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## Atypical forms of employment in the public sector – are there any?

### Abstract

The paper deals with various forms of atypical employment in the public sector that are widely neglected in existing research; its specific focus is on their development, scope, distribution and structural features. In the first part we break down the purely statistical category and differentiate between the disparate forms (part-time, marginal employment or minijobs, midijobs, fixed-term, agency work). In the second part we address the question if these forms are not only atypical, but also have to be classified as precarious. We distinguish various risks operative in the short, medium and long term (income, stability of employment and employability, pensions). Finally, we differentiate between employment in the private as well as the public sector and draw parallels and indicate specific differences in their development and situation.

Our basic finding is that atypical forms of employment are also widespread in the public sector but are all in all less precarious than in the private sector. The distribution of individual forms shows major differences between both sectors whereas the overall percentages are similar.

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# Table of Content

1	Definition of the problem and introduction .....	1
1.1	Definition of the problem .....	1
1.2	Employment trends .....	2
2	Forms of atypical employment .....	3
2.1	Part-time employment.....	3
2.2	Fixed-term employment .....	5
2.2.1	Proportions .....	6
2.2.2	Structural features .....	7
2.3	Degression: fixed-term employment in selected segments .....	9
2.4	Marginal employment/minijobs.....	10
2.5	Midijobs.....	14
2.6	Agency work and service contracts .....	15
2.7	Preliminary conclusion .....	15
3	Atypical and precarious employment.....	17
3.1	Risks of precariousness .....	17
3.2	Current developments .....	22
4	Conclusion .....	23
5	References .....	25



# 1 Definition of the problem and introduction\*

## 1.1 Definition of the problem

The public sector labour market is rarely examined in academic analyses.<sup>1</sup> This fact is astounding for several reasons: firstly, in quantitative terms the market is of considerable importance. With about 4.6 million employees (approx. 12 per cent of all employees), the various levels of authorities (federal government, federal states, local authorities) are still the biggest employer. Secondly, the regulatory and control mechanisms are different from those in the private sector, e.g. because of the traditional dualism of civil servants' employment relationship under public law and the status of employees subject to collective agreements as workers under private law, as well as other institutional stipulations (incl. civil servant laws, legislative decrees, employee representation laws of the federal government and the federal states) (Keller/Henneberger 1999).<sup>2</sup>

Thus one could assume that this labour market primarily featured standard employment conditions (SEC). Public employers are (still to a large extent) regarded as "model employers" that make little or no use of extensive flexible employment strategies which are customary in the private sector.

However, cursory evidence shows that this assumption is not – or at least no longer and not consistently – correct. There are also atypical forms of employment in the public sector (Czerwick 2010, Keller 2010). The research work carried out in recent years into forms and resultant problems of atypical employment (summarising Keller/Seifert 2013) has furnished more detailed information on the development, scope, distribution and structural features for the economy as a whole, but not for the public sector.

These aspects form the focus of the analysis below. In the first part we break down the statistical category of atypical forms of employment and differentiate between the disparate forms, as is customary in current research. In the second part we address the question whether the individual forms are not only atypical, but at the same time precarious. In doing so we differentiate between various precariousness risks operative in the short, medium and long term (income, stability of employment, employability, social security), enabling differentiation by various risks. We draw parallels with the development and present situation in the private sector to more clearly characterise the factors in common with the public sector and the specific features of the public sector by comparing the two sectors.

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\* The authors would like to thank the Hans-Böckler-Foundation for financial support and Susanne Schulz for statistical assistance.

<sup>1</sup> The few comprehensive analyses (Brandes/Buttler 1990, Warsewa et al. 1996, Henneberger 1997) are out of date.

<sup>2</sup> The traditional differences between workers and employees were abolished by the Collective Agreement for the Public Sector (Tarifvertrag für den öffentlichen Dienst – TVöD) applicable to the federal government and local authorities that came into force in 2005. The federal states concluded their own Public Sector Collective Agreement for the Federal States (Tarifvertrag für den öffentlichen Dienst der Länder - TV-L) in 2006.

In terms of methodology and because of the lack of a primary survey we use as subject matter in the narrower sense data from various secondary sources, chiefly the Federal Statistical Office's data based on census surveys and SOEP data (Socio-economic Panel) to describe the structures of atypical forms. We resort to the latter in particular when they present structural features (such as sociodemographic ones, working time) that the Federal Statistical Office does not collect. We differentiate the data according to the criteria relevant to our question (such as employee status, federal/regional/local authority, employment segment).

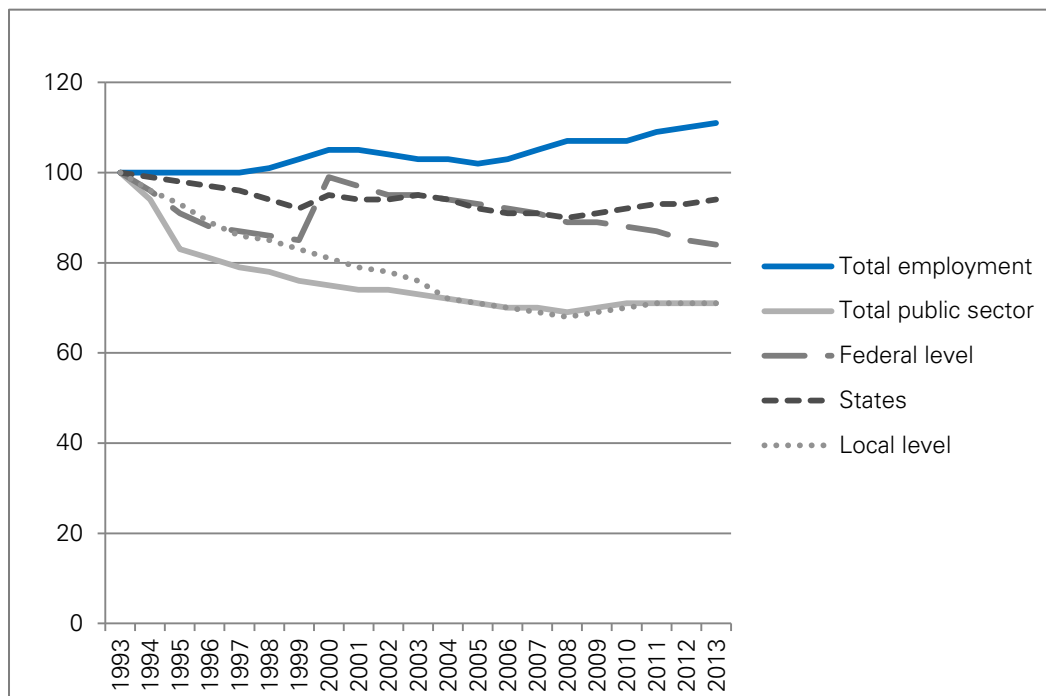
## 1.2 Employment trends

The number of employees in the public sector has fallen by about a third (from 6.7 to 4.6 million) since the early 1990s (chart 1). Compared to the OECD member countries the employment rate is in the lower mid-range (OECD 2011). A major cause of this trend is the extensive privatisation measures of the last few decades, which have encompassed not only the erstwhile special assets on a federal level (German Rail and the German Post Office) but took place also on the local authority level (incl. utilities and waste disposal, local passenger transport, hospitals). It has resulted in downsizing, lower pay and generally worse working conditions for employees (Flecker et al. 2014); after privatisation, other collective agreements than those of the public sector apply (such as the private transport or cleaning industry). These privatisation measures have accounted for about 50 per cent of all staff cuts.<sup>3</sup> The composition of this labour market has changed in terms of the status groups referred to, as the employees subject to collective agreements have been more affected than civil servants. The comments below concern primarily the first group, as they have been more affected than the latter one.

The overall development of employment since the early 1990s shows opposing trends. Total employment has increased whereas the number of employees in the public sector has fallen to a considerable degree. The municipal level has been hit hardest. It is reasonable to assume that the composition of employment has also changed.

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<sup>3</sup> We concentrate below on the current public sector; there is no detailed information available on the privatised segments.

**Chart 1: Employment in public sector 1993 - 2012**

Source: Federal Statistical Office, Fachserie 14 Reihe 6, several volumes

## 2 Forms of atypical employment

Our starting point is SEC with the core features of permanent full-time work, a subsistence-securing income and integration in the social security systems as well as the identity of labour and employment conditions. The forms of atypical employment differ in at least one SEC feature. Part-time work, mini-jobs and midijobs, fixed-term and agency work.<sup>4</sup>

### 2.1 Part-time employment

Part-time workers are those with regular weekly working hours that are fewer than those of a full-time employee (Art. 2, para. 1 Part-Time Work and Fixed-Term Employment Act, *Teilzeit- und Befristungs-gesetz - TzBfG*). They are subject to social security contributions; the principles of pro rata and equal pay apply to their income.

Part-time forms of employment have existed in the public sector for several decades. On the one hand, from the employer's viewpoint they have been the "classic" instrument of flexibilisation and/or adjustment; on the other hand from the employee's viewpoint they have offered acceptable working and employment conditions. The expansion and growth phases of the welfare

<sup>4</sup> Self-employment as a non-dependent economic activity with no dependent employees does not feature in the public sector, (unlike the private sector, in which it increased sharply in the 2000s) and is therefore excluded.

state in the 1960s and 1970s entailed – in the Federal Republic as in other industrial nations – a considerable expansion of staff. In this “golden age” not only the number but also the percentage of part-timers in overall employed gradually increased (Henneberger 1997). Given the conditions then of full employment, the prevailing gender models and the division of labour within a family, it was the only way to recruit additional labour (first and foremost women who had not been gainfully employed before).

If one differentiates between the traditional employment relationships, the increase among employees was markedly greater than among civil servants, to whom under the “Established Principles of the Civil Service” (Art. 33 para. 5 Grundgesetz – GG or Basic Law) tight legal-institutional restrictions applied that were only successively loosened (Keller 1993), but still set limits. The differentiation by types of authority shows that the local authorities have manifestly more part-time staff than federal government has, both traditionally and currently.<sup>5</sup>

There has been a robust expansion of part-time employment since the German unification: its percentage has doubled in two decades from 16 to 32 per cent and is higher than that in the economy as a whole (about 26 per cent), which even includes the higher percentage of the public sector. This development has led to significant changes in employment structures, especially since at the same time there has been the considerable downsizing referred to above. When converted into full-time equivalents, the decrease is even more apparent than when expressed in purely numerical terms, i.e. there is a certain substitution effect between (decreasing) full-time and (increasing) part-time employment. The long-term trend is towards “lean management” or a “lean state” (European Commission 2013).

The proportion of women in the number of employees has gradually increased, and in 2013 was roughly 55 per cent. Among part-time employees it is more than 80 per cent – similar to the private sector. In the lower and middle career classes women are still overrepresented, in terms of their proportion of the total number of those employed, although equal opportunity measures were introduced earlier and had a greater effect than in the private sector. In this respect it is a “segmented integration of women” (Gottschall 2009, 471; similar Kroos/Gottschall 2012) into the welfare state employment model or a continuing gender-specific, vertical differentiation of this labour market. Hence there is repeatedly talk of “new standard employment conditions” that however entail higher risks of precariousness than the old ones.

At 26.4 hours, the average number of weekly working hours of part-time employees (excluding mini-jobbers) is slightly higher than in the private sector (Chart 2). What is striking is the difference in both sectors between contractual and actual working hours. Part-time employees in the public sector are interested in increasing their working hours, albeit not quite to the level of hours previously worked; in the private sector, on the other hand, above the level of hours actually worked. In the public sector the preferred number of working hours is between the actual and the contractual number. This finding can be interpreted on the one hand with time pressures due to private time constraints, on the other hand with the endeavour to have a secured

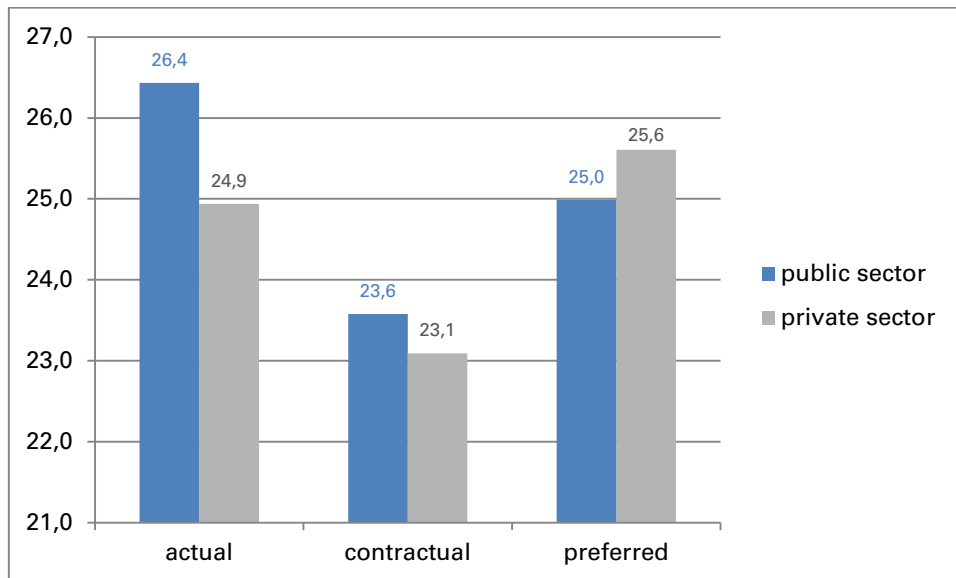
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<sup>5</sup> Since 2001 there has been a legal entitlement (Part-Time Work and Fixed-Term Employment Act) to switch from full-time to part-time employment in firms with more than 15 employees. The present Grand Coalition government is planning to introduce a guaranteed right of return from part-time to full-time.



and calculable basis for the working hours and income. It is evidently not easier in the public sector than in the private sector to reconcile preferred and actual working hours.

**Chart 2: Factual, contractual and preferred weekly working hours of part-time employees, public and private sector 2012, in hours**



Source: SOEP 2012; own calculations

## 2.2 Fixed-term employment

Fixed-term employment terminates automatically at a fixed point in time without standard employment protection regulations applying. The Part-Time Work and Fixed-Term Employment Act - TzBfG (§ 14) differentiates between a fixed-term for an objective reason (e.g. deputising during parental leave or protracted sickness) and an unfounded fixed term (of max. two years, max. three extensions).<sup>6</sup> Moreover, the special circumstance of the “budgetary fixed-term” (“Haushaltsbefristung”) applies to the public sector when “the employee is remunerated from budgetary resources earmarked under budgetary law for fixed-term employment and he is employed accordingly” (§ 14 para.1, sentence 2 no.7 - TzBfG). This special provision increases the public employer’s options compared to those of the private employer.

<sup>6</sup> The first form is not time-limited.

### 2.2.1 Proportions

Similar to part-time work, fixed-term employment also has a long tradition; already in the 1980s the public sector assumed a pioneering role compared to the private sector (Büchtemann 1989; Warsewa et al. 1996, Henneberger 1997).

The data available permit the following statements:

- For 2012 the official personnel statistics put the number of “employees with a temporary contract”<sup>7</sup> at almost 404,000, of whom about 206,000 are full-time and roughly 197,000 are part-time employees (Federal Statistical Office 2013b, 77). The proportion of all employees is 8.8 per cent. The percentage of women is about 57 per cent and thus just above their percentage of all employees. If one differentiates by types of authorities, fixed-terms are more common on the local authority and federal state level than on the federal government level.<sup>8</sup>
- A study based on data of the IAB company panel produces similar results. According to it the fixed-term rate in the public sector is eight per cent, as opposed to seven per cent in the private sector (Ellguth/Kohaut 2013).<sup>9</sup>
- For 2003, SOEP evaluations put the proportion of fixed-term employees in the public sector at 11.7 per cent and in the private sector at 6.3 per cent. In both sectors the proportions rose until 2012, approximating 13.7 per cent and 10.5 per cent respectively.

According to other studies their proportion has risen considerably, especially since the mid-2000s, from about 10 per cent to approx. 15 per cent, and is therefore clearly higher than the figure for the economy as a whole of 9 to 10 per cent (Bellmann et al. 2009, Hohendanner 2010, Tepe/Kroos 2010, Altis/Koufen 2011).<sup>10</sup> The differences can be explained by differences in the reference values: the lower rates indicate the percentage of fixed-term employees among all public sector employees, i.e. employees subject to collective agreements and civil servants; the higher rates relate exclusively to the proportion among employees subject to collective agreements. At any rate the figures confirm that fixed-term employment is also widespread in the public sector, its percentage equates to that of the private sector and has increased in recent years.

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<sup>7</sup> According to the official definition, employees with a temporary contract are “employees in a fixed-term employment relationship under private law. Persons in marginal employment and trainees are recorded separately in the personnel statistics and are not included in the number of employees with a temporary contract” (Federal Statistical Office 2013b, 11).

<sup>8</sup> In 2012 “some 10,000 fixed-term employees (have) a fixed calendar term contract of employment” with the federal government (Deutscher Bundestag 2013, 7).

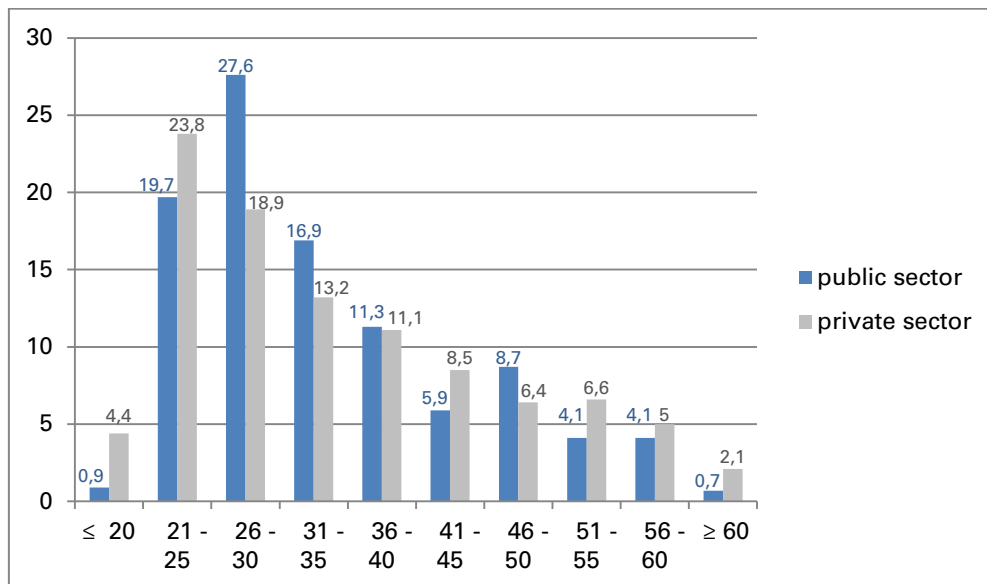
<sup>9</sup> The IAB company panel relates to firms with employees subject to social security contributions, but include civil servants (Bellmann et al. 2009, 364, 367).

### 2.2.2 Structural features

#### Age

Fixed-terms are distributed very unevenly among the age cohorts (Chart 3) : younger people are disproportionately affected; their prospects of permanent-stable employment in the public sector are extremely uncertain and less promising than in many segments of the private sector (Bellmann et al. 2009). The group of 26-to-35-year-olds accounts for the highest percentage in the public sector, a markedly higher percentage than in the private sector, confirming the specific recruitment practice in the recent past. Among the older age cohorts, on the other hand, the distribution is similar to that in the private sector.

**Chart 3: Fixed-term employees and age, public and private sector 2012, in per cent**



Source: SOEP 2012; own calculations

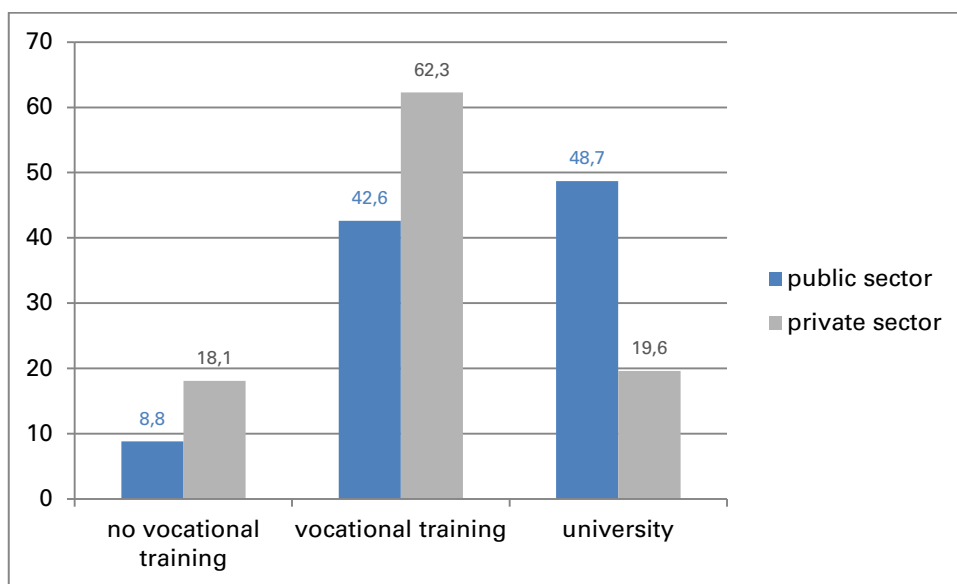
Retention rates indicate the percentage of employees who switch from fixed-term to permanent employment. They are markedly lower in the public sector than in the private sector (Ellguth/Kohaut 2011), where they are between 40 and 50 per cent. Hence the broad “bridging function”, originally hoped for by its advocates in the increasing of fixed-term options, hardly exists also – or precisely – in the public sector; instead, fixed-terms are becoming the “standard recruitment conditions” (Bellmann et al. 2009, 389).

Expressed another way: permanent entry into the labour market is becoming more difficult; the average period of employment of younger workers is shorter compared to previous cohorts, and their entry is frequently via a fixed-term contract (Rhein/Stüber 2014). This finding applies not only to the private sector but chiefly to the public sector, where there are high entry barriers primarily due to frequent fixed-term contracts. The consequence on an individual level is greater, longer lasting economic and social insecurity.

### Qualifications

On average, fixed-term employees in the public sector have a markedly higher level of education and training than in the private sector, which can be explained by the requirements of the specific jobs (Chart 4). What is striking is the high percentage of fixed-term employees in the public sector with a degree from a post-secondary college or university. It points to particular factors, which are dealt with below. On the other hand, employees without vocational training play a substantially lesser part. This structural pattern reflects to some extent the differences in qualifications of all employees between the public and private sector.

**Chart 4: Fixed-term employees and qualifications, public and private sector 2012, in per cent**



Source: SOEP 2012; own calculations

### Gender and working hours

Women feature disproportionately in fixed-term employment. Altogether, 58 per cent of all employees in the public sector are female<sup>11</sup>, but among fixed-term employees the figure is almost 62 per cent. In addition, nearly 37 per cent of fixed-term employees work part-time, the vast majority of them women. On the other hand the part-time proportion of permanent employees in the public sector is only about 20 per cent. So, frequently women in the public sector display two features of atypical employment at the same time.

<sup>11</sup> These are SOEP data, which are slightly higher than those provided by the Federal Statistical Office.

Conclusion: The practice of fixed-term employment is also widespread in the public sector and goes beyond the “classic” reasons of eliminating staff bottlenecks arising in the short term (such as deputising in the event of sickness, holiday or parental leave).<sup>12</sup>

### 2.3 Degression: fixed-term employment in selected segments

Fixed-term employment is unevenly distributed in the public sector segments.<sup>13</sup> Particularly affected are universities and non-university research institutions, to which the “Law Governing Fixed-Term Employment Contracts in the Sciences and Research (Wissenschaftszeitvertragsgesetz - WissZeitVG)” has applied since 2007. The special fixed-term rules (from “six plus six years” for qualification periods) already enshrined in the Framework Act for Higher Education (Hochschulrahmengesetz - HRG, 2002) are being supplemented in two regards, a policy component to improve the compatibility of family life and work, as well as the extension to scientific and non-scientific staff in projects financed by third-party funds (Preis 2015).

On the one hand these far-reaching options under the special fixed-term legislation are actually being exercised, as they are legally possible.<sup>14</sup> On the other hand one has to take into consideration that more or less independent management bodies of institutions of higher education and research, resulting from their greater autonomy in their staffing policies, face specific funding problems: the basic funding is inadequate; the third-party funds required to cover the budget are invariably available for only a limited period; the approval of follow-up projects applied for remains uncertain, making proactive staffing policy difficult. Other motives familiar from the private sector, such as extending the trial period, i.e. the deliberate use of fixed-terms as a screening instrument of operational staff policy, are of rather lesser importance. The influence of economic fluctuations is likewise probably less than in the private sector, as supply of and demand for publicly provided goods and services depend little on the business cycle.

The (moderate) increase in staff in this segment in recent years has been due mainly to fixed-term contracts. The fixed-term percentage of employees in higher education altogether is 45% (Altis/Koufen 2011, 1116); it is even markedly higher among scientific staff. Overall it is a matter of “to some extent long periods of contractual uncertainty being an integral part of academic careers” (Gülker 2010, 228; own translation). In contrast the majority of jobs in other public sector segments, such as on a local authority level in nursery schools, are permanent (Federal Statistical Office 2013a).

The disproportionately high percentage of fixed-term contracts is not due solely to the growing number of young scientists in the doctoral and postdoctoral qualification phases whose em-

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<sup>12</sup> On a federal government level the Federal Ministries (74 per cent) and subordinate authorities (78 per cent) employ disproportionately large numbers of entrants on fixed-term contracts (Spiegel-online 2013).

<sup>13</sup> A similar distribution also exists in the UK (Morgan et al. 2000).

<sup>14</sup> These special provisions are not subject to the usual participation of works or staff councils. The Union of Education and Science (Gewerkschaft Erziehung und Wissenschaft - GEW) entered the political debate in 2010 with the Templiner Manifesto “Dream job science. For a reform of the staff structure and careers in higher education and research”, and in 2012 with the Herrschinger Code “Good Work in Science”. cf. individually: [www.gew.de/Templiner\\_Manifest.html](http://www.gew.de/Templiner_Manifest.html) and [www.gew.de/Herrschinger\\_Kodex.html](http://www.gew.de/Herrschinger_Kodex.html). The core demands are “A permanent position for permanent tasks” and a minimum term for fixed-term contracts.

ployment contracts are by definition time-limited.<sup>15</sup> It is also a question of (functional) jobs in mid-level academic jobs and teaching (“teachers for special duties” – “Lehrkräfte für besondere Aufgaben”), science management and administration. As extended external flexibility potential, these employees cover the actually long-term requirement for staff; statutory employment protection regulations do not apply to them.

In the federal system, the federal states are responsible for education that is staff-intensive. Besides higher education and research institutes, schools play a special role. The common practice there is to employ young teachers only for a fixed period (also repeatedly) and thus generate a flexible - and cheaper - reserve of staff in the form of “replacement teachers” (“Vertretungslehrer”). Differences in the individual federal states’ employment conditions result from Federalism Reform I (Föderalismusreform I), a major constitutional reform, which came into force in 2006 and transferred substantial parts of the regulatory competence for civil servants’ employment conditions from federal government to the federal states (“Federalisation of civil servants’ legislation”) (Keller 2010): in some federal states teachers are contracted as civil servants, in others as employees subject to collective agreements. These differences in status result in a certain mobility between federal states, chiefly of young teachers in understaffed subjects. Differences in the pay scale classification of teachers in the qualification or career structure produce similar consequences, which were to be expected following the politically driven introduction of “competitive federalism” – if not intended by some stakeholders.

There are considerable segment-specific differences. Especially in “Education and Science” (76 per cent) and “Public Administration” (60 per cent), fixed-term jobs are disproportionately common. At the same time retention rates in these segments (at 18 and 28 per cent respectively) are particularly low (Hohendanner 2013a); so there can hardly be any talk of the often claimed “springboard function” of fixed-term jobs.

## 2.4 Marginal employment/minijobs

Under the “Laws for Modern Services in the Labour Market” (the so-called Hartz Laws), marginal employment (geringfügige Beschäftigung) is extended to minijobs.<sup>16</sup> Their income limit is raised (to 400 euros, from 2013 to 450 euros) and simultaneously scrapping the working hours limit of 15 hours a week. There are two different variants: minijobs can be as a sole or as an additional (sideline) form of employment. This deregulation measure has led to a clear increase in the economy as a whole (to more than 7 million or approx. 20 per cent of all employees, including minijobs as an additional activity which are counted twice). After part-time work, minijobs are the second most common form of atypical employment (Keller/Seifert 2013).

With regard to the public sector there are methodological problems of recording them in the official data regularly gathered by the Federal Statistical Office: “People in marginal employment do not usually feature in publications of personnel statistics, as they are neither included in the budgets’ establishment plans nor paid in accordance with provisions of collective agree-

<sup>15</sup> In the long term, too, their social security is inadequate, which is why young scientists lack planning prospects with regard to careers. Moreover, job sharing is common, meaning that features of several forms of atypical employment coincide. cf. Chapter 3.

<sup>16</sup> The two terms are used synonymously.

ments. For these reasons they are accounted for only for information purposes” (Federal Statistical Office 2013b, 102; own translation).

200,000 people in marginal employment are registered for 2012, working primarily for federal states (103,000) and local authorities (95,000) but rarely for the federal government (600) (Federal Statistical Office 2013b, 25). The only people in marginal employment recorded are “those who have the one source of income” (Federal Statistical Office 2013b, 10). This concentration on the sole activity may explain a part of the considerable differences from the economy as a whole, where minijobs done as an additional activity account for about 30 per cent of all minijobs (Keller/Seifert 2013, 29).

If we take the SOEP data as the basis<sup>17</sup>, the proportion of minijobbers among all employees working in the public sector is 4.6 per cent compared to 10.7 per cent in the private sector. These are people working exclusively in marginal employment, similar to the data of Federal Statistical Office. This form of employment has increased markedly from 2.9 per cent in the public sector and 6.4 per cent in the private sector since 2003, the period before the deregulation of marginal employment under the Hartz Laws.

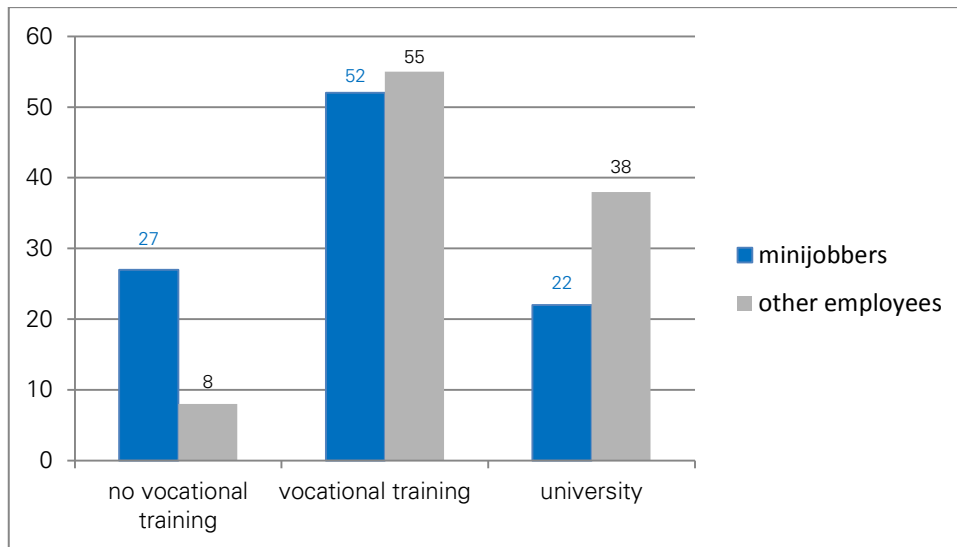
Public sector employees do additional jobs on the minijob basis more often (6.6 per cent) than in the private sector (4.9 per cent). From the data sources to hand it is not possible to identify in which public sector segments these additional activities are carried out.

Based on the SOEP data the percentage of women among employees exclusively in marginal employment is 71 per cent, slightly less than the percentage in the private sector (76 per cent). What is striking with this form of employment is the uneven distribution among employment segments; the main areas are in Education and Teaching at 42 per cent of all minijobbers in the public sector, followed by the Health Service at 26 per cent.<sup>18</sup>

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<sup>17</sup> Minijobbers are recorded not in terms of status but of their income.

<sup>18</sup> Evaluations by the Minijobzentrale’s, the office collecting preliminary data on minijobs, show different findings (Czerwick 2007, 2010). It is uncertain whether, taking as a basis the employment segments selected there, the mere addition can produce a valid approximate value. In contrast, studies based on the company panel of the Institute for Employment Research (IAB) produce a rate of just 3 per cent of all public sector employees, which is considerably below the private sector figure (Ellguth/Kohaut 2011, 2013).

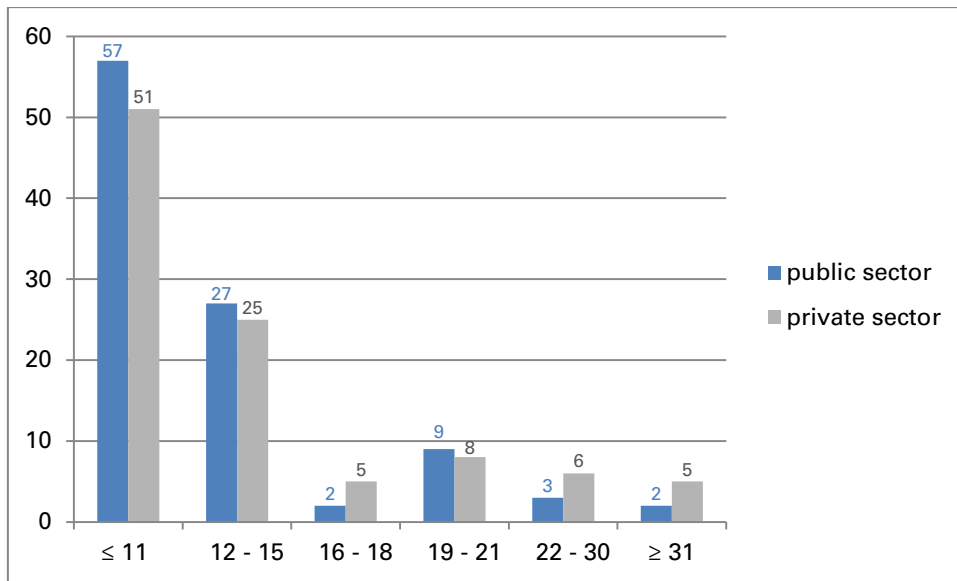
**Chart 5: Qualification structure of minijobbers public sector 2012, in per cent**

Source: SOEP 2012; own calculations

Based on SOEP data, the qualification structure of minijobbers in the public sector shows several anomalies compared to the private sector (Chart 5). More than a quarter do jobs that do not require vocational training, whilst it is only 8 per cent among the other employees. What is noticeable is the relatively low proportion (22 per cent) of people in marginal employment in jobs requiring a college or university degree, as opposed to 38 per cent in the private sector.

The Hartz reforms abolished the limit on weekly working hours (15 hours). The majority of minijobbers remain below this threshold (Chart 6), about one in six work longer hours, some even considerably more than 20 hours a week, which means that with these working hours only low hourly wages can be achieved.

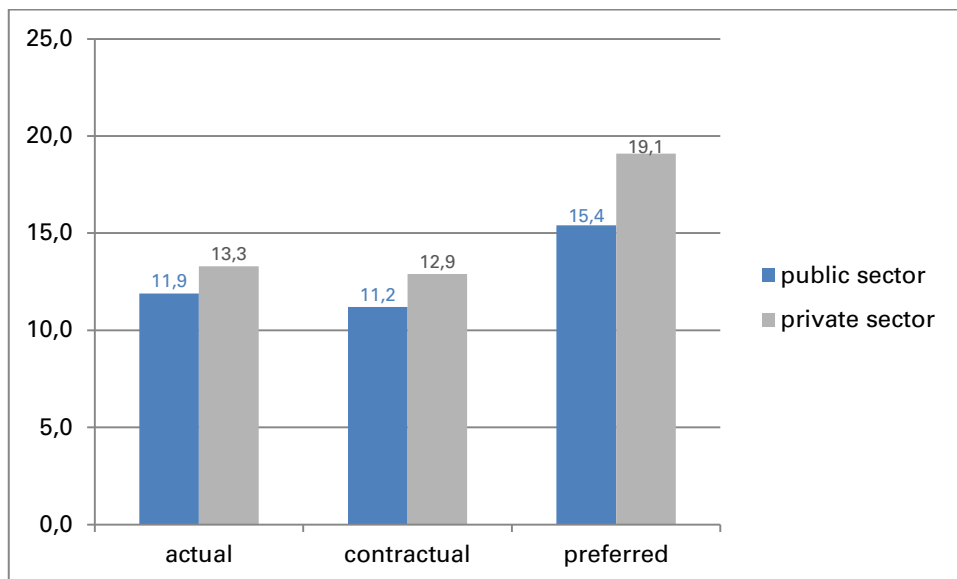


**Chart 6: Working hours per week of minijobbers, public and private sector, in per cent**

Source: SOEP 2012; own calculations

The working hours structure shows only few differences compared to the private sector. At 11.2 hours the average working hours are slightly fewer than in the private sector (13.1 hours), the proportion of employees with working hours below the 15-hour mark is slightly higher and the proportion over 21 hours slightly lower. On the basis of the statutory minimum wage of 8.50 euros introduced at the beginning of 2015 for the private as well as for the public sector, the top limit of working hours calculated is just under 13.5 hours a week. Longer weekly working hours would legally substantiate an employment relationship based on midijobs or part-time work partially resp. fully covered by compulsory social security provisions.

**Chart 7: Factual, contractual and preferred weekly working hours of minijobbers, public and private sector 2012, in hours**



Source: SOEP 2012; own calculations

According to statements of minijobbers themselves they work on average slightly longer hours than contractually agreed. Their actual hours do not equate to their preferred working hours, though (Chart 7). There is a gap between preference and reality in working hours, much more so in the private sector than in the public sector. They prefer longer working hours than the former hours limit of max. 15 hours.

## 2.5 Midijobs

There is barely any mention of midijobs in academic debate and political discussion. This is an employment form introduced as part of the Hartz Laws representing a sub-form of part-time work. The incomes are in a "transition bracket" ("Gleitzone"), between 401 and 800 euros until 2012, between 451 and 850 euros since 2013. The social security contributions rise gradually up to the full amount. Midi-jobs expanded markedly to nearly four per cent of employees in 2012 (Keller/Seifert 2013). SOEP data come to a comparable figure, with 3.9 per cent for the public sector and 4.6 per cent for the private sector.<sup>19</sup> Thus, in quantitative terms they are less frequent than minijobs but more frequent than agency work.

<sup>19</sup> The percentages are calculated on the income bracket between 400 and 800 euros, as the Federal Statistical Office sources available do not make any statements about this form of employment, similar to the case of minijobs.

## 2.6 Agency work and service contracts

The original aim with temporary agency work (Leiharbeit) was to cover staff requirements occurring at short notice. Data for the public sector are available only on the federal, not on the state and municipal level (Czerwick 2010, 171). Temporary agency work plays a lesser role in the public sector as a whole than in the private sector (Ellguth/Kohaut 2011), where primarily large companies from the manufacturing industry make use of this form. According to SOEP data, in 2012 the proportion of temporary agency workers in the public sector was 1.9 per cent and in the private sector 3.5 per cent. Admittedly the specific activities especially in “Education” and in public administration ought to preclude temporary work. There is no requirement for flexibility comparable to that of the private sector to use fixed-term work to bridge economic cycles. Temporary requirements (among others sickness, sabbaticals) are usually covered by fixed-term contracts rather than temporary work.

According to federal government figures, in 2009 there were 509 temporary workers in Federal Ministries and subordinate authorities (Deutscher Bundestag 2009, 15). In 2010 there were 1,593, in 2011 1,089 (Deutscher Bundestag 2012, 2). In 2012 “the proportion of employees in temporary work was on average below 0.1 per cent of federal government employees” (Deutscher Bundestag 2013, 2; own translation; similar in Deutscher Bundestag 2012, 3).

Service contracts or freelance work can be regarded to a certain extent as the functional equivalent of agency work. In the economy as a whole the number of freelancers rose significantly between 2002 and 2012 from 350,000 to 600,000, the figure, however, still being below that of agency work (Hohendanner 2014). The employment segments in which freelancers with service contracts are disproportionately common include “Education and Science”, where they work for instance as highly qualified lecturers in the education sector (Hohendanner 2013b). To summarise: “The simultaneous existence of regulated (or “more expensive”) forms of gainful employment and under-regulated or less expensive forms of employment is characteristic of the German employment system.” (Hohendanner 2013b, 5; owntranslation).

## 2.7 Preliminary conclusion

The data confirm that – contrary to a widespread preconception among the general public and in parts of academia – atypical employment has long had considerable importance in the public sector as well. In 2012 the figure of 37 per cent in the public sector equated by and large to that in the private sector (36 per cent).<sup>20</sup> In contrast, traditionally the relatively homogeneous SEC dominated, both in the public sector’s self-conception and in actual fact; their dominance has been decreasing in the public sector, too, for a long time (Warsewa et al. 1996).

The long-term trends in part-time and fixed-term employment contracts outlined above show that these are in no way current trends as a reaction to growing budgetary deficits caused by the financial and debt crisis. Instead, public sector employers have long been under permanent

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<sup>20</sup> Interestingly enough, this is not a German peculiarity. For similar long-term developments in the UK see Edwards 2006.

pressure to consolidate, and have been extending certain atypical forms of employment appropriate to their budgetary and funding problems as well as to specific tasks.

The data further confirm that public sector employers' staffing policy and staff management in the federal states, with its strict allocation and delegation of public duties, are not standardised or closely co-ordinated either vertically (between the regional/local authorities) or horizontally (on the level of individual authorities).<sup>21</sup> The local authorities in particular are banking on further flexibilisation measures by expanding atypical employment conditions, as their options are restricted by law (Keller 2014). Moreover, there are marked differences with regard to individual employment segments, which are exposed in varying degrees to competition conditions besides legal-institutional conditions (for examples, Kroos et al. 2011).

When differentiating by status groups, employees subject to collective agreements are more often affected than civil servants. This distribution is explained by differences in the enshrining in law of their employment conditions and duties. In a legal perspective, public authority tasks are usually allocated to public sector employees in a special relationship of service and trust under public law (Art. 33, para. 4 GG). These duties are reserved for civil servants and are not allowed to be performed by fixed-term employees, minijobbers or agency workers. There are no fundamental differences in part-time employment. Once originally existing legal problems have been clarified, it is also an option for civil servants; however, they avail themselves less frequently of this option than employees subject to collective agreements do.

The differences between the private and the public sector relate not so much to the total scope/percentage as to the use of specific forms of atypical employment. Compared to the private sector, the public sector as part of the service sector evinces differences in the intensity of use, viz. a higher percentage of part-time work, roughly the same percentage of fixed-term work and minijobs, and a lower percentage of agency work. They correspond to the specific conditions of providing public goods and services (such as less dependency on the economic cycle than in the manufacturing industry, a high percentage of goods and services to be provided because of legal requirements, larger employment and administrative units).<sup>22</sup>

Another point to mention is that atypical forms of employment can also occur in combination, including part-time and fixed-term work for new recruits, for instance as analysed in higher education or schools. This produces a combination of resultant problems in the public sector, too, from an employee's viewpoint, i.e. greater employment risks and precariousness risks.

The gradual re-orientation of staffing policy towards "Economising employment conditions" (Czerwick 2007, 136) includes creating further flexibilisation potential by extending atypical forms of employment. In the public sector these are both internal variants (chiefly part-time work, less marginal employment) and external variants (chiefly fixed-term work, less agency work) (Keller/Seifert 2013).

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<sup>21</sup> There are considerable differences in the proportion of staff expenditure to total expenditure (federal government about 10%, states about 37%, local authorities about 26%) (Keller 2011, 2340f).

<sup>22</sup> There are similarities with the distribution of the forms of employment in private service sectors, such as a low percentage of agency work.

## 3 Atypical and precarious employment

Unlike the public debate and parts of the academic discourse, there is an ongoing controversy concerning definitions. Sometimes both terms are used as synonyms. We systematically differentiate between atypical and precarious forms employment (Keller/Seifert 2013). Not all atypical forms are necessarily precarious, and conversely SEC are not devoid of risks of precariousness risks. Part-time work can not be regarded as precarious in the case of long working hours and high wages.

### 3.1 Risks of precariousness

Core precariousness risks are: income, stability of employment, employability and social security (Keller/Seifert 2007, 2013). They relate to the labour market and cover its short, medium and long-term risks. Differentiating between various precariousness risks that can be operationalised enables a differentiation between forms and therefore a more elaborate consideration. Altogether, atypical forms of employment are much more frequently prone to short, medium and long-term precariousness risks than standard working conditions (Keller/Seifert 2013). This general finding applies to both the private and the public sector.

#### ***Low-wage risk***

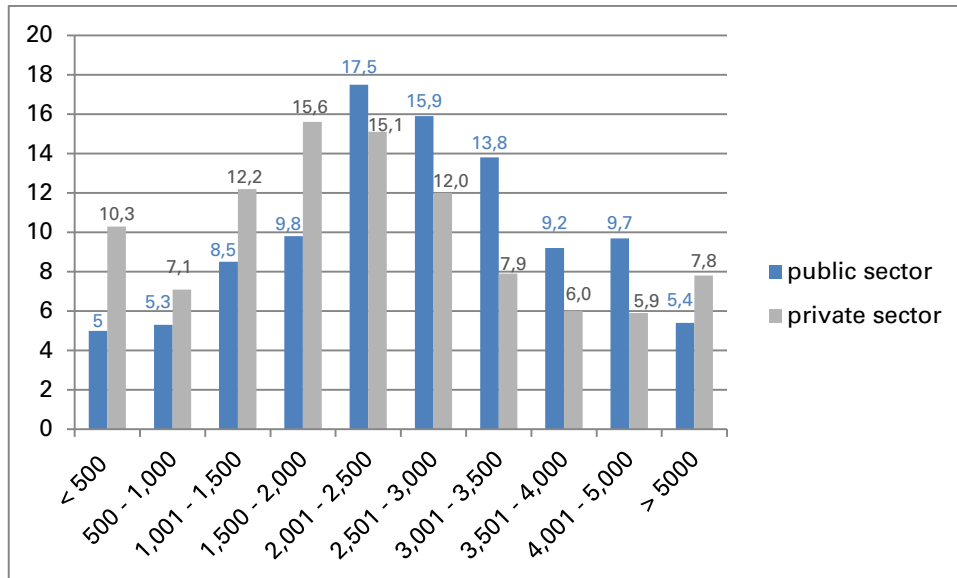
In the short term social risks can occur because of wages that are too low. These risks of precariousness are less marked in the public sector, as the coverage rates of collective agreement (at over 90 per cent) are relatively high (Ellguth/Kohaut 2011). Moreover, the pay structure in the public sector is more compressed than in the private sector, i.e. the incomes of the lower pay groups are relatively higher (Tepe/Kroos 2010).<sup>23</sup> Under these circumstances it is not surprising that, according to SOEP data for 2012, the average hourly wages in the public sector are clearly higher at about 18 euros than those in the private sector (16.17 euros). The differences in wages are even greater if we take the median figure as the basis: public sector 16.8 private sector, 13.9 euros. In the short term social risks can occur because of wages that are too low. These risks of precariousness are less marked in the public sector, as the coverage rates of collective agreement (at over 90 per cent) are relatively high (Ellguth/Kohaut 2011). When comparing hourly wages, however, we must bear in mind that the percentages of employees in the public sector with higher qualifications are greater than those in the private sector.

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<sup>23</sup> The pay of the lowest group in 2014 was between 1,542 and 1,719 euros (WSI-Tarifarchiv 2014).

There are also marked differences in the distribution of monthly gross incomes (Chart 8). There are many more people in the lower income classes in the private sector than in the public sector. This structure is partly due to the higher percentage of minijobs and midijobs in the private sector.

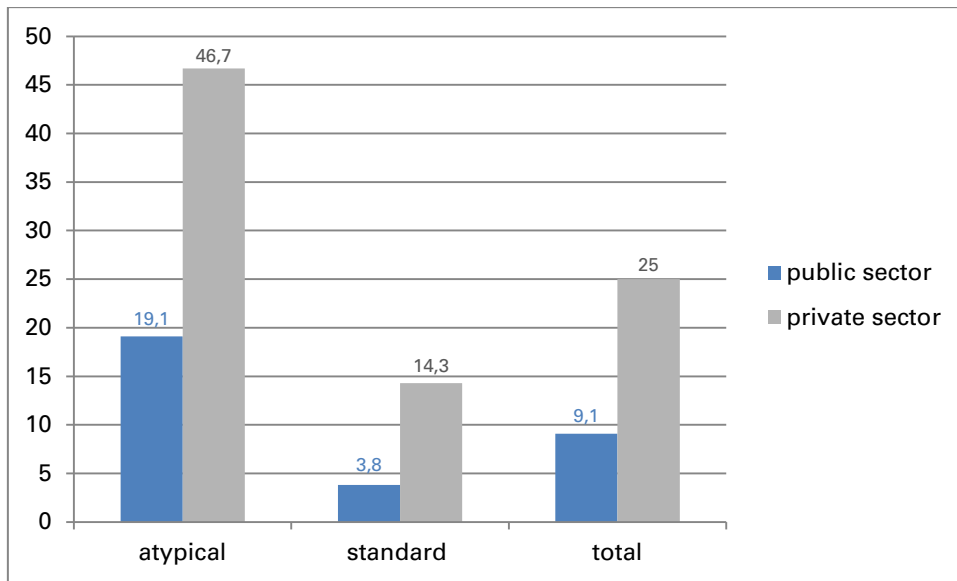
**Chart 8: Monthly gross income, public and private sector 2012, in per cent**



Source: SOEP 2012; own calculations

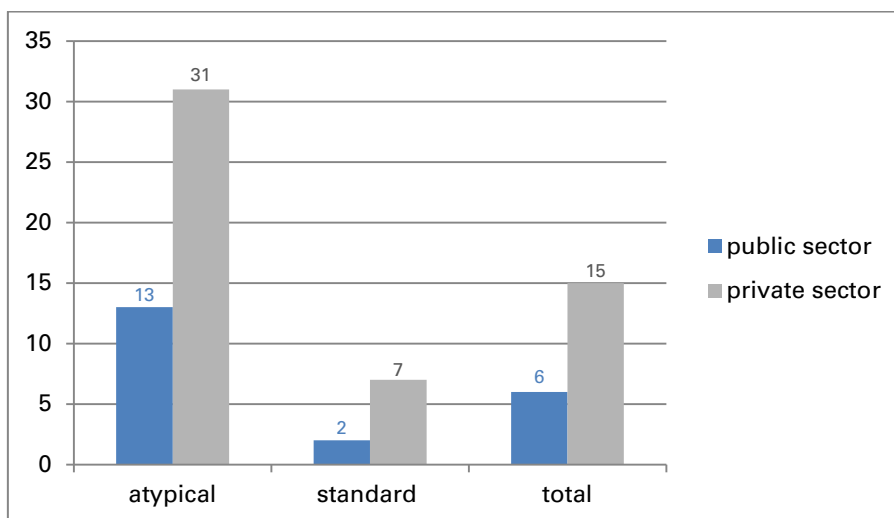
The percentage of low-wage earners indicates the extent of precarious wages.<sup>24</sup> In 2012, at about 9 per cent it was decidedly below the private sector level of 25 per cent. The differences between employees with SEC and atypical forms are also great. For the public sector the figures are 19.1 and 3.8 per cent, in the private sector they are considerably higher at 46.7 and 14.3 per cent (Chart 9).

<sup>24</sup> A low wage is defined according to international standards as a wage of less than two thirds the median wage.

**Chart 9** Percentage of low-wage earners, public and private sector 2012, in per cent

Source: SOEP 2012; own calculations

Accordingly the proportion of employees who have been receiving the statutory minimum wage since 2015 is markedly lower in the public sector at six per cent than in the private sector at 15 per cent (Chart 10). Whereas in the public sector 13 per cent of those in atypical forms of employment can expect a higher wage, in the private sector the figure is 31 per cent. The comparative figures among employees with SEC are manifestly lower: in the public sector the figure is only two per cent and in the private sector 7 per cent.

**Chart 10:** Percentage of employees with a wage below 8.50 euros, public and private sector 2012

Source: SOEP 2012; own calculations

The lower percentage of precarious wages in the public sector is associated with the lower percentage of minijobs, which are substantially affected by low wages. Income problems can occur in a part-time job held over a longer period associated with proportional reductions in income. For instance, if there is one income from SEC in a household, in phases a regular part-time job can be more likely to enable the compatibility of work and family or job and training/education than a full-time job. Therefore this situation can also be in the employees' interest, albeit with consequences for the individual pension.

### ***Risk of employment stability***

In the medium term, risks can occur because of frequently low stability of employment. This risk does not exist in the public sector in every form:<sup>25</sup> fixed-term employment, the second most common form of atypical employment in the public sector, is exposed to greater risks than regular part-time work. The stability of employment that is by definition initially lacking can in the long term result in gaps in entitlements to pensions. Analyses for 2008 confirm that job security for the majority of employees is still greater than in the private sector (Ellguth/Kohaut 2011). The risk of becoming unemployed is much lower. However, this analysis does not differentiate between forms of employment. It does show, though, that managing to switch from a fixed-term to a permanent job in the public sector is less frequent than in the private sector; the hurdles to escaping precarious employment are higher in the public sector.

### ***Risk of employability***

Securing and increasing employability in the internal as well as external labour market is substantially contingent on adapting professional qualifications to changing demand profiles, as well as on health status. Besides completed vocational training it depends on further training, which should be spread over the entire working life as far as possible.

There is little information available on further training activities in the public sector; existing findings do not address the specific situation of those in atypical employment. The data available do not permit any clear conclusions to be drawn. In a study focusing solely on local government, Bahnmüller/Hoppe (2011, 2014) reach the conclusion that a better position of the public sector cannot be assumed; it is no model of further training. Another study concluded that "the public sector ... (has) little more to offer" (Ellguth/Kohaut 2011, 27).

According to SOEP data, those with atypical forms of employment have better opportunities of further training in the public than in the private sector.<sup>26</sup> This finding applies to every qualification group (Chart 11). The numbers of those attending such courses in the private sector are only about half of those in the public sector, with the exception of employees with a degree from a college or university. The more intensive public sector qualification activities could be explained by the provisions of § 5 TVöD and TV-L, which although not providing for any individ-

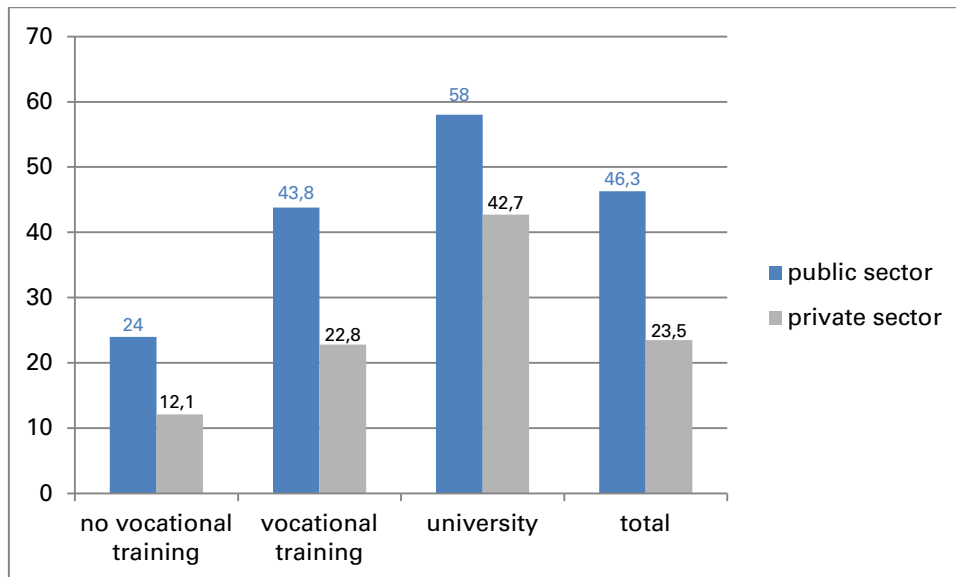
<sup>25</sup> In the private sector, too, regular part-time work does not present any particular short and medium-term risks in this respect, the average period of employment was about 11 years in 2008 and has slightly increased (Rhein 2010).

<sup>26</sup> The findings presented are based on SOEP data for 2008, as the subsequent survey waves contain no such questions. Here "professional further training" includes attendance of job-related courses.



ual entitlement of employees to further training, entitle employees to a regular discussion with supervisors about a possible need for qualifications.<sup>27</sup>

**Chart 11: Percentage of employees in atypical employment attending further training, public and private sector 2008**



Source: SOEP 2008; own calculations

### **Risk of poverty in old age**

In the long term there are considerable risks, especially in pensions, at least when we differentiate between own and derived (from spouses) entitlements and for reasons of equality we focus explicitly on the first category. As in Germany the principle of equivalence applies, the level of pension depends largely on the amount and length of contributions paid and/or previous gainful employment. The pension risks increase in the long term (especially with marginal employment/minijobs, as well as with other forms, even with long-term part-time work<sup>28</sup>). The problem is exacerbated by the further reduction in the net pension level from almost 50 per cent in 2012 to 43 per cent in 2029. Similar to the situation in the private sector, supplementary payments will then be required (basic subsistence income for the elderly), to be funded from tax revenues.

Conclusion: In terms of percentage there are almost as many employees in atypical employment in the public sector as in the private sector. However, the risks of precariousness are altogether markedly lower because of the pay structure, which is more favourable for the employees. On top of that, the coverage rate of collective agreements, which is considerably higher than in the private sector, protects employees, especially those with atypical forms, much better against precarious wages. And according to SOEP data, the conditions that maintain and increase em-

<sup>27</sup> We are unaware of any empirical analyses that highlight the organisational, temporal and financial framework conditions for the involvement in further training of employees in atypical forms of employment.

<sup>28</sup> The consequence of long-term halving of working hours is halving entitlements to pension insurance and therefore in most cases a pension that does not ensure subsistence.

ployability through further training are better for those in atypical employment. Despite the economisation trends, the public sector is still an employment sector with relatively low risks of precariousness.<sup>29</sup> It is, however, not devoid of precariousness.

### 3.2 Current developments

In the mid-2000s the parties involved in the collective bargaining of the new TVöD und TV-L introduced a low-wage group for “the simplest tasks” (E1) that had not existed in previous collective agreements. Its aim is to prevent further privatisations and outsourcing and/or to secure the competitiveness of the public sector vis-à-vis the private sector. The principle of the maintenance of acquired rights applies to every employee, which means this grading can affect only new recruitments, the number of which is low owing to the restrictive staffing policy.<sup>30</sup>

The number of employees in this pay group quadrupled between 2006 and 2011 (from approx. 4,000 to over 17,000). Its proportion of all employees has remained low (at 0.6 per cent), at least so far, despite a certain significance among new recruitments. The proportion of women is nearly 80 per cent. This grading acquires significance because of the distribution of tasks to be performed prescribed in law, primarily in local authorities and local authority associations (with a proportion of nearly 90 per cent), yet markedly less on the federal state level (just under 7 per cent) (Briken et al. 2014). There are fewer people in the low-wage group in the public sector than in the private sector segments (mainly commerce, hotel and catering, personal services) (Rhein 2013).

Discussion hitherto of the introduction of a universally binding, standardised minimum wage has barely considered the public sector (an exception being Stops/vom Berge 2013). Recent empirical evidence shows that employees in the public sector are less frequently affected than their private sector counterparts (Bellmann et al. 2015). A major reason is the already mentioned high coverage rate of more than 90 per cent (Ellguth/Kohaut 2011), which still exists despite the institutional changes towards decentralisation. The coverage rates – similar to the those on the company level – are considerably higher than those in the private sector and prevent a failure to achieve collectively agreed lower limits.<sup>31</sup> Moreover, the Law on the Posting of Workers (Arbeitnehmerentsendegesetz) prior to 2015 provided for higher minimum wages for specific segments (incl. nursing, waste management) that can be part of the public sector.

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<sup>29</sup> The analysis does not include employees in privatised firms in which it is assumed the risks of precariousness are considerably higher.

<sup>30</sup> This trend confirms that the risks of precariousness referred to are not the sole preserve of atypical forms of employment; their risks are disproportionately high.

<sup>31</sup> In actual fact the conditions agreed in TVöD and TV-L are probably met, which means the principle of “equal pay”, viz. the same pay for the same job, actually applies.

## 4 Conclusion

It is a long time since federal government, the federal states and local authorities were the “model employers” of the post-war decades, and they either no longer play their former exemplary role in shaping working conditions also in the private sector or do so only to a significantly lesser extent (Tepe/Kroos 2010; Briken et al. 2014). The previous dichotomy of public versus private employers has not represented the actual circumstances for a long time now. This development is characteristic not only of the Federal Republic, but also of other EU and OECD countries (Bach/Kessler 2007). The individual employers (and their associations) are the driving forces.

The other corporate actors, trade unions (of employees subject to collective agreements) and the associations (of civil servants) affected to a lesser extent, can only react; as a consequence of the heterogenisation of employment conditions a unified policy of interests is becoming more difficult. Employers are increasing their options and adapting their staffing strategies to those of private employers in times of continuing funding problems that public finances face in view of rising borrowing requirements and ensuing consolidation measures. They clearly differentiate between fields of employment; e.g. since the 1990s under the regime of new public management, especially its German version of the “new steering model” (Neues Steuerungsmodell) (Naschold/Bogumil 2000) they have been developing more market-oriented strategies in line with private sector models, and these are being used primarily on the local level.

The extreme segmentation of the public sector labour market described is definitely not a new phenomenon (Keller 1985, 1993, Henneberger 1997). Traditionally there have been horizontal and vertical dividing lines between its heterogeneous, permanently separated segments (partly because of the legal dualism of forms of employment and the resultant differing regulation modes). These tendencies towards division are boosted in the long term by the more or less systematic expansion of atypical forms of employment. As part of the heterogenisation that has occurred, which is now also tending in the public sector towards dualisation, there is a shift between the segments: the internal-stable (SEC and part-time work subject to social insurance contributions) segments represent the decreasing norm; the external-unstable segments (primarily fixed-term work) represent the increasing exception. The consequences within the public sector are a gradual reinforcement and strengthening of the already existing labour market structuring and/or an increase in the segmentation.

According to a different labour market theory (Lindbeck/Snowder 1988, 2001) the gap between insiders and outsiders is growing; one person’s protection (of the status quo) is the other person’s (employment) risk. The chances of permanent employment for entrants are worse compared to those of previous (age) cohorts owing to processes of collective closure, i.e. by the low number of recruitments and low rates of switching from fixed-term to permanent employment.

This fundamental re-orientation of employment strategies will continue apace, given the debt caps on a national level (Art. 109 GG) and EU level that have been introduced and will be implemented in the next few years; the consolidation of budgets will continue to affect all levels (federal government, federal states, local authorities).

Another consequence of the staffing policy in recent decades has so far not been given sufficient attention. The problem is that in future the public sector will be practically unable to com-

pete when it comes to recruiting highly qualified staff because of the conditions it offers (e.g. higher barriers to entry to the few clearly defined “ports of entry”, poor prospects on the career ladders of the internal labour markets due to continuing financial restrictions, smaller increases in income than in the private sector). This assumption is also valid precisely because of the advancing demographic shift, with smaller age cohorts entering the labour market at the same time as there is an increasing need for replacement in the public sector due to the less favourable age structure of its employees, who are on average older than those in the private sector (Altis/Koufen 2011, 1114f). The public sector risks falling behind in the competition for the “high potentials” because of its employment conditions for younger people. This risk applies mainly to skilled workers for whom public employers compete with private employers (doctors, IT experts, engineers, and nurses).

We have analysed solely the consequences of the expansion of atypical forms of employment for the employees and labour market affected. However, the consequences for citizens and consumers of the fundamental reorientation of the employment system, associated with substantial downsizing, are also considerable. They require in-depth political discussion, which has so far been lacking: what public sector do we want in quantitative and qualitative terms – and the use of what financial resources is it worth to us?

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