



Trade Union
Advisory Committee
to the OECD
*Commission
syndicale consultative
auprès de l'OCDE*

BASED IN PARIS 2018
FOUNDED IN LONDON 1948

Social Policy Ministerial Meeting The Future of Social Protection in a Changing World of Work Paris, 15th May 2018

TUAC welcomes the opportunity to contribute to the OECD Social Policy Ministerial “Social Policy for Shared Prosperity: Embracing the Future”, 14-15 May 2018, Montréal, Canada. The Ministerial will address the challenges for social protection systems in the future world of work. For TUAC, the Ministerial should focus on the facts and not jump to alarming conclusions. The Ministerial should support three key policy measures to close gaps in social protection coverage for workers in flexible forms of work: (i) Prevent precarious forms of work from increasing in the first place (ii) Broaden social protection systems to include non-standard forms of work (iii) Promote inclusive collective bargaining.

Table of contents

An evidence-based approach is necessary.....	1
Do not reward but limit non-standard forms of work.....	3
Strengthen social protection by including non-standard workers and ensuring portability of rights	5
Promote wide coverage of collective bargaining	5

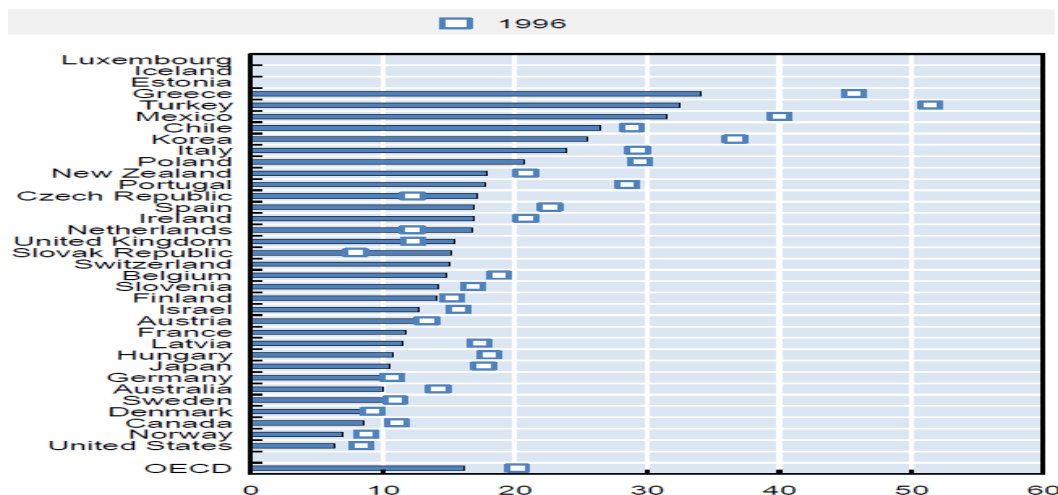
An evidence-based approach is necessary

1. A common point of departure for discussions on the future of social protection is to argue that these systems rely heavily on the incidence of full-time permanent work for a single employer. The concern is that these systems are already under pressure from the increase in non-standard forms of work and will become more so with digitalisation allowing jobs to be split into a series fragmented tasks. Hence, the solution – or so we are told – is to separate social protection from the employment relationship by exploring new approaches such as a universal basic income or “negative” income taxes.

2. This view does not match the facts. First, the relative incidence of “gig-work” is still extremely limited: about 0.5% of the total work force based on available statistics in the US. Moreover, many workers leave platform and crowd work behind them after having experienced the reality of working in the ‘gig-economy’.

Second, and in contrast with common perception, the share of self-employment in total employment has actually fallen in the majority of OECD countries (see graph). Across the OECD, on average, it has gone down by 4pp between 1996 and 2016 (OECD 2017).

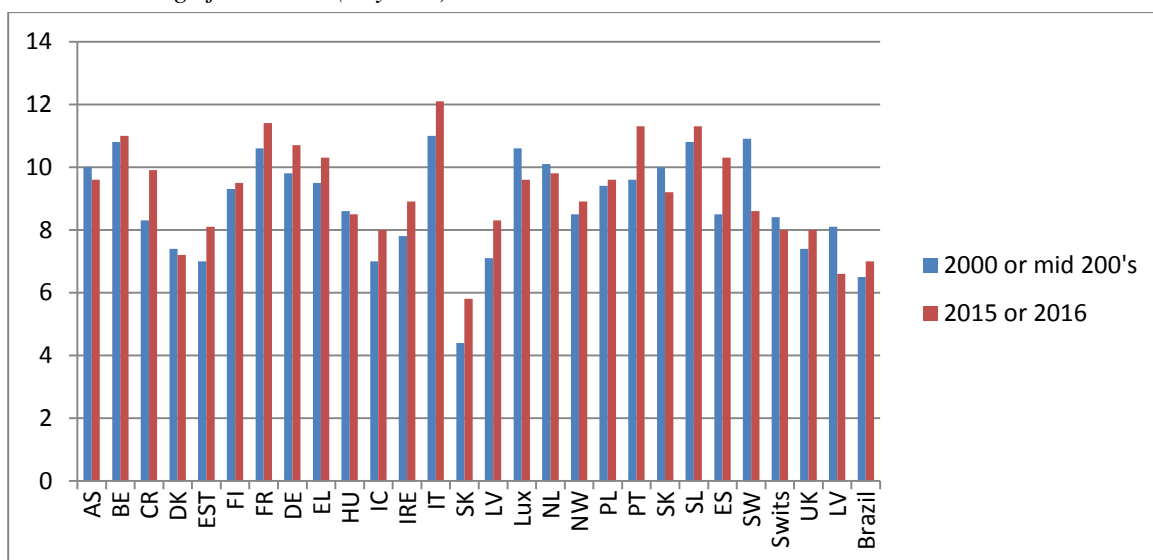
Self-employment as a share of total employment, in percent



Source: OECD (2017) “The Future of Social Protection: What works for non-standard workers”, mimeo

Third, and again against common perception, the average tenure of jobs in the OECD has not been falling. From the early 2000s to 2015 or 2016, average job tenure has either remained stable or slightly increased in 28 OECD countries out of a sample of 35 (see next graph), and this despite the trend increase in precarious work practice. There are thus two realities that need to be distinguished from each other: the reality of the job and the reality of the job contract. Despite technological change and globalisation, jobs themselves are on average as stable as before. What has changed is the strategy of management offering more temporary and short-term labour contracts to fill jobs that are intrinsically of a longer duration. This sheds serious doubt on the traditional claim that the increase in labour market precariousness is an inherent and unavoidable part of technological progress or globalisation. The rise in precarious contracts has more to do with the many reforms that were undertaken to push for greater labour market flexibility and which have provided management with more regulatory loopholes that allow the use and abuse of insecure labour contracts.

Average job tenure (in years)



Source: OECD

3. This does not mean, however, that there is not a serious problem with coverage gaps. Workers on temporary contracts all too often have difficulties in having adequate access to social protection. Self-employed workers tend to have less social protection coverage. In many countries the self-employed are for example not covered by mandatory work accident insurance and are thus exposed to the risk of a work-related accident and its consequences. It also means that there is no level playing field in terms of competition with firms and workers that do pay for social insurance. Firms are thus provided with the incentive to shift work onto employees that have the least protection, thus undermining the capacity of social security systems to raise revenue and to pool risks.

4. The observation that average job tenure is not shrinking does imply however that the argument of stable employment relationships rapidly becoming a thing of the past is not as straightforward as it generally seems. Governments should therefore think twice before venturing into radical reforms that risks dismantling existing social security systems – systems we know are working to insure widely against risks to life/from the labour markets. Instead of throwing away the baby with the bathwater, governments should build on and expand existing social protection schemes For TUAC, there are three ways to do so:

- Do not reward non-standard forms of work: the trend towards precarious and atypical work forms should not be taken as inevitable and policies, including social contribution policy, should make sure that the use of non-standard forms of work is limited and certainly not rewarded.
- Strengthen social protection for workers in precarious and atypical forms of work. Workers on non-standard contracts should be incorporated into social protection systems. These should ensure portability in order to allow workers to retain entitlements when changing jobs.
- Promote wide coverage of collective bargaining agreements, in particular through industry-wide agreements.

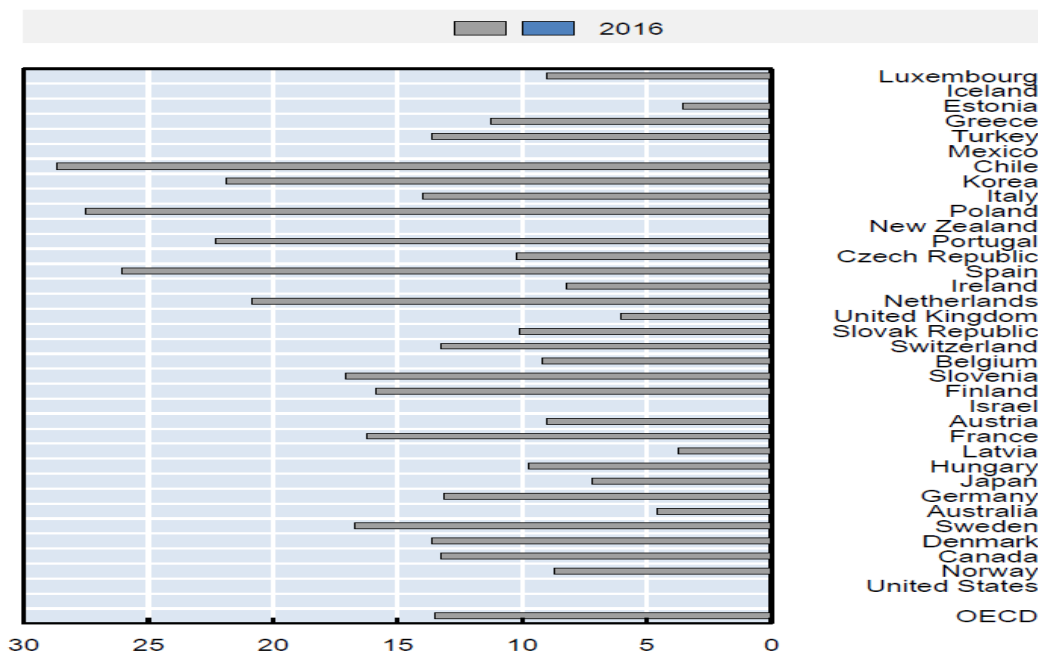
Do not reward non-standard forms of work

5. The first step is to prevent the problem from arising by making sure that precarious work practices are kept under control. The lower the incidence of precarious work, the more access workers have to social security through their regular labour contracts.

Growth in precarious work practices should not be taken for granted. Technological progress offers more opportunities for firms to outsource work while at the same time maintaining tight control over the way the work is being performed and remunerated. Firms can thus exert their managerial prerogatives while escaping the responsibilities that go with it. Technology however is not destiny and should not be used as an excuse to give up on workers' rights. The way technology is shaped, used and implemented should remain a matter for policy to decide.

In fact the important role that policy and regulation still have to play can be seen from the fact that the incidence and trends in temporary work contracts widely diverge across OECD countries. If technological change, flexibility and globalisation are so powerful and inevitable “mega trends”, why then is precarious work much more prevalent in some countries than in others?

Temporary workers as a share of dependent employment, in percent



Source: OECD

6. Limiting the use that companies make of precarious forms of contract is first and foremost a responsibility of labour regulation, either in the form of labour law or in the form of robust and independent collective bargaining. Left unregulated, there will always be companies that follow the strategy of resorting to precarious work and gaining a competitive advantage from the weaker bargaining position of workers in such contracts. In fact, by allowing the use of a multitude of flexible contracts, past reforms have created many loopholes and backdoors to regular labour protection. If employers can pay workers performing a similar job a different wage depending on whether the worker has a regular or non-standard contract, then this is an open invitation for business to replace the former contracts with the latter. This is why it is crucial that labour regulation ensures the application of the principle of “equal pay for equal work”.

8. Beyond labour market regulation, social policy and public policy in general also need to take up their role by ensuring that a level playing field prevails that does not reward non-standard forms of work. Social security legislations in the Netherlands and the UK for instance, are in effect promoting the use of alternative forms of work by charging lower security contributions for self-employed workers. Employers can then engage in regulatory arbitrage to their own advantage.

Lower rates of social contribution are sometimes further reinforced by privileged tax treatment of self-employment (case of the Netherlands) or platform workers (case of Belgium). Tax policy, through the gender dimension, can also cause a supply-side driven increase in precarious forms of work. In Japan female workers are eager to step into low paid part-time jobs that enjoy a special and favourable tax treatment in order to avoid high tax pressure on second earners' income¹. In Germany, the expansion of “mini-jobs” by female workers was much encouraged by a lower tax rate in combination with the lack of childcare facilities and work-compatible school opening hours. In general, lack of affordable and quality child care facilities pushes female workers with young children into accepting flexible but often insecure jobs.

Public sector employment management also plays a role. If the government and public administration set the wrong example (by putting substantial parts of public sector jobs on short-term temporary contracts, cases of Spain and Poland), why would one expect the private sector to act differently?

Strengthening social protection by including non-standard workers and ensuring portability of rights

9. Social protection systems should be strengthened by expanding coverage to non-standard workers. The principle, as formulated by the European Commission in a recent draft recommendation to the Council, should be to extend coverage of adequate social protection to all workers, regardless of their specific employment status or relationship. This implies and calls for:

- Rules governing contributions and entitlements (such as waiting periods, qualifying or minimum working periods) that meet the situation of non-standard workers. Access to social benefits should not discriminate by the type of employment relationship.
- Coverage should be adequate to uphold living standards, provide appropriate income replacement and prevent poverty.
- Rights to social security entitlements should not be tied to an individual company but should be accumulated, preserved and portable and be made transferable between different employers and different employment statusesⁱⁱ.

11. Employers have a key role to play. In general, entitlement to social security is part of workers' normal compensation and this should continue to be reflected in employer contributions to the social security system. To avoid tax arbitrage, employers and contractors must be held accountable for the social security of all of their workers, including those on online platforms. Employer contributions also have a role to play in addressing 'moral hazard' by confronting employers with the social cost of how the workplace is being managed. By taking higher rates of workplace accidents, work stress related long term sickness or excessive use of precarious contracts into account when setting employer social contributions, management will have greater incentives to limit the incidence of these phenomena.

12. Complementary to these principles on contributory social security benefits, developing adequate social assistance benefits will be important to guarantee a decent income to those who, for some reason or another, are unable to access contributory benefitsⁱⁱⁱ.

13. Extending access to social protection to all workers, irrespective of their employment contract and status, is and should be a self-justifying goal. And it would be beneficial for several other reasons. Social protection extension improves welfare and security of households. It increases the power of social transfers to redistribute income, thus benefiting social cohesion. It increases and stabilises domestic demand and thus the economy, especially in times of crisis. It allows households to invest more in human capital.

Promoting wide coverage of collective bargaining

13. Promoting wide collective bargaining coverage and inverting its downward trend should be the third pillar to improve social security for non-standard workers. Collective bargaining, by increasing wages, translates into higher levels of social security entitlements such as unemployment or pension benefits. Collective bargaining may also limit the use of non-standard contracts by setting maximum limits on the share of agency work or temporary contracts that individual firms of the sector can resort to^{iv}.

14. It may be more difficult to organise and to set up collective bargaining for precarious workers, but it is certainly not impossible. It is no coincidence that the first collective agreements for 'gig' workers are concluded in Austria, Denmark and Sweden. High levels of trade union density and/or bargaining coverage combined with well-anchored practices of industry-wide agreements constitute the robust foundations upon which working standards can reach all workers, irrespective whether they are in

standard or non-standard contracts. In fact, sector-level bargaining appears particularly well-suited for the ‘gig-economy’. Sector-wide bargaining, by setting a common standard, does not only deliver a level playing field that takes downwards competition on wages out of the equation. It is also capable of dealing with the problem of wage formation in a fragmented labour market such as the ‘gig- economy’ where workers are geographically dispersed, rapidly move between platforms or in and out of a job^v. Sector-wide bargaining also tends to promote ‘equal pay for equal work’ as workers in non-standard contracts are entitled to the same sector-level pay and working arrangements enjoyed by standard workers.

15. All of this points to the need to respect and promote industrial relations and social partnership in general and in particular collective bargaining at industry-wide level. This in turn implies policies that (i) support trade union membership such as, amongst others, ensuring the right to freedom of association and right to collective bargaining and this also for ‘gig’ workers^{vi}, Ghent unemployment benefits, and/or (ii) policy that promotes the extension of industry-wide collective agreements.

i IMF “Minimum Wages as a Wage Policy Tool in Japan” Working Paper 16/232

ii See L20 Statement to the G20 Labour and Employment Ministers’ meeting - Bad Neuenahr, Germany, 18-19 May 2017.

iii This is also in line with ILO Recommendation 202 on Social Protection Floors.

iv One example of such a collective bargaining campaign is the case of the German metal sector between 2011 and 2013. Realising that management had been using agency workers as a disciplining device for the entire work force, IG-Metall initiated a collective bargaining round to improve the pay and limit the use of agency work force. See Benassi Chiari (2016) “Extending solidarity rather than bargaining concessions: The IG-Metall campaign for agency workers, ETUI Policy Brief, available here <https://www.etui.org/Publications2/Policy-Briefs/European-Economic-Employment-and-Social-Policy/Extending-solidarity-rather-than-bargaining-concessions-the-IG-Metall-campaign-for-agency-workers>

v See Johnston, Land-Kazlauskas (2018) “Organizing on-demand. Representation, voice and collective bargaining in the gig-economy” ILO Conditions of Work and Employment Series 94.

vi See in particular the example of Uber drivers in US restricted from the right to collective bargaining because of competition laws (SOURCE).