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Table of contents

Abstract	5
1. Introduction	6
2. Non-standard employment, labour market divides and inequalities	8
3. Non-standard employment insecurities, flexicurity and contractual flexibility 11	
4. Operationalisation, case selection, and data	13
5. Legal access to income protection schemes against unemployment	15
5.1. Schemes for income protection against the risk of unemployment across EU countries 15	
5.2. Access to unemployment insurance benefits for employees: eligibility criteria 15	
5.3. Access to unemployment insurance benefits for self-employed: eligibility criteria 16	
6. Contractual flexibility: influence on access to unemployment insurance benefits 18	
7. Discussions and conclusions 21	
References	24

***Non-standard employment and access to social protection across European Countries:
Exploring the role of contractual flexibility on eligibility for unemployment benefits***

Silvia Girardi, Anna Ilsøe and Trine Pernille Larsen

Abstract

In recent decades, the transformation of labour markets has given rise to new employment arrangements, deviating from traditional full-time permanent employment, referred to as non-standard employment (NSE). This includes part-time work, zero-hours contracts, fixed-term contracts, and emerging employment relationships such as platform and temporary agency work. However, social protection systems established in the early part of the last century in Europe were primarily designed for the protection of workers in standard employment relations, leaving workers in NSE relationships inadequately protected against various social risks (Bosch, 2004; Vosko, 2010). Scholars have identified social protection gaps, which in different ways restrict workers in NSE access to social benefits such as unemployment benefits (UB) (Grimshaw et al., 2016; Rubery et al., 2016).

This working paper explores these gaps by examining the legal entitlements and eligibility rules for income protection during unemployment through the lenses of three contractual flexibility dimensions: contract length, working hours, and employment status. We built on the work by Larsen and Ilsøe (2023) and argue that contractual flexibility is relevant to understanding access to social protection for NSE workers, as eligibility to UB often depends on accrued working hours, contract length, and employment status (Ilsøe & Larsen, 2023; Larsen & Ilsøe, 2023). The study encompasses illustrative examples of Gallie & Paugam (2000) three distinct unemployment regimes, including the universalistic regime (Denmark, Sweden), the liberal/minimalist regime (United Kingdom, Ireland) and the sub-protective regime (Slovakia, and Poland), where we exclusively focus on the legal entitlements and eligibility criteria for those who are applying for UB for the first time, knowing that there may also be de facto social protection gaps in terms of take-up, benefit adequacy and other policy outcomes.

The systematic analysis of eligibility rules explores how the three dimensions of contractual flexibility directly, indirectly, or not at all influence access to unemployment benefits (UB) for NSE workers in different social protection systems. This approach enables us to identify cross-country variations at the intersection between contractual flexibility and access to UB across the three unemployment regimes considered. The findings highlight the multi-dimensional contribution of contractual flexibility in understanding the complex relationship between NSE and social protection. Importantly, the results reveal variations among countries, suggesting that contractual flexibility dimensions play a more important role in some social protection systems than others, indicating stronger potential challenges for workers in NSE to qualify for UB in certain national contexts.

Using the lens of contractual flexibility, this research provides valuable insights into the understanding of regulatory social protection gaps for NSE workers and emphasizes the importance of addressing these gaps to reconcile labour market flexibility with income security in contemporary societies.

1. Introduction

In recent decades, labour markets have undergone substantial transformations, marked by the emergence of new employment arrangements that deviate from full-time permanent employment. These non-standard employment (henceforth, NSE) relationships include for instance part-time work, zero-hours contracts, fixed term contracts, bogus self-employment, and triangular employment relationships such as platform work and temporary agency work. As social protection systems in Europe were primarily conceived within the framework of conventional standard full-time permanent employment, workers in NSE relationships may be currently insufficiently protected against various social risks such as, among others, the risk of unemployment, sickness, and struggle to reconcile work and family life (Vosko, 2010; Grimshaw et al., 2017; Bekker & Leschke, 2023). Scholars have pointed to the existence of social protection gaps, which we understand as some groups of workers in NSE relationships having limited or no access to social protection, such as unemployment benefits, compared to those in standard employment relationships (Grimshaw et al., 2016; Rubery et al., 2016). Other protective gaps affecting workers in NSE include aspects such as employment rights (e.g. being excluded from a minimum wage, employment protection, pay for overtime and holidays), representation (e.g. being excluded from collective bargaining and workplace representation), and enforcement (e.g. referring to the challenges encountered by labour inspection and social dialogue to enforce the protection) (ibidem).

These differences among workers are typically engrained in the segmented nature of labour markets. The institutional settings such as collective agreements, legislation, and social and employment protection schemes, have historically played a key role in either preventing or contributing to labour market segmentation and inequalities. These factors affect the income security for workers while employed and during periods of unemployment, sickness, childrearing or caring for an older family member (Grimshaw et al., 2016; Rubery et al., 2018; Spasova & Regazzoni, 2022).

NSE relationships are often characterized by what we here define as contractual flexibility along one or more of these dimensions: contract length (e.g. fixed-term contracts), working hours (e.g. part-time work, zero-hours contract), and employment status (e.g. solo self-employment) (Ilsøe & Larsen, 2023; Larsen & Ilsøe, 2023). Employers are increasingly using these different flexibility dimensions to adjust their workforce besides traditional external numerical flexibility (i.e. liberal hiring and firing rules) (Ilsøe & Larsen, 2023). Accrued flexibility in employment relationships may result in the insecurity of those workers who are excluded from social protection. It is known that institutions such as social protection systems play an important role in reducing inequalities in the labour markets and the balance between labour market flexibility and income security (Rubery et al., 2022; Bekker et al., 2024). While discussions around flexicurity have mostly involved the concept of numerical flexibility intended as the presence of liberal hire and fire rules, the introduction of the concept of contractual flexibility by Larsen & Ilsøe (2023) allows to account for the possibility of social protection and security for workers in NSE relations along their employment status, working hours and duration of contracts.

This working paper examines the critical issue of social protection gaps for workers in NSE across six European countries, focussing on how contractual flexibility – intended as flexibility in terms of contract length, working hours and employment status – influences access to unemployment benefits (henceforth, UB). Analysing eligibility rules for accessing income protection in case of unemployment through the lens of contractual flexibility (flexibility in contract length, working hours, and employment status) proposed by (Ilsøe & Larsen, 2023; Larsen & Ilsøe, 2023), this working paper contributes to the debate on labour market divides and inequalities, acknowledging that other strands of literature such as the welfare state research have extensively discussed access to social protection (Korpi & Palme, 1998; Jacques & Noël, 2021; Gautié, 2023). Contractual flexibility is a relevant aspect when examining access to social protection for workers in NSE as eligibility rules and contributory periods are often based on accrued working hours, contractual length, and employment status (Ilsøe & Larsen, 2023; Larsen & Ilsøe, 2023). By discussing social protection eligibility rules for first time entrants across illustrative country examples of Gallie & Paugam, (2000) three distinct unemployment regimes: the universalistic regime (Denmark and Sweden), the liberal/minimal regimes (the United Kingdom, Ireland) and the sub-protective regime (Slovakia and Poland)), the paper focuses on access to income support in case of job loss. Specifically, it focuses on access to unemployment insurance benefits (UB) and alternative assistance benefit schemes for those who have no access to insurance-based benefits (i.e. unemployment assistance schemes and social assistance benefits). UB are a key social protection tool for workers in NSE because, due to the flexible nature of their work relationship, they may be more exposed to job loss, income insecurity and unemployment.

The systematic analysis of eligibility criteria across different social protection systems, as presented in this working paper, aims to address the following question: How does contractual flexibility (in terms of contract length, working hours, and employment status) influence access to UB for workers in NSE across different social protection systems? The analysis looks at how each of the three dimensions of contractual flexibility influences access to UB, either directly, indirectly, or not at all, for workers in NSE across different social protection systems. Additionally, it explores the cumulative influence of these three dimensions. The use of the multidimensional lens of contractual flexibility enables the identification of cross-country differences based on the varying levels of contractual flexibility's influence on access to UB, accounting for variations across and within regimes.

The results indicate that in certain countries (i.e. UK, SE, DK), these dimensions of contractual flexibility play a more crucial role than in others (SK, IE, PL), indicating that it might be more challenging for workers in NSE to qualify for UB in the former, although these differences at the nexus of as to contractual flexibility do not echo the traditional classification provided by unemployment regimes (Gallie & Paugam, 2000).

The working paper is structured as follows. Sections 2 and 3 provide a framework for the issue of access to social protection and NSE. Section 2 begins by defining NSE and documenting the transformation of employment relationships, as well as the existence of labour market divides and inequalities, drawing on labour market segmentation theories and the literature on the flexibility of work and employment. Section 3 introduces the concept of contractual flexibility, which is central to this paper, and highlights the challenges to access social protection for non-standard workers. Section 4 illustrates the operationalization of the concepts used, the selection of cases, and the empirical material used for this paper. Section 5 reviews eligibility criteria for legal access to social protection and, based on that, Section 6 analyses the influence of the three dimensions of

contractual flexibility on access to unemployment benefits (UB). In conclusion, Section 7 presents discussions and preliminary conclusions.

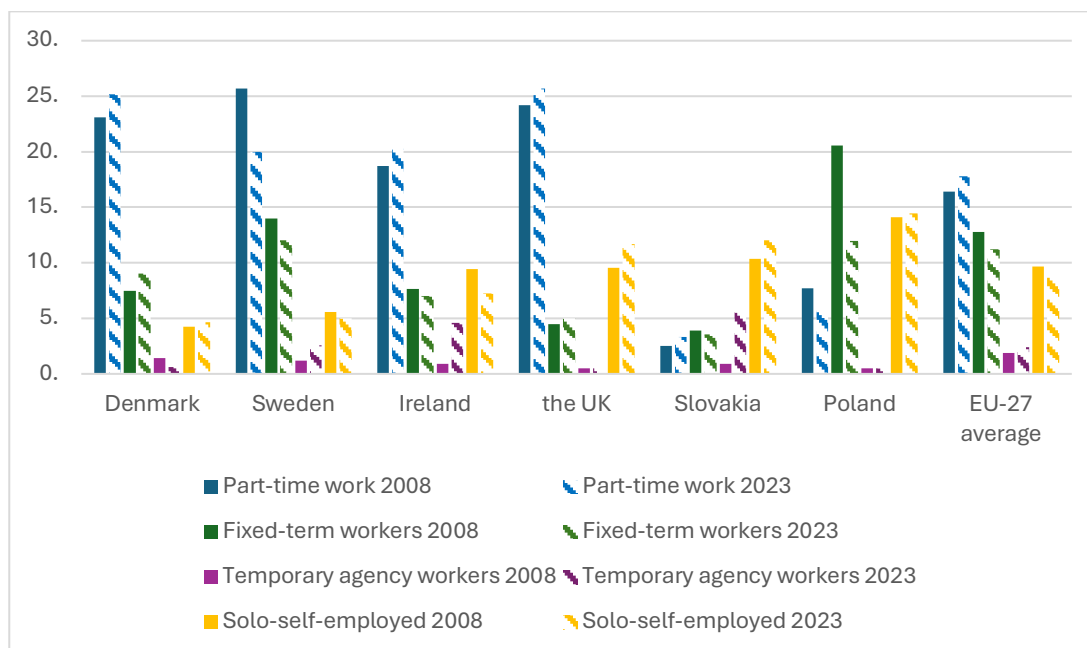
2. Non-standard employment, labour market divides and inequalities

The terminology used in the academic literature to refer to NSE includes a vast array of terms defining these work arrangements as “non-traditional” (Ferber & Waldfogel, 1998), “flexible” (Houseman, 1997), “atypical” (De Grip et al., 1997), “contingent” (Polivka & Nardone, 1989) or “precarious” (Kalleberg, 2000: 341). All these terms share a common understanding that NSE are forms of employment that deviate from the standard employment model characterized by a full-time, open-ended employment relationship between an employer and an employee (ILO¹). More in detail, the use of the term NSE encompasses a wide range of arrangements that include among others employment relationships involving fixed-term employment, part-time and on-call work, disguised or solo self-employment as well as relationships involving multiple parties (such as Temporary Agency Work and Platform Work).

NSE is typically measured as the proportion of a combination of fixed-term, part-time, and self-employment in relation to the general working population. On average, it accounts for about 40% of overall employment in the EU27 in 2018 (EUROFOUND, 2020). Yet, the size of the share of NSE varies across EU countries, as well as the composition of the different forms of non-standard work. Across the six considered countries, part-time work is above the EU average in the UK, Denmark, Ireland, and Sweden, while it accounts for less than 5% of all employed in Slovakia and Poland. By contrast, fixed-term contracts and solo self-employment are most common in Poland, with solo self-employment also higher than the EU average in Slovakia and the UK, but less widespread in Sweden and Denmark. Temporary agency work is the least common form of non-standard work everywhere, but it has increased rapidly in Ireland and Slovakia, where about 5% of all employed hold a job as temporary agency workers (Figure 1).

Figure 1: Recent developments in non-standard work as a percentage of all employed (aged 15-64 years) across selected European countries (2008-2023)

¹ International Labour Office: Definition of Non-standard forms of employment: [Link](#)



Source: (Eurostat, 2024a, 2024c, 2024d, 2024b; ONS, 2024b, 2024a). Authors own calculations based on LFS data. Note figures on solo-self-employed for the UK are from 2019

The share of NSE varies across different occupations and sectors, for instance, low-skilled professionals and informal sector workers are more likely to be in NSE (Eichhorst & Marx, 2015). Demographics and social characteristics also play a role in NSE relevance, with disparities across gender, age, ethnicity, and migratory background (Vosko, 2010). NSE varies also across and within national contexts, indicating that there are different factors at play in different countries and regions (Doerflinger et al., 2020).

The attention to NSE is not new, and there is a substantial body of academic research, which has conceptualized the divide between workers' different positions in the labour market, particularly the differentiation between standard and NSE, its causes, and consequences. Much of this academic inquiry finds its theoretical underpinning in the labour market segmentation theories that emerged during the 1960s and 1970s (Doeringer & Piore, 1971; Rubery, 1978).

Labour market segmentation theories bring two main contributions to the understanding of inequalities among workers in the labour market. From one hand, they portray the labour market as characterised by a divide into separate submarkets, each offering workers varying employment opportunities of different qualities (Doeringer & Piore, 1971; Peck, 2000; Grimshaw et al., 2017). On the other hand, these theories emphasize the importance of considering demand-side as well as supply-side factors. This includes considerations of labour market institutions, regulations, employers' strategies, and collective bargaining, when explaining disparities in labour market outcomes, in addition to labour supply factors (i.e. workers' characteristic). This approach moves beyond traditional neoclassical and human capital theories, which primarily focused on a market-based matching on labour supply factors (Peck, 2000). Since the 1970s, various labour market segmentation theories have been proposed, including the "dual labour market theory" by Doeringer & Piore (1971) and the approach by the "Cambridge segmentation school" (Rubery, 1978).

The dual labour market theory portrays the labour market as divided into two segments: a primary and a secondary segment. The primary segment consists of stable employment in firms that offer high wages, job security, and opportunities for advancement (Doeringer & Piore, 1971). The

secondary segment, on the other hand, is characterized by low wages, job insecurity, and limited opportunities for career advancement. Workers in the secondary segment are often employed in non-standard work arrangements, such as fixed-term or part-time work, and enjoy limited opportunities to move into the primary segment (Doeringer & Piore, 1971). The segmentation of the labour market resulting in a dual labour market structure is not just a result of differences in supply-side factors such as skills or productivity of workers but is also influenced by demand-side institutional factors such as labour market regulations (Sengenberger, 1981).

Building on dual labour market theory, the Cambridge segmentation school grounds its approach on the role of the institutional and regulatory environment to explain the inequalities among workers and highlights that segmentation in the labour market cannot be reduced to two segments (Rubery, 1978). This approach and its further developments highlight the necessity of considering multiple factors of disadvantage, including supply-side factors, to capture various forms of segmentation. For instance, certain groups of workers in the labour markets, such as women, migrants, and younger entrants, may experience greater disadvantages, and these inequalities can result from an intersection of their characteristics and institutional changes (Peck, 2000; Rubery & Piasna, 2016). More recent developments of this approach have emphasized the importance of employment and social protection regulations to protect workers against growing dualism in labour markets and precarious employment, albeit as Grimshaw et al. (2017: 12) point out, protection is a matter of appropriate design. This approach holds a central position in the current working paper, and this aspect will be revisited later in the document when investigating how the dimensions of contractual flexibility affect access to unemployment benefits.

Recent advancements in labour market segmentation studies have questioned the earlier binary analytical approach proposed by earlier theories based on the two opposite poles (i.e. dual labour market theory) (Barton et al., 2021; Rubery et al., 2022). By arguing that the traditional dualistic views on labour market segmentation are outdated in the light of the existing variation both within standard and NSE, scholars have proposed further concepts to capture the complexity of contemporary labour markets, such as the existence of a multiplicity of segments (Jessoula et al., 2010; Yoon & Chung, 2016; Pulignano & Doerflinger, 2018; Seo, 2021).

Other scholars from different approaches and disciplines have defined the dual structure of the employment system as a "insider-outsider" divide, characterized by less favourable employment opportunities for the "outsiders" (e.g. economists Lindbeck & Snower, 2001). Others have pointed to insiders' status and privileges as relatively well protected by labour market institutions (i.e. industrial relations, labour market policies and the welfare state) at the expense of a growing number of outsiders involved in NSE (e.g. approaches by the neo-institutionalist Palier & Thelen, 2010; Emmenegger, 2009, 2012). Others have proposed concepts different from segmentation to better capture the heterogeneity of NSE. For instance, the concept of "labour market fragmentation" (Bekker & Leschke, 2021) defines the labour market as characterized by an accumulation of insecurities, when workers combine NSE with low wages or when they combine several forms of NSE. Other concepts such as the one of "marginal workers" proposed by Maestripiéri & Firinu (2022) look at the interrelation between the institutional dimensions of labour markets and their consequences on workers' inclusion in social protection schemes. They define among others marginal workers as a sub-group of non-standard workers whose involuntary, intermittent, and ambiguous character in the labour market prevents them from accessing social protection (Maestripiéri & Firinu, 2022).

In the view of many of these authors, labour market segmentation is regarded as problematic as it is intricately connected to poorer job quality and disparities in the labour market, including concerning access to social protection. These aspects lie at the heart of the discussions prompted by the literature on work and employment flexibility illustrated in the next section.

3. Non-standard employment insecurities, flexicurity and contractual flexibility

Besides labour market segmentation theories, the literature on the flexibility of work and employment has also documented the transformation of employment relationships, pointing to a “destandardization” of standard employment (Barbier, 2013). That literature has mostly been concerned about the rise of job insecurity and precarious employment. The emergence of non-standard work arrangements, with the consequent job insecurity and precarious work, is argued to be the result of changes in the economy, such as globalization, technological advancements, and the growth of the service sector (Kalleberg & Vallas, 2018). Also the employers' pursuit of increased numerical and functional flexibility to reduce costs and adapt to the aforementioned changes are often stressed as contributing factors to this development (Vosko, 2006; Kalleberg, 2009). Scholars referring to NSE as precarious work refers to work that is uncertain, unpredictable, insecure, that provides an unstable income and limited social protection (Kalleberg, 2000, 2009; Kalleberg & Marsden, 2015; Kalleberg & Vallas, 2018; Standing, 2011). Such research has pointed to the negative potential consequences for workers of precarious work such as job and economic insecurity, social exclusion, and health problems (Kalleberg, 2018; Kalleberg & Vallas, 2018; Macmillan & Shanahan, 2021). Employment or job insecurity refers to the presence of uncertainty or instability associated with the job that a worker holds (Rasmussen et al., 2019). This insecurity can take various forms, including a recent experience of unemployment, the risk of job loss or termination, and the absence of long-term job stability (i.e. in the case of a fixed-term contractual arrangement). Income insecurity arises when the level of income is perceived as inadequate to secure a decent standard of living in case of employment and unemployment, which is related, among other factors, to the accessibility of social protection. Income security is not solely linked to a statutory or collectively agreed minimum wage, but it is also closely tied to underemployment, that is the capacity of securing enough work hours to ensure an adequate income (Warren, 2015; Ilsøe et al., 2017; Rubery et al., 2018).

Job and income insecurities point towards flexibility as one of the underlying features of NSE relationships. The flexibility associated to NSE does not automatically imply insecurity for all workers (Rasmussen et al., 2019; Bekker & Leschke, 2023). NSE may foster inclusive dynamics by providing opportunities for labour market integration, such as when NSE serves as a stepping stone into the labour market, integrates workers with reduced work capabilities or long-term unemployed or retains workers in paid work (Gash, 2008), for instance by facilitating work-life balance. Yet, it is known that flexible labour markets pose increased risks for workers (Pulignano, 2017). For instance, NSE is frequently associated with exclusionary dynamics and insecurities arising from job and income insecurity and workers in NSE arrangements often face a precarious balance between job security and income stability, which can impact their overall well-being and financial security. Addressing these insecurities is argued to be essential for creating a more equitable and inclusive labour market in which workers in NSE have access to income levels that allow them to secure a decent standard of living (Grimshaw et al., 2017). The extent to which NSE arrangements give rise to insecurity depends on both the levels of employment and social protection available for

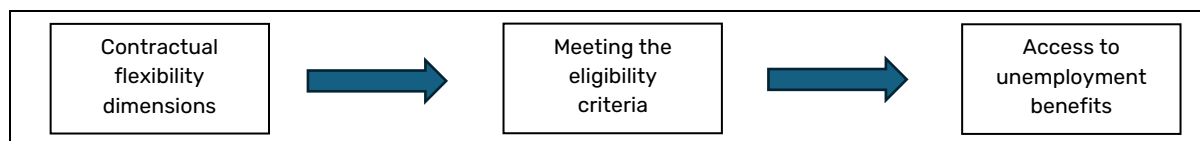
'standard' employment and the extent of gaps in access to this protection for workers in NSE (Rubery et al., 2016). The existence of the so-called 'coverage gaps' (OECD, 2018) or 'protective gaps' (Grimshaw et al., 2016; Rubery et al., 2016) restrict or in some instances exclude non-standard workers from the forms of social protection that standard workers usually have access to. Thus, the exclusion from social protection adds to the existing job and income insecurities associated with non-standard work. In their empirical approach comparing individuals in standard and NSE, Immervoll et al., (2022) show that accessibility to income support following job loss, and entitlements are frequently lower for individuals with a history of NSE (i.e., workers previously in self-employment, part-time work, or unstable/interrupted employment), with substantial differences across various European countries. It is argued that closing these gaps would make labour markets more inclusive (Rubery, 2015).

Using the concept of 'flexicurity', academic literature has explored the dilemma arising from contrasting demands for labour market flexibility and the need to provide security (i.e. social protection) to workers, especially the most vulnerable ones in society (Wilthagen & Tros, 2004). Existing research on flexicurity has primarily focused on the intersection of external numerical flexibility (liberal hire-fire rules) and income security (social protection) (Bekker & Leschke, 2023), while leaving the diversity among NSE forms and their access to social protection largely unexplored (Larsen & Ilsøe, 2023). In their recent work, Larsen & Ilsøe (2023) propose the adoption of contractual flexibility as an additional dimension of flexibility when investigating flexicurity. Contractual flexibility involves NSE arrangements that are flexible in terms of employment status, contract length and working hours. Contractual flexibility is a relevant dimension when looking at flexicurity and different attempts to reconcile flexibility and security, as this form of flexibility has become increasingly used by employers as an additional form of flexibility to adjust their workforce, besides traditional external numerical flexibility (Ilsøe & Larsen, 2023).

As discussed earlier, certain categories of workers may be excluded from legal access to social protection because they are not member of an unemployment insurance fund or due to their status of fixed-term, part-time or self-employed workers (Immervoll et al., 2022). However, legal access is not the sole relevant criterion. Even when some of these groups may have similar access to that of standard employees, they may still be de facto excluded as many social benefits are conditioned by a set of eligibility criteria based on a minimum number of accrued working hours, past employment records, minimum pay, membership etc.

To account for the possibility of social protection and security for workers in NSE relations along their employment status, working hours and duration of contracts, this working paper draws on the work by Ilsøe & Larsen (2023) and Larsen & Ilsøe (2023) and explores through the lens of contractual flexibility (intended as flexibility with respect to employment status, contract duration, and working hours) access to social protection for workers in NSE. This multidimensional framework is intended to understand the challenges in terms of access to social protection for NSE workers subject to varying levels of contractual flexibility. Specifically, its multidimensionality allows us to understand how its three core dimensions, which form the basis of NSE arrangements, enable workers in NSE to meet the eligibility criteria for accessing social protection, as illustrated in the conceptual model (see Figure).

Figure 2: Conceptual model



The systematic analysis of eligibility rules across different social protection systems presented in this working paper addresses the following question: How does contractual flexibility (in terms of contract length, working hours, and employment status) influence the legal access to UB for workers in NSE?

Looking at dimensions of contractual flexibility allows us to grasp the mechanisms of accessibility for workers in NSE to UB depending on contract length, working hours, and employment status and to analyse the direct, indirect or no effect influence of these three dimensions to access UB.

We define here "influence" as the association between changes in one or more dimensions of contractual flexibility and changes in legal access to social protection. Furthermore, we measure the strength of this association by assessing the degree of the influence of each of these dimensions of contractual flexibility. We distinguish between direct, indirect, or no influence. "Direct influence" occurs when the influence of a dimension happens without any intermediary or mediating factors, that is when working hours, contract duration, employment status are explicitly indicated as eligibility criteria (e.g. work hours per week). "Indirect influence" occurs when the influence of a dimension is mediated by one or more additional factors that influence access to social protection. Specifically, when working hours, contract duration, and employment status are not explicitly stated as criteria but indirectly influence eligibility criteria, they can exert an indirect yet significant influence on eligibility. For example, the length of the contribution period is a criterion that can be linked to the duration of the contract, thus showing that duration can have an indirect effect on access to UB. "No influence" refers to when the dimension neither directly nor indirectly affects access to social protection. Hence, the paper aims to advance the labour market divides, flexibility and security literature by mapping protective gaps for workers in NSE focusing on legal access to Unemployment insurance Benefits (UB) based on specific access to social protection criteria such as employment status, working time and employment duration (see Section 5 and 6).

4. Operationalisation, case selection, and data

The study focuses on a specific area of social protection, specifically unemployment benefits. Unemployment benefits are payments made by the state or public insurance funds to eligible workers who have involuntarily lost their jobs. The primary objective of unemployment benefits is to provide income protection for a defined length of time or until the worker secures new employment. Benefits can be either paid as a flat rate or as an earnings-related benefit (a percentage of the previous salary) over a set period, depending on the social protection system (Esser et al., 2013).

The investigation explores social protection gaps by looking at access to social protection as defined by the law and focusing on eligibility criteria while being aware that this is just one of the relevant dimensions to study access and benefit adequacy for the social protection of workers in NSE (i.e. Korpi, 2010; Nelson et al., 2020; Otto & van Oorschot, 2019).

To analyse eligibility criteria, that is the detailed conditions that determine the actual entitlement to social protection, the working paper focuses on Unemployment insurance Benefits (UB) and considers the following criteria: (1) whether NSE workers have legal access to the UB scheme, (2) whether they are required to be members of the insurance fund on a voluntary or mandatory basis, (3) the type of contribution, and (4) their contribution record.

The working paper looks at the three dimensions of contractual flexibility, which (alone or in combination with one another) form the basis of many NSE arrangements: employment status, contract duration, and working hours (guaranteed hours, part-time). These three dimensions can highlight social protection gaps among workers in NSE, a topic that is explored in the subsequent discussion on NSE and their access to social protection across different countries. The paper draws on extensive desk research of policy documents. We aim to map legal access to unemployment benefits by mainly drawing on existing comparative sources on social protection across EU member states. This includes for example the entitlements rules for individuals who are applying for UB for the first time (thus have not previously received UB) as listed in the Mutual Information System on Social Protection (MISSOC, 2023a)², the ESPN Thematic Reports on Access to Social protection of people working as self-employed or on non-standard contracts (Spasova et al., 2017) and the policy rules description from the OECD (2023) tax-benefit model³.

The paper includes a subset of six countries for further examination which represent three diverse unemployment welfare regimes (Gallie & Paugam, 2000) to illustrate the challenges of UB in providing coverage to workers in NSE: Denmark and Sweden (universalistic regime), UK and Ireland (liberal/minimal regime) and Poland and Slovakia (Sub-protective regime). Universalistic regimes are known for having more inclusive social protection systems. In contrast, liberal regimes are characterized by minimal state intervention, and sub-protective regimes are known to be less developed and less comprehensive in addressing unemployment and social exclusion. We compare differences across regimes and conduct pairwise comparisons within these three types of regimes to investigate whether there is variation in the level of influence of contractual flexibility across the considered countries.

Empirically, the measurement of the level of the direct, indirect, and no influence for each of the three dimensions of contractual flexibility to meet the eligibility criteria required to access UB is done by assigning a score of 2 for direct influence, 1 for indirect influence, and 0 for no influence. We sum these scores to create an overall measure of the level of the influence of contractual flexibility in the six countries included in the paper.

² The database from the "Mutual Information System on Social Protection" (MISSOC) includes information on social protection systems and social protection eligibility rules for employees and the self-employed. The information are available for the 27 Member states of the European Union, Iceland, Liechtenstein, Norway and Switzerland – as well as the UK (albeit up to 1st July 2019). This working paper uses the information included in the databases in December 2023 for EU countries and July 2019 for the UK).

³ The database from the OECD tax-benefit model TaxBEN provides a detailed description of benefit entitlement rules for 40 OECD countries and includes a calculator of hypothetical benefit entitlements for a range of family compositions. This working paper uses the information included in the databases in December 2023.

5. Legal access to income protection schemes against unemployment⁴

5.1. Schemes for income protection against the risk of unemployment across EU countries

Across European welfare systems, income protection for the unemployed takes different forms: [1] Unemployment Insurance Benefits (UB), [2] Unemployment Assistance and/or [3] Social Assistance. UB are based on social insurance contributions and allocated based on previous earnings and/or individual work history. They are usually considered more generous forms of income protection than Unemployment Assistance and Social Assistance. Besides contributory UB, member states provide some forms of income protection for those who do not qualify (or no longer qualify) for unemployment insurance benefits (Esser et al., 2013). These can either take the form of Unemployment Assistance benefits in unemployment systems characterised by a two-tier system, or benefits of last resort from Social Assistance in social protection systems without Unemployment Assistance schemes. In countries with a two-tier unemployment system, Unemployment Assistance benefits can be either means-tested (AT, CZ, FI, FR, DE, IE, MT, PT, ES, UK) or a flat-rate-based system (EE, EL, HU, NL, SE). In the countries, where Unemployment Assistance benefits do not exist (BE, BG, CY, DK, IT, LV, LT, LU, NK, PL, RO, SK, SI, CH), income support for the unemployed who do not qualify for UB is left to last resort social assistance schemes which are means-tested and not tied to employment history (Esser et al., 2013; Spasova et al., 2023). Because access to Social Assistance is disconnected from employment history (in almost all social protection systems), this section will not discuss Social Assistance, albeit it is important to note that Social Assistance schemes exist in all EU countries, although with significant variation (Natili, 2020).

The following sections review eligibility criteria to access UB across the six countries looking at contribution records (Section 5.2) and employment status (Section 5.3). Based on the eligibility criteria listed in those sections, the section afterwards (Section 6) specifically focuses on how each of the three dimensions of contractual flexibility (i.e. employment status, contract length and working hours) influence directly, indirectly or not at all access to UB, and also how these dimensions cumulatively influence access to UB.

5.2. Access to unemployment insurance benefits for employees: eligibility criteria

Employees in NSE, including those with fixed-term contracts and part-time working hours are in principle eligible for UB. Yet, their actual eligibility varies across social protection systems. In systems following the Ghent system such as DK or SE, it is optional for workers to join a UB scheme and one of the eligibility criteria for qualifying for UB in case of job loss is that the individual worker has been a member of a UB scheme for at least one year. Additionally, in every European country access to UB depends on the contribution record of the worker, which is often strictly related to their employment record.

More specifically, when looking comparatively at different social protection systems, access to UB is conditional to having a certain contribution period (i.e. a specific period during which an individual must have paid into a social security system) within a certain reference period (i.e. the time frame used to determine eligibility for the benefit). Both the contribution period length and elements that constitute what is considered as a contribution vary across social protection systems, as well as the length of the contribution and reference periods. One important element of access to the scheme

⁴ Corporate and private forms of social protection are excluded from the analysis.

for workers in NSE is the ratio between the contribution period and the reference period⁵. In fact, the longer the reference period is compared to the contribution period, the more advantageous it is for workers with limited contributions (e.g. because of fixed-term contracts) to qualify for UB. Thus, the lower the ratio, the more inclusive the UB scheme is (see Table 1). However, accessibility to the UB also depends on supplementary conditions, which differ across countries and include, for instance, voluntary membership (DK, SE), a minimum income requirement (DK), minimum monthly or accrued working hours (SE, DK), minimum monthly contribution within the fiscal year (UK, IE), minimum contribution over the overall lifetime (IE). These additional conditions may become excluding factors to UB for workers with limited working hours or earning too little to meet those conditions.

Table 1: Access to the main insurance-based unemployment scheme for employees after job loss: eligibility criteria

Country	Contribution period (months)	Reference period (months)	Ratio between contribution and reference period	Additional conditions
Denmark	12	36	0.3	Minimum income requirement Membership to the insurance fund since at least 12 months
Sweden	6	12	0.5	Minimum monthly hours requirement Membership to the insurance fund since at least 12 months
United Kingdom	11,5	24	0.5	Minimum number of months contribution requirement in the current fiscal year, and minimum monthly hours requirement
Ireland	12	24	0.5	Minimum number of months contribution requirement in each fiscal year and a prior contribution of 24 months over the lifetime
Slovakia	24	48	0.5	Contribution can be paid through work or credited
Poland	12	18	0.7	Contribution can be paid through work or credited

Source: MISSOC (2023) and OECD (2023). The table presents contribution and reference periods expressed in months for comparability, while the different social protection systems measure contribution reference periods using different units (days, weeks, months, years).

5.3. Access to unemployment insurance benefits for self-employed: eligibility criteria

In addition to the contribution record, employment status is a key factor in determining eligibility for contributory UB schemes. It is argued that the primary social protection gaps for the self-employed in legal access relate to unemployment benefits (Spasova & Wilkens, 2018). This is because UB, similarly to some other insurance-based schemes (such as sickness and occupational injuries benefits), is predominantly linked to a salaried employment relationship, resulting in limited or no access for the self-employed, except sometimes on a voluntary basis.

Within the considered social protection systems, there are varying ways in which the self-employed are covered (or not) by contributory UB. In some systems, they have access to the general UB scheme (DK, SE, SK, PL). In others, they have access to dedicated UB schemes (IE), while in some

⁵ This ratio is calculated by dividing the number of contribution months by the number of months of the reference period.

other systems, they have no access to insurance schemes and can only resort to tax-based, means-tested unemployment assistance schemes or social assistance (UK, Norway). Self-employed individuals can insure themselves against UB on a mandatory basis (IE, PL), with some countries providing an opt-out option for those with income below a certain threshold (IE) and others offering coverage on a voluntary basis (DK, SE, SK). In countries where access for the self-employed is the same as for employees and is on a voluntary basis, non-standard workers may be less likely to join an unemployment fund (Shin & Böckerman, 2019). Contribution fees for the self-employed can be at the same level as for employees (like in DK, SK, and PL) or at lower levels (IE, SE) (see Table 2).

Table 2: Self-employed access to the main insurance-based unemployment scheme: access and eligibility criteria in comparison to the employees

Country	Access to general UB scheme	Voluntary / Mandatory insurance	Contribution fees paid by the self-employed	Contribution and reference period length	Additional or different condition imposed on the self-employed	Benefit level and duration
Denmark	Yes	Voluntary (=)	Fixed amount (=)	(=)	Close down the self-employment activity	Earnings related (=)
Sweden	Yes	Voluntary (=)	Fixed amount (=), Rate 0.10% (lower than employee) ⁶	(=)	Close down or put on hold the self-employment activity	Earnings related (=)
United Kingdom	No (no access to insurance scheme)				Note: Access limited to the means-tested assistance scheme, means-test based on household-level income and assets	
Ireland	No (access to a separate insurance scheme for self-employed)	Mandatory, Voluntary if income < 5K EUR	Rate 4% with a min payment of 500 EUR (lower than employee)	(=) except for lifetime contribution period	Slightly longer lifetime contribution period for self-employment contributions (36 months of self-employment contributions or 24 months of employee contributions) Close down the self-employment activity	Flat rate (=)
Slovakia	Yes	Voluntary (=)	Rate 2% (=)	(=)	Close down or put on hold the self-employment activity	Earnings related (=)
Poland	Yes	Mandatory (=)	Rate 1% (=)	(=)		Flat rate (=)

Source: (MISSOC, 2013, 2019, 2023a, 2023b, 2023c, 2023d, 2023e; OECD, 2023; Spasova et al., 2017)

Note: (=) indicates that the same conditions apply to the self-employed and the employees

Regarding eligibility criteria for accessing UB, some social protection systems impose the same eligibility criteria to the self-employed compared to the employees (PL), while others impose

⁶ In Sweden, contribution fees are lower for the self-employed (0.10%) than for employees (2.64% paid by the employer)

additional conditions to the self-employed such as closing their self-employment activity (DK, SE, SK, IE) or longer contribution periods (IE).

Differences in benefit levels and the duration for eligible self-employed seems to reflect variations across social protection systems (i.e. earning related benefits or flat rate) rather than differences between the self-employed and employees, as illustrate in Table 2. Those not covered by contributory UB schemes, either due to ineligibility, insufficient contribution records, or lack of voluntary insurance, can either fall back on Unemployment Assistance schemes or to Social Assistance schemes, which rely on non-contributory mechanisms and provide benefit payments at lower levels than insurance based UB.

In countries with Unemployment Assistance schemes, the benefit can be provided as a flat-benefit (SE) or as a means-tested benefit (UK, IE) (MISSOC, 2023a). In SE, those not insured against unemployment in the main UB scheme can access UA as a flat-rate benefit, provided they meet the same eligibility criteria based on the time worked as those who are insured (*ibidem*). In case they fail to meet those conditions, they can resort to means-tested social assistance. Means-tested Unemployment Assistance (in the UK and IE) as well as Social Assistance schemes, in general, are based on means-testing that considers household income and assets (*ibidem*). In addition to the means-testing, in some countries (DK), the introduction of a minimum work hours conditions (about 1.5/12 months) as eligibility requirements for Social Assistance sets an additional requirement (*ibidem*) and therefore may further limit access to a last-resort income support for the general population.

Moreover, means-tested benefits are usually associated to low-level of benefits, reaching those individuals whose resources fall below the income standard set in the welfare scheme, thus securing income mostly only for the poorest in society (van Oorschot, 2002). The issue of benefit adequacy (levels and duration) is a further important dimension to account for when assessing the inclusiveness of social protection schemes and their capacity to provide social protection for the unemployed previously engaged in NSE.

6. Contractual flexibility: influence on access to unemployment insurance benefits

As illustrated in the previous sections, the eligibility criteria for accessing UB suggest that contribution records are often strictly related to the employment record, and thus linked to contract length (i.e. for how long the worker has worked and contributed to the unemployment fund) and accrued working hours (i.e. the extent to which the worker has contributed). By elaborating on legal accessibility to UB as presented in the previous sections, this concluding section illustrates how the three dimensions of contractual flexibility to varying degrees influence an individual's eligibility to UB across different social protection systems. Table 3 illustrates how contract duration, working hours and employment status influence directly, indirectly, or not at all UB eligibility across different social protection systems.

It should be noted that contract duration is not a formal requirement in any of the social protection systems considered, whereby it only indirectly influences access to UB. For example, contract duration may influence the continuity of contribution and in turn, this may affect an individual's possibility to sufficiently contribute over a reference period and implicitly influence their access to UB. Hence, the influence of contract duration is uniform across and within the three unemployment regimes considered.

Differently, working hours directly influence access to UB in countries, where the eligibility criteria include a minimum number of accrued working hours over a certain reference period (SE, UK, DK). They can also indirectly influence access to UB in countries, where there is a minimum earning requirement can be fulfilled only by working enough hours for a minimum pay (DK, PL). Differently, working hours do not have any influence when it comes to accessing UB in social protection systems where there is no legal requirement regarding working hours or a minimum earning (IE, SK). Hence, the influence of working hours on access to unemployment benefits varies substantially within the considered regimes (i.e., indirect influence in DK and direct influence in SE; direct influence in the UK, no influence in IE; no influence in SK, indirect influence in PL). This heterogeneity of the influence of working hours within regimes leads to the impossibility of identifying patterns of differences across regimes. The influence of working hours cannot be associated with specific regime types.

Last, employment status has a direct influence on access to UB in most of the considered social protection systems (DK, SE, UK, IE, SK). For example, eligibility criteria differ between the self-employed and the traditional wage workers with the former having to meet additional conditions, such as longer contribution records (IE), close the self-employment activity (DK, IE, SK) or at least suspend it (SE). Employment status has apparently no influence in PL where self-employed have the same eligibility criteria and access to the same insurance UB scheme as the employed. Hence, the influence of self-employed status on access to unemployment benefits seems mostly uniform across and within the universalistic (DK, SE) and liberal (UK, IE) unemployment regimes, while it differs within the sub-protective regime, where employment status does not significantly matter in PL (while it does in SK), as previously illustrated.

Table 3: Influence of contractual flexibility dimensions on access to unemployment insurance benefits

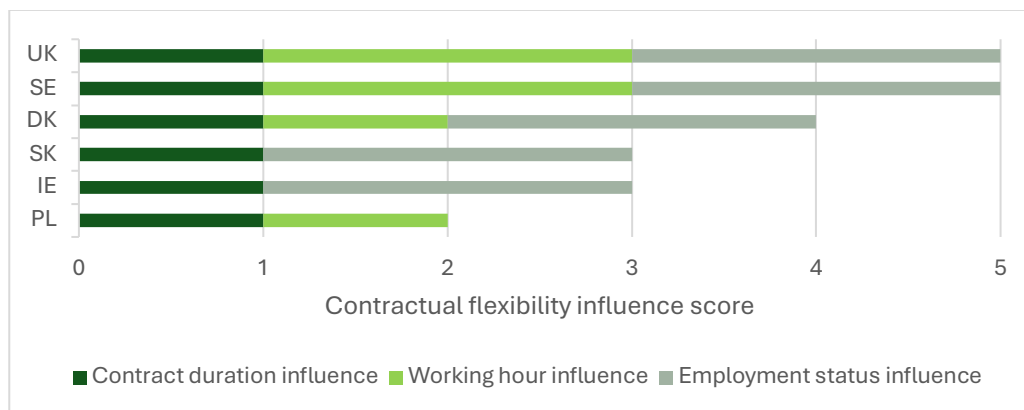
DK	SE	UK	IE	SK	PL
Contract duration					
Indirect influence	Indirect influence	Indirect Influence	Indirect influence	Indirect influence	Indirect influence
Contract duration may influence the continuity of contribution. This can affect the possibility to sufficiently contribute over a reference period and in turn influence access	Contract duration may influence the continuity of contribution. This can affect the possibility to sufficiently contribute over a reference period and in turn influence access	Contract duration may influence the continuity of contribution. This can affect the possibility to sufficiently contribute over a reference period and in turn influence access	Contract duration may influence the continuity of contribution. This can affect the possibility to sufficiently contribute over a reference period and in turn influence access	Contract duration may influence the continuity of contribution. This can affect the possibility to sufficiently contribute over a reference period and in turn influence access	Contract duration may influence the continuity of contribution. This can affect the possibility to sufficiently contribute over a reference period and in turn influence access
Working hours					
Indirect Influence	Direct influence	Direct Influence	No influence	No influence	Indirect influence
Work hours is mediated by minimum income requirement (i.e. how much you get paid per hour)	An eligibility criterion is a minimum of hrs/month worked	An eligibility criterion is a minimum of hrs/week on average worked	No minimum working time threshold	No minimum working time threshold	Work hours is mediated by minimum income requirement (i.e. how much you get paid per hour)
Employment status					
Direct influence	Direct influence	Direct Influence	Direct influence	Direct influence	No influence
Implies additional eligibility criteria: close self-employment activity	Implies additional eligibility criteria: close/suspend self-employment activity	Exclusion from main UB scheme	Separate UB scheme and additional eligibility criteria: close self-employment activity	Implies additional eligibility criteria: close self-employment activity	Same eligibility criteria

Source: own elaboration based on Table 1 and Table 2

Based on the table above, where we discuss the influence of the three dimensions of contractual flexibility separately, we have built a score to capture the overall influence of these three combined dimensions (see Section 4 for the explanation of the computation of the score). When looking at the influence of the three dimensions of contractual flexibility combined for access to UB, differences across social protection systems arise. In fact, in some social protection systems their overall influence level is higher (e.g. UK, SE, DK) than in others (i.e. SK, IE, PL). This suggests that, in some countries, the combined three dimensions underlying contractual flexibility matter more than in others. Hence, it is to be expected that in the former, it may be trickier for workers in NSE to be entitled to UB (see Figure 2). The higher the score, the greater the combined influence of the three

dimensions of contractual flexibility on access to social protection, making the social protection system less inclusive against unemployment.

Figure 2. Level of influence of the dimensions of contractual flexibility on access to UB*



* Direct effect, score = 2; Indirect effect, score = 1; No effect, score = 0

Source: Authors' own elaboration based on Table 3.

In fact, strict eligibility criteria such as a minimum number of hours or earnings can hamper the eligibility for part-time workers, temporary agency workers and fixed-term worker even before they may experience spells of unemployment. This implies that workers on fluctuating hours or part-time basis, as marginal freelancers, or as self-employed may fail to be protected against unemployment – aspects echoing other research (Grimshaw et al., 2016; Berglund et al., 2021; Larsen et al., 2022).

These differences in the overall level of influence show heterogeneity within regimes (i.e. the influence is different and higher in the UK than in IE, in SE than in DK, and in SK than in PL). These differences, however, cannot be straightforwardly associated with differences across regimes. Nonetheless, it appears that the so-called sub-protective regime (SK and PL), with its lower score of contractual flexibility influence, suggests a more inclusive UB social protection system (at least in terms of access) compared to, for instance, the so-called universalistic regime (SE and DK).

7. Discussions and conclusions

The working paper has explored social protection gaps for NSE by looking at how three key dimensions of contractual flexibility (i.e. contract duration, working hours, and employment status) influence legal access to UB. The use of the concept of contractual flexibility introduced by Larsen & Ilsøe (2023) allows to account for the possibility of access to social protection for workers in NSE relations along their employment status, working hours and duration of contracts. Analysing access to unemployment benefits through the multidimensional lens of contractual flexibility allows us to understand the influence of each dimension, the combined effect of these dimensions, and ultimately, how social protection gaps unfold for workers in non-standard employment (NSE).

Specifically, the influence of these three dimensions is explored by looking at each of the dimension of contractual flexibility individually and altogether to see whether these affect legal access directly, indirectly, or not at all across a set of exemplificative countries representing diverse unemployment regimes: Denmark and Sweden (universalistic regime), UK and Ireland (liberal/minimal regime) and Poland and Slovakia (Sub-protective regime).

Findings suggest that all these dimensions overall affect access to UB, albeit there is variation in the influence of these across the considered countries. Employment status is the dimension that seem to matter in all these countries (DK, SE, SK, IE, UK) but Poland, and have direct influence on access to UB. In fact, in those countries self-employed have either no access to the main general UB scheme (UK), have access to a separate UB scheme (IE) or, even where they have access to the main general scheme (DK, SE, SK), they are subject to additional eligibility criteria than the employed, such as the need to close the self-employment activity (DK, SE, SK, IE) or longer contribution periods (IE). Contract duration also matters for access to UB in all the countries considered, albeit only indirectly, meaning that contract duration may influence the continuity of the contribution and, in turn, the possibility to sufficiently contribute over a reference period and hence access UB. Differently, the influence of the working hours dimension is more variable across the considered countries. In some countries (SE, UK), a minimum number of working hours (per week or month worked) is one of the eligibility criteria and, thus in those countries, working hours have a direct influence on access to UB. In other countries (DK and PL) where eligibility criteria do not include working hours but a minimum income requirement, limited working hours may indirectly influence the possibility for the workers to meet the minimum income requirement and thus access UB. Lastly in countries where eligibility criteria do not include working hours nor minimum income requirements (IE, SK), this dimension of contractual flexibility does not influence access to UB. Lastly, when looking at the influence of these three dimensions combined, it comes out that their overall influence is more pronounced in some countries (i.e. UK, SE) than in others (i.e. PL). A more pronounced overall influence may hint at a social protection system where UB is less inclusive for workers in NSE.

The varying levels of contractual flexibility influence highlight heterogeneity within regimes (i.e. higher influence observed in the UK compared to IE, in SE than in DK, and in SI than in PL). These variations cannot be directly linked to differences across regimes. However, the sub-protective regime (SK and PL), characterized by lower contractual flexibility influence, seems to offer a more inclusive social protection system in terms of access to UB, compared to the universalistic regime (SE and DK). The difference in the influence of contractual flexibility on UB access is connected to the influence of working hours. These findings and the contractual flexibility influence score should be considered a relative measure of the exclusiveness of UB for workers in NSE. This measure is based solely on eligibility criteria and does not account for adequacy levels, which are an important dimension of inclusiveness but are beyond the scope of this paper.

Findings show that these three elements of contractual flexibility are crucial to consider when exploring legal access to social security for workers in NSE. In fact, either separately or in combination, these factors may preclude or limit access to UB to workers in NSE. While some NSE workers in some countries can be entitled in principle to the same benefits as standard workers, in practice, tight eligibility rules based on long contribution records, high-income levels acquired in a qualifying period before unemployment, or other thresholds may challenge the effective access to UB for the unemployed previously working in NSE. As a result, those not qualifying for insurance-based unemployment benefits may end up qualifying only for unemployment assistance (or social assistance) which often provides lower levels of benefits. It is also interesting to note that differences across the dimensions of contractual flexibility and countries do not seem to cut across the traditional classification provided by unemployment regimes (Gallie & Paugam, 2000). The influence of the three dimensions of contractual flexibility on access to UB illustrates the relevance of exploring social protection gaps through the multidimensional lens of contractual flexibility, in particular access to social protection for workers in NSE in a variety of European national contexts.

To conclude, our findings suggest that workers with high contractual flexibility (i.e. who are more likely to fail to work enough hours or for a sufficiently long period) face more difficulty in accessing social protection, potentially leading to greater segmentation in the labour market. As eligibility criteria are key for establishing which workers have access and which are excluded from social protection in case of job loss and unemployment, analysing them through the lens of contractual flexibility allows to capture how much workers in contractual flexibility have access and which are excluded from social protection in case of job loss and unemployment. Workers in NSE are at greater risk of job loss and unemployment and may be in need of social protection more often than their peers in full-time open-ended positions. If they are unable to access social protection when needed, this may reinforce their vulnerable position on the labour market and lead to deeper divides. These findings are relevant in light of debates on labour market divides, flexicurity and social protection gaps, which are concerned about the need for policies to reconcile flexibility and security in the labour market.

These results highlights the potential for further research, leveraging the lens of contractual flexibility proposed by Larsen & Ilsøe (2023). The use of this lens can help empirical research to focus on further inquiry. Among the many future directions for research, the lens of contractual flexibility could be further used to explore similarities and differences between different groups of workers in NSE characterized by one or a combination of the three dimensions, such as Temporary agency workers, solo self-employed, zero-hour contractors, and platform workers. It could also be used to explore how these three dimensions of contractual flexibility influence not only access but also UB adequacy levels. Also, it could be used to look at access to UB not only for first time entrants (eligibility criteria) but also to requalify to UB after a period of unemployment, something that may be particularly relevant for workers in NSE. Lastly and more generally, to enhance the current understanding of access to social protection for workers in NSE, additional research is required to empirically investigate effective access to UB and other forms of social protection beyond UB. Addressing social protection gaps for NSE workers is essential for reducing labour market inequalities and ensuring economic security for all workers, regardless of their employment type, so they have access to the benefits and security they need in times of unemployment and beyond.

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