

Social Exclusion and Labour Market Challenges in the Western Balkans

Edited by

Will Bartlett, Vassilis Monastiriotis
and Panagiotis Koutroumpis

Cambridge
Scholars
Publishing



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This book first published 2020

Cambridge Scholars Publishing

Lady Stephenson Library, Newcastle upon Tyne, NE6 2PA, UK

British Library Cataloguing in Publication Data
A catalogue record for this book is available from the British Library

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ISBN (10): 1-5275-4969-0

ISBN (13): 978-1-5275-4969-2

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CHAPTER ELEVEN

EXCLUSION FROM SOCIAL PROTECTION
OF PEOPLE IN NON-STANDARD EMPLOYMENT:
THE CASE OF NORTH MACEDONIA

MAJA GEROVSKA MITEV

ABSTRACT

The chapter explores the extent of non-standard employment contracts and their integration into the social protection system in North Macedonia. It analyses the rights and access of self-employed, part-time, and temporary workers in the social protection system. In 2015, self-employment constituted only 13.9% of total employment, temporary work 9.4%, while only 4.4% of workers used part-time work contracts. However, EU-SILC data on in-work/at-risk-of-poverty rate by type of contract show that in 2015, 33.5% of the self-employed were living in poverty or experienced social exclusion. The risk-of-poverty rate was 25.7% among part-time workers and 6.7% among employees with temporary jobs. The chapter identifies legislative barriers to and gaps in these workers' access to social protection. While the self-employed must contribute to pension and disability funds and to health insurance, they are excluded from compulsory contributions to and protection from unemployment insurance. In addition, those on temporary contracts that receive net pay below the minimum wage are not included in the obligatory social protection scheme. The evidence suggests that temporary contracts are misused. Provision-of-service contracts (contracts for self-employed workers) are frequently used to avoid social security contributions. I argue that these workers should be integrated into the social protection scheme gradually but inclusively, so that their employment and income levels are not jeopardised, and their social security is guaranteed.

Keywords: self-employment, part-time work, temporary workers, informal employment

Introduction

As the EU's European Pillar of Social Rights¹ emphasises "adequate social protection for people in all forms of employment," EU member states and candidate countries have initiated corresponding analyses to assess the trends and challenges faced by those in non-standard employment. This paper aims to provide an insight into the trends, rights, and challenges of the self-employed and those on non-standard contracts in North Macedonia.

While unemployment and informal employment are significant labour market characteristics in North Macedonia, the increase in self-employment and part-time and temporary work necessitates an assessment of their coverage by social protection schemes. Although some forms of self-employment may enjoy the same social protection status as salaried work, in North Macedonia most self-employment and temporary and part-time jobs are precarious.

In theory, "precarious" jobs are uncertain, unpredictable, and risky (Kalleberg 2009), leading to a lack of social engagement and social capital more generally (Putnam 2000), and are associated with earnings inequality, security inequality, and vulnerability to dismissal (Maurin and Postel-Vinay 2005). According to the International Labour Organization (2016), access to social security schemes and receipt of insurance-based benefits has always been less secure for people in non-standard employment. The national social protection schemes, particularly those that are insurance-based, are more inclined to protect standard employment. Based on an analysis of 35 European countries, Spasova et al. (2017) identify four clusters of statutory access to insurance-based rights for the self-employed: "full to high access," "high to medium access," "low to no access," and a "patchwork of medium to low access." North Macedonia has been categorised as "low to no access," where the "self-employed cannot opt into one or more insurance-based schemes, while salaried employees are mandatorily covered by the scheme(s) concerned" (Spasova et al. 2017, p.13).

It is important to emphasise the challenges resulting from the implementation of these statutory rights categorisations. For example, it is common practice to use a non-standard form of employment as a means to avoid paying social contributions. Thus, the social protection system in

¹ The Commission Recommendation establishing the European Pillar of Social Rights is available at: https://ec.europa.eu/commission/publications/commission-recommendation-establishing-european-pillar-social-rights_en.

⁸¹ Published 20.05.2016,

<http://www.stat.gov.mk/PrikaziPoslednaPublikacija.aspx?id=3>.

North Macedonia faces a double challenge: how to optimally include those in non-standard employment while simultaneously not enabling the evasion of social insurance funds.

The chapter is structured in four sections. The first two provide an insight into the statistical trends of self-employment and non-standard employment in North Macedonia and the legislative basis of social protection of people in non-standard employment. The last two sections assess possibilities and recommendations for improving the social protection of self-employed and non-standard workers in North Macedonia. The chapter uses qualitative methodology to assess the extent of non-standard work in North Macedonia and the ways in which it could be better covered by the social protection scheme.

Context: self-employment and non-standard work relationships in the national economy and labour market

According to data from the Labour Force Survey (LFS) (SSO 2016)⁸¹, self-employment accounts for 12.9% of total employment in North Macedonia. Women are less likely to be self-employed, as only 6.4% of all employed women were self-employed as opposed to 18.8% of men. Self-employment increases with age, is most characteristic of the 45–49 age group (17.3%) and declines for the 60+ (8.3%) and 65+ (4.8%) age groups. Young people are modestly represented in the overall number of self-employed, 2.21% among those aged 20–24 years and 3.5% among those age 25–29 years.

According to Eurostat data, 76% of the total employed in North Macedonia are employees, which is lower than the EU 28 average of 84.1% (see Table 11.1). In addition, the proportion of self-employed (with and without employees) in North Macedonia is higher than the EU 28 average: 17.6% compared to 14.8% respectively. Furthermore, the proportion of employers among the self-employed is higher in North Macedonia than the European average. North Macedonia also has a high proportion of contributing family members. This category is hard to classify as informal work force as they belong to a non-monetary economy and are thus even harder to protect through the various social protection schemes.

Analysis of self-employment according to sector shows that most self-employed—61.5% in 2015—were employed in agriculture, forestry, and fishing, a sector in which 84% of the employed receive pay below the average national net salary (SSO 2016). Therefore, the self-employed in this sector have a high risk of low income and a subsequent risk of poverty. According to data from the Study on Income and Living Conditions (SILC) (SSO 2017), the largest share of total disposable income among households

Table 11.2: At-risk-of-poverty rate and at risk of poverty or social exclusion by most frequent activity status (18 and above), 2018

	At risk of poverty rate		At risk of poverty and social exclusion	
	EU (27)	North Macedonia	EU 27	North Macedonia
Overall Population	16.2	20.1	21.2	40.0
Employed persons	9.2	8.8	11.5	25.1
Employees	7.3	4.7	9.6	21.5
Employed persons except employees	21.3	25.1	23.3	39.3
Unemployed persons	48.6	41.9	64.5	67.9
Not employed persons	24.1	29.2	32.0	52.0
Other inactive %	29.8	31.1	41.6	53.5

Source: Eurostat, EU-SILC survey, *ilc_li04* and *ilc_peps02* (accessed February 2020)

According to Eurostat, temporary workers constituted 13.5% of the total number of employees in 2016 (see Table 11.3). There are no significant gender differences among temporary workers. According to Eurostat data from Labour Force Surveys, in 2014 the five main occupations among temporary employees (in % of the total number of temporary employees) in North Macedonia were service and sales (21.7%), craftsmen and related trades (19.8%), elementary occupations (18.3%), plant and machine operators and assemblers (16.6%), and professionals (9.6%). The majority of temporary contracts (64.3%) lasted less than one year, with most of those lasting between one and three months (24%).

Table 11.3: Non-standard employment forms (%), 2016

	Temporary employees (% of total number of employees)	Part-time employment (% of employment)	Involuntary part-time employment (% of total part-time employment)
EU28	14.2%	19.5%	
North Macedonia	13.5%	4.7%	40.6%

Source: Eurostat, LFS, *lfsa_etgan2*, *lfsa_eppga*, *lfsa_eppga1*

Informal employment is more prevalent in the North Macedonian labour market. In 2017, 18.1% of all employed were in informal employment, of which 33.9% were women. The dominant age group among all informally employed were those aged 45–54 (25%), closely followed by those aged 35–44 (21.3%). However, comparing the ages of the formally and informally employed shows that only 25% of those aged 65+ were in formal employment, while the other 75% worked informally. Informal employment has been decreasing throughout the years and has reduced by 4.4 percentage points since 2013.

Social policy measures aimed at fostering self-employment were introduced as part of the overall Operational Plans for Active Programmes and Measures for Employment (MoLSP 2016) and increased self-employment support. For instance, the 2016 Operational Plan stipulates two self-employment programmes, one general, with special focus on young people up to 29 years of age, and the other for persons with physical disabilities. However, the financing of these measures as a percentage of GDP is low compared with the EU average (0.05% in 2014), so they are unlikely to have a significant impact on self-employment support.

There are no specific social policy measures for the self-employed. Unemployment benefits are not allowed during entrepreneurial start-ups. Beneficiary status (i.e., social financial assistance) is either withheld when certain active labour market policy measures are being used, or any income above the stipulated threshold for unemployment benefit (i.e., social financial assistance) triggers termination of unemployment benefit. Informal employment has been targeted through active labour market measures, namely financial incentives for formalising businesses.

The social protection system does not provide separate measures for the self-employed. The social security system covers benefits-in-kind for sickness and maternity for all self-employed persons and provides cash benefits for sickness, maternity, old-age, incapacity, and survivors' pensions, and also to some extent family benefits (MISSCEO 2015). The self-employed are excluded from unemployment insurance. Temporary workers with contracts for physical and/or intellectual services (non-employee service contracts) are excluded from pension and disability insurance as well as unemployment insurance. Workers that are informally employed are not covered by the social protection system.

Apart from the active labour market measures, there are no other measures aimed at extending social protection to self-employed and non-standard workers as a way of including people in formalised employment, and no grants or subventions for employment. A policy initiative introduced in the Law for Compulsory Social Contributions in July 2014 aimed to

extend social insurance coverage to the self-employed by introducing obligatory social contributions on incomes from temporary service work and copyright contracts. However, these legal changes had a number of shortcomings (Mitev 2015, 2016), provoked large public protests, lacked systematic assessment, were not based on a wide social and political consensus, and were abolished in August 2015.

Aside from debates on easing the process of formalising businesses, currently there is no policy debate regarding the social protection of self-employed and non-standard workers.

Statutory social protection for non-standard employment contracts in North Macedonia

Statutory rights regarding social protection and non-standard employment contracts in North Macedonia are very conservative regarding both the long duration of fixed-term employment contracts and the restrictive access to various social insurance rights. For example, the Law on Labour Relations stipulates rules and criteria for fixed-term employment contracts. The maximum length of a fixed-term employment contract is five years, after which it is transformed into a regular contract under the conditions and in the manner defined by law (Law on Labour Relations, Article 46, paragraph 3), provided that the employee continues to work after the end of the five-year period. In practice this right is frequently abused, as employers (including the state) tend to end the contract before five years are up in order to avoid the employment becoming permanent.

The following categories of insured persons are subject to specific social security laws that are different from those for wage earners:

- Individual (family) farmers.
- Individual artists who have acquired such status in accordance with the criteria, procedure, and respective acts of the Minister of Culture, and professional sportsmen.
- Individuals who are not in employment but earn income (honorarium) from physical and/or intellectual work ("freelance/honorarium workers"), based on one or more contracts for services and/or intellectual property contracts or another contract, provided that the total net amount of the income on that basis is higher than the minimum salary amount (MISSCEO 2015).

Compulsory social insurance contributions for self-employed and freelance/honorarium workers are calculated by applying the same fixed percentage rates as for wage earners. The different bases according to which

contributions are levied are defined as follows:

- The self-employed: lump-sum net income on which tax is paid in accordance with the law on personal income tax; for the newly self-employed until the expiry of the first calendar year when economic activity was initiated— 50% of the average monthly salary per employee, published in January in the current year according to the State Statistical Office.
- Part-time workers: pay for part-time work or for hours of work and additional income from employment stipulated in the law that regulates labour relations, collective agreements, and employment contracts.
- Individual artists who have acquired such status in accordance with the criteria, procedure, and respective act of the Minister of Culture, and professional sportsmen: national average salary per employee is announced in January of the current year provided that they have earned income higher than the annual amount of the minimum basis for calculation and payment of contributions in the previous calendar year. (Law on Obligatory Social Insurance Contributions, Official Gazette No. 190/2016).

The share of gross income that is dedicated to social contributions is currently 27%. Contribution rates for the self-employed are the same. The level of the compulsory social contributions in gross salary is as follows:

- Pension and disability insurance: 18%.
- Health insurance: 7.3%.
- Employment insurance: 1.2%.
- Additional health insurance: 0.5%.

While employers pay contributions for wage earners, the self-employed pay their contributions themselves. The Pension Insurance Fund and Health Insurance Fund calculate the contributions to be collected from self-employed persons, freelance/honorarium workers, and individual farmers based on their own data. The public Revenue Office controls and collects all contributions.

Social protection in general does not hamper the transition from contractual employment to self-employment. Social contributions have been reduced in the past ten years in order to ease the burden of employment costs. However, for most people in informal employment with low and/or seasonal incomes, the cost of social contributions still presents a serious challenge, hampering transition to self-employment or contractual employment. The many disincentives embedded in the social financial

assistance scheme also make the transition from welfare (unemployment) to work difficult to facilitate.

In addition, despite the fact that the self-employed pay social insurance contributions, including unemployment insurance, they do not receive unemployment compensation as part of the insurance system. The Law on Obligatory Social Insurance Contributions (latest changes, Official Gazette No. 190 from 17.10.2016) stipulates that the self-employed are not covered by unemployment insurance (the exception being employees who work for a self-employed person).

Financial compensation in case of unemployment is part of the compulsory social insurance scheme. It is financed by contributions (1.2%) and provides earnings-related benefits. According to the Law for Employment and Unemployment Insurance, the right to financial compensation in the case of unemployment applies to an unemployed person who has an insurance contribution and employment record of at least 9 consecutive or 12 periodic months in the last 18 months (Law on Employment and Unemployment Insurance, art. 65). Article 66 of the same Law stipulates the eligible categories of workers according to type of employment contract: Full-time employment contract; Employment contract with part-time working hours which are treated as full working hours; Fixed-term contracts (seasonal work) longer than 40 hours per week and for work abroad.

The amount of compensation paid is 50% of the worker's average salary in the last 24 months. It cannot be higher than 80% of the average national salary paid in the previous month (art. 68). A recipient of unemployment benefit who was working part-time is entitled to 50% of the unemployment benefit and retains the right to be referred by the Employment Service Agency to a full-time job position (art. 77). Beneficiaries of this right are also provided with free health insurance. In practice, this benefit is paid only to redundant workers, laid-off workers, or cases where the employment was not terminated at the request of the employed.

Assessment of existing social provision and the impact of possible extension of coverage

Assessments of the coverage and adequacy of the social protection system are scarce, particularly in relation to self-employed and non-standard workers. Data on social protection coverage among self-employed and non-standard workers is unavailable through public sources. In its Annual Report, the Health Insurance Fund indicated that in 2015, 2.3% of all health insurance contributions were collected from self-employed persons (FZOM 2016: 57). Similarly, the Annual Report of the Public Revenue Office for

household member is lower than 50% of the average wage. The estimated coverage of this programme in 2016 was 166 people, which is too low to have any significant impact among vulnerable young people.

Regarding adequacy, SILC data for 2016 on in-work-and-at-risk-of-poverty rate by type of contract² show that 5.9% of employees with temporary jobs faced this risk. Men were slightly more affected by this issue (6.1%) than women (5.8%). The risk-of-poverty rate among part-time workers is higher and in 2016 stood at 24.7%.³ As already indicated, according to 2015 SILC data on people at risk of poverty or social exclusion by most frequent activity status (population aged 18 and over), 33.2% of the employed (except employees) lived in poverty or were socially excluded.⁴

Even though the self-employed and most non-standard workers enjoy the same rights at the legislative level, in practice realising these rights is problematic. According to Anceva (2016) the stipulation of transformation of short-term contracts for the same or similar jobs with the same employer after five years is often ignored in practice and the contract is not made permanent unless labour inspection is involved or the contract is deliberately terminated before the end of the five-year period. She also indicates that this problem particularly affects the young and that the issue also prevents workers becoming unionised, since all employees in newly built industrial facilities have short-term contracts and precarious jobs. Kalamatiev and Ristovski (2013: 137) recommend that labour legislation should increase non-standard employment security and prevent abuses of fixed-term employment contracts.

According to a study undertaken by the Centro di Studi Sociali Economici e Sindacali, self-employment contracts in North Macedonia are misused:

“...the phenomenon of ‘false’ and ‘fake’ self-employment appears to be rising. Provision-of-service contracts (officially contracts for self-employed workers) are sometimes used as a substitute for low-level employment contracts and are adopted to avoid social security contributions. This mainly concerns freelancers whose actual work situation (integration in the work organisation; subordination to the discretionary power of the employer; etc.) is that of a dependent worker, even though their contractual arrangement is that of a self-employed person” (CESOS 2016: 18).

The same report identifies issues related to temporary workers’ health insurance. Because the unemployed are covered by health insurance

² Eurostat, <http://appsso.eurostat.ec.europa.eu/nui/submitViewTableAction.do>

³ Ibid.

⁴ Ibid.

provided by the state, when they take temporary work their health insurance is discontinued, even if they are employed for only one day, and when their employment contract expires it takes considerable time to reactivate it (CESOS 2016: 25).

Other evidence suggests that despite the benefits of temporary employment, the fact that social and health contributions are paid according to the number of hours worked means that there are also negative implications. In many cases temporary workers cannot use/apply for bank credit because their contract is terminated every month. This suggests that there is large gap between the legislative rights of the self-employed and non-standard workers and their realisation and use in practice.

Conclusions and recommendations

On the basis of the analysed data, it can be argued that in North Macedonia the self-employed enjoy the same access to social protection schemes as salaried workers, with the exception of unemployment insurance. However, these rights are not easily translated into practice. Part-time and some non-standard workers (not farmers or temporary workers contracted to perform physical and/or intellectual services) also have access to the social protection system.

Other categories of workers, mainly the informally employed, face a high risk of poverty because they do not contribute to the social protection scheme. The only support for the self-employed is the recent labour market activation programmes. However, their coverage and financing is limited and their impact negligible.

Due to the lack of national data or studies, it is impossible to estimate and assess the financial implications of extending social protection coverage and the consequences for the labour market. Individual social security accounts only exist for old-age pensions (reformed pension system) and a similar system for specific benefits is unlikely to happen any time soon.

For self-employed and non-standard employees in North Macedonia to have more comprehensive access to social protection, some of the following steps would be necessary: (1) the extension of obligatory unemployment insurance to the self-employed; (2) a gradual extension of social insurance to temporary workers with contracts for provision of physical and/or intellectual services (non-employee service contracts), with the possibility of paying social contributions on a lump sum basis; (3) incentivising self-employment not only among the vulnerable unemployed (i.e., registered unemployed) but also among those with higher educational skills; (4) changing the relationship between social financial assistance and low

earnings to support a gradual transition into work; (5) greater employment protection for workers on short-term contracts and inspection of the termination of such contracts after a short period of time; (6) making re-applying for health insurance by workers with temporary employment records more simple and more flexible; and (7) tailoring special government programmes for workers in informal employment to enable the gradual introduction of social contributions and taxes, in order to increase the return from the informal economy to both social security funds and the workers themselves.

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