

# EMPLOYMENT REGULATION AND PATTERNS OF WORK IN EC COUNTRIES

David Grubb and William Wells

## CONTENTS

Introduction and summary .....	8
I. Statistical indicators for employment regulation .....	9
A. A definition of employment regulation .....	9
B. The legal bases of employment regulation .....	10
C. Individual dismissals .....	11
D. Fixed-term and temporary work agency (TWA) work .....	15
E. Working time .....	17
F. Part-time work .....	18
II. Work patterns .....	19
A. Self-employment and temporary and part-time work .....	19
B. Working hours and flexible working practices .....	21
III. Cross-country correlations between regulation indicators and patterns of work .....	23
IV. Employment regulation and employer and employee dissatisfaction	30
V. Conclusions .....	33
Bibliography .....	40
Annex 1. Regulation of individual dismissals .....	41
Annex 2. Regulation of temporary employment .....	51
Annex 3. Regulation of working time .....	53

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David Grubb is an administrator in the International Migration and Labour Market Policies Division of the Directorate for Education, Employment, Labour and Social Affairs and William Wells is an administrator in the United Kingdom Department of Employment. The views expressed by the authors do not necessarily represent those of their employers. The authors thank Jørgen Elmeskov, John P. Martin and Peter Sturm for helpful and careful reading of earlier versions. Sandrine Duchesne for statistical assistance, and Lydia Anth  nor for technical assistance.

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## INTRODUCTION AND SUMMARY

This paper investigates how employment regulation and patterns of work are correlated across EC countries. The main forms of employment regulation considered are:<sup>1</sup>

- restrictions on employers' freedom to dismiss workers;
- limits on the use or the legal validity of fixed-term contracts;
- limits on the use of temporary work agency (TWA) work;
- restrictions on weekly hours of regular or overtime work;
- limits on shift, weekend and night work; and
- limits on employers' use of part-time work.

Employment regulation may have both direct effects on patterns of work, for example with regulation of temporary work and of working hours affecting the observed incidences of temporary work and hours actually worked, and indirect effects such as inducing a shift in the structure of employment towards non-regulated forms of work. The possible influences of employment regulation upon macroeconomic variables or aggregate unemployment\* are not investigated in detail here, although the evidence throws some light on how regulation may influence aggregate employment.

For cross-country correlations between measures of regulation and labour market behaviour to be meaningful, reliable summary indicators for both variables are needed. Some earlier research has used measures for the strength of regulation which are not entirely satisfactory because they are either based exclusively on employer opinions (*i.e.* reports by employers that they consider regulation to be "very important", "fairly important" or "unimportant" as a reason for not hiring new employees),<sup>3</sup> or take into account only limited aspects of regulation (typically, the months of notice that must be given to dismissed employees, and amounts of severance pay).<sup>4</sup> The next section of the paper tries to improve on earlier research in this area by deriving indicators from more detailed information about the legal constraints that apply in each country.

Section III compares the statistical measures of employment regulation with the incidence of various "atypical" forms of work contract and hours of work. The incidences of fixed-term contract work and TWA work increase with the regulation of regular work, but decrease when these forms of employment themselves are regulated. Countries where all forms of dependent employment are regulated tend to have a low share of the population working as employees. The overall

proportion of the population that is in employment is less affected, because employment regulation is also associated with an increase in self-employment.

Part-time work, unlike self-employment, can be regulated. If regulation in effect protects “standard” workers against competition from “non-standard” workers – e.g. specifying that employers may introduce part-time work into a workplace only by prior agreement with their unions – it may reduce its incidence. Because regulation of part-time work is not always explicit and the social security contribution and benefit structures may be important influences (see the subsection on this topic below), no summary indicator for direct regulation of part-time work has been constructed here. Despite changes during the 1980s in a number of EC countries to facilitate or encourage part-time work, its incidence in 1989 remained relatively low in the countries with the strictest general regulatory environment. As regards working time, cross-country comparisons show at most a weak relationship between restrictions on weekend, shift and night-time work and the actual incidences of these forms of work. A stronger finding is that, in countries with a strict regulatory environment, the distribution of weekly hours of work tends to be bunched, because a large proportion of employees are working at the regulated “standard” for weekly hours.

A fourth section examines the impact of regulation on employee perceptions of their employment status and employer perceptions of employment regulation. Not surprisingly, employers more often cite employment regulation as a constraint on hiring in countries where regulation is strict according to the indicators developed here. On the employee side, workers with fixed-term contracts tend to be more dissatisfied with this status in countries where permanent workers have a high level of employment security.

This paper examines only evidence from EC countries, in order to limit its complexity, and because many of the comparative indicators for employment structure are most easily available for these countries. Further research, to establish how far the results correspond to experiences in other countries as well, would be desirable.<sup>5</sup>

## I. STATISTICAL INDICATORS FOR EMPLOYMENT REGULATION

### A. A definition of employment regulation

Because employment regulation can take several forms, it needs to be defined with some care. As understood here, regulation exists when an individual employer cannot, even by agreement with his or her own employees, use particular working arrangements or forms of employment contract, without risking legal sanctions or the invalidity of the relevant provisions in the contract.<sup>6</sup> Thus, a binding collective agreement between an employer and representatives of his or her own employees is regarded here as a commercial contract and not as a form of regulation, on the basis that the employer was free not to sign it. An absence of regulation does not imply that employees can choose their hours of work with any employer, because employers may consider that it is technically impractical to

have different employees working different hours, or may have signed a collective agreement that specifies particular working hours. However, if a significant group of workers can work long hours productively and wishes to do so, in a competitive market and in the absence of regulation these workers can expect to find employers willing to employ them on that basis. As understood here, arrangements which prevent employers from competing in this way would be a form of regulation.

## **B. The legal bases of employment regulation**

Documentation of the strictness of employment regulation is complex, because the regulation of employment has several different bases in law. Statutory legislation, which specifies for example the compensation that should be paid to a dismissed worker as a function of the worker's length of service with the enterprise, is the most obvious source.<sup>7</sup> Even the documentation of this aspect of regulation can, however, be difficult because the text of the legislation may be unclear. For example, when one text appears to place a fixed maximum on weekly hours of work, other texts and observation of accepted labour practices typically indicate that the statutory maxima do not apply to all weeks of work. Maxima may apply only to "normal" circumstances, with the definition of the "exceptional" circumstances under which the maxima may be exceeded being itself unclear; maxima may refer to weekly hours averaged across a number of weeks; or indeed maxima may only define a level of weekly hours beyond which employers must pay overtime rates of pay. An institutional background such that labour legislation is not actively enforced by a government Labour Inspectorate, but applied only to issue judgements when employees bring cases before the courts, may allow employers and employees to agree to exceed legislated maximum working hours when overtime rates of pay are sufficiently attractive. This type of institutional context is rarely clear from legislation itself.

Some labour legislation is also unclear in the sense that it leaves the courts responsibility for deciding important matters. In Belgium, experts have developed several formulae to predict the compensation that the courts are likely to award to a dismissed salaried worker as a function of such factors as professional status, age and length of service. In this type of institutional situation, it is necessary to take such formulae into account in order to obtain a meaningful indicator for the strictness of regulation.

The "administrative extension" of sectoral (industry-wide) collective agreements constitutes a further important form of regulation. As described by Blanpain (1991, p. 203) "the normative part of the collective agreement may be extended by government decree to all employers and employees within a sector or a branch of industry. In such a case the collective agreement functions as a legal provision". Thus, provisions concerning notice to be given to dismissed workers, weekly hours of work, or maternity leave, which have been negotiated between some group of employers and some group of employee representatives, can through "administrative extension" be made legally binding even on employers who were not a party to the negotiations. "Administrative extension" of sectoral collective agreements is possible in all EC countries except Denmark and the United Kingdom.<sup>8</sup> However, such extension in practice applies only very rarely in

Ireland. In Germany, Greece, and the Netherlands, extension can only be applied if a minimum proportion, 50 or 60 per cent, of employees in the sector are represented in the negotiations. In Portugal, France and Spain, administrative extension can be applied to a sector where there is no trade union or no agreement between unions and employers (such extension will typically apply the terms of a collective agreement in a related sector).<sup>9</sup> In all such cases individual firms, whether members of the sectoral association or not, may be considered to be regulated by these collective agreements.<sup>10</sup>

Employment may thus be regulated by statutory legislation alone, by sectoral collective agreement alone, or by both. In the case of minimum annual holiday entitlements, in Denmark, Greece, Portugal and Spain, entitlements specified in national legislation are the actual holiday entitlement for almost all workers; in Belgium, France and the Netherlands, the law sets a minimum which applies directly to some workers but which is improved upon by collective agreement for others; in Germany the law provides only a low minimum holiday entitlement, and collective agreements are the principal constraint. In Italy collective agreements are the only constraint, since the law sets no specific minimum.

The multi-dimensional nature of the information on employment regulation – reflecting the different forms taken by employment regulation – as well as its sometimes ambiguous nature make the construction of indicators for the strictness of regulation difficult. The tables presented in this paper, often derived from original information in non-tabular form, thus reflect certain judgements by the authors. We have sought to present summary information that is as objective and accurate as possible, taking into account several multi-country surveys of regulatory provisions.<sup>11</sup> However, for a fuller understanding of the complexities involved, readers are referred back to the cited sources.

The approach used here in constructing indicators for the “strictness” of regulation is to “score” countries on a number of detailed aspects of the regulatory situation, and then apply a “rank-average-rank” technique (described below under detailed topic areas) in order to arrive at a summary indicators for each general field. The indicators, based on information about legislation, collective agreements and court judgements in the late 1980s, remain primarily indicators of formal provisions without an allowance for the degree of enforcement. The degree of enforcement probably depends upon factors such as how costly it is for employees to take disputed cases to court, how far unions advise employees of their legal rights and bear the costs of legal proceedings on their behalf, and (as mentioned earlier) whether the Labour Inspectorate and similar bodies enforce legislation actively, or intervene only when employees or unions explicitly call disputes to its attention.

### **C. Individual dismissals**

Judging by the attention given to them by industrial relations experts and the frequency with which they are cited by employers, regulatory provisions in three main areas – procedural delays and complications, notice and severance pay, and unfair dismissals provisions – are seen by employers as a significant constraint on dismissing workers.<sup>12</sup> In the Netherlands, employers’ complaints about

employment security provisions relate to the necessity of obtaining prior administrative authorization for dismissals and the delays involved (in the mid-1980s a major effort was made to streamline the procedures, which however some employers still consider lengthy). More generally, related administrative requirements, e.g. that the employer should state reasons for the dismissal or proposed dismissal or notify the proposal to a third party, are an important aspect of regulation. In other countries obligatory notice and severance pay, in the case of dismissals attributed to factors such as economic redundancy or low individual worker productivity, may be the most important factor. In countries such as Spain, employers find it so difficult to obtain administrative authorization for dismissals, or a favourable court judgement in a contested case, that they often take into account the penalty rates of severance pay applying to unauthorized or unjustified dismissals, or even argue that they cannot afford to dismiss individual workers at all. In this case, the legal provisions which define the circumstances under which dismissals can be considered unfair, and rates of compensation for a worker who has successfully claimed unfair dismissal, are relevant to measuring the strictness of regulation. These factors are incommensurate: it is not possible to take a simple average across variables such as “the circumstances under which dismissals are considered unfair”, “whether prior administrative authorization is required before dismissal”, and “obligatory months of notice prior to dismissal” in order to get a single indicator for the costs of dismissals to employers.

As a first step in summarizing the available information, indicators for regulatory provisions in each of the areas described above are assembled in Table 1, part 1. The derivation of the indicators in Table 1 is documented in more detail in Annex 1, Tables 1.A to 1.D. At this stage variables are expressed either in units of time (days spent on administrative procedures before giving notice to a dismissed worker; months of severance pay; months of trial period at the beginning of employment before a worker is able to claim unfair dismissal; etc.) or as scores on a scale of 0 to 3 devised specifically for each variable. Thus, under “notification”, a requirement that the employer should state in writing the reasons for dismissal is scored 1, while a requirement that the employer should first obtain prior authorization for the dismissal from a government administration is scored 3.

As a second step Table 1, part 2, shows rankings of countries derived from part 1 of the table. The variables “notice” and “severance pay” for each duration of job tenure are aggregated by regarding each month of notice required as equivalent to 0.75 of a month of severance pay. This coefficient is chosen on the basis that an obligation to give a month of notice is in principle less onerous for the employer than an obligation to give a month of severance pay, because the employee in the former case is still working; yet employers often do not require dismissed employees to work following their notice of dismissal (perhaps because productivity will be low, or simply because there is no longer any suitable work), in which case a month of notice requirement becomes as onerous as a requirement to pay a month’s salary in compensation.<sup>13</sup> Notice and severance pay provisions at different durations of job tenure, and all the other variables, are considered incommensurate.

At this stage, separate summary indicators are constructed for each of three main areas of dismissals regulation discussed above: *i*) the procedural inconveniences involved in implementing a no-fault dismissal; *ii*) the costs incurred, after

**Table 1. Indicators of the “strictness” of employment protection legislation**

1. Values of the indicators'

Source <sup>2</sup>	Regular procedural inconveniences		Notice and severance pay for no-fault individual dismissals						Difficulty of dismissal			
	Table 1.A		Table 1.B						Table 1.C	Table 1.D		
	Proce- dures	Delay to start of notice	Notice period			Severance pay			Definition of unfair dismissal	Trial period	Compen- sation At 20 y	Rein- state- ment
			9 m	4 y	20 y	9 m	4 y	20 y				
Scale	0 to 3	Days	Months						0 to 3	Months	to 3	
Belgium	1	3	2	3.6	11.4	0	0	0	0	3.3	12.5	0
Denmark	0.5	0	1.6	2.8	5	0	0	1.5	0	3	9	1
France	1.5	12	1	2	2	0	0.4	2.7	0	1.2	15	0
Germany	3	10	1	1	4.5	0	0	0	2	6	18	2
Greece	2	1	0.6	1.7	9	0.3	0.9	4.6	1	2	9	2
Ireland	1.5	3	0.2	0.5	2	0	0.5	3.9	0	12	24	1
Italy	1.5	0	0.3	1.1	22	0.7	3.5	18	0	0.8	32.5	3
Netherlands	3	35	0.6	1	5.3	0	0	0	1	2	5.3	1
Portugal	2	17	0.8	2	9.1	0.2	1.7	9.3	3	1	20	3
Spain	2.25	40	1	3	3	0.2	1.3	6	2	1.7	35	0
United Kingdom	1	3	0.2	0.7	2E	0	0.9	4.6	0	24	10.8	0

2. Rankings of countries by the indicators in part 1 above<sup>4</sup>

Key <sup>3</sup>	Regular procedural inconveniences		Notice and severance pay for no-fault dismissal			Difficulty of dismissal			
	Proce- dures	Delay to start of notice	Entitlement according to job tenure:			Definition of unfair dismissal	Trial period	Compen- sation	Reinstatement
			9 m	4Y	20 Y				
Belgium	2.5	5.0	11.0	8.0	8.0	3.5	4.0	5.0	2.5
Denmark	1.0	1.5	10.0	6.0	4.0	3.5	5.0	2.5	6.0
France	5.0	8.0	5.0	5.0	3.0	3.5	9.0	6.0	2.5
Germany	10.5	7.0	5.0	1.5	1.0	9.5	3.0	7.0	8.5
Greece	7.5	3.0	5.0	7.0	9.0	7.5	6.5	2.5	8.5
Ireland	5.0	5.0	1.5	3.0	5.0	3.5	2.0	9.0	6.0
Italy	5.0	1.5	8.0	11.0	11.0	3.5	11.0	10.0	10.5
Netherlands	10.5	10.0	3.0	1.5	2.0	7.5	6.5	1.0	6.0
Portugal	7.5	9.0	7.0	9.0	10.0	11.0	10.0	8.0	10.5
Spain	9.0	11.0	9.0	10.0	7.0	9.5	8.0	11.0	2.5
United Kingdom	2.5	5.0	1.5	4.0	6.0	3.5	1.0	4.0	2.5

Table 1. Indicators of the "strictness" of employment protection legislation  
(cont'd)

3. Summary rankings by main area<sup>5</sup>

	Regular procedural inconveniences	Notice and severance pay for no-fault dismissals	Difficulty of dismissal	Overall ranking for strictness of protection against dismissals
Belgium	3.5	10.0	2.0	4.0
Denmark	1.0	6.0	3.0	2.0
France	7.0	5.0	5.5	5.5
Germany	9.0	2.0	8.0	7.0
Greece	6.0	7.0	7.0	8.0
Ireland	5.0	3.0	4.0	3.0
Italy	2.0	11.0	10.0	9.0
Netherlands	11.0	1.0	5.5	5.5
Portugal	8.0	8.5	11.0	10.5
Spain	10.0	8.5	9.0	10.5
United Kingdom	3.5	4.0	1.0	1.0

- All information in this table relates to individual dismissals (provisions applying to large-scale plant closures may differ) and relates, where relevant, to an average across provisions for manual and non-manual workers and an average across provisions for personal (individual) reasons and provisions for technical (economic) reasons.
  - Refers to Tables in Annex 1, which provide more detailed information on each variable.
  - The variables tabulated under each key are as follows:
    - Procedures: procedures to be followed when issuing a regular dismissal notice: 1 for a statement in writing to the employee of reasons for his dismissal, 2 for notification to a third party (works council or local employment exchange) and 3 when prior permission for dismissal must be obtained from the third party.
    - Delay to start of notice: the delay between a decision to dismiss and the time that notice can become effective after following required procedures in days (e.g. notification by registered letter is assumed to involve 3 days).
    - Notice period, 9 m, 4 y, 20 y. the lapse between issuance of a dismissal notice and the effective cessation of employment, in months. The columns refer to workers who have been with the employer 9 months, 4 years, and 20 years respectively.
    - Severance pay, 9 m, 4 y, 20 y. a lump-sum payment to the dismissed employee at the time of cessation of employment: the three columns differ as for "notice period above."
    - Definition of unfair dismissal: scored 0 when worker capability or redundancy of the job are adequate grounds for dismissal, 1 when social considerations, age or job tenure must when possible influence the choice of which worker(s) to dismiss, 2 when retraining to adapt the worker to different work must be attempted prior to dismissal, and 3 when worker capability can never be a basis for dismissal.
    - Trial period: the maximum length of the period after hiring during which an appeal against dismissal on grounds of unfairness cannot be made.
    - Compensation at 20 y. the Compensation payable to a worker who has been unfairly dismissed after 20 years with the employer.
    - Reinstatement: scored 0 if, following a court judgement of unfair dismissal, reinstatement is never granted: 1 if reinstatement is "rare", 2 if reinstatement is "possible" and 3 if the employee always has the option of reinstatement.
  - All rankings increase with the strictness of employment protection (the UK, with a 24-month trial period before unfair dismissal claims become possible, is ranked 1 for this variable). Some fractional values arise because, when two or more countries have equal scores in part 1, the ranking algorithm attributes the average rank to each country. Thus, two countries ranked equal second/third are each attributed a rank of 2.5, not 2 or 3.
  - The summary rankings are ranks of the unweighted average of the ranks under each subheading in part 2, and the overall ranking is based on a similar unweighted average of the first 3 columns of part 3.
- Sources: See Annex 1.

the dismissals notice becomes effective, in terms of notice period and severance pay; and *iii*) costs of unfair dismissal, which may apply when the employer has dismissed an employee immediately for fault, or has in some other respect failed to follow regular procedures. First, an arithmetic average is taken across the rank positions shown in part 2 of Table 1, then these averages are themselves ranked preserving the order, *i.e.* the lowest average is ranked 1, not 11 (this is the “rank-average-rank” procedure). Since relatively little evidence is available that could justify giving different weights to different factors, the use of simple unweighted averages is felt to be the least arbitrary option for this averaging procedure.<sup>14</sup>

The ranks by form of regulation show some tendency for countries to require either following administrative procedures prior to dismissal (as in the Netherlands), or to provide for generous cash compensation or perhaps reinstatement after a dismissal has taken place (as in Italy), but not both. The last column of Table 1 part 3 shows an overall indicator for the strictness of regulation of dismissal, constructed as the rank-average-rank across the three areas.

The summary ranking thus obtained relates to constraints on, or employer costs of, individual dismissals. Among the factors not taken into account are specially strengthened provisions against dismissal on grounds of discrimination (sex, race, religion or trade union representation), and arrangements for collective dismissals, where special provisions apply in many countries.<sup>15</sup> One factor limiting the accuracy of the rankings is that statutory provisions are sometimes taken into account in areas where collectively bargained provisions are more important (*e.g.* severance pay in Germany) because the sources used did not report average or typical provisions in collective agreements. Despite such limitations, the overall ranking obtained should be more accurate than one based on provisions as regards notice and severance pay alone. Comparison of the second and fourth columns of Table 1, part 3, show that scoring of further factors has influenced the “strictness” rankings significantly, reducing those of Denmark and the United Kingdom, and increasing those of the Netherlands and Germany.

#### **D. Fixed-term and temporary work agency (TWA) work**

All countries allow employers to dismiss workers without risking a claim for unfair dismissal when the work involved is inherently seasonal or temporary (*e.g.* for building labourers hired to construct a dam). However, in some countries, employers can avoid claims for unfair dismissal in a much wider range of situations by hiring employees with a contract that specifies, at the time of hiring, that employment is for a fixed term. Another method of hiring workers temporarily is for the user firm to hire workers through a TWA, but this form of employment is also often restricted.

Many countries list specific situations in which fixed-term employment contracts are permitted (*e.g.* fixed-term hiring into a permanent post is permitted when the permanent occupant of the post is temporarily absent on maternity leave, or such hiring is permitted if the person hired is long-term unemployed). Many do not allow repeated renewals of fixed-term contracts, and put maxima on the length of TWA assignments. Provisions of this kind are documented in detail in Annex 2. Table 2 shows the values of three indicators for the strictness of

Table 2. Regulation of temporary forms of employment contract

Indicator values and country rankings

Source <sup>1</sup>	Fixed-term				Temporary work agency employment					
	Table 2.A				Table 2.B					
Key <sup>2</sup>	Valid cases other than the usual "objective"	Maximum number of successive contracts	Maximum cumulated duration	Overall strictness	Types of work for which TWA is legal	Restrictions on number of renewals	Maximum cumulated duration	Can final user terminate at any moment?	Overall strictness	
Variable name					RFTC					RTWA
Scale	0-2 or all	Number	Months	Rank	0-3 or general	Yes/No	Months	No = 0 Yes = 1	Rank	
Belgium	0	1	24	11.0	2	Yes	2	0	8.0	
Denmark	All	Nolimit	Nolimit	2.0	2	Yes	3	1	5.0	
France	1	3	24	8.0	3	No	24	0	3.0	
Germany	1	1	18	9.0	2	Yes	6	0.5	6.0	
Greece	0	3	No limit	7.0	0	n.a.	n.a.	n.a.	10.0	
Ireland	All	Nolimit	Nolimit	2.0	General	No	No limit	1	1.5	
Italy	0.5	1.5	45	10.0	0	n.a.	n.a.	n.a.	10.0	
Netherlands	All	1	No limit	4.5	General	Yes	6	0.5	4.0	
Portugal	2	3	30	6.0	1	Yes	9	0	7.0	
Spain	2	6	36	4.5	0	n.a.	n.a.	n.a.	10.0	
United Kingdom	All	No limit	No limit	2.0	General	No	No limit	1	1.5	

n.a.: not applicable.

1. Refers to Tables in Annex 2, which provides more detailed information on each variable.

2. The variables tabulated under each key are as follows:

Valid cases other than the usual "objective"? scored 0 if fixed-term contracts are permitted only in "objective" cases (*i.e.* to perform a task which itself is of fixed duration): 1 if specific exemptions apply to situations of employer need (*e.g.* launching a new activity) or employee need (*e.g.* workers in search of their first job); 2 when exemptions exist on both the employer and the employee side: "all" when there are no restrictions on the use of fixed-term contracts.

**Maximum** number of successive contracts: refers to limits on the number of successive fixed-term contracts that an employee can have with a given employer (1 when no renewals are permitted).

Maximum cumulated duration: the maximum cumulated duration of successive fixed-term contracts or TWA assignments with a given employer (and without a break in the employment spell).

Types of work for which TWA is legal: scored on a scale with 0 where TWAs are never legal, 1 to 3 when legal only for certain work situations (*e.g.* not for permanent posts) or industries, and general where no work-situation or industry restrictions apply.

Can final user terminate at any moment?: In some countries notice requirements apply to termination of the assignment of an employee hired through a TWA agency or TWA agency work takes the form of a fixed-term contract.

Overall strictness: A rank-average-rank, as described in the main text, of the variables in preceding columns.

Sources: See Annex 2.

regulation of fixed-term employment contracts and four indicators for the strictness of regulation of TWA employment, with an overall summary ranking for each form of regulation. The overall summary rankings are derived by the rank-average-rank procedure described above. TWAs are illegal in Greece, Italy and Spain (except in some specialised fields) and these countries are therefore ranked as

having the most restrictive legislation, with the rank-average-rank procedure being needed only for ordering the remaining countries.

## E. Working time

Table 3, based on detailed Tables 3.A to 3.D in Annex 3, shows indicators for the regulation of working time based on:

**Table 3. Regulation of working time**

Source <sup>2</sup>	Maximum normal work time				Flexibility of working time					
	Table 3.A				Summary	Table 3.B	Table 3.C	Table 3.D		Summary
	Normal annual weeks		Normal weekly hours		Restrictions on normal weekly hours <sup>3</sup>	Maximum annual over-time	Flexibility in the distribution of hours <sup>4</sup>	Minimum weekly rest at weekends <sup>5</sup>	Restrictions on night work <sup>6</sup>	Restrictions on overtime, flexible, weekend and night work <sup>7</sup>
	A <sup>1</sup>	B <sup>1</sup>	A <sup>1</sup>	B <sup>1</sup>						
Variable name					RNRH	ROTW	RFDH	RWEW	RNTW	ROFWN
Scale	Weeks		Hours		Rank	Hours	Ratio	Hours	0-2	Rank
Belgium	46.14	44.44	38	38	10	200	1.78	24	2	5.0
Denmark	47.14	47.14	39	37	11	144	1.50	29.5	0	2.0
France	46.94	44.84	39	39	7	233	1.26	24	1	7.5
Germany	46.94	44.53	48	38	8.5	540	1.24	24	1	6.0
Greece	47.34	45.14	40	40	4	135	1.33	48	1	10.0
Ireland	47.54	46.34	48	39	2	300	1.36	30	0	3.5
Italy	48.14	48.14	48	39	6	363	1.30	24	1	3.5
Netherlands	46.74	45.64	48	38	8.5	540	1.40	30	2	7.5
Portugal	45.34	45.14	48	42	3	120	1.26	36	1	11.0
Spain	44.34	44.44	40	39.5	5	80	1.37	30	0	9.0
United Kingdom <sup>8</sup>	..	..	..	..	1	..	..	..	..	1.0

1. A = calculations based on legislation only, B = calculations reflecting typical provisions in collective bargaining.
2. Refers to Tables in Annex 3 which provides more detailed information on each variable.
3. The ranking according to maximum normal hours is based on column B (collective bargaining provisions) with column A used as a tie-breaker, except that Ireland is ranked immediately after the United Kingdom (because collective agreements are not generally extended to nonparticipants, see text).
4. The summary indicator for flexibility in the distribution of hours is the average of maximum hours in any day, in any week, and in any month each expressed at a weekly rate (e.g. if legislation limits work to 12 hours in any one day, this is 84 hours at a weekly rate), as a ratio to normal weekly hours established in collective bargaining, plus 1/48 of maximum annual overtime in cases where the numerator refers to hours of work including overtime.
5. "Minimum weekly rest at weekends" is an estimate of the minimum hours of rest at weekends that would be needed to satisfy both restrictions on Saturday and Sunday working and (if relevant) any direct minimum weekly rest.
6. "Restrictions on night work" is scored 2 if there is a general ban on night work (subject to exceptions) and 1 if night work by women is restricted.
7. The ranking according to restrictions on overtime, weekend and night work is calculated using an unweighted average rank procedure as applied in preceding tables.
8. The United Kingdom does not have general legislation on the variables appearing in this table and is ranked as least restrictive.

Sources: See Annex 3.

- maxima for normal hours of work per week and weeks of work per year;
- limits on overtime (worktime above normal hours);
- the scope for the flexible distribution of hours across the week, month, or year;
- restrictions applying to Saturday and night work.

The United Kingdom is ranked least strict on every one of these criteria because it has no general legislation. Legislation on such topics in the United Kingdom applies only to particular types of worker (such as youth). The figures for other countries reflect certain judgements concerning the interpretation of regulations in each country: as noted above, legal texts and other sources are often ambiguous, even for such apparently simple variables as maximum weekly working time.

## **F. Part-time work**

Because few legislative texts or collective agreements explicitly restrict the use of part-time work, it is difficult to build objective indicators of the strictness of employment regulation in this important area. This is unfortunate because the general regulatory environment does probably influence the incidence of part-time work. Legislation in Greece, Italy, Portugal and Spain did not, until about a decade ago, recognize its existence. In some cases, legislation specified social security contributions at daily or monthly rates graduated by occupation and set at rates appropriate to full-time work: in this situation, part-time work was relatively heavily taxed if it was declared. Recent laws in Italy and Spain (1984) and Greece (1990) have given a distinct legal status to part-time work, with legislation on social security, employment protection, and similar matters adapted appropriately. Notice periods and redundancy pay following dismissal are explicitly less for part-time workers as compared with full-time workers in Ireland and the United Kingdom (where certain aspects of compensation are specified as cash amounts); in most other countries, compensation is proportional to previous earnings.

In several **EC** countries – Belgium, France, Germany and the Netherlands – employers in large establishments are obliged to consult (or in France, notify) employee representatives before introducing part-time work. Unions have at times used the powers they have in this area to discourage part-time work, because part-time work is seen as inherently inferior, undermining the competitive position of union members or undermining the position of unions themselves due to the typically lower level of unionisation among part-time workers.<sup>16</sup> However, during the 1980s unions frequently shifted their attention towards enrolling part-time workers and improving their pay and conditions, as a means of protecting them while safeguarding the competitive position of full-time workers. Attempts to promote work-sharing, as a measure to tackle unemployment, have sometimes involved reforms of regulation to encourage part-time work.

## II. WORK PATTERNS

This section takes stock of some statistics available for comparing “typical” and “atypical” work patterns across EC countries. A first group of statistics describes how the population of working age is distributed between the non-employed, self-employed, and employees with particular statuses. A second group of statistics describes average levels of “normal” and “usual” hours of work (the former excludes hours paid at overtime rates), the variability of hours worked, and the incidence of flexible working arrangements such as shift work.

The previous section assessed the four southern European Countries as having the strongest restrictions on dismissals and also relatively strong regulation of working time. The United Kingdom is at the opposite extreme, with few restrictions. Many indicators for working patterns examined below show a similar pattern, with southern Europe and the United Kingdom at opposite ends of the ranking. Questions of interest when considering the available evidence include:

- Which other EC countries, if any, are close to the extremes in the United Kingdom and southern Europe? and
- Can a wide range of labour market outcomes be linked to the general strictness of the regulatory environment? Alternatively, can specific outcomes be linked to specific regulations (so that, for example, the incidence of overtime work is affected only by direct regulation of it)?

### A. Self-employment and temporary and part-time work

Tables 4 and 5 give a first group of statistics. The first two columns in Table 4 show the proportion of the population of working age that is in employment and in employee employment, the next four columns show non-employee employment (employers, self-employed and family workers) as a proportion of total employment, and the last five columns show the shares of temporary and part-time work in total employee employment.<sup>17</sup> The categories of family workers and multiple job-holding are relatively small, and attention in later analysis will be concentrated on self-employment (including employers and family workers), temporary and part-time work.<sup>18</sup> These statistics are from the regular EC labour force survey. The last three columns of Table 4 show for comparison the incidences of temporary and part-time work, as reported in the 1989 EC Ad Hoc survey, which is relevant for this paper because it is the only source for some types of information (see later tables). Where there are discrepancies, the labour force survey very probably remains the more accurate source.<sup>19</sup>

Among the main patterns discernible in Table 4 are:

- the incidence of part-time work is highest in Denmark, the Netherlands and the United Kingdom, fairly low in Ireland, and very low in the southern European countries (Greece, Italy, Portugal, and Spain);
- the incidence of temporary work is highest in Portugal and Spain followed by Greece. The incidence is lowest in Belgium and the United Kingdom;
- the incidence of self-employment is highest in the southern European countries, followed by Ireland and Belgium;

**Table 4. The incidence of atypical forms of work in 1989**

	Percentage of population of working age		Percentages of total employment					Percentage of employee employment				
	Total employment	Employee employment	Non-employees			Workers with more than one job	Temporary	Part-time	Temporary	Part-time	Weekly normal hours below 30	
			Total	Employers and self-employed	Unpaid family workers							
Source	EC labour force survey 1989									EC Ad Hoc survey 1989		
Belgium	53	43	19	16	3	2	5	12	7	22	21	
Denmark	76	67	11	9	2	5	10	25	7	17	13	
France	60	51	15	12	3	n.a.	9	12	7	8	18	
Germany	64	57	11	9	2	2	11	13	4	18	15	
Greece	56	29	49	34	14	4	17	4	10	2	8	
Ireland	50	38	25	22	3	2	9	8	12	7	14	
Italy	53	38	29	25	4	1	6	5	11	6	11	
Netherlands	59	52	12	10	2	5	9	31	7	27	26	
Portugal	66	46	30	26	4	5	19	4	13	5	5	
Spain	47	34	28	22	6	2	27	4	30	15	6	
United Kingdom	70	61	13	13	n.a.	4	5	23	6	21	21	

Sources: Special tabulations from the 1989 EC labour force survey (most variables also appear in SOEC, 1991), and CEC (1991).

- employee employment, as a proportion of the population of working age, is lowest in Greece and Spain followed by Italy, Ireland and Belgium, and highest in Denmark and the United Kingdom.<sup>20</sup>

In summary, there is a tendency for the southern European countries followed by Ireland to have high self-employment, low employee employment, and a high incidence of temporary employment, but a low incidence of part-time work within employee employment. Denmark and the United Kingdom are at the opposite extreme on each of these characteristics. Belgium has a different pattern, with a high incidence of self-employment and part-time work but a low incidence of temporary work. France, Germany and the Netherlands are intermediate on every measure, except that the Netherlands has a very high incidence of part-time work.

"Temporary" work, as reported in Table 4, is a vague term which can cover jobs with a fixed-term contract, TWA work, and jobs with an indefinite contract but which the respondent expects to lose or to leave for personal reasons.<sup>21</sup> For TWA work, more precise information is available – as shown in Table 5. Although in no country are as much as 2 per cent of employees working through TWAs, it is useful to separate out TWA employment because of the specific regulations that apply to it and because it plays a disproportionately large role in the labour market.<sup>22</sup> The Netherlands, France, the United Kingdom and Belgium are the greatest users of TWAs, with use in Denmark and the southern European countries being low.

Table 5. **The incidence of temporary work agency (TWA) employment**

Source	Work-years of TWA employment as a percentage of total employee work-years		
	Bakkenist	ABU	Ranking
Variable name			TWA
Date	1989	1991	1989 <sup>1</sup>
Belgium	0.6	0.8	7
Denmark	<b>0.06</b>	0.3	3
France	1.5	1.5	9
Germany	<b>0.3</b>	0.5	6
Greece	<b>0.02</b>	..	1.5
Ireland	..	..	..
Italy	<b>0.02</b>	..	1.5
Netherlands	<b>1.7</b>	1.9	10
Portugal	<b>0.2-0.5<sup>3</sup></b>	..	5
Spain	<b>0.08</b>	..	4
United Kingdom	..	<b>1.4</b>	8

1. Since the **rankings** use both sets of figures the rank ordering does not always refer to a precise date; only Denmark, moving up the ranking, clearly changed position between 1989 and 1991.
2. IRS (1990) reports that in Greece and Italy TWAs are not only forbidden but actually – in contrast with the situation in Spain – nonexistent, at least in the formal economy.
3. Portugal: the Bakkenist report estimates that there are around 700 TWAs “mostly of a very small size”. The estimate that these agencies supply 0.2-0.5 per cent of working years follows from an assumption that the average agency in Portugal supplies 10-30 working years of temporary employment per year: average working years per agency are 21 in Denmark, though higher in three other countries [where multi-branch agencies have a large share of the market] (IRS, 1990).

Sources: Bakkenist: IRS (1990, p. 45 ff), citing Bakkenist Management Consultants (1989), “Comparative study of organised temporary work in the countries of the European Community” for figures relating to Denmark, Germany, Portugal and Spain. ABU: Netherlands General Association of Temporary Work Agencies [Algemene Bond Uitzendondernemingen] (1991), Annual Report (summarized in Financieel Dagblad, 17th June 1992).

## B. Working hours and flexible working practices

Tables 6, 7 and 8 show several indicators of working time. In Table 6, statistics from the EC **Ad Hoc** enterprise and worker surveys have been combined to give a rank indicator for the average length of the normal working week (*i.e.* hours paid at normal rates). In Table 7, the first column shows average hours usually worked by full-time workers (this concept includes overtime hours that are worked regularly). Usual hours differ sharply among the southern European countries, and between Denmark and the United Kingdom. The later columns of Table 7 relate to the variability of weekly hours of work, rather than their level. Southern European countries and Belgium have a very low frequency of overtime, low percentages of workers working more than 45 actual hours, and a large proportion of workers working similar hours. In terms of the same indicators, the United Kingdom followed by the Netherlands has by far the highest variability in hours between persons. Even in France, Germany and Italy, 7 or 8 per cent of full-time employees usually work more than 45 hours a week, despite the fact that regula-

Table 6. Average levels of normal and usual hours of work for full-time employees

	Average normal weekly hours of full-time employees		Firms with normal weekly hours for full-time employees above 42		Employees working normal weekly hours above		Ranking according to length of the normal week	Average hours per week usually worked by full-time employees
	Industry	Retail trade	Industry	Retail trade	44	40		
Source	<i>Ad Hoc</i> survey (enterprises)				<i>Ad Hoc</i> survey (workers)			LFS
Scale	Hours		Per cent		Per cent		Rank	Hours
Belgium	37	38	0	0	6	13	1	38.1
Denmark	..	..	..	..	6	9	3	39.1
France	39	38	1	1	9	18	5	39.9
Germany	38	39	0	1	3	11	3	40.3
Greece	40	..	7	..	9	18	8	40.0
Ireland	41	..	2	..	13	21	9	40.5
Italy	39	38	..	..	5	9	3	38.6
Netherlands	39	40	4	10	7	12	7	39.1
Portugal	44	44	..	44	12	55	11	42.0
Spain	40	43	7	..	17	25	10	40.7
United Kingdom	37	39	..	5	14	22	6	43.6

Sources: CEC (1991) and SOEC (1991).

Table 7. The variability of hours worked among full-time employees

	Average hours usually worked per week	Percentage with usual hours		Percentage who actually worked more than usual hours <sup>1</sup>	Dispersion of hours worked about the mode, per cent <sup>2</sup>
		Below 36	Above 45		
Belgium	38.1	8	3	5	15
Denmark	39.1	4	6	9	43
France	39.9	8	8	5	35
Germany	40.3	1	7	10	23
Greece	40.0	10	12	1	36
Ireland	40.5	16	11	7	40
Italy	38.6	9	8	4	26
Netherlands	39.1	5	3	23	50
Portugal	42.0	14	9	2	39
Spain	40.7	5	8	0	38
United Kingdom	43.6	9	30	11	65

1. Statistics relate to persons in full-time employment.
2. The percentage of full-time workers whose weekly hours of work fell outside the 5-hour band containing the largest proportion of workers. Owing to the format of the tabulated data, the modal range is taken as the 36-40, 38-42, or 40-45 hour bands according to which contains the most workers. The denominator is all full-time workers with positive actual hours in the survey reference week.

Sources: 1989 EC labour force survey, SOEC (1991, Tables 49, 53, 55 and 61).

**Table 8. The incidence of flexible working practices**

Per cent

	Employees working (regularly or sometimes)				
	Shifts	Nights	Saturdays	Sundays	7 days or shifts per week
Belgium	29	18	42	25	3
Denmark	13	17	39	29	0
France	22	19	53	25	4
Germany	19	14	42	15	1
Greece	27	22	43	28	5
Ireland	21	21	50	24	2
Italy	22	16	64	20	0
Netherlands	20	18	42	26	3
Portugal	18	19	54	22	4
Spain	33	21	50	23	2
United Kingdom	34	31	67	45	7

**Source:** EC *Ad Hoc* (workers) survey, CEC (1991)

tions appear to ban the working of such long hours on a regular basis (SOEC, 1991, Table 49). Ambiguities in the texts of regulations concerning working hours have been noted above: long usual hours suggest that significant sectors of the economy ignore regulations or have special exemption from them.

Table 8 shows the incidence of flexible working arrangements (shift work, night and weekend work). Probably owing to the lack of general legislation restricting these arrangements, every form of flexible working is most common in the United Kingdom. But southern European countries also use flexible working practices rather frequently, with Greece and Spain scoring high for shift and night working, and Italy and Portugal scoring high for Saturday work. Germany comes close to the bottom on all indicators and Denmark comes close to the bottom for shift work, night work, and Saturday work although not Sunday work.

### III. CROSS-COUNTRY CORRELATIONS BETWEEN REGULATION INDICATORS AND PATTERNS OF WORK

This section examines relationships between regulation and work patterns through correlations and simple regressions. As a first step, Table 9 summarizes a number of indicators for regulation and work patterns. Part 1 of the table introduces a new summary ranking for the overall regulation of dependent work (ORDW), based on the preceding columns of the table. This is a rank-average-rank across restrictions on dismissal, restrictions on fixed-term contracts, and restrictions on overtime, flexible hours, weekend and night working.<sup>23</sup> Part 2 of Table 9 presents summary information for actual working patterns. It introduces a

Source	Table 1	Table 2		Table 3		Summary variables	
	Protection of regular workers against dismissals	Regulation of fixed-term Contracts	Regulation of TWA employment	Restrictions on normal weekly hours	Restrictions on overtime flexible week-end and night work	Restrictions on regular employee work	Restrictions on overall employee work
Variable name	RDSM	RFTC	RTWA	RNRH	ROFWN'	RREW <sup>2</sup>	ORDW <sup>3</sup>
Belgium	4.0	11.0	8.0	10.0	5.0	4.0	5.0
Denmark	2.0	2.0	5.0	11.0	2.0	2.0	2.0
France	5.5	8.0	3.0	7.0	7.5	7.0	6.0
Germany	7.0	9.0	6.0	8.5	6.0	7.0	7.0
Greece	8.0	7.0	10.0	4.0	10.0	9.0	10.0
Ireland	3.0	2.0	1.5	2.0	3.5	3.0	3.0
Italy	9.0	10.0	10.0	6.0	3.5	5.0	8.0
Netherlands	5.5	4.5	4.0	8.5	7.5	7.0	4.0
Portugal	10.5	6.0	7.0	3.0	11.0	11.0	11.0
Spain	10.5	4.5	10.0	5.0	9.0	10.0	9.0
United Kingdom	1.0	2.0	1.5	1.0	1.0	1.0	1.0

Source	Table 4, LFS data					Table 5	Table 6		Table 7		Table 8	
	Total employment	Employee employment	Self-employment <sup>3</sup>	Part-time work	Temporary work	TWA work	Normal weekly hours	Usual weekly hours <sup>4</sup>	Over-time work	Dis-per-sion of hours <sup>4</sup>	Night work <sup>4</sup>	Week-end work <sup>4</sup>
Variable name	ETPOP	EEPOP	SEFW	PT	TMP	TWA	NRH	USH	OTW	DHM	NTW	WEW
	Percentages					Country rank positions						
Belgium	53	43	19	12	5	7	1	1	5.5	1	4.5	5.5
Denmark	76	67	11	25	10	3	3	3.5	8	9	3	2
France	60	51	15	12	9	9	5	5	5.5	4	6.5	9
Germany	64	57	11	53	11	6	3	7	9	2	1	1
Greece	56	29	49	4	17	1.5	8	6	2	5	10	10
Ireland	50	38	25	8	9	..	9	8	7	8	8.5	5.5
Italy	53	38	29	5	6	1.5	3	2	4	3	2	3
Netherlands	59	52	12	31	9	-	-	3.5	11	10	4.5	7
Portugal	66	46	30	4	19	10	7	10	3	7	6.5	8
Spain	47	34	28	4	27	5	10	9	1	6	8.5	4
United Kingdom	70	61	13	23	5	8	6	11	10	11	11	11

1. ROFWN is computed by the formula:  $ROFWN = ROTW + RFDH + RWEW + RNTW$ , where OTW is maximum annual overtime work, WEW is regulation of weekend work as measured by the minimum weekly rest period and NTW is a measure of restrictions on night work (see Table 3 for further details), with all variables (including ROFWN itself) in rank form.
2. RREW is computed by the formula  $RREW = RDSM + ROFWN$  and ORDW by the formula  $ORDW = RDSM + RFTC + ROFWN$ , with all variables (including RREW and ORDW) in rank form.
3. Self-employment including employers and unpaid family workers.
4. USH is the rank of the variable "Average hours per week usually worked by full-time employees" in Table 6; OTW is the rank of the variable "Percentage who actually worked more than usual hours" in Table 7; DHM and NTW are the ranks of corresponding variables in Table 7; and WEW is the rank-average-rank of the variables for Saturday, Sunday and 7-day working in Table 8.

Sources: Tables 1 to 8.

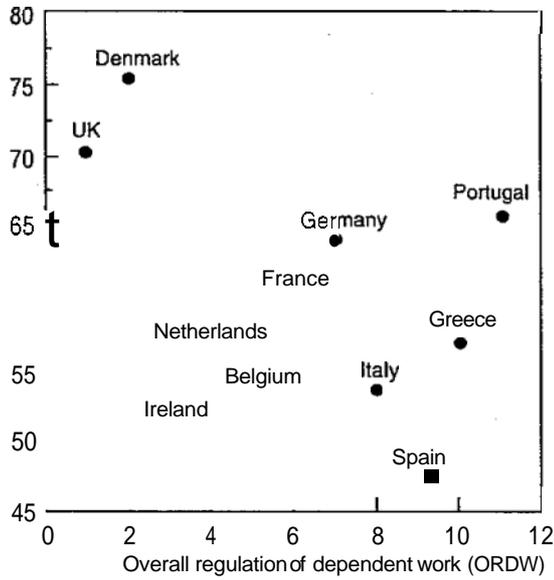
summary ranking for the actual incidence of weekend working, based upon the incidences of Saturday, Sunday and 7-day shift working reported in Table 8.

Figure 1 shows some graphs and simple regressions. Some of the main findings are:

- The total employment/population ratio (population of working age) is negatively correlated with overall regulation of dependent work: the regression predicts a ratio of 65 per cent for a country ranked 1 and 54 per cent for a country ranked 11, but the coefficient has only a low level of statistical significance. The employee/population ratio is more strongly negatively related to the same measure: the regression predicts a ratio of 58 per cent for a country ranked 1 and 35 per cent for a country ranked 11. The 23 percentage point difference is large by comparison with unemployment rates, which in 1989 were everywhere below 10 per cent of the population of working age. The self-employment share in total employment increases strongly with the measure for overall regulation of dependent work: the regression predicts a 10 per cent share of self-employment in total employment in a country ranked 1 and 34 per cent in a country ranked 11. Although the highest incidences of self-employment arise in countries with a large agricultural sector, a similar correlation has been noted using measures of self-employment in the non-agricultural sector (see the OECD *Employment Outlook* 1992, Chart 4.5).
- The incidence of part-time work is negatively related to the measure of overall regulation of dependent work. The regression predicts a part-time share in total employment of 24 per cent in a country ranked 1 and 2 per cent in a country ranked 11.
- The incidence of temporary work increases strongly with regulation of dismissals of regular workers, no doubt because employers use fixed-term contracts to circumvent these restrictions. The low incidence of temporary work in Belgium and Italy, by contrast with the general relationship, is easily explained by the rigidity of direct regulation of fixed-term contracts in these countries. The regression which takes into account both forms of regulation predicts that a country with minimum levels of either type of regulation will have 8 per cent of employees in temporary employment; a country with maximum levels of both type of regulation will have 15 per cent of employees in temporary employment; and a country which combines maximum regulation of regular employment with minimum regulation of fixed-term contracts will have 27 per cent in temporary employment. By contrast, the incidence of TWA work seems to depend mainly upon direct regulation of TWA work. There is no tendency for TWA work to increase when dismissals of regular workers are restricted.
- "Normal" and "usual" hours are strongly related to regulatory maxima for hours. This is not surprising since to a considerable extent collective bargaining agreements define both the regulatory maxima themselves and normal hours. Restrictions on overtime working appear to have no impact on average usual hours, but do correlate strongly with the observed frequency of overtime.
- The proportion of workers at a modal level of weekly hours (as defined and measured in Table 7) increases with restrictions on the flexible distribution

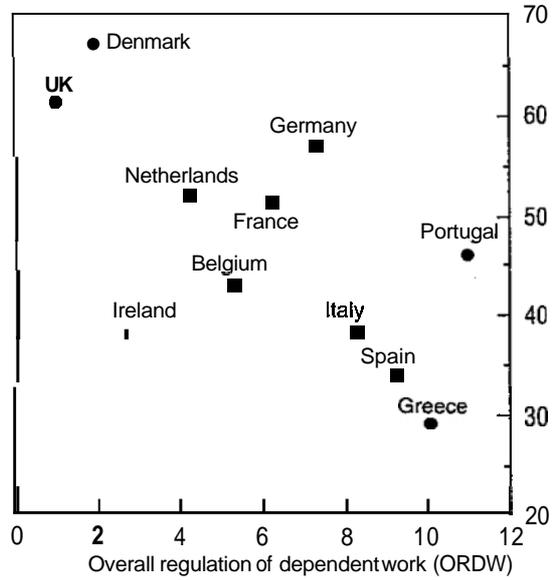
**Figure 1. Employment regulation and patterns of work**

Total employment, percentage of population of working age (ETPOP)



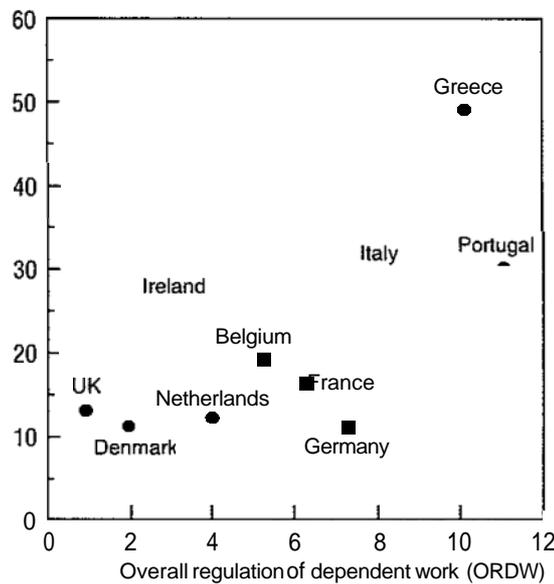
$$ETPOP = 65.5 - 1.00 \text{ ORDW} \quad (1.2)$$

Employees, percentage of population of working age (EEPOP)

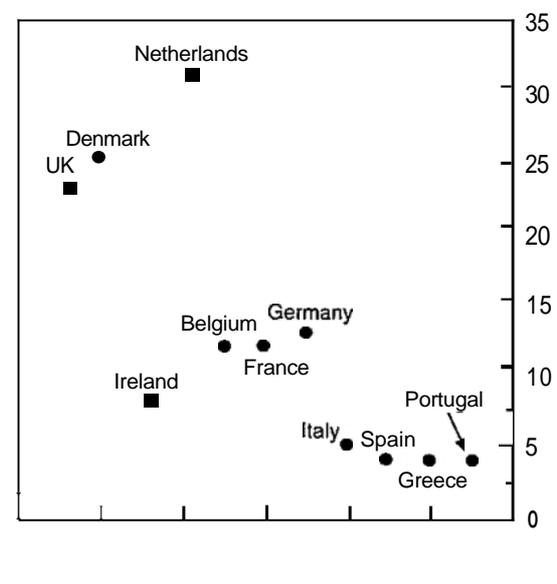


$$EEPOP = 60.7 - 2.30 \text{ ORDW} \quad (2.5)$$

Self-employed and family workers, percentage of total employment (SEFW)



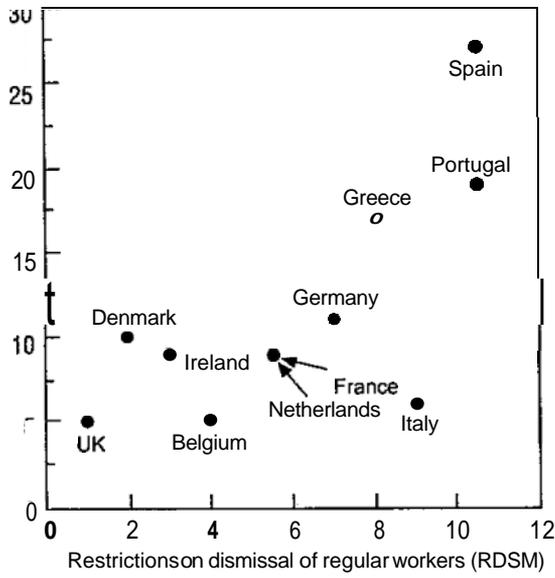
$$SEFW = 7.16 + 2.47 \text{ ORDW} \quad (3.0)$$



$$SEFW = 32.00 - 0.33 \text{ ORDW} \quad (3.1)$$

Figure 1. (cont.) Employment regulation and patterns of work

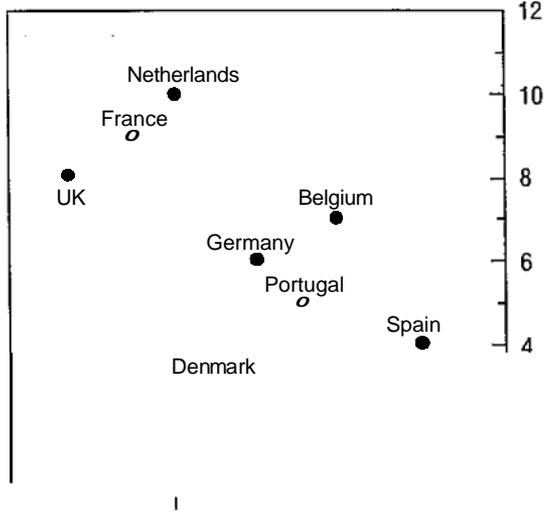
Temporary workers, percentage of employees (TMP)



$$\begin{aligned} \text{TMP} &= 2.79 + 1.46 \text{ RDSM} && (3.0) \\ \text{TMP} &= 13.39 - 0.31 \text{ RFTC} && (0.4) \\ \text{TMP} &= 6.60 + 1.98 \text{ RDSM} - 1.19 \text{ RFTC} && (5.1) \quad (3.0) \end{aligned}$$

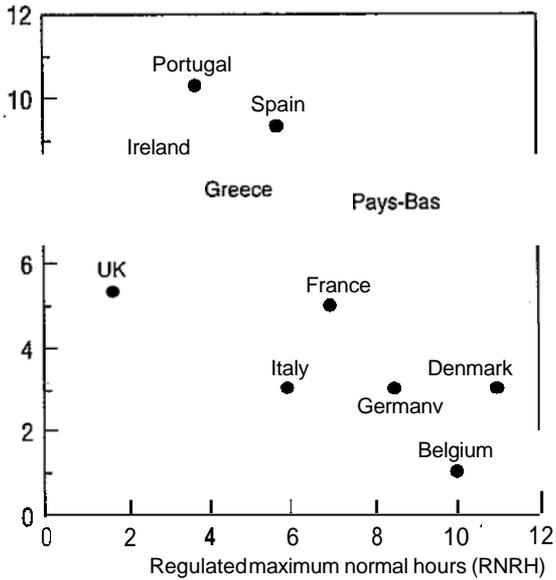
where RFTC is restrictions on the use of fixed-term contracts

TWA workers, percentage of employees (country ranking) (TWA)



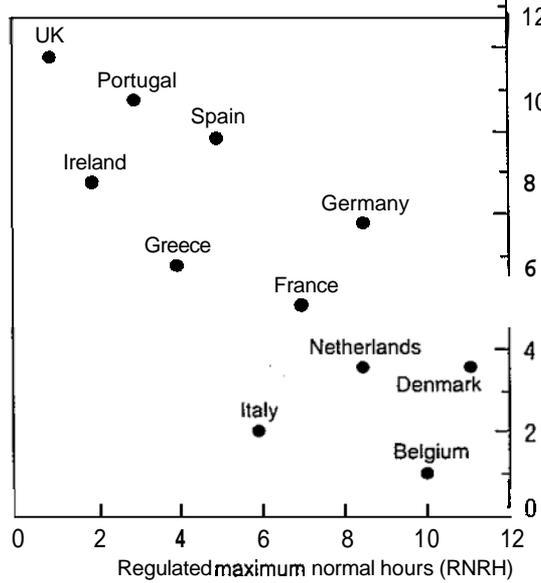
$$\begin{aligned} \text{TWA} &= 10.32 - 0.75 \text{ RTWA} && (3.3) \\ \text{TWA} &= 10.01 + 0.24 \text{ RDSM} - 0.93 \text{ RTWA} && (0.8) \quad (2.8) \end{aligned}$$

Average normal hours (NRH)



$$\text{NRH} = 10.2 - 0.69 \text{ RNRH} \quad (2.9)$$

Average usual hours (USH)

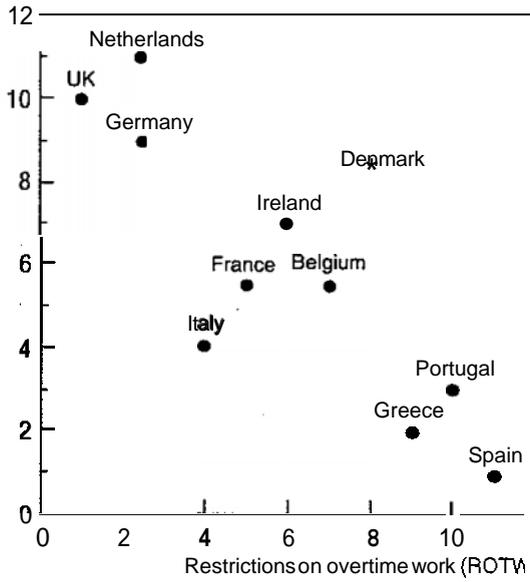


$$\begin{aligned} \text{USH} &= 10.67 - 0.78 \text{ RNRH} && (3.7) \\ \text{USH} &= 10.21 - 0.78 \text{ RNRH} + 0.08 \text{ ROTW} && (3.5) \quad (0.3) \end{aligned}$$

where ROTW is restrictions on overtime work

Figure 1. (cont.) Employment regulation and patterns of work

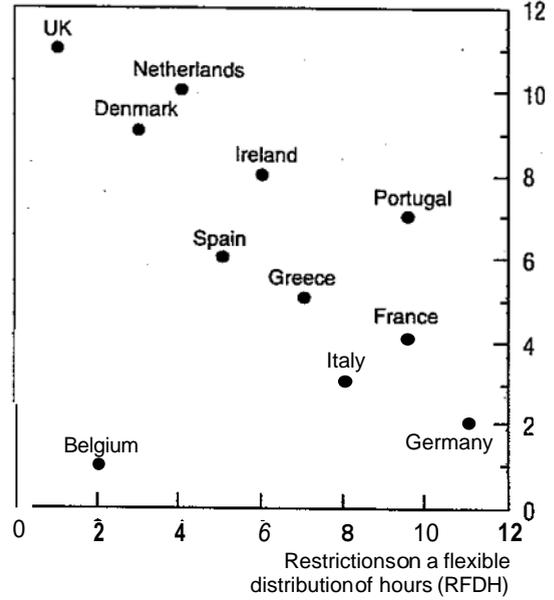
Incidence of work above usual hours (OW)



$$OW = 10.9 - 0.81 ROTW$$

(4.2)

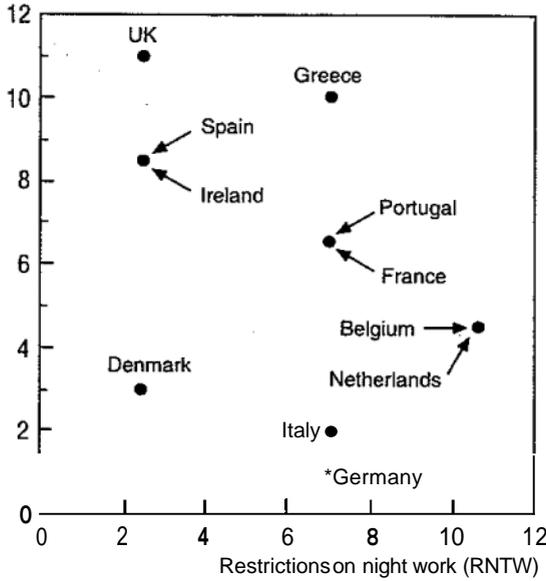
Dispersion of hours about the mode (DHM)



$$DHM = 8.88 - 0.48 RFDH$$

(1.6)

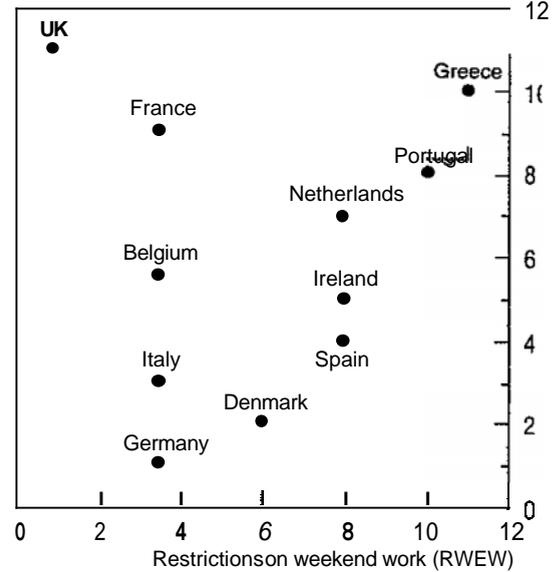
Incidence of night work (NTW)



$$NTW = 8.7 - 0.44 RNTW$$

(1.4)

Incidence of weekend work (WEW)



$$WEW = 5.2 + 0.13 RWEW$$

(0.4)

of working hours. This relationship would be much stronger if Belgium were omitted from the comparison. There is a case for doing this because the regulation indicator for Belgium is based upon a 1987 law, which allows extensive flexibility in the distribution of hours (see IRS, 1991). The 1987 law does not override restrictions that may be present in sector-level collective agreements, which are typically stricter (but on which detailed information is lacking). Thus, it may not have had much effect, at least by 1989.

- There is only a weak negative correlation between the incidence of night working and regulation of night working. This is not surprising, given the crude nature of the measure for regulation of night working. There is no apparent correlation between the incidence of weekend working and regulation of it. At one extreme lies Greece, with apparently strict regulation of weekend work, and yet a relatively high actual incidence of it:<sup>24</sup> at the other extreme, Germany has apparently little regulation of weekend work and yet a low actual incidence of it. It is noticeable that, while most EC countries ban Sunday work (indeed many partially ban Saturday work, see Table 3), they nevertheless have a fairly high incidence of it. Thus, the relatively low incidence of Sunday working in Germany could arise because Germany is almost the only country to systematically implement the legislation. However, it may also be relevant that the measure shown here for regulation of weekend work relates only to employment. Regulations such as restrictions on weekend shop opening, heavy goods vehicle transport, and noise levels may influence weekend work more than direct employment regulation does.

Table 10 further examines the relationship between specific outcomes and regulation measures in Table 9 through partial cross-correlation coefficients. The cross-correlations are partial in the sense that the overall regulation of dependent work (ORDW) indicator, used extensively in Figure 1, is factored out from all

**Table 10. Partial cross-correlations between indicators of regulation and corresponding work patterns**

See Tables 3 and 9 for variable names. Coefficients are computed with all variables in rank form, regressing each variable on ORDW and calculating the correlation between the residuals.<sup>1</sup>

Regulation indicators	Work patterns					
	TMP	TWA	USH	OTW	DHM	NTW
RFTC	-.79	.15	-.70	.19	-.89	-.56
RTWA	-.03	-.68	-.56	-.35	-.33	-.28
RNRH	-.17	-.06	-.78	.20	-.52	-.78
ROTW	.62	-.35	.04	-.72	.21	.29
RFDH	-.55	.32	-.21	.43	-.74	-.54
RNTW	-.64	.51	-.65	.52	-.40	-.43

1. Correlation coefficients are computed with 11 observations, except for the row RFDH (omits Belgium) and the column TWA (omits Ireland).

Sources: Tables 3 and 9.

variables. In the first four areas (temporary work, TWA work, average hours, and overtime work), regulation indicators are strongly associated with corresponding outcome indicators, even after the factoring out of the overall regulation (ORDW) variable. The negative correlation coefficients on the diagonal are large, with the off-diagonal elements being smaller and averaging close to zero. This indicates that the research reported here has indeed identified distinct measures of regulation which associate with distinct labour market outcomes as expected. For the last two areas covered (variability of hours worked and night work), some off-diagonal elements in the cross-correlation matrix are larger than the diagonal elements. For example, countries which regulate fixed-term contracts (RFTC) strictly have a low dispersion of hours worked by full-time workers about the mode (DHM). The relative importance of apparent coincidences in this latter group of correlation coefficients tends to suggest that the last two regulation indicators and/or their associated outcome measures are less accurate than the first group.<sup>25</sup>

#### IV. EMPLOYMENT REGULATION AND EMPLOYER AND EMPLOYEE DISSATISFACTION

As defined here, regulation is present when an individual employer is unable to use particular forms of work relationship or contract even by agreement with his or her own current or potential future employees. To the extent that this blocks certain employee-employer relationships that both parties would otherwise consider advantageous, regulation may dissuade employers from hiring at all, or lead to employees being dissatisfied with certain working arrangements they have had to accept in order to find work. Some surveys, addressed to firms and workers, provide evidence on this point.

Table 11 summarizes three evaluations from the employers' side. With the exception of one measure (related to redundancy payments), employers rate regulation as a less important obstacle or barrier to hiring in the United Kingdom than in any other EC country, as might be expected from the generally lower level of regulation here. However, correlations between these measures and the rankings by employment regulation developed in this paper are not always very strong (Table 13). This is mainly because employers in Portugal and also to some extent in Germany and Greece report negative effects on employment less frequently than might be expected, given the country rankings for regulation calculated here. These discrepancies could arise due to factors such as:

- harmonious employer-union relationships in Germany, which imply that various consultation and notification requirements are helpful to both parties (rather than acting as a constraint on employers, as has been assumed when constructing the regulation indicators);
- a limited coverage of regulatory provisions, because they in effect apply only to large firms or specific industries which account for a low proportion of employment in Greece and Portugal;<sup>26</sup>
- errors in employer perceptions of the impact of regulation, arising for example because these perceptions are influenced by the state of public debate

**Table 11. Employer attitudes to employment regulation**

Source	EC survey (1985)				EC Ad Hoc survey (1989)	International Organisation of Employers (1985)		
	Percentage of firms considering that there would be a positive employment impact from reducing				Percentage of firms citing hiring and firing procedures as a reason for not hiring more staff	Importance of regulatory constraints on		
	Regulation of hiring and shedding	Notice periods and legal procedures	Temporary payments	Restrictions on fixed-term contracts		Termination of employment contracts	Fixed-term contracts	Temporary agency work
	Percentage					Scale 0 to 3 <sup>1</sup>		
Belgium	75	74	63	63	46	2	3	3
Denmark	..	..	..	..	..	1	1	1
France	81	48	22	53	53	3	2	2
Germany	56	63	46	74	44	3	2	2
Greece	67	76	62	50	51	..	..	..
Ireland	68	35	33	46	45	2	1	1
Italy	83	88	78	63	62	3	3	3
Netherlands	51	47	12	32	58	3	3	2
Portugal	..	..	..	..	42	3	1	1
Spain	..	..	..	..	63	3	1	3
United Kingdom	26	28	23	27	27	0	1	1

**Table 12. Employee attitudes to atypical work, 1989**

Source	EC Ad Hoc survey 1989		
	Part-time employees who would prefer a full-time job	Employees in a part-time job because they could not find a full-time job <sup>2</sup>	Employees in a temporary job because they could not find a permanent job <sup>3</sup>
	Percentage of part-time employees <sup>1</sup>	Percentage of employees who could not find or did not want a full-time/permanent job	
Belgium	29	67	98
Denmark	6	17	57
France	64	..	..
Germany	8	8	..
Greece	78	42	94
Ireland	57	37	75
Italy	49	50	86
Netherlands	19	44	84
Portugal	58	46	98
Spain	64	78	100
United Kingdom	6	10	42

1. Corrected for non-response.

2. Data for France not available. The denominator in the percentage excludes people working part-time because of education, illness and "other" reasons.

3. Data for France and Germany not available. The denominator in the percentage excludes people in a temporary job because of training a probationary period or who gave no reason.

Sources: CEC (1991). Table 231 and special tabulations from the 1989 EC labour force survey.

on regulation (which may be favourable to it in one country or at one time but not another), as much as by direct experience of its effects.

Table 12 shows employee attitudes to part-time and temporary work. For this variable, the United Kingdom and Germany (as regards part-time work), followed by Denmark, stand out with levels of dissatisfaction among employees in part-time and temporary jobs sharply lower than in most other countries. In Belgium, Portugal and Spain, the imbalance between temporary employees who took the job because they could not find a permanent one and temporary employees who took the job because they did not want a permanent one reaches 50 to 1. Dissatisfaction with temporary jobs is strongly correlated (Table 13) with the measures for the strength of regulation of dismissals and overall regulation of dependent work developed here (Denmark and Ireland follow the United Kingdom with the lowest levels of both regulation and dissatisfaction).

**Table 13. Correlations between employment regulation and employer and employee attitudes**

		Regulation variable			
		ORDW	RDSM	RFTC	RTWA
Employers' evaluation of regulation	EC 1985 survey, firms' evaluations of employment effects from regulation of:				
	- Hiring and shedding	.47	.46	.62	..
	- Notice and procedures	.89	.86	.85	..
	- Redundancy payments	.55	.46	.63	..
	- Fixed-term contracts	.62	.61	.89	..
	EC 1989 <i>Ad Hoc</i> survey, firms' evaluations of employment effects from regulation of:				
	- Hiring and firing	.29	.45	.24	..
	Ranking by IOE (1985) of the importance of constraints on:				
	- Dismissals	..	.82	.56	.50
	- Fixed-term contracts	..	.11	.73	.31
- Temporary work agencies	..	.48	.72	.75	
Dissatisfaction among part-time and temporary employees	EC 1989 <i>Ad Hoc</i> (worker) survey:				
	- Part-timers wanting full-time	.75	.67	.24	..
	EC 1989 labour force survey:				
	- Part-timers because could not find full-time	.49	.57	.39	..
- Temporary workers because could not find permanent work	.85	.85	.57	..	

Sources: Tables 9, 11 and 12.

Responses to attitudinal questions tend to be sensitive to details of wording and interview method. The proportion of employers who see hiring and firing regulations as an obstacle to hiring more people rose sharply in the Netherlands relative to other countries between two surveys in 1985 and 1989, and it is difficult to understand this since the government speeded up procedures for authorisation of dismissals over these years. The proportion of Belgian part-time workers who work part time because they could not find a full-time job greatly exceeds the proportion who would prefer a full-time job (Table 12). This could be because, in Belgium, a unemployed person who takes a part-time job because he or she was unable to find a full-time job is entitled to partial unemployment benefit and the payment of benefit reduces the preference for a full-time job. In general, the attitudinal questions used here seem to be giving useful insights into how labour markets function, but good quality surveys and careful interpretation of the questions asked are needed when making international comparisons.

## V. CONCLUSIONS

This paper has studied employment regulation in relation to patterns of working at one point in time. It does not examine directly how training or unemployment may be affected by regulation, or study the cyclicity of employment or longer-term changes in regulation, or take into account non-regulatory influences on working patterns such as the share of agriculture in the economy and tax and benefit provisions. Certain forms of employment regulation, such as minimum wage legislation or health and safety standards, are also not taken into account. However, even with these omissions, the topic remains complex.

The construction of measures for employment regulation is difficult because:

- A number of separate indicators are needed, covering such areas as regulation of dismissals of regular workers, fixed-term contracts, temporary work agencies (TWAs), part-time work, normal working hours, overtime, shift work, night and weekend work. However, summary measures are also needed: the tendency for regulation to increase a particular form of employment (such as self-employment or temporary work) depends, in principle, on the overall extent of regulation applying to all other forms of employment, yet there is no simple and objective way of defining such a variable.
- Regulation, defined in terms of restrictions on the freedom of individual companies to use particular work practices even by agreement with their own employees, cannot be documented accurately from legislated texts alone. Institutions, court judgements, and sectoral collective agreements also contribute to the "strictness" of regulation.
- Regulation has both qualitative and quantitative aspects, for example limiting both the types of work situation in which fixed-term contracts can be made as well as the maximum length of such contracts.

For countries such as Belgium and Germany, the strictness of certain types of regulation may be understated by some of the indicators developed here,

because sectoral collective agreements – which are very important in these countries – are more restrictive than legislation but could not be taken properly into account owing to a lack of relevant information.

Despite technical problems, the indicators developed here explain – in a statistical sense – much of the variation across EC countries in the incidence of “atypical” forms of work. The incidence of fixed-term contract work is sharply increased by restrictions on dismissal of regular workers, and is reduced by restrictions on fixed-term contracting itself. The **employee/population** ratio is lower, and the share of self-employment in total employment is higher, in countries with strict overall regulation. Thus in general, a plausible hypothesis is that regulation of various kinds reduces the regulated form of employment and increases forms of employment to which the regulation does not apply. A concern from a policy point of view may be that there are limits on the capacity of the self-employment sector to create jobs, in which case strict regulation of all forms of dependent employment would reduce total employment.

Part-time work among employees is low in the countries with the strictest regulation. Unlike self-employment, part-time work can be regulated and thus may be reduced if regulation is structured by unions representing mainly regular full-time workers, who wish to suppress competition from non-standard workers. However, recent experience in countries such as Belgium and the Netherlands shows that part-time work can be encouraged, even while other forms of employment regulation (*e.g.* of fixed-term contracts) are maintained.

As regards working time, Denmark (which has few restrictions on dismissal or fixed-term contracts) has significant restrictions on overtime work, and the EC’s lowest maximum for normal weekly hours. The exceptional character of the labour market in the United Kingdom is particularly marked in the area of working time. With no standard length for the working week, actual weekly hours worked by full-time employees show much more variation than in any other EC country. In the other EC countries, standard hours, incorporated into legislation or centralized collective agreements, are reflected in distinct peaks in the distribution of weekly hours of work at one or two levels of weekly hours, although a significant minority of workers with hours above the maxima remains.

Although employment in southern European countries tends to be strictly regulated while employment in the United Kingdom is relatively unregulated, in other EC countries the situation is more complex. Countries such as Denmark and the Netherlands have employment regulation which is strict in some areas but not others, so that “strictness” depends upon what aspect of regulation is under consideration. Several specific forms of regulation appear to be affecting their targets in a predictable way – thus the detailed provisions relating to fixed-term contracts, such as those preventing or allowing repeated renewals with the same employer, seem to influence the incidence of temporary work. However, there is no clear evidence that regulation of flexible working practices (weekend, night and shift work) affects actual working practices. The southern European countries have relatively strict legal provisions in this area yet nevertheless have quite high actual incidences of these types of work.

Dissatisfaction among both part-time and temporary employees (in the sense that the workers concerned took these jobs because they could not find full-time

or permanent jobs, respectively) is fairly low in countries with low employment regulation, but remarkably high in most countries that have strict regulation. This is perhaps surprising given that regulation is associated with high rates of temporary employment, but low rates of part-time employment. The explanation may be that where standard full-time workers are strongly protected this status is always viewed as the ideal, to the extent that few workers accept non-standard work situations unless forced into them by the need to find work. In less regulated labour markets, the same non-standard forms of work more typically reflect matches between employer and employee needs and preferences, and thus make a positive contribution to labour market flexibility.

## NOTES

1. Among the forms of employment regulation not documented here are regulation of methods of hiring (for example, the requirement in some countries that all vacancies be notified to the public employment service), and minimum wage and health and safety legislation.
2. Restrictions on dismissals may affect employment and unemployment in the following ways:
  - Reduce the average level of employment because restrictions on dismissal make employers see hiring as more risky. Lazear (1990, p. 704, p. 724-5) claims in respect of such restrictions that “theory yields ambiguous predictions on the amount of labor employed”, but he claims that empirically “moving from no required severance pay to three months of required severance pay to employees with ten years of service would reduce the employment-population ratio by about 1 per cent”. Bertola (1990) considers on theoretic grounds that hiring and (especially) firing costs will decrease average employment only if “insiders succeed in exploiting the bargaining power afforded by turnover costs”. Empirically, he finds that “the medium- and long-run employment performance of the countries considered appears unrelated to the degree of job security”. In the model of Bentolila and Bertola (1990), restrictions on firing increase aggregate employment because the positive effect as firms going through bad times are forced to retain workers outweighs any deterrent effect;
  - Encourage employers to put workers on temporary lay-off with a continuing attachment to the firm rather than dismissing them during recessions (see the survey by Hamermesh, 1988). Bertola (1988) finds that employment protection reduces the *cyclical* variability of employment. This might be expected to also reduce the cyclicity of consumer incomes, and thus of GDP;
  - Encourage employers to retrain rather than dismiss workers who are redundant or risk becoming so;
  - Increase the incidence of long-term unemployment as suggested in the OECD *Employment Outlook 1993*, Chapter 3, because the restrictions increase turnover costs, reduce actual turnover, increase the “insider” power of already-employed workers, and increase wages.

Many of the regulatory changes introduced during the 1980s in continental Europe aimed to reduce working time as a measure for tackling unemployment. Citing measures taken by the authorities in Belgium and France, IRS (1991, p. 5) explains “That working time reduction could be used as a means of redistributing existing employment in such a way as to extend the opportunity of work to greater numbers of people is a recurrent theme in times of recession and unemployment... whether or not a reduction in working time really has a significant employment creation effect has been a matter of some debate. However, whatever the truth of the matter, this belief has motivated a great deal of working time reduction in Europe over the past decade or so, mainly at the instigation of trade unions and government.” Thus, employment regulation may have a range of indirect effects far beyond those analysed in this paper.

3. The ranking of countries by perceived strength of employment regulation used by Bertola (1990) is based upon information from employer opinion surveys reported in Emerson (1988). There is some evidence, mentioned in Section IV of this paper, that this approach can give erratic results. It seems desirable to link regulation to specific provisions, since only these are directly amenable to policy change.
4. The strength of employment protection is measured by Lazear (1990) and in the OECD *Employment Outlook 1993*, Chapter 3, in terms of months of notice or severance pay that must be given to dismissed employees.
5. Employment regulation, as defined here, is stronger in the EFTA countries than in Canada and the United States. New Zealand has very extensively deregulated over the last decade. In Japan, explicit regulation of working arrangements is quite limited, although the government has sought recently to shorten the working week and increase annual holidays. Japanese companies seek to provide many of their workers with lifetime security of employment, and some observers might classify Japan as having "strict" regulation of dismissals on this basis.
6. The "strictness" of employment regulation for the purposes of this paper refers to constraints on employers. Legislation which makes a contract between employer and employees in which working hours exceed the legal maximum unenforceable (on employees) is interpreted as a constraint on employers and thus "strict". An example of a regulatory constraint on employees is that, according to sectoral collective agreements in some countries, employers can require their employees to work overtime hours within certain limits, rather than such work being voluntary. From an employer point of view, this provision may tend to offset other constraints and reduce the "strictness" of regulation.
7. Legislated employment regulation is documented in the ILO *Legislative Series*.
8. Blanpain (1991, p. 203) includes all EC countries other than Denmark, Italy and the United Kingdom in his list of countries where administrative extension applies. However, in Ireland administrative extension applies only to agreements registered with the Labour Court and such registration is rare in practice, and Wyatt (1991, p. 176) reports that in Italy "legislation of 1959 allows the government to give collective agreements universal status by Decree. Many are, in fact, extended in that way".
9. Individual-enterprise agreements may in some countries typically apply to unionised employees (*i.e.* only those who were represented in the negotiations) and in others to all employees.
10. When governments regularly apply "administrative extension" to sectoral collective agreements, individual employers have an incentive to join the relevant sector-level associations in order to influence the regulations to which they will be subjected. The fact that employers taken individually (except for those few who have a large share in the entire industrial sector) have only a very slight influence on the terms of the collective agreement applied to them, regardless of whether they are members of the relevant association or not, makes administratively-extended collective agreements a source of regulation even for those employers who are members of the relevant association.
11. The indicators for employment regulation in this paper are based on several multi-country surveys by Industrial Relations Services (see bibliography references under the heading IRS), which is associated with the *European Industrial Relations Review*; a general survey by Wyatt International, a management consultancy which may be writing largely for firms which operate or wish to operate in a number of different European countries (see Wyatt, 1991); and Blanpain and Kohler [eds.] (1988), which assembles reports by national experts for the European Foundation for the Improvement of Living and Working Conditions.

12. The discussion by Emerson (1988) brings out well the importance of a number of different forms of regulation. Emerson observes, on the basis of an EC survey carried out in 1985, that in all countries employers consider the length of notice period and difficulty of legal procedures to be a more important problem than the financial cost of redundancy payments.
13. In Greece, a trade-off according to which one month of notice is equivalent to one half a month of severance pay is explicit in legislation in the sense that, if the notice period is not worked, severance pay is increased by half the pay that would have been due during the notice period. Under this arrangement, employers commonly ask the employee not to work the notice period.
14. Variables in rank-order form all have the same variance, so that when an average is taken each variable contributes significantly to the average. The use of variables in rank-order form also reduces the impact of extreme observations (outlying observations in a single variable) in the overall rankings and makes it possible to classify some extreme situations (*e.g.* a complete ban, or absence of regulation).
15. Arguably regulation is not in any country a real barrier to mass dismissals when an enterprise or an isolated establishment is clearly unprofitable in the long term. By contrast regulation can be a real and long-term barrier to selective dismissal of disruptive or unproductive employees. Where this is the case, employers have an incentive to screen potential employees intensively and use family workers or subcontract work as far as possible.
16. The discussion here relates to regular part-time work, not to situations where employees are partially laid off on a temporary basis (also called short-time working). Protection of employees against collective dismissal is complementary with short-time working compensation schemes, as in Germany: the latter help employers bear the cost of retaining employees during a recession.
17. An individual worker may be simultaneously a multiple job holder and {in the main job} self-employed, working in a temporary job, and working part-time, and various combinations of these possibilities. Employment regulation is only likely to affect temporary and part-time work among employees, so this is the incidence examined here.
18. Where the self-employed (including employers) are distinguished from unpaid family workers, their incidence is positively correlated ( $R^2 = 0.79$ , excluding the United Kingdom) and incidences of self-employment including and excluding unpaid family workers are almost perfectly correlated ( $R^2 = 0.98$ ).
19. The low incidence of temporary work in Germany according to the EC Ad Hoc survey suggests that apprentices may have been excluded in this source. But in general it is hard to see what country-specific factors can account for discrepancies between this survey and the EC labour force survey, or for certain discrepancies within the Ad Hoc survey itself (*e.g.* between the proportions of workers working part-time and the proportions usually working less than 30 hours per week). The Ad Hoc survey was separately implemented by market research organisations within each country, without the sampling frame and sampling procedures, or the history of continuous development, that contribute to accuracy in the labour force survey.
20. Country differences in the employee/population ratio are influenced by the share of agriculture and some service sectors in total employment, but this is far from being the only determinant. Thus, while the share of agriculture is much higher in Denmark than in Belgium, Table 4 shows that the ratio of employees to the population of working age in 1989 was 56 per cent (24 percentage points) higher in Denmark. In Italy, with a high level of self-employment, less than a fifth of the self-employed are in agriculture (SOEC, 1991).

21. Conversely, labour force survey respondents may describe jobs with a temporary contract as permanent, if they expect the contract to be converted to a permanent basis.
22. As OECD (1993, p. 38) remarks, if a TWA assignment is counted as a “hire”, TWAs may account for as many as half of all new hires in the Netherlands, albeit with average assignments typically lasting weeks rather than years in length. Moreover, firms in the Netherlands hire as many workers onto their regular payroll following TWA assignments as they do through the public employment service.
23. Regulation of TWAs and the level of normal weekly hours are not taken into account in the reported measure for “overall regulation of dependent work”, because TWAs involve fewer workers than fixed-term contracts, and because a lower regulated level of weekly hours does not necessarily imply a stronger regulatory constraint in international comparison (southern European countries would probably have longer hours even in the absence of regulation, because real wages are lower). Otherwise the measure gives equal weight to each component so as to avoid making any more arbitrary choice about weights. Experience in Spain since 1984 suggests that deregulation of fixed-term contracts can have a large impact. Rankings change little (only Spain and Greece change place) if the weights on the components “regulation of fixed-term contracts” and “regulation of overtime, flexible hours, weekend and night working” are halved.
24. The 2-day weekend period of rest assumed for Greece in Table 3 derives not from general legislation, but from a decision by the Administrative Tribunal of Athens (25/1983) making a five-day week compulsory for industrial enterprises employing over 50 persons (IRS, 1991, p. 56). Thus, this relatively strict provision would not apply to the hotel and restaurant sector, for example.
25. A significant correlation between two variables – provided that they are not related by construction – is evidence that both have a significant information content (*i.e.* for neither variable is most of the variance due to measurement error or random fluctuation). An absence of correlation suggests that one of the variables is inaccurately measured (although perhaps in the sense that the definition used is inappropriate for explaining or being explained by the other variable) but it does not indicate which of the variables this is.
26. Auer *et al.* (1988, p. 48) note that overtime levels in France are restricted by legislation but “since smaller firms have no shop stewards and are rarely inspected, there is in effect hardly any control of the overtime worked in SMEs (small and medium-sized enterprises)”, while in Germany “small firms tend to grant vacations below the collectively negotiated minimum standard. This fact was also reported for Spain”. Thus, the non-enforcement of regulatory provisions appears to be fairly widespread. The situations described suggest that small employers may be underrepresented in employer bargaining organisations. This may promote strict regulation, since large firms may consider that equal (or standard) working conditions should be imposed on small firms so as to limit “unfair” competition from them.

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## Annex 1

### REGULATION OF INDIVIDUAL DISMISSALS

This Annex considers the costs that regulation imposes on employers who wish to dismiss workers under the main headings of procedural inconveniences, notice and severance pay requirements, and unfair dismissals. Tables 1.A and 1.B describe regulations applying when a worker is legitimately dismissed on grounds of low productivity or economic or technical redundancy of his or her job, without definite fault on either the employer or employee side. Table 1.C describes the situations under which a dismissal may be considered unfair and Table 1.D describes compensation for the dismissed worker when unfairness of the dismissal is recognized.

Information in the tables relates to a date around 1989 (the sources used were published in 1989 and 1991), and in many cases it will apply for several years before and after this. The tables first summarize the provisions which – out of a larger mass of information in the original sources – have been considered relevant to scoring or measuring a country's regulation in a particular area, and then report actual scores or other measures attributed on this basis. Wherever two possible situations are recognized (*e.g.* in Denmark, Table 1.A, employees may request negotiations with the union), scores are an average across the scores which would be attributed in each case (*e.g.* the case where the employer does and does not have to negotiate with the union). When scores are listed separately for two or more different cases (*e.g.* in France, the cases where dismissal is for personal reasons and where it is for economic/technical reasons), Table 1 in the main text carries over, from this Annex, the average of the two scores.

Scoring is done so far as possible on the basis of criteria that are possible to implement objectively in all of the countries considered, but authors' judgement has been necessary in some cases of vague or unusual provisions (*e.g.* the requirement for the United Kingdom in Table 1.A that notice be "reasonable", which will be interpreted differently in different cases). Some other specific limitations of the assumptions or information here may be mentioned. A postal letter and some other procedural acts are, in Table 1.A, assumed to involve a delay of 3 days. In Table 1.C, a number of countries which all define fair and unfair dismissals in similar terms have been scored zero (*i.e.* least "strict"), although the wording leaves scope for sharp differences in interpretation. In a few countries (Germany, Ireland, United Kingdom) trial periods at the beginning of employment specified by collective agreement or agreement between employer and employee and relevant to much actual behaviour are relatively short, but legal protection from claims of unfair dismissal arises later (after 6 months to 2 years), and the latter trial period is the one reported in Table 1.D.

**Table 1.A. Administrative procedures for individual dismissal<sup>1</sup>**

Situation of a regular employee, after any trial period for the job, who is dismissed on grounds of poor performance or individual redundancy but without fault

Country	Notification procedures		Estimated time before notice can start	
	Requirement <sup>2</sup>	Score 0-3	Requirement	In days
Belgium	Statement of reasons to employee.	1	Registered letter.	3
Denmark	Employee can request negotiations with the union. <sup>3</sup>	0.5	None.	0
France				
1. Personal reasons	Statement of reasons to employee.	1	Letter, interview; a second letter.	9
2. Economic/technical reasons	Labour Inspectorate and usually the Works Council.	2	Letter; minimum 7-day delay after interview; a second letter.	15
Germany	Notification to Works Council and (if Works Council opposes) Labour Court: employee must be retained until at least interim approval has been obtained.	3	Letter, minimum 7 days for Works Council to react. Notice can then be served (although the dismissal has to wait for interim approval).	10
Greece	Notification to OAED (public employment service) local office.	2	Letter handed directly to employee.	1
Ireland				
1. Individual termination	Written warning must specify what aspect of behaviour is substandard.	1	Oral warning and separate written warning prior to dismissal.	6
2. Individual redundancy	Copy of form must be sent to Ministry of Labour.	2	Notice can be effective immediately.	0
Italy	Employee can require written communication of reasons and request conciliation through the Provincial Labour Office.	1.5	Notice can be effective immediately.	0
Netherlands	Prior authorisation from regional employment office needed, except in cases of mutual agreement. <sup>4</sup>	3	Authorisation procedure normally takes 4 to 6 weeks.	35
Portugal (individual redundancy)	Notification to Works Council, which can call in the Labour Inspectorate.	2	Letter to Works Council plus minimum two weeks for negotiation.	17

**Table 1.A. Administrative procedures for individual dismissal' (cont'd)**  
 Situation of a regular employee, after any trial period for the job, who is dismissed on grounds of poor performance or individual redundancy but without fault

Country	Notification procedures		Estimated time before notice can start	
	Requirement <sup>2</sup>	Score 0-3	Requirement	In days
<b>Spain</b>				
1. Technical and economic reasons	Prior authorisation from local Labour Office.	3	Letter, 30 days for consultation/conciliation and in the absence of agreement another 30 days for advice from Labour Inspectorate and 15 days to finally authorise.	78
2. Objective reasons	Usually necessary to notify employee representatives.	1.5	Letter.	3
<b>United Kingdom</b>				
1. Individual termination	Employee has the right to demand the reasons in writing.	0.5	Case law establishes that the employer must warn that performance is falling short.	3
2. Individual redundancy	Notification to union (to allow prior consultation) is recommended.	1.5	"Reasonable notice" that redundancy is being considered.	3

1. The procedures taken into account here are either directly legislated or are generally considered necessary because without them the employer's case will be weakened if a claim for unfair dismissals is made.
2. Procedures are scored according to the scale 1 when a written statement of the reasons for dismissal must be supplied to the employee; 2 when a third party must be notified; and 3 when employer cannot proceed to dismissal without authorisation from a third party.
3. In Denmark, for white-collar workers as for blue-collar workers, "there are no provisions for informing or consulting any official or representative bodies before proceeding with an individual termination of contract" (IRS, 1989, p. 10). Once notice has been received, employees may call upon their union to negotiate on their behalf (obliging the employer to at a minimum, state reasons for the dismissal).
4. In the Netherlands, prior authorisation for dismissal is not actually required in the case of mutual agreement, but employers and employees often consider it desirable (e.g. to protect the employer against a change of mind by the employee, and to document that a dismissal generating entitlement to unemployment benefit has occurred).

Sources: Blanpain and Kohler (1988), IRS (1989) and Wyatt (1991).

**Table 1.B. Required notice and severance pay for individual dismissals**  
 Case of an individual employee with tenure beyond any trial period, dismissed on grounds of poor performance or individual redundancy, without fault

1. Notice/tenure and severance pay/tenure schedules

	Case {B/C = blue collar; W/C = white collar}	Schedules uses notation d = day, w = week, m = month, y = year "28 d < 20 y" means 28 days of notice or severance pay is required when length of service is below 20 years	
		Notice/tenure schedule	Severance pay/tenure schedule
Belgium	B/C	0 < 14 d, 7 d < 6 m, 28 d < 20 y, 56 d > 20 y.	None.
	W/C	0 < 1 m, 7 d < 6 m, 3 m < 5 y. <b>Plus</b> 3 more months of notice for each additional 5 years of service, if annual salary is below BF 766 000, but this is rarely the case: otherwise, the Claeys formula' applies.	None.
Denmark	B/C	7 d < 1 y, 3 w < 3 y, 7 w < 6 y, 10 w < 9 y, 3 m < 12 y, 4 m > 12 y.	None
	W/C	14 d < 3 m, 1 m < 6 m, 3 m < 33 m, 4 m < 68 m, 5 m < 103 m, 6 m > 103 m.	1 m > 12 y, 2 m > 15 y, 3 m > 18 y.
France	B/C and W/C	0 < 6 m, 1 m < 2 y, 2 m > 2 y.	One-tenth of a month's or 20 hours' pay per year of service, plus an additional one- fifteenth of a month's pay after ten years. A retraining contract is "in principle obligatory", and dismissed workers have priority rights when the firm rehires.
Germany	B/C	2 w < 5 ya, 1 m < 10 ya, 2 m < 20 ya, 3 m > 20 ya, where ya is years over the age of 35. <sup>2</sup>	By collective agreement only.
	W/C	1.5 m < 5 ya, 3 m < 8 ya, 4 m < 10 ya, 5 m < 12 ya, 6 m > 12 ya where ya is years over the age of 25.	By collective agreement only.
Greece	B/C	0 < 2 m, 5 d < 1 y, 8 d < 2 y, 15 d < 5 y, 30 d < 10 y, 60 d > 10 y. Notice can be waived subject to conditions on severance pay (see right).	5 d < 1 y, 7 d < 2 y, 13 d < 5 y, 26 d < 10 y, 52 d < 15 y, 65 d < 20 y, 78 d > 20 y. This severance pay is halved if written notice is given.
	W/C	0 < 2 m, 30 d < 1 y, 60 d < 4 y, 3 m < 6 y, 4 m < 8 y, 5 m < 10 y, plus 1 month per year up to a maximum maximum of 24 months. Notice can be waived subject to conditions on severance pay (see right).	Half the notice period if written notice is given, otherwise severance pay according to the schedule for notice (see left).

**Table 1.B. Required notice and severance pay for individual dismissals (cont'd)**

Case of an individual employee with tenure beyond any trial period, dismissed on grounds of poor performance or individual redundancy, without fault

1. Notice/tenure and severance pay/tenure schedules

	Case (B/C = blue collar; W/C =white collar)	Schedules uses notation d = day, w = week, m = month, y = year "28 d < 20 y" means 28 days of notice or severance pay is required when length of service is below 20 years	
		Notice/tenure schedule	Severance pay/tenure schedule
Ireland	B/C and W/C	0 < 13 w, 1 w < 2 y, 2 w < 5 y, 4 w < 10 y, 6 w < 15 y, 8 w > 15 y.	After two years of service, half a week of pay per year worked under the age of 41, plus one week of pay per year worked over the age of 41, with a maximum of £11 000.
Italy	B/C	2 d < 2 w and 6 to 12 days thereafter.	Two-twenty-sevenths of annual salary per year of service
	W/C	8 d < 8 w and 15 days to 4 months thereafter.	
Netherlands	B/C	0 < 2 m. Thereafter, 1 week per year of service, up a to maximum of 13 weeks: plus 1 week per year of age over 45, with a separate maximum of 13 weeks.	None in addition to notice.
	W/C	0 < 2 m, then as above, but with a one month minimum.	None in addition to notice.
Portugal	B/C individual redundancy	60 d (minimum waiting period as for collective dismissals).	1 month per year of service.  Half the pay received during the notice period. The dismissed worker has priority if the firm rehires within a year.
	Other B/C	0 < 30 d then 1 to 4 weeks per year of service, with a mimimum of 2 weeks.	
	W/C	1/2 m per year of service, up to 15 years and 1 month per year thereafter.	
Spain	B/C and W/C for technical and economic reasons	0 < 15 d for blue collar workers and 0 < 1 m for white collar workers. Thereafter 1 m < 1 y, 2 m < 2 y, 3 m > 2 y.	Two-thirds of a month of pay per year of service with a maximum of 12 months.
	B/C and W/C for objective reasons	As above.	Zero.
United Kingdom	B/C and W/C	0 < 1 m, 1 w < 2 y, plus one additional week of notice per year of service up to a maximum of 12 weeks.	Half a week per year of service {ages 18 to 21}, 1 week per year (ages 22 to 40), 1.5 weeks per year (ages 41 to 64), limited to 20 weeks and to €172 per week (in 1989).

Table 1.B. **Required notice and severance pay for individual dismissals** (cont'd)

2. Calculated notice periods and severance pay at three lengths of service<sup>3</sup>

	Case (B/C = blue collar, W/C = white collar)	Notice			Severance pay		
		9 months	4 years	20 years	9 months	4 years	20 years
Belgium	B/C	28 d	28 d	56 d	0	0	0
	W/C	3rn	6.2 m	21 m	0	0	0
Denmark	B/C	7 d	7 w	4rn	0	0	0
	W/C	3rn	4 m	6 m	0	0	3 m
France	B/C and W/C	1 rn	2 m	2 m	0	0.4 m	2.67 m
Germany	B/C	2 w	2 w	3rn	0	0	0
	W/C	1.5 m	1.5 m	6rn	0	0	0
Greece	B/C	5 d	15 d	60 d	2.5 d	6.5 d	39 d
	W/C	30 d	3 m	16 m	15 d	1.5 m	8 m
Ireland	B/C and W/C	1 w	2 w	8 w	0	2 w	17 w
Italy	B/C	6 d	9 d	12 d	0.67 m	3.5 m	18 m
	W/C	15 d	2rn	4 m	0.67 m	3.5 m	18 m
Netherlands	B/C	1 w	4 w	23 w	0	0	0
	W/C	1 rn	1 m	23 w	0	0	0
Portugal	B/C individual redundancy	60 d	60 d	60 d	0	4 m	20 m
	Other B/C	2 w	8 w	40 w	1 w	4 w	20 w
	W/C	2 w	2rn	12.5 m	1 w	1 rn	6.25 m
Spain	B/C and W/C for technical and economic reasons	1 rn	3rn	3rn	0.5 m	2.67 m	12 m
	B/C and W/C for objective reasons	1 rn	3rn	3rn	0.5 m	2.67 m	12 m
United Kingdom	B/C and W/C	1 w	3 w	12 w	0	4 w	20 w

1. In Belgium the Claeys formula, frequently used as a basis for predicting awards, is  $N = 0.86S + 0.07A + C$  where N is the notice period in months, S is years of service, A is age, and C is a further factor that increases with remuneration and job grade, but is close to zero (as assumed here) the lower end of the range.
  2. In Germany, for blue-collar workers notice must be given so that the last day of work is end of the month or quarter.
  3. Where relevant, calculations assume that the worker was 35 years old at the start of employment.
- Sources: As for Table 1.A.

Table 1.C. Conditions under which individual dismissals are fair or unfair<sup>1</sup>

		Scored <sup>2</sup>
Belgium	Unfair are: "reasons which have no connection whatsoever with the capability or conduct of the worker or which are not based on the operational needs of the undertaking, establishment or department".	0
Denmark	B/C "are generally considered not to have any legal entitlement to notice of termination of contract. Such provisions do, however, exist in the vast majority of collective agreements". Unfair are: dismissals which are "arbitrary and not based on real and serious grounds".	0
France	Fair are: dismissals for nonperformance, lack of competence (not necessarily involving fault), and economic or technical reasons.	0
Germany	Fair are: dismissals based on factors inherent in the personal characteristics or behaviour of the employee or business needs and <b>urgent/compelling</b> operational reasons. Unfair are: dismissals where the employee can be retained in another capacity after suitable rehabilitation or <b>training</b> , <sup>3</sup> and dismissals where due account has not been taken of "social considerations".	2
Greece	Fair are: dismissals for nonperformance on the worker's part and reasons inherent in production activities and work organisation.	1
Ireland	Fair are: dismissals for lack of ability, competence or qualifications, or redundancy. Unfair are: dismissals reflecting discrimination (on race, etc. grounds) including when this leads to unfair selection during redundancies.	0
Italy	Fair are: dismissals for "just cause", but this is not clearly defined. Unfair are: discrimination (on grounds of politics, religion, race, sex or trade union activity).	0
Netherlands	Fair are: dismissals where it can be proved that the worker is unsuitable, or on economic grounds of redundancy of the job, but in this case financial grounds must be given (accountants' statement) and the selection of worker involved be justified on grounds of "last in first out" or <b>age/sex</b> balance of the workforce, etc.	1
Portugal	"Until 1989 the only permitted grounds for individual dismissal were disciplinary. A 1989 Law adds 'economic' grounds but it leaves the previous requirements largely untouched. The government is trying to change the law on dismissal to give the employer the additional possibility of dismissing an employee for lack of professional or technical capability to carry out the work. The 1989 Law permits a single job to be eliminated and the incumbent dismissed for necessary economic, technical or structural reasons. the dismissal must stem from conditions beyond the control of the employer or employee, must be based on urgent need, and must not involve a post which has counterparts in the firm filled by people on fixed-term contracts" (Wyatt, p. 240-1.)	34
Spain	Dismissals for technological and economic reasons may be fair but detailed procedures must be followed. Dismissals can also be justified for the individual's failure to adapt to reasonable technical modifications in the job after up to 3 months <b>training</b> , <sup>3</sup> and in these cases even the regular severance payment (Table 1.B) need not be paid. The need to eliminate an individual job is not a valid reason for individual dismissal for "objective" reasons except in firms with less than 50 people.	2

**Table 1.C. Conditions under which individual dismissals are fair or unfair'  
(cont'd)**

		Scored <sup>2</sup>
United Kingdom	Fair are: dismissals justified by lack of capability: persistent or gross misconduct; redundancy or some other "substantial" reason. Unfair are: dismissals based on discrimination by race, sex, etc.	0

1. This table does not report the treatment of dismissal for serious fault, which is considered fair grounds for dismissal in all countries.
  2. Footnote 3 to Table 1 describes the 0-3 scale used for scoring these conditions for dismissal.
  3. In France the employer often has to provide or contribute towards the cost of training after a dismissal, but the retraining condition does not enter into judging the fairness of the dismissal. By contrast in Germany and Spain, rehabilitation must already have been attempted before the dismissal, or the dismissal is considered unfair.
  4. For the Portugal the score 3 is appropriate up to 1989.
- Sources: As Table 1.A.

Table 1.D. **Severance pay and related provisions following unjustified dismissal**

(B/C = blue collar, W/C = white collar)

1. Descriptions of compensation paid by the employer or reinstatement following unfair dismissal

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Belgium	B/C: compensation corresponding to at least twice the notice period in Table 1.B. W/C: compensation equal to the notice period in Table 1.B. No right to reinstatement.
Denmark	A reinstatement order is possible but rare. Compensation is limited to 39 weeks of pay (for long service cases).
France	Forced reinstatement is not possible. Compensation is rarely less than 6 months of pay "but could amount to two years' pay or even more".
Germany	A reinstatement order possible (through it is rarely taken up by the employee concerned). Compensation of 1 month per year of service with a maximum of 12 months (15 months if aged over 50, 18 months if aged over 55).
Greece	Ordinary severance payments and a full reinstatement order or additional compensation.
Ireland	A reinstatement order is possible. Compensation is limited to 104 weeks of pay.
Italy	The employee can choose reinstatement.' If compensation is chosen, this is on the scale 8 m < 30 m, 12 m < 20 y, 14 m > 20 y (notation of Table 1.B) under a 1966 Act, but is fixed at 15 months according a 1970 law (the two laws coexist and conflict). Severance pay as in Table 1.B appears to be payable in addition.
Netherlands	Reinstatement may be ordered in some cases of "obviously unfair dismissal". Compensation as in the usual notice period (see Table 1.B).
Portugal	Reinstatement or compensation of one month of pay per year of service (employee choice).
Spain	Employer can choose between reinstatement and compensation of 45 days of pay per year of service with a maximum of 42 months of pay. From 1990, tribunals may award an additional 15 days of pay per year of service with a maximum of 12 months.
United Kingdom	Employers are not obliged to reinstate. Total compensation may be roughly double the severance pay in Table 1.B.

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**Table 1.D. Severance pay and related provisions following unjustified dismissal (cont'd)**

(B/C = blue collar, W/C =white collar)

2. Trial periods, compensation payable, and extent of reinstatement<sup>2</sup>

	Case	Trial period before eligibility arises (in days d, weeks w, or months m)	Compensation (maximum of range or at 20 y tenure)	Extent of reinstatement
Belgium	B/C	14 d	4	0
	W/C	6 m <sup>3</sup>	21	0
Denmark	B/C	–	9	1
	W/C	3 m	9	1
France	B/C	1-2 w	15	0
	W/C	1-2 m	15	0
Germany	B/C and W/C	6 m	18	2
Greece	B/C	2 m	9	2
Ireland	B/C and W/C	12 m <sup>4</sup>	24	1
Italy	B/C	1-2 w <sup>4</sup>	32.5	3
	W/C	3-8 w <sup>4</sup>	32.5	3
Netherlands	B/C and W/C	2 m	5.3	1
Portugal	B/C and W/C	30 d	20	3
Spain	B/C	15 d	35	0
	W/C	3 m	35	0
United Kingdom	B/C and W/C	2 y <sup>4</sup>	10.8	0

1. in Italy, where the establishment has under 16 staff and the employer has under 61 staff in total, the employer can choose to compensate (paying 14 months' salary for employees with more than 20 years tenure) rather than reinstate. This case has not been taken into account here (employees of small firms also have less protection in some other countries e.g. France).
2. The extent of reinstatement is based upon whether, after a finding of unfair dismissal, the employee has the option of reinstatement (indefinite continuation of full pay) even when this is against the wishes of the employer. The indicator is 1 where this option is rarely made available to the employee, 2 where it is fairly often made available, and 3 where it is always made available.
3. For Belgian white-collar workers, the trial period can be up to 12 months if pay exceeds 920 000 BF per year.
4. For Italy, the trial periods cited are those common in collective agreements which are enforceable. In Ireland and the United Kingdom, shorter trial periods are commonly agreed between employer and employee. but claims under statutory unfair dismissal legislation are not normally possible until after the periods shown.

Sources: As Table 1.A.

## Annex 2

### REGULATION OF TEMPORARY EMPLOYMENT

**Table 2.A. Regulation of fixed-term contracts**

Scale	Valid cases other than the usual "objective" situations <sup>1</sup>	Maximum number of successive fixed-term contracts <sup>2</sup>	Maximum cumulated duration of successive contracts <sup>2</sup>
Scale	0-2 or all	Number	Time
Belgium	"Objective" situations only, and only with the agreement of unions delegates (scored 0).	"The courts are extremely reluctant to accept successive fixed-term contracts when they do not seem justified [Wyatt] (scored 1).	2 years (for a replacement contract).
Denmark	"The Act permits the engagement for a specified period of time, which means that the employment terminates without further notice when the stipulated time has expired" <sup>4</sup> (scored all).	No limit.	No limit.
France	Restricted to "objective" situations (fixed-term contracts are explicitly forbidden for permanent posts linked to the company's normal activity). But fixed-term contracts are allowed for employment creation and training purposes (scored 1).	3	24 months.
Germany	Restricted to "objective" situations with exemption from this requirement for the unemployed and apprentices who have completed training <sup>5</sup> (scored 1).	1	18 months.
Greece	"Objective" situations only (scored 0).	3	No limit.
Ireland	It is possible to avoid claims for unfair dismissal through use of an explicit fixed-term contract (scored all).	No limit.	No limit.

Table 2.A. Regulation of fixed-term contracts (*cont'd*)

Scale	Valid cases other than the usual "objective" situations <sup>1</sup>	Maximum number of successive fixed-term contracts <sup>2</sup>	Maximum cumulated duration of successive contracts <sup>2</sup>
	0-2 or all	Number	Time
Italy	Limited to "objective" situations, except that fixed-term contracts can be used more widely by sectoral collective agreements. Use of this provision during the 1980s has however been limited <sup>6</sup> (scored 0.5).	2, but the renewal is allowed only in exceptional circumstances (scored 1.5).	3 months, except seasonal work, 6 (scored 4.5 months).
Netherlands	No restrictions (scored all).	1 7	No limit.
Portugal	Permitted for a) launching a new activity of uncertain duration and setting up a new enterprise or establishment and b) recruiting workers in search of their first job, the long-term unemployed, and other situations provided for by employment policy legislation (scored 2).	3	3 years, except for new activity, 2 years (scored 2.5 years).
Spain	Permitted for a) launch of a new activity b) employment experience c) training d) employment creation measures (scored 2)	No limit except as implied by the maximum cumulated duration (scored 6).	3 years
United Kingdom	No restrictions (scored all).	No limit.	No limit.

1. All countries recognize the validity of fixed-term contracts in "objective" situations. a term which typically refers to seasonal work; replacement of temporarily absent permanent workers (on sickness or maternity leave), exceptional workload, specific tasks, and construction work.
2. Restrictions apply to successive contracts with the same employer.
3. See Table 2 (main text) for a description of this scale.
4. Although some sources say for Denmark that temporary contracts are for white-collar workers limited to 3 months, this refers to termination-at-will contracts. Fixed-term contracts (engagements for a specified period of time) are valid, though little used in practice in most sectors.
5. In Germany, the law allowing fixed-term contracts for hiring of unemployed workers and apprentices, without restrictions to "objective" work situations, dates from 1985.
6. In Italy, an agreement in January 1989 covering private industry also provided for fixed-term hirings for between 4 and 12 months, restricted to unskilled workers chosen by name from the unemployment rolls.
7. In the Netherlands from 1992 the legal validity of a second fixed-term contract, limited to 6 months. has been recognized.

Sources: Bianpain and Kohier (1991), IRS (1990) and Wyatt (1991)

**Table 2.B. Regulation of temporary work agency employment**

Scale	Types of work for which TWA employment is legal <sup>1</sup>	Are there any restrictions on the number of renewals?	Maximum duration of temporary work contracts	Under temporary work contracts, can the final user terminate at any moment?
	0-3 or general <sup>2</sup>	Yes/no	Months	Yes/no
Belgium	Restricted cases <sup>3</sup> (scored 2).	Yes	1 Or3 (depends on reasons).	No.
Denmark	Limited to office and shop workers (scored 2).	Yes	3	Yes (within the 3 month).
France	Any nonpermanent job (scored 3).	No	24	No.
Germany	Contracts must be authorised by the public employment service (scored 2).	Yes	6	Termination is subject to the usual notice period (scored 0.5).
Ireland	General.	No	No limit.	Yes.
Netherlands	General. <sup>4</sup>	Yes	6	There is no protection against dismissal but by collective agreements there is a notice period [4 to 10 days for 3-6 month contracts] (scored 0.5).
Portugal	Restricted cases <sup>3</sup> Contracts must be authorised by the public employment service (scored 1).	Yes	6 or 12 (depends on reasons).	In the absence of specific legislation, the legal position is as for fixed-term contracts (scored no).
United Kingdom	General.	No	No limit.	Yes.

1. TWA employment is illegal in Greece, Italy and Spain, which are therefore scored zero for the first column and not applicable for later columns.
2. Scored 1 if there are authorisation requirements and another restriction. 2 if only one restriction applies, 3 in France (permitted for any non permanent job) and "general" if no restrictions.
3. The "restricted cases" for which TWA employment is legal in Belgium and Portugal resemble the "objective" situations to which fixed-term contracts are restricted in some countries, see Table 2.A.
4. In the Netherlands TWAs can supply labour for all types of work but it is illegal to pay the worker more than a regular employee and illegal for the agency to prevent the transition to a permanent status.

*Sources.*<sup>7</sup> As for Table 2.A.



**Annex 3**  
**REGULATION OF WORKING TIME**

**Table 3.A. Limits on normal working hours**

	Minimum				Maximum			
	Annual leave (weeks) <sup>1</sup>		Annual public holidays (days) <sup>1</sup>		Annual worktime (weeks) <sup>1,2</sup>		Weekly worktime (hours) <sup>1,3</sup>	
	A	B	A	B	A	B	A	B
Belgium	4	5	10	13.5	46.14	44.44	38	38
Denmark	5	—	none	—	47.14	47.14	39	37
France	5	5.1	1	11	46.94	44.84	39	39
Germany	3	5.4	11	11	46.94	44.53	48	38
Greece	4	4.4	4	13	47.34	45.14	40	40
Ireland	3	4	8	9	47.54	46.34	48	39
Italy	4	—	9	—	48.14	48.14	48	39
Netherlands	4	4.7	7	9	46.74	45.64	48	38
Portugal	4.4	4.4	12	13	45.34	45.14	48	42
Spain	5	5	14	13.5	44.34	44.44	40	39.5

**Table 3.8. Limits on annual overtime and overtime pay premiums**

	Maximum annual overtime in excess of the normal hours in collective agreements shown in Table 3.A <sup>1</sup>			Minimum pay premium for overtime hours <sup>2</sup> (per cent)
	Quantitative limits (hours)	Other limiting factors	Summary indicator (hours)	
Belgium	260	Some collective agreements have aimed to strictly limit overtime.	200	50
Denmark	No limits in legislation, some limits in collective agreements (6 hours per week in engineering).	Systematic overtime is illegal.	144	50
France	130, or 336 with authorisation from the Labour Inspector.	Systematic overtime is possible.	233	25
Germany	540		540	25
Greece	120 or 150	Authorisation often required (depends on sector, amount of overtime).	135	25
Ireland	240	More overtime is possible subject to authorisation.	300	25 (50 common in collective agreements).
Italy	576 in legislation, about 150 in recent collective agreements.		363	25
Netherlands	540		540	50
Portugal	160 in legislation, 50-100 in recent collective agreements		120	50
Spain	80		80	75

1. Ireland. Portugal and Spain specify annual limits on overtime directly. Derivations countries are: Belgium: a limit of 65 hours per 3-month period is cited in IRS 11991 systematic use of overtime is assumed to limit it to 24 weeks per year. France: with including overtime may be increased to 46 hours per week averaged over a 12 week week, and this is assumed here to apply 48 weeks a year. Germany: working up to the 1 week allows 10 hours per week of overtime, assumed here to apply 48 weeks per year: be exceeded by 2 hours per day for 30 days in the year. Greece: Blanpain and Koh employees in banks and offices can work up to 120 hours per year of overtime with auth workers can work up to 120 hours per year of overtime without authorisation and exceed IRS (1991) cites only a limit of 150 hours per year. Italy: legal maximum is 12 hours per week, assumed here to apply to 48 weeks per year. Netherlands: work above 48 hours per week requires permission from the Labour Inspector which is only granted for a relatively short period when there is an extraordinary increase of work. This situation is assessed here as equivalent to that in Germany.
2. These are the lowest minimum rates of overtime premium: higher minimum rates typically apply to Sunday work, overtime in excess of a certain number of hours, etc. In Italy, the legal minimum is 10 per cent but collective agreements often specify 25 per cent, for the first hours of overtime.

Sources: As Table 3.A.

**Table 3.C. Provisions allowing a flexible distribution of hours across the week, month and year**

	Inclusion of overtime <sup>1</sup>	Maximum hours in		Period average limit: on weekly hours <sup>2</sup>		Maximum hours, at a weekly rate, over a		Summary indicator for flexibility <sup>5</sup>
		Any day	Any week	Hours	Averaging period	Month <sup>3</sup>	Year <sup>4</sup>	
Belgium <sup>6</sup>	exc.	9	45	40	1 y	45	38	1.34
	exc.	12	84	40	1 y	84	38	2.21
Denmark	exc.	13	45	37	6 m	45	37	1.50
France	inc.	10	48	46	12 w	48	43.85	1.26
Germany <sup>7</sup>	inc.	10	60	48	2 w	48	48	1.24
Greece	exc.	9	48	48	1 w	48	40	1.33
Ireland	inc.	11	60	48	3 w	48	45.25	1.36
				44	1 y			
Italy	exc.	8	48	40	1 y	48	39	1.30
Netherlands	exc.	9.5	48	45	4 w	45	38	1.40
				38	1 y			
Portugal	exc.	9	48	48	1 w	48	42	1.26
Spain	exc.	9	49.5	40	1 y	49.5	39.5	1.37

- exc. = excluded, inc. = included. This column specifies whether the legislation documented in the remaining columns of the table relates to hour worked excluding or including overtime.
- Using the case of Ireland for illustrative purposes, these columns can be read as saying that hours worked may not exceed an average 48 hours per week over a 3 week period, nor an exceed an average 44 hours per week over a one year period.
- Maxima for average hours over a month were taken as the maxima over 2, 3 and 4-week periods in Germany, Ireland and the Netherlands respectively.
- Maxima for average hours over a year refer to normal hours as in Table 3.A, plus where appropriate (see first column of this table) 1/48 of annual overtime as in Table 3.B.
- The summary indicator for flexibility in the distribution of hours is the average across maximum hours in any day (at a weekly rate. *i.e.* multiplied by 7), in any week, and in any month, all as a ratio to maximum hours over a year.
- For Belgium, the first row refers to working patterns allowed (under a 1985 amendment) when the firm is covered by a collective agreement and the second to working patterns allowed (under a 1987 law) when agreed by all unions in the company.
- For Germany, information refers to legislation. not collective agreements.

Sources: As for Table 3.A.

	Saturday work allowed in general <sup>1</sup>	Minimum weekly rest period		Night work allowed in general
		Implied by previous column <sup>2</sup>	Explicit rest-period legislation <sup>3</sup>	
Belgium	Yes	24	24	No
Denmark	Yes	24	35 <sup>4</sup>	Yes
France	Yes	24	24	Yes for men
Germany	Yes	24	24	Yes for men
Greece	No <sup>5</sup>	48	–	Yes for men
Ireland	Morning only <sup>6</sup>	36	24	Yes
Italy	Yes	24	24	Yes for men
Netherlands	Morning only <sup>6</sup>	36	24	No
Portugal	No	48	24	Yes for men
Spain	Yes <sup>7</sup>	24	36	Yes

1. Sunday work is always considered exceptional.
2. This column is a mechanical transformation of the previous column, 24 hours rest per week if work is allowed all day Saturday, 36 if it is allowed half-day, and 48 if it is not allowed.
3. This column refers to legislation which directly specifies a minimum rest period, and not to legislation which specifies maximum hours per week or per day, for which see Tables 3.A and 3.B.
4. Legislation for Denmark specifies rest periods of both 1 day per week and 11 hours per day, implying a 35 hours rest period (except for a shift-worker changing shifts).
5. Greece: a five-day week is compulsory for industrial establishments employing over 50 persons (ruling 25/83 of the Athens Permanent Arbitration Court). No minimum weekly rest is specified, other than Sunday.
6. Ireland and the Netherlands: the law does not generally permit work after 13.00 on Saturday (IRS, 1991).
7. Spain: Although the workers' rights bill of 1980 specifies that the rest period is one and a half days which should include either Saturday afternoon or Monday morning, this provision is not carried over into any more specific legislation. Saturday working is not specifically restricted (IRS, 1991, p. 53), and some sectoral collective agreements specify a full day of work on Saturday (e.g. 7 hours per day from Monday to Saturday in the insurance sector: Blanpain and Kohler, 1986, p. 393).

Sources: As for Table 3.A.