The Netherlands have already made considerable progress in redistributing work through the introduction of part-time work, and further increases in part-.time employment as a share of the total are expected. 32% of all jobs in Holland are part-time, compared to just 12% in Belgium and France and 15% in Germany.

The Minister of Labour and Social Affairs is not in favour of providing subsidies to workers wishing to change from full to part-time employment, a proposal currently under discussion in Germany. Past experience has shown, namely, that such subsidisation has an impact primarily in those areas in which part-time work is already widespread. This suggests that full-time employees in Holland are interested in working part-time without any form of subsidy whatever.

The Minister of Labour and Social Affairs believes that full-time employees who have taken up part-time work and subsequently become unemployed should receive unemployment support on the basis of their previous full-time earnings for a limited period. A similar measure is being introduced in Germany for such workers (see the relevant article in this issue): for a period of three years workers are entitled to unemployment support on the basis of their previous full-time earnings. This form of subsidisation is to be tested in the Netherlands, with variations in the duration and level of the higher benefit entitlement. Yet it is not expected that the measure will exert a major impact on employment.

In addition the Minister of Labour and Social Affairs is considering redefining the objectives and the orientation of the measures promoting working time reduction. It is to be examined whether working time reduction can be used to avoid redundancies. However, working time reduction should not be implemented when a firm is in structural difficulties and redundancies are necessary: in such cases it would constitute a barrier to necessary adjustment processes.

The Minister is not convinced that it is desirable to promote working time reduction by providing resources from the social insurance funds, as practised in France and Belgium. Such a measure would require that a close scrutiny be made of enterprise planning in order to determine whether already existing jobs are merely being reoccupied. Such supervision is very difficult and contradicts government policy which is to withdraw from such processes a far as possible.

The Dutch government does not support the so-called "collective part-time redundancy" in which the hours not worked entitle those affected to partial unemployment support, a scheme which already exists in Belgium and France. Such workers then no longer have any incentive to look for full-time or additional part-time employment. Minister de Vries takes the view that such provisions would be likely to be abused to a significant extent and that it would also be difficult to control spending for such measures.

Equality of Opportunity

Netherlands

Scarcely any Change in the Labour Market Situation of Ethnic Minority Workers

There has been little change in the situation facing ethnic minority employees in Dutch firms in 1993 compared with 1991 or 1992. They still account for around 5% of the overall labour force. The recruitment practices of firms vis à vis workers from ethnic minorities has also changed only marginally.

These are the results of a study into the effects of the "Minority Agreement in the Labour Foundation". The aim of this agreement had been to improve the labour market situation of ethnic minority workers. At least 60,000 additional jobs were to be occupied by workers from ethnic minorities by the end of 1994.

The study was conducted in 740 firms with ten or more employees, with a total workforce of 74,400. Around 4,050 of these workers came from ethnic minorities (5.4%). In 1991 the figure had been 3,900, and in 1992 4,000. According to the social scientists conducting the study it is not possible to provide an exact figure for the number of ethnic minority workers due to their incomplete registration.

As in previous years, workers from ethnic minorities are concentrated in occupations such as assembly workers, printers, cleaners, packers and production workers (together 62%).

This is associated with the fact that 52% of them work in industrial firms, in contrast to the native population, of which just 34% are employed in industry.

There has been no significant increase in the proportion of firms consciously implementing policies for ethnic minorities compared with earlier studies. Almost 54% of the firms and institutions studied do not conduct any activities to this effect because, in their own judgement, they always "choose the best candidate": ethnic origin, age or the fact of long-term unemployment do not, according to the respondents, play a role. Only a small number of firms (7 of the total of 740) have initiated those measures proposed by the agreement. This represents scarcely any change on previous years.

Of the firms studied 22% made special efforts for minorities. This was true especially of recruitment and selection of personnel (5%), information on the enterprise (8%) and initial, further and vocational training (13%). In most cases, though, such efforts are restricted merely to provisions for specific religious holidays and holiday wishes. Employment measures specifically tailored to ethnic minorities were found in just 1% of the firms. 15% of those participating in general employment programmes come from ethnic minorities. There has been a slight decline in specific measures for ethnic minorities since 1992, a fact which is put down to the 1993 recession.

Only 3% of employers in firms with up to 100 employees are in favour of a legal obligation to register workers from ethnic minorities, 78% are indifferent, while 19% reject such a proposal. Of firms with more than 100 employees 8% responded positively, 59% indifferently and 33% negatively.

The proportion of workers from ethnic minorities is greater in large than in smaller firms. Of the total of 4,050 ethnic minority employees, 19% work in firms with 10 to 100 employees and 81% in firms with more than 100 employees. There are also significant sectoral differences: 52% work in industry, 24% in the trade sector, 3% in construction and 7% in banking and insurance.

Netherlands

Law Promoting Equality at Work for Ethnic Minority Workers

The law on the promotion of equality at work for ethnic minority workers was recently published in the state gazette and came into force on 1 July 1994.

A decree issued by the Labour and Social Affairs Minister De Vries specifies the target groups of the new legislation. The law applies to those from Turkey, Morocco, Surinam, the Dutch West Indies and Aruba, and to refugees from the former Yugoslavia, from Somalia, Ethiopia, Iraq, Iran and Vietnam. As far as refugees are concerned, for practical reasons those countries were chosen in which in recent years more than 1,000 refugees have come to the Netherlands. The target group to which an individual belongs is determined by the country in which a worker and his/her parents were born. The law allows for the target groups to be redefined after two years. It is therefore possible to determine periodically whether changes have occurred in the labour market situation of the various target groups.

Under the law all employers in firms with more than 35 workers are obliged to present an annual report to the Chambers of Trade and Industry on the situation of those of its employees coming from ethnic minorities. The chambers of trade and industry, in turn, are obliged to make these reports public.

In addition, employers must draw up an annual plan of action in which enterprise personnel policy is described and the situation of ethnic minority workers and the existing in-plant barriers to such workers must be detailed. Target indicators and measures to bring the proportion of ethnic minority workers into line with their share of the regional working population must also be put forward in this plan, whereby suitability for the performance of a particular function must be taken into account.

This work plan is private and should be the result of negotiations with the works or personnel council: on request it can be passed on to the regional labour market authority.

In order to meet these requirements the employer must register the number of employees coming from ethnic minorities. Yet the Minister of Labour and Social Affairs has ruled that workers can object in writing to the collation of individual data.

The law is valid for five years. Within two years of the legislation coming into force the Minister of Labour and Social Affairs will present an evaluation report to parliament. To this end he has requested the central labour market authority to ensure that in future the regional labour market authorities collate statistical data on the regional distribution of workers from ethnic minorities.

Portugal

Equal Opportunity for Women

Ministerial decree no. 32/94 (17 May 1994) accords priority to initiatives and measures with the following objectives:

- promoting vocational training for women, including company-level initiatives in this area, particularly within the period during which EU support is being provided (1994-1999);
- development of career guidance support measures for women who are either long-term unemployed or seeking to reenter working life;
- the flexible organisation of working time, enabling a better recon-

ciliation of paid employment and family life for both partners;
- the development of alternative structures and problem-solving approaches to care for children while their parents are at work.

All the EU support programmes for 1994-1999 make explicit reference to equality of opportunity for women, whereby particular importance is attached to vocational training measures and (re)integration into working life.

In view of this aim, a work group is to be set up to accompany and support the measures composed of representatives of EU programme leaders, of the Institute for Labour and Vocational Training (IEFP) and the Commission for Women's Equality. The tasks of the Workgroup are as follows:
- Support for initiatives to raise awareness of equality of opportunity and provide information on the subject;
- tracing the implementation of the various sub-programmes in the fields of employment and vocational training with reference to the realisation of the aim of equal opportunity;
- analysis of the effects on the position of women;
- elaborating a set of urgent recommendations for effective action towards the goal of equal treatment for women at work and in vocational training.

Miscellaneous

Greece

Important Changes in Labour and Social Insurance Legislation

Law no. 2224/1994 (legal gazette 112 A, 06.07.94) has been passed, bringing about important legal changes in labour law and the social policy implemented by organisations such as the labour market authority, workers' welfare, workers' housing plan, all of which come under the auspices of the Ministry of Labour, and in the way the Labour Ministry is organised.

New regulations apply in the following areas:

1. Existing legislation governing trade union rights has been modernised. In particular, the selection of security personnel and the right to strike have been changed with a view to improving the "public dialogue" between the social partners. Under the new regulations, all questions related to the procedure for selecting security personnel and the maintenance of vital services for society at large are to be the subject of collective agreements, primarily at plant level. In addition, the function of the "public dialogue" in Greek strike law is to be reinforced; in future arbitration procedures must be based on the agreement of all the parties involved, especially with regard to the publication of the arbitration proposal and the presence of third parties during the discussions and consultations between the collective bargaining partners.

2. Trade union educational/training leave has been reintroduced.

3. The procedures by means of which the works council perform the tasks for which they are responsible have been modernised.

4. The departments of the Ministry of Labour are to be modernised and reorganised in order to give the Ministry the necessary flexibility to perform its supervisory duties vis à vis the organisations under its auspices (labour market authority, workers' welfare, workers' housing plan).

5. The independence of the mediation and conciliation bodies set up under law 1876/90 has been given an explicit legal basis. The questions which can be passed on to the arbitration bodies for mediation between employer and works council have been extended.

6. The goals of the National Labour Institut (NAI) have been broadened, with an increased share of its funding to come from the Workers' Welfare Office. This will enable the NAI to develop its activities and to become a credible advisor to government, employers and workers in all the leading questions of labour market policy.

7. The extension of the overall duration of maternity leave to 18 weeks which was set out in the national general collective labour agreements (NAKA) of 1993 and 1994 has been ratified by law. Here the government has followed both the letter and the spirit of the NAKA and has enshrined in law regulations which are the result of a social consensus and are of real benefit to workers.

8. Two funds have been set up to finance labour market policy, one to finance vocational training programmes, the other for the unemployed. Both were the subject of an agreement between employers and workers in the NAKA of 1991/92 and 1993.. These funds will be largely financed out of employer and employee contributions. They will be added to the budget of the labour market authority (OAED) and administered jointly by representatives of the employers and employees. The resources held in the funds will be used to finance both active and passive labour market policies. Some of the resources will be used to finance the Institute for Health and Safety at Work set up jointly by employers and

workers. Here too, the government has acted in accordance with the outcome of the social dialogue between employers and employees which proposed the setting up and administration of these funds. The adoption of these proposals by the government is evidence of the latter's new view of the function and mode of operation of the OAED.

9. The administration, execution, supervision and control of OAED vocational training and anti-unemployment programmes have been modernised. In this context a "National Career Orientation Centre" is being set up to advise and support the OAED with regard to the vocational orientation of the working population.

10. The composition of the National Council of Vocational Training and Employment (NRBQB) and the prefecture-level committees on vocational training (PAQB) is to be extended, so as to include representatives from all employer and employee organisations. Simultaneously, the role of these committees is being strengthened by the creation of a National Centre for Vocational Further Training. This will provide the abovementioned social-dialogue organisations, which are responsible for supervising employment policies and for vocational training policies nationwide, with essential technical support.

11. New regulations apply in the field of health and safety at work, facilitating the application of the relevant EU legislation in Greece. In addition, the statutory and administrative pursuit of offences in this area are being modified, in order that the legislation in question can be applied more consistently.

12. Modifications have been introduced by decree to the legislation on trade unions and on employee health and safety. This will enable Greek society to form a clear and complete picture of the prevailing legislation, improving relations between workers and employers and facilitating supervision of the legislation in question by the responsible public authorities.

13. The level of unemployment support has been raised to a maximum of 40% of daily wages for blue-collar, and 50% of monthly salary for white-collar workers (subject to an additional ceiling of 2/3 of the daily wage of an unskilled worker). Further, the basic level of unemployment support is raised to 30% of previous earnings. The special system for calculating the unemployment support entitlement of construction workers (duration between 95 and 210 days) has been reintroduced. This will improve the financial support offered to the unemployed within the financial framework available to the OAED.

Miscellaneous. The law also regulates problems in the field of workers' housing construction, such as debt repayment. This will solve a number of problems that in recent years have led to conflict between creditors and debtors in the workers housing construction scheme. The law also includes a procedure by which shop opening hours can be regulated and includes provisions for electoral proceedings for: the union representation of mariners and a special pay system for waiters and waitresses. Finally, the procedure for the sale of certain types of enterprise has been modified in the interests of flexibility and efficiency.

Netherlands

Appointment of an Independent Commission to Evaluate the Reorganisation of the Labour Market Authority

Recently an independent committee was appointed with the task of evaluating the new labour market authority law. One of the provisions of the law was that the results achieved by, and the effectiveness of the reorganisation of the labour market authority should be evaluated after some years. The evaluation has been entrusted to an independent commission because the Minister of Labour and Social Affairs took the view that such an evaluation could be performed neither by the labour market authority, the object of the evaluation, nor by the government or the social partners, all of which are represented on the labour market authority's administrative council.

The commission is to perform the evaluation on the basis of a ministerial directive recently passed on to parliament and the central labour market authority.

The most important question in this directive is whether the new law has been conducive to bringing into balance, effectively and equitably, supply and demand on the labour market. An additional central question pertains to the degree to which the tripartite, decentralised organisational structure of the labour market authority and the end to its job-placement monopoly have enabled it to work more effectively.

The study is to provide not only a quantitative evaluation, but is also to take account of qualitative aspects. It is the wish of the Minister of Labour and Social Affairs that the evaluation also shed light on the question whether the reorganisation has improved cooperation between the labour market authority and social security institutions, local authorities, branches, educational institutions and temporary employment agencies. It is also to be determined whether the labour market authorities have been able to improve the functioning of regional labour markets and whether vocational training centres should continue to be directly subordinated to the labour market authority.

A further topic of enquiry is whether the present triple responsibility of the Ministry of Labour and Social Affairs is effective: the Ministry is both legislator and financier, has a seat on the administrative council of the central labour market authority and is responsible for job placement.

Portugal

Observatory for Employment and Vocational Training – Summary of its Main Activities

The Observatory for Employment and Vocational Training (OEFP), set up in February of last year by decree (no. 180/93, 16.2.1993), has, in line with the tasks assigned to it, developed its operations in the following main areas:

- tracing the changes in the most important labour market variables in the form of quarterly reports;
- setting up a network of discussion partners at national, regional and local level;
- evaluation of current developments, future prospects and their respective impacts on the level and quality of employment in the agricultural sector, manufacturing industry and trade;
- preparation of reports on the experimental observation of the labour market situation and trends in individual regions;
- evaluation of the information on actual or imminent crises in specific sectors or regions;
- evaluation of a list of measures of current employment policy.

In addition, approval has been given for the OEFP to conduct a number of studies into the potential and development factors of a number of regions and for new initiatives to be launched.

Rough currency conversion rates

One European Currency Unit (ECU) was roughly equivalent to the following amounts of national currencies (September 1994):

Belgium	BFR	39.31
Denmark	DKR	7.51
Germany	DM	1.91
Greece	DRA	290.20
Spain	PTA	158.08
France	FF	6.53
Ireland	IRL	0.79
Italy	LIT	1,930
Luxembourg	LFR	39.31
Netherlands	HFL	2.14
Portugal	ESC	194.75
United Kingdom	UKL	0.78

FOCUS

The "Focus" part of inforMISEP "Policies" is conceived by the MISEP secretariat. The opinions and analyses contained in this section do not necessarily reflect the opinions or views of the European Commission or the correspondents. Signed articles are the sole responsibility of the author(s).

Fixed-Term Contracts in the European Union

Klaus Schömann, Ralf Rogowski and Thomas Kruppe

Introduction

The number of fixed-term employees in the Member States of the European Community rose from 7.23 million in 1987 to 9.67 million in 1991 (the last year for which comparable Eurostat data exist). The steep increase in short-term employment – of about 34% in four years – contrasted with only moderate growth in total dependent employment.

The share of total dependent employees on fixed-term contracts ranges from a low of 2% in Luxembourg to a high of 32% in Spain. In between are the United Kingdom, Germany, Italy and Belgium where the figure is around 5%. A steady and considerable increase can is only to be seen in Spain (from 16 to 32%) and in France (from 2 to 9%), while there was a temporary increase and a subsequent decline in Greece, Portugal and the Netherlands. In the remaining countries the figures for fixed-term employees are quite stable for the period and have been on the decline (mainly because of the recession) since 1990 (cf. Figure 1).

These developments are influenced by the business cycle and to a certain extent also by regulations concerning the use of these types of contracts. Employment protection regulations also play a role, as they might induce firms to use fixed-term contracts in order to circumvent labour market rigidities.

In this summary report we shall briefly sketch the legal aspects of fixed-term contracts in the 12 member countries. Another section will then empirically analyse the patterns of fixed-term employment which prevail in the different countries, and in a final section we will add some critical comments.

Regulation of Fixed-Term Contracts in the Member States of the E.U.

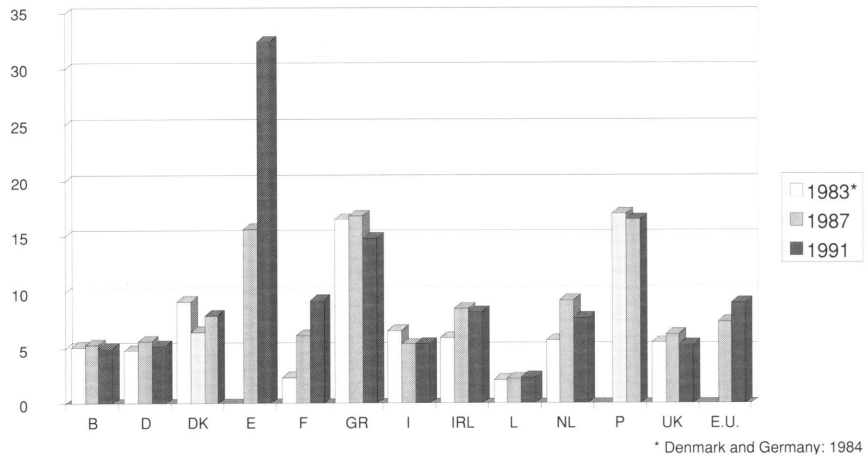
The regulations governing fixed-term contracts differ widely across the Member States of the European Union. They are embedded in national systems of employment protection and "reflect" in national legislation on dismissal (see Schömann/Rogowski/Kruppe 1994; see also Rogowski/Wilthagen 1994). In the following we briefly describe the main legal sources and concepts of fixed-term employment regulation in all twelve Member States of the European Union.

Belgium

Labour law on "atypical" employment and fixed-term contracts in Belgium does not require specific reasons for using these contracts. It does not provide extra payments when the contract expires, nor is there any general restriction on the maximum length of the fixed-term period. However, the Belgian Statute on Employment Contracts of 3 July1978 regulates the renewability of fixed-term contracts, limiting it to certain industries and to particular circumstances like temporary increase in workload. Successive fixed-term contracts are restricted to the cases in which the nature of the work or economic difficulties of the company require a further fixed-term. These contracts convert into permanent employment contracts if found to circumvent dismissal protection law. The employer has to pay twice the normal rate of compensation if he dismisses fixed-term employees unlawfully before the expiry of the fixed term.

The Statute on Temporary Work of 24 July 1987 has introduced specific regulations with respect to replacement contracts and employment contracts concluded for a particular task. Replacement contracts are limited to two years and must be in writing. Recent legislation has facilitated the use of successive fixed-term contracts until the end of 1997. Fixed-term contracts can be renewed up to four times within two years (iMi 46, pp. 4-6). In addition, new so-called "insertion contracts" have been introduced for young job-seekers. They allow for reduced notice periods and salaries below the sectoral minimum wage during the first twelve months of employment (iMi 45, p. 4).

Figure 1: Fixed-Term Employment as Percentage of Total Employees in the E.U.



* Denmark and Germany: 1984

Data Source: Eurostat European Labour Force Survey; own calculations

Denmark

Danish labour law is still characterised by a reluctance to regulate employment protection by law. Instead, industrial relations affairs and employment protection are regulated by collective agreements which apply equally to permanent and to temporary or fixed-term employees. Danish labour law does not restrict the use of fixed-term contracts by prescribing reasons for their conclusion. However, some limitations have been introduced by the Act on White-Collar Workers and by the Danish courts. The renewal of a fixed-term contract is declared null and void by the courts if found to circumvent dismissal protection or the seniority rights contained in collective agreements. In such cases the fixed-term contract converts into a permanent contract and the employer might be fined for violating the collective agreement.

Fixed-term employees with contracts of up to three months are exempted from the obligatory four weeks notice period prescribed by the Act on White-Collar Workers. This Act grants fixed-term employees the same compensation for unreasonable dismissal without notice or dismissal without just cause as permanent employees. However, white-collar employees on fixed-term contracts are generally excluded from dismissal compensation because it is only granted after one year of continuous employment. Fixed-term contracts for a specific task or during seasonal periods are common among blue-collar workers. In the construction industry, for example, such contracts are explicitly permitted by collective agreements. Furthermore, a special legal situation exists for seasonal and so-called supply workers *(løsarbejdere)*. They are represented by their own trade union and are covered by separate collective agreements.

France

Under French labour law we find a close relationship between fixed-term contracts and temporary work under the Law of 3 January 1972. In 1982 an Ordinance on temporary work and fixed-term contracts, which formed part of the "lois Auroux", restricted the use of fixed-term contracts. Subsequently, the government facilitated the use of fixed-term contracts and temporary work in the Law of 25 July 1985, followed by the Ordinance of 1 August 1986. The latest step of regulatory was the Law of 12 July 1990, following a nationwide, inter-professional agreement. It amended the Labour Code, which now lists the following cases (cf. also Lefèbvre, 1991, pp. 29-61) in which a fixed-term contract is legal:

1. Work which is temporary by nature or seasonal work. The maximum duration for this type of contract is 18 months;
2. Arrangement for vocational training.

In the first two cases no compensation is paid on expiry of the contract. The following types of fixed-term contracts require compensation for the employee on expiry:

3. Replacement of an absent employee. Maximum duration is 18 months.
4. Substitution of an employee in a job which is due to be terminated. Maximum duration is 24 months.
5. Stand-ins for permanent employees who will commence employment at a later stage. Maximum duration is 9 months.
6. Temporary increase in workload. Maximum duration is 18 months.
7. Unforeseen occurrence of an unusual, specific task of terminate duration. Maximum duration is 18 months.
8. Extraordinary increase in export orders. Maximum duration is 24 months.
9. Urgent task necessitated by safety reasons. Maximum duration is 9 months.
10. Former apprentices due to leave for military service. Maximum duration is 12 months.

Fixed-term contracts must be in writing and are only renewable once within the maximum period, with the exception of the vocational training contract, which is not renewable. Ordinary dismissal during the fixed-term is excluded. Summary dismissal for gross misconduct and early dissolution of the contract in cases of "force majeure" are permitted. If employment is continued after expiry of the fixed term, the contract automatically converts into a permanent contract. Compensation is paid at the expiry of the fixed-term, except in cases of seasonal workers and working students.

Germany

Section 620 of the German Civil Code grants the right to enter into a fixed-term contract with automatic expiry at the end of the agreed term. However, this right is restricted by statutory provisions, collective agreements, and most effectively by case law. Indeed, since the 1960s the courts have virtually reversed the principle of freedom to enter into fixed-term contracts for reasons of "protection of unfair dismissal protection". They require the employer to provide a "reason" for the use of a fixed-term contract. The Federal Labour Court has developed a catalogue of reasons which are commonly listed under seven headings (cf. Schaub, 1992, pp. 196-202):

1. On request of the employee;
2. probation period of up to six months; in exceptional cases the fixed-term may exceed six months, e.g. for artistic and academic work, after longer absences from work, and for periods to restore the trust relation after a prison term;
3. temporary replacement of employees who are absent for health reasons or are on maternity leave;
4. seasonal work and other forms of work which are temporary in nature; these include temporary increases in work due to longer business hours on certain days and annual stocktaking;
5. employment of artists (singers, actors), athletes, journalists (foreign correspondents) and working students;
6. settlement in court to end an employment contract; and
7. so-called social reasons; these include transitory periods after vocational training and also apply to research and teaching assistants after their regular term.

Special regulations exist for the public sector. Public employers can in general only enter into fixed-term contracts if the job has been itemised in the budget as a fixed-term job. A separate statute was introduced in 1985 for academic personnel which grants universities and research institutions wide discretion to use fixed-term contracts.

Renewal of fixed-term contracts is possible if the new contract is again covered by one of the legally prescribed reasons for a fixed term. However, labour courts tend to scrutinise the reason for the renewed contracts more closely since there is the general presumption that renewed fixed-term contracts might circumvent dismissal protection. Dismissal of fixed-term employees is restricted to dismissal without notice. Furthermore, if employment is continued after the expiry of the fixed term the employment contract converts automatically into a permanent contract.

The requirement of a specific reason justifying a fixed-term contract was partly suspended for two specific types of contract by the Employment Promotion Act of 26 April 1985, i.e. new em-

ployment contracts and employment immediately following vocational training. The maximium length of the fixed term under this Act is 18 months. If the company has been in operation for less than six months and employs less than 20 employees the fixed term can last two years. Renewal of fixed-term contracts is only possible up to the maximum length. Ordinary dismissal is excluded unless admitted by an explicit clause in the contract of employment. However, the Act does not apply if an employment relationship existed between the parties in the four months preceding the fixed-term contract. Furthermore, the Employment Promotion Act does not replace the existing regulations for fixed-term contracts which remain valid for all contracts not explicitly concluded with reference to the Act. The Act is currently in force until the end of 1999.

Greece

The main Greek regulations on fixed-term employment are contained in the labour law provisions (Section 669-671) of the Greek Civil Code. There is no maximum limit on the fixed term nor a compensation payment on its expiry. The contract can be renewed twice. If the fixed-term contract is continued without explicit renewal or further statements by the employer, it automatically converts into a permanent contract.

Article 669 of the Civil Code requires that a reason be given, limiting the use of fixed-term contracts to:

1. Urgent, limited tasks
2. emergency work;
3. temporary increases in workload; and
4. clearly defined work outside the normal range of activities of the employer.

The parties to a fixed-term contract are, however, free to negotiate individually over working conditions like holiday or probationary periods. Dismissal of fixed-term employees is limited to summary dismissal without notice.

Under Greek labour law, seasonal work is treated as permanent employment. According to Act 1359 of 1945, as amended by Act 1346 of 1983, and Act 2081 of 1952, seasonal workers are employed by seasonal enterprises. Seasonal enterprises are defined as operating for more than two months but less than 12 months a year. The Royal Decree 153 of 1972 regulates the annual leave for seasonal workers.

Ireland

There are no statutory restrictions in Ireland on entering a fixed-term contract of employment. The employer is not required to obtain authorisation or to justify the use of a fixed-term contract with reference to a legally prescribed reason. Furthermore, the length or renewal of the fixed term is not restricted, and there are no regulations on automatic conversion of fixed-term contracts into permanent contracts.

However, fixed-term contracts are explicitly mentioned in general employment protection laws. In the law on unfair dismissal a distinction is made between a contract for a fixed term and a contract for a specified purpose of such a kind that the duration of the contract is limited but cannot, at the time of its conclusion, be precisely ascertained. In addition, Irish labour law distinguishes seasonal work contracts, casual work, and probation contracts.

The employee employed under a fixed-term or special-purpose contract can waive the right to complain against unfair dismissal through express agreement in writing if the dismissal results only from the expiry of the fixed term without renewal or the special purpose ceases to exist. This right to waiver does not take effect before or after the date of expiry or cessation. Furthermore, a fixed-term contract may be terminated before its expiry on grounds of gross misconduct.

If the fixed-term contract was expressly concluded to replace an employee who is absent on maternity leave under the Maternity Protection of Employees Act 1981, a dismissal based on the return of the previous employee is deemed a valid substantial reason for dismissal. However, the employer has to inform the fixed-term employee in writing at the commencement of the employment that the employment will terminate on return of the other employee. Nevertheless, the fixed-term employee has no right to continue employment if the employee on maternity leave decides not to return to work.

Fixed-term contracts, except those for a specified purpose, are covered by the Redundancy Payments Act 1967, which stipulates that the expiry of a fixed term without renewal equals dismissal. There is no provision for waiving the statutory right to redundancy pay, but the fixed-term employee needs two years' continuous employment to be entitled to it. However, Section 7 of the Protection of Employment Act 1977 excludes fixed-term contracts from dismissal protection in the context of collective redundancies.

Fixed-term employees have the same right to notice as permanent employees after thirteen months' continuous employment. They are covered by the Maternity Protection of Employees Act 1981 if employed for a fixed term of 26 weeks or more. Furthermore, they can file claims under the Anti-Discrimination (Equal Pay) Act 1974 and the Equality Act 1977.

Italy

Fixed-term contracts are regulated in the Italian Civil Code (Section 2094 and following) and Law 230 of 18 April 1962. The Italian courts have been rather restrictive in interpreting the original legal limitations on fixed-term contracts. However, both collective agreements and legislation, including the Workers' Statute of 1970, have gradually challenged the restrictive judicial position, significantly enlarging the scope for using fixed-term contracts. In general the regulations require a reason to be given. The parties can conclude a fixed-term contract only if one of the following nine "cases" applies:

1. Seasonal character of employment which requires a contract of limited duration. Two presidential decrees, 1525/1963 and 560/1987, regulate employment conditions in the farming and food-processing sectors.
2. Replacement of a permanent employee who is temporarily absent due to military service, maternity leave, illness, or another legally acknowledged reason.
3. Extraordinary and occasional character of the work, which is temporary in nature.
4. Work which is divided into stages, which is complementary in nature and which cannot be carried out by the regular work force. This reason is commonly recognised in the shipbuilding industry.
5. Temporary engagement in television, radio, or other artistic productions.
6. Seasonal work to cover an increased demand for employment in certain sectors. This reason was introduced by Law 876/1977 which was first limited to the tourist sector, and then extended by Law 79 of 1983 to all economic sectors.
7. A maximum fixed term of four to six months (depending on the season) applies in the air transportation industry if the share of fixed-term em-

ployees does not exceed 15% of the work force.
8. Executives can be hired on a fixed-term basis for up to five years. The executive has the right to resign after three years.
9. Job-seekers between the ages of 15 and 26 years (29 for women and for university graduates) who are registered at the employment office can be hired by private employers and public administrations under an education contract.

Dismissal of a fixed-term employee is restricted to summary dismissal without notice.

Luxembourg

Since regulations were introduced in Luxembourg in the Law of 24 May 1989 and the Grandducal Regulation of 11 July 1989, fixed-term contracts have been confined to areas of work which are specific, clearly defined and of a transitory nature.

The use of fixed-term contracts is limited by the requirement to give a reason. Fixed-term contracts can be concluded for the following reasons:

1. To undertake work of a seasonal nature in agricultural, tourist or leisure industries;
2. to be engaged in an activity or a job which is temporary in nature like work in the media or the entertainment industry, professional sport, forestry and construction;
3. to carry out occasional tasks outside the scope of the firm's normal activities;
4. to do work of a clearly defined and temporary nature due to an exceptional extension of the company's activities;
5. to undertake work of an urgent nature;
6. to integrate or reintegrate an employee into working life;
7. to promote employment for a specific group of employees;
8. In cases of combination of work and training;
9. to replace an employee;
10. to undertake work of a seasonal nature.

The law requires fixed-term contracts to be in writing unless the relevant collective agreement says differently. The maximum duration of a fixed-term contract is 24 months, with the exception of seasonal contracts. Two renewals of the fixed-term contract are possible within the maximum period. However, the employer or a group of employers can obtain permission from the Ministry of Labour to extend the duration of the fixed term beyond 24 months.

In cases of illegality the fixed-term contract converts into a permanent contract. Furthermore, during the fixed term only summary dismissal for gross misconduct is permitted.

Netherlands

Dutch employment protection is still dominated by the requirement of prior administrative authorisation for each dismissal. In a certain sense this situation provides an incentive to circumvent dismissal protection by using fixed-term contracts. Dutch labour law supports this practice through liberal regulations with respect to atypical employment. It does not require a reason for entering into fixed-term contracts, and there are only a few regulations which restrict their use.

There are few regulations in the Civil Code (Sections 1639 e to g). If the fixed-term contract is continued beyond the expiry date, it does not automatically convert into a permanent contract. Instead, it is automatically renewed for the same period as the previous fixed-term, but limited to one year in total. The new contract operates under the same conditions as the previous contract during the renewal period. The same applies if the contract is renewed within 31 days after the expiry of the fixed-term contract. However, if the contract is continued for more than one year without express renewal it converts into a permanent contract and the employer must follow the normal dismissal procedure if he wishes to discontinue the employment relationship. In addition to statutory law fixed-term contracts are also regulating collective agreements. These include restrictions that fixed-term contracts can only be concluded for a maximum of 12 months, or for certain work, for reasons agreed with the trade union, or in exceptional individual cases.

Portugal

The use of fixed-term contracts was liberalised in Portugal in 1976 by Decree-Law 781 of 28 October 1976. However, with the reform of dismissal law in 1989, fixed-term contracts were re-regulated. The Decree-Law 64-A of 27 February 1989 introduced the requirement of reason and lists eight of these:

1. Temporary replacement of an employee who is either not able to work or has been dismissed and opposes the dismissal.
2. temporary and exceptional growth of the company's activity;
3. seasonal work;
4. Execution of an occasional task or a specific service which is precisely defined and limited in time;
5. start of a new employment of uncertain duration or start of a new business;
6. execution, supervision, or control of civil or public construction work, or work of a similar nature and duration;
7. execution of tasks or projects which do not form part of the regular activities of the company.
8. employment of first-time job-seekers, long-term unemployed or special cases of labour market policies.

The maximum fixed term is three years. The fixed-term contract can be renewed twice but only within the maximum limit. If it is continued beyond the maximum limit or renewed more than two times, it automatically converts into a contract for an indefinite period.

The employer has to notify the employee at least eight days before the end of the fixed term about its expiry, otherwise the contract is automatically renewed for another fixed term of the same length. The fixed-term contract converts into an indefinite contract if the three-year maximum is exceeded through this procedure. Each fixed-term employee has a right to compensation at the end of the fixed term, consisting of two days basic remuneration for each month of service.

If the fixed term lasted twelve months or longer, the employer is prohibited from concluding another fixed-term contract within the next three months. Fixed-term employees have a right to preferential treatment with respect to entry to permanent jobs established by the employer for tasks previously performed by fixed-term employees.

Spain

The Spanish regulations on fixed-term contracts have been characterised up to now by an attempt to introduce flexibility without changing the traditional system of dismissal protection which requires the employer to seek prior administrative approval and to pay a minimum compensation for each dismissal. The regulations on fixed-term contracts are contained in the Workers' Statute of 1980. These regulations were liberalised by Law 32/1984 of 2 August 1984 and the Royal Decree of 21 November 1984. The use of fixed-term contracts is gener-

ally permitted. They must be in writing, registered with the local employment office, and lodged with the National Institute for Employment (INEM). Renewals are possible for up to three years. Pay levels are regulated by statutory minimum wage policies and working times by statute or collective agreements. If the employer fails to pay social security contributions, the contract converts automatically into a contract for an indefinite period, unless the employer can prove during the course of the legal procedure that the conditions for a fixed-term contract are met.

Spanish labour law distinguishes between eleven forms of fixed-term contract (cf. Ministerio de Trabajo, 1993, pp. 84-110):

1. Employment-creating contracts: the minimum period for which such a contract can be concluded was recently raised to one year. The maximum period is three years and the contract is renewable up to this period. Law 18/1993 of 3 December 1993 allows a further extension of 18 months under certain circumstances.
2. Relief contracts; these are part-time contracts for at least 50% of the regular working time and for a fixed term. They are concluded between employers and unemployed workers registered with the unemployment office to replace employees between the age of 62 and 64 who are taking partial retirement.
3. Practical work or traineeship contracts; these are a special type of fixed-term contract for young academics and for those with medium to high-level vocational qualifications to obtain work experience within four years after the end of their studies. The minimum duration is six months and the maximum two years.
4. Apprenticeship contracts have recently replaced training contracts for training in authorised vocational training centres (see iMi 45, pp. 9-10). The new contracts are for young employees between 16 and 25 years of age (no age limit for disabled employees) so that they can obtain practical and theoretical training for a skilled job. These contracts last between six months and three years.
5. Contracts for specific purposes, which can be concluded if the exact duration of the contract is unknown at the time of agreement. The work or service must be specific and final and completed at the time of expiry. Two weeks notice must be given if the contract lasts for over a year. This type of contract is common in the construction industry.
6. Casual employment contracts, which can be concluded for a maximum fixed term of six months within a twelve month period if employment needs to be adjusted to special market circumstances, accumulation of work or excess of orders.
7. Temporary work contracts.
8. New launch contracts, which can be concluded in new enterprises or in existing enterprises which are launching a new production line, product or workplace. The minimum fixed term is six months.
9. Home-work contracts, which can be concluded for a definite or an indefinite period.
10. A group contract, which is concluded between an employer and a group of up to five workers. This form of contract is commonly used in the performing arts.
11. Community work which is carried out by unemployed persons, who receive their benefits while working on community projects.

Seasonal work, normally a main form of fixed-term employment, is actually regarded in Spanish labour law as a form of permanent employment. The seasonal work contract is legally stipulated to be open-ended with periods of suspended activities. If the activity is not resumed due to lack of work, the employer needs authorisation from the Employment Office, and the employee can file a dismissal claim.

United Kingdom

There are no statutory restrictions in the United Kingdom on entering into fixed-term contracts of employment. The employer does not need to justify the use of a fixed-term contract with reference to a legally prescribed reason and there is no restriction on the length or renewal of the fixed term. Casual workers who work for relatively short periods in seasonal trades or services may, like other workers, be considered to be self employed rather than employees if they are alleged to have freedom to deny work and their contract therefore lacks the necessary mutuality of obligations. Where they are employees, casual workers often lack the necessary qualifying period of 2 years of employment to be covered by some of the rights under the Employment Protection (Consolidation) Act 1978 such as unfair dismissal, although many other important rights require no such qualifying period of service.

Unlike permanent contracts, with certain fixed-term contracts, it is possible to exclude the right to claim unfair dismissal or a redundancy payment through express agreement in writing.

If the fixed-term contract was concluded for less than one month but in fact lasts three months or more, the law treats the contract as one for an indefinite period for which the employer has to observe the minimum notice period. The intention of this provision is to prevent evasion of the right to notice. The fixed-term employee is excluded from guarantee payments and sick pay if the fixed term lasts less than three months, unless the employee has in fact been continuously employed for a period of more than three months.

In summarising the UK regulations it can be said that the two-year qualifying period for statutory protection against unfair dismissal operates as a functional equivalent for the fixed-term contract and a formal probation period. Employers can freely terminate the employment contract during this period.

Regulation and Proposals Concerning Fixed-Term Employment at the European Level

There have been a number of attempts to regulate fixed-term employment at the European level. Draft Directives on fixed-term, part-time and temporary work were first proposed without success in 1981 and 1982. Regulations on so-called atypical work, including fixed-term employment, were again proposed by the European Commission in the aftermath of the Community Charter of the Fundamental Social Rights of Workers (the "Social Charter") of 1989. The Commission published three draft Directives in July 1990 which were concerned with working conditions, distortion of competition, and health and safety of atypical employees. Only the third Directive on health and safety was subsequently adopted by the European Council on 25 June 1991.

The Directive adopted provides that fixed-term employees, as regards safety and health at work, are afforded the same level of protection as other employees of the same employer. The fixed-term worker has the right to be informed about the specific risks which he or she faces at the place of work. Atypical employees have the right to be informed about any special occupational qualifications or skills or special

medical surveillance required, including a right to receive sufficient training appropriate to the particular characteristics of the job.

Fixed-Term Employment Patterns in the European Union

The impact of European and national regulations on fixed-term employment varies according to demographic and social circumstances in labour markets. Regulations have only a limited impact on the "spontaneous" development of fixed-term employment, although this impact differs by country. The description of selected empirical patterns therefore requires a close scrutiny of employment practices concerning fixed-term contracts. The following analysis covers gender differences, age structures, full-time/part-time shares, industrial sector differences and an analysis of labour market inflows and outflows of fixed-term employees[1]. Additional indicators were assessed in our report on fixed-term employment for the Commission of the European Communities (Schömann/Rogowski/Kruppe 1994).

Gender Differences

In the twelve Member States of the European Union, women account for an average of 40% of all dependent employees. However, close to 50% of all dependent employees on fixed-term contracts are women (cf. Figure 2). In countries like Belgium and Luxembourg, the difference in overall labour force participation of women and women's share in fixed-term employment is particularly pronounced, while the general share in fixed-term employment is low compared to other Member States. Only in Greece and Spain does low overall participation of women in employment go together with low shares in fixed-term contracts (cf. Figure 2).

With the exception of Greece, in most other European countries the percentage share of female fixed-term employees is slightly higher than that of men. Only in Spain can a marginal widening of the gender gap in fixed-term employment be observed. Based on a multivariate analysis (Schömann/Rogowski/Kruppe 1994) we can conclude that women have a statistically significant higher probability of fixed-term employment than men in all Member States but Denmark, Germany and the U.K. In the latter three countries marital status, particularly being single, appears to be more important than gender for the probability of holding a fixed-term contract.

Age Structure of Fixed-term Employment

Since labour mobility is known to decrease with age, this implies to some extent that older or middle-aged workers are less likely to be found in fixed-term contracts. Facilitating hirings on the basis of a fixed-term contract might even have negative effects on job mobility rates of older employees since they are unlikely to accept a fixed-term contract if they had an indefinite appointment previously.

If one compares the age distribution of total employment across age groups within the European Union with the age distribution of fixed-term employment across age groups, one can see that in all countries the share of fixed-term employment is especially concentrated around the younger age groups, mainly those aged between 15 and 29 years of age. This highlights the prevailing "step-by-step" integration into the labour market.

We can observe that fixed-term contracts tend to be used as a sort of prolonged probationary period and "port of entry" into the labour market which most young people have to pass through, despite the fact that standard work contracts also allow quite extensive probationary periods in most cases. The willingness to accept a fixed-term contract is also higher among young employees, not only because of their greater mobility, but also because of the higher risk of them becoming unemployed.

The share of younger fixed-term employees almost doubled in France and Spain between 1983 and 1991. In France, this concentration of "precarious" employment among young labour market entrants has led to a re-regulation of fixed-term contracts to curb its rapid increase. Similarly in Spain, legislation has been introduced to allow fixed-term contracts to run for longer durations (see iMi 46) in order to prevent further increases in youth unemployment due to numerous fixed-term contracts reaching their dates of expiration (Alba-Ramirez 1991).

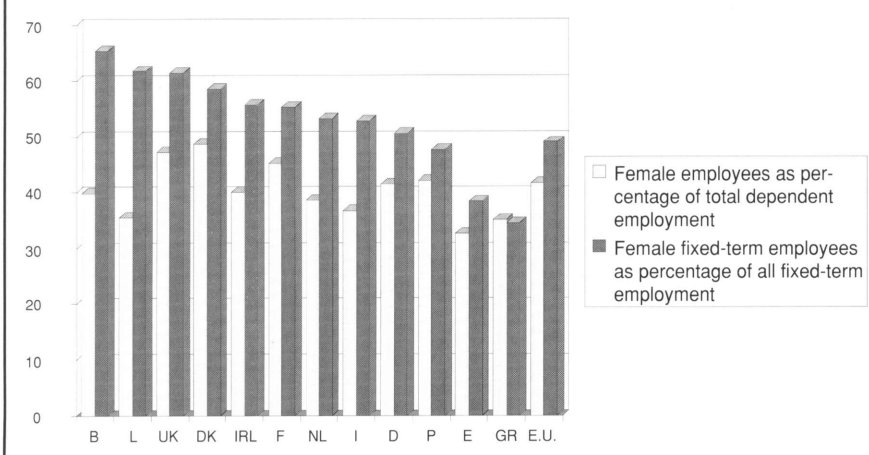
Working Fixed-Term and Part-Time

Very often fixed-term employment goes together with part-time employment. It is interesting to see to what extent employees face both types of non-standard forms of work in different countries, as this is an indication of the relative risk of accumulating job instability and reduced on working hours.

Figure 3 shows that across all countries those employed on the basis of a fixed-term contract are also more likely to work part-time. It is noteworthy that in the southern Member States, which in general have lower part-time rates in their economy, we find the highest share of fixed-term part-timers.

In countries with relatively low percentages of fixed-term employees, like Luxembourg, Belgium, Germany and the U.K., the percentage of fixed-term employees also working part-time is generally twice as high as for the employed as a whole. While in 1991 in the U. K. only 11% of part-timers said they

Figure 2: Women in Fixed-Term Employment in the E.U., 1991



Data Source: Eurostat European Labour Force Survey; own calculations

1 The definition applied in the analysis does not count apprentices as fixed-term employees. Only in Tables 1 and 2 they are included in percentages of fixed-term employees.

could not find a full-time job in Italy as many as 64% of the part-timers reported that they were unable to find full-time employment. In general the percentages of those working part-time who could not find a full-time job is higher among the fixed-term employees.

Sectoral Differences

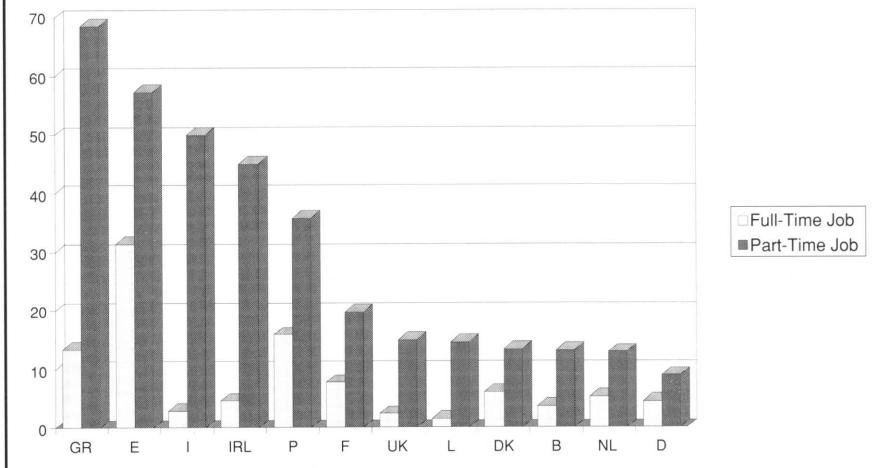
When comparing the distribution of fixed-term employees across industries in the European Union, differences in industrial structure and in employment practices become apparent. Although in Spain and Portugal fixed-term employees are numerous in all industries they reach their highest share in construction and in agriculture. These two sectors are also among those with the highest share of fixed-term employees in Greece. In most other Member States the sectors with the highest shares of fixed-term contracts are the service sector and agriculture (see Table 1).

The low percentages of fixed-term employees in the mining and chemicals industries as well as in manufacturing industries is not only to be explained by the nature of the work, i.e. the reliance on highly skilled workers, but also by the fact that collective agreements limit the use of this form of "precarious" employment in some countries. For example, in Germany agreements in the metal industries limit the maximum duration of fixed-term contracts to three months – well below the maximum duration defined by labour law.

Technically advanced industrial sectors like energy and water supply industries, which are often organized as public enterprises, show in almost all Member States the lowest or second lowest share of fixed-term employees. These characteristics of the distribution of fixed-term employees across industrial sectors reflect different employment practices within countries with regard to the reliance on internal versus external flexibility (European Foundation 1992).

The patterns of fixed-term employment by industrial sector are influenced by the industrial development structures of the countries and their procedures of collective bargaining. The role of legislation in this context varies largely between countries. A deregulation of fixed-term contracts in Spain has led to an across the board increase in the use of fixed-term contracts, whereas changes in the legal regulations in Germany in a similar direction did not lead to a more prolific use in all industrial sectors. In France the deregulation of 1984 had its strongest impact on employment practices in "other services" and in public administration, where fixed-term contracts increased rapidly until the re-regulation in 1991. These effects are confirmed by multivariate logistic regression results (Schömann/Rogowski/Kruppe 1994).

Figure 3: Fixed-Term Employees as Percentage of Total Dependent Labour Force by Full/Part-time Employment, E.U., 1991



Data Source: Eurostat European Labour Force Survey; own calculations

Labour Market Dynamics

The European Labour Force Survey includes a set of questions in which respondents are required to provide information concerning their employment status one year prior to the survey. Unfortunately this rudimentary retrospective information does not allow us to analyse multiple changes at different points in time (for example transition between unemployment and fixed-term employment), but at least a crude comparison of two points in time is made possible.

In comparing the respective shares of fixed-term and permanent employees to their employment status one year earlier, we find that generally very few unemployed return to the labour market on a permanent contract. Only between 1 and 2% of all employees holding a permanent contract in 1991 were formerly unemployed (see Table 2, column 3, and also OECD 1993 p. 26). And, between 1985 and 1991 the percentage of the unemployed leaving unemployment for permanent employment decreased in all Member States, possibly also because of the recession. Moreover, only few of the previously unemployed were recruited on fixed-term contracts and their share has not increased over time. With the exception of Luxembourg, where fixed-term contracts make up only 2% of total employment, the hiring chances of the unemployed on a fixed-term contract have decreased over time (Table 2, columns 7 to 9). Much larger shares of fixed-term employees are recruited from among previously inactive people (last three columns in

Table 1: Fixed-Term Employment as Percentage of Total Dependent Labour Force by Industrial Sectors, E.U. in 1991

	Agriculture	Public Administration	Other services	Distributive trades	Banking & finance	Construction	Manufacturing	Mining & chemical	Transport & communication	Energie & water
B	6.2	8.8	8.3	4.8	3.5	2.7	2.1	2.5	2.9	3.5
D	16.5	13.5	13.4	10.7	8.7	7.9	7.1	6.1	5.8	5.5
DK	14.9	12	14.7	15	6.4	18.2	8.5	4.7	7.1	1.6
E	54.4	15.7	27.8	38.9	26.3	55.7	28.5	22.9	19.3	9.9
F	13.9	10	14.8	10.2	7.5	10.1	8.5	5.5	6.1	4.2
GR	40.2	2.7	12.1	17.2	9.4	50	12.9	7.9	9.6	5.4
I	24.4	2.2	6.5	6.3	3.3	7.5	2.9	1.8	2	1
IRE	10.6	6.4	13.7	9.4	7.2	10.5	3.8	4.8	3.5	4
L	3.9	2.5	5.7	4.5	2.8	2.2	2.3	1.3	1.6	1
NL	11.5	6.2	10.4	8	7.4	3.8	6.3	3.5	5.1	4.4
P	29.1	8.5	14.8	21.5	15.1	23.5	16.5	12.9	10.8	6.8
UK	6.8	4	8.1	7.8	4.3	3.6	2.7	1.9	2.6	3.6

Data Source: Eurostat European Labour Force Survey; own calculations

Table 2) and especially from the previously employed (either fixed-term or permanent). Of those holding a fixed-term contract in 1991, between 56% in Ireland and 81% in Germany and Greece were in employment one year earlier. These figures cast doubt on the success of policies which advocate fixed-term contracts as a labour market policy instrument to create additional jobs and especially to reduce unemployment.

Conclusion

Fixed-term conracts continue to be an important phenomenon in European labour markets. Their impact on employment and unemployment varies among the Member States of the European Union. National regulations of fixed-term contracts have been used in some European countries during the last few years as instruments of labour market policy. However, in the majority of Member States the regulation of fixed-term contracts is still narrowly defined and predominantly concerned with limiting the possibilities to circumvent dismissal protection regulations. Both the legal development and the growth of these forms of employment are dependent on a whole range of factors like the business cycle, sectoral distribution of employment and the country-specific systems of employment protection and industrial relations practices.

Labour market segmentation and the segregation of women into less attractive occupational careers frequently lead to structural disadvantages in the labour markets of the European Union. Even if our evidence suggests that fixed-term contracts function to some extent as "ports of entry" to labour markets in most Member States, they do little to counter segmentation or segregation but rather perpetuate the structural deficiencies of labour markets (Michon/Ramaux 1993).

Longitudinal analyses of earnings differentials between fixed-term employees and permanent employees show that in Spain (Alba-Ramirez 1991), the Netherlands (Vissers/Dirven 1993) and Germany (Schömann/Kruppe 1993) fixed-term employees earn about 10% less than employees with "standard" employment contracts, if other variables like gender, age and educational differences are controlled.

Major differences in the use of fixed-term contracts can be explained by analysing the distribution of fixed-term employees across industrial sectors. The industrial sectors with the highest productivity increases in the recent past have the lowest shares of fixed-term employees in most Member States of the European Union.

The large share of young fixed-term employees also indicates that fixed-term contracts can be used as prolonged probation periods (the regular periods obviously do not provide the required flexibility) for first-time labour market entrants. However, this practice entails the risk of turning into a "last in, first out" employment strategy of firms in periods of economic recession. Indeed, among the reasons for being unemployed, the termination of fixed-term employment has become increasingly significant in many countries (Mosley/Kruppe 1993). The rising share of fixed-term employees among the young can thus lead to increasing youth unemployment at times of overall slack demand for labour.

Empirical evaluations of fixed-term contracts are still restricted by the lack of comparable panel data in the assessment of the long-term labour market integration of fixed-term employees. The restriction inhibits a proper analysis of fixed-term contracts as bridges into permanent employment. However, comparative studies of fixed-term contracts, including our own evaluation, suggest that in periods of high unemployment transitions into permanent employment become more difficult. Preliminary estimates provided by Eurostat indicate that the stock of fixed-term contracts remained (in 1992) below 10 million in the European Union[2].

Table 2: Current Employees with a Permanent or Fixed-Term Contract by Selected Labour Force Status one Year Earlier (in %)

	Unemployed with a permanent job one year later			Inactives with a permanent job one year later			Unemployed with a fixed-term contract one year later			Inactives with a fixed-term contract one year later		
	1985	1988	1991	1985	1988	1991	1985	1988	1991	1985	1988	1991
B	1.80	1.87	0.86	2.29	2.18	2.87	18.01	17.84	8.40	23.10	17.24	19.56
DK	2.55	1.82	1.81	3.23	3.74	3.04	13.45	9.63	11.77	18.14	21.29	20.1
D	0.83	0.75	0.75	1.44	1.22	1.99	3.46	3.24	2.53	15.12	13.33	15.97
GR	2.18	1.87	1.08	2.86	2.76	2.45	9.23	8.34	6.04	11.21	12.31	11.50
E	n.a.	3.72	2.09	n.a.	2.17	1.91	n.a.	32.96	22.30	n.a.	12.18	12.09
F	2.35	2.64	n.a.	3.14	2.88	n.a.	19.46	23.58	n.a.	31.39	26.79	n.a.
IRL	2.50	2.43	1.76	2.87	3.06	3.52	19.34	21.80	16.34	29.88	24.67	27.29
I	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
L	1.25	0.77	0.78	3.21	3.03	3.16	3.74	4.81	6.24	27.42	28.81	28.03
NL	1.42	0.72	0.74	3.02	11.65	14.21	12.69	6.54	2.7	24.55	49.88	49.64
P	n.a.	1.38	1.04	n.a.	1.57	1.44	n.a.	15.36	10.58	n.a.	9.67	11.89
UK	2.55	2.64	1.59	4.81	5.26	4.49	14.31	17.23	5.10	42.82	28.43	28.62

Data Source: Eurostat European Labour Force Survey; own calculations

Literature

Alba-Ramírez, A. (1991): *Fixed-Term Employment Contracts in Spain: Labor Market Flexibility or Segmentation?* Working Paper 91-29. Departamento de Economia Universidad Carlos III de Madrid

Blanpain, R. (ed.) (1991): *Temporary Work and Labour Law.* Deventer: Kluwer

Büchtemann, C.F. (ed.) (1993): *Employment Security and Labor Market Behavior.* New York: ILR Press Ithaca

European Foundation for the Improvement of Living and Working Conditions (1992): *New Forms of Work and Activity.* Survey of Experiences at Establishment Level in Eight European Countries. Dublin

Lefèbvre, F. (1991): *Travail temporaire – Contrat à durée determinée.* Paris

Michon, F./Ramaux, C. (1993): "Temporary Employment in France: A Decade Statement." In: *Labour,* Vol. 7, No. 3, pp. 93-116

Ministerio de Trabajo y Seguridad Social (1993): *Guía Laboral.* Madrid

Mosley, H./Kruppe, T. (1993): *Employment Protection and Labour Force Adjustment.* A Comparative Evaluation. Discussion Paper FS I 92-9, Wissenschaftszentrum Berlin für Sozialforschung. Berlin

OECD (1993): *Employment Outlook.* Paris

Rogowski, R./Wilthagen, T. (1994): *Reflexive Labour Law.* Studies on Industrial Relations and Employment Regulation. Deventer: Kluwer

Schaub, G. (1992): *Arbeitsrechtshandbuch.* 7. ed. München: Beck

Schömann, K./Kruppe, T. (1993): *Fixed-Term Employment and Labour Market Flexibility – Theory and Longitudinal Evidence for East and West Germany.* Discussion Paper FS I-204, Wissenschaftszentrum Berlin für Sozialforschung. Berlin

Schömann, K./Rogowski, R./Kruppe, T. (1994): *Fixed-Term Contracts and Their Impact on Labour Market Efficiency and Individual Job Careers in the European Community.* Report prepared for the Commission of the European Communities (forthcoming)

Vissers, A./Dirven, H.J. (1993): *Fixed-Term Contracts in the Netherlands: Some Evidence from Panel Data.* Paper presented at the Workshop on Fixed-Term Contracts in the E.U., November 1993 in Berlin

Walwei, U. (1991): "Fixed-term Contracts in EC Countries." In: *Intereconomics,* January/February, pp. 25-31.

2 11 million if East Germany is included.

Regulations of Fixed-Term Contracts in the European Union

	Belgium	Denmark	France	Germany	Greece	Ireland
Statutory Basis	Law on Employment Contracts of 3 July 1978; Law on Temporary Work of 24 July 1987	Provisions in the Act on White-Collar Employees; Act on the Placing of Workers and Insurance against Unemployment, as amended in 1990	L 122-1 (and the following provisions) of the Labour Code, as amended by the Law of 12 July 1990	Sec. 620 of the Civil Code; Employment Promotion Act of 1985, Act on Fixed-term Employment in Universities and Research Institutes of 1985	Sec. 669 to 671 of the Civil Code, Act 1359 of 1945 (amended 1983); Act 2081 of 1952 on seasonal work	Provisions in the Redundancy Payments Act of 1967; the Unfair Dismissal Act of 1977, and the Maternity Protection of Employees Act
Requirement of Reason	No	No	Ten reasons, including seasonal work, replace-ment, and temporary nature of work	Seven categories of reasons under case law, including seasonal work, replacement, and temporary nature of work	Four reasons, including temporary nature of work	No
Duration	Maximum duration of 2 years for replacement contracts	No maximum or minimum duration	Maximum duration varies between 9 months and 2 years according to reason for fixed-term	Statutory maximum for fixed-term contracts under the Employment Promotion Act is normally 18 months, in exceptional cases 24 months	No maximum or minimum duration	No maximum or minimum duration
Renewal	In a limited number of industries and under particular circumstances like temporary increase in workload	Unlimited	Once, up to the maximum fixed-term	In general only up to the maximum fixed-term; four months interruption before a new contract can be concluded under the Employment Promotion Act	Twice	Unlimited
Automatic Conversion into Permanent Contract	Yes, if continued after the contractual or maximum fixed-term and in case of illegality	Yes, if found to be illegal	Yes, if continued after the contractual or maximum fixed-term	Yes, if continued after the contractual or maximum fixed-term and in case of illegality	Yes, if continued after the contractual or maximum fixed-term	No
Compensation at the end ofthe fixed-term	No. Employer pays twice the normal rate of compensation if dismissal before the expiry of the fixed-term was unlawful	No	Yes, except in cases of saisonal work. Compensation is 6% of the overall crosswages	No	No	No
National Regulatory Features				Catalogue of Legally Prescribed Reasons for the Use of Fixed-Term Contracts was established by the labour courts		

Bon de commande inforMISEP «Politiques»

Veuillez m'envoyer régulièrement le bulletin «Politiques» dans le nombre d'exemplaires indiqué pour chaque langue:

___ anglais,

___ français et/ou

___ allemand.

Order form inforMISEP "Policies"

Please send me the bulletin "Policies" regularly in the following number and language:

___ English,

___ French and/or

___ German.

Bestellkarte inforMISEP „Maßnahmen"

Bitte senden Sie mir die Zeitschrift „Maßnahmen" regelmäßig in folgender Anzahl und Sprache zu:

___ englisch,

___ französisch und/oder

___ deutsch.

Nom/Name/Name: _____

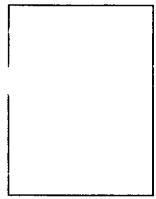
Organisation/Organisation/Organisation: _____

Adresse/Address/Adresse: _____

Code postal/Postal code/Postleitzahl: _____

Ville/Town/Wohnort: _____

Pays/Country/Land: _____

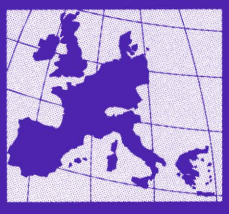


I.A.S.
Institut für Angewandte
Sozial- und Wirtschaftswissenschaften
Bundesallee 117
D-12161 Berlin

	Italy	Luxembourg	Netherlands	Portugal	Spain	United Kingdom
Statutory Basis	Sec. 2094 (and following) of the Civil Code; Workers' Statute of 1970; Law 230 of 1960; Law 876 of 10977; Law 79 of 1983.	Law of 24 May 1989; Grandducal Regulation of 11 July 1989	Sec 1639 e to g of the Civil Code	Decree-Law 781 of 28 October 1976; Decree-Law 64-A of 27 February 1989	Workers' Statute of 1970; Law 32 of 2 August 1984; Law 18 of 3 December 1993	Sec. 13 (2), 20 (2), 49 (4), 55 (2), 83 (2), 142 (1) (2) Employment Protection (Consolidation) Act of 1978
Requirement of Reason	Nine reasons, including sea-sonal work, replacement, and temporary and occasional character of work	Ten reasons, including seasonal work, replacement, and temporary and occasional character of work	No	No, unless the fixed-term is for less than 6 months. In this case the work must be temporary in nature	Eleven reasons, including specific purposes, but excluding seasonal work	No
Duration	Maximum fixed-term 6 months; in case of training contracts: 24 months	Maximum fixed-term 2 years	No maximum or minimum	Maximum duration 6 years (maximum fixed-term is 3 years with the possibility of renewal for a further 3 years)	Maximum fixed-term 3 years	No maximum or minimum
Renewal	Once for the same duration as the previous contract	Twice, up to the maximum fixed-term	Unlimited	Up to the maximum fixed-term	Up to the maximum fixed-term	Unlimited
Automatic Conversion into Permanent Contract	Yes, if continued after the contractual or maximum fixed-term	Yes, if continued after the contractual or maximum fixed-term	No; instead, automatic renewal for a maximum of 1 year if continued for the first time after the expiry of the fixed-term. But conversion into a permanent contract, if continued beyond the extra year without explicit renewal	Yes, if continueed after the maximum fixed-term	Yes, in case of illegality	Yes, if the fixed-term contract is concluded for less than a month and lasts in fact more than three months
Compensation at the end of the fixed-term	No	No	No	Yes, two days basic remuneration for each month of service	No	No
National Regulatory Features	Restrictive judicial interpretation of regulations on fixed-term contracts					Common law rules on contract to perform a particular task

Source: Schömann/Rogowski/Kruppe 1994

EMPLOYMENT OBSERVATORY



Policies

inforMISEP

The Employment Observatory of the European Commission currently produces four series of regular reports covering different aspects of the Community's labour market. The Employment Observatory complements the Commission's "Employment in Europe" report published annually in all Community languages.

Policies
The series inforMISEP "Policies" presents those measures, policies and instruments adopted by the Member States which are aimed at promoting and improving employment within the European Community. The reports are compiled on the basis of information provided through the Mutual Information System on Employment Policies (MISEP). MISEP was created to meet the need for an exchange of information on employment policies and institutions within the European Community. A bulletin of recent developments in employment policies is published quarterly in English, French and German. Basic Information Reports describing the national employment institutions, measures and procedures in each Member State are updated and published periodically. In addition, comparative reports on the effects of labour market policy measures will be published at regular intervals.

Trends
The series "Trends" contains summaries and analyses of employment developments in the European Communitiy on the basis of published work (books, reports, and scientific papers) throughout the Member States. It disseminates the information collected by the European System of Documentation on Employment (SYSDEM), which aims to collect, analyse, synthesise and disseminate available information on employment in the Community. "Trends" is published quarterly in English, French and German.

Research
The "Research" papers present the results of studies on specific themes carried out jointly each year by the Commission and the Member States. The themes for these studies are chosen by the Commission in consultation with the Member States and the social partners in the light of the contribution which can be made by the national co-ordinators and of their relevance for on-going policy analysis. They are published annually in English, French and German.

Central and Eastern Europe
The "Central and Eastern Europe" bulletin is a new addition to the Employment Observatory, containing regular reviews on labour market and social conditions of Central and Eastern Europe. It aims to present up-to-date information on labour market and social conditions in these countries. It contains not only the latest statistical labour market indicators, but also analytical articles on employment developments in the six countries currently covered: Bulgaria, Czech Republic, Slovakia, Hungary, Poland and Romania. It is published twice a year, in English only at present.

East Germany
The aim of the series on "East Germany" is to present analytical and up-to-date information on the transformation process and its implications for the labour market in the one part of the former Eastern Bloc which has already become a part of the European Community: the new German Federal States *(Länder)*. The publication is addressed to persons and institutions in Western, Central and Eastern Europe who have an interest in the transformation process from a planned to a market economy. This newsletter is published quarterly in German, English and French.

CE-DM-94-003-EN-C