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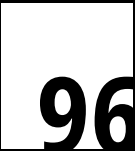
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Social protection guarantees for employees engaged in non- standard forms of employment

*Garantias de proteção social para trabalhadores
em formas atípicas de emprego*

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ABSTRACT: Non-standard types of work are becoming increasingly common due to rapid changes in labor relations, human resource management, and social and labor interactions caused by social transformation and globalization. This includes contract work, freelance work, and remote work, all of which require social protection due diligence. The need to evaluate the effectiveness of protecting these workers, especially in times of war and economic uncertainty, makes the study relevant. The methods of analysis used in the study include analysis, synthesis, individualization, generalization, analytical method, analogy, abstraction, dialectical approach, systemic and structural method, and formal logical method. The purpose of the study is to analyze the social protection of workers in non-standard forms of employment, identify their main problems and shortcomings, and develop recommendations for improving legislation and policies to ensure the effective protection of these workers.

KEYWORDS: Social protection. Non-standard forms of employment. Employees' rights. Social guarantees. Legislation.



RESUMO: As formas não padronizadas de trabalho estão se tornando cada vez mais comuns devido às rápidas mudanças nas relações de trabalho, na gestão de recursos humanos e nas interações sociais e laborais provocadas pela transformação social e pela globalização. Isso inclui o trabalho por contrato, o trabalho freelance e o trabalho remoto, todos os quais exigem uma diligência adequada em relação à proteção social. A necessidade de avaliar a eficácia da proteção desses trabalhadores, especialmente em tempos de guerra e incerteza econômica, torna o estudo relevante. Os métodos de análise utilizados na pesquisa incluem análise, síntese, individualização, generalização, método analítico, analogia, abstração, abordagem dialética, método sistêmico e estrutural e método lógico formal. O objetivo do estudo é analisar a proteção social dos trabalhadores em formas não padronizadas de emprego, identificar seus principais problemas e deficiências e desenvolver recomendações para aprimorar a legislação e as políticas a fim de garantir uma proteção eficaz a esses trabalhadores.

PALAVRAS-CHAVE: Proteção social. Formas atípicas de emprego. Direitos dos trabalhadores. Garantias sociais. Legislação.

1 INTRODUCTION

In Ukraine's transition to an innovative model of development, the rapid informatization of social production is leading to a redistribution of workers between sectors of the economy, structural changes in the labor market, expansion of the service sector, and the emergence and spread of new atypical forms of employment (Yaroshenko et al., 2018). The ever-growing competition encourages companies to cut costs, and technological progress creates conditions for the emergence of small specialized industries. Demographic shifts in the structure of the labor force have also played an important role. The massive entry of married women, pensioners, and students into the labor market has expanded the supply of non-standard labor, thus creating a significant demand for jobs with reduced and flexible working hours. At the same time, such a specific labor force, being interested in additional income, does not require special legislative guarantees of employment or additional benefits, considering its participation in the economy as a secondary, secondary activity.

As of today, the following forms of employment in Ukraine can be considered innovative: non-standard flexible working hours, contingent labor, remote employment, temporary work, etc. It should be noted that the emergence of non-standard and flexible forms of employment in the labor market and their subsequent widespread introduction is due to objective socio-economic reasons (the crisis in the economy, increased external debt, low competitiveness of goods in international markets, lack of investment resources, uncontrolled development of small businesses, the existence of the shadow economy and shadow employment, a deep crisis in social and labor relations, low incentives to work, imperfect tax system, corruption, etc.). However, the main ones include the following: the need to employ certain categories of workers for whom full-time employment is impossible or undesirable for any reason (mothers with young children, unemployed youth without professional skills, people with special needs, etc.); the labor market's need for a mobile workforce.

Non-standard forms of employment and flexible work schedules offer significant benefits to citizens, including the ability to combine employment with family responsibilities, participation in public life, and health maintenance. They are especially beneficial for socially vulnerable groups. These forms of employment can be considered forms of adaptation to the instability of the state economy. However, they share one important common feature – their informal or semi-formal nature, which in turn entails several social risks in terms of such key aspects as guarantees of employment stability, security of labor income, the safety of working conditions, opportunities for professional advancement, and self-realization. Undoubtedly, the spread of precarious employment poses a threat to workers, the parties to social dialogue (trade unions, employers, the state), and society as a whole.

Several important considerations make the study of the prospects for social protection for workers in precarious employment relevant and important. The development of technology and globalization has led to an increase in the popularity of such jobs as remote work,

temporary work, and freelancing. This makes it necessary to assess the effectiveness of their social protection. There are also serious socio-economic dangers, as people in precarious work often do not have pensions, health insurance, or a steady income. These workers are particularly vulnerable as a result of the war and economic turmoil in Ukraine, which have further complicated their circumstances. An analysis of their circumstances would facilitate the development of crisis support plans. Finally, the findings of this study can be used to improve social policy and legislation, ensuring that workers' rights are fairly and successfully protected in the current labor market.

Several scholars have studied the issue of social protection of employees. Synchuk and Yastrubetsky (2022) studied the theoretical and practical legal issues surrounding the social protection of employees as part of the social dialogue in Ukraine. It highlights that such protection involves measures to uphold employees' social rights and address professional risks, and emphasizes the need to formalize the concept of "occupational risk" within the framework of legal and social dialogue practices. Bondar (Bondar et al., 2021) investigated the essence of social protection and social security, analyzed the legal regulation and factors of innovative development, described scientific approaches to the legislative regulation of social security rights, studied international experience and models of social security systems, identified ways to implement effective state policy in this area.

Anpilogova (2023) studied the conceptual content of social protection as a socio-legal phenomenon, analyzing its structure, actors, and methods used to ensure social security. Particular attention is paid to the relationship between social protection and social risks, as well as the role of the state and other actors in the implementation of social policy. Malyuga (2023) studied the legal nature of international legal social protection of workers, focusing on its role in ensuring the social security of workers regardless of their place of work and form of employment. The author also examined the reasons for the emergence of international legal protection, emphasizing its importance

for creating conditions for a decent life and promoting social and economic equality, and pointed out the problems with the coverage of non-standard forms of employment at the international level. Tymchyshyn (2020) studied the social protection of the unemployed in international law, analyzing international legal standards and norms enshrined in ILO Conventions. The article highlights the factors of unemployment, and trends in its development, and compares national norms with international requirements to assess their compliance.

The purpose of the study is to analyze the social protection of workers in non-standard forms of employment, identify their main problems and shortcomings, and develop recommendations for improving legislation and policies to ensure the effective protection of these workers.

2 MATERIALS AND METHODS

Analysis techniques in research can take several forms. Analysis focuses on specific aspects of social protection, such as the responsibilities and rights of workers in non-traditional employment. Synthesis combines several components of research to create a comprehensive picture, including information from social science, legal conventions, and economic circumstances.

Individualization looks at each case to understand unique requirements and challenges, while generalization shows broad trends and patterns in the social protection situation. The analytical analysis uses a methodical approach to break down data into its component elements to establish cause-and-effect relationships.

Analogy helps to find gaps and parallels in social protection, while abstraction focuses on important concepts to facilitate understanding of complex topics. These methods support the thorough analysis and investigation of scenarios, the identification of problems, and the development of effective solutions to strengthen social protection.

The study uses a dialectical approach to identify the characteristics of non-standard forms of employment and the specifics of legal regulation of this concept. We can study these working arrangements in the light of their evolution and modifications, as well as their interaction with other legal and socio-economic systems, using a dialectical approach. This includes the study of the dynamics and paradoxes that influence the emergence and functioning of non-traditional employment models.

The use of the systemic-structural method allowed us to define and characterize in detail the legal norms governing non-standard types of employment. This helped to systematize the normative documents, clarify their connections, structure, and functions, and determine their interaction with other components of the legal system and with each other.

The formal logical methodology was used to identify the shortcomings of legal regulation of non-standard types of labor in Ukraine. Using this methodology, the author analyses the logical and legal discrepancies in the current legislation and its application. Proposals were developed to improve the provisions of current legislation and practice, taking into account the identified shortcomings. This includes proposals for new regulatory mechanisms, improved administrative procedures, and regulatory changes to guarantee better social protection for workers in non-standard forms of employment.

3 RESULTS

The rapid informatization of social production is causing a redistribution of workers across economic sectors, structural shifts in the labor market, growth in the service sector, and the emergence and spread of new, unconventional forms of employment as our nation moves toward an innovative development model. The constant pressure to reduce costs encourages businesses to adapt, and technological

progress contributes to the growth of market niches. Significant changes in the demographic composition of the workforce have also occurred (Razavi et al., 2020).

Married women, retirees, and students make up a significant portion of the workforce, increasing the availability of “non-standard” labor, which in turn raises the demand for flexible or part-time work. However, since this specific workforce seeks additional income, special legislative guarantees of employment or benefits are not required, and their involvement in the economy is seen as secondary (Orlovsky & Bodnaruk, 2021).

Currently, examples of new types of employment in Ukraine include non-standard flexible work schedules, contracted labor, remote work, temporary employment, and so on. It is worth noting that objective socio-economic factors, such as the economic crisis, rising external debt, low competitiveness of goods in global markets, lack of investment resources, uncontrolled growth of small businesses, the existence of a shadow economy and shadow employment, difficult social and labor relations crises, low incentives for work, the imperfection of the tax system, corruption, etc., are responsible for the emergence of non-standard and flexible forms of employment in the labor market and their subsequent widespread implementation (Yaroshenko et al., 2019).

The necessity of employing certain categories of workers, such as mothers with young children, unemployed youth without professional skills, individuals with disabilities, etc., for whom full-time employment is either impractical or undesirable, as well as the labor market’s demands for a mobile workforce, are key factors.

Citizens can gain significant benefits from non-standard forms of employment and flexible work schedules. These advantages include the ability to maintain good health, participate in public life, and balance work and family responsibilities. They are especially beneficial for socially marginalized groups.

It can be argued that these types of employment are an adaptation to the instability of the national economy. However, their informal

or semi-official nature, which entails a range of social risks concerning such important aspects as job stability guarantees, labor income guarantees, safe working conditions, opportunities for professional development, and self-realization, is a significant common feature among them. Undoubtedly, the growth of precarious employment poses risks to workers, businesses, the state, and trade unions, as well as society as a whole (Synchuk, & Yastrubetsky, 2022).

Although not universally recognized, scholars and policymakers increasingly use the terms “standard” and “non-standard” employment. “Standard” employment is typically defined as full-time work performed at an enterprise or organization under an indefinite employment contract, under the direct supervision of the employer or supervisors appointed by the employer. Any type of work that does not meet this norm, such as self-employment, can be classified as “non-standard” (Bogoeski & Rasnača, 2023).

The use of non-standard labor in Ukraine has several significant advantages. First, it makes firms more flexible, allowing them to respond quickly to market changes. It also helps reduce unemployment by engaging various demographic groups, such as youth and individuals with disabilities. Flexible work arrangements allow current employees to be retained while simultaneously developing new ones, especially during difficult times, by attracting skilled professionals without the need for long-term full-time employment. By utilizing freelance or temporary labor, companies can optimize personnel costs, reducing administrative expenses and increasing labor efficiency. Therefore, it improves the economic and financial performance of enterprises, enhancing their competitiveness.

Foreign labor practices are being introduced into the Ukrainian labor market; one such practice is the implementation of remote work, which is rapidly developing due to new information and communication technologies. In the past, most people who worked from home were unskilled workers; despite this, a significant percentage of highly skilled professionals now choose to work remotely to be free

from the workplace. While working for multiple clients offers more opportunities for self-realization, freelancers such as insurance and advertising agents, accountants, marketers, journalists, programmers, auditors, designers, consultants, lawyers, and others do not receive social guarantees and stable salaries (Yaroshenko et al., 2021).

As of October 2012, 11,411 employees were registered on the leading freelance exchange in Ukraine, indicating the rapid growth of the freelance economy in the country (Gerard et al., 2020). With the largest number of orders in the IT and design sectors, Ukraine ranked fourth in the world in terms of freelance income. By 2020, 10% of job vacancies may be filled online, and every second business will adopt this strategy.

In terms of both the number of IT outsourcing companies and the number of specialists employed there, Ukraine leads Central and Southern Europe. Programmers in Ukraine can be hired for much less money than in Germany, Poland, or the Czech Republic. Thanks to ICT, remote work, also known as telecommuting, is becoming increasingly common and includes home-based, mobile, and off-site work.

Since 2002, up to 100,000 people in Ukraine have been employed under wage terms that involve transferring the worker to another enterprise. Personnel outsourcing, leasing, and outstaffing are examples of labor outsourcing forms. Through outsourcing, enterprises can contract with other companies to perform non-core activities, such as accounting, office support, logistics, and more. Office staff, technical personnel, and retail specialists are the most in-demand types of personnel leasing services.

Social protection guarantees in Ukraine include a range of measures aimed at ensuring the welfare and rights of workers with precarious employment. Workers with non-traditional forms of employment, such as contract work, part-time jobs, freelancing, or flexible work, may face more challenges with social security. According to Ukrainian legislation, these workers are entitled to social insurance. The Law of Ukraine “On Mandatory State Pension Insurance”

provides for pension insurance as well as pension benefits, provided the appropriate contributions are paid (Tymchyshyn, 2020).

An important element of social protection is the provision of social benefits and support. Regardless of employment status, women are entitled to maternity benefits under the Law of Ukraine “On State Assistance to Families with Children.” Additionally, this regulation provides for daycare assistance until the child is three years old, which is a valuable resource for families.

The right to collective bargaining and organization is also protected by law. The Law of Ukraine “On Trade Unions, Their Rights, and Guarantees of Activity” guarantees employed workers the freedom to organize trade unions to protect their interests. To regulate working conditions and remuneration for all workers, including those in non-standard jobs, collective agreements may be concluded in accordance with the Law of Ukraine “On Collective Agreements and Contracts.”

A significant component of social protection is support for work and career development. Training and retraining programs are offered by the State Employment Service of Ukraine to help employees become more in-demand and adapt to changes in the labor market. The Law of Ukraine “On Employment of the Population” (Law of Ukraine No 5067-VI...2023) stipulates that the state will promote employment, including through job search and employment resources (Kobrusieva et al., 2021).

The Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine Regarding the Regulation of Labor Relations with an Undefined Workday” was adopted by the Verkhovna Rada of Ukraine on July 18, 2022. The most popular name for the document is the “Freelancer Law” (Verkhovna Rada of Ukraine, 2022).

A freelancer is typically defined as a person who works remotely, on their own terms, and may work for several companies simultaneously. Generally, independent contractors in Ukraine work under civil law agreements or without any paperwork at all.

It can be concluded that entering into an employment contract with another freelancer will be most beneficial for the first one. A freelancer can work for multiple employers while still enjoying basic social benefits, such as vacation and sick leave, by signing an employment contract with an employer who has an undefined workday. Additionally, even if the employer does not assign any work, this employee will still receive a minimum income every month (Gapochka, 2022).

It is important to note that the employer cannot prohibit or interfere with a freelancer performing work under contracts with other employers. Furthermore, a freelancer has the right to demand the conclusion of a full-time employment contract with appropriate remuneration, whether for a fixed or indefinite period, if they have worked at one enterprise for more than a year.

An employment contract with a freelancer does not reduce the employer's tax obligations, even with all the benefits for the employee. In other words, the employer covers all legal taxes and fees, as well as the freelancer's medical and vacation expenses. Furthermore, even in cases where the employee is not required to work, the employer is still obligated to pay the freelancer for 32 hours of work per month (Cierniak-Emerych & Mazur-Wierzbicka, 2022).

In the market for digital and IT services, the possibility of working with individual business owners under civil law contracts is actively utilized. If a Ukrainian company is located in Diia City, IT specialists can also enter into a contract for work or an employment contract.

Employers are unlikely to enter into a contract with a freelancer, despite the government's claims of introducing indefinite-term employment contracts as an alternative to civil law contracts with individual entrepreneurs (Omelianenko, 2022).

Signing such a contract means the beginning of an employment relationship between the freelancer and the employer. Accordingly, the business must: (1) comply with all provisions of the Code regarding social guarantees for employees; and (2) assume tax obligations,

paying all relevant taxes and fees for both the freelancer and other employees (Novikova et al., 2020). Thus, it is unlikely that a civil law contract with an individual entrepreneur can be replaced with a contract with a freelancer.

Therefore, the Law regulates a non-standard type of work that is uncommon in Ukrainian legislation—freelancing. For independent contractors working on short-term projects and not limited to working for a single client, signing an employment contract with a flexible work schedule will be beneficial. However, it is unlikely that the IT industry will aggressively use contracts with freelancers.

In many European countries, social protection for workers in non-standard forms of employment is a key component of labor policy. For example, in Germany, there are special rules for workers performing minor jobs. These workers are entitled to social benefits such as health care, unemployment, and pensions. Through mini-jobs, you can earn up to 450 euros per month without paying taxes. In Germany, freelancers, or *Freie Mitarbeiter*, typically self-insure; however, independent contractors with low incomes are eligible for special assistance programs (Khando et al., 2021).

Autonomous workers, often known as self-employed entrepreneurs, in France have a simplified social security system that includes health, pension, and accident insurance. Small business owners can benefit from low tax rates under this scheme. Additionally, new platforms have been established in France to offer social protection to workers employed by digital companies such as Deliveroo or Uber.

Gig workers in the UK are entitled to pension contributions, paid leave, and minimum wage. Notably, the 2021 Uber case ruling affirmed drivers' rights to these social guarantees. The same social benefits as regular employees, such as pension contributions, leave, and sick pay, are also available to zero-hour contract workers.

Freelancers (also known as ZZP) in the Netherlands are free to participate in health, pension, and unemployment insurance programs offered by the social security system. To promote self-employment,

the state offers tax benefits. Workers on temporary contracts, often known as Flexworkers, are entitled to social benefits such as health insurance and pension contributions. Additionally, they are eligible for unemployment benefits.

Cooperative workers in Italy are entitled to social benefits, such as health, pension, and accident insurance. Cooperative employers are required to offer social security to their employees. Italy's social security system, which provides access to health insurance, pension contributions, and other social benefits, is voluntary for freelancers.

These examples illustrate how several European countries have approached the social protection of workers with irregular employment. The aforementioned countries strive to guarantee social rights and protection for all workers, regardless of their type of employment, thereby strengthening stability and security in the labor market.

4 DISCUSSION

In Ukraine, there are various challenges related to the social protection of precarious workers. The lack of worker rights protection is one of the main issues. It is difficult to defend workers' rights and receive social benefits in the absence of formal employment contracts, which often go hand in hand with our fragile labor force. Employers often ignore the fact that workers lack access to knowledge about their rights and obligations.

Another serious obstacle is the issue of social insurance. Integrating precarious workers into the social security system is complicated because they often do not have official employment records. Workers cannot pay insurance contributions due to unstable and irregular income, which prevents them from being eligible for pension and health insurance.

Since the social assistance system does not always account for the unique conditions of workers with non-standard employment,

these workers have limited access to social benefits and support. The absence of clear protocols for receiving assistance in cases of short-term income reductions or unemployment exacerbates this situation (Nemchenko, et al., 2018).

Another significant issue is the lack of regulation of labor relations. The failure to consider the specificities of non-standard forms of employment in legislation leads to legal ambiguities and challenges in regulating labor relations. Companies and workers are at greater risk due to regulations that have not been properly updated to reflect new forms of employment, such as remote work or platform-based work (Dymnich, 2021).

Low wages and job instability create serious obstacles for those with precarious employment. These individuals often face income fluctuations, making it difficult for them to plan ahead and maintain financial security. The financial security of workers is jeopardized due to their inability to afford necessities as a result of low wages.

Addressing these issues requires a comprehensive strategy that includes strengthening legislation, actively involving the state in providing social guarantees, raising workers' awareness of their rights and obligations, and creating effective mechanisms to protect the rights of vulnerable workers (Zanardi & Martin, 2020). Government agencies, businesses, and workers must work together to create more stable and favorable working conditions, maintain economic stability, and ensure an adequate level of social protection.

The large-scale invasion and war have had a serious impact on the social protection system in Ukraine for the more vulnerable members of society. The war has led to the closure of many businesses, resulting in mass unemployment and unpredictable wages. Without formal employment contracts, it is difficult to protect workers' rights and access to social protection. As a result of the war, the number of internally displaced persons has increased; these individuals often lack access to social benefits and assistance (Grassegger & Nedbal, 2021).

There are also significant obstacles faced by the social insurance system. Economic constraints have led to a reduction in social security resources, and the loss of infrastructure has made access to healthcare services more difficult. Social assistance programs do not always take into account the specific needs of these workers, and military actions have made it harder for them to participate in trade unions. Low wages and job insecurity have worsened due to the war, making it more difficult for workers to plan ahead and maintain financial stability (Klymenko, 2020).

To improve working conditions and ensure social guarantees for workers with non-standard forms of employment, Ukraine can learn various lessons from the experiences of European countries in this area. One such element, which is common in Germany, is the idea of mini-jobs. This encourages official employment by allowing workers to earn a certain amount of money without paying taxes and offers basic social protection to part-time workers. Small business owners and independent contractors may find it much easier to obtain social security if a simpler system is introduced, similar to the one in France, which covers health, pension, and accident insurance.

UK laws that grant gig workers the right to paid leave, pension contributions, and minimum wage have improved social protection and working conditions for digital workers. Similarly, the voluntary implementation of social insurance in the Netherlands for independent contractors and the self-employed gives them access to health insurance and pension contributions, supporting the stability of this group of workers.

In Italy, collective forms of business and social security for members can be effectively supported by promoting the creation of co-operatives and providing social protection to their staff. Ukraine should encourage group entrepreneurship by learning from this experience.

The protection of temporary workers' rights will be facilitated by European experience borrowed from labor standards that establish the rights and obligations of all participants in the process, including

social insurance, unemployment benefits, and other social guarantees. These workers will have better working conditions when Ukraine implements a comprehensive regulatory framework in this sector (Ruslan et al., 2023).

As in the Netherlands and France, tax incentives for small business owners and independent contractors will contribute to the growth of these sectors while ensuring access to social guarantees. These actions will help improve the climate in Ukraine for the flourishing of self-employment and entrepreneurship. By implementing these components in practice, Ukraine will be able to improve working conditions for non-standard employment, protect them socially, and promote labor market stability. This will lead to increased employment, a reduction in the shadow economy, and an overall improvement in the level of social welfare in the country.

5 CONCLUSIONS

The transition to an innovative development model in Ukraine is leading to a redistribution of workers and an increase in non-traditional types of employment, such as remote work and flexible schedules. This minimizes unemployment and maximizes personnel costs, allowing for a rapid response to market developments. However, there are social risks associated with non-standard labor, such as instability and inadequate labor protection. These factors need to be addressed to ensure fairness and efficiency in the labor market.

The development of information and telecommunications technologies has led to the active adoption of foreign practices in the Ukrainian labor market, including remote work. Today, remote employment attracts not only low-skilled workers but also highly qualified professionals, such as designers and IT specialists. While working for multiple clients gives freelancers more opportunities for self-realization, they often face a lack of social protection. Ukraine

leads Central and Southern Europe in the number of IT outsourcing companies and experts. The country also widely uses temporary labor through leasing, outsourcing, and outstaffing. The remote and freelance labor market in Ukraine is rapidly expanding, indicating both high demand and potential for future growth.

Numerous obstacles stand in the way of social protection for precarious workers in Ukraine, including the lack of official employment contracts, issues with social insurance, and limited access to social benefits. Workers' rights and access to social guarantees are difficult to secure due to unpredictable incomes and unclear legislation. The situation has worsened due to the war and the unstable economy, compounded by company closures and an increase in the number of internally displaced persons.

Ukraine should adopt European standards, such as a simplified social insurance system for independent contractors, minimum social guarantees for part-time workers, and provisions for temporary labor, to improve working conditions and social security for this group of workers. Specifically, Ukraine can benefit from the experiences of Germany, France, the United Kingdom, the Netherlands, and Italy in creating laws that effectively provide social protection for precarious workers and improve their working conditions.

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