

# Survey on Non-Regular Employment in France : a Profile

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## Abstract

This paper outlines evidences and debates about non-regular employment in France. It assesses available empirical data and literature. Definitions, usual evaluations and main characteristics of the various non-standard employment relationships in France are first reminded. Then the reasons for use that are invoked by the academic literature, mainly in economics, are outlined and specifically opportunities for transitions to permanent positions and resistance of employment stability. A brief picture of the equal treatment issues is drawn. Finally are reminded the main economic and social issues in the recent years, since the 2008 crisis.

## 1. Definition of “Non-regular Employment,” Their Industrial and Occupational Characteristics, etc.

### 1.1 How is each of these non-regular employment types defined according to the law? And how do these types of non-regular employment overlap with each other?

In France, the expression “non regular employment” (also called in this country “atypical employment,” or “non standard job forms”)<sup>2</sup> are used to emphasize that some employment relationships are different from the standard one, under the Labor Laws, that is, full time employment with an open-ended work contract. It does not mean that there are no regulations for non-regular contracts, but that these non-regular contracts are regulated by special rules, out of the common law.

French data are generally concerned with: temporary agency work, apprenticeship, other temporary contracts than temporary agency work (fixed-term contracts), and more often part time work, either with open-ended or with fixed-term contracts (see Table 1).

#### *Temporary employment*

The European data does not separate TAW and fixed-term contract, while the French data do.

Temporary Agency contracts are depending on highly specific regulations compared to

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<sup>2</sup> See Germe et Michon [1979-80] or Michon [1981].

other contracts. Agency Employment Relationship involves three partners. The French Labor Laws distribute rights and duties of employers between the private employment agency and the user firm. They intend to protect temporary agency workers against social risks of a too much diffused temporary work, and to protect standard workers against some unfair competition of temporary work agencies and agency workers.

Fixed-term contracts include not only ordinary ones, but also subsidized contracts (over 1,200,000 jobs) that are referring to a large variety of regulations<sup>3</sup> (see Table 2). They also include many kinds of traditional temporary contracts.<sup>4</sup>

Apprenticeship contracts are dissociated from fixed-term contracts and subsidized contracts even if they may be fixed-termed and subsidized.

### ***Part-time employment***

In France every employee that has a shorter workweek than the legal or conventional workweek<sup>5</sup> is part timer. Part timer may have an open-ended or a fixed-term contract. An important share of temporary contracts is for part timers (21.1 % of part timers among fixed-term contract, 15.4% among open-ended contracts).<sup>6</sup> Three additional points are useful.

- Firstly, it means that there is some overlapping between temporary contracts and part time contracts (Table 3), and the number of non-regular jobs is not the addition of temporary and part time jobs.
- Secondly, there is a clear differentiation between temporary and full time contracts on the one hand, and temporary and part time contracts on the other hand (*see under, and Cottrell et alii [2002]*).
- Finally part-timers are protected by some specific regulations (about their working hours, and their social security coverage). Nevertheless, French part-time is mainly for women (31.4% of employed women are part timers, 5.8% of men). And the part time is mainly involuntary. So it is not surprising that part time is highly discriminating. Part timers are suffering large inequalities (wages, careers, social security coverage) [Maruani, 2005]. That is the reason why, even with a standard contract, part-time is viewed in France as non-regular employment, even as underemployment [Bouillaguet-Bernard and Michon, 1981; Maruani and Michon, 1998].

### ***Other non regular employment relationships***

Statistical data, as produced by the official measurement system, only evaluate these nonstandard contracts that are formally regulated by law or collective agreement. But non-regular employment is not limited to them. By consequence, statistical data do not produce any evaluation of other non-regular employment that remains informal, when it exists. Statistical data can give only a schematic view of the complex reality that constitutes of the non-regular employment.

Of course,

- it cannot be excluded that there are some relationships non regulated by law, even

<sup>3</sup> These regulations appear and disappear with changes of the public employment policy, according to the change of political majority. They are integrated within the fight against underemployment, and more often they are targeted to young people, new entrants on the labor market.

<sup>4</sup> These traditional temporary contracts are fixed-term but have specific regulations (especially, some of them have to be authorized by a sectoral collective agreement, they may have their own unemployment benefits...). Many of them are seasonal and used in sector with high seasonality.

<sup>5</sup> In case when the collective agreement decides a shorter standard workweek than the legal one.

<sup>6</sup> Temporary agency contracts are highly different, a large majority is with full time hours (table 2).

- clearly illegal,
- there is a full set of employment relationships that are unclear with regard to the formal regulation), in this way that they can be considered as permanent employment as well as temporary employment, depending on the view point,
  - many non regular contracts do not imply employment instability, many regular contracts do not protect against employment insecurity, the strict relationship between insecurity and employment contract that is generally supposed is not verified,<sup>7</sup>
  - beside dependant employment, independent employment is increasing again after decades of decrease, this new independent employment is often considered as a disguised dependant one, according to the fact that these workers are subordinated in a way that can be compared to employee subordination.<sup>8</sup>

### ***Final assessment***

It has been evaluated that 1/4 of employees have a precarious or unstable position [Rouxel, 2009<sup>9</sup>]. Many studies observed that part timers are suffering high precariousness [Askenazy et alii, 2009]. Some others observed that non-regular employment does not suffer systematically harder working times [Cottrell et alii, 2002]. In other words, precariousness does not appear so strictly associated to non-regular employment as it is often assumed. And open-ended contracts are not always producing employment stability, as it was observed during the 2008 crisis.

### **1.2 In what industries do these non-regular workers work? What are their occupations? How are they distributed in terms of attributes (for example, distribution by gender, age, qualification, ethnicity, etc.)?**

It can be observed that the various non-regular employment relationships have each their own uses; each of them is used in its specific industries, for some specific jobs, for some workers groups. The typical temporary agency worker is a young man, blue-collared, unskilled, working in car industry, construction, and food industry. Fixed-term contracts are clearly reserved for women, white collared and unskilled, in services. Part-time employment is even more used in services, and almost restricted to women. All this is not new, and even if some change may occur, these characteristics are persisting.

### ***Industries, occupations***

In France, Temporary Agency Work (TAW) is highly concentrated in a few numbers of manufacturing sectors and in construction (Table 4). This explains why agency workers are in a large majority blue-collared: 38.4 % of unskilled blue collars, 39.4 % of skilled blue collars.

Fixed-term contracts can be observed in services mainly, and specifically in services for individuals (health, education) [Brunel, 2007] (Figure 1).

Temporary employment is also increasing within the public sector. In France, employment in public sector (employees of the State administration, of the local public administration, of health institutions) includes people hired with a special procedure that gives

<sup>7</sup> See under.

<sup>8</sup> New employment relationships are developing today, partly depending on some subcontracting or externalization of activities, partly depending on some kind of manpower subcontracting and externalization of employment. They mean partly a real independency, partly a hard subordinate position.

<sup>9</sup> Such evaluation includes i) people that have open-ended contracts but are involuntary part timers, and ii) people with open-ended contracts, that are afraid to lose their position during the next year.

access to a formal status. This status is highly protective against dismissals and gives a very good social welfare. But public employment is also including non-regular employment (14 % in 2007, 2 % in 1982 [INSEE, 2010]): fixed-term contracts or people without any formal status (no labor contract, no employment protection).

Part-time is mainly localized in services, and more generally where employment is largely feminine: services to individuals, education, health, social activities, administration of service sectors (Table 5). It is concentrated within white-collars, but also within intermediate occupations (Table 6).

### ***Sociodemographic distribution of non regular workers***<sup>10</sup>

Even if non-regular employment is increasing within new workers groups, it is highly unequally distributed. It is mainly for women, young people, and the less skilled (blue or white-collars). Such workforce groups are targeted by non-regular relationships, they have been the main carriers of the various non-regular employment status. In this way, they have had a key function for the change of employment relationships and labor market structurations [Lefresne, 2006b].

### ***Temporary employment***

Compared to permanent employment, that is here open-ended contracts, it is obvious: women are less present within the group of independent employed, within temporary agency work and apprenticeship; they are more present within fixed-term contracts. This is highly dependent on sectors and occupations that are using women workforces (Table 7).

Age distribution is also highly distinctive (Table 8). Older workers have more frequently permanent jobs. Non-regular jobs are more and more for younger workers. With the high precariousness that is imposed during the first years of work, the young people are now the main carriers of new employment relationships.

Finally, temporary jobs are highly associated to low levels of education and a weak seniority since the end of the initial education (Table 9). A recent way-out of the initial educational system together with a low level of education gives a high risk to be forced to temporary jobs. It means that the increasing level of non-regular employment does not arrive with people that had previously regular jobs and are forced to accept non-regular ones. It arrives when older workers are replaced by younger people that are entering the labor market.

### ***Part-time***

Women have 80 % of part time jobs. It is near 85 % in services and more than 75 % in manufacturing. The few number of male part-timers is present in services for individuals (in this sector, 25 % of part-timers are male), in health and education sectors (a little more than 10 %) [Ulrich and Zilberman, 2007]. These male part-timers are frequently working during their educational time, in order to fund their studies (24 % of male part-timers) or because they cannot have other job than a part-time one (30 %).

Furthermore, part timers are young, especially when part-time job means a very short workweek (Table 10).

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<sup>10</sup> In France there is no quantitative data about ethnic groups. Such data are forbidden by-law. They are considered as dangerous, able to encourage racist ideas.

### **1.3 How has the number of each type of non-regular worker changed over the past 10 to 15 years?**

From 1985 to 2005, the increase in temporary employment is fast (Table 11). The stronger growth is for temporary agency work. It has increased its weight (within the total employment) fourfold. But, for other temporary statuses, especially subsidized jobs and apprenticeship, the levels appear to remain rather low. It means that the observed rhythms of increase must be put into perspective. High rates of growth are not really significant when levels are so low. Nevertheless, the decisive point here is that the non-regular employment rate is much higher within workforce movements than within the full work force. It means that despite its rather low levels, non-regular employment has a highly decisive position on the labor markets. It is supporting changes.

Part time weight has increased twofold from 1982 (8.2 % of employees) to 2005 (17.9 % of employees). Still, the evolution profile has been rather chaotic, with years of stagnation or even clear decrease (especially when the 35 hours workweek was implemented for full timers), and years of fast growth.

## **2. Increase in Non-regular Employment, Decrease in Regular Employment?**

The increase in non-regular employment appears to be compelling in the long term. Reasons are well known. Everybody can agree that today, within a very hard international competition, employment flexibility is essential. But its consequences are also very hard in terms of workforce protections. How is it possible to develop any flexibility that could maintain workforce protection, which is the famous flexicurity so suggested by the European policies? It is clear that in France, non-regular contracts have a major function in the implementation of a better flexibility and their influence on workforce precariousness is vigorously discussed since the 1990s. First, outlined below is the general discussion about the reasons why non-regular employment is increasing. Second, it is reminded that the permanent employment is not so fragile than it is often asserted.

### **2.1 What is the reason for the increase in non regular employment?**

Within the general environment of the global economic competition, firms have to develop their responsiveness to market changes (in other words their flexibility) to increase their competitiveness. Five key points can be referred: i) changes in the labor market equilibrium in France; ii) rigidities of the French regulations; iii) the pernicious effects of the public policies that tried to facilitate a higher flexibility to French enterprises; iv) the complementarities/substitutability of the various non-regular contracts for the same flexibility function; v) the willingness of non regular employment.

#### ***Changes in the labor markets***

This issue is not so discussed as other ones listed above, either because it is so obvious that any debate is not necessary, or because it emphasizes how much the French system of Industrial Relations is suffering hard limitations that benefit to employers and gives fragility to unions action.

During the 1960s, after more than two decades of very hard shortages of labor, a complete reversal of the equilibrium occurred. A slower economic growth faced numerous

arrivals of young people on the labor market (the so-called *baby-boom* of the after-war), and a fast increase of women participation that produced radical changes of the women position within the employment. Excess of labor became more and more distinct (except during the short period of very rapid economic growth) and the economic growth was not fast enough to reduce the high unemployment.

The main point here may be that this new labor market situation modified the equilibrium of power relationships between employers and employees and hardly reduced the power of employees to maintain the social welfare they had obtained during the previous period of rapid economic growth, and especially the power to protect its main symbol, the permanent (regular) employment as a common law contract, with all its protections and advantages. The defense of the regular employment becomes weaker and weaker. More precisely, this defense begins to be relegated to some restricted employment areas, where permanent employment remains a compulsory, inevitable, reference. It begins to be powerless to protect large areas where workforce groups were less unionized, or less involved in any struggle for social welfare. Non-regular employment was increasing in these areas. It means a real gap between insiders that have permanent contracts and outsiders, either new participants to economic activities or people that have been trapped in employment insecurity.

This was the situation from the 1970s to the beginning of the 2000s. Today we may enter in a new situation that is not so clear.

- On one side, labor supply is not so abundant. The baby-boom generations are reaching their retirement ages, working hours are reduced. Some local shortages are reappearing.
- But on the other side, the 2008 crisis generates again labor surplus and unemployment increases. Is the gap between insiders and outsiders changing again? The crisis is so deep that the employment decrease is not limited to unprotected, non-regular employment. The permanent employment of insiders is also weakened (see under).

Finally, it is difficult to have any clear idea of the future: it is probably not the end of the permanent employment. But it appears to be a new step towards a smaller area for permanent employment and a larger area for non-regular employment.

### ***Rigidities of employment regulation in France***

The international debates are always describing the French regulations as too much rigid, compared to other industrialized countries, especially the European Union member countries. This is also discussed by the internal political debate. Issues invoked today by the French political majority are significant. France would be a rigid society that needs complete changes of regulations. Especially for employment topics: labor market regulations should be changed, because they tend to limit individual initiatives, and are opposing to job creation.

One of the more debated issues is the nature of the employment contract, that is, the nature and the complexity of the set of regulations that are included in the common law contract (the full time and open-ended one) and especially the dismissal regulations. The purpose of such regulations is to protect employees against all kind of discretionary power of employers. Consequently, it limits the right of enterprise to dismiss anybody when it is judged necessary. The idea discussed here is that employers should prefer to hire with non-regular contracts in order to dismiss easier (without any formal and compulsory process) when workers prove to be unsatisfying. According to Cahuc and Kramarz [2004], the French formal processes for any dismissal (either dismissal for reasons related to individuals, or redundancies) are so complex and costly that this could explain why the number of open-ended contracts may be decreasing. For the employer, the risk of hiring is lower when any non-regular

contract is offered.

This is the main idea that justifies the new employment policies that has been implemented in the 2000s and mainly since 2005: either various attempts to change common law regulations of the employment contracts (to reduce the complexity of regulations with a new single employment contract substituting to all the existing ones, regular or non regular); or the new working time policies that contest the 35hours work week [ Michon, 2009-a].

### ***The pernicious effects of the public policies***

When the French academic debate began to be interested in the flexibility issues, in the beginning of the 1980s, it emphasized that flexibility has many ways and does not necessary generate either employment insecurity or any alternation of job creation and job cuts. Some literature opposed an internal flexibility (flexible organizations, higher and multipurpose skills, flexible working hours without any incidence on employment insecurity) to the easier way of external flexibility [Michon, 1987].

In the 1980s and 1990s, the main choice of employment policies was the working hours reduction in order to protect jobs and/or create new jobs. These policies not only promoted the working hours reduction and the work sharing. Besides and narrowly related to working hours reduction, was the promotion of internal flexibility (specifically flexible working times, flexible organization...). There was formally no incitation to develop non-regular employment but to the contrary to better regulate non-regular employment. The real purpose was to protect employment security and to develop in the same timework flexibility for insiders. Nevertheless, this does not create any successful obstacle to any process of non-regular employment scattering, the short period of the 35 hours workweek implementation excepted.

But in contrast, French employment policies have been and are always largely based on the so-called subsidized jobs. To encourage job creation with some cost facilities, these subsidized jobs support numerous reduction of the social security contributions paid by employers. The more often, these jobs are especially designed for some well-defined workforce groups (especially younger's), with low skills and/or wage levels. For the past 30 years, every political change had implied new kinds of subsidized jobs, added or substituted to the old ones. In other words, to favor unemployment leaves towards employment, the subsidized job statuses have been largely diversified and the subsidized job numbers grown fast. But these jobs are not permanent. In this way, employment policies favored new kinds of temporary contracts (Bevort, Lallement and Nicole-Drancourt, 2006).

### ***Complementarities and substitutability of non-regular contracts: the sector practices***

Statistical distribution of non-regular jobs suggests that there is a kind of gentleman agreement between the various non-regular contracts. Every status may have (for the employer and even for the employee) its own advantages and disadvantages. And every sector is using it own flexibility tools. Bunel [2004] reminds that according to a 1999 survey, the main tools used by firms to face economic fluctuations are i) overtime, ii) temporary contracts. Here the main points are: i) some substitution can be observed between fixed-term contracts and temporary agency contracts; ii) on the other hand, temporary agency contracts and overtime are often used together, they appear to be complementary.

Temporary agency work is mainly used to compensate absenteeism or to face activity

peaks (either or not anticipated) [OTT, 2008].<sup>11</sup> Specifically, these reasons are clearly more present than any seasonality of the job itself. Sectors that have highly seasonal fluctuation have their own seasonal contracts, specific to each sector.

Cades studies focusing on a few numbers of sectors can give some additional information about firm choices between these various tools for flexibility. A recent case study [Erhel, Lefevre and Michon, 2009] reveals that in the service sector temporary agency work is intensely competed by other temporary contracts. Even if these contracts are temporary, they are permanently present. Their status may be purely sectoral or specific to some occupations, e.g. the so-called “extra contracts” in the hotel business. It may be of general use, in any sector (apprenticeship, training courses, part-time). In any case, wages are lower than those of temporary agency work. And they give a higher flexibility than agency work, taken into account that in France regulation of agency work is very strict.

But in some manufacturing sectors, and especially in Car Industry or in Construction, it is well known that the temporary agency work use is not only very important, but is largely permanent. This permanent presence has two aspects. First, levels of agency work are high and stable (around 20% of the total workforce in subcontracting firms of the great car builders). Secondly, the same people can be employed as agency workers for a very long time, in the same user firm and with the same agency. Is it out of law? Yes and no. Yes, because law explicitly forbids it. No, because there is a set of ways to be formally “in-law” but using some tricks to legally pass through the legal obligation.

Finally, today, i) non-regular employment belongs to a set of flexibility tools that are offered by the French legislation and that are not restricted to the various employment contracts; ii) non-regular employment means a large range of employment contracts. Each has its own use, but each firm or sector has its own behavior and makes its choices for use. Finally, behind the statistical regularities, the whole situation appears to be a great “bricolage”.

### ***Is non-regular employment voluntary/involuntary?***

In France it is generally considered that the flexibility issues focus on firms, their organization and their human resources policies better than on individual choices. What are discussed are mainly the flexibility needs of firms, and debates are rarely referring to life courses and improvement of a better equilibrium between working life and family life.

Is it possible to have a pure free choice of the organization of its own life? There are no choices without any constraints [Freyssinet, 1999]. And it is in fact impossible to isolate what is a real willingness, a real choice for part time (or for temporary work) and what is only an adaptation to the shortages of full time / permanent jobs and to any high unemployment.

Any way, from this point of view, a few points can be reminded.

- Even if, filling in a questionnaire, individuals may declare that they are voluntary for this kind of employment, detailed collected information always shows that it is a matter of individual and /or job profiles, of individual competencies, of employer's recruitment preferences. In France, non-regular employment is concentrated in low skills, low wages, and hard and even dangerous working conditions. This only observation gives a high doubt about any real individual willingness.
- Among people who already have a job and try to change their jobs, many clear

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<sup>11</sup> In France the legal status of temporary agency work requires that the firm's use of temporary agency work has to be compatible with a set of formal reasons, explicitly dictated by law: absenteeism, extra work, to replace people whose contract is over, urgent work and since 2005 a few number of reasons related to the individual that benefits from the assignment (on the job training, people that are in a difficult situation).

differences can be observed according to the kind of jobs they have. In 2008, people with a permanent and full time job are searching better working conditions, more interesting tasks; individuals with a temporary full time job are motivated to reduce the risk of job losses; part-timers are searching higher incomes.

- In 2006, 54% of temporary agency workers are agency workers because agencies allowed gaining a job faster [FPETT and BVA, 2006].
- Part time is concentrated in women work forces. In France, historically, when women began to massively access to the labor market, it was with full time jobs. Women activity has never been associated with part time as it can be in some other European countries.

Maruani [2000] prefers to talk of reduced hours jobs (part time that is proposed by employers) on the one hand and part time employment (part time that is with the initiative of the employee) on the other hand. According to Bué [2002], the first type amounts to 1/2 of the women part time. According to Daune-Richard [2004], the first type focuses to low skills, short working hours, and time schedules largely opposed to family life (for example a long break in the beginning of the afternoon and working hours in the end of the afternoon when children are back at home).

By the end of the 1990s, it was observed that the open-ended and full time contract remains the great reference for all individuals [Cancé, 2002]. If there is some choice, individuals always prefer an open-ended contract, every other things being equal. But it is also evident that any access to regular employment is difficult. And non-regular employment may become a trap without any way-out.

- In 2006, only 27% of hiring has open-ended contracts [Givord, 2006].
- And subsidized jobs do not appear to facilitate any access to regular employment: one year after, only one out of eight gains a regular contract (for unemployed the proportion is equivalent) [Fendrich and Rémy, 2009].
- Di Paola and Moullet [2003] observed that for young people arriving on the labor markets, temporary employment could be a bridge towards permanent jobs, but only if it has a short duration. When duration of temporary jobs is lengthening (even if short temporary jobs are succeeding each others), temporary employment becomes a trap and it is more and more difficult to go out.
- It appears to be easier to cross from part time to full time when part timers have long working hours. By the fact, short part time hours are much more fluctuating (according to the employer needs), than long part time hours that seems to be a matter of working time organization to satisfy women demands (the free Wednesday, a day without school for children: 4/5 of standard hours) [Oliveira and Ulrich, 2002].

## **2.2 Is there a growing trend whereby non-regular employment is replacing permanent employment?**

### ***What about instability of non-regular employment?***

As issues analyzed here are mainly focusing on contract duration and renewals, only temporary contracts are considered here. Part time, when it has open-ended contracts, is not a problem from the present point of view.

- The French regulations limit duration of temporary contracts. The maximum duration is from 9 to 24 months including contract renewals, according to the reason of uses. It means that formally, temporary contracts cannot be permanently renewed.

- On the other hand, nothing can be opposed to any hiring of a temporary worker when it is proposed a permanent contract by the firm that is using him.
- Hiring with permanent contract may have less rigidity than temporary contract. By common law, permanent contracts have always a probationary period. During this period, it is easier to fire people, without notice. On the contrary, temporary contracts are difficult to break before the end of their time. In this way they may be less flexible than permanent contracts.

Anyway, from formal regulations to real behaviors, it may be a long distance. To our knowledge there is no information about the real average duration of open-ended contracts. But a set of points is well known:

- the assignment duration of temporary agency work is very short : 1.9 month (2008 average). In 2008, nearly half of temporary agency workers were assigned for less than 1.5 month during the whole year [Dolmens, 2009].
- some firms and/or sectors are permanently using a high share of their workforce with temporary agency contracts. And in many cases, for many years, these are the same individuals.
- for some firms (especially in the car industry, see Moncel and Sulzer [2006]) there is no hiring with permanent contracts that is not resulting from a selection within their young temporary staff (limited duration contracts of temporary agency contracts).
- many abuses have been submitted to the courts and unions obtained reclassification of the temporary contract to a permanent one. It means two contradictory points. i) Where there is no union (as is often the case in France), nothing can suggest that there is no abuse. ii) Unions have important difficulties to oppose to temporary work, where temporary contracts are the only entry points to regular employment and are supported for this reason by some workers.

### ***The regular employment resistance***

When non-permanent employment becomes now the standard for any recruitment (70% of hiring are with non permanent contracts, see above), the risk is that permanent employment decreases and non-permanent employment becomes a new standard, succeeding to the old one.

This is not the evidence. In fact, the non-permanent contracts are much more present in the work force flows than in the stock of employed people. But it is true for the inflows and the outflows too. The high share of non-permanent inflows is balanced with the high share of nonpermanent outflows. As a result, non-permanent contracts remain a minority. Every thing is as if regular employment succeeds to keep his traditional bastions. Non-regular employment remains with a narrow area within the workforce stocks (from a quantitative point of view) and a highly decisive function within workforce flows, to endure the flexibility requirements.

The main issue is here: can the permanent employment resist and how long can he resist? This issue was actively discussed before the last crisis.

- Germe [2001]<sup>12</sup> emphasized that internal labor markets are changing. Within them (that is for permanent employment), upgrading along the skill hierarchies is more and more uncommon. More frequent today upgrading require some transition through the external markets. Non-regular contracts are the entry points to the regular employment

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<sup>12</sup> See also Germe, Monchatre et Pottier (2003).

area, within internal labor markets. On the other hand, regular employment does not give upward mobility as before. Instead of the traditional picture of internal labor markets (entry points in the bottom of the skill hierarchy and upward mobility that is largely internal), the new picture reveals no upward mobility, new entry points everywhere along the hierarchy, but always stability everywhere for internal workforces.

- Auer [2005] reminded that the evidence is that employment security for permanent contracts remains high (seniority on the same job is not decreasing).
- The CERC [2005] observed an increase of the instability in France (in this way that job inflows and outflows are higher than before) but a stability of the insecurity (with high but stable levels of unemployment and especially of long duration unemployment).

These debates were stopped by the crisis. Anyway, they have the interest to emphasize that labor market changes in the 1990s and 2000s appear to develop footbridges between regular and non-regular employment rather than a replacement of the first by the second one.

### ***Today: the doubts***

Of course, such a debate was stopped by the crisis that completely froze any recruitment and generated job cuts for permanent jobs as well as for non-regular ones. It is interesting to focus here to temporary agency work that is more often considered (even by the employers of the agency sector, wrongly or rightly) as a stepping stone toward permanent contracts and a forerunner indicator for the employment fluctuation: immediate job cuts in the agency work when recession begins, immediate recruitments in case of economic recovery.

For temporary agency work, in the 1990s and the first 2000s, all efforts of agencies to be present and to increase their weight on any labor markets appeared to be highly successful. The traditional interim (young and unskilled men, blue collars used in a few number of manufacturing sector) appeared less dynamic than some new ones (older people, higher skills, even managers, much more women, more and more use in services). These long-term trends were stopped in the first 2000 years. During this period, the rapid economic growth was highly job creating, the best years for job creation since the 1950s. On the one hand, the labor needs seemed secured enough to recruit with permanent contracts. On the other hand, the traditional users of agency work, that is in manufacturing, recovered high labor needs.

The crisis has had immediate influence on temporary agency work, that is the worst fall in the agency business since its beginning in France. Today, the temporary agency work market begins to recover. This recover is faster for the traditional agency work in manufacturing, which, for now, has created again the half of the jobs that were lost during the crisis [Finot, 2010]. That does not necessarily mean that the traditional agency work (the industrial one) could become again the typical one. Everything suggests that the trend for a large diffusion of agency work on all labor markets is unstoppable and will be again evidence when labor markets will come back to a standard situation. For the French economy, the anticipation of growth is clearly a smooth one without great security about labor needs of firms. In this perspective, the future is largely in favor of non-regular employment, specifically temporary one and mainly temporary agency work.

## **3. Actual Situation of Equal Treatment**

In France, law formally ensures equal treatment. This is especially the case for temporary employment, either fixed-term or agency contracts. For these temporary contracts,

equal treatment exists since the first status for agency contracts, protected by the first 1972 law. For part time work, except some specific regulations (about their working time and related topics) the issue itself is not to be considered by law, because contracts for part timers are either open-ended or fixed-termed and their equal treatment issues are those of their contracts. In any case, the formal equal treatment obligation means that the employer may be condemned by the courts to penalties and even prison, if this is not ensured.

The reality is different. It does not mean that the law can be broken, even if it is well known that there are illegal practices, especially where there is no union presence, where unions cannot oversee for the protection of non-regular employees. It is often the case with small or medium sized firms. But here and mainly, the main point is the structural effect. As equal treatment means “every other things equal”, compared to any other equivalent job, and because non-regular employment is used mainly for jobs with low wages, very hard working conditions, no qualification, equal treatment means that in average, non-regular employment is associated with low wages, hard working conditions, low skills.

### **3.1 Temporary employment**

#### ***Weekly working hours (and overtime working hours), Paid leave, Working conditions***

For working time and working conditions, regulation is the same for temporary employment and regular one. In case of agency work, the equal treatment must be evaluated by comparison to the staff of the user firm. Nevertheless, despite equal treatment, generally, temporary employed have bad working conditions. Their working hours are less stable from one week to another. They are more difficult to anticipate. Their work rhythms are more dependant and difficult, compared to those of permanently employed [Rouxel, 2009]. The empirical evidence is that it results from some structural effect.

#### ***Basic wage (and bonuses)***

All temporary employed must have the same basic wages and bonuses as permanent employees. For temporary agency workers, the equivalence is appreciated by comparison with employees of the user firm. They access to the same bonuses associated to the job itself (bonuses for danger, for meals...). Of course, temporary employed received rarely any seniority bonus, according to their short stay within the firm. But they benefit from a specific precariousness bonus (by-law, 10% of the wage; a collective agreement can decide a higher bonus). And they can prefer to have a paid compensation instead of their annual vacations.

According to Erhel Lefevre and Michon [2009], the evidence is that there is no greater presence of temporary agency workers within the low brackets of the wages distribution. It is not surprising, taken into account the precarious bonus and the compensation for annual vacations. But for their yearly income, as it includes non-worked (and non-paid) periods, it is the opposite, of course.

#### ***Opportunities for skill development and promotion within the company***

Fixed-term contracts give the same right for training as the open-ended ones, and even some advantages. For example, when they are assigned to dangerous jobs, they can receive some training for security. But the observed evidence is that people that suffered precarious career path in their past, have a lower access to training than regular employees [Perez et Thomas, 2005].

French employers have to support a mandatory social contribution for vocational training that is 1.5 % of wages amount. This is 2 % for temporary agency workers. One could deduce

that for training issues, agency workers benefit from a better situation. But it can be observed that they don't have such a good access to any vocational training. Erhel Lefevre et Michon [2009] point that in 2005, 9.4 % of employees declared to have some training period during the previous 3 months, only 5.5 % of temporary agency workers<sup>13</sup>. Also, for agency workers, funded training periods have a short duration, and their goals are only a strict adaptation to a single assignment. Even if temporary employment agencies claimed that training of their employees is a very important piece of their human resources strategies, the number of trained people remains low compared to the high number of people that passes through agency work. One can think that vocational training is reserved in fact for the employees that are faithful clients for the agency [Faure-Guichard, 1999 ; Kornig, 2003].

### ***Social/unemployment insurance, benefits packages***

All employees benefit from the basic health insurance, unemployment benefits, retirement schemes, as regulated by law. But in France these standard benefits are completed with the supplementary schemes that are the result of any collective agreement. Generally, these supplementary schemes do not apply in the same ways to non-regular and permanent employees. Above all, many social benefits require seniority to obtain the full benefits. It implies that non-regular employed do not have equivalent access. Temporary employees are not really equal to the regular ones.

### ***Participation in labor unions***

All employees, with any employment contract, have the same rights to unionization and representation within any firm. As in France, the representative system changes with the firm size, it is decided i) that temporary agency workers (that are by law employees of the agency) have their unionization rights within the agency, and ii) that they are included in the user firm workforce to appreciate which representation regime has to be operated within the user firm.

There is no doubt that the situation of temporary employees is insecure, more dependent. Anyway, the evidence is that they are less unionized than permanent employees, even taken into account the very low unionization in France<sup>14</sup>. But it is also the result of the fact that they are used in sectors where unionization of permanent workers is weak. And this last evidence has some highly important exceptions (of the car industry). Dufour, Bérout et alii [2008] give the reasons of such a confusing picture. Unions have been very late to really act for agency workers' unionization and mobilization. As these authors said, within a precarious environment, the trade-union activities are precarious themselves. But now, there are signs of changes:

- may be because some temporary people are in the same user firms for a long time, and this is more and more frequent;
- may be because unions begin to see that if the regular employment is decreasing, their traditional recruitment could be more difficult than before;
- may be because unions begin to understand that their future will depend on the non-regular employed.

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<sup>13</sup> Source : INSEE, enquête sur l'emploi 2005.

<sup>14</sup> The French paradox is well known : a very low unionization (less than 8 % for employées, less than 7% for the private sector only, the lowest rate of the industrialized countries. Nevertheless, the collective agreement coverage is the highest (more that 80 %). The agency sector increases this paradox : less that 1 % of unionized employees, but a highly dynamic activity for collective agreement, but under the initiative of employers, cf. Michon [2009-b].

### 3.2 Part time work

Part timers have the same rights as full timers, in proportion to their working hours. Their working conditions do not appear to be worse than the standard ones. But part time does not configure a homogeneous group, there is some differentiations to operate within this group.

#### *Working time: weekly working hours, overtime working hours, paid leave*

Annual leaves for part timers are the same as for full timers. In average, from the point of view of time pressures, part timers appear to have a better situation than full timers. But the evidence is also that situations of part-timers are various: those that should prefer longer hours; those that have temporary contracts; those that chose part time for family reasons; those that chose part time because the shortage of full time jobs.

Cottrell and *alii* [2002] observed important differences between voluntary and involuntary part timers. The first ones have longer hours, higher time pressures (regularity of hours, high work rhythms). For Cottrell and *alii*, everything was as if the counterpart of choices for family is higher time pressure. Nevertheless, Bué and Coutrot [2009] do not confirm this point. Their observations point that part timers who should prefer longer hours have in fact shorter hours, temporary contracts, variable working hours, and working hours difficult to plan from one week to another.

#### *Basic wages, bonuses*

Wage rates of any part timer have to be the same as those of full timers, with equivalent skill level, in the same firm. The seniority of part timers is evaluated as if they were full timers. But again, there is a strong structural effect, which appears to have a greater incidence than any equal treatment.

#### *Opportunities for skill development, opportunities for promotion within the company*

The global access rate to permanent training is 28 % for part timers, 38 % for full timers [Bel, 2008]. 24.5 % of part timers do not have any training for the danger prevention, compared to 12 % of regular workers (here, full timers with open-ended contracts) [Rouxel, 2009]. Part timers with open-ended contracts have worse situation, because of, on the one hand individual profiles of people that have these contracts, on the other hand firms profiles and economic sectors of users. It means:

- women with high family responsibilities that induce high difficulties to follow any training course; women who try to work more to gain higher income for their family even if training has to be sacrificed,
- small firms (where a large majority of these women are working) and service sectors, where training access rates are low.

#### *Participation in labor unions*

Formally, part timers are exactly in the same situation as full timers, their rights for unionization and representation are similar. But part time is predominantly female, white-collared, mainly in services, within small firms. All these characteristics are strictly associated with low unionization and low representation. Again the structural effect prevails.

## **4. Conclusion: Non-regular Employment as a Social and Policy Issue**

For a long-time, non-regular employment has been a major issue for the social and political debates. The tradition is to assimilate the various non-regular statuses to insecurity, fragility and precariousness. Despite all efforts to convince that flexibility and precariousness are not similar, that flexibility may come together with security for employees (the flexicurity of the European Strategy for Employment) [Schmid, 2009], in France flexibility and precariousness remain denounced as similar by unions.

French unions always considered that non-regular employment is a mean to weaken unions and to break protection of regular employment. So for a long time, their main and permanent goal has been to protect regular employment and to refuse any diversity of statuses. Of course, on the one hand, there are some differences from one union to another, some of them are less hostile than others. Of course, on the other hand, if unions may have been hostile, in the same time there was a lot of confusion, because many non-regular workers were very far to claim for any permanent contract for themselves (that should imply some loss of time autonomy, a higher time control by employer, some income losses...). So behind a general indictment on precarious work, French unions appeared to be hesitating about strategies to follow.

In 2007, the French government tried to introduce a set of changes within the labor market processes. One of them was to completely restructure the regulation of employment contracts; to simplify it; to replace the various kinds of employment contracts with a single one. The multi-industry collective agreement of January 2008 explicitly refused this change.

With the 2008 crisis, regular contracts were no longer protected, despite all their regulations. The main issue within the French debate is no longer employment contracts, but again unemployment levels, the efficiency of the labor market management and the unemployment benefits system. It does not mean that precariousness is not debated now. On the contrary it is considered that precariousness is one of the major issues in the labor market area. But on the other hand, one continues to claim that rigidities of regular contracts is a major obstacle to job creation. So the present situation is: i) the refecton of any reform of the employment contract architecture by social partners; ii) the general claim by employers and public authorities against rigidities of the labor common law. It means that non-regular contracts will continue to be in charge of many of the flexibility requirements.

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## Appendix

**Table 1 Weight of non-regular employment, 2008**

	(%)
	All 15 y.o. and over
Independent	10.5
Employees	89.5
Temporary agency workers	2.1
Apprentices	1.3
Fixed-term contacts (1)	8.3
Open-ended contracts	77.7
All employed	100
Numbers (in thousands)	25,913

*To read:* 10.5% employed are independent - (1) Subsidized employment included.

*Champ:* France métropolitaine, population des ménages, personnes en emploi de 15 ans ou plus (âge au 31 décembre).

*Source:* Insee, Enquête Emploi en continu.

**Table 2 Subsidized employment contracts**

	Number of recipients, end of 2008*
Subsidized contracts for private sector	1042
Younger recruitments	59
Recruitments of long duration unemployment (2)	66
For firm creation	119
Contracts with work/study training program	632
Restructuration assistance	13
Subsidized contracts for the "non market sector"***	185
"Contrat d'avenir"	78
"Contrat d'accompagnement dans l'emploi"	102

\* seasonally corrected \*\* local administrations, public sector, non-profit organizations.

*Champ:* France Métropolitaine.

*Source:* ASP ; DARES ; DGEPEF ; INSEE.

**Table 3 Weight of part-time work among the various work contracts, 2008**  
(%)

	All	Men	Women
Independent	10.4	5.1	21.3
Employees	16.8	5.1	29.0
Temporary agency workers	8.2	4.6	16.2
Apprentices	17.7	14.9	23.8
Subsidized contracts	46.1	29.9	54.9
Fix-termed contracts	28.1	17.5	34.9
Open-ended contracts	15.4	3.7	27.9
All employed	16.1	5.1	28.4

*To read:* 10.4% of independent are part timers (5.1% of men, 21.3% of women).

*Source:* INSEE, Enquête Emploi en continu.

**Table 4 Sectoral distribution of Temporary Agency Work**  
(full-time equivalent, %, 100 = all employees of the sector)

	2001	2008
Agriculture, Fishing	0.9	1.3
Industries	6.8	6.9
Food industry	6.2	7.5
Consumption industries	5.0	5.0
Car industry	10.7	9.3
Equipment industries	6.6	7.1
Industries des biens intermédiaires	7.9*	7.5
Energy	2.3	2.7
Construction	7.6	8.1
Service	1.7	1.7
Trade	2.0	1.8
Transportation	3.8	4.3
Finance	1.3	1.0
Real estate activities	1.0	1.1
Firm services	2.0	2.0
Service to individuals	0.5	0.5
Education, Health, social welfare	0.6	0.6
Administration and non-profit activities	0.5	0.5
All activities	3.5	3.3

Annual average rates.

*Source:* DARES – UNEDIC.

**Table 5 Sectoral distribution of part time, 2008**

(100 = all employees of the gender)

	Female employees (%)	Male Employees (%)
Agriculture, Fishing	15.7	6.0
Industries	6.1	1.4
Food industry	9.9	1.7
Consumption industries	8.2	1.6
Car industry	2.4	0.8
Equipment industries	4.2	1.0
Industries des biens intermediaires	4.9	1.4
Energy	9.8	2.8
Construction	4.8	2.1
Service	21.0	3.3
Trade	18.5	2.4
Transportation	8.2	3.0
Finance	11.0	0.8
Real estate activities	16.4	3.2
Firm services	14.6	3.6
Service to individuals	41.3	8.0
Education, Health, social welfare	24.9	2.4
Administration and non-profit activities	19.2	2.9
All activities	17.6	3.0

All employees

Source: INSEE Enquête Emploi en continu.

**Table 6 Occupational distribution of part time employment, 2008**

(100 = all employees of the occupation)

	%
Management	10.2
Intermédiaire occupations	14.5
White-collars	30.5
Blue-collars	9.4
skilled	5.6
unskilled	16.4
Workers in agriculture	19.8
All occupations	16.9

All employees

Source: INSEE Enquête Emploi en continu.

**Table 7 Gender and status distribution of employment, 2008**

	Men		Women		All	
	Numbers (thousands)	%	Numbers (thousands)	%	Numbers (thousands)	%
Independent	1,832	67.1	898	32.9	2,730	100.0
Employee	11,838	51.1	11,345	48.9	23,183	100.0
TAW	380	69.3	168	30.7	548	100.0
Apprentices	237	68.3	110	31.7	347	100.0
Fixed-term contracts	824	38.5	1,316	61.5	2,140	100.0
Open-ended contracts	10,397	51.6	9,751	48.4	20,147	100.0
All Employed	13,670	52.8	12,243	47.2	25,913	100.0

All employed, 15 y.o. or more.

Source: Insee, Enquêtes Emploi du 1er au 4e trimestre 2008.

**Table 8 Age and status distribution of employment, 2008**

	(%)			
	15-24 y. o.	24-29 y. o.	50 y. o. and more	All ages
Independent	2.0	9.3	16.5	10.5
Employees	98.0	90.7	83.5	89.5
TAW	6.6	2.1	0.7	2.1
Apprentices	15.3	0.1	0.0	1.3
Fixed-term contracts	26.4	7.5	4.4	8.3
Open-ended contracts	49.7	81.0	78.4	77.7
All Employed	100	100	100	100

Source: INSEE, enquêtes Emploi.

**Table 9 Diploma, seniority of activity and employment status - All employed, 2007**

(%)

	Ensemble	Enseignement supérieur long	Enseignement supérieur court	Bec et équivalents	CAP-BEP et équivalents	Brevet, CEP et sans diplôme
Sortis depuis 1 à 4 ans de formation initiale						
Non salariés	4	5	6	4	1	1
Salariés	96	95	94	96	99	99
Emploi temporaires	31	22	27	34	38	45
dont intérim	6	2	4	6	9	12
CDI privé	54	56	55	54	53	48
CDI public	11	17	12	8	8	6
Total	100	100	100	100	100	100
Nombre d'actifs occupés (en milliers)	nd	616	461	466	319	208
Sortis depuis 5 à 10 ans de formation initiale						
Non salariés	6	8	6	7	4	5
Salariés	94	92	94	93	96	95
Emploi temporaires	15	9	8	15	22	26
dont intérim	3	1	2	3	6	8
CDI privé	62	52	69	62	65	63
CDI public	17	31	16	15	9	6
Total	100	100	100	100	100	100
Nombre d'actifs occupés (en milliers)	nd	951	789	901	671	418
Sortis depuis 11 ans et plus de formation initiale						
Non salariés	14	17	13	13	13	11
Salariés	86	83	87	87	87	89
Emploi temporaires	7	4	4	6	7	10
dont intérim	1	0	0	1	2	2
CDI privé	59	45	59	58	64	63
CDI public	20	33	25	23	16	16
Total	100	100	100	100	100	100
Nombre d'actifs occupés (en milliers)	nd	2,338	2,298	3,068	5,628	5,476

*BEP*: brevet d'études professionnelles; *CAP*: certificat d'aptitude professionnelle; *CEP*: certificat d'études primaires.- ne: non disponible.

Source: Insee, enquêtes Emploi.

**Table 10 Part-time rates in age groups, according to working hours – 2008**

	part time working hours (per week): (%)				
	All full time jobs	All part time jobs	less than 15 hours	15-29 hours	30 hours and more
12-24 y. o.	77.0	23.0	5.3	12.7	4.9
25-49 y. o.	84.5	15.5	1.9	8.3	5.3
≥ 50 y. o.	81.2	18.5	4.0	10.0	4.8
All employed ≥ 15 y. o.	83.1	16.9	2.7	9.1	5.1

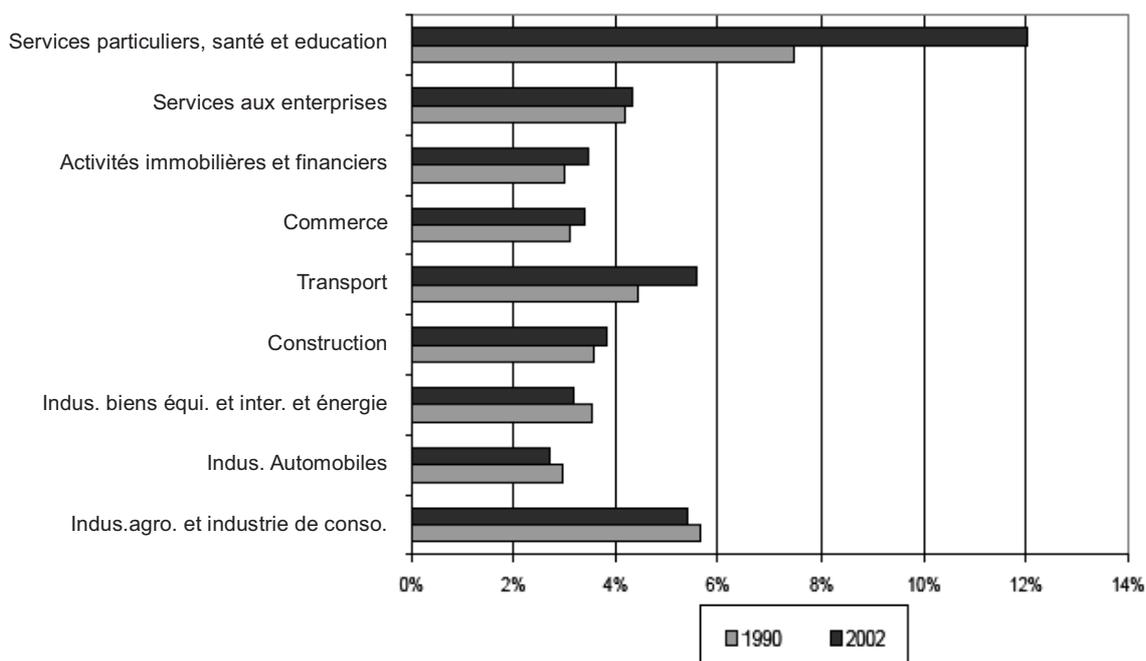
Source: INSEE Enquêtes Emploi 2008.

**Table 11 Growth of temporary status (changes of rates over total employment)**  
(%)

	Fixed-term contracts	TAW	Subsidized contracts	Apprentices
1985	3.6	0.4	1.1	0.7
1990	4.8	0.8	1.8	0.8
1995	5.6	1.0	2.8	0.7
2000	7.0	1.8	2.6	1.0
2005	6.9	2.1	1.7	1.3
2007	7.1	2.1	1.7	1.4
2008	8.3	2.1	??	1.3

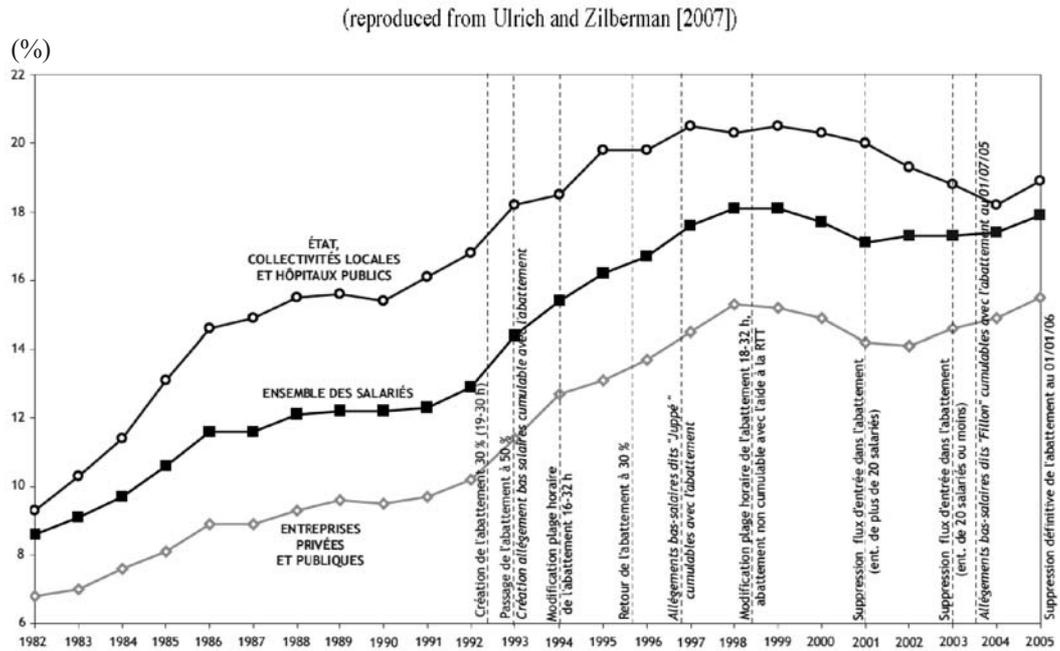
Source: INSEE, enquêtes Emploi.

**Figure 1 Distribution of fixed-term contracts, according to economic sectors (private sector, 1990-2002)**



Reproduced from Bunel [2007] -source: INSEE, Enquêtes sur l'emploi.

Figure 2 Part-time rates 1982-2005 (over all employees)



All employees (employees of individuals excepted) -source: INSEE, Enquêtes Emploi.