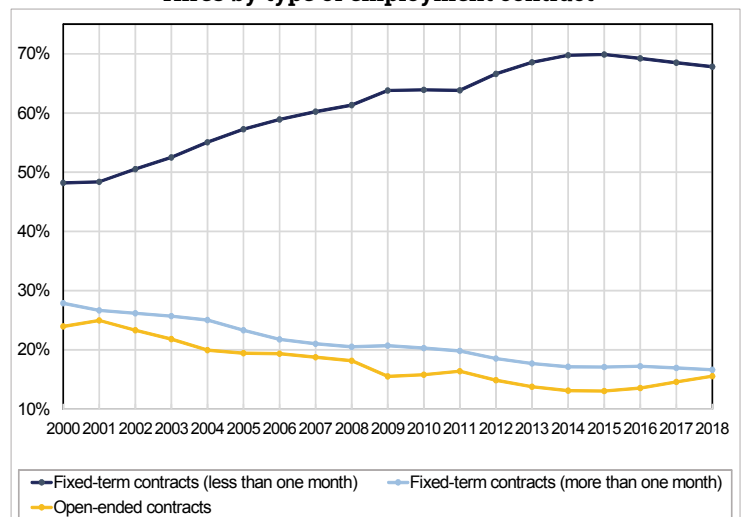


## The development of very short-term employment contracts in France

- Since the 2000s, hires on very short-term fixed-term contracts (less than one month) have increased sharply and the median duration of fixed-term contracts has contracted.
- The increase in the number of very short-term hires can be primarily observed in the service sector, where four subsectors of activity account for 80% of the increase: residential care services and social action, arts and entertainment, accommodation and food service, and administrative and support services. Between 2000 and 2017, the use of contracts of less than one month more than doubled in all these sectors.
- The growth in short-term contracts over the past twenty years may be linked to sector-specific production and organisational constraints, as well as to regulatory and legal changes. However, due to the lack of studies on the factors behind this increase, it is difficult to establish cause-and-effect relationships.
- Compared with employees on long-term contracts, individuals employed on repeated very short-term contracts are penalised in several respects: their incomes are lower, they have less access to vocational training, and their prospects for moving towards stable employment are limited. They also have more difficulties accessing housing and getting bank loans.
- Some recently-adopted measures could encourage longer-term contracts, such as the permanent establishment of the «open-ended interim contracts» with temping agencies and stronger labour relations at branch level. Recent vocational training measures could even out access to training between employees on fixed-term contracts and those on open-ended ones. Limiting incentives to repeatedly renew short-term contracts is also a key part of unemployment insurance reform, which involves acting by both employers and employees.

Hires by type of employment contract



Source: Acooss-Urssaf, DG Trésor calculations.

Scope: Advance hiring notices (DPAEs) excluding temping contracts filed with Urssaf.

# 1. Sharp growth in very short-term contracts in France since the 2000s<sup>1</sup>

The open-ended employment contract (CDI) is the "normal, general form of the working relationship" between employer and employee.<sup>2</sup> As a result, it currently represents 85% of

total salaried employment.<sup>3</sup> The remaining 15% of employees are recruited under fixed-term contracts (CDDs), temporary employment contracts (CTTs) and apprenticeship contracts (see Box 1).

## Box 1: The legal framework for short-term contacts

Fixed-term and temporary contracts meet the temporary needs of companies. They must not "have the purpose or effect of permanently filling a post linked to the company's normal and permanent activity", and may only be used for the "performance of a specific, temporary task".<sup>a</sup> The fixed-term contract and the temporary contract are subject to a specific legal framework governing grounds for appeal, duration, renewal and compensation:

- A company may make use of a CDD or a CTT in the event of a replacement,<sup>b</sup> a temporary increase in the company's activity, or as part of activities that are temporary in nature (seasonal contracts, "harvest" contracts and "*contrats à durée déterminée d'usage*" (CDDUs), which are described below).
- In the absence of a branch agreement, a fixed-term contract may not, as a general rule, exceed 18 months in length. During this period, the contract may be renewed only twice (i.e. three successive contracts), and companies must comply with a waiting period between these contracts.<sup>c</sup> However, there are exceptions: for example, fixed-term contracts with a defined purpose can last up to 36 months, and the waiting period does not apply in cases where an absent employee is being replaced.<sup>d</sup>
- If a fixed-term contract is not converted into an open-ended one, a bonus is paid at the end of the contract. Generally, the amount is set at 10% of the total gross compensation paid to the employee during the contract. This may, however, be reduced to 6% by collective agreement,<sup>e</sup> provided that the employer offers other forms of compensation to the employee, particularly special access to vocational training.

Among fixed-term contracts, the CDDU ("*contrat à durée déterminée d'usage*") is a particularly flexible form of employment agreement. It is not subject to length and renewal limits, nor must the employer pay a bonus at the end of the contract. The sectors that may use the CDDU are defined by decree or by extended collective bargaining agreements in which it is "established practice not to use an open-ended employment contract because of the nature of the activity carried out and the temporary nature of these jobs". The Inspectorate General for Social Affairs (IGAS)<sup>f</sup> has identified 30 sectors that are eligible to use the CDDU by regulation or under collective bargaining agreements. In the 21-sector French Classification of Activities (NAF 21), these correspond to 12 sectors.<sup>g</sup> In some sectors, the CDDU can only be used in connection with certain trades.<sup>h</sup>

a. See Article L. 1242-1 and L. 1242-2 of the French Labour Code.

b. However, it is prohibited to make use of these contractual models to replace an employee whose employment contract has been suspended following a collective labour dispute, for the performance of particularly dangerous work and to deal with a temporary increase in activity after a redundancy for economic reasons.

c. In the absence of a provision in the branch agreement concluded pursuant to Article L. 1244-3, this waiting period is equal either to one-third of the term of the expired contract, if the term of the contract is fourteen days or more (including, where applicable, any renewal(s)), or to one-half of the term of the expired contract, if the term of the contract is less than fourteen days (including, where applicable, any renewal(s)).

d. See Article L. 1244-4-1 of the French Labour Code.

e. At the level of the establishment, company or branch.

f. Jaouen V. and Marie E. (2015), "Évaluation du contrat à durée déterminée dit d'usage", IGAS, report no. 2015-049R.

g. The NAF sectors concerned include: A (agriculture, forestry and fishing), C (manufacturing), F (construction), H (transportation and storage), I (accommodation and food service activities), J (information and communication), K (financial and insurance activities), M (professional, scientific and technical activities), N (administrative and support service activities), P (education), Q (human health and social work activities), R (arts, entertainment and recreation).

h. For example, CDDUs are permitted for the "logging" sector only for the trade of logger. As the IGAS indicates in its report, however, it is difficult to establish a precise list of sectors and professions eligible for the CDDU.

(1) We are grateful for comments from the Ministry for Labour's Directorate for the Promotion of Research and Statistics (DARES).

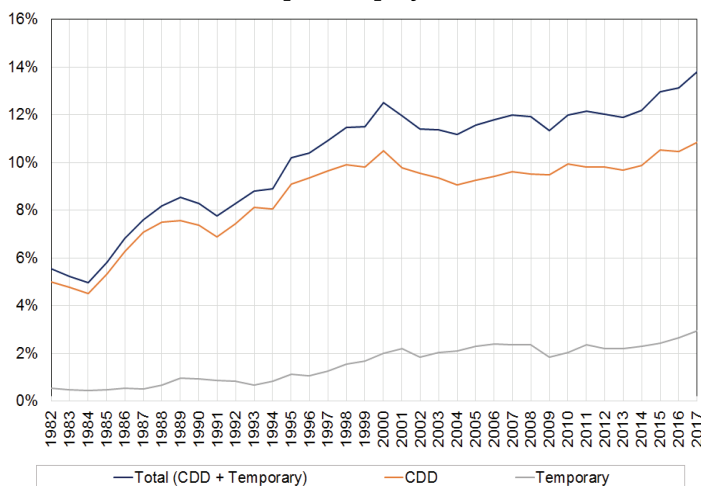
(2) Article L. 1221-2 of the French Labour Code.

(3) Insee, Labour Force Survey, 2017.

## 1.1 Since the 2000s, fixed-term contracts have shortened, especially in the service sector

The use of short-term contracts has risen strongly in recent decades, with two distinct periods of growth. The 1980s and 1990s saw a steady increase in fixed-term employment: the share of fixed-term and temporary jobs rose from 6% to 12% during this period. On the other hand, since the 2000s, the stock of fixed-term and temporary contracts in total paid employment has remained relatively stable<sup>4</sup> (see Chart 1).

**Chart 1: Fixed-term contracts as a share of total paid employment**



Source: Insee, Labour Force Survey, DG Trésor calculations.

Scope: Mainland France, members of households who are 15 years old or older.

In parallel with the relative stability of fixed-term contracts as a share of total paid employment, the number of hires on fixed-term contracts, particularly those lasting less than one month, increased considerably since the 2000s. In 2017, hires on contracts of less than one month accounted for almost 70% of total hires, compared to less than 50% in 2000. These two parallel developments – an upswing in hires on fixed-term contracts concurrent with stock stability – reflect a shortening of the length of contracts. Indeed, the median duration of expired fixed-term contracts rose from more than 20 days in 2000 to 5 days in 2017 (see Chart 2). This shortening mainly concerns fixed-term contracts

rather than temporary contracts: the average duration of temporary assignments remained stable between 2001 and 2017, at around 1.9 weeks.

The increase in the number of short-term contracts went hand-in-hand with an increase in re-employment by former employers. In 2012, re-employments represented 69% of new non-temporary hires, all lengths combined, compared to 46% in 1995. These re-employments are particularly relevant for very short-term contracts: in 2012, 8 out of 10 hires on fixed-term contracts of less than one month were hires with a former employer.<sup>5</sup>

**Chart 2: Lengths of expired fixed-term contracts and temporary assignments, 2001-2017**



Source: Monthly workforce movement data (for CDDs), Monthly Single Staff Reporting Statements and Pôle Emploi monthly temporary contract declarations (for temporary assignments), DARES.

Scope: Mainland France, private-sector companies with 50 or more employees, excluding farming and temporary work (for CDDs), France excluding Mayotte, temporary contracts including open-ended contracts with temping agencies (for temporary assignments).

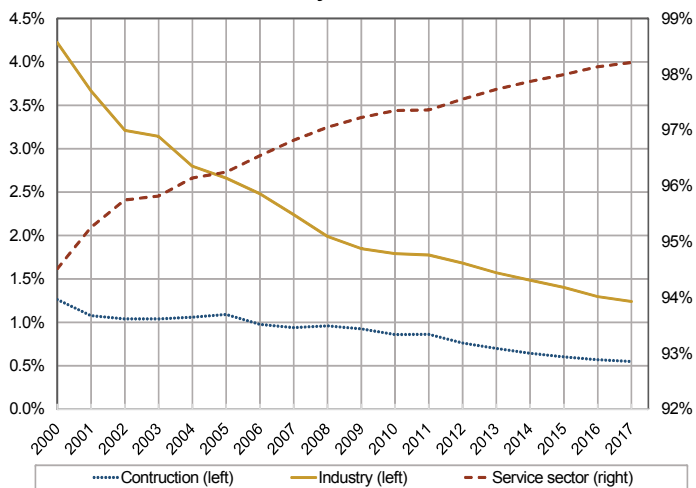
The increase in the number of very short-term hires can be primarily observed in the service sector. In 2017, 98% of hires on fixed-term contracts of less than one month were in this sector (see Chart 3). A more nuanced view should be taken of the decline in the use of fixed-term contracts of less than one month in industry and construction, however, as they may reflect a more frequent use of temporary contracts than fixed-term contracts in these sectors.<sup>6</sup>

(4) Since 2015, however, the trend seems to be on the rise again for both types of contracts.

(5) Unédic (2016), « La majorité des embauches en contrats courts se font chez un ancien employeur », *Éclairages, études et analyses*.

(6) In 2017, the rate of new temporary employment contracts – the ratio between the total number of temporary workers and the average number of employees over the year – reached 214% in the industrial sector, 180% in the construction sector and only 78% in the service sector. (See Dares Analyses (2018), « CDD, CDI : comment évoluent les embauches et les ruptures depuis 25 ans ? », June).

**Chart 3: Share of hires on CDDs of less than one month by sector**



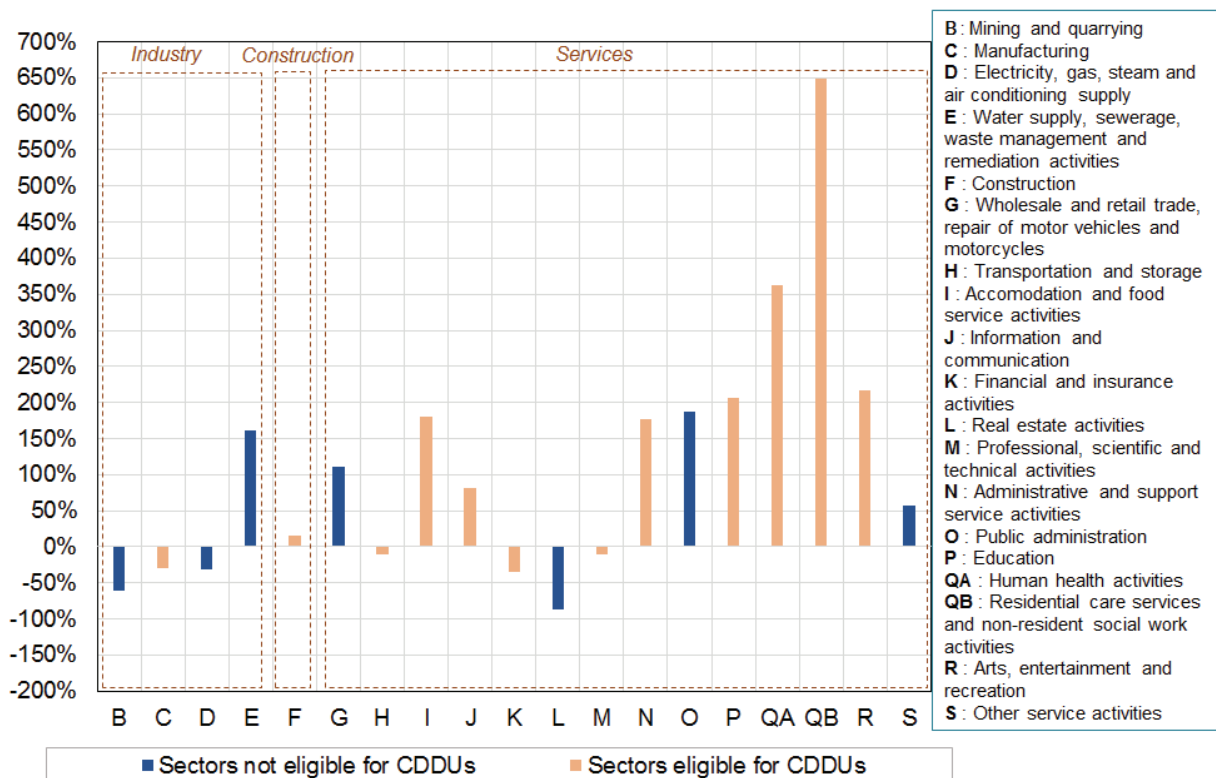
Source: Acoiss-Urssaf, DG Trésor calculations.

Scope: Advance hiring notices (DPAEs) excluding temporary contracts filed with Urssaf.

Not all service sectors were affected by these developments. Four sectors of activity alone account for 80% of the total increase in hires on fixed-term contracts of less than one month in the service sector. These include residential care services and social action (649% increase in the number of hires on fixed-term contracts of less than one month between 2000 and 2017), arts and entertainment (217%), accommodation and food service (179%), and administrative and support services (176%). The upward thrust in total paid employment in these sectors between 2000 and 2017 (7%, 20%, 38% and 41%, respectively) cannot alone explain these developments.

It should also be noted that, among sectors that saw an increase in the use of contracts of less than one month between 2000 and 2017, over half were eligible to use CDDUs under regulations or as part of collective bargaining conventions or agreements.<sup>8</sup>

**Chart 4: New hires on contracts of less than one month by sector, 2000-2017**



Source: Acoiss-Urssaf, DG Trésor calculations based on the NAF 21 classification of activities.

Scope: Advance hiring notices (DPAEs) excluding temporary contracts filed with Urssaf.

Note: Advance hiring notices are available for only 18 sectors in the NAF 21 classification. According to IGAS, agriculture, forestry and fishing is the only unavailable sector that is eligible to use CDDUs (for loggers). Moreover, the human health and social action sector has been separated into two sub-sectors (QA and QB) for the purposes of a more detailed analysis.

(7) Between 2010 and 2017 for residential care services and social action.

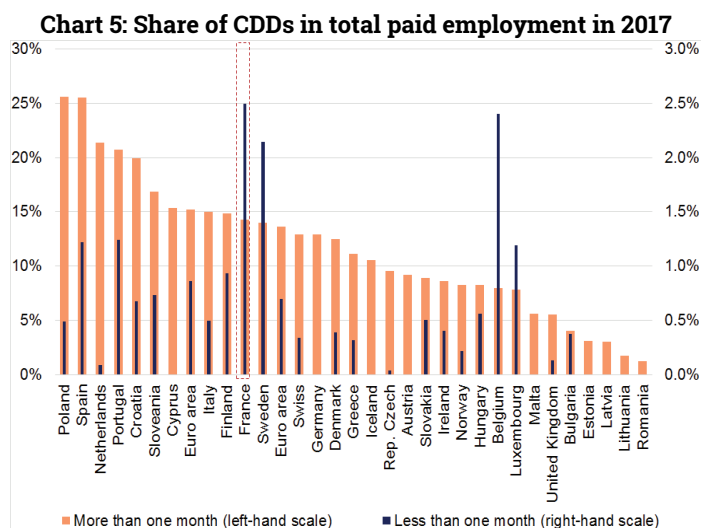
(8) This classification was carried out by the IGAS task force as part of the CDDU report. Since the NAF 21 classification level is the most aggregated sectoral level, some sectors are eligible for CDDUs without all the trades in the sector being authorised to use CDDUs (see Box 1).

## 1.2 In 2017, France leads Europe in terms of contracts of less than one month, although their number is probably underestimated in other countries

France is in the average of European countries in terms of the use of fixed-term employment contracts of more than one month (see Chart 5). On the other hand, its heavy use of contracts of less than one month stands out. The European Employment Survey shows that France ranks first in Europe for fixed-term contracts of less than one month, with such contracts accounting for 2.5% of total paid employment in 2017, ahead of Belgium (2.4%), Sweden (2.1%) and the EU average (0.7%).

However, France's singularity in terms of short-term contracts must be put into perspective, because in several European countries, precarious forms of employment that do not strictly correspond to contracts of less than one month are not counted as such. This is particularly the case for zero-hour contracts in the United Kingdom and Ireland, where an employer can establish a long-term contract, but without guaranteeing a minimum number of hours. Thus,

an employee's assignments may, in practice, be quite short and discontinuous, as in the case of the French CDDU. In addition, for some countries such as Germany, Eurostat does not have data on employment contracts of less than one month.



Source: Eurostat, European Employment Survey, DG Trésor calculations.

Scope: Employees aged 15 to 64.

## 2. Sectoral production constraints and regulatory and legal developments may have contributed to the development of very short contracts

### 2.1 In some sectors, very short contracts provide an answer to specific production or operational constraints

The significant contribution of some sector to the growth of very short-term contracts in the service sector suggests the existence of sectoral factors at the root of this phenomenon.

A survey of employers<sup>9</sup> tends to confirm the role of sectoral characteristics in the use of very short-term contracts, particularly when it comes to accommodation and food service and residential care services (see Box 2).

The increase in competition linked to the emergence of home delivery platforms and the volatility of demand perceived by companies are particularly highlighted by the accommodation and food service sector. However, the volatility of aggregate demand in this sector has not increased since the 2000s, with the exception of July and August,<sup>10</sup> suggesting that this is only a partial explanation for the increase in the use of short-term contracts. Other sectors have also seen an increase in short-term hires concurrent with a decrease in aggregate demand volatility between 2000 and 2017.<sup>11</sup>

(9) « Le recours aux contrats courts, enquête qualitative auprès des employeurs menée en 2017-2018 », survey carried out by Crédoc, *Éclairage Unédic*, October 2018.

(10) Coquet B. and Heyer E. (2018), « Pour une régulation économique des contrats courts sans contraindre les entreprises, en préservant l'assurance chômage », OFCE, December 2018.

(11) For example, the water production and distribution sector experienced a 75% increase in short-term contract hires between 2000 and 2017, whereas its level of volatility is lower today than it was in 2000 (see in particular the OFCE report (*op. cit.*)).



## Box 2: The use of short-term contracts in the residential care services and social action sector

The residential care services and social action sector was the primary contributor to the increase in short-term contracts in the service sector between 2000 and 2017 (accounting for 23% of such contracts over this period). This can be partly explained by the robust growth in employment in this sector, which is adapting to an ageing population. However, between 2010 and 2017, total paid employment in the sector increased by only 7%, while the number of hires on fixed-term contracts of less than one month increased by 114%. The rise in the number of contracts of less than one month since 2000 has been accompanied by a sharp upswing in re-employment. Between 2000 and 2012, the share of re-employments with a former employer in this sector, all contract lengths combined, increased by 25% against 17% for all sectors.<sup>a</sup>

The Crédoc survey of employers mentioned above shows that the replacement of absent employees in the residential care services sector was the main factor explaining the massive development of short-term contracts.<sup>b</sup> Medical and social institutions, in particular residential institutions for dependent elderly people (EHPAD), use it to deal with absences to meet regulatory requirements for continuity of service. Medical and social institutions are faced with high absenteeism, mainly due to illness, but at least partly due to increasingly difficult working conditions, at a time of an ageing population and financial constraints imposed on the medical and social sector. The Crédoc survey thus specifies that the budget allocated to medico-social establishments – which largely depends on the level of residents' dependence – is "often insufficient to cover the posts allocated and is renegotiated very little".

a. Unédic (2016), « La majorité des embauches en contrats courts se font chez un ancien employeur », *Éclairages, études et analyses*.

b. « Le recours aux contrats courts, enquête qualitative auprès des employeurs menée en 2017-2018 », survey carried out by Crédoc, *Éclairage Unédic*, October 2018.

### 2.2 The legal and tax context may have favoured the transition from undeclared to declared contracts

The transformation of undeclared jobs into declared jobs could account for part of the increase in the use of very short-term contracts in some sectors. Part of the increase between 2000 and 2017 could therefore be the result of a simple statistical effect if the majority of newly declared contracts are fixed-term ones.

A national plan to combat illegal work was rolled out in 2004-2005. It involved bolstering the Labour Inspectorate's resources and stepping up inspections. In the area of personal services, which is part of the residential care services and social action sector, undeclared work is estimated to have fallen from 50% in 1996 to 25% in 2011.<sup>12</sup> In the hotel and restaurant sector, the offence rate for undeclared work is estimated to have fallen by more than half between 2005 and 2012.<sup>13</sup>

Changes in tax legislation may have contributed to this downward trend. The national plan to combat illegal employment, for example, eliminated public aid to companies that have been issued citations. In addition, cuts to employer contributions for low-wage jobs introduced in the late 1990s and the tax breaks for personal services since the 2000s directly target low-skilled jobs, which are

the most likely to be covered by very short-term contracts<sup>14</sup> (see section 3.1).

### 2.3 Unemployment insurance regulations can encourage very short-term contracts

In some respects, the current method of calculating unemployment benefits, based on a daily rather than a monthly salary, encourages the use of a series of very short-term contracts. Two recipients who work the same number of hours at the same wage during a given period – one of whom is given a series of fixed-term contracts while the other is given a single part-time contract – do not receive the same monthly unemployment benefits. The monthly benefits for the recipient initially on fixed-term contracts will be higher than that of the recipient who had the part-time contract. On the other hand, the part-time employee's unemployment benefits will be paid out for a longer period. Since, on average, only one third of recipients consume their entire unemployment insurance entitlements,<sup>15</sup> these rules lead to inequalities in the payment of entitlements according to the type of contract. In addition, unemployment benefits that are calculated on a reference daily wage and paid every day of the month may lead to monthly benefits at the beginning of the entitlement period that are higher than the reference monthly wage (see Box 3).

(12) CNIS (2017), « La mesure du travail dissimulé et ses impacts pour les finances publiques ».

(13) COE (2019), « Le travail non déclaré ».

(14) On the other hand, the branches that have benefited more from contribution relief on low wages are the same ones whose use of fixed-term contracts has increased since the 2000s. By definition, these employ the largest number of employees at the bottom of the wage scale. (See Coquet B. and E. Heyer (2018), « Pour une régulation économique des contrats courts sans contraindre les entreprises, en préservant l'assurance chômage », OFCE, December 2018).

(15) Negotiation guidelines, Unédic, November 2018.

### Box 3: Current calculation of unemployment benefits

The difference in benefits payments according to the type of contract can be explained by the current method of calculating unemployment benefits, which consists of paying a percentage (between 57% and 75%) of the gross *daily* reference wage before unemployment (SJR) for a given period of time. The SJR corresponds to the average salary received for the *days actually worked*.

This calculation method leads to inequalities between employees hired on part-time contracts and those hired on a succession of short-term contracts. An employee working part-time at the hourly minimum wage receives the same monthly salary as a full-time employee working 15 days per month. However, they do not receive the same daily salary – the part-time employee will be paid half as much as the employee on short-term contracts.

When they enter unemployment, the two recipients receive the same entitlements, but the amounts are paid out differently. Daily unemployment benefits correspond to about 65% of their former daily wage, i.e. €16 gross per day for the part-time recipient and €32 gross per day for the one who worked 15 days a month. The daily allowance is paid every day of the month,<sup>a</sup> so the recipient initially on a fixed-term contract receives a higher monthly unemployment allowance (€973 gross) than the recipient initially on a part-time basis (€489 gross). However, to maintain a constant capital of entitlements, the benefits for the part-time employee will be paid twice as long as those of the employee who was on a fixed-term contract.

In addition, since unemployment benefits are paid every day of the month, a person who initially worked 15 days a month is entitled to monthly unemployment benefits at the *beginning* of the entitlements period that are higher than his or her former gross monthly salary (i.e. a gross monthly allowance of €973 compared to a gross monthly salary of €761).

- a. Provided that the recipient has not returned to work during the compensation period. If the salary for the new position is lower than the salary used as a basis for calculating the allowance, the recipient is eligible for the "return to work" scheme. In this case, he or she would receive only a portion of the unemployment benefits (calculated as the number of days of compensated unemployment).

In addition, under certain conditions, unemployed individuals on benefits are able to combine those benefits with paid activity (the so-called cumulative wage allowance scheme). The regulations relating to this scheme have become more flexible since it was set up in the 1960s,<sup>16</sup> making it more accessible and potentially financially advantageous for people to move between employment and unemployment and back again.<sup>17</sup> In 2014,<sup>18</sup> the system for reinstating unemployment insurance entitlement also enabled recipients to restore entitlement to benefits as soon as they had completed one month's work, against four months previously. While these schemes provide an incentive to return to work by maintaining compensation or quickly restoring entitlement, they can also encourage the use of short-term contracts for both the employees and employers.

#### 2.4 The lack of legal clarity regarding oversight of CDDUs may have contributed to their increase

Among the sectors where the use of very short-term contracts increased between 2000 and 2017, more than half were eligible to use CDDUs. CDDUs are generally very short and renewed several times: about 50% of CDDUs signed in 2014 were for periods of less than one week, and just under half of them lasted less than one day. The grounds for using this type of contract are regulated by law, but the CDDU's legal framework was amended in the 2000s. Whereas case law strictly controlled the use of CDDUs between 1986 and 2003,<sup>19</sup> this situation was temporarily reversed between 2003 and 2008, which reduced the risk that CDDUs would be reclassified as permanent contracts. During this period, a judge no longer had to verify the temporary nature of the employment covered by a CDDU as long as the company belonged to a CDDU-eligible sector and the profession in question was also eligible. This

(16) « Historique des règles du cumul de l'allocation d'assurance chômage avec une rémunération tirée d'une activité salariée réduite ou occasionnelle », Unédic, November 2010.

(17) It is also possible to combine unemployment benefits and paid activity in an unlimited manner – working 46% of days and receiving a monthly income equivalent to 83% of a full-time minimum wage (see Cahuc P. and C. Prost (2015), « Améliorer l'assurance chômage pour limiter l'instabilité de l'emploi », Note by the Economic Analysis Council).

(18) Agreement of 14 May 2014 relating to unemployment insurance.

(19) Cases of lasting and repeated use of CDDUs referred to the courts generally resulted in their reclassification as permanent contracts (90% of legal rulings).

reversal, combined with an ill-defined list of eligible sectors,<sup>20</sup> may have contributed to the growth of short-term contracts: between 130,000 and 150,000 employees

are thought to be employed using this type of contract without either the law or a collective bargaining agreement authorising it.<sup>21</sup>

### 3. For employees, the repeated use of very short-term contracts has multiple disadvantages

There are several forms of socio-economic inequalities between those working under temporary contracts and those with stable contracts.

#### 3.1 Short-term contracts are focused on certain groups

Short-term contracts are not uniformly distributed across the workforce. Some groups – young people, women, the lowest-paid and least-qualified – are thus more frequently concerned by this form of employment.

Even if the share of young people on contracts lasting less than three months fell between 2000 and 2017 (from 39% to 27%), very short-term contracts often remain the domain of young workers. In 2017, employees aged 15 to 24 accounted for a quarter of all short-term contracts lasting less than one month, against only 12% for employees aged 55 or over.<sup>22</sup>

The breakdown between women and men is heterogeneous depending on the type of contract and the sector of activity. In 2017, contracts of less than one month accounted for nearly half of all contract terminations for women, compared to one in five for men. Conversely, temporary assignments of less than one month are twice as frequent for men as for women (60% of male contract terminations were for temporary assignments of less than one month, compared to 34% of those for women). This is closely linked to the sector of activity, with temporary work being used more often in industry and construction.<sup>23</sup>

Employees on fixed-term contracts are over-represented at the bottom of the wage pyramid: of the 10% of lowest-paid employees, 10.4% are on fixed-term contracts, compared to 5.4% at all wage levels combined. In addition, 36% of

employees on fixed-term contracts are unskilled employees and workers, compared with 22% of those on open-ended contracts.<sup>24</sup>

#### 3.2 Short-term contracts offer limited paths for career growth

There is a key issue as to whether temporary contracts constitute stepping stones to stable employment or whether they trap individuals in unstable jobs. However, studies in this area face the difficulty of separating out individual characteristics (unobserved heterogeneity) from the causal impact that a short-term contract may have. By preserving people's employability and human capital, temporary jobs could ultimately enable young first-time labour market entrants and people far removed from the labour market to integrate into long-term employment. On the other hand, there is a risk that these forms of atypical contracts may lead employees into unstable career paths in which periods of temporary work alternate with times of unemployment.

Few French studies have attempted to assess the effect of temporary jobs on career paths.<sup>25</sup> Blasco and Givord (2010)<sup>26</sup> show that there are significantly fewer transitions from temporary to stable employment than those towards unemployment and inactivity. Their results also suggest that transitions to stable employment are reduced after a year of temporary employment. This tends to confirm the existence of a notable dualism in the French labour market:<sup>27</sup> a majority of employees are employed on permanent contracts while a minority alternate short periods of employment and unemployment, and there is little porosity between the two groups.

(20) Jaouen V. and E. Marie (2015), *op.cit.* Eligible sectors and trades have barely been reviewed since the decrees of February 1982 and March 2003, and the complete list of eligible sectors is not mentioned anywhere: Article D.1242-1 lists only some fifteen items.

(21) Jaouen V. and E. Marie (2015), *op.cit.*

(22) Dares (2018), « La situation du marché du travail au 2<sup>ème</sup> trimestre 2018, les 5 faits saillants », Grenelle Conference Series (*RDV de Grenelle*).

(23) Jauneau Y. and J. Vidalenc (2019), « Les salariés en contrat court : des allers-retours plus fréquents entre emploi, chômage et inactivité », *Insee Première* no. 1736.

(24) See Dares Analyses (2018), « Des CDD moins bien rémunérés que les CDI : d'où vient l'écart ? ».

(25) See in particular Givord P., L. Wilner (2015), N. Havet (2006), and T. Magnac (2000). International studies are of limited applicability to France's situation due to the divergence of forms of short contracts across countries (see above).

(26) Blasco S. and P. Givord (2010), « Les trajectoires professionnelles en début de vie active : quel impact des contrats temporaires ? », *Économie et statistique*.

(27) See in particular Fontaine F. and F. Malherbet (2016), « CDD vs CDI : les effets d'un dualisme contractuel », *Presses de Sciences Po*.



Employees on short-term contracts are also less likely to receive vocational training, thus limiting subsequent opportunities. In 2012, the probability of benefiting from company-financed or organised training was 27% lower for those in temporary employment than those in stable employment. This gap in access to training is significantly smaller in many other OECD countries.

### 3.3 Repeated short-term contracts affects both compensation and quality of life

Compensation for workers on very short-term contracts is generally lower than that of other workers. Between 2011 and 2013, only one in five employees working exclusively on contracts of less than one month in the year had an annual income of €10,000 or more, while four in five employees not on any contracts of less than one month reached this income.<sup>28</sup>

Unemployment benefits, which can supplement the income of employees on short-term contracts, are not always high enough to avoid poverty. One quarter of those on contracts of less than one month receiving unemployment benefits were members of poor households, against 6% of workers

who were not hired under this type of contract during the year.

Lower pay for workers on contracts of less than one month is largely linked to a relatively shorter working time during the year.<sup>29</sup> Many other factors also play a role in this respect, including individual workers' characteristics (age, sex and level of education) and their positions (qualifications required, sector of activity, size of company). In addition, workers on very short-term contracts benefits to a lesser extent from wage elements additional to basic wages and have less bargaining power.

The instability of contracts lasting less than a month makes access to bank loans and home ownership more difficult. Only 4% of recent first-time homebuyers under 60 years of age are inactive, unemployed or on a fixed-term contract.<sup>30</sup> This figure was 6% at the end of the 1990s.

In the long term, the instability of these jobs also has repercussions on health and quality of life. Employees who have had unstable jobs experience more difficult working conditions and a lack of recognition in their jobs.<sup>31</sup>

## 4. Recent measures may help to extend the duration of contracts in the future

### 4.1 Provisions favouring the employment of workers on open-ended or longer fixed-term contracts

In recent years, several measures have been taken to reduce incentives for short-term contracts, for both employers and employees.

The temporary employment branch agreement of 10 July 2013 on safeguarding professional careers of temporary employees created an "open-ended contract between the temporary employment company and a temporary employee for the performance of successive assignments". Under its terms, during the open-ended contract, an employee has periods of carrying out assignments and so-called "intermission" periods (without assignment). During intermission periods, the temporary employment company provides the worker with compensation, as these times are considered as actual working time of 7 hours per day. The Act of 17 August 2015 on labour relations and employment

provided a temporary legal basis for this "temporary permanent contract", by introducing a test phase that was due to end in December 2018. Act No. 2018-771 of 5 September 2018 (the Career Path Act) made it possible to maintain this type of contract by enshrining it in the French Labour Code. Temporary permanent contracts thus make it possible to maintain the flexibility specific to the temporary employment sector while granting workers an open-ended contract.

The Career Path Act also provides that job-sharing employment agencies<sup>32</sup> (ETTP) may, until the end of 2021, use permanent contracts to hire workers facing difficulties in entering the labour market, whereas previously they could only employ skilled workers. Among other things, these workers must receive additional contribution to their personal training accounts of €500 per year of employment if they are full-time employees. Workers with difficulties entering the job market are often less qualified and more

(28) Picart C. (2017), « Trois segments pour mieux décrire le marché du travail », *Insee Références* « Emploi, chômage, revenus du travail ».

(29) See Dares Analyses (2018), « Des CDD moins bien rémunérés que les CDI : d'où vient l'écart ? ».

(30) Briant P. (2010), « L'accession à la propriété dans les années 2000 », *Insee Première* n° 1291.

(31) Dares analyses, 2018, « En quoi les conditions de travail sont-elles liées au parcours professionnel antérieur ? ».

(32) Created in 2005 by the SME Act, ETTPs provide client companies with qualified part-time or full-time staff that they cannot recruit themselves because of their size or resources. The ETTP signs a contract with the client company that sets out the conditions under which an employee will be made available. The employee also signs an employment contract with the ETTP.

likely to be recruited on short-term contracts. The possibility for these workers to be given a permanent contract with an ETPP could therefore limit their employment on short-term contracts.

The same Act also created a "replacement fixed-term contract". This type of contract allows a company to replace several absent employees, either simultaneously or successively, under a single fixed-term or temporary employment contract instead of several. Before the Career Path Act, a company could not simultaneously replace two absent part-time employees. In addition, one single contract could not be used to replace two employees successively. The company had to draw up a new employment contract in the event that two employees were absent successively. The replacement fixed-term contract makes it possible to extend the duration of the fixed-term contracts used in this case, and limit the use of a series of short-term contracts.

Lastly, to reduce the use of short-term contracts, branches can take advantage of the new powers granted to them under the September 2017 orders to bolster labour-management dialogue. They can now negotiate the maximum duration, number of renewals and waiting periods associated with fixed-term and temporary employment contracts. They can also define the conditions and length of an open-ended contract's trial period, as well as the conditions for the use of project-based open-ended contracts (*CDIs de chantier*, also known as *CDI d'opération*). Even if initial branch agreements concerning contracts are not headed in this direction,<sup>33</sup> labour and management could seize this opportunity to encourage the use of open-ended contracts and longer-term fixed contracts. In addition, the current reductions in the number of branches<sup>34</sup>

should increase the transparency of the provisions concerning CDDUs.

## 4.2 Apprenticeship and vocational training reforms could encourage the use of stable contracts

In recent years, several reforms have served to bolster skills through better access to training. The 2014 vocational training reforms introduced systematic professional interviewing, career counselling (CEP) and the Personal Training Account (CPF) that replaced the individual training entitlement (DIF), three measures that boost access to training by employees on fixed-term contracts. The CPF, which was amended under the Career Path Act,<sup>35</sup> also separated training activities from the type of employment contract. Thus, just as for employees on permanent contracts, those on fixed-term contracts can be trained throughout their professional career by using their CPFs. The creation of the CPF was also accompanied by portable entitlements. Training entitlements are not lost if the employee changes companies, and can be used during periods of unemployment between contracts. This specificity strengthens equity in terms of access to training between employees on open-ended contracts and those on fixed-term contracts, or those who alternate between periods of employment and unemployment.

Skill-building, particularly through the Skills Investment Plan<sup>36</sup> and apprenticeship reform,<sup>37</sup> could contribute to an increase in longer-lasting contracts. Short-term contracts are very generally filled by unskilled or low-skilled employees (see above). By improving the qualifications and skills of employees and those far removed from the labour market, these reforms could facilitate access to more stable contracts.

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(33) From September 2018 to February 2019, the branches signed agreements under the national Multisector Agreement (ANI) on unemployment insurance reform and, over and beyond this framework, in connection with the new authority granted to branches by the orders to bolster labour-management dialogue. Within the framework of the ANI, only six branches have submitted an agreement presenting only a diagnosis on the use of short-term contracts and three branches provide for specific commitments (information, training, etc.) but no binding provisions, with the exception of the agreement on ski lifts (limitation of short-term contracts to a number observed in the branch over the previous six years). The goal of the agreements reached as part of the new orders (six in all) is to limit waiting periods and increase the number of contract renewals. They also propose increasing the maximum length of fixed-term contracts beyond 18 months and introducing a bonus for project-based open-ended contracts, but these provisions would concern fixed-term contracts that are already lengthy and do not address very short-term contracts.

(34) Following the restructuring programme, there should be around 200 branches compared with 700 prior to Act No. 2014-288 of 5 March 2014.

(35) Since 1 January 2019, the CPF has been expressed in euros instead of in hours. The reform also brings the training rights of part-time employees into line with those of full-time workers. In autumn 2019, CPF rights will be visible and able to be exercised via an online platform.

(36) The SIP was launched in 2018 with the five-year goal of training a million young people who are far removed from the labour market and a million low or unskilled jobseekers through a €15 billion investment in training courses and support in securing stable employment.

(37) The Career Path Act is also geared towards expanding and fostering access to apprenticeships. The Act provides for an increase in apprentices' compensation, benefits for apprentices for cultural activities, sports and transport, the introduction of apprenticeship preparation courses (*pré-apprentissage*) to cut the drop-out rate for less qualified persons and to foster the acquisition of professional skills, and an extension of the statutory age for eligibility for apprenticeship contracts.

### 4.3 Unemployment insurance reform is expected to discourage the use of very short-term contracts, both for employers and employees

The Career Path Act provided for new negotiations on unemployment insurance. The social partners were invited to change regulations governing unemployment insurance to promote a return to stable employment and curb so-called "permanent-intermittent" situations. Since the trade unions did not sign an agreement within the time limit provided for by law, the French government was called on to set the rules for unemployment insurance. Under the 2017 unemployment insurance agreement, social partners have already amended how the reference daily wage (SJR) is calculated so that it is less attractive to split employment contracts of five days or less than to be employed on a continuous contract. However, there are still strong incentives for contract splitting under the current unemployment insurance rules that could be corrected (see Box 3).

The Career Path Act also allows employers' unemployment insurance contributions to be modified according to various parameters, so that companies internalise the cost of managing their workforce to a greater extent – a cost that is now borne by Unédic (unemployment insurance agency). Currently, the unemployment insurance contribution rate is the same for all companies.<sup>38</sup> As a result, companies that hire on open-ended contracts and have few layoffs that result in workers registering with Pôle Emploi (France's public employment service agency) – end up financing the unemployment insurance of workers hired by companies with high labour turnover: some €9 billion.<sup>39</sup> The

unemployment insurance system suffers from this imbalance because employees on short-term contracts receive more benefits than they pay out in contributions: the deficit of employees on fixed-term and temporary contracts alone, excluding intermittently-employed entertainment workers, was estimated at €8.1 billion in 2016.

This situation calls for behavioural regulation so as to avoid the negative externalities caused by the widespread use of short-term contracts. Having businesses internalise the cost to the unemployment insurance system of their workforce management by, for instance, awarding "bonuses" on contributions for companies which rarely use short-term contracts and applying "penalties" to other companies, would encourage contracts with longer terms and mitigate frequent staff turnover.

In the United States, experience rating represents an example of this type of system. It involves having each employer pay a more or less significant portion of the cost to the unemployment insurance system of their layoff history.<sup>40</sup> As a result, employers which often lay off staff, leading to long or numerous periods of unemployment, contribute more to the unemployment insurance system in relative terms. Conversely, those who lay off fewer employees, or those which train their workers so that they remain unemployed for shorter periods, contribute relatively less. The majority of studies flag up the positive impact of this experience rating system on net job creation (Ratner, 2013<sup>41</sup>) and the negative impact on layoff rates (Anderson and Meyer, 1998,<sup>42</sup> Feldstein, 1976<sup>43</sup>) and the unemployment rate (Anderson and Meyer, 1998, Card and Levine, 1994<sup>44</sup>).<sup>45</sup>

**Anna Bornstein, Werner Perdrizet**

(38) It represents 4.05% for the payroll which is less than four times the annual social security ceiling, i.e. €162,096 in 2019.

(39) Unédic (2018), Negotiation guidelines, November. These €9 billion represent the difference between expenditure relating to benefits paid to beneficiaries with fixed-term contracts in 2016 (€13.1 billion) and revenue from contributions deriving from fixed-term contracts (€4.1 billion). This deficit is roughly equivalent to the difference between revenue related to employees with open-ended contracts (€30 billion) and the expenditure for these workers (€19.6 billion). As a result, this corresponds to a transfer between these two populations. Nevertheless, it should be mentioned that the deficit for short-term contracts of less than a month is approximately equivalent to €3 billion, including intermittently-employed entertainment workers and temporary employees.

(40) On average, the fraction of unemployment benefits paid by companies was 69% in 2012, ranging from 26% in New Jersey to 83% in Michigan.

(41) Ratner, D. (2013), "Unemployment Insurance Experience Rating and Labor Market Dynamics". *Finance and Economics Discussion Series* 2013-86, Federal Reserve Board, Washington, D.C.

(42) Anderson P. and B. Meyer (1998), "Using a Natural Experiment to Estimate the Effects of the Unemployment Insurance Payroll Tax on Layoffs, Employment, and Wages", Mimeo Dartmouth College.

(43) Feldstein M. (1976), "Temporary layoffs in the theory of unemployment", *Journal of Political Economy*.

(44) Card D. and P.D. Levine, (1994), "Unemployment insurance taxes and the cyclical and seasonal properties of unemployment", *Journal of Public Economics*, vol. 53, pp. 1-29.

(45) However, a number of studies have shown that, with the American system, employees slated to be rehired may be encouraged not to apply for unemployment benefits between two contracts so as to send out a positive signal to employers and avoid them having to pay more into the unemployment insurance system.

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