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Bargaining for Social Rights in Sectors (BARSORIS)

– National Report Denmark

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Preface

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1. Introduction

A wide range of employment types coexist alongside the traditional full-time open-ended contract in the Danish labour market. Whilst some employment types, such as part-time work and temporary agency work (TAW), have become more common in recent years, others, such as fixed-term contracts and self-employment have remained relatively stable. 28 percent of the workforce is estimated to hold an employment contract that no longer reflects the traditional full-time permanent position (Scheuer, 2011a). Although Danish legislation and collective agreements, in principle and in most cases, ensure these workers similar rights as comparable employees in permanent full-time positions, some groups may de facto face a greater risk of precariousness.

Danish social partners rarely use the terms ‘precarious’ and ‘atypical worker’ (DA, 2013; Mailand and Larsen, 2011). In fact, these terms are highly disputed among social partners in Denmark, and no consensus exists as to which groups of employees can be considered precarious (DA, 2013; Scheuer, 2011b). In this report, and in accordance with the focus of the whole research project, ‘precariousness’ refers to employment with a low level of wages, a low level of job security, a low level of social security (incl. unemployment benefits and pensions), involuntary and short working hours, a lack of ‘voice’ and workload challenges. It is important to emphasise that we do not have a strict definition of job precariousness. Instead, in this study we will discuss to what extent the job includes problems or risks of precariousness. Moreover, it is important to note that not all forms of employment that deviate from the traditional full-time open-ended contract should or can be considered precarious. Indeed, it depends on the circumstances and varies across countries and sectors. Employment types other than the traditional full-time permanent position can in many cases meet both employers’ and employees’ demands for flexibility and provide sufficient income and acceptable wages and working conditions. Such types of employment can also be a stepping-stone to open-ended fulltime contracts in the labour market (Mailand and Larsen, 2011; DA, 2013a; Scheuer, 2011b). Furthermore, a full-time permanent position is no guarantee of protection from the challenges of precariousness.

This report consists of seven chapters. The second chapter briefly reviews the recent development in distinct employment types in Denmark, including social partners’ general approach to atypical work. Chapters three, four, five and six review the recent development of atypical employment in four selected sectors, including the wage and working conditions of atypical workers and social partners’ approach to atypical work.– The TAW, hospital, industrial cleaning and construction sectors were selected because they included various forms of employment contracts and cover quite different types of labour markets. Chapter seven includes a cross-sector comparison along with a discussion of social

partners' approaches to atypical work and the main drivers behind the recent developments.

Methodically, the chapters draw on secondary material, interviews with six representatives from the employers' associations and eight interviews with trade union representatives conducted from April to September 2014. Where nothing else is stated in the report, the source of information is these interviews. Due to the promise of full anonymity to a number of interviewees, a list of interviews has not been included in the report. We are thankful for the contributions of the interviewees to the report.

2. Recent development in employment types in Denmark

In this chapter, we first briefly review the general development of distinct employment types: part-time work, including marginal part-time work, fixed-term contracts, self-employed without employees, TAW and flexi-jobbers in the Danish labour market. In the literature, these employment types are often considered as being related to precariousness. Secondly, we briefly review social partners' general approach to these employment types before, in the following chapters, we analyse in greater detail the recent development of these employment types and social partners' responses to them within four selected sectors: the TAW sector, hospitals, the industrial cleaning sector and the construction sector.

2.1 Different employment types in the Danish labour market

In the Danish context, part-time work is typically defined as working less than 37 hours per week. Danish social partners do typically not consider part-time work to be precarious. However, in this project we argue that part-time workers can in some instances be considered to be at greater risk of precariousness in so far as part-time work (1) is involuntary and/or (2) involves a low number of weekly hours, which affects part-time workers' eligibility for unemployment benefits, occupational pensions and other social benefits along with their ability to maintain a reasonable living standard. However, we cannot point to a precise number of weekly hours which divides part-time work with problems of precariousness from part-time work without these problems. Regarding unemployment benefits, though, a rough indicator is the threshold which stipulates that a part-time worker needs to have worked the equivalent of 52 full-time weeks during the last three years to qualify for unemployment benefits. In other words, a part-time worker, on average, needs to have worked at least 13 hours per week over a five-day period during a continuous three-year period to qualify for unemployment benefits. The term marginal part-time work will also be used and is here defined as less than 15 working hours per week.

Part-time work is relatively widespread in the Danish labour market, with one in four employees holding a part-time job, and 9 percent work less than 15 hours per week in 2013 (Eurostat, 2014a; Statistics Denmark, 2014a). Most have voluntarily opted for a part-time job for various reasons. However, although 18 percent of Danish part-time workers have involuntarily ended up in such a position, it is important to stress that only a non-specified share of those holding a (in)voluntary part-time job can be considered to be at greater risk of precariousness (Eurostat, 2014c; Mailand and Larsen, 2011).

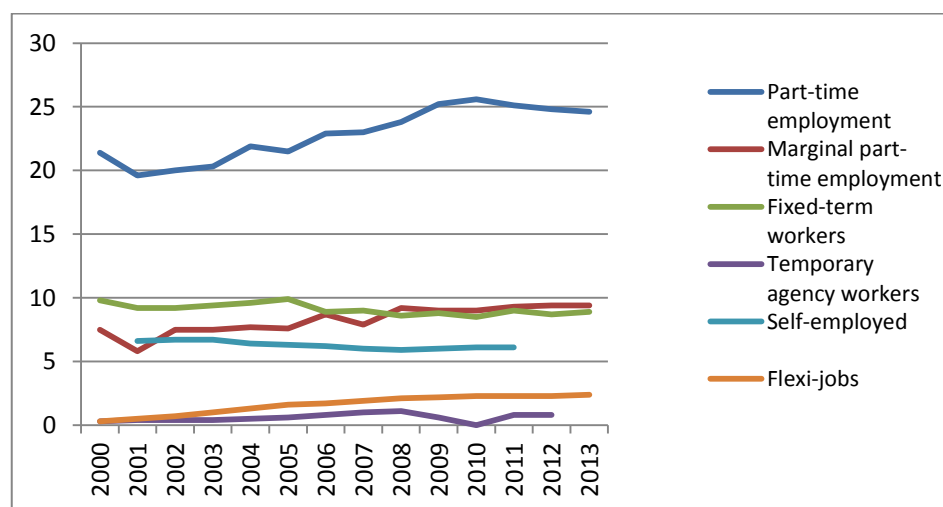
Regarding fixed-term contracts, Danish collective agreements and labour law distinguish between three types of fixed-term workers based on the occurrence of a specific event, a project contract and a specific date for termination. Being a fixed-term worker does not necessarily mean being precarious. Some

employees voluntarily opt for a fixed-term position. Therefore, a fixed-term worker can be considered to be at greater risk of precariousness only if, similar to some part-time workers, (1) they have involuntarily ended up in a fixed-term position, (2) they have relatively few weekly hours, which affects their eligibility to social benefits and income levels, and (3) their employment contract is short-term and thereby affects their eligibility for social benefits and employment security. In 2014, 9 percent of Danish employees held a fixed-term contract, and one in two fixed-term workers had ended up in such a position involuntarily – a number that had increased from 41 percent in 2000 (Eurostat, 2014d). In addition, 48 percent of fixed-term workers had a contract of one year or more, but 24 percent held a contract of less than six months, and although this number is comparatively lower than in 2000, this latter group faces a greater risk of precariousness (Eurostat, 2014e). Their short-term contract makes it difficult for them to meet the assessment criteria for social benefits outlined in the collective agreements and the labour law despite being covered in principle (see chapters on hospitals, construction and industrial cleaning).

The definition of temporary agency work follows the European directive. A temporary agency worker ('temp') is here defined as 'a worker with a contract of employment or an employment relationship with a temporary work agency with a view to being assigned to a user undertaking to work temporarily under its supervision and direction' (EU, 2008).

The extent to which temps can be considered to be precariously employed depends on similar criteria as those for fixed-term contracts and part-time work. In Denmark, 0.8 percent of the workforce were temps in 2012, but no figures exist as to the length of their contract, their number of weekly hours or whether they (in)voluntarily had opted for such a job (Statistics Denmark, 2014c).

Figure 2.1: Employment types as a percentage of the workforce aged 15–64 years in Denmark, 2000–2013



Source: Eurostat (2014a); European Commission (2012); Statistics Denmark (2014a; 2014b); Arbejderbevægelsens Erhvervsråd (2009); CIETT (2014); Arbejdsmarkedsstyrelsen (2011; 2014).

A person is considered self-employed without employees if he/she receives no payslips, issues invoices, works at his/her own expense and is not assigned the instruction of others (Ballebye et al., 2009). Self-employed persons typically fall into two groups – namely, those considered ‘normal’ employees and those self-employed in their own business. In some instances, Danish labour law considers the latter to be self-employed whilst in other matters, such as tax laws and sick leave, the self-employed are defined as employees (Jørgensen and De Paz, 2011). In addition, with respect to the self-employed without employees, a grey-zone group exists. They are often termed ‘the third group’ in the labour market because in one way or another, they are economically dependent workers. They include, *inter alia*, freelancers and the bogus self-employed. These workers are not engaged in a traditional employee-employer relation, but at the same time, they are not typically self-employed, mainly because they receive most or all of their income from one client. However, they are not eligible for some social benefits due to their status as self-employed (Ballebye et al., 2009). It is this group that is at greater risk of becoming precarious, as they often have limited or no rights to social benefits and no guaranteed income due to their status as self-employed. Self-employed without employees – the group facing a greater risk of becoming precarious – account for 60 percent of all self-employed and their numbers have increased in recent years, despite the number of Danish self-employed, generally speaking, remaining relatively stable during the last decade (Eurostat, 2014b).

Flexi-jobs¹ are a government-funded wage-subsidy job scheme that is part of the government’s active labour market policies. There are several other wage-subsidy job schemes in Denmark, but we have chosen to focus on the flexi-job scheme as flexi-jobs, in contrast to other wage-subsidy job schemes, typically entail a permanent position. Flexi-jobs are open-ended positions and can therefore be considered ‘real jobs’. The scheme was introduced in 1998 to reduce the rising number of people on incapacity benefits and is administrated by local government authorities. Flexi-jobs are eligible to all disabled people who meet specific visitation criteria. Their work tasks and working hours are organised around their own capabilities (Mailand and Larsen, 2011). Whilst employees in flexi-jobs previously received wage compensation equivalent to employees in comparable full-time jobs, despite working reduced hours, recent rule changes that came into force in 2013 have altered this practice, and people in flexi-jobs now receive salary only for the hours they work. Therefore, some people in flexi-jobs may face a greater risk of precariousness, depending on similar criteria as those listed for fixed-term contracts and part-time work. In 2013, 2.4 percent of the Danish workforce held a flexi-job (Arbejdsmarkedsstyrelsen, 2014).

¹ Flexi-jobs are considered to be part of the active labour market policy in Denmark. Among the various active labour market policy measures, we have chosen to include only flexi-jobs, most importantly because they, in contrast to, for instance, job training measures (subsidized jobs), are permanent positions.

As can be seen in figure 2.1, some employment forms have increased in recent years. TAW, flexi-jobs and part-time jobs, including marginal part-time work, have become more common in the Danish labour market since 2000. For example, TAW increased rapidly until it peaked in 2008 but was nearly halved in 2009 due to the economic crisis and has since then slowly increased, although numbers remain comparatively higher than at the beginning of the Millennium. Likewise, the number of flexi-jobs has increased significantly since the introduction of the scheme in 1998. The increasing popularity of the flexi-job scheme up until 2013, not only with employers but also with disabled people and local government authorities, may be due to economic incentives, as the scheme is heavily subsidized by the central government (Bredgaard et al., 2009; Gupta and Larsen, 2008). In addition, the numbers for part-time workers also remain comparatively higher than in 2000, but a slight decline – except for marginal part-time work – can be traced since 2011. Other forms of non-standard employment, such as fixed-term contracts and self-employment, have remained relatively stable or may even have declined during the last decade (Eurostat, 2014b; 2014e).

Compared with their peers in permanent full-time positions, some employees holding one of the aforementioned employment contracts seem to face a greater risk of unemployment, low pay, restricted access to social security benefits (including unemployment insurance, paid maternity, paternity and parental leave and occupational pensions), restricted access to private health care insurance schemes, restricted access to further training and limited opportunities for career advancement. Hence, they are somewhat related to a risk of precariousness despite being covered, in principle, by the labour law and/or collective agreements to the same extent as comparable employees on full-time open-ended contracts. This is the case for employees with few working hours, fixed-term contracts, some types of self-employed and some groups of temps, and to a lesser extent, flexi-jobbers (Mailand and Larsen, 2011; Scheuer, 2011a).

Looking across the Danish labour market, some types of employment are more widespread in some sectors than others. For example, flexi-jobs and fixed-term contracts are more frequently found in the public than in the private sector (DA, 2013a; Thomsen et al., 2011). Likewise, part-time work is also common in the public sector along with the private services, transport and retail sectors, where more than one in three employees work part-time (DA, 2013a). In addition, various forms of atypical work are also relatively common in the construction sector, though less so in the manufacturing sector (Scheuer, 2011a: table 5.2). These differences across sectors also appear to affect the social partners' approaches to atypical work.

2.2 Social partners' general approach to different employment types

The Danish labour market is regulated primarily through collective agreements signed by the social partners at the sectoral and company levels. Union density – 69 percent in 2014 – and the collective agreement coverage rate – 84 percent

in 2012 – are comparatively high, and the industrial relations system is dominated by a high degree of voluntarism, where trade unions and employers find solutions to various challenges through collective agreements (Ibsen et al., 2014; DA, 2014a). The social partners are also involved, on an ad hoc basis, in the policy formulation process when the government proposes new legislation. Moreover, they are involved in policy implementation in several policy areas.

Although the regulation of wages and working conditions is left primarily to social partners, legislation dominates in areas such as vacation regulation, health and safety, vocational education and training and active labour market policy. Wages and working conditions of salaried employees also are regulated by law – the Salaried Employees Act (2009) – and legislation is also used when implementing the EU's labour market directives.

With regard to the industrial relations system, the parties have the right to engage in industrial actions only when a collective agreement is negotiated and/or reviewed at the bargaining rounds which take place every two or three years (depending on the sector). During the settlement period, there is no resort to industrial action – the so-called peace obligation – even if company-based bargaining typically takes place after the peace obligation has come into force (Due and Madsen, 2008).

It is within this framework that Danish social partners guard, represent and negotiate wages and working conditions of different employment groups at the sectoral and company levels. In recent years, atypical workers have, to varying degrees, been on the agenda of social partners during the collective bargaining rounds in the private and public sector. Trade unions and employers' associations have different traditions dealing with the issue of atypical work and have adopted distinct strategies depending on the sector under consideration (see the chapters on hospital, industrial cleaning, construction and the TAW sector).

Generally speaking, the issue of atypical workers has not been given high priority by Danish social partners – at least not until very recently. Their attitude towards atypical work varies not only between social partners but also internally among the trade unions and employers' associations. The attitude seems to depend on the sector and the type of atypical work under consideration (Mailand and Larsen, 2011). For example, within some sectors, part-time work was banned until the implementation of the EU's directive on part-time work in 2001, whilst in other sectors, such as industrial cleaning, social partners already had a number of rules and regulations in place to protect the wages and working conditions of part-time workers (Andersen, 2003). Likewise, some sectoral agreements, such as those covering the construction sector, parts of the private services sector and the local government sector, already had regulations in place regarding the renewal of fixed-term contracts before the implementation of the EU's directive on fixed-term work, whilst this was not the case in other sectors (Andersen, 2003; Larsen, 2009). Also, with respect to TAW, do some sectors have longer traditions of regulating the wages and working conditions of temps

than others and had thereby addressed the issue long before the EU's directive on temporary agency work (Andersen and Karkov, 2011; see also chapter 3). Nevertheless, the EU's directives on atypical work seem to have pushed up the issue of atypical work on the bargaining agenda of social partners, and it is questionable whether some sectors would have signed collective agreements for some employment groups, such as salaried employees working as temps, without the EU directives lurking in the background.

Trade union strategies

Danish trade unions have had difficulties in deciding how to address several of the employment types that are described as atypical and precarious work in the present project. Ignoring the differences between the various unions and focusing on their positions on atypical and precarious work in general, it would be fair to describe these as having developed during the last two decades from trying to reduce such types of employment towards trying to improve their pay and conditions. However, this development is not seen to the same extent with regard to all types of precarious employment. Moreover, when it comes to some types of employment, the two strategies coexist (Mailand and Larsen, 2011; Andersen, 2003).

Apart from this, it is difficult to draw a general picture of the Danish trade unions' policies on precarious work. For example, LO – the largest trade union confederation – had no general overarching strategy on atypical employment prior to 2011. However, in September 2011, LO decided on a new strategy, by which it promotes the rights of atypical employees when new legislation is adopted or existing legislation revised. LO also decided to work on changing seniority rules and regulations in so far as legislation excludes certain groups of atypical workers (Mailand and Larsen, 2011). Another sign that atypical employees are of increasing priority within LO is its recent study from 2010–2011 (the Scheuer 2011b publication), which includes a large-scale 'mapping' of atypical employees and their wages and working conditions.

Employer strategies

Employer strategies towards atypical or precarious work have been different from those of the unions. Ignoring the differences between the various employers' associations and concentrating on the more general positions on atypical work, employers have, generally speaking, embraced flexible working. They have also tried to relax the rules and regulations in order to increase flexibility, but at the same time, they have also agreed to improve and ensure the wages and working conditions of atypical workers during the collective bargaining rounds (Andersen, 2003; see chapters on industrial cleaning, hospitals, construction and TAW). Their initiatives to prevent social dumping and unfair competition and to ensure reasonable wages and working conditions for different groups of employees through the set-up of certification schemes in distinct

sectors also indicate that precarious work is of increasing priority for Danish employers. However, they refrain from using the terms ‘precarious’ and ‘atypical’ work.

Focusing on the largest employers’ association, DA, its general view is that there is no need to limit the use of TAW, fixed-term work or part-time work or to introduce specific rules and regulations to protect these groups, according to its most recent report (DA, 2013a). In the report – which can be considered a counter-analysis to the study on atypical work by LO and Scheuer (2011b) – DA also stresses that the employment types that coexist alongside the traditional full-time open-ended contract meet some important needs of employers and that limiting them would affect negatively companies’ flexibility, employees’ employability and the Danish economy more generally (DA, 2013a). DA is also critical of using the two concepts ‘atypical’ and ‘precarious’ work in the Danish context, as it argues that this group of employees is highly diverse and performs different job tasks and functions on the labour market but is nevertheless covered in principle by the same rules and regulations as comparable employees on full-time open-ended contracts (DA, 2013a: 5).

2.3 Summing up

The Danish labour market is characterised by different employment types that coexist alongside the traditional full-time open-ended contract. Whilst some employment types, such as part-time work and TAW, have become more common in recent years, others, such as fixed-term contracts and self-employment, have remained relatively stable. Variations exist across the labour market as to which sectors employ these groups of employees. Part-time work, fixed-term contracts and flexi-jobs are more frequently found in the public than in the private sector. However, in the private sector, we also find sectors, such as construction, transport and private services, where the workforce is increasingly diverse in terms of employment types, but only some groups can be considered precarious workers in terms of low wages and low levels of social, employment and job security.

Social partners have developed responses to ensure the wages and working conditions of employees with different employment contracts. However, wide variations exist depending on the employment type and sector under consideration. Indeed, the main social partner organisations on both sides of industry have only recently addressed the issue of atypical or precarious work but have refrained from using these terms, and no consensus exists as to which groups of employees can be considered precarious.

3. Temporary agency work

3.1 Introduction to the sector

Temporary agency work (TAW) became more common in the Danish labour market in the period leading up to the most recent economic crisis. Up until 1990, legislation restricted the use of TAW by private entities as the public job centres had a legal monopoly on facilitating employment services. However, in 1990 new legislation liberalised the sector, allowing private companies to provide such services (Kudsk-Iversen and Andersen, 2006). After that, the TAW sector grew rapidly in terms of the companies' economic turnover and the number of agencies and their workers, until it peaked in 2008. In 2009, the sector was hit relatively hard by the economic crisis, when the number of temps nearly halved, 13 percent of private temporary work agencies (TWAs) went bankrupt and the annual economic turnover was reduced by 36 percent within just one year (CIETT, 2014; DI, 2014a: 4-9). Since then, the sector has slowly recovered though numbers remain comparatively higher than in the beginning of the millennium (see table 3.1).

Table 3.1: Development in the TAW sector, percentages and numbers. 2000–14

	2000	2008	2009	2012
Number of temporary work agencies	486	1,216	1,078	1,009
Number of temps as a percentage of the Danish workforce	0.3	1.1	0.6	0.8
Economic turnover (in millions- euros)	476	1.844	1.355	1.364

Source: DI (2014a); CIETT (2014); Vilhelmsen (2014); Statistics Denmark (2014d).

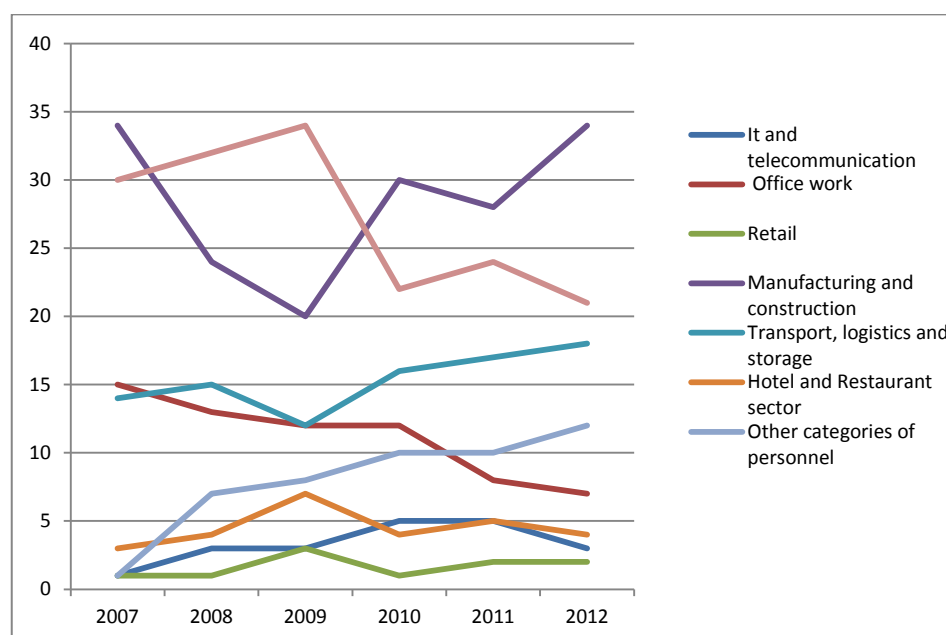
The TAW sector is dominated by small companies and relatively few large players. Recent figures reveal that 6 percent of the agencies have more than 100 employees, whilst 70 percent have fewer than 10 employees (DI, 2014a). They employ around 0.8 percent of the Danish workforce and operate in a number of sectors. The manufacturing sector and construction sector employ the largest group of temps by far, followed by the health and social care sector, and then the transport sector, when comparing the number of TAW hours sold to companies within different sectors (see figure 3.1).

TAW being more widely used in the manufacturing sector and construction sector than in other parts of the labour market is a relatively recent phenomenon. Up until 2010, TAW was also regularly used in the health and social care sector, where nurses and health and social care workers in particular often took a temp job alongside their regular job (see chapter 4). Since then, the use of TAW in the health and social care sector has declined rapidly due to financial cutbacks and the set-up of internal TWAs within the health and social care units (see also chapter 4). In addition, TAW within other office work has nearly

halved since 2007, whilst this form of employment has become more common in sectors like transport and particularly other categories of personnel.

This shift in terms of the use of TAW within different sectors has also affected the gender composition of temps. Whilst the majority were women in 2008, there are now more men than women within the TAW sector, mainly because more men have taken up agency work, whilst the number of women has remained relatively unchanged since 2010 (Vilhelmsen, 2014). Other characteristics of temps are that they typically are young people between 18 and 29 years old, and nearly one in three has no educational attainment. However, the employees within the TAW sector are getting older, with recent figures revealing that 26 percent are more than 50 years old compared to 19 percent in 2003 (DI, 2014a: 12). Temps are also more likely to have earned a degree compared to just a decade ago, when one in two had no educational credentials (DI, 2014a: 14). This is reportedly due to the economic crisis and the recent changes in the rules and regulations of the Danish unemployment insurance scheme. As a result, an increasing number of skilled workers who previously held a permanent position have opted for TAW to ensure an income after being dismissed, according to the interviewees.

Figure 3.1: Number of TAW hours sold to companies, percentage, 07–2012



Source: Statistics Denmark (2014e).

Collective agreement coverage rate

In Denmark, the TAW sector is regulated through a combination of legislation and collective agreements; employees without collective agreement coverage are covered by labour law following the implementation of the EU's directive on TAW in 2013. Covering TAW in Denmark is a complex web of different collective agreements signed at the sectoral and company levels. In some sec-

tors, such as manufacturing, TAW is covered by the collective agreements of the user company. In other parts of the private sector, TAW is covered by distinct sectoral and company agreements between the social partners representing the TWA and the temps according to their specific occupation (Mailand and Larsen, 2011; Jørgensen, 2007). Therefore, temps within nursing are covered by their own collective agreements on TAW. The same applies to temps in the transportation and the educational sectors. Yet in other sectors a different approach is used, where the temps' wages and working hours follow the collective agreement of the user company, whilst other working conditions such as pensions, further training are regulated by the collective agreement of the agency. This complex web of collective agreements covers most temps in the Danish labour market.

In a recent study, Felbo-Kolding and Andersen (2013) estimated that the collective agreement coverage within the TAW sector is 61 percent, slightly lower than the general coverage rate for the private sector (74 percent [DA, 2014]). In some sectors, particularly the sectors relying most heavily on TAW – such as the manufacturing, construction, transport and health and social care sectors – collective agreement coverage may be even higher for temps, as these sectors are characterised by relatively high collective agreement coverage.

Employers' associations

An estimated 70 percent of TWAs in Denmark are members of an employers' association (Andersen and Felbo-Kolding, 2013b). It is primarily the large agencies that are members of an employers' association, whilst the vast majority of small and medium-sized agencies are not.

The main employers' associations representing TWAs are DI and the Federation of Staffing Agencies in Denmark (VB). The latter is a member of the employers' association Danish Chamber of Commerce. VB has around 100 members and covers 60 percent of the sector based on the economic turnover of the different agencies.

Trade unions

Recent figures on union density among temps are unavailable. However, it has been estimated that their union density is comparatively lower than among other groups of employees in the Danish labour market (Andersen and Karkov, 2011). Young people, employees with low or no educational attainment and migrant workers are overrepresented among temps – groups that for various reasons typically choose not to be union members (Ibsen et al., 2011; Andersen and Karkov, 2011). Unlike the Danish employers' associations, the interests of temps are represented by a large number of unions covering different sectors of the labour market. There is no trade union especially for temps.

3.2. Wages and conditions for different employment types

In Denmark, different forms of TAW exist. Part-time work is reportedly widespread within the sector, where some temps have relatively few weekly working hours combined with very short-term contracts – often day-to-day contracts. Others work full-time and have long-term contracts; examples exist of contracts of lasting up to four years. According to the interviewees, the most common length of contract is between three and six months. There are, however, no exact figures as to how many temps work part-time or full-time on a short- or long-term contract. Nevertheless, this suggests that among temps, variations exist as to their wages, employment and working conditions, with some groups facing a greater risk of precariousness than others, particularly those with relatively few weekly hours and very short-term contracts. Indeed, research has revealed that temps often face great difficulties in accruing rights to social benefits, although the labour law and collective agreements in principle ensure them similar rights as comparable employees in permanent full-time positions (Scheuer, 2011a; Andersen and Karkov, 2011; see table 3.2).

Table 3.2: Access to social benefits on employment types, in percentages, 2010

	<i>Temps</i>	<i>Full-time employees</i>
Further training	14	91
Employee appraisal	18	73
Extra holiday entitlements	25	92
Access to an occupational pensions scheme	46	94
Highly variable working hours	50	29
Unemployment insurance	75	91

Source: Scheuer (2011a: table 5.3, 5.5, 5.9, 5.12, 5.18).

In 2010, relatively few temps had access to further training, employee appraisals and extra holiday entitlements, whilst nearly all their peers in permanent full-time positions had access to such social benefits. Temps' access to occupational pensions was also relatively restricted compared to their colleagues in full-time positions, whilst most were – similar to their colleagues in full-time permanent positions – covered by an unemployment insurance fund. In addition, their working hours appeared highly variable, with one in two temps facing such working hours.

Many temps face difficulties accessing the social benefits listed in table 3.2, owing partly to some working in the unorganised labour market. They are therefore not covered by collective agreements or eligible for the benefits stipulated therein, unless their employer offers such benefits or these benefits are regulated by labour law. Some social benefits, such as extra holiday entitlements, the minimum wage and paid short-term leave, are regulated exclusively through

collective agreements, and collective agreements tend to offer more generous social security packages than the labour law.

Many temps' restricted access to the social benefits listed in the collective agreements is also due partly, in some cases, to social partners at the company level – including the shop steward – accepting that temps are treated differently than their peers in permanent positions. According to a recent study by 3F based on answers from 1,063 shop stewards, 28 percent of shop stewards stated that temps are not employed on the same terms and conditions as their colleagues in permanent positions (CO-industri, 2014). Recent case law and media reports have also revealed a number of instances, particularly within the industrial cleaning and agricultural sectors, where temps' wages and working conditions were far below Danish standards. Indeed, temps have recently attracted increased attention from the Danish media, and an ongoing debate, which also involves groups like manufacturing and office workers employed as temps, concerns their de facto wages and working conditions and access to social benefits. However, other studies, such as the recent report by DA, have argued that temps in principle are covered by the same rules and regulations as employees on full-time open-ended contracts (DA, 2013a).

Some interviewees also reported of local company agreements where social partners, in various creative ways, have tried to restrict temps' access to, for example, wage supplements and other social benefits by making it nearly impossible for them to accrue the number of hours or the employment record needed to gain access to these benefits. Other examples of ways to cut costs reportedly involve temps being dismissed by their current agency and then re-employed by another agency, which sometimes sends them to the same user company.

Temps often face similar barriers regarding access to the social benefits outlined in the labour law and the sectoral collective agreements because they rarely meet the legal assessment criteria, even if recent rule changes have relaxed the restrictions (Lorentzen, 2011; see also appendix A). Indeed, they often have great difficulties in accruing the number of hours or the employment record needed to gain access to social benefits.

Social benefits

Temps' access to social benefits and wage supplements varies significantly from one collective agreement to another. The threshold for accruing rights to specific social benefits also varies depending on the benefit under consideration. Whilst there is no threshold for accruing rights to pensions in the collective agreement of the Danish Chamber of Commerce and Fag og Arbejde (FOA), this is not the case in the collective agreements of DI and CO-industri, and 3F and the Danish Chamber of Commerce, where the threshold for such social benefits is a two-month employment record and 320 hours of employment in the last two years, respectively (see appendix A). Indeed, some temps are cov-

ered by agreements that offer lower work standards and conditions compared not only to their peers covered by different collective agreements on TAW but also to their colleagues in permanent full-time positions in the user company. This is the case regarding full pay during maternity leave, sick leave and short-term leave, which are excluded from some of the collective agreements on TAW (see appendix A). As a result, some temps may face greater risks of precariousness than their peers in permanent full-time positions, as they are unable or may find it difficult to accrue rights to different social benefits due to relatively short-term contracts, few weekly hours or the fact that such social benefits are excluded from their collective agreements.

Job and employment security

Some collective agreements differentiate between temps paid by the hour and those with monthly contracts when it comes to their notice period. For example, the notice period of the Salaried Employees Act (2009) applies only to temps with monthly contracts in the collective agreement of the Danish Chamber of Commerce and FOA. Temps without such a contract can be dismissed without any notice. Indeed, this practice is relatively widespread in the TAW sector, where the right to a notice period typically requires an employment record of one to nine months depending on the collective agreement under consideration. This indicates that job and employment security of temps are relatively low, particularly if they hold a relatively short-term contract or are recruited on a day-to-day basis (see appendix A).

Wages

With respect to their wages, some temps receive higher salaries than their peers in permanent positions. Indeed, some collective agreements on TAW compensate for the lack of social benefits and job security through higher wages. This applies to, for example, the collective agreements of the Danish Chamber of Commerce and FOA, and the Danish Chamber of Commerce and BUPL, FOA and SL. Research has also revealed that some nurses and social care workers have opted for agency jobs due to the higher salaries offered by the TWAs, and they typically earn more than their peers in permanent positions (Adecco, 2006; Jacobsen and Rasmussen, 2009). Not all temps are so fortunate, and Polish migrant workers in agency jobs in particular often receive a relatively low salary compared not only to their Danish peers working as temps and Danish employees in general but also to other Polish migrant workers (Hansen and Hansen, 2009; see also chapter 5). The interviewees also reported such practices within the TAW sector and gave examples of agencies trying to cut costs by offering lower wages and lower levels of social protection to temps than the collective agreements stipulate. That a Polish agency operating in the Danish labour market promotes itself by offering cheap labour at €6.7 per hour only underlines the statements of the interviewees. In addition, a recent study revealed that 37 per-

cent of TWAs have called for a legislative minimum wage, indicating that social dumping takes place in the sector to some degree (Andersen and Felbo-Kolding, 2013b). TWAs can compete on wages and social costs despite the principle of non-discrimination within the EU's directive on TAW because the concept of social costs is unclear in the legislation and collective agreements, according to the interviewees. The social costs are the payment the user company pays the agency when using TAW.

Voice

Temps are less likely to be union members, to be covered by a collective agreement, and to work in companies where a shop steward is present at the workplace (Scheuer, 2011a). They also experience, to varying degrees, that the shop stewards and their colleagues in full-time positions ignore and exclude them from the workers' community at the workplace, as they are reportedly considered a threat by the permanent staff.

In sum, temps appear to be at greater risk of precariousness, based on parameters such as wages, social benefits, and working time and job and employment security. It is mainly temps in full-time employment on long-term contracts that are ensured a reasonable income and access to social benefits relatively similar to their peers in permanent positions. However, they are at greater risk of being dismissed during periods of economic cutbacks, and their voice is often ignored at the company level.

3.3 Social partners' approach to atypical work in the sector²

The strategies used by employers' associations and particularly trade unions have shifted in recent years. Danish trade unions tried to minimize or even avoid TAW up until the mid-1990s. Since then the unions have accepted TAW as an employment form in the Danish labour market and have pushed for new rules and regulations to ensure reasonable wages and working conditions for temps (Andersen and Karkov, 2011). However, some Danish unions continue to be rather reluctant to embrace TAW and have called for various measures to reduce its use, according to the interviewees. The employers' associations have also been willing to develop initiatives to respond to the challenges facing the TAW sector. Some responses have been developed jointly by the unions and the employers' associations through collective agreements. Others have been union led or employer led, and yet another set of initiatives has, for various reasons, been unsuccessful.

The main changes include (1) raising *collective bargaining coverage and union density*, (2) lowering the thresholds for accruing rights to social benefits, improving the social benefits and adding new social rights, (3) developing new rules and regulations for TWAs and subcontractors to prevent social dumping and unfair competition and (4) implementing the EU's directive on TAW.

² This section draws on the work by Andersen and Karkov (2011), Mailand and Larsen (forthcoming), Andersen and Ibsen (2014) and Kudsk-Iversen and Andersen (2006).

*Raising the collective agreement coverage and union density*³

In Denmark, TAW is regulated through a mix of legislation and collective agreements signed at the sectoral and company levels, as mentioned earlier. The nature of the collective agreements varies depending on the sector under consideration, largely owing to different strategies employed by the social partners, trade unions in particular.

Within the manufacturing sector, the trade unions advocated in the 1990s for a strategy to cover TAW through the user company. A protocol on TAW was included in the existing sectoral agreement of DI and CO-industri in 1995. They opted for this strategy owing partly to the dense network of shop stewards and strong tradition of local company-based bargaining, which could be used to ensure the de facto coverage of temps. Another driving force behind this strategy was the trade unions estimating that it would be difficult to organise the agencies without the presence of shop stewards at the workplaces (Mailand and Larsen, 2011; Kudsk-Iversen and Andersen, 2006). The employers' interest in covering TAW through collective agreements was to avoid unfair competition. Indeed, regulating TAW has been dominated by a common consensus by social partners within the manufacturing sector, although not on all aspects (see Mailand and Larsen, forthcoming). This applies to, for example, the regulation of salaried workers working as temps within the manufacturing sector. Here the unions unsuccessfully pushed to get the issue on the bargaining agenda during the collective bargaining rounds in 1998, 2000, 2004 and 2007.

In 2010 CO-industri and its counterpart, DI, first engaged in negotiations with the aim of signing an agreement regarding salaried employees working as temps during the collective period of 2010. The employers' willingness to discuss the issue was due mainly to EU's directive on TAW (Kragh, 2013). In 2011, DI and CO-industri agreed to implement the EU's directive on TAW covering only blue-collar and hourly workers, but in 2012 they added another protocol stating that they will continue their discussions regarding salaried employees working as temps after the government's implementation of the EU's directive through legislation (CO-industri and DI, 2012b). This addition was reportedly due to various uncertainties and discussions regarding the status of salaried employees when working as temps and whether such employees were entitled to similar rights as salaried employees covered by the Salaried Employees Act (2009) following the implementation of the EU's directive. In 2013, the social partners agreed that salaried employees working for a TWA that is a member of DI are covered by DI and CO-industri's collective agreement on salaried employees within the manufacturing sector (Kragh, 2013). In case the agency is not a member of DI, the salaried employee working as a temp is covered not by the collective agreement but only by the labour law. Indeed, this issue continues to be unsettled, as the social partners were unable to reach an

³ This section draws heavily on the work by Andersen and Karkov (2011), Mailand and Larsen (2011) and Kudsk-Iversen and Andersen (2006).

agreement for this group of temps, mainly because the employers' price for such an agreement was considered too high by the unions, according to the interviewees.

In the construction sector, the social partners included a protocol on TAW in the sectoral agreement covering the user company. The unions pushed for this strategy mainly because an increasing number of construction companies had started to use TAW as a way to cut costs by avoiding the rules and regulations in the existing collective agreements. The employers' association Dansk Byggeri agreed to add a protocol on TAW to the existing collective agreements within the construction sector. The protocol stipulates that TAW is covered by the existing collective agreements and that such employees have the same rights as other construction workers even if the agency is not a member of Dansk Byggeri. In case the agency is member of another employers' associations that is part of DA, the collective agreement of the agency will apply (Andersen and Karkov, 2011).

To cover TAW through collective agreements, social partners agreed to a different strategy in transportation and the private services sectors. Here the unions advocated for collective agreements either directly with the agencies or with their employers' association, mainly because the network of shop stewards is relatively weak in these sectors and thus it would be difficult to ensure the wages and working conditions of temps (Andersen and Karkov, 2011). That some unions, particularly 3F, also saw this strategy as an opportunity to recruit new members among the staff of individual agencies was reportedly also an important driver for them to sign collective agreements directly with the agency or its employers' association within the transport sector (Mailand and Larsen, forthcoming). In the private services sector, TAW concerning office work and administration has been included in the collective agreement between the trade union HK and the employers' association Dansk Handel and Service (DHS) – now part of the Danish Chamber of Commerce (Dansk Erhverv) – since 1992 (Kudsk-Iversen and Andersen, 2006). This collective agreement covers retail, office and storage workers and was a direct result of a legal case put forward by HK in 1992 (Lundbye, 2013).

In other sectors, social partners have also concluded collective agreements on TAW or amended clauses or protocols to their existing agreements to ensure the wages and working conditions of temps. As a result, Danish trade unions and employers have managed to increase the collective agreement coverage for temps in Denmark. Besides the collective agreements, trade unions and employers' associations have also initiated individual responses to increase union density and TWA membership in employers' association.

New rights and lower thresholds – the manufacturing sector

Temps have often great difficulties in accessing the social benefits within the collective agreements, as mentioned earlier. In recent years, social partners have

lowered the threshold for accruing rights to social benefits within the collective agreements to ensure that temps can more easily gain access to them. The chapters regarding atypical work in the hospital, construction and cleaning sectors examine the rights of temps in these sectors. Therefore, this section will concentrate mainly on the recent initiatives by social partners in the manufacturing sector as TAW is relatively widely used in this sector, and the collective agreement by DI and CO-industri is, in many ways, the leading collective agreement for the Danish labour market, and social partners in other sectors often adopt and incorporate the changes agreed on here.

In the manufacturing sector, the main changes on TAW took place during the collective bargaining rounds in 1995, 2000, 2007, 2010, 2012 and 2014. In 1995, the social partners agreed to include a specific protocol on TAW in their existing collective agreements covering manual workers/hourly workers. The protocol stipulates that temps are covered by the same collective agreement that applies to employees of the user company if the company is an affiliate of DI. Temps covered by the agreement are also able to accrue rights to the social benefits within the collective agreement if they, similar to the employees of the user company, meet the assessment criteria. Since then, social partners have agreed to add new clauses to the protocol and to ease temps' access to the social benefits outlined in the collective agreements by lowering the threshold to accrue rights and by granting employees new social rights.

During the collective bargaining round in 2007, social partners agreed to add a new clause to the protocol on TAW that specifies that if the TWA is an affiliate of DI, legal action will be taken against it if for example the TWA violates the collective agreements. In case the TWA is not an affiliate of DI, legal actions will be targeted at the user company. They also agreed to a clause enabling temps to transfer accrued rights to social benefits from the TWA to the user company if the temp is employed by the user company and his or her employment record with the TWA exceeds six months (Mailand and Larsen, forthcoming; CO-industri and DI, 2004; 2007). In addition, during the collective bargaining round in 2007, temps' ability to accrue social rights was clarified in the protocol to cover all the entitlements listed in the collective agreement that require an employment record, if their TWA is a member of DI and the temp has no break between jobs of more than six months (CO-industri and DI, 2007: 213). Prior to 2007, the collective agreement specified only that temps, among others, were able to accrue rights to a notice period and paid sick leave. However, the length of a break between jobs before losing any accrued rights was reduced from nine to six months in 2007 (CO-industri and DI, 2007: 213).

Further additions to the protocol were added in 2014, when social partners agreed to extend the threshold for temps to transfer accrued rights from six to nine months. They also added a new clause which enables shop stewards of the user company to request information on the local agreements and customs given by the user company to the TWA when temps are used for specific jobs at the

user company (CO-industri and DI, 2014). In case the shop steward disagrees as to which local company agreements and customs of the user company the TWA will have to follow, legal actions can be initiated against the user company or the TWA depending on the status of the TWA regarding membership of DI (CO-industri and DI, 2014). These changes were reportedly due to union members and shop stewards calling for action owing to the rising numbers of temps and their fear that TAW increasingly would replace permanent positions in the manufacturing sector (Andersen and Ibsen, 2013; 2014; Interview: CO-industri, 2014). Following this discussion, DI and CO-industri also agreed to grant social partners at the company level a new possibility for assistance from social partners at central level to discuss the various options for increased flexibility within the collective agreements. This included, for example, the use of TAW, variable working hours and the possibilities for local agreements to deviate from the sectoral agreement (CO-industri and DI, 2014).

In recent years, social partners have also agreed to other changes in the collective agreements which affect the wages and working conditions of temps but do not exclusively target this group of employees. For example, the pension contribution rates were increased repeatedly during the collective bargaining rounds in 2000, 2004, 2007 and 2010 and in 2014 accounted for 12.0 percent of the salary, compared to 4.4 percent in 1998. In addition, in 2010 the threshold for pension contributions was lowered from nine to two months, which, according to the interviewee from CO-industri, was primarily to ensure that temps also would be covered by such schemes.

The right to full-paid sick leave has also been subject to change in recent years. In 2000, social partners agreed to extend the number of weeks with full pay from four to five weeks, and in 2012, the threshold to accrue rights to full-paid sick leave was reduced from nine to six months, which will ease, among others', temps' access to such benefits (CO-industri and DI, 2000; 2012). Rights and access to further training have also been up for negotiation by social partners, most recently during the bargaining round in 2014, when the threshold regarding access to further training was lowered from nine to six months. In 2014, social partners also agreed to grant employees the right to one week of further training and the right to time off to seek guidance from unions if dismissed and if they hold an employment record of six months (CO-industri and DI, 2014).

Rights to full-paid maternity, paternity and parental leave and to short-term leave if an employee's child is hospitalised or ill have also been on the agenda of social partners in recent years. In 2000, social partners agreed to remove the upper threshold for wage compensation during maternity and paternity leave, whereby full pay applies to all employees meeting the legal criteria. In 2004, six weeks' full-paid parental leave was introduced, along with new rights to full-paid time off if an employee's child is hospitalised or ill. The length of paid parental leave was further extended to nine weeks in 2007, 11 weeks in 2010

and 13 weeks in 2014. However, the threshold to access paid parental leave has remained unchanged and continues to be nine months – making it difficult for temps to accrue rights to these social benefits.

In sum, social partners have jointly developed a range of initiatives to ensure the wages and working conditions of temps in the manufacturing sector – responses that often have been initiated by the unions and then negotiated with and agreed to by the employers. However, some union initiatives have also failed repeatedly such as the attempt to cover through collective agreement temps performing work tasks as salaried employees, on the same grounds as other types of temps, as mentioned earlier. Therefore, salaried employees working as temps have no possibility to transfer accrued rights to social benefits (DI, 2014b). In addition, some unions also proposed limiting the use of TAW by introducing specific quotas in 2014 – a proposal that never was brought to the negotiation table with the employers as the unions decided to deal with this internally, according to the interviewees.

Certification schemes for TWAs – an employer-led initiative

One of the main challenges facing the TAW sector has been stories and cases of social dumping and unfair competition, with some agencies offering wages and social protection far below Danish standards to their employees, as mentioned earlier. Besides the joint actions developed by social partners through the collective bargaining rounds, the Federation of Staffing Agencies in Denmark (VB) and DI's Vikarbranchen have also initiated their own responses to these challenges.

In 2011, VB set up a certification scheme which aims to ensure user companies and the employees of the TWAs that certified TWAs comply with legislation and the employers' obligations which the TWA has undertaken. The scheme is compulsory for all VB's members and includes rules and regulations regarding compliance with collective agreements on TAW. The certificate is renewed on an annual basis, and certified TWAs are subject to random reviews by an independent authority. TWAs that fail to comply are subject to exclusion.

Vikarbranchen in DI has developed a similar scheme ('godkendelsesordningen'), which reportedly was highly inspired by the certification scheme developed by the Danish Chamber of Commerce and follows the same principles as the certification scheme by VB. So far one TWA has been expelled because it employed foreign employees and offered them wages far below the standards outlined in the collective agreements (DI, 2014d). The unions have reportedly supported and welcomed the schemes because they raise awareness and ensure reasonable wages and working conditions for temps.

The new law on TAW – implementing the EU's directive

In 2013, the Danish Parliament passed the Act on TAW aimed at covering temps without collective agreement coverage. The act implements the EU's

directive on TAW and guarantees that temps have rights to similar wages and working conditions as the employees of the user company. The act also stipulates that the principle of non-discrimination can be exempted only by collective agreements signed by the most representative social partner organisations in Denmark. This clause was included to avoid social dumping and protect temps. It prevents foreign TWAs from using their own national collective agreements to offer lower wages and social benefits to their temps (Ministry of Employment, 2013).

Prior to the new legislation, the implementation process of the directive was long-winded and slightly different from the implementation of former EU directives. In the past, when EU directives have been implemented through a mix of legislation and collective agreements in Denmark, social partners have first negotiated and implemented the directive, and then the government, together with the social partners, has agreed to supplementary legislation that covers employees without collective agreement coverage (Andersen, 2003). This was not the case with the directive on TAW; most unions and employers' associations awaited the forthcoming law before implementing the directive through collective agreement. The main reason was that they were unsure and disagreed on how to interpret the directive's principle of non-discrimination, particularly regarding the status of salaried employees working as temps, as mentioned earlier (Andersen and Karkov, 2011). Another controversial issue was how social partners and the government could prevent an increase in social dumping. The unions in particular feared that foreign TWAs without collective agreement coverage would be able to employ temps from their home country and pay them a salary and social benefits far below Danish standards (Andersen and Karkov, 2011; Ministry of Employment, 2013).

The policy process behind the Danish law on TAW took place within the Implementation Committee in 2011, where representatives from government and social partners were present. Some participants on the committee described the policy process as highly politicised. The clause that allowed exemptions from the directive in particular was highly controversial. The employers' associations saw this as an opportunity to limit the effects of the directive, which the unions opposed and tried to prevent. The unions also feared that the possibility for exemptions would lead to social dumping, as mentioned earlier (Mailand and Larsen, forthcoming). The compromise was to include a clause in the act which stipulates that the principle of non-discrimination can be exempted only insofar as the collective agreements are signed by the most representative social partners in the particular sector in the Danish labour market. However, the unions were not pleased with the result, although they signed the agreement, mainly because they would be bound to some sectoral agreements on TAW that were rather old and did not de facto secure non-discrimination. The trade union interviewees in the present project also felt that the result of the implementation in Denmark watered down the directive to some extent.

In sum, the implementation of the EU's directive on TAW has ensured also temps without collective agreement coverage. The EU's directive may also have pushed up TAW on the agenda of social partners. Indeed, it is questionable whether CO-industri and DI would have agreed to include salaried workers employed at user companies in their collective agreement without the directive lurking in the background.

3.4 Summing up

In Denmark, TAW is a fairly recent employment type and represents a relatively small segment of the Danish labour market, cutting across various sectors and occupations. Although social partners have launched a series of initiatives to strengthen the collective agreement coverage of TAW and ensure these workers' wages and working conditions through collective agreements and legislation, these employees continue to be at greater risk of precariousness than their peers in full-time permanent positions when examining parameters such as wages, social benefits, working time and job and employment security. Temps with short-term contracts and/or few weekly hours face in particular a greater risk of precariousness. They are rarely able to meet the assessment criteria for social benefits outlined in the labour law and collective agreements, which in many cases, in principle, ensure them similar rights as comparable employees in full-time permanent positions. Likewise, similar to temps with long-term full-time contracts, they are at greater risk of being dismissed during periods of economic cutbacks, and their voice is often ignored at the company level.

TAW has been high on the agenda of social partners and the government in recent years, and at the time of writing, a debate is ongoing in the media and among social partners regarding the wages and working conditions of TAW. The employers' associations and unions have jointly and individually developed a series of initiatives to improve the wages and working conditions of temps. They include (1) raising collective bargaining coverage and union density, (2) lowering the threshold for accruing rights to social benefits, (3) developing new regulations for TWAs to prevent social dumping and unfair competition and (4) implementing the EU's directive on TAW.

A complex web of collective agreements exist in which temps are covered by the collective agreements of the user company in some sectors, whilst in others they are covered by collective agreements signed by the social partners representing the TWA and the temps within a specific occupation. In yet other sectors, temps are covered only by legislation as social partners have been unable to come to an agreement. This applies to, for example, temps performing job tasks as salaried employees. It is primarily the implementation of the EU's directive on TAW that *de jure* has ensured wages and working conditions for TAW without collective agreement coverage equal to other employees. However, the directive may also have pushed up TAW on the agenda of social partners. Indeed, it is questionable whether CO-industri and DI would have agreed

to include salaried workers employed at user companies in their collective agreement without the directive lurking in the background.

Although many initiatives by social partners have been developed jointly, the responses have often been initiated by the unions and then negotiated with and agreed to by the employers. However, the employers have also launched initiatives to prevent social dumping and unfair competition and improve wages and working conditions within the sector. These include, for example, certification schemes, which the unions often have welcomed but have not been part of. Indeed, these initiatives are purely employer driven.

4. Hospitals

4.1 Introduction to the sector

The five regions – the tier between the state and the municipalities in the structure of the public sector – have operational responsibility for the public hospitals in Denmark, whilst overall responsibility remains with the National Health Authority (Sundhedsministeriet), which is part of the Ministry of Economic Affairs and the Interior. There are 53 public hospitals. They employ a staff of 107,000, divided into:

- 14 percent doctors,
- 33 percent nurses,
- 10 percent nurse assistants,
- 12 percent other health care staff and
- 30 percent support staff, including administrative staff, psychologists, cleaning staff, technical staff etc. (regioner.dk).

Besides the public hospitals, there exist some 30 private hospitals and clinics. The number of employees here is unknown, but the units are much smaller than in the public sector. The number of employees and the turnover of the private hospitals increased up until 2010 but have since declined as an effect of the crisis and a change of political priorities, when the government changed from liberal-conservative to centre left in 2011. This development includes both a decline in the extent to which private hospitals are used as subcontractors for public hospitals and a reduction in the prices paid to subcontractors providing health care services. However, in this report the focus will be on hospitals in the public sector.

The municipalities also have responsibility for a number of functions within the health care sector. Employees working in health care within the local government sector often have the same occupations as employees in the regional sectors. However, since the focus in the present project is hospitals (which is part of the regional health care sector), the part of the health care sector administered by the municipalities will be touched upon only briefly.

The social partners in the hospital sector and the collective agreements

In the hospitals, the employers' interests are represented by Danish Regions (Danske Regioner), including the Region's Board for Wages and Tariffs (RLTN at the national level). Danish Regions is the only employers' organisation for the hospitals. Danish Regions/RLNN is the bargaining partner in the bi- or tri-annual collective bargaining rounds.

There are two other levels of employers' organisations worth mentioning. One is the administrative level of the regions (five in all). The hospitals are the only major responsibility left for the regions. There are councils for employee

involvement at this level (so-called Cooperation Councils), and the general guidelines for staff policy at the hospital are formulated here, but no collective bargaining takes place. It is also at this level that the agreements with the TWAs are set.

The second level is the hospitals themselves. At this level, collective bargaining takes place within the framework of the sector agreements (those with Danish Regions as the employers' association). Because the hospitals are large employer units, there is great variety between their HR policy and industrial relations.

The structure is somewhat more complex on the employee side. The Health Care Cartel includes 11 trade unions, none of which are trade unions for doctors. Many of these 11 trade unions organise employees at the hospitals. The trade union for nurses (DSR) is by far the largest. The Health Care Cartel negotiates general working conditions, whereas more-occupation-specific conditions are negotiated by the individual trade unions. The Health Care Cartel became in mid-2014 part of a new broader cartel, Forhandlingsforbundet, together with the bargaining cartel for employees in the municipalities, KTO, among others. In the future, this will be the only bargaining cartel regarding the hospital's group of employees.

The trade union for nurses - DSR - has 61,000 members. Their precise organisational density is unknown but is estimated to be around 85–90 percent. However, it has declined during the last decade for several reasons. One is a weakened tendency for newly graduated nurses to automatically sign up as union members. Another is a consequence of an increase in the member fee due to a major industrial conflict related to the collective bargaining round in 2008.

3F (Fagligt Fælles Forbund) is the largest member organisation of the largest Danish trade union confederation, LO. 3F has around 350,000 members and is a general union organisation which organises employees with short or no vocational education, primarily in the private manufacturing, construction and transport sectors, but also in some private services and in the public sector. Of the selected occupations in this report, 3F organises hospital porters, cleaning assistants and skilled service assistants.

FOA (Fag og Arbejde) is also a member of LO and represents occupations with short education nearly exclusively in the public sector. FOA has around 200,000 members. Of the selected occupations here, FOA organises social care workers, hospital assistants and skilled service assistants.

The alternative, so-called yellow, unions, do not have many members working in hospitals, according to the interviewees.

In the public sector, the collective agreements create a complex web. The hospitals are no exception, and there is a plethora of collective agreements covering the hospitals. Some have already been mentioned. The most important for the present study are those between Danish Regions/RTLN and these organisations:

- Health Bargaining Cartel (Sundhedskartellet), KTO, AC and FOA regarding most health staff below doctors (sector level)
- DSR regarding nurses (occupational level)
- FOA regarding social and health care workers
- 3F regarding skilled service assistants (occupational level)
- FOA and 3F regarding cleaning assistants etc., including hospital helpers (occupational level)
- FOA regarding hospital porters (occupational level)

Areas that have been partly privatized – for instance, cleaning – are covered by private sector collective agreements and will not be covered in the present chapter.

Collective bargaining coverage is close to 100 percent. See below for a description of the occupations.

4.2 Wages and working conditions for the different employment types

Some occupations at the hospitals are irrelevant to discuss in relation to this study of atypical work, mainly because these occupations do not include precariousness to any notable extent. Medical doctors will therefore be excluded. Although some forms of atypical work can be found in this occupation, they are high-salary positions with high levels of job-, employment- (defined in terms of employability, though not necessarily in their present job) and social security. This also applies to some extent to doctors on fixed-term contracts and TWA doctors. Moreover, medical doctors have good opportunities for voice because their trade unions are relatively strong in the industrial relations system. Long working hours along with work intensification are sometimes perceived as a problem among medical doctors, but they often have opportunities to influence such working conditions.

The other occupations mentioned in section 5.1 are all relevant to discuss in relation to atypical work and precariousness. Cleaners will not be dealt with in any great depth, although they are relevant in relation to precariousness, and cleaning has been outsourced in all hospitals. This is so for a number of reasons. It can be discussed whether cleaning taking place at hospitals can really be seen as part of the hospital sector or whether it should rather be considered part of industrial cleaning. There is no straightforward answer to this question, but in this project it was decided to treat such job tasks mainly as industrial cleaning. By doing so, unnecessary overlap between the two chapters is prevented. However, some ‘combined occupations’ which combine cleaning and care-giving have been created at hospitals. These occupations will be included in the following.

First, the general picture of employment types will be described. Secondly, nurses’ wages and working conditions will be described and discussed, fol-

lowed by other health staff and support staff, and finally wage-subsidy contracts, which are employment types related to active labour market policy.

Hospital employment by employment type

A tailored calculation from Statistics Denmark (see table 5.1) allows us to draw a number of conclusions about employment and employment types (across occupations) in hospitals.

Table 4.1: Employees by employment type in the hospital sector, 2007–2001

	2007	2010	2013
Full-time	110,000	127,000	120,000
Part-time	74,000	85,000	88,000
- Marginal part-time*	36,000	24,000	33,000
Fixed-term contracts	14,000	12,000	14,000
Open ended contracts	96,000	115,000	106,000
TAW	4,000	2,000	3,000
Self-employed, no employees	n.a.	n.a.	n.a.
<i>Total (not a sum of the above)</i>	<i>114,000</i>	<i>129,000</i>	<i>123,000</i>

NB: The figures are numbers of employees, not full-time equivalents. Both private and public hospitals and clinics are included. Source: Statistics Denmark, tailored calculation, AKU. * = 15 hours or below, de facto working hours. Numbers below 2,000 not reported by Statistics Denmark (= n.a.).

Firstly, the number of jobs increased until 2010. Hence, the effects of the economic crisis were seen later here than in the private sector. Secondly, as expected, part-time work is very high. However, for our project report, it is more important that the numbers of marginal part-timers is high, because they have an increased risk of precariousness. Thirdly, fixed-term contracts are relatively widespread. Fourthly, although TAW has attracted quite some attention, the numbers are quite low. Fifthly, self-employment is non-existing.

Nurses

The majority of nurses are employed on *open-ended contracts*, and *self-employed* nurses are non-existing. Part-time contracts, fixed-term contracts and (less so) TAW are widely used within the sector and are therefore relevant employment types to dig deeper into here. The majority of the nurses are organised in the nurses' trade union, DSR as described above.

Part-time work is extremely widespread among the nurses. In 2011, 51 percent of the nurses worked part-time. According to the interviewees, most employees held long part-time contracts with more than 30 hours per week. The average working week for Danish nurses is 34 hours. No specific figures exist for hospitals, but according to the interviewees, the average working week may very likely be higher than in the local government sector. Since 2008, the part-timers have had the right to be upgraded to full-time employees, but very few

have exploited this opportunity (dr.dk, 16.06.11). Indeed, part-time work among nurses is predominantly voluntary. Apart from being paid according to working hours, part-timers have the same wages and the same employment and working conditions as full-timers, and the social benefits are the same. As a result, precariousness does not seem to be a problem for part-time nurses.

The nurses working as *temps* often hold a full-time or a part-time open-ended contract and are therefore mainly temping as a secondary job. This needs further explanation. Between 2000 and 2010, a shortage of nurses developed. This led the hospitals to follow a dual strategy. One part of the strategy was to recruit nurses from abroad (often from non-EU countries), and the other was to increase the use of temp nurses. Temp nurses are paid higher wages and have better opportunities to influence working hours than nurses employed on open-ended contracts at the hospitals.

High salaries and severe labour shortages (which had to do with, among other things, a high level of dropouts from nursing schools (Jakobsen and Rasmussen, 2009)) created strong incentives for both employers and employees to use TAW. It has not been possible to get figures for the development in the use of TAW for nurses in hospitals only. However, since nurses make up the majority of hospital temps, the general wage-sum statistics are still relevant. The use of TAW peaked in 2007–2009, when it accounted for approximately 3 percent of the total wage sum in the regions. In 2010, however, the figure decreased to 1 percent and has remained at this level since (regioner.dk 14.08.14); see also table 5.1 for numbers of TAW, which shows a similar, although less dramatic, reduction). Figures for sold hours of work from TWAs for all nurses (also those working elsewhere than in the hospitals) shows a decline in the same period from 6 to 3 percent of all hours across branches/occupations (Statistic Denmark 2014e). The main reason for the dramatic decline was the hospitals' overspending in relation to their use of TAW in 2007–2009. This led to cutbacks in the use of both external TWAs and permanent staff in 2010. In terms of hours sold by TWAs, the number peaked in 2008 at 255,000 hours (Dansk Erhverv, 2011) but has since been reduced substantially. Instead of using external TWAs, the hospitals started to set up their own TWAs (here labelled 'internal agencies') in order to lower the cost. Nurses that sign up to the internal agencies still have the advantage of influencing their own working time, but, in contrast to external temps, they do not have the advantage of higher wages.

Both before and after 2010, the large majority of nurses signing up for external or internal temp work were on open-ended contracts in the hospitals, as mentioned earlier. Hence, temp work has been used by employees as a voluntary supplement. So far no statistics about temps are available, but according to the interviewees, the number of nurses working only as temps is very limited (see also Jakobsen and Rasmussen, 2009). Hence, temp work for nurses cannot be seen as precarious work.

Fixed-term contracts are, as mentioned, relatively widespread in hospitals but not among nurses, according to the interviewees. However, it has not been possible to provide figures for this type of employment.

The nurses might face problems such as increased *work intensification/excessive workloads*, and health and safety is a problem in some hospitals (Kristensen, 2013). However, the overall picture is contradictory. Nurses are often asked to work overtime, and it can be difficult to decline these offers. In 2013, 11 hospitals received a ‘bad smiley’ (representing serious health and safety problems) from the national health and safety authorities. At some hospitals, this was related to physical health and safety, in others to time and work pressure (dr.dk 13.09.13). Also the Ministry of Employment has allocated resources for a targeted effort among some occupations with serious health and safety problems to improve the conditions, including hospital nurses (bm.dk). However, the interviewee from DSR was not sure whether work intensification really has taken place, although there is no doubt that the nurses are under time pressure. DSR-commissioned research on the work environment (health and safety) for nurses in 2002, 2007 and 2012 which showed a (small) positive overall development in the work environment for nurses, including stress and job satisfaction. But it is also noteworthy that the studies confirmed serious work environment problems in some areas, such as specific hospital departments (emergency department and medical departments) (Kristensen, 2013). Unfortunately, the studies did not report anything about the variation in work environment problems between different employment types.

In sum, with a wage level relative to the average for the qualification level, job security which (once again) is rather high due to low unemployment, and social security, including pensions, leaves and training, hospital nurses do not qualify for the label of ‘precarious workers’, whether they are on full-time, open-ended contracts or atypical contracts – despite their work environment problems.

Other health care staff and support staff

Apart from medical doctors and nurses, hospitals employ a large number of other health care staff and support staff. It would be impossible to cover all of these in the present report, and only some are relevant to discuss in relation to precariousness. In this report, we will focus on the largest group from the category ‘other health staff’ and, in addition, a number of occupations among ‘support staff’, mixed ‘support staff’ and ‘other health staff’ – groups that typically have the most contact with patients. For all of these groups, a discussion of precariousness is relevant. The occupations are as follows:

- Social and health care workers (social og sundhedsassistenter, SOSU): This is by far the largest group of health care staff besides nurses and doctors. However, their numbers have declined in recent years – from 9,100 in 2009 to 7,600 in 2012 (Holm-Petersen et al., 2013). The divi-

sion of labour between social care workers and nurses is often blurred and tends to differ from hospital to hospital. The work tasks of social and health care workers include personal care, medication, instructions/talks, retraining etc. Depending on previous education, it can take up to three and one-quarter years to become a social care worker. The education is a so-called dual education (periods at school combined with practical training at a workplace). Most social care workers are organised in the trade union FOA (foa.dk). There also exist a minority of unskilled social and health care workers.

- Hospital porter (portør): The core task of hospital porters is to transport patients, including lifting patients up to surgery tables etc. However, hospital porters also transport equipment and other items between departments in the hospitals. It takes eight months to become a hospital porter, and the education is also a dual education. The majority of the hospital porters are union members of FOA (foa.dk).
- Hospital helper/hospital assistant (hospitalsmedhjælper/ hospitalsserviceassistent): Their tasks include cleaning, bed making and different forms of caring for patients, including serving food. The occupation is unskilled. The vast majority are women and are organised in 3F.
- Cleaning assistant: This is strictly a cleaning occupation. The vast majority are women and are organised in 3F.
- Skilled service assistants (erhvervsuddannede serviceassistenter): This is a relatively new occupation. It resulted from employers' wishes to increase functional flexibility along with trade unions' need to train their unskilled members in order to improve their job and employment security. The occupation was developed from the cleaning assistant occupation but includes some of the tasks of hospital porters and hospital helpers. It takes two years to become a skilled service assistant. The education is a dual education. The broad range of tasks improves the opportunity to set up full-time positions. Most skilled service assistants are organised in 3F and are women. According to the interviewees, there have been some tensions between 3F and FOA regarding the set-up of the occupation for skilled service assistants. Moreover, hospital porters – which are nearly all male – seem uninterested in the new occupation, possibly because of its strong cleaning duties. In the future, some regions will employ only skilled service assistants and not hospital helpers, hospital porters or cleaning assistants.

As long as the focus is on the hospital sector, the abovementioned occupations appear not to be precarious to any notable extent. The positions are, in general, full-time open-ended contracts or long part-time contracts that tend to be voluntary. For the abovementioned groups organised by FOA, 58 percent were on full-time contracts (FOA 2012). With a collectively agreed monthly minimum wage of around €3,000 for the full-time positions – along with the possibility of (limited) locally agreed wage supplements – ‘working poor’ and other pay-related elements of precariousness are rare.

There are, however, some problems and challenges which are relatively similar across the five selected occupations. With regard to part-time employment, so-called hourly employees represent a challenge in some regards. In the regions (including the hospitals), 6 percent of the employees in those areas where FOA sign collective agreements are paid by the hour, whilst the figure for the municipalities is 12 percent (FOA, 2012). The problem with hourly employees is that their access to some social benefits is restricted compared to their full-time colleagues. Whilst they do receive occupational pensions after 10 months of employment (graduated according to the number of hours they work), they have no rights to pay during sick leave or maternity, paternity and parental leave. However, since August 2014, it has only been possible to employ hourly employees if their contract lasts one month or less (see below). In that way, a number of formerly hourly employees have become eligible for various forms of social benefits.

Regarding *temps*, the use of external TWAs in relation to other health care staff and support staff has declined substantially during the last few years. The number of temps in these employment categories is, however, unknown. But as in the case of the nurses, most temps also have a full-time contract according to the interviewees. In general, these temps cannot be seen as precarious. There has been a similar trend in the shift from external to internal temps among social and health care workers as seen among the nurses.

There are some employment types in the hospitals which include real elements of precariousness. One special category of fixed-term employees is 'employees on occurrence of a special event' (begivenhedsbegrænset ansættelse). This type of fixed-term employment relates to an event, which can be sick leave, maternity/paternity leave or another kind of leave. A study conducted by one of the authors of the present report, but which, however, covers only the municipalities and not the regions, showed that the use of this type of temporary contract is a direct consequence of the EU directive for fixed-term employment from 2002, simply because it was not legal to use this type of fixed-term contract before (Larsen 2002). The implication of the use of this type of fixed-term contract is that the employment relation can be terminated on short notice (one day notice). Hence, it is a very flexible type of contract and very popular with employers. According to the trade union FOA, this type of fixed-term contract is used mainly to meet employers' need for flexibility rather than employees' need for job security. Another type of fixed-term employment used is the 'call temp' (tilkaldevikar). These are not from TWAs but can be called for when sudden needs for more labour arise. According to the trade union FOA, the problem with call temps is, that the employee often cannot reject the assignment when called (FOA, 2012). The extent of the use of these contracts for the occupations in focus is not known to us.

Regarding the rights to social benefits, thresholds for accruing rights to these – already described in the previous chapters – also represent a challenge for

temps, fixed-term employees and also some marginal part-time employees the ‘other health care staff and support staff’. However, the majority of the ‘other health care staff and support staff’ employees do not face these thresholds, although a minority face a thresholds up to 10 months or even longer⁴. For the nurses no such threshold exists. All monthly employees have – according to the Salaried Employees Act – a three-month notice period after a trial period of three months.

Work intensification/excessive workload is an issue, as indicated in the section on nurses. However, also in this case, it is not clear whether work intensification has been taking place or whether it varies between different employment types.

One of the most important challenges for at least some of the five occupations is related not so much to wages and working and employment conditions but to job and employment security. With the exception of skilled service assistants, the number of employees within all employee groups has declined in recent years. For social care workers, the decline started in 2009. According to some interviewees, the explanation is that hospitals are increasingly requesting personnel with higher qualifications, leading to the employment of more nurses and fewer social care workers. Another interviewee explained the development by the fact that nurses are in a better position now than before to influence recruitment processes at hospitals. Whatever the real reason(s), the situation has created some tensions between DSR, the nurses’ trade union, and FOA, the social care workers’ trade union. With respect to hospital porters, cleaning assistants and hospital helpers, the pressure may primarily come from increased competition for jobs from the new occupation, skilled service assistants.

In sum, although there might be some problems related to some of the employment categories, the dimensions of precariousness seem to be limited for the five occupations analysed here, although they do exist in relation to some employment types.. Interestingly, there seems to be a difference between the regions – which are in focus here, since they are responsible for the hospitals – and the municipalities, which have occupations similar to these five. The use of nearly all the ‘problematic’ employment types (call temps, employees on occurrence of a special event, hourly paid) is more widespread in the local government-administered health care sector than in the regional sector. For example, nearly all of FOA’s health care-related legal cases are in the local government sector. According to some interviewees, one important reason is that the workplaces are much bigger in the regions (they are hospitals) than in the municipalities, which allows for planning and use of resources in the regions. In the local government workplaces, which are much smaller (e.g., home care, nursing

⁴ The pattern is rather complex: *Social and health care workers (skilled)* and *porters* have no pension threshold when the education is finished and, whereas *Social and health care workers (unskilled)* face a 10 months employment threshold and an age threshold of 21 years. *Skilled service assistants* face a pension threshold including 10 months of regional employment and an age threshold of 21 year. *Hospital helpers/hospital assistants* (unskilled) have a pension threshold of 48 months of regional employment and an age threshold of 25 year.

homes), employers feel more dependent on flexible types of contracts and, more so than the regions, use them in ways seen as problematic by the trade unions. Moreover, regional employers have formulated a ‘policy for full-time positions’, which took force in January 2014. The municipalities do not have such a policy. The policy implies that new positions in the regions in general should be full-time positions and includes targets for full-time employees in the regions (64 percent in 2015 and 80 percent in 2021) but also a number of possibilities for exemptions, which could be a barrier for reaching the targets (Danske Regioner, 2013). However, the interviewees stated that the policy was serious and genuine. The reason for the regional employers to formulate such a policy was not to improve the employment situation for part-timers, but due to foreseen labour shortages. During labour shortages, it is a problem if three employees on average only deliver working hours for two full-time employees.

Wage-subsidy contracts

Denmark is one of the countries in Europe – and in the world – which spends the most on active labour market policy (ALMP). The positive side of this is that a large number of unemployed persons get assistance to get back into employment. The downside is that employers in some situations are tempted to substitute ordinary employees with ‘extraordinary employees’, mainly wage-subsidized labour of one kind or another. Moreover, and relevant for the present report, it might be a problem for wage-subsidy employees if the positions are permanent and have lower levels of wages and working and employment conditions than for other employees.

The use of extraordinary employees also is much less widespread in the regional health care sector than in the local government sector. According to the interviewees, this is because it is much more difficult to find suitable positions at hospitals for unskilled persons and persons with reduced capacity. Moreover, the Jobcentres (which are part of the municipal administrative structure) have until very recently not pushed the hospitals to take part in ALMP, focusing instead on the municipalities. However, recently hospitals have started to receive increased contact from the Jobcentres in order to set up extraordinary employment positions in unskilled areas. Still, extraordinary employees are not nearly as widespread in the regions as they are in the municipal health care sector.

Nearly all extraordinary employment positions are temporary, in some cases for a maximum of one year but often much shorter. Although they might represent other problems, a discussion of precariousness is not so relevant for temporary wage-subsidy positions, because they last for such a short period. For permanent positions, such a discussion is relevant. There is basically only one of these, the so-called flexi-job (see chapter 2). Flexi-jobs are permanent wage-subsidy jobs with reduced working hours; their aim is to provide a better alternative to incapacity benefits for disabled people. Until 2013, flexi-jobbers were guaranteed a salary equal to a full-time job irrespective of their working week,

although the wage-subsidy dimension had a maximum. However, the scheme was changed recently, and the new rules came in force in 2013. As a consequence of these changes, flexi-jobbers are not necessarily paid ‘the rate for the job’ (collectively agreed wages), and the wage subsidy is less attractive for employers. Moreover, it is now possible to set up flexi-jobs for only a few hours per week, so-called mini-flexi-jobs. There are around 2,000 flexi-jobbers in the regions, accounting for less than 2 percent of all employees.

4.3 Social partners’ approaches to atypical work in the sector

First, we will focus on the initiatives that are not limited to the selected occupations but have consequences for them all, and thereafter examine the initiatives that are specific to the selected occupations.

Cross-sector/-occupational initiatives

Most cross-occupational initiatives are related to both the regions and the municipalities.

Regarding *fixed-term employees*, it is worth mentioning the framework agreement between KL (Local Government Denmark, the interest-organisation of the municipalities), Danish Regions (then the Organisation of Danish Counties), KTO and the Health Cartel from 2002. The agreement implements the EU directive on fixed-term work from 1999 with the aim of improving the conditions for these employees. The agreement secure non-discrimination on a number of wage- and working condition–related dimensions, but not all. For instance, according to the initial agreement, an employee has a right to occupational pensions only after one year of employment (minimum eight hours per week) within the latest eight years. The initial agreement also secured that most hourly employees with more than eight hours per week during one month should be employed as monthly salaried workers, hence providing them with the status of salaried employees, including longer terms of notice and better social rights.

Regarding both *part-time* and *fixed-term work*, it emerged recently that the European Commission is not satisfied with the way the directive on part-time work from 1997 has been implemented in Denmark; in 2012 the Danish government received a ‘letter of formal notice’ (åbningsskrivelse), and in 2013, a ‘justified statement’ (begrundet udtalelse) that requested the Danish government to improve the implementation of the directive beyond the one provided by the collective agreements (Beskæftigelsesministeriet, 2012; 2013). The European Commission stated in the letters that part-time employees in the education sector with less than eight hours of employment per week were not being treated equally to full-time employees (regarding social rights and benefits, terms of notice etc.). As a result of this process, an agreement between KL and KTO was recently signed to meet the demands from the European Commission. The agreement ensures that only employees employed on fixed-term contracts of

maximum one month, including call temps, can be employed as hourly paid employees. Thus, all employees on contracts longer than one month have the status as salaried employee and have the right to an occupational pension at the same level as employees on open-ended contracts, as well as paid sick leave and terms of notice like those of full-time salaried employees, which is minimum three months after a three-month trial period. The agreement came into force in August 2014 and covers not only the education sector but the entire regional and public sectors.

The EU *temporary agency work* directive, adopted in 2008, was implemented in Denmark in the summer 2013 (see chapter 3). In May 2013, the legislation on the directive was finally passed by Parliament. To avoid social dumping, exemption from the non-discrimination principle is possible only through collective agreements between the most representative social partner organisations in Denmark; thus, non-Danish TWAs cannot use collective agreements as a basis for exemption (Ministry of Employment 2013). However, the trade unions were not happy with the result, although they signed it, because it implies that in some sector branches, they will be bound to rather old agreements with TWAs that do not secure non-discrimination. The trade union interviewees in the present project also felt that the result of the implementation in Denmark watered down the directive to some extent.

Whereas the usual order in Denmark has been implementation by collective agreement first and then follow-up legislation, the implementation of the TAW directive in Denmark was reversed. This was so because the social partners in the manufacturing industry found that there were too many uncertainties. Therefore, they awaited the law before they dared to write anything into the collective agreements.

Regarding *part-time work*, in 2007, in connection to a tripartite agreement in the public sector, the social partners (including those in the regions) agreed that employees on open-ended contracts for 29 hours per week or more should have a right to a full-time position in a trial period from 2008 to 2011. No studies have been found on the extent to which this right has been used. During the collective bargaining round in 2011, it was not possible for the social partners to agree to extend the trial period, to the regret of some trade unions (foa.dk, 08.02.2013).

Also related to part-time work, the regional employers in Danish Regions have formally adopted a policy on full-time positions in the regions, as mentioned earlier. The policy came into force in 2014, and it remains to be seen what the outcome of this initiative will be.

Whereas there seems to be a consensus on attempts to increase the share of full-timers at hospitals and other regional workplaces, the social partners seem to still be far apart when it comes to hourly employees. The trade unions dislike the employers' tendency to propose hourly contracts with a very low number of hours that are extended when the employers need to do so. And trade unions

disapprove of the employers keeping employees as hourly year after year. However, the use of hourly employees is not so widespread in the regions as mentioned earlier.

Regarding *wage-subsidy jobs*, KL discussed this issue with the trade union confederations (DSR is a member of the second-largest trade union confederation, FTF) in a number of tripartite bodies, most importantly in the consultative national, regional and local employment councils. However, it is in the bipartite collective bargaining arena that the social partners have the best opportunity to influence the issue. The issues discussed here, however, have lately been not so much about pay and conditions of wage-subsidy jobs but rather about the number of these. The reason is that the wage-subsidy jobs in some (unskilled) occupations within the municipalities make up around half of all employees, which KTO and the affiliated trade unions find to be far too many because the high number leads to the displacement of ordinary employees and downward wage pressure. KL and the municipalities, on the other hand, are obliged to deliver wage-subsidy jobs according to a certain quota and moreover have economic incentives in some cases to use wage-subsidy jobs on a large scale. During the latest bargaining rounds, social partners were unable to strike an agreement on the issue (Mailand, 2012; forthcoming). However, KL and KTO (now Fællesforbundet) do still have some form of dialogue on the issue. Regarding hospitals, the use of wage-subsidy jobs is growing, as described, but at a very low level. In the future, they might therefore also develop into a challenge for the social partners in the regions (hospitals).

Sector-/occupation-specific initiatives

There are only few occupation-specific initiatives the social partners have related specifically to atypical employment. This reflects partly that the most serious challenges are not limited to these occupations alone and are therefore addressed at a higher level (those mentioned above), and partly that the social partners do not find that wages and employment and working conditions of atypical employment in hospitals are leading to precarious situations to any notable extent.

One of the few initiatives is that threshold for accruing social rights has been lowered for some groups of employees, latest at the collective bargaining round in 2013 from 12 months to 10 months. This has consequences for pensions etc. for the fixed-term employees. However, several of the occupations in focus working at the hospitals has no thresholds regarding pension or other social rights.

The (successful) attempts to curb the increase in the use of external temps by using internal temps have been a unilateral step for employers. The step has been taken for purely economic reasons and has had nothing to do with wages and conditions of temps, who furthermore do not qualify for a label of precariousness.

4.4 Summary

In industrial relation terms, ‘hospitals’ are not really a sector, but this group is nearly identical with the ‘regional’ sector in Denmark. Hospitals could also be seen as part of the health care sector. Most forms of collective bargaining and other forms of social dialogue with relevance for the issue of precariousness regarding hospitals take part at this regional level between the employers in Danish Regions and the bargaining cartel Sundhedskartellet and – regarding more occupation-specific issues – between Danish Regions and the single trade unions.

Regarding wages and employment and working conditions, the nurses and other health care and support staff analysed in this chapter generally face few precariousness challenges, whether they are on open-ended full-time contracts or other types of contracts. The use of (external) TAW has been reduced to a very low level, and, more importantly, TAW (whether of the external or internal type) is nearly exclusively voluntary and is used by workers to top up full-time or long part-time open-ended contracts. Self-employment is non-existing. However, both fixed-term work and marginal part-time work are relatively widespread. In general, the atypical employees are eligible for pensions, paid sick leave and other social benefits, but some of the thresholds are still long and longer than in the private sector. This is the case for the 10-month threshold for accruing pensions, which however only apply for some groups of employees (see footnote 4) and not the nurses. Wage-subsidy jobs are rising in number but from a very low level.

Reflecting the lack of widespread precariousness problems, the social partners’ initiatives to address the problems have been few, most of them initiated at a level above the regions/hospitals.

This is not to say that problems related to precariousness are totally absent in the hospitals. The social benefit threshold problem has already been mentioned. Moreover, a number of part-time positions under the heading of ‘hourly paid employees’, among other health care and support staff, until recently lacked rights to pensions and full paid sick leave, and had a shorter term of notice and possibly also marginal part-time-related problems, but changes in the collective agreements implemented in August 2014 might reduce these problems. It is noteworthy that this change was made owing to pressure from the European Commission, and not the social partners’ own initiative. Moreover, although an in-depth study about the quality of the work environment did not indicate an overall worsening of this, the same study showed that some hospital occupations and departments exhibit serious health and safety problems, including work intensification. This problem is not limited to atypical employees.

A number of reservations with regard to the finding of a limited presence of dimensions of precariousness in the hospitals should be mentioned. Firstly, the strictly cleaning occupation has not been dealt with to any notable extent, since

it is covered in the chapter on industrial cleaning, and it can be discussed whether it is part of the hospital sector at all just because the work processes take place at hospitals. Secondly, according to some of the trade union interviewees, the health and social care sector outside hospitals includes greater challenges of precariousness and sees far more labour law cases.

5. Industrial cleaning

5.1 Introduction to the sector

In Denmark, industrial cleaning covers services ranging from ordinary cleaning inside and outside buildings and window cleaning to specialized cleaning services like pest control in buildings and cleaning of swimming pools, trains and busses. However, although ‘combined services’ primarily concerns the maintenance of buildings and is therefore not considered industrial cleaning, the category of combined services also includes various cleaning tasks which typically are part of the service package offered to companies when they outsource cleaning tasks. Indeed, this type of service package has become more popular among companies in recent years, and as a result, the level of ordinary cleaning and window-cleaning services has reportedly declined in terms of turnover and number of staff since 2009 (DI, 2014c). Nevertheless, ordinary cleaning continues to be the most common type of cleaning service by far, followed by combined services, specialized cleaning and window cleaning based on company turnover within the sector (DI, 2011; 2014c).

Cleaning services are provided by a number of suppliers in the public and private sector. However, the recent increase in outsourcing affected the industrial cleaning sector in terms of rising growth rates and an increasing number of companies and employees up until 2008, when the economic crisis hit the sector (DI, 2014c). Since 2008, the economic turnover of cleaning companies has declined, and the number of companies and employees has decreased (DI, 2014c). It is particularly the small companies – notably, self-employed without employees – that have gone bankrupt following the economic crisis; nearly one-third of cleaning companies without employees have disappeared since 2003 (see table 5.1).

The industrial cleaning sector is dominated by small companies – notably, self-employed without employees. In 2012, 63 percent of the companies were self-employed without employees, whilst 0.4 percent had more than 100 employees and 32 percent between 1 and 10 employees. The companies employed 1.3 percent of the Danish workforce in 2012. Most employees – 80 percent – worked for large and medium-sized companies, the latter defined as companies with 10–100 employees (Statistics Denmark, 2014f).

Table 5.1: Development in the industrial cleaning sector in percentages and actual numbers, 2000–2014

	2012	2011	2010	2009	2003	2000/01
Companies	5,504	5,602	5,530	5,718	6,643	5,819
Self-employed without employees	3,476	3,547	3,439	—	4,742	—
Number of employees – calculated as full-time positions	24,063	23,651	24,456	—	—	—
Economic turnover in millions in euros	21.124	21.373	21.431	—	—	—

Source: Statistics Denmark (2014f); Mormont (2004); Christensen and Jørgensen (2012).

Employees typically work as cleaning assistants, cleaning technicians, service helpers/assistants, window cleaners and house assistants. Service helpers/assistants and service technicians are primarily skilled workers who have had formal training as a professional cleaner. In the private sector, the picture is a bit more blurred, as the title of service helper/assistant in some instances also includes unskilled workers, since some private companies use this title when recruiting unskilled cleaning personnel. The other groups of cleaning personnel are unskilled workers – many without any form of formal qualifications. Indeed, recent figures have revealed that 62 percent of the employees within industrial cleaning are without any educational credentials. The share of unskilled workers continues to be high compared to the rest of the labour market (DI, 2014c: 27).

According to the interviewees, many employees within the sector can be considered to belong to some of the weakest groups within the Danish labour market. They often have no formal skills and may experience learning difficulties as many are dyslexic or are unable to speak, read and/or write Danish. Among this group of employees, some also tend to have difficulties socialising and getting along with other people in the workplace. A cleaning job is, for many, their only option to be part of the labour market. In addition, the industrial cleaning sector is dominated by women and migrant workers; migrant workers constitute 38 percent of the workforce, a figure three times higher than in the rest of the Danish labour market (DI, 2014c: 27).

Collective agreement coverage

The Danish industrial cleaning sector is regulated primarily through collective agreements signed by social partners at the sectoral and company levels. A recent study by Andersen and Felbo-Kolding (2013b) suggested that 62 percent of the companies with five or more employees within the industrial cleaning sector are covered by a collective agreement – a number that the interviewees estimate to be slightly lower, around 40–50 percent, as they also include companies with fewer than five employees in their estimate. However, the coverage rate of

collective agreements is considerably higher when calculating it based on the total of the wage sum. Such calculations suggest that between 80 and 95 percent of employees are covered by a collective agreement in the private sector, indicating that the collective agreement coverage is comparatively higher within the industrial cleaning sector than the general average for the Danish labour market – 84 percent (DA, 2014: 24). In addition, in the public sector, all employees are covered by a collective agreement.

Employers' associations

Many employers – particularly small and medium-sized companies – may have signed a collective agreement but have not necessarily joined an employers' association. A recent survey by Andersen and Felbo-Kolding (2013b) revealed that within the industrial cleaning sector, one in two companies with five or more employees are members of an employers' association. This number is reportedly somewhat lower when including companies with fewer than five employees, which is the vast majority of companies within this sector. It is primarily the large and medium-sized private companies that are members of an employers' association, whilst relatively few small companies – most notably, self-employed without employees – have joined one.

The main employers' associations representing private companies in the sector are SBA and Danske Service. The latter primarily organise small and medium-sized companies, whilst large and medium-sized companies tend to be members of SBA. In the public sector, the employers' interests are represented by KL, Danske Regioner and the Ministry of Finance.

Trade unions

No exact figures exist as to union density. However, the interviewees estimate that around 40–50 percent of the employees within the industrial cleaning sector are union members, which is lower than the general union density of 69 percent for Danish labour market (Ibsen et al., 2014). The main trade unions organising industrial cleaners and negotiating collective agreements are 3F, Serviceforbundet and FOA. Unlike 3F and Serviceforbundet, FOA represents cleaning staff only in the public sector. A number of cleaning assistants have also joined what is often termed 'alternative unions': Det faglige hus, KRIFA and Bedst og Billigst. With the exception of KRIFA⁵, these unions have no collective agreements and they – including KRIFA – represent mainly employees covered by collective agreements that have been signed by other trade unions.

5.2 Wages and conditions for different employment types

In the Danish industrial cleaning sector, the picture regarding employment types differs somewhat from the rest of the Danish labour market. The traditional full-

⁵ KRIFA has a few collective agreements in the private sector, including the industrial cleaning sector, but it differs from the traditional unions in that it principally opposes any form of industrial action to solve industrial disputes.

time permanent position with 37 or more weekly hours is less common within the sector and tends to be seen mainly among employees within the public sector or those working in specialized cleaning tasks or window cleaning. In fact, some interviewees stated that the atypical worker within the sector is in many respects a permanent full-time employee. Indeed, many of the forms of employment used in this project as examples of atypical work are commonly used throughout the sector, although to varying degrees.

Part-time and full-time work

Part-time work constitutes the most common form of atypical employment within the sector by far and has become more widespread in recent years. In 2013, 44 percent of industrial cleaners worked part-time compared to 24 percent in 2007 (Statistics Denmark, 2014g). Marginal part-time work has also become more common in recent years, and 16 percent of industrial cleaners have less than 15 weekly hours, although the collective agreements in principle guarantee part-time workers a minimum of 15 weekly hours (Statistic Denmark, 2014g; see appendix B). It is primarily industrial cleaners in the private sector that work relatively few hours, although part-time work also is commonly used throughout the local government sector. A recent survey with 107 cleaning companies conducted by the employers' association Danske Service revealed that 71 percent of industrial cleaning companies use part-time work and 28 percent of their employees have an employment contract with less than 10 weekly hours, whilst 15 percent have between 10 and 15 weekly hours (Danske Service, 2014).

In the public sector, part-time work is also widespread among industrial cleaners. In the local government sector – which employs 80 percent of industrial cleaners in the public sector – 24 percent of the cleaning staff hold a full-time permanent position with 37 or more weekly hours (KL, 2014c). These figures also reveal, though, that 16 percent of industrial cleaners within the local government sector work less than 19 hours per week; the most common pattern for part-time work is between 28 and 36 weekly hours (KL, 2014). This suggests that although part-time work is commonly used throughout the local government sector, part-time workers often hold contracts with more hours compared to the private sector.

That part-time work, particularly contracts with relatively few weekly hours, is widespread within industrial cleaning affects the employees' wage and working conditions in different ways. Many part-time workers often work double shifts and hold two or more jobs to earn a reasonable income. Their low number of weekly hours also affects their eligibility for unemployment benefits as recent rule changes demand that they work 13 hours per week over a continuous three-year period. Likewise, their occupational pension contributions and paid holiday entitlements may also be affected, as pension contributions are calculated based on a percentage of the employee's monthly salary. This, combined

with industrial cleaning being a low-paid job, exposes part-time workers to a greater risk of lower levels of pensions in old age and lower levels of unemployment benefits. They are therefore in many respects at greater risk of precariousness, although they are covered by collective agreements and meet the assessment criteria outlined in the collective agreements and the labour law (see appendix B).

With respect to job security and employability as well, part-time workers face lower levels of security – a situation that also applies to industrial cleaners working full-time. Industrial cleaners are often unskilled workers with no educational credentials, and they rarely exploit the opportunity of further training to upgrade their skill levels and thereby improve their employability. In addition, private industrial cleaning companies often terminate the contract of their employees when they renew or bid on new cleaning contracts as part of compulsory tendering – a process that typically takes place every second or third year, according to the interviewees. Therefore, being employed on a full-time open-ended contract is no guarantee of a high level of job and employment security, as their employment contract also is up for renewal every two or three years, indicating a relatively high turnover among cleaning staff. However, most employees tend to stay in their job but typically on different terms and conditions, and with a different employer if their current employer loses the bidding, according to the interviewees. Indeed, when cleaning contracts are up for re-tendering, some cleaning companies reportedly use this opportunity to intensify the workload, reduce the number of weekly hours or sometimes lay off people.

Regarding voice, many industrial cleaners work at companies where union density is low and without a shop steward (Larsen and Navrbjerg, 2010). If their cleaning job has been outsourced, they often work under different collective agreements and feel excluded from the workers' community at the workplace, even if they still work at the same place as earlier, since their employer has changed. Many also work in shifts, during late hours, on their own and at different workplaces than their colleagues, which makes it difficult for them to meet and talk with their co-workers. This form of isolation also puts industrial cleaners at greater risk of exploitation.

A recent study, along with court rulings and media reports, revealed that, migrant workers within industrial cleaning in particular often work long hours without receiving the minimum wage, payments for overtime or other social benefits, indicating that working full-time is no guarantee against precariousness (Korsby, 2011). Indeed, social dumping seems to be a common phenomenon within the sector, and many industrial cleaners reportedly accept this because they are afraid of losing their job or unaware of the rules and regulations. Recent studies support this and suggest that 30 percent of cleaning companies are wage dumpers in that their hourly wage is between €13.3 and €14.7, and 3 percent pay less than €13.3 euros per hour, whilst the minimum wage varies between €15.7 and €29.9 depending on the collective agreement under consid-

eration (Danske Service, 2014; DI et al., 2014; Andersen and Felbo-Kolding, 2013a: 148). That 55 percent of companies have called for a legislative minimum wage underlines the problems of wage dumping within the sector (Andersen and Felbo-Kolding, 2013b).

Self-employed without employees and bogus self-employed

Self-employed without employees is also common within the industrial cleaning sector. 63 percent of cleaning companies are small companies with only the owner and no other employees, and they represent 17 percent of the employees within the industrial cleaning sector (Statistics Denmark, 2014d; 2014e). To what extent these companies are examples of bogus self-employed or represent genuine small companies is uncertain, but most interviewees – both employers and union representatives – reported that bogus self-employment is less widespread within the sector than in the construction sector. They all, however, gave examples of employees that voluntary or involuntary had opted for self-employment and were then used as subcontractors by their former employer in order to cut costs and bypass the rules and regulations within the collective agreements. That many small companies, including self-employed without employees, reportedly sign adoption agreements ('tiltrædelsesoverenskomst') suggests that they represent genuine small companies and are not bogus self-employed.

Working as self-employed without employees has its risks: Firstly, the collective agreements and the labour law do not cover such employees, as they are considered companies. Secondly, there is a high risk of bankruptcy for such companies, as mentioned earlier. Thirdly, the self-employed often lack social protection, and they have no guaranteed income due to their status as self-employed, even if their employment relation is somewhat between what is considered a normal employee and true self-employed worker (Jørgensen and De Paz Lima, 2011). They therefore face a greater risk of precariousness. However, when the self-employed perform cleaning services for user companies covered by the collective agreements within the industrial cleaning sector, they are often guaranteed an income equivalent to the costs the user company would have had if it had kept the cleaning service in house. Indeed, most collective agreements include such regulations to avoid unfair competition and social dumping (DI et al., 2014; RSBA et al., 2012).

Fixed-term workers and temporary agency workers

Other forms of atypical work, such as fixed-term contracts and TAW, are reportedly less widespread within the sector compared to part-time work and self-employment without employees. Fixed-term contracts are used mainly when permanent staff fall ill or take leave, sudden ad hoc orders or new assignments occur etc. For such situations, most companies, including the local government sector, have a relatively stabile network of fixed-term workers which they rely

on (Larsen, 2009). These groups of employees are often recruited on a day-to-day basis or for short periods when needs arise. In the local government sector, 11 percent of industrial cleaners were hourly paid employees in 2014; they are examples of fixed-term workers with very short contracts and are typically referred to as call temps (KL, 2014c). According to a study by FOA (2012), the average working week of, for example, house assistants working as call temps is 6.6 hours, and one in five has been in such a position for two years. This suggests that call temps face a greater risk of precariousness in terms of lower levels of job security and income security as a result of their few weekly hours and short-term contracts. They can, for example, be dismissed without notice. Call temps are also excluded from various social benefits, such as full pay during sick leave and maternity, paternity and parental leave, whilst they can accrue other social rights, such as pensions, if they comply with the assessment criteria (see appendix B). No figures are available regarding call temps in the private sector, but reportedly, some private cleaning companies, until recently, recruited a number of employees on zero-hour contracts to step in when needs arose. This practice, however, was recently changed following new regulations by social partners (see section 5.3). Nevertheless, such employees, although they in principle are permanent staff, face similar challenges as call temps, as they have no guaranteed income or weekly hours, even if the collective agreement ensures them a minimum of three hours for each shift they take.

Fixed-term workers with long-term contracts have higher levels of job security than their peers on short-term contracts in that they are guaranteed a permanent position after six months employment, according to the collective agreements in the private industrial cleaning sector. In addition, the length of their contract affects their ability to accrue rights to social benefits and wage supplements, as fixed-term workers with long-term contracts are more likely to meet the assessment criteria outlined in the collective agreements – criteria that require an employment record between 0 and 12 months depending on the social benefit under consideration (see appendix B). Regarding voice, no figures exist as to union density within industrial cleaning, but recent studies reveal that fixed-term workers, generally speaking, are less likely to be union members or to be employed at a workplace with a shop steward, and often feel their interests are ignored in local bargaining rounds compared to their peers on open-ended contracts (Scheuer, 2011a; Larsen and Navrbjerg, 2011).

The interviewees also stated that some companies use temps when acute needs arise. However, this form of employment is reportedly limited, mainly because the industrial cleaning sector generally faces great difficulties in recruiting and retaining qualified cleaning personnel and prefers to have permanent staff. That 6 percent of the advertised positions within industrial cleaning were not filled in 2013 underlines the recruitment problems within the sector (Arbejdsmarkedsstyrelsen, 2013). Media reports regarding subcontractors exploiting their personnel by offering wages and working conditions far below

Danish standards have decreased the use of temps. Indeed, some interviewees referred to these media reports as examples where the wages and working conditions of such employees bordered on slave-like conditions, and social partners have developed responses to prevent this form of exploitation (see section 5.3).

Whilst their employment and job security are relatively volatile due to the nature of their employment contract, temps are in principle guaranteed similar wages and social protection as the user companies' own employees if covered by collective agreements within the private industrial cleaning sector. Recent regulation by social partners ensure that cleaning companies cannot hire TWAs to cut costs, as they have to pay the TWAs the equivalent of the costs the user company would have had, if it had kept the cleaning service in house (DI (SBA) et al., 2014; RSBA et al., 2012).

Flexi-jobs and other wage-subsidy schemes

Recent figures reveal that 21 percent of industrial cleaners in the local government sector hold a flexi-job or work under other government-funded employment policy schemes. Using such schemes is particularly popular among housing assistants; 29 percent hold a flexi-job, 7 percent a senior job, and 7 percent are part of other wage-subsidy schemes (KL, 2014b; 2014a). Such employment types are less widespread in the private than in the public industrial cleaning sector, although a recent study suggested that flexi-jobs and other wage-subsidy schemes are more common within private industrial cleaning than elsewhere in the private sector (Thuesen et al., 2013; FOA, 2012: 10). In addition, both union and employer representatives reported that when cleaning assignments from the local government are outsourced to private companies, some municipalities request that the private companies employ a certain number of people in flexi-jobs or on other government-funded employment policy schemes. The interviewees also listed examples of companies that recruited employees to flexi-jobs or relied on other forms of government-funded employment schemes in order to cut costs. Wages and working conditions of people in flexi-jobs follow the rules and regulations of comparable full-time employees. Up until 2013, people in flexi-jobs reportedly had slightly better wage conditions than their peers on part-time open-ended contracts as the flexi-jobbers received full wage compensation despite working reduced hours. Since January 2013, flexi-jobbers receive salary only for the hours they work and may therefore face a greater risk of low wages. Regarding job and employment security, their situation may reportedly be slightly higher than their colleagues on open-ended contracts due to the economic incentives of keeping them on board, as the schemes are heavily subsidized by central government.

Subcontractors

Subcontractors, although a different category of atypical work from the above-mentioned since they typically are companies which offer cleaning services to

other companies by providing various forms of flexible labour, are also widespread within industrial cleaning sector – although reportedly less so than a few years ago. According to the interviewees, a number of companies, including large, small and medium-sized enterprises, until recently relied extensively on subcontractors to carry out different assignments when they won different contracts or biddings. These subcontractors could be TWAs, small or medium-sized companies and/or self-employed without employees, including bogus self-employed. However, a number of media reports revealing that the wages and working conditions of employees working for subcontractors were far below the standards set in the collective agreements, along with social partners' initiatives regarding the use of subcontractors, have reportedly reduced this practice.

Many large industrial cleaning companies no longer use subcontractors, and it is no longer possible to rely on subcontractors to reduce labour costs and thereby compete on employee wages if the user company is covered by a collective agreement (see also section 5.3). The case of a Polish TWA operating in the Danish labour market offering cleaning services for €6.7 per hour, along with examples of migrant workers reportedly coming on busses from Eastern Europe to provide cleaning services to Danish companies, indicates that some companies continue to rely on subcontractors to cut costs.

In sum, some industrial cleaners, depending on their employment contract, face an increased risk of precariousness when examining different parameters such as wages, social benefits, working time and job and employment security. It is in particular marginal part-time workers, fixed-term workers with very short contracts and temps with short-term contracts that are exposed to lower levels of social protection, although the thresholds for accruing rights to social benefits, a notice period and wage supplements within the collective agreements covering the industrial cleaning sector are among the lowest in the Danish labour market (see appendix A and B). However, the recent media reports regarding exploitation of migrant workers, who often work long hours without wage compensation or social protection, suggest that a full-time job is no guarantee of not ending up as a precarious worker within industrial cleaning.

5.3 Social partners' approaches to atypical work in the sector

Improving and ensuring the wages and working conditions of atypical workers has been on the bargaining agenda of social partners within industrial cleaning in recent years. However, social partners seldom use the term 'atypical workers' since they rarely differentiate between the different forms of employment. Both unions and employers have initiated responses to some of the challenges facing employees and employers within industrial cleaning. Some initiatives have been developed jointly by unions and employers' associations and have been included in their collective agreements. Others have been employer or union led, and yet another set of initiatives has been up for negotiation between the social partners but has been unsuccessful for various reasons.

The main changes include (1) lowering the thresholds for accruing rights to social benefits and improving social benefits by agreeing to new rights regarding, for example, further training, (2) developing new rules and regulations for subcontractors, including temps, (3) improving the working conditions of call temps and (4) raising union density and collective bargaining coverage.

New rights and lower thresholds for accruing rights to social benefits

During the last 10 years, the social partners have lowered the threshold for accruing rights to social benefits within the collective agreements. In the private sector, the main changes took place during the collective bargaining rounds at the sector level in 2007, 2010, 2012 and 2014, whilst in the public sector, these thresholds were less subject to revisions during the bargaining rounds that took place in 2008, 2011 and 2013.

During the 2007 bargaining round, 3F, Service Forbundet and their counterpart SBA – the social partners of the leading collective agreement in the private sector – decided to remove the threshold on parents' rights to paid leave when their children are hospitalised. All employees with children, irrespective of their employment contract, were thereby allowed to take full-paid time off if their children were hospitalized (DI (SBA) et al., 2007). The length of paid parental leave, pension contributions during maternity, paternity and parental leave and reimbursement entitlements have also been subject to changes on several occasions in recent years; first in 2007, when new rights regarding pension contributions during parental leave were introduced; the level of extra pension contributions during parental leave for part-time workers would be calculated based on their number of weekly hours (DI (SBA) et al., 2007). In 2010, the number of weeks with full pay was increased from 9 to 11 weeks, and in 2014, paid parental leave was further extended to 13 weeks along with an increase in pension contributions and the threshold for wage compensation. New rights for same-gender parents regarding access to parental leave were also introduced in 2014 (DI (SBA) et al., 2010; 2014). However, the threshold for accessing paid parental leave has remained unchanged and continues to be nine months – making it difficult for some groups of atypical workers, such as fixed-term workers and temps, to accrue rights to these social benefits.

By contrast, the thresholds for pension contributions, access to further training and full-paid sick leave have been subject to changes in recent years. In 2007, 3F, Serviceforbundet and their counterpart SBA agreed to grant full-paid sick leave to employees with nine months' employment record, and during the 2010 bargaining round, they lowered the threshold to six months. In 2010, they also reduced the threshold for access to an occupational pension scheme from nine to two months (DI (SBA) et al., 2004; 2007; 2010). Their collective agreement thus has one of the lowest thresholds regarding access to an occupational pension scheme compared to other collective agreements within industrial

cleaning sector and the rest of the Danish labour market (see appendix A and B).

SBA and its counterparts 3F and Serviceforbundet have also improved employees' rights and access to further training on several occasions, implicitly improving atypical workers' access to such social benefits. In 2007, they agreed to add a new chapter on further training to their collective agreement; employees with nine months' employment record were granted rights to two weeks further training, and employees with six months' employment record received rights to develop a plan for educational attainment. Part of this chapter on further training from 2007 included new rights for employees to improve and assess their qualifications with a particular emphasis on improving their math, reading and writing skills (DI (SBA) et al., 2007). During the 2014 bargaining round, SBA and its counterparts 3F and Serviceforbundet not only decided to lower the threshold for access to further training from nine to six months, but also agreed that employees with six months' employment have the right to take two paid hours off to seek guidance from the unions if dismissed. Part of the compromise was also that employers have to pay €0.007 per working hour to strengthen employees' further training possibilities (DI (SBA) et al., 2014).

Most responses regarding lowering the thresholds, including the new social rights, have been initiated by the unions and then negotiated with and agreed to by the employers. However, some union and employer initiatives have also failed repeatedly, such as the unions' proposal to increase part-time workers' working week and employers' calls for ways to limit the number of cleaning jobs that an employee can hold. Although both sides of the industry share a common interest in solving the issue, it remains unsettled, mainly because trade unions are unwilling to address the number of jobs part-time workers can hold unless employers are willing to guarantee part-time workers more hours. Another failed attempt by the unions concerns their proposal for a sector-specific wage supplement which would allow industrial cleaners to transfer their accrued rights to wage supplements to other companies within industrial cleaning. The unions brought this idea to the negotiation table in 2012 and 2014, but it was opposed by the employers.

With respect to other collective agreements, the unions have been less successful when it comes to lowering the threshold for accrued social rights, yet in other collective agreements, unions have found limited need to lower the threshold as most employees work full-time in their field. The latter applies to, for example, the unions representing window cleaners. In addition, KRIFA has repeatedly tried to remove or lower the threshold for accruing rights to social benefits in their collective agreements with Kristelig Arbejdsgiverforening; most recently during their 2010 negotiations, when the employers found no need to address the issue. As a result, the threshold for accruing social rights is comparatively higher than the rest of the industrial cleaning sector and the Danish labour market. However, for its upcoming collective bargaining round in

autumn 2014, KRIFA will once again try to get the issue of lowering the threshold on the agenda – an issue that its counterpart Kristelig Arbejdsgiverforening so far has accepted.

Call temps

Fixed-term workers with very short-term contracts – so-called call temps – continue to be a key concern of unions and employers. This group faces an increased risk of precariousness; they have no guaranteed weekly hours and suffer from low levels of job security, making it difficult to maintain a reasonable living standard. For these reasons, unions have proposed initiatives to improve fixed-term workers' wages and working conditions. By contrast, employers seem to embrace this type of employment, as it represents a form of highly flexible labour.

During their collective bargaining round in 2010, SBA, 3F and Serviceforbundet agreed to improve the job security of fixed-term workers with very short-term contracts by guaranteeing them a right to a permanent position after six months' employment and rights to accrue social benefits from the first day of work – rights that their colleagues in similar fixed-term positions but covered by other collective agreements, including in the public sector, do not have. Reportedly, the private employers agreed to such a guarantee owing to a recent court ruling which deemed their past usage of such fixed-term workers illegal. Indeed, the court ruling may have paved the way for the new regulation for fixed-term workers in the private sector, as the employers needed to find a compromise because they needed fixed-term workers to cover their acute needs when they arise.

Since then the social partners have repeatedly tested the interpretation of these rules and regulations; unions interpret them strictly whilst the employers call for a softer interpretation and, during the 2014 bargaining round, the employers unsuccessfully proposed removing fixed-term workers' rights to a guaranteed job offer after six months' employment.

Subcontractors and temporary agency work – reducing social dumping

A series of media reports about the industrial cleaning sector pointing out subcontractors, including TWAs, exploiting their staff by offering them wages and working conditions far below Danish standards have triggered joint and individual responses by trade unions and employers' associations in recent years. In 2007, social partners agreed to include a protocol regarding subcontractors with the aim of preventing unfair competition and social dumping by companies, including subcontractors and TWAs that offer lower wages and working conditions than the standards set in the collective agreement (Petersen and Andersen, 2007). Part of this agreement is that companies using subcontractors cannot offer lower levels of social protection and wages than the standards outlined in the collective agreements. Moreover, companies covered by the collective

agreement also have to inform the unions about their use of subcontractors twice a year, whilst unions are obliged not to sign collective agreements that have lower standards than the sectoral agreement (Pedersen and Andersen, 2007: 35; DI (SBA) et al., 2014). Further additions to the protocol were added in 2010 when unions and their representatives acquired the right to demand information regarding employee wages if suspecting wage dumping; and in 2012, when social partners agreed that the burden of proof falls on the employer if social dumping is suspected (3F, 2012; DI, 2010).

Besides the joint actions developed by social partners through the collective bargaining rounds, individual private companies, SBA and Danske Service have also initiated their own responses to prevent social dumping and unfair competition and to improve the image of the industrial cleaning sector – initiatives that have been welcomed by the unions. The large private industrial cleaning companies no longer use subcontractors, and SBA launched a certification scheme – *Servicenormen* – in 2009, whilst Danske Service just recently decided to set up a similar scheme. The certification scheme by SBA includes a wide range of standards which concern, among others, whether companies' subcontractors comply with wages and working conditions of the collective agreements. SBA's member organisations – the industrial cleaning companies – have to comply with these standards in order to be members of SBA. The companies are subject to random visitations by an independent authority. So far, eight companies have been expelled from SBA, as they were unable to deliver the required documentation.

Within the local government sector, a number of municipalities have also initiated responses in order to avoid social dumping when cleaning contracts are subject to compulsory tendering. Indeed, some municipalities have developed social clauses which request that private companies comply with the wages and working conditions outlined in the collective agreements when they bid on cleaning contracts. A recent case brought before the European Court of Justice, however, question the legality of such social clauses, as they are considered unfair competition (DA, 2014).

Danish trade unions have also launched various campaigns to prevent social dumping and improve wages and working conditions of industrial cleaners. For example, 3F recently launched a media campaign with the title 'dirty cleaning' to uncover social dumping and companies offering lower wages and working conditions to industrial cleaners than those outlined in the collective agreements.

Raising union density and collective agreement coverage

In Denmark, the wages and working conditions of employees within industrial cleaning are regulated through a number of collective agreements signed at the sectoral and company levels and by labour law, as mentioned earlier. The collective agreements by 3F and Serviceforbundet and their respective counterparts

SBA and Danish Service cover the majority of industrial cleaners in the private sector. Other collective agreements for the private sector typically cover small segments of employees, and some are also examples of company-based agreements. In fact, the collective agreement by SBA and its counterparts 3F and Serviceforbundet is in many respects the leading collective agreement for industrial cleaning in the private sector. In the public sector, the main collective agreements are signed by the KL, Danske Regioner and the Ministry of Finance and their counterparts 3F, Serviceforbundet and FOA.

Whilst the collective agreements cover the majority of industrial cleaners in the sector, union density and the number of organised employers are somewhat lower, as mentioned earlier. In the private industrial cleaning sector, social partners have a long tradition of developing joint initiatives to raise union density and strengthening the collective bargaining model. SBA and its trade union counterparts have a tradition of allowing companies to include measures which enable unions to (1) control companies' use of fixed-term contracts and marginal part-time work and (2) raise union density as unions are guaranteed access to information on all new employees in order to inform them about the union and offer them union membership. Part of this scheme is that employers are obliged to send the unions a list of all new employees with more than 15 weekly hours and two months' employment record on a monthly basis. Companies are also obliged to deduct the trade union fees automatically from union members' pay slip (DI (SBA) et al., 2014).

During the collective bargaining rounds in 2010 and 2014, SBA, 3F and Serviceforbundet agreed to further strengthen the Danish bargaining model at the company level. In 2010, they agreed to a protocol where they jointly would promote the election of shop stewards in cleaning companies without union representatives and emphasise the advantages of close and formal collaboration between management and shop stewards at the company level. In 2014, the social partners agreed to set up the collaboration committee 'Samarbejdsfond', which aims to strengthen and expand the organised labour market within industrial cleaning by (1) strengthening the relations between social partners at the company level, (2) supporting further training at the company level and (3) contributing to activities to address the various challenges related to outsourcing (DI (SBA) et al., 2014).

Besides their joint activities, trade unions and employers' associations have also launched their own initiatives to increase their membership base and the collective agreement coverage. For example, 3F has launched campaigns where they invite potential new members to have their pay slip reviewed to ensure they get the wage supplements and other social benefits they are entitled to according to the collective agreements. However, recruiting new members is reportedly an uphill struggle, mainly because the employees often work odd hours and individually at different workplaces – typically at the customers' premises, where access depends on acceptance not only by the employer but also by the

customer. The employers also have initiated responses to raise the collective agreement coverage. For example, Danske Service recently commissioned a survey to identify the challenges facing industrial cleaning companies in order to target its services to the needs of potential member organisations.

5.4 Summary

The Danish industrial cleaning sector differs from the rest of the Danish labour market in many respects. Women, migrant workers, unskilled workers and atypical workers are overrepresented compared to the rest of the labour market. Self-employed without employees and part-time work, including marginal part-time employment, are employment types commonly used throughout the industrial cleaning sector whilst flexi-jobs and other public-funded employment schemes are found mainly within the public sector. Temps and fixed-term contracts are less widespread within the sector and tend mainly to be used when acute needs arise, and such employees are often recruited on a day-to-day basis. Subcontractors – although a slightly different category of atypical work from the aforementioned – are also frequently used within the sector, although less so than just a few years back. They can be TWAs, small or medium-sized companies or self-employed without employees.

Some groups appear to be at a greater risk of precariousness than others regarding parameters such as wages, social benefits, working time and job and employment security. Relatively many part-time workers have few weekly hours and tend to work double shifts in a low-paid job to ensure a reasonable income, indicating that they face a greater risk of precariousness than their peers in full-time permanent positions. Likewise, fixed-term workers and temps, particularly those with very short-term contracts, also seem to be at increased risk of becoming precarious. Unlike their colleagues in permanent part-time positions, they also have great difficulties in accessing the social benefits outlined in the collective agreements and the labour law, as they rarely are able to meet the assessment criteria, although the labour law and the collective agreements in principle ensure them similar rights as comparable employees in full-time permanent positions. In addition, the self-employed without employees, particularly bogus self-employed, face similar risks of becoming precarious, mainly because many are without legal protection, as neither the collective agreements nor the labour law cover these groups since they often are considered company owners and not employees.

Improving and ensuring reasonable wages and working conditions of atypical workers have been on the bargaining agenda of social partners within the sector. It is particularly fixed-term workers with very short contracts, temps, subcontractors and the bogus self-employed that have attracted the attention of social partners, although for different reasons. The unions and the employers' associations have jointly and individually developed different initiatives with some success. They include (1) lowering the thresholds for accruing rights to

social benefits along with new social rights to, for example, further training, (2) implementing new regulations for subcontractors to prevent social dumping and unfair competition, (3) improving the working conditions of fixed-term workers recruited for very short periods and (4) raising union density and collective agreement coverage.

The unions have typically proposed responses and then negotiated with the employers, who have agreed to them. However, the employers have also initiated responses with some success. These include a certification scheme to prevent social dumping and unfair competition and improve wages and working conditions within industrial cleaning – an initiative that has been entirely employer led but welcomed by the unions. Likewise, a number of municipalities has also initiated responses to avoid social dumping when cleaning contracts are subject to compulsory tendering. They include, for example, the development of social clauses that request that private companies comply with the wages and working conditions outlined in the collective agreements when they bid on cleaning contracts. Some attempts by social partners to improve the working conditions of atypical workers have also failed for various reasons.

6. The construction sector

Studies and statistics on different employment types in the Danish construction sector are few, and the social partners' overview of the extent of the different employment types is limited. However, the growing number of Central and Eastern European (CEE) workers in the sector has attracted lots of attention from the government as well as from the social partners and has spun a number of studies. Hence, more information is available about CEE workers than the other employment groups within the construction sector. Reflecting this situation, this chapter will focus more on CEE workers than the share of this group in the construction sector justifies. The chapter owes a lot to labour migration studies conducted by colleagues from our research centre, FAOS: Søren Kaj Andersen, Jens Arnholtz, Jonas Felbo-Kolding and Nana Wesley Hansen⁶.

The structure of sections 6.2 and 6.3 will be so that the overall picture is described and analysed in the beginning of the section, followed by a description and analysis of the CEE workers.

6.1 Introduction to the sector

In terms of *industrial structure*, the Danish construction sector is characterized by many micro-companies with less than 10 employees. Thirty-four percent of the turnover is produced by firms with zero to nine employees, which is a higher share than in North European countries, such as Germany, Sweden and the Netherlands. Only 17 percent of the turnover is made by firms with more than 250 employees, and the share is decreasing (Energistyrelsen, 2013).

In 2013, the construction sector employed 152,000 persons (including self-employed without employees), according to Statistics Denmark, equal to 5.7 percent of all employees in Denmark.

The social partner organisations and their members

The most important social partner organisations in the construction sector are as follows:

- The Danish Construction Association (Dansk Byggeri), which developed as a result of a merger between the federation of Danish Building Employers and the Danish Contractors' Association in 2003. Approximately 6,000 companies are members, and they employ 70,000 workers within the Danish building and construction sector. The member companies are both major building contractors and small and medium-sized construction companies as well as manufacturers of building components. The companies are involved in a range of core activities, from infrastructure and turnkey projects to contractor work specializing in

⁶ Thanks to Jens Arnholtz, FAOS, for useful comments on an earlier version of this chapter.

bricklaying, carpentry and roofing, as well as manufacturing building components, such as doors and windows (www.danskbyggeri.dk).

- Danish Painting Masters (Danske Malermestre) is an employers' association established in 1900. It has 1,500 members. Danish Master Painters is members of the Danish Confederation of Employers (DA).
- Danish Crafts (Dansk Håndværk) is an employers' association for small and medium-sized companies (SMEs) within the woodworking and furniture industry and construction, and for small carpenters and joiners and a number of other craft-based industries in Denmark.
- 3F (United Federation of Danish Workers) Construction Group is one of the largest unions in Denmark, a general workers union which covers employees in both the private and the public sector. The construction group has 67,000 members and was established in 2011 when Træ-Industri-Byg (TIB), which organised carpenters, joiners and a number of other occupations in the construction sector, was merged into 3F. 3F Construction Group is now the main trade union unit in the construction sector.
- The Painters Union (Malerforbundet) organises painters and is the second-largest union in the construction sector.
- The BAT cartel (Bygge-, Anlæg og Transportkartellet) is a cooperation unit for seven different trade unions which fully or partly operate in the construction sector.

There are no official statistics on the membership of the social partner organisations in the construction industry. However, a large-scale survey from 2013 of companies with more than five employees (Andersen and Felbo-Kolding, 2013b) gives some indications. According to the survey, no less than 88 percent of employees work in a construction firm with a collective agreement, and the same number, 88 percent, are covered by a collective agreement. Another survey, from 2010, indicates an organisational density on the employers' side of 80 percent and collective agreement coverage of 83 percent (Larsen et al., 2010). All members of the Danish Construction Association are by definition covered by a collective agreement, but additionally a large number of non-member firms are covered by adoption agreements ('tiltrædelsesoverenskomster'). Neither study includes data sufficient to estimate organisational density on the trade union side, but both indicate that well above half of employees are union members. A register-based study from 2010 reported trade union density in construction to have declined from 81 to 73 percent in the period 1994–2008 (AE/FAOS, 2010).

The Danish Construction Association has six collective agreements with 3F related to construction in the private sector, but the one with the widest coverage by far in terms of employees is 'the construction agreement' (bygge- og anlægsoverenskomsten). It is also the one which will be focused on below. Danish Crafts and Danish Painting Masters also have one collective agreement each with 3F.

6.2 Wages conditions for different employment types

Employment types and employment conditions

A study conducted by the largest Danish trade union confederation, LO, in 2011 found the construction sector to be the sector with the second-largest use of ‘atypical’ employees – defined in the study as fixed-term employees, temps and self-employed. However, the figures may not be very accurate, since the construction sector and retail have been merged into one category. We will try to be a bit more accurate in what follows.

Regarding *employment types*, full-time open-ended contracts dominate the picture in the construction sector (see table 5.1.). There are basically two types of full-time employees: those who stay with the same employer for longer periods, typically on open-ended contracts, and the teams (‘sjak’) who work for different employers in order to get the best possible salary (often on piecework wage systems), typically on fixed-term contracts. However, the difference in terms of job security when employed on an open-ended contract vis-à-vis a fixed-term contract is not necessarily substantial in the Danish construction sector, since the notice period in the construction sector is among the shortest⁷ in the Danish labour market, the administrative barriers are few and remuneration pay is not used.

Whilst 14 percent of the employees work *part-time* (including self-employed), the extent of (marginal) part-time work is unknown but is estimated to be a relatively limited phenomenon.

Table 6.1: Employees in construction by three employment types, 2009–2013

	2009	2010	2011	2012	2013
Full-time	129,000	112,000	108,000	115,000	114,000
Part-time	28,000	25,000	24,000	21,000	21,000
Self-employed	20,000	19,000	18,000	17,000	17,000
Total	177,000	159,000	150,000	153,000	152,000

Source: Statistics Denmark(RASOFF33; ATR32).

Regarding TAW, it has not been possible to get high-quality statistics on the extent of this group in construction. Recent figures from Statistic Denmark show that the relative share of temps (measured in working hours) in the category ‘production and construction’ relative to all temps in all sectors increased from 20 percent in 2009 to 34 percent in 2012, after a downturn from 24 percent in 2007 before the crisis to 20 percent in 2009 (Statistikbanken PRDST714). However, the figures are possibly not very accurate. Firstly, they include not only construction but also the manufacturing industry. Secondly, they show the relative and not actual development. And since the use of temps decreased in

⁷ The employers’ terms of notice are as follows: 0–1 years of employment = 0 week, 1–2 years = 3 weeks, 3–5 years = 5 weeks, more than 5 years = 7 weeks (Dansk Byggeri and 3F, 2014).

the category where the use was most widespread until a few years ago ('health care'), the relative use of temps may have increased for this reason alone.

The use of temps in construction shows both cyclical and structural developments. Prior to the late 1990s, TAW was limited in the construction sector. Sources within the TAW sector estimated that 1 percent of the work tasks were performed by temps in 1996 compared to 6–7 percent in 2002 (Byggecentrum, November 20, 2002).

Self-employed is a relative large group of the workforce in the construction sector, as can be seen in both tables 6.1 and 6.2. Because the self-employed are not employees, they are not entitled to benefits on the same level as the employees and the workload can be intensive. Most attention has been given to the problem of bogus self-employed ('falske selvstændige'), who are de facto employees but are registered as self-employed so their employer avoids paying social benefits, occupational pensions included. It is difficult to estimate how many of the currently 17,000 self-employed without employees are bogus self-employed since there is not a clear definition of the category. The Danish trade unions' concern about the bogus self-employed is not new but has intensified with the EU enlargements because of fear that a large number of low-paid bogus self-employed from the new member states would enter Denmark (Hansen and Andersen, 2008).

Table 6.2: Employees by employment type in the construction sector, 2007–13

	2007	2010	2013
Full-time	150,000	118,000	111,000
Part-time	9,000	6,000	6,000
- Marginal part-time*	3,000	2,000	3,000
Fixed-term	18,000	17,000	15,000
Open ended	141,000	118,000	103,000
TAW	3,000	n.a.	n.a.
Self-employed, no employees	17,000	17,000	17,000

Source: Statistics Denmark, tailored calculation, AKU. * = 15 hours or below, de facto working hours.

To get a bit more accurate figures on *all the selected employment types*, we asked Statistics Denmark to create a tailored calculation on employment types. The result is shown in table 6.2. The table adds to our knowledge about the sector in at least four ways. Firstly, the number of temps is not high in construction, either in absolute terms or relative to other employment types in the sector. The table also confirms that the numbers of temps have declined since the economic crisis – actually to below 2,000 (Statistics Denmark does not show numbers below 2,000). Secondly, marginal part-time work is limited but still makes up a third of all part-time positions. Thirdly, although the use of fixed-term contracts could be expected to be higher considering the presence of teams, they nevertheless make up around 10 percent of the employees. Fourthly, although

the number of employees on employment contracts with the highest risk of precariousness is not increasing, their relative share is increasing. It seems that it has been mostly open-ended contract jobs that have disappeared since the crisis. However, the table does not indicate a dramatic development towards a more precarious construction labour market. It should be noted that posted workers (including temps from foreign companies) do not figure in the table, and these might one of the groups with the highest risk of precariousness.

Labour migrants – Central and Eastern European workers

As mentioned above, *CEE workers* is the group of employees which has received the most attention in the construction sector. There are basically four types of CEE workers in the construction sector: (1) workers directly employed by an Danish employer, (2) workers employed in a Danish TWA but hired by a Danish construction firm, (3) posted CEE workers employed in a foreign firm which operates as a subcontractor or a TWA in the Danish construction sector and (4) self-employed CEE, including those who take advantage of the possibility to set up one-man companies in other countries (Hansen and Andersen, 2008).

So why do construction sector employers employ CEE workers? According to a survey of Danish construction companies from 2007, the five most-often mentioned advantages when using CEE workers are ‘they are in supply’, ‘willing to take on the tasks asked for’, ‘greater working time flexibility’, ‘greater functional flexibility’ and ‘cheaper’ – where the cost-related issue was ranked only as number five. By far the most common drawback when using CEE workers was ‘communication problems’, followed by ‘lack of knowledge regarding standards and security rules’, ‘more time and resources required for introduction to work tasks’, ‘working slower than Danes’ and ‘problems with accommodation’ (Hansen and Andersen, 2008).

A combined survey/register-based study from 2012 showed that it is actually a surprisingly small number of CEE workers (EU-10) that work in the Danish construction sector, considering the attention given to them – only 2,300, equal to some 2 percent of all employees in the construction sector. However, the construction sector is also the sector with the highest share of posted workers by far. The figure for posted workers (not only CEE workers) in construction stands around 7,000 and helps to justify the substantial attention given to CEE construction workers in Denmark. Furthermore, the survey showed that 8 percent of construction companies use CEE workers of one type or another and that 21 percent of CEE workers in Denmark work within construction (Andersen and Felbo-Kolding, 2013).

Poles are by far the largest group of CEE workers in construction. According to a survey, the construction sector employs 44 percent of all Polish men and 2 percent of all Polish women working in Denmark. For the manufacturing industry, the percentages are 17/10, low-skilled service (cleaning etc.) 30/74 and

others 9/13 (Hansen and Hansen, 2009). The two surveys also point to a number of other features of Polish construction workers in the Greater Copenhagen area. For example, although open-ended contracts are common, the majority of Polish migrant workers have some kind of atypical work arrangement, including work through Polish subcontractors and TWAs. There is a significant market for construction services for private households, and there is also a significant market for undeclared informal work. Another interesting finding was that very few Poles in the Danish construction sector are reported to speak Danish at work. When compared with other sectors, there are significant differences in the extent to which the migrants rely on communicating in Polish, English or the host-country language. In the construction industry, more than half speak only Polish at work, indicating highly segregated work organisations.

Table 6.3: Type of employment in construction in Copenhagen, share of all Polish workers in percentages

Type of employment	Permanent employment in host-land firm	Temporary employment in host-land firm	TWA	Employment in foreign company	Self-employed without employees
Share	34	16	1	32	17

Source: Friberg and Eldring (2013).

Wages and working conditions for different employment types

Basically, there are two wage systems in the Danish construction sector with regard to manual workers. One is an hourly paid wage system, the other a (performance-related) piecework system. An important feature of the hourly system is the difference between the minimum and the average wage. In 2012, the minimum wage⁸ for manual workers was approximately €15 per hour, whereas the average wage was approximately €26 per hour (Dansk Byggeri, 2013). The difference indicates that the construction firms pay a substantial amount of extras for qualification etc. after local negotiations. This difference between minimum and average wages has become a matter of controversy. The trade unions interpret the collective agreements so that extras should be paid in all cases, whereas the employers view the relatively low minimum wage as an opportunity to pay migrant workers less than Danish workers in a way that respects the collective agreements (see below).

Statistics and studies of the wages and wage setting in the construction sector are rare, but a survey from 2006 (Stamhus, 2007) covering the construction sector, among others, shows some important features:

⁸ The minimum wage referred to here is the so-called 'mindsteløn' and not 'minimalløn'. 'Mindsteløn' is more individual based, with individual bargaining on extras at the firm level. Compared with the average wage, the minimum wage is low in the 'mindstebetalingssystem'.

- Regarding wage systems, 45 percent of the male manual workers (the large majority) worked in an hourly wage system, 9 percent in a piece-work system and 47 percent in a combination of the two. For the female manual workers (the small minority), the numbers were 35 percent, 11 percent and 54 percent.
- 10 percent of the companies paid only the minimum wage to all or some of their employees (Stamhus, 2007).

The survey also included a number of features regarding voice:

- 66 percent of the companies in the construction sector answered that they practiced some form of wage negotiation. Asked about manual workers specifically, 4 percent answered that they had no employees of this type, whilst 9 percent had no wage negotiations with them, 31 percent individual negotiations and 56 percent collective negotiations.
- 79 percent of the companies had a collective agreement for manual workers.

It has not been possible to get information on wages for different employment types.

Regarding *working time*, recent figures suggest that the number of average weekly hours for full-time employees is 39 hours, and this number has been relatively unchanged since 2006 (Statistics Denmark, AKU503). The normal working week according to the collective agreements is 37 hours. Information about working time for the different employment types has not been found.

Wages and working conditions for CEE workers in construction

Across the employment categories, manual jobs in the construction sector are relatively well paid, and piecework (performance-related) wage systems are as widespread as hourly wages. The relatively high average wages reflect, among other things, that the majority of employees are skilled (three-and-a-half-year dual apprenticeship-education).

According to the aforementioned 2008 survey (Hansen & Hansen (2008), covering only the largest group of CEE workers, Poles, and only the Greater Copenhagen region), the average wage difference within sectors with a high concentration of Poles was highest in the construction sector. Here the average wage of Poles was approximately €16.00 per hour, whereas it was €21.80 per hour for Danes. The minimum wage at that time was approximately €14.00 per hour (Hansen and Hansen, 2008; Friberg and Eldring, 2013: 99).

A survey by Hansen and Andersen (2008) covering all employees in the Danish labour market published the same year also shows substantial wage differences (see table 6.4). A more recent survey confirms this picture. The companies in this survey reported that the average wage for CEE workers was €18.50 per

hour, whereas for Danes it was €22.10 per hour (Andersen and Felbo-Kolding, 2013: 156).

Table 6.4: Hourly wages for CEE workers and Danish workers in the construction industry, €/hour, 2007

Euros	13–15	15–17	17–19	19–21	21+
CEE workers	43%	23%	20%	11%	3%
Danish workers	5%	12%	29%	31%	23%

Source: Hansen and Andersen (2008).

Regarding working time, there is no doubt that many CEE workers work long hours, much more than the sector average of 39 hours per week. Hansen and Andersen (2008) reported that 39 percent of employed CEE workers worked less than 38 hours, 51 percent between 38 and 50 hours and 10 percent more than 51 hours. For posted CEE workers, the corresponding percentages were 15, 62 and 23.

6.3 Social partners' approaches to atypical work in the sector

Initiatives related to the various employment types

Few social partner initiatives have explicitly addressed these employment types. An important development has been social partners' decision to gradually lower seniority threshold for accruing rights to the social benefits outlined in the collective agreement by the Association of Danish Construction and 3F. This change has been of great importance to fixed-term employees, temps and employees on open-ended contracts as this has eased their access to social benefits regulated through collective agreements. The threshold for accessing some social rights has been lowered, but the most important step was taken in the collective bargaining round in 2010, when the threshold for pensions was lowered from 9 to 2 months of employment in accordance with an initiative in the trend-setting collective agreement of the manufacturing industry. This implies that after only two months of employment, the employee has rights to accrue occupational pensions, whereas the right to full-paid sick leave requires 3 months of employment, and paid maternity/paternity leave 6 months (Dansk Byggeri and 3F, 2013, see appendix C). Although not explicitly linked to CEE workers, this decision also affected this group of workers, mainly because it reduced employers' incentives to speculate in recruiting employees for very short periods to avoid what is known internationally as 'social contributions'.

Social partner initiatives related to CEE workers⁹

Labour migration initiatives are far more numerous than those linked to the selected employment types. It is important to emphasise that although the following initiatives target CEE workers, some of them might also have an indirect

⁹ Unless otherwise noted, the source of this and the two following sections is Andersen and Arnholtz (2013).

impact in improving the wages and conditions of non-CEE workers because they 'lift the bottom of the sector', so to speak.

The social partners have managed to agree on a number of initiatives to improve the wages and working conditions for CEE-workers and to avoid social dumping, i.e., unfair competition. The main driver here has not been concern for the well-being of the CEE workers. Instead, the trade unions' main driver has been fear of (unfair) wage competition, whereas the employers' interest has mainly concerned unfair competition. However, different types of construction employers have clearly different interests here, and for some, the advantages of cheap CEE workers are greater than the competition pressure. This is also part of the reason why the Danish Construction Association sometimes agrees with the trade unions on initiatives to limit social dumping, and sometimes does not.

It is important to note that no extension mechanism of collective agreements exists in the construction sector or anywhere else in the Danish labour market.

It was the collective bargaining rounds in 2007 and 2010 especially which included initiatives by social partners regarding CEE workers. The 2007 agreement included the possibility to call for so-called accommodating bargaining ('tilpasningsforhandling') between trade union officials/shop stewards and the Danish Construction Association in the case of reasonable suspicion that a foreign-owned company did not follow the collective agreement. These talks were followed up in the 2010 agreement with the so-called 48-hour meetings, which oblige the social partners to set up a meeting within 48 hours if there is a belief that a violation of the collective agreements has taken place. Moreover, it is now up to the employer to prove compliance with the collective agreement, and not the trade unions to prove a violation. Hence, the demand for setting up a meeting was softened.

The 48-hour meeting is seen by the trade unions as an important tool in their fight against social dumping, which is also recognised by the employers. However, the employers find that 3F calls for too many meetings, as some of the reasons for the meetings are considered irrelevant by the employers (Andersen and Arnholtz, 2014).

The 2007 collective bargaining round also saw the set-up of a special vacation and bank holiday fund to handle the payment of holiday allowances for all employees covered by the construction sector collective agreement, including posted workers and other CEE workers. Moreover, a discussion took place in relation to an issue raised by the trade unions, which reported several examples where employers reduced CEE workers' wages for the reason that the employers provided them with transport and accommodation. In 2007, a code of conduct was added to the collective agreement for the manufacturing industry and stipulated that it should be voluntary for foreign workers to be included in such arrangements regarding transport and accommodation. The construction sector added a similar code of conduct in 2010.

There are also examples of failed initiatives. For example, during the most recent bargaining rounds in 2012 and 2014, the social partners failed to agree on an extension of the so-called piecework absence extra ('akkordafsavnstillæg'), which in some circumstances is paid to workers not working on the lucrative piecework pay system. In 2012, 3F proposed to extend this type of wage supplement to all employees in the construction sector. CEE workers are typically not covered by the piecework pay system and seldom take part in local wage negotiations. Thus, the proposal was aimed at raising the minimum wage level for these workers. However, the proposal was rejected by the Danish Construction Association. Moreover, 3F also proposed to include a principle of chain liability in the collective agreement, but this initiative was also opposed by the employers.

In 2014, 3F repeated the proposals for piecework absence extra and chain liability on the bargaining agenda, but again without success. Instead, the social partners agreed to add an appendix to the collective agreement stating that 'the minimum wages should be added to' when wages were agreed and that this should be done in accordance with seniority, qualifications etc. It was added that if the parties could not agree, the legal institutions should take over. In reality, this was not much more than an agreement to disagree and a method to settle disputes (Andersen and Ibsen, 2014). Underneath the agreement is a disagreement regarding how the wage system within the construction sector should be used. The employers' association wants to use the full flexibility of the sector wage agreements by allowing firms to pay only the minimum wage or slightly above it when they find it appropriate. The trade unions on the other hand see this behaviour as not in accordance with the spirit of the minimum wage system, which should acknowledge different aspects of the work task and the employees' qualifications and competences.

Tripartite initiatives related to CEE workers

The collective agreements are only one arena where the challenges caused by rising numbers of CEE workers are addressed. Various forms of tripartite arrangements also constitute an important arena to discuss these matters (Mailand, 2008). The foundation for this arena was created by the Danish transitional agreements for the new EU member states, which gradually were phased out by 2009. In relation to these agreements, a formal working group was set up with participation of five ministries, various public authorities (among them, the national police and the labour inspectorate) and the trade union and employers confederations. In addition, a smaller informal working group was set up with the participation of the Ministry of Employment, LO and DA and meets biannually. The working group discusses issues related not only to CEE workers but to labour migration in general.

One of the results of the working group's efforts was the set-up of the so-called RUT register in 2010, where all foreign posted workers and self-

employed are obliged to sign up. This is a tool for the trade unions and others to fight social dumping and a tool for the government tax authorities. The working group has also been instrumental in initiatives to extend the use of working clauses to respect Danish wages and working conditions in state-financed construction projects and in initiatives to counteract non-compliance with the rules for foreign transport companies operating in Denmark.

Another tax-related initiative is also worth mentioning, although it was not a result of tripartite consensus in that the employers' organisations opposed it from the beginning. The introduction of the so-called subcontractors' employee tax ('arbejdsudlejeskat') in 2012 tightened the rules for tax-paying for foreign companies and their employees/subcontractors to ensure that they pay taxes in Denmark at a level of a little more than one-third of their income. The initiative was to prevent social dumping and targeted CEE workers/companies. However, the initiative ran into several problems. One of them was that highly educated specialists within IT and other branches also were covered. For that reason the regulation was changed to the approval of Danish employers' organisations as well. Moreover, the German and Polish governments have criticised Denmark for limiting the free movement of services with the initiative and have complained to the European Commission. Among the problems are that the employees covered risk paying taxes in both their home and the host country (Denmark). It remains unclear whether the Danish government will be forced to change the rule again or fully dismiss it (business.dk, March 13, 2014).

The German and Polish reactions illustrate some more general problems with 3Fs and other actors' attempts to counteract social dumping, which are that the initiatives in some cases may conflict with European regulation and risk creating an atmosphere where CEE workers do not feel welcome in Denmark.

Trade unions' attempts to organise CEE workers

Whilst the construction sector trade unions, as described above, have succeeded in getting social dumping introduced in the collective bargain arena as well as in the tripartite arena, attempts to organise the CEE workers have been less successful. 3F and the BAT cartel have formulated a dual strategy which is reflected above in two parts – a primary industrial relations strategy focused on organising and covering the work by collective agreements and a secondary political strategy. Furthermore, the BAT cartel has emphasised that in the long run, it will be possible to win the fight against social dumping only by winning the CEE workers by 'love and good arguments' and that the local branches of the 3F and the then-existing TIB was central in reaching this goal. However, a study of Polish workers in the Greater Copenhagen region showed that 73 percent of the local departments answered that they had not been allocated any resources in relation to CEE worker initiatives, and only 3 percent had officials working only on initiatives in relation to CEE workers (Hansen and Hansen, 2009). Several of the branches reported that CEE workers got in touch with the

unions only when they had experienced problems with their employers. Moreover, they experienced that those CEE workers who actually became trade union members often relinquished their membership by not paying the second instalment. However, since 63 percent of the Polish non-members in the survey answered that they would have had fewer problems if they had been union members, there still seems to be potential for extending trade union membership among CEE workers.

A comparative study of Danish, Norwegian and British unions' effort to organise CEE workers can illuminate some of the reasons for the problem of low union membership (Eldring and Friberg, 2013). The study showed that Norwegian construction workers' unions have been more successful in unionising CEE workers than their Danish and British counterparts. This is an interesting finding given that Denmark has a higher union density overall and the unions have put a lot of resources into recruiting Polish workers, whilst it is less surprising that the weaker UK unions have not achieved similar results, given their low union density and fewer resources. Regarding Denmark and Norway, one key explanation for how apparently identical frameworks and purported strategies can result in widely different outcomes in terms of recruiting labour immigrants can probably be found in the institutional dissimilarities in the two countries' traditions of handling industrial conflicts. In the Danish labour market, there are more legal opportunities to take industrial action, and historically this has resulted in a far higher number of labour conflicts. Denmark and the UK also have these disparities. Thus, whilst the Danish unions' efforts to establish collective agreements may have appeared too aggressive in the eyes of migrant workers, Norwegian and UK unions' approach of providing assistance to individuals may have appeared more convincing, as they are based on solidarity. The Danish trade unions are larger and more powerful than their sister organisations in Norway and the UK and act to a greater extent as monitors and administrators of the industry, rather than as organisers and activists. The latter role may inspire more confidence in the power and usefulness of the unions, whereas when time and resources are focused on maintaining rules and regulations, migrant workers may feel that unions are not there for them. In Norway and the UK, resources have been used for local recruitment and developing personal contact and strong engagement with migrants.

6.4 Implementing EU regulation – and the role of the social partners

EU regulation has to some extent influenced the situation of atypical employees in the construction sector.

The *temporary agency work directive* of 2008, already presented in the chapter on TWAs, was implemented in Denmark in July 2013. In May 2013, the legislation on the directive was finally passed by Parliament. To avoid social dumping, the principle of non-discrimination principle can be exempted only by collective agreements between the most representative social partner organisa-

tions in Denmark. This prevents non-Danish TWAs from using their own collective agreements as a basis for exemption (Beskæftigelsesministeriet, 2013). However, the trade unions were not pleased with the result, although they agreed to it in the Implementation Committee, because it implies that in some sector branches, they will be bound to rather old agreements with TWAs that do not ensure non-discrimination. It remains to be seen what impact the legislation will have in the construction sector.

Since posting is widespread in the construction sector, the *posting of workers directive* from 1996 is especially relevant for this sector. According to the European Commission, there were around 20,000 posted workers in Denmark in 2011 (European Commission, 2014). The directive includes a number of issues related to wages and working conditions and declares that the host country can require that a foreign company respect the host country's rules and regulations when posting workers.

Regarding CEE workers, the Laval quartet (the European Court of Justice's rulings in the *Laval* case, the *Riiffert* case, the *Luxembourg* case and the *Viking* case), caused some concern in the Danish government and among the social partners. A Danish tripartite working group was established and a consensus reached to meet the challenges from the *Laval* ruling especially, which questioned the right for trade unions to take industrial action against foreign companies posting workers in Denmark. The 2009 proposals from the Laval Committee included a number of changes in collective bargaining and legislation, which are of special importance to the construction sector since the majority of posted workers are found here. After the *Laval* ruling, the Danish implementation of the directive was changed so as to explicitly stipulate that wage issues are regulated by the social partners through collective bargaining and collective action. Another change concerned the calculation of the minimum wage. The committee's proposals were by and large respected as guidelines in legislation and collective agreements. The proposals stated that only the national wage level should be relevant as a point of reference for companies posting workers (the 'national demand' of the *Laval* ruling) and that non-wage issues from the collective agreements, such as pensions, extra holiday entitlements etc., should be transformed into wage issues via a calculation (the 'precision demand' of the *Laval* ruling). However, the Danish Construction Association never acknowledged the calculation. Moreover, the construction company responsible for the extension of the Copenhagen Metro, Trevi, has recently challenged the way 3F is administrating these new initiatives, as Trevi is pressured into paying pension contributions twice.

The directive on posted workers had long been criticized for not having been implemented sufficiently in the member states. For that reason, a process of improving the implementation through the *enforcement directive* linked to the original directive was initiated. The European Commission published a proposal in 2012, which was finally adopted in May 2014. One of the most important

features of the enforcement directive is that it obliges member states to introduce subcontracting liability or other appropriate enforcement measures in the construction sector as part of a comprehensive approach to better enforcement. The liability is limited to the direct subcontractor (European Commission, 2014). It is fully up to the member states how they will meet this demand. The Danish government's approach to implementing the enforcement directive regarding the subcontracting question is that it will be sufficient if the first chain subcontractor is in the RUT register, referring to a two-year-old proposal made by LO and the Confederation of Danish Employers (DA). However, the RUT register has since been changed, and LO has lost faith in it as a sufficient tool against social dumping. The BAT cartel also refused this solution and asked for subcontracting liability by law, which the Danish Construction Association finds a bad idea. It wants the challenge to be dealt with by collective agreements only (Ugebrevet A4, April 15, 2014).

6.5 Summary

Across employment categories, manual jobs in the construction sector are relatively well paid, and piecework (performance-related) wage systems are as widespread as hourly wages. The relatively high average wages reflect, among other things, that the majority of employees are skilled (three-and-a-half-year dual apprenticeship-education).

It is difficult to estimate the scale of precariousness in the Danish constructing sector. There is no doubt that there are some pockets within the sector where wages and working and employment conditions are far below those of full-time employees on open-ended contracts and the standards outlined in the legislation and the collective agreements. Different studies have illuminated this as far as the various forms of CEE workers are concerned. However, it is very likely that the 'worst' part of the sector has not been covered in these studies, and hence the extent of precariousness is still unknown. Nevertheless, large parts of the sector respect the legislation and the collective agreements when employing CEE workers.

The picture is even more unclear when it comes to the various employment types in general, although some details are known: Self-employment without employees is high (more than 10 percent of all employees) but has remained relatively stable. The share of bogus self-employment is unknown but potentially represents a precariousness challenge, both in its Danish and in its CEE form. TAW fluctuates with the business cycle, but the number is low and has been decreasing since the crisis. Marginal part-time work is limited in numbers but makes up around a third of all part-time employment. Full-time work and fixed-term contracts coexist, but the former is not necessarily more attractive than the latter from the employees' point of view.

Reductions in the seniority threshold in the collective agreements have improved atypical employees' right to social benefits, including occupational pensions, but full equal treatment has not yet been obtained.

Regarding the social partners' initiatives to address the problem of precariousness, there have been few regarding employment type but many regarding CEE workers. Trade unions and employers have partly overlapping interests in restricting some forms of competition from foreign companies and employees. Some initiatives have been related to European directives; others have been bipartite or tripartite. A common goal of the initiatives is to ensure that the collective agreements are respected and that collective bargaining can continue to be the prime mode of regulating wages and conditions in the sector so that more legislation and a statutory minimum wage can be avoided despite pressure on the collective bargaining-based model.

7. Comparison and conclusion

In this chapter, the four sectors will be compared and conclusions drawn. In the first section, we will discuss to what extent the employment types within the four sectors can be considered precarious. The second section sums up the most important trends in the social partners' responses and the variation between these sectors. The third section describes the drivers in the development of precarious employment in the sectors analysed. Finally, the fourth section ends this national report with listing a few challenges to be addressed in future initiatives related to precariousness.

7.1 Variations in vulnerability

The four sectors are part of a development, where the forms of atypical included in this project overall has been fairly stable over the last 15 years. Some work types have increased in number whereas others have decreased. TAW has declined since the economic crisis. Flexi-jobs and marginal part-time employment have increased, whilst the number of fixed-term workers and self-employed without employees appear to have stagnated. Variations exist across the Danish labour market as to which sectors employ these groups of employees. Marginal part-time contracts, fixed-term contracts and flexi-jobs are more frequently found in the public than in the private sector. However, in the private sector, we also find sectors like construction, transport and private services where the workforce is increasingly diverse in terms of employment types, but only some groups can be considered precarious workers in terms of low wages, low levels of social-, employment- and job security and involuntary part-time positions..

Variation by sector

All four of the selected sectors include types of employment for which precariousness is or might be a problem. But the scope and depth of precariousness varies greatly between the four sectors, and in one – the hospital sector – it seems to be very limited. The four sectors constitute a continuum from the hospital sector, with very limited problems of precariousness, through the construction sector and TWA sector, with some problems, to industrial cleaning, where a larger share of employees face an increased risk of precariousness. The continuum should be treated with some caution, however, because the project proposes neither a precise definition of precariousness nor a precise way to measure it.

Regarding the *hospital sector*, nurses and other health care and support staff analysed generally face few precariousness challenges in wages and employment and working conditions, whether they are on open-ended full-time contracts or other types of contracts. The use of (external) TAW has been reduced to a very low level, and, more importantly, TAW (whether external or internal) is nearly exclusively voluntarily, with workers topping up full-time or long part-

time open-ended contracts. Self-employment is non-existing. However, both fixed-term work and marginal part-time work are relatively widespread. In general, atypical employees are eligible for pensions, fully paid sick leave and other social benefits, but some of the thresholds are still long and longer than in the private sector. This is the case for the 10-month threshold for accruing pensions for some occupational groups. Wage-subsidy jobs are rising but from a very low level.

In Denmark, jobs in the *construction sector* are, generally speaking, well paid (compared to construction work in most other European countries) and are held mostly by skilled manual workers. Self-employment is high (more than 10 percent of all employees) but has remained relatively stable – the share of bogus self-employment is unknown but potentially represents a precariousness challenge, both in its Danish and in its CEE form. The number of temps fluctuates with the business cycle, but the number is relatively low and has decreased since the economic crisis. However, the statistics include only TAW from TWAs registered in Denmark, and therefore the actual number might be higher. Marginal part-time contracts are relatively few but make up around one-third of all part-time employment in the sector. Full-time work and fixed-term contracts coexist, but the former is not necessarily much more attractive than the latter from the employees' point of view. Full-time positions have decreased since the crisis, whilst most other types of employment have been stable, giving the atypical positions with a greater risk of precariousness more weight in the sector. However, the change is not great. The greatest risk of precariousness might be faced by CEE workers, of which posted workers are the largest group. Studies of this group have illuminated that CEE workers on average are paid less, work longer hours, have less access to training, are less frequently members of a trade union etc.

The *TAW sector* is not really a sector in Denmark, either when it comes to industrial structure or in industrial relations terms, where it is split into several sector/branch agreements. TAW employment makes up some 0.8 percent of total employment. In Denmark, TAW is a fairly recent employment type (not legally recognized before 1990) and represents a relatively small segment of the Danish labour market which cuts across various sectors and occupations. The sectors that use the most temps are now the manufacturing industry and the constructing sector, whereas TAW in the health and social care sector declined rapidly after the economic crisis. Regulations have been changed gradually during the last 10–15 years (mainly by covering TAW under collective agreements) in order to secure equal treatment between temps and other employees. However, research shows that temps continue to be at greater risk of precariousness than their peers in full-time permanent positions based on parameters such as wages, social benefits, working time and job and employment security. It is particularly temps with short-term contracts and few weekly hours that face a greater risk of precariousness.

The Danish *industrial cleaning sector* differs in many respects from the rest of the Danish labour market. The sector is dominated by a workforce where women, migrant workers, unskilled workers and atypical workers are overrepresented compared to the rest of the labour market. Indeed, the traditional full-time permanent position with its 37-plus-hour working week is less widespread within the sector. By contrast, self-employment without employees and part-time work (including marginal part-time) are the employment types commonly used throughout the industrial cleaning sector whilst flexi-jobs and other public-funded employment schemes are found mainly within the public sector. TAW and fixed-term contracts are less widespread within the sector and tend to be used mainly when acute needs arise, and such employees are often recruited on a day-to-day basis.

Variation by employment type

If the focus is on types of employment instead of sector, the four sector studies do indicate that some of the employment types have a larger ‘problem load’ than others when it comes to the risk of precariousness. The *self-employed* (without employees), especially the bogus self-employed, might be at greatest risk of precariousness. They are normally not covered by collective agreements and therefore miss a large range of social benefits, including occupational pensions. No precise figures exist regarding self-employed’s membership in unemployment funds or trade unions. However, research has revealed that many face an increased risk of restricted access to unemployment funds as they often have to give up their business to qualify for unemployment benefits or have difficulties generating enough weekly hours to qualify. Some self-employed can be considered bogus self-employed -de facto employees forced by their employers to register as self-employed. However, being self-employed is also a voluntary choice for many, and for some it is a good opportunity to increase earnings compared to being employed. So the picture is mixed. Also in the top end of the risk of precariousness scale – and maybe above the self-employed – are *CEE workers* (not an employment type but a group of workers analysed in the project), many of whom rank near the bottom on all or nearly all dimensions discussed.

Large shares of *temps, fixed-term employees and marginal part-timers* are covered by collective agreements, but recent studies have suggested that whilst fixed-term workers often are union members, this is less so the case regarding temps and marginal part-time workers. Regarding access to unemployment funds, these groups have difficulties meeting the assessment criteria for unemployment benefits even if they are members of an unemployment fund. Thus, these employment types face an increased risk of precariousness across all sectors compared to full-time employees on open-ended contracts. This is particularly so with respect to accessing social benefits, although some sectors have lowered thresholds regarding accrual rights in recent years. Moreover, their

voice is less often heard at the company level, their access to training is often restricted, they face a greater risk of losing their jobs during periods of economic hardship etc. Because they often have open-ended contracts, marginal part-timers might be better off than temps and fixed-term employees. However, this depends on the circumstances, and it is therefore not possible to create a hierarchy between the three types of employment.

7.2 Variations in social partners' responses

Starting again with the general picture, the Danish trade unions have had difficulties in deciding how to address several of the employment types that are described as atypical and precarious work in the present project. Ignoring the differences between the various unions and focusing on their positions on atypical and precarious work in general, it would be fair to describe these as having developed during the last two decades from trying to reduce such types of employment towards trying to improve their pay and conditions. However, this development is not seen to the same extent with regard to all types of precarious employment. Moreover, when it comes to some types of employment, the two strategies coexist.

The employers' positions on atypical or precarious work have, not surprisingly, been different from the unions. Ignoring the differences between the employers' associations and concentrating on the more general positions towards atypical work, employers have, generally speaking, embraced flexible working. They have tried to relax the rules and regulations in order to increase flexibility, but at the same time they have also agreed to improve and ensure the wages and working conditions of atypical workers during collective bargaining rounds.

Regarding the four selected sectors, the social partners' responses do to some extent follow a pattern with the employment types with the most severe problems seeing the most responses. However, the pattern does not apply to all four case studies. This is often due to social partners' diverging interests but can also be because the trade unions (the de facto driver behind many of the initiatives) have not given a potential precariousness problem high enough priority. Although it is mostly the trade unions that have pushed for initiatives, there are also examples of employer-led initiatives as described in the sector chapters.

As previously noted, atypical work is not always precarious, and the continued existence of atypical employment represents a legitimate interest of employers (see Mailand and Larsen, 2011). Consensus between the social partners on counteracting atypical work cannot always be taken for granted. This is unsurprising considering that the view of the Danish Confederation of Employers (DA) is that part-time work, TAW, fixed-term work and self-employment are not considered precarious (see chapter 2). According to DA, this is so because these types of employees – whether they are employed on part-time or fixed-term contracts or are working as temps – are equal to other types of employees 'in social and juridical terms', if they are covered by a collective agreement. DA

also argues that the thresholds for earning the right to social benefits have been reduced in the collective agreements and that other differences between these and other employment types are minimal. Moreover, DA believes that part-time work tends to be voluntary and that atypical employment is an important stepping-stone to more attractive positions, especially for youth, and is important for employers. Focus should therefore shift from reducing this type of employment to covering the still-uncovered parts with collective agreements (DA, 2013).

The Danish trade unions have a slightly different perspective on these matters. Naturally, they appreciate the extension of collective bargaining to cover most types of atypical employees as well, but point to problems of precariousness in the part of the labour market not covered by collective agreements and to pockets of ‘de jure’ unequal treatment and especially ‘de facto’ inequality in sectors covered by collective agreements. The latter can, in some cases, be explained by non-compliance with regulations, but also most importantly by atypical employees not meeting the thresholds for earning social benefits.

Regarding hospitals, reflecting the lack of widespread precariousness problems, the social partners’ initiatives to address problems have been few, and most of them have been initiated at a level above the regions/hospitals. This is not to say that problems related to precariousness are totally absent in the hospitals. The social benefit thresholds problem has been mentioned. Moreover, a number of part-time positions under the heading of ‘hourly paid employees’ among other health and support staff have until recently lacked pension rights and paid sick leave and had a shorter term of notice and possibly also marginal part-time-related problems. However changes in the collective agreements implemented in August 2014 might reduce this problem. It is noteworthy that this change was made due to pressure from the European Commission and not the social partners’ own initiative. Moreover, although an in-depth study about the quality of the work environment did not indicate an overall worsening, there is no doubt that some hospital occupations and departments have serious work environment problems, including work intensification. This problem is not limited to atypical employees.

Regarding the social partners’ initiatives to address the problem of precarious workers in *construction*, these have been few regarding employment types but many regarding CEE workers. This study leaves us with the impression that CEE workers receive more attention than their number justifies and Danish atypical workers less. However, measurement problems and insufficient information regarding some employment types prevent us from being sure about that conclusion. Trade unions and employers have partly overlapping interests in restricting some forms of competition from foreign companies and employees. Some initiatives have been related to European directives; others have been bipartite or tripartite. A common goal of the initiatives has been to ensure that the collective agreements are respected and that collective bargaining can con-

tinue to be the prime mode of regulating wages and conditions in the sector so that more legislation and a statutory minimum wage can be avoided despite the pressure on the collective bargaining-based model.

To increase the collective agreements' coverage, social partners in the *TAW sector* have relied on two strategies, and as a result a complex web of collective agreements exists, where temps are covered by the collective agreements of the user company in some sectors, whilst in others they are covered by collective agreements signed by the social partners representing the agency and the temps within a specific occupation. In yet other sectors, temps are covered only by legislation because social partners have been unable to come to an agreement. It is primarily the implementation of the EU's directive on TAW, which came into force in 2013 that has ensured equality in wages and working conditions for temps without collective agreement coverage. However, the directive may also have pushed up TAW on the agenda of social partners. Indeed, it is questionable whether the sector's social partner organisations would have agreed to include salaried workers employed at user companies in their collective agreements without the directive lurking in the background. Although many initiatives by social partners have been developed jointly to ensure reasonable wages and working conditions for temps, the responses have often been initiated by the unions and then negotiated with and agreed to by the employers. However, the employers have also themselves launched some initiatives.

Atypical work has also been on the bargaining agenda of social partners within *industrial cleaning* in order to improve wages and working conditions of atypical workers although they rarely use this term. It is particularly fixed-term workers with very short contracts – so-called call temps – temps, subcontractors and the (bogus) self-employed that have attracted the attention of social partners. The unions and the employers' associations have jointly and individually developed initiatives with some success. These have included lowering the thresholds for accruing rights to social benefits and adding new social rights to, for example, further training, introducing new regulations for subcontractors to prevent social dumping and unfair competition, improving working conditions of temps and call temps and raising union density and collective agreement coverage. The unions have typically proposed the responses and then negotiated them with the employers, which have agreed to them. However, the employers have also initiated responses with some success, such as an initiative regarding a certification scheme to prevent social dumping and unfair competition and improve wages and working conditions within industrial cleaning – an initiative that was entirely employer led but welcomed by the unions. Likewise, the municipalities have also developed social clauses aimed at ensuring that the wages and working conditions outlined in the collective agreements are followed when cleaning assignments are up for compulsory tendering. However, some attempts by social partners to improve the working conditions of atypical workers have also failed.

7.3 Variations in drivers of recent developments

An important question is what the drivers of the introduction and development of the different employment types have been. In the project's set-up, we were asked to include (1) economic factors, (2) organisation of production, (3) employer strategies, (4) union strategies, (5) industrial relations, (6) government policies, (7) EU regulation and (8) non-compliance with rules and illegitimacy. Most, but not all, of these factors will be addressed in the following sector-by-sector discussion.

In the *hospital sector*, precariousness is a very limited phenomenon, although not totally absent, as described earlier. We have not been able to find even 'more or less' development towards precariousness. Nevertheless, here are some of the relevant drivers and developments:

- Economic factors and government policy have been important in that budget restraint/austerity has driven the reduction in use of (external) temps. However, since they are not precarious in this sector, this development is of less importance for the present project.
- Economic factors (shortage of nurses and nurse assistants) have also played a role in contributing to a wage lift of nearly all groups and employment types prior to the economic crisis, thereby counteracting precariousness.
- Budget restraint/austerity has been of a relatively mild type, and mass layoffs or wage cuts in connection to these - as seen in some other EU member states- have not taken place. But budget restraint/austerity has nevertheless, maybe together with trade union strategies of DSR (although they deny it), played a role in the recent increase in jobs for nurses and the decrease in jobs for nurse assistants, leading to a potential precariousness problem for the latter because of reduced job and employment security.
- Demographic factors in combination with employers' strategies are behind the strategy to reduce the share of part-timers, the effect of which still remains to be seen. However, since part-timers cannot be seen as precarious workers in the hospital sector, this development is again of less importance.
- Although organisational density has declined for some groups of hospital employees, it continues to be high. Combined with nearly 100 per cent collective bargaining coverage at public hospitals, and the fact that hospital employees work in a sector that is very sensitive to industrial conflicts and at times has had a taste for militancy, this implies that the hospital-related trade unions are in a relatively strong bargaining position, which likely has contributed to the near absence of problems of precariousness for this group.

- Government (and local government) policies are behind the increases in wage-subsidy jobs recently seen in hospitals. It remains to be seen whether these will lead to problems of precariousness.
- EU directives have played a minor role in this sector. However, the 2013 cross-sector legislative implementation of the temporary agency work directive and the 2014 changes in collective agreements regarding some groups of fixed-term/part-time employees might have more than minor implications.

In *construction*, precariousness is more of a problem and has caused some concern among the social partners, especially the trade unions. Most, but not all, of the precariousness problems are related to labour migration. The most important drivers here are as follows:

- Recent labour migration in the Nordic countries has been overwhelmingly demand driven, and Norway, which has had strongest growth, has received the most CEE workers (Friberg and Eldring 2013). However, Denmark has also received large numbers of CEE workers. More specifically, the economic factor ‘cross-border wage difference’ is the most important driver. Wages for manual workers in the Danish construction sector is at a level such that CEE workers can multiply their income by working in Denmark and is sufficiently high that a large number of German construction workers also choose to work in Denmark.
- Importantly, the inflow of CEE workers has continued to increase since the economic crisis. This emphasises the role of employers’ strategies. In the construction sector, employers seem in many circumstances to prefer CEE workers to Danish workers. Lower wages, higher flexibility and insufficient labour supply of Danish construction workers are among the explanations (e.g., Andersen and Felbo-Kolding, 2013b).
- The EU directives and EU case law have been very important for both facilitating and restricting labour migration and the related challenges of precariousness. Incongruence between Danish legislation and collective bargaining initiatives to prevent social dumping is already an issue and might be even more so in the future.
- Government policies are also a very important factor here. At a time when tripartism at the national level has weakened, new tripartite forums for labour migration have developed. Furthermore, the centre-left government that came to power in 2011 has adopted the trade unions’ social dumping agenda.
- Getting the government – and partly also the employers – on board with respect to the social dumping agenda is a major victory of the trade unions. In other regards, the trade unions have been less success-

ful in dealing with the precariousness challenges. Still, the trade union strategies and initiatives have been key in addressing precariousness within the sector and will continue to be so in the foreseen future.

- In the sector, non-compliance and illegitimacy in connection to foreign temps and posted workers is an important driver behind government and social partner initiatives to address, among other things, precariousness in the sector.

In the *TWA sector*, which in Denmark is rather small, precariousness is a problem to some extent but more so in relation to some user sectors than others. Collective bargaining and legal initiatives have addressed these problems and improved the wages and working conditions of temps. However, although precariousness has been reduced *de jure*, it seems not to have been reduced *de facto* to the same extent. The most important drivers are as follows:

- Economic factors, such as the business cycle and labour demand, are of great importance to the number of temps, since it is often the employers' strategy to use temps as buffers.
- Trade union strategies have been an important driver. The turn in the strategy from avoiding and preventing TAW to attempting to cover temps by collective agreements is especially noteworthy. However, some trade unions continue to be rather sceptical of TAW.
- Industrial relations factors are often brought to the negotiation table when the small size of the Danish TAW sector is to be explained. More precisely, it is the Danish flexicurity model which is pointed to and especially the relatively relaxed rules of hiring-and-firing. This is a plausible explanation but is challenged by recent OECD studies indicating that the Employment Protection Legislation Index (expressing strictness of regulation) is not low but close to the average of OECD countries (OECD, 2013).
- European directives, more specifically the temporary agency work directive, have been of importance in improving the conditions of temps, both directly and indirectly, by guiding the focus of the trade unions and employers' associations.
- Government policies has been of importance, together with trade union and employer strategies, in terms of introducing legislation securing implementation of the temporary work agency directive in all sectors other than the manufacturing industry, where it is implemented through collective agreement.

Industrial cleaning might be the sector where the largest share of employees is at risk of precariousness. The drivers in this sector are as follows:

- Economic factors, such as outsourcing, compulsory tendering in the public sector and the economic business cycle, are of great importance to industrial cleaners in that employers often terminate their contracts, intensify their workloads, reduce their work hours and lay them off when cleaning contracts are up for re-tendering.
- Media reports and case law have also been important drivers for improving the wages and working conditions of industrial cleaners. Social partners' new rules and regulations regarding, for example, the use of subcontractors was reportedly a direct result of media attention regarding the low wages and working conditions of migrant workers within industrial cleaning.
- Trade union and employer strategies have been of importance in that they have lowered the thresholds for accruing rights to social benefits, developed new rules for regulating the use of subcontractors, improved working conditions for call temps and temps and initiated responses to raise union density and collective agreement coverage.
- Employer strategies have also been of importance for blocking initiatives to further develop the social rights of industrial cleaners.
- Government policy is important insofar as both flexi-jobs and other types of wage-subsidy schemes exist, and public employers are obliged to hire a certain quota of these. The wage-subsidy positions represent a precariousness problem to some extent. Local government policy in terms of the recent development of social clauses to ensure that wages and working conditions of industrial cleaners follow collective agreements when cleaning assignments are up for compulsory tendering have also pushed the agenda of improving wages and working conditions of industrial cleaners.

7.4 Challenges for future social partner initiatives

This national report has shown several challenges regarding precariousness, which will also represent challenges during the coming years. It would not be possible to discuss all these within the limits of this concluding chapter. We have chosen five to briefly present and discuss below.

First, there is still room for improvement regarding the thresholds for social benefits concerning some types of employment. Whereas some social benefits can be obtained after two months of employment, accessing benefits in other areas still requires an employment record of 12 months or more. If equal treatment is a goal, there are possibilities for future actions here. To what extent the social partners will pick up on this issue and continue to improve access to social benefits for atypical employees is a matter of their priorities and the power relations. It is noteworthy that prior to the collective bargaining round in 2015 in the local government and regional sectors, KL, has called for a removal of all

thresholds regarding occupational pensions so that all employees are eligible from the first day of employment.

Second, our study has shown that in several of the sectors analysed, self-employment– including bogus self-employment– represents a challenge which is not easily overcome. Collective bargaining coverage is not realistic to the same extent that it is for ‘real’ employees of different types. A key question is which tools should be used here in order to ensure that large pockets of precariousness do not develop among the self-employed?

Third, labour migration represents a challenge in three sectors in our sample, whereas in the fourth (hospitals) it has decreased somewhat after having been used as a tool to meet skill shortage problems prior to the economic crisis. There are no signs that labour migration will diminish during the coming years. The social partners have been very active in addressing the challenge that CEE workers represent in such a way that this source of labour can still be used, but in a way that respects Danish labour market regulation. It happens, however, more and more often that the congruence of these initiatives (whether bi- or tripartite) with EU regulation is questioned. In other words, labour migration seems to challenge the relation between national and supra-national regulation.

Fourth, work intensification/excessive workloads is a matter of concern, although more in some sectors than others, and can potentially also be a precariousness problem. In our sample, industrial cleaning is the clearest example of this, but it also is a matter of concern in the other sectors, although evidence that work intensification has taken place is not always clear.

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Appendix A: Thresholds for accruing rights to selected social benefits within selected collective agreements on TAW in Denmark, 2014

	DI and Co-industri	DI and 3F	Dansk Erhverv and 3F	Dansk Erhverv and FOA	Dansk Erhverv and HK	Dansk Erhverv and LC	Dansk Erhverv and BUPL, FOA, SP
Pensions	2 months	320 hours in last 2 years	320 hours in last 3 years	0 months	1,443 hours in last 3 years or 3 months	—	0 months
Further training	6 months	962 hours	962 hours or 9 months	—	6 months	—	—
Further training if dismissed	6 months	1 year	:	—	6 months	—	—
Ensured minimum paid hours	4 hours	4 hours	4 hours	—	4 hours	3 hours if job cancelled	3 hours if job cancelled
Notice period is permitted after	6 months	1,924 hours	1,924 hours in last 15 months	0 months (Salaried employees) hourly paid excluded	0 months (Salaried employees) 3 months (hourly paid)	—	0 months (Salaried Employees) (hourly paid excluded)
Extra holiday entitlements	9 months	0 months**	0 months**	—	1.443 hours in last 3 years or 9 months**	—	—
Severance payment if dismissed	3 years	—	—	—	-	—	—
Wage supplements	Follow company-based agreements	Follows leading sector's collective agreement	Follow user company's collective agreement	1 year work experience in last 3 years	Local bargaining	Follow company-based agreement	80 hours' work experience
Full-paid leave when child is hospitalised	0 months	0 months*	0 months*	0 months (Salaried employees) (hourly paid excluded)	962 hours in last 3 years or 6 months	—	—
Full-paid sick leave	6 months	962 hours*	962 hours*	0 months (Salaried employees) (hourly paid excluded)	0 months	—	—
Full-paid maternity, paternity and parental leave	9 months	1,443 hours*	1,443 hours*	0 months (Salaried employees) (hourly paid excluded)	1.443 hours in last 3 years or 9 months	—	—
Full-paid short-term leave when child falls ill	0–9 months: statutory sick pay 9 months: full pay	1,443 hours*	1,443 hours*	1,443 hours (Salaried Employees) (hourly paid excluded)	962 hours in last 3 years or 6 months	—	—
Losing past accrued rights	9-month break between two contracts	12-month break between two contracts	12-month break between two contracts	12-month break between two contracts	12-month break between two contracts	—	—

Source: DI and 3F (2014); Dansk Erhverv and 3F (2014); Dansk Erhverv et al. (2014a; 2014b); Dansk Erhverv and FOA (2014); Dansk Erhverv and LC (2014).

*threshold for maximum payment, **Specific percentage of salary is paid as contributions towards extra paid holiday entitlements

Appendix B: Thresholds for accruing rights to selected social benefits within selected collective agreements on industrial cleaning in Denmark, 2014

	DI (SBA) and 3F and Serviceforbundet-Service agreements	Danske Service and 3F and Serviceforbundet-Service agreement	DI (SBA) and 3F window cleaning	Danske Service and 3F window cleaning	COOP and 3F	KRIFA and Kristelig Arbejds-giverforening	KL FOA and 3F unskilled	KL and 3F
Pensions	2 months	2 months	7 months	0 months	3 months	9 months	10 months or 52 weeks with 8 weekly hours within 8 years**	10 months 52 weeks with 8 weekly hours within 8 years**
Further training on basic qualifications	6 months	6 months	0 months	0 months	—	—	Local bargaining	Local bargaining
Further training	6 months	6 months	6 months	9 months	—	No specific right	Local bargaining	Local bargaining
Rights to an individual educational plan	6 months	6 months	0 months	0 months	—	No specific right	Local bargaining	Local bargaining
Further training if dismissed	Local bargaining	Local bargaining	2 years	1 year	—	—	Local bargaining	Local bargaining
Ensured minimum paid hours	15 hours per week* 3 hours**	15 hours per week* 3 hours**	—	—	4 hours	3 hours**	3 hours**	3 hours**
Notice period is permitted after	0 months (2 weeks)	0 months (2 weeks)	0 months (1 week)	0 months (1 week)	0 months (14 days)	0 months (salaried employees) 3 months (non-salaried workers) Short-term contracts excluded	0 months (salaried employees) 3 months (hourly paid)	0 months (salaried employees) 3 months (Hourly paid)
Extra paid holiday entitlements	9 months 0–9 months***	0 months***	0 months***	0 months***	0 months***	9 months within 12 months	0 months***	0 months***
Severance payment if dismissed	10 years	—	-	—	—	-	12 years	12 years
Wage supplements	12 months only permanent staff	12 months only permanent staff	3 months	6 months	Local bargaining	Local bargaining	Local bargaining	Local bargaining
Full-paid leave when child is hospitalized	0 months	0 months	0 months	0 months	0 months	0 months	0 months	0 months
Full-paid sick leave	6 months	6 months	6 months	6 months	3 months	9 months	0 months Hourly paid excluded	0 months
Full-paid maternity, paternity and parental leave	9 months****	9 months****	9 months	9 months	9 months	9 months within last 12 months	0 months Hourly paid excluded	0 months
Full-paid short-	6 months	6 months	6 months	6 months	—	0 months	0 months	0 months

[illegible]

	Danish Construction Association and 3F Construction Group agreement	Danish Construction Association 3F-industrial agreement	Danish Painting Masters and Painters Union agreement	Danish Craft and 3F-Construction Group agreement	Danish Painting Masters and 3F Construction Group agreement	Danish Construction Association and 3F- Masonry agreement
Pensions	6 months	6 months	3 months	6 months	3 months	6 months
Further training on basic qualifications	:	:	:	:	:	:
Further training	3 months	Local bargaining	6 months	3 months	6 months	3 months
Rights to an individual educational plan	3 months	Local bargaining	:	:	:	:
Further training if made redundant	:	:	:	:	:	:
Ensured minimum paid hours	20 hours per week***** 4 hours**	15 hours per week*****/**** 4 hours**	15 hours per week*****	8 hours per week*****	15 hours Per week*****	15 hours per week*****
Notice period is permitted after	1 year	6-9 months****	1 year	8 weeks	1 year	0 months – but is only 2 days notice
Extra paid holiday entitlements	0months***	0 months***	0 months***	0 months***	0 months***	0 months***
Severance payment if dismissed	:	:	:	:	:	:
Wage supplements	Local bargaining	3-12 months**** Local bargaining	Local bargaining	Local bargaining	3 months Local bargaining	Local bargaining
Full pay leave when child is hospitalised	0 months	0 months	0 months	0 months	0 months	0 months
Full pay during sick leave	3 months Or 3 months within last 18 months*	3 -6 months****	6 months	3 months	3 months	3 months within the last 18 months
Full pay during Maternity, paternity and parental leave	6 months within last 18 months	6 months within the last 18 months	9 months	6 months	9 months within the last 18 months	6 months
Full pay during short-term leave when children falls ill	0 months	0 -5months****	6 months	0 months	6 months	0 months
Health related services	No specified rights	No specified rights	0 months	No specified rights	:	No specified rights
Losing rights if employment break	9 months	9 months	1 year	9 months	:	:

Source: 3F and Dansk Byggeri (2014a; 2014b, 2014c) Danske malermestre og Malerforbundet (2012), Danske malermestre and 3F (2014); Dansk Håndværk and 3F (2013).

*if working on a non-permanent workplace **call temps *** Specific percentage of salary is paid as contributions towards extra paid holiday entitlements ****Depends on employee group. *****part-time workers