

# **Draft country report NEWEFIN New forms of employment and challenges to industrial relations in Germany**

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## overview

- incidence of new forms of employment in Germany (NFEs)
- legal framework
- Industrial relations and social dialogue issues
  - positions of social partners/roles
  - new actors in industrial relations?
- labour market effects of reforms?
- Preliminary conclusions
  - challenges for regulation;
  - direction (goals) of regulation and social partner initiatives and results;
  - adaptation unions to changing workers/needs of those in NFEs

## Incidence of NEFs

- After early 2000s (Hartz labour market reforms) steady increase of new (non-standard) forms of employment
- In 2016: nearly 39% 'atypical' employment
- Scope of platform work/crowdwork is still being researched: around 5% of population 18+ (2018)
- Problematic forms
  - Marginal work (mini-jobs)
  - On-call work (variant of part-time work)
  - Solo-self-employment (bogus self-employment)
  - Service contracting (to replace agency work)& high share of low-wage workers in EU comparison

## Legal framework: assessment

- Various bases of work (employee/employee-like/self-employed)
- Employees vs other categories (protection by labour law/social security)
- No regulation of platform/crowdwork so far (considered solo-self-employment)

### Reforms since 2007:

- Re-regulation of temp agency work/service contracting
- mini-jobs (higher earnings ceiling)
- legal definition of employee in Civil Code

## Legal framework: assessment

Envisaged reforms, based on current coalition agreement:

- switch from full-time to part-time (and vice versa),
- easier social security access for solo-selfemployed
- regulating certain fixed-term contracts
- regulation of on-call work

Regulation of platform work/crowdwork

- Debate: ministry (BMAS) Whitebook 2016, labour law scholars
- Small-scale studies on extent/background/needs crowdworkers, recent (Sept 2018) 'crowdwork monitor'

## **IR and social dialogue on NEFs: social partner positions, initiatives & roles**

- Employers: demand of firms, specific roles in labour market
  - Information and lobbying against further regulation of flexible employment forms
- Trade unions: drawbacks of 'precarious' forms of work (job security, social security rights, low income/working poor)
  - Information and lobbying in favour of further limits on flexible employment forms

= opposing positions on legal regulation, employers prefer regulation via collective agreements (that allow for exceptions)

## **IR and social dialogue around NEFs: social partner initiatives**

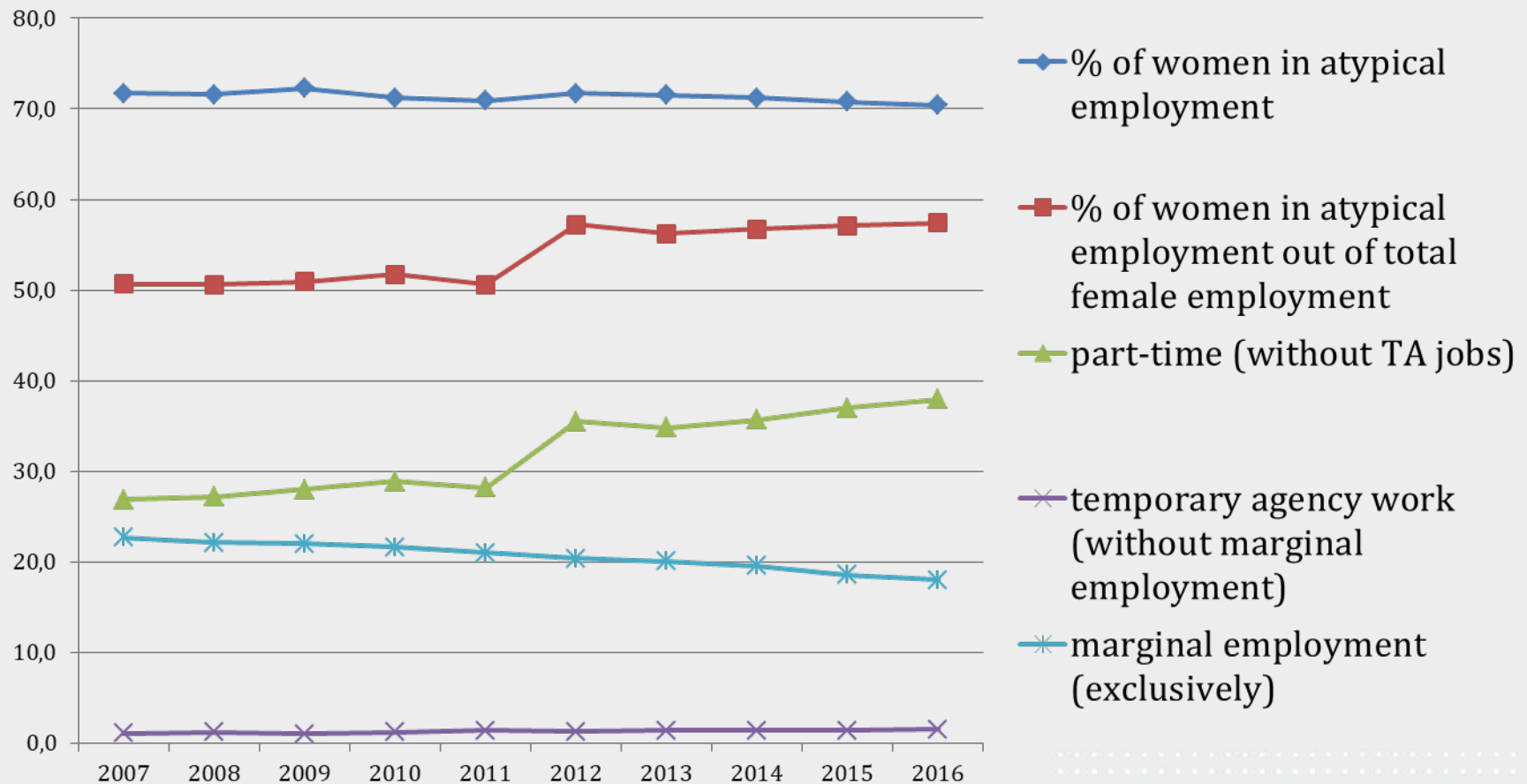
- Collective agreements on temporary work (first in metal sector, 2012), collective agreement regulating rights to 'working time sovereignty' in the metal sector (2018)  
= at times, cooperation in collective bargaining for NEFs
- No institutionalized social dialogue, contact differs across sectors
- other forms of cooperation on specific issues of common interest (e.g. currently on regulation of solo-employment)

# IR and social dialogue around NEFs: new actors?

- New actors tend to be professional associations (representing business interests and entrepreneurial freedoms), no expectations to become social partners
  - e.g. various groups of self-employed/entrepreneurs
  - German Crowdsourcing Association
  - Bitcom (sectoral association)
  - platforms



# Labour market effects of changes in regulation?



## Conclusions (preliminary)

### challenges for German labour market and for regulation of NFEs

- Next to stable numbers of workers in NEFs, sizeable share of employed on low wages (2016: 22,7%)
- Fundamentally different positions by employers and unions on necessity of NEFs (flexible forms)
- political challenge: Grand Coalition governments (since mid-2000s, BMAS 'ruled' by Social Democrat minister)
- Complexity of regulating platform work/crowdworkers' legal status and social protection rights: no consensus so far

# Conclusions (preliminary)

## goals of regulation/social partner initiatives

- Combat abuse of NEFs, e.g. agency workers (legal regulation)
- Effect qualitative improvements of working conditions/job or income security (CAs/legal regulation)
- Offer better protection to (solo-)self employed (legal regulation underway)
- Effects on NEFs/successes so far (if at all):
  - Some qualitative improvements for some NEFs (perceptions of TUs) yet more is to be done
  - Too early to say for legal regulation in the process

## Conclusions (preliminary)

adaptation trade unions to changing member profiles and needs of persons in NFEs

- Adaptation processes visible across main unions with difficulties depending on sectors
  - New (advisory) services (IG Metall, Verdi)
  - New regulations/institutions (e.g. Codes of Conduct, ombudsman, IG Metall)
  - New membership campaigns (Verdi, IG Metall)