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EUROPEAN SOCIAL MODEL AND NON-STANDARD FORMS OF EMPLOYMENT

“It took us some years to realize that the new universal market did not by itself deliver growth and happiness for all. Hence the whole debate on first trade and labour standards and then the social dimensions of globalization. This strengthened the drive for a more coherent approach to promoting employment, rights, social protection and social dialogue: the Decent Work approach. It also strengthened the call for globalization that is fair, as outlined by the World Commission on the Social Dimensions of Globalization (2004).”

Kari Tapiola, ex-Executive Director of the
International Labour Organization

Abstract

The study is focused on the analysis of the open question of the European Social Model in the light of new forms of employment. The role of the social policy in the Member States of the European Union (EU) has been modified far from the concept of social justice and social security. Therefore, the welfare state has disappeared in the EU.

Prevalent ideas of the humane economy have been neglected in the contemporary momentum of the EU. When it was celebrated only economic criteria, the current development of society could be very fast, but at the same time extremely destructive, manifested in the inappropriate expansion of large-scale social problems, especially in long-term unemployment. In this context, it is important to consider non-standard forms of employment.

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This is even more essential, bearing in mind the huge existing problem of youth unemployment, especially highly educated.

Keywords: *European Union, European Social Model, employment.*

1. Introduction

Social models and reforms seem to be developed under political and economic pressure rather than as an integrated part of a coherent economic policy. Thus, the European Social Model was not an integral part of the development of the European Communities before the launching of the internal market and a significant process of enlargement in mid-90-ties. The introduction of the term “European Social Model” into a political vocabulary is bound to the name of former President of the EU Commission Mr Jacques Delors, a great advocate of the deepening of integration within the European Union (EU) towards the Euro-federalism and the father of the single currency.

In mid-90-ties, Mr Delors, with the term “European social model” marked the distinction between economic and the social system of the EU and the United States of America. European social model means everything in common and general in the management of social systems of European countries, EU Member States³.

The economic challenge of the European social model is evident primarily in the fact that the financing of the system depends on the prosperity and economic growth, but in conditions of current slow economic progress and changes in the labour market. Consequently, bearing in mind almost ten-years long economic and financial intra-regional crisis within Eurozone (since 2008) and at the same time, the crisis at the global level, of vital importance is to analyze European social model in light of new forms of employment. In the countries most affected by the economic crisis, the population faces significant restrictions on the number of employees, especially in public services, wage cuts, pensions, trade union protests and requirements related to social rights.

Mass unemployment is rising, and in Greece and Spain youth unemployment is currently higher than 50 percent. High level of unemployment caused the weak political power of trade unions and a decrease of their negotiating influence in the protection of basic social rights (freedom of association, collective bargaining, non-discrimination, equal remuneration, the abolition of forced labour and the minimum age

³ G. Gasmi, O. Zorić, “Evropski socijalni model između prava i politike – da li EU ima socijalno prijateljsko lice”, in: *Religija politika pravo* (eds. J. Čirić, M. Jevtić, V. Džomić), Beograd-Budva 2015, 115-116.

to employment which is the original child labour standard). Detailed restructuring of the industry, privatization of public services and increased use of seasonal workers have contributed to the loss of part of the influence of trade union organizations and to the sharp rise of unemployment in the EU. There were close to 23 million unemployed people of working age in the EU in 2015 but around 50 million people in a broader category of labour slack, encompassing inactive people wishing to work and underemployed, involuntary part-timers as well as the unemployed⁴.

2. Concept of European Social Model

European social model is based on the recognition that social justice can contribute to economic efficiency and progress. The Commission's 1994 White Paper on social policy (COM (94)333)⁵ described a 'European social model' in terms of values that include democracy and individual rights, free collective bargaining, the market economy, equal opportunities for all, and social protection and solidarity. The model is based on the conviction that economic progress and social progress are inseparable: "Competitiveness and solidarity have both been taken into account in building a successful Europe for the future."

In its strategy 'Europe 2020 year for smart, sustainable and inclusive growth'⁶, adopted in 2010, the European Union reiterated its commitment to the European social model by stating that it seeks to create more and better jobs throughout the EU. To reach these objectives, the European Employment Strategy encourages measures to meet three headline targets by 2020:

- 75% of people aged 20-64 in work;
- school drop-out rates below 10% at least 40% of 30-34-year-olds completing third level education;
- at least 20 million fewer people in or at risk of poverty and social exclusion.

The actions outlined in the flagship initiative "An Agenda for new skills and jobs" are essential to meet these targets.

The European social model is considered to be unique in its dual focus on economic and social principles. In a Communication on

⁴ European Foundation for the Improvement of Living and Working Conditions (Eurofound), "Estimating labour market slack in the European Union", https://www.eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef1711en1.pdf, last visited 18.7.2017.

⁵ <http://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/european-social-model>, last visited 18.07.2017.

⁶ Eurofound, "Estimating labour market slack in the European Union", https://www.eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef1711en1.pdf.

“Employment and social policies: A framework for investing in quality” (COM (2001) 313), the Commission contrasts the “European social model” of public social spending with the “US model”, which relies on private expenditure, highlighting the fact that 40% of the US population lacks access to primary health care, although *per capita* expenditure as a proportion of GDP is higher in the US than in Europe.

The EU Commission also emphasises that it is not only the existence of jobs but also the characteristics of employment that are important to the European social model. The EU’s commitment to inclusion is reiterated in the European Platform against Poverty and Social Exclusion, which forms part of the Europe 2020 Strategy, stating that combating social exclusion, promoting social justice and fundamental rights have long been core objectives of the European Union, which is founded on the values of respect for human dignity and solidarity⁷.

The notion of social justice contains core idea that all members of a society should have equal benefits and opportunities. In its early days, the term social justice specifically targeted poverty and the need for an equal distribution of resources. Today, the term has acquired a broader and more detailed definition.

The recent study “Globalisation and the reform of the European social models” prepared by André Sapir for the think-tank Bruegel and presented at the ECOFIN Informal Meeting in Manchester on 9 September 2005 argued that there is not one European social model, but rather four – the Nordic, Anglo-Saxon, Mediterranean and the Continental⁸:

- The Nordic model (welfare state, high level of social protection, high level of taxation, extensive intervention in the labour market, mostly in the form of job-seeking incentives);
- The Anglo-Saxon system (more limited collective provision of social protection merely to cushion the impact of events that would lead to poverty);
- The continental model (provision of social assistance through public insurance-based systems; limited role of the market in the provision of social assistance)
- The Mediterranean social welfare system (high legal employment protection; lower levels of unemployment benefits; spending concentrated on pensions)

⁷ Eurofound, “European social model”, <http://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/european-social-model>, last visited 18.7.2017.

⁸ Euractiv, “EU debates European social model”, <https://www.euractiv.com/section/social-europe-jobs/news/eu-debates-european-social-model/>, last visited 18.7.2017.

The Sapir study concludes that only the Nordic and the Anglo-Saxon models are sustainable.

European social model is based on the recognition that social justice can contribute to economic efficiency and progress. Legal origin of so-called “Social Europe” can be found in the Rome Treaty establishing European Community (TEC, 1958) that set down basic social objectives:

Promotion of employment, improved living and working conditions.....proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment.

In contemporary conditions, one can easily notice that all of the above mentioned social goals are still relevant. The Charter of Fundamental Rights of the European Union (EU)⁹ includes chapters on freedoms, equality and solidarity, articulating rights to fair and just working conditions, social security and social assistance, gender equality, as well as trade union rights, such as collective bargaining and strike action. The EU is well known not only for more than a half of the century of peace but also because of its economic and social progress during previous decades. Although this prosperity, especially economic, but also political ones, are very much endangered in current momentum¹⁰, the central principle of the EU is one of solidarity and cohesion, also proclaimed in the Lisbon Treaty (TFEU, 2009). This assumes that economic growth must serve to encourage overall social welfare, and not take place at the expense of any section of society¹¹.

Consequently, Article 8 of the TFEU states that the Union, in all its activities “shall aim to eliminate inequalities, and to promote equality, between men and women”. Further, it states that the Union, in defining and implementing its policies and activities, “shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health” (Article 9), and that the Union “shall aim to combat discrimination based

⁹ The Charter of Fundamental Rights of the European Union (EU) entered into force together with the Lisbon Treaty of the EU, on the 1st December 2009, while it was previously formulated in 2000. More detailed in G. Gasmi, *Quo vadis EU? Relevantni pravni i institucionalni faktori*, Beograd 2016, 68-74.

¹⁰ P. Vimont, “The Strategic interests of the European Union”, *Policy Paper, Foundation Robert Schuman, European Issues*, No 404, September 2016, <https://www.robert-schuman.eu/en/doc/questions-d-europe/qe-404-en.pdf>.

¹¹ For example, Ireland, formerly one of the poorest countries in the EU, has greatly benefited from the EU financial support and became a dynamic economy, even though it failed to pass on this economic advancement to all its citizens. Similar economic growth improvement is now visible in some of the newer EU Member States in Eastern Europe.

on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation” (Article 10).

The Lisbon Treaty fully recognizes the role of the social dialogue and the social partners in its Article 152, which states that ‘The Union recognizes and promotes the role of the social partners at its level, taking into account the diversity of national systems. It shall facilitate dialogue between the social partners, respecting their autonomy’. The TFEU also contains the legal framework for the European social dialogue in Articles 154-155 TFEU. The Treaty’s employment title embodies the so-called “open method of coordination” for the European Employment Strategy (Articles 145 to 150 TFEU).

3. Where did disappear welfare state in EU?

The goal of the welfare state is to create social security in accordance with existing ideals of justice and equality through regulatory and shaping measures of public policy in economic and social life. The state of well-being is characterized by social-political instruments, which can be divided into two groups: the first pillar is a social security system, and the second pillar consists of the individual and collective rights of employees.

A prerequisite for the financial sustainability of the welfare state is a well-functioning economy that provides jobs and revenues of the state. In addition to the economic elements, the concept of a constitutive element of the state of well-being is also a concept of social justice¹². It would be wrong to view the welfare state mainly as a burden and it is undeniable that welfare states encapsulate values that people across the EU cherish.

German Chancellor Angela Merkel warns that the EU accounts for just seven percent of the world’s population and a quarter of its gross domestic product (GDP), but as much as half of its welfare spending. Her underlying message is that Europe spends too much on social policies and thus has no choice but to retrench¹³. Austerity measures are the reason for budget cuts, but other threats to the sustainability of the welfare state are more fundamental: an ageing population and adapting to evolving societal expectations.

Intensifying competition from emerging markets has also seen globalization become a threat because the cost of welfare policies has undermined the competitiveness of companies in the EU. Precisely, in

¹² *Culture and Welfare State - Values and Social Policy in Comparative Perspective* (eds. W. van Oorschot, M. Opielka, B. Pfau-Effinger), Edward Elgar Publishing Limited, 2008, 61.

¹³ Iain Begg, “Can EU Countries Still Afford Their Welfare States?”, 2015, <https://www.chathamhouse.org/expert/comment/can-eu-countries-still-afford-their-welfare-states>, last visited 18.7.2017.

a more competitive environment, due to globalization, the EU has to significantly reduce strong welfare measures of social protection¹⁴ and at the same time to ease regulation for business if it is to compete with emerging markets such as China and India.

The biggest components of welfare spending are poverty relief, health and pensions, whereas unemployment benefits cost relatively less. The sustainability of the EU current welfare models is affected by the ageing of the EU population¹⁵, which is the result of two phenomena: a low birth rate, which results in a falling working population and a longer life expectancy. According to the 'main scenario' of the latest Eurostat population projections, Germany's population has already started to shrink and is expected to fall from 82 million in 2013 to 74 million by 2050. The UK's population, by comparison, will rise from 64 million to 77 million over the same period. This scenario includes substantial net migration into the EU, which already has happened, by the exceptional influx of refugees and migrants in EU countries seen as favoured destinations (Germany, Sweden, and Italy). The refugees and migrants entering the EU put short-term pressures on social security budgets and social housing, but the numbers do need to be put into perspective. Even as many as one million migrants would be just 0.2 percent of the EU population and well under one percent of the number of people in the EU dependent on welfare budgets. In the longer term, migrants tend to move into jobs and become net contributors to the national budgets. Moreover, with many European countries facing a decline in the working population, the arrival of younger dynamic workers is likely to prove helpful¹⁶.

In many EU countries, welfare states are funded in part by taxes on labour. This creates what economists call a 'wedge' between the labour cost and the wage, or put another way, the difference between what the employee receives and what the employer pays. It causes difficulties if competitors from emerging market economies are able to undercut their

¹⁴ Social expenditure *per person* in the EU in 2012 (the most recent year available, using a harmonized definition) was € 7,600, but with a range from € 18,900 in Luxembourg to just € 927 in Bulgaria. The UK figure was € 8,700 (£6,340). Average EU spending *per citizen* is almost the same as in the United States and well below that in Switzerland, after adjusting for price differences. Iain Begg, "Can EU Countries Still Afford Their Welfare States?", 2015, <https://www.chathamhouse.org/expert/comment/can-eu-countries-still-afford-their-welfare-states>, last visited 18.7.2017.

¹⁵ There are also marked differences among the EU countries. Over the past 15 years, the average fertility rate (children per woman) in the EU has been 1.54, ranging from barely over 1.3 in Hungary and Spain, and 1.36 in Germany, to 1.8 in the UK and just under two in Ireland, France and Sweden. *Ibid.*

¹⁶ Without immigration, the EU as a whole would see its population fall by eight per cent up to 2050, instead of a small rise of 3.6 per cent. *Ibid.*

European counterparts. There are plenty of ideas for how to resolve the challenges facing the welfare state. The demographic consequences can be mitigated by restraining high payments, asking people to work longer or finding ways of boosting the economically active population. Bringing young migrants into the labour force could also be part of the solution, which may explain Germany's more accommodating stance towards the refugee crisis since 2015.

However, welfare reform is often proven to be very difficult. It inevitably involves taking away what some people have to give to others and, unsurprisingly, the winners keep quiet while the losers shout loudly. Therefore, an enormous number of young unemployed people have protested in Portugal, Italy, Greece and Spain¹⁷.

According to some authors' estimates, the modern economy cannot be established without social goals¹⁸, because if only the economic criteria were respected, the path of social development would be very fast, but at the same time extremely cruel, manifested in the inappropriate spread of major social problems. Therefore, social reasons must be taken into account and respected, because such trend gives modern economies a human dimension¹⁹.

There is a growing recognition that the EU itself creates a series of obstacles, not only for economic and social development in Europe but also for social reforms.

The first barrier is the democratic deficit²⁰, which has existed from the very beginning of the EU functioning but has increased in the last few years. An official message from the EU and the governments of the EU Member States, with the support of the European Trade Union Confederation (ETUC) and other parts of European trade union movements, is the opposite. They argue that the 2009 Lisbon Treaty on EU represents an important step towards increasing democracy and that the directly elected European Parliament has the authority of decision making in many areas.

In the opposite direction, however, some Member States have been found (especially Greece), to a greater or lesser extent, under the management of the European Central Bank and the European Commission, with the support of the IMF, face to face with the financial crisis. In addition, the EU Parliament is marginalized in adopting the process of developing new pacts and agreements, such as the Stability

¹⁷ In some EU media, a crushing shortcut for these countries in English was "PIGS - Portugal, Italia, Greece, Spain", alluding to their severe economic problems that jeopardize Eurozone.

¹⁸ D. Kočović, *Socijalna politika*, Fakultet političkih nauka, Beograd 2007, 179.

¹⁹ *Ibid.*

²⁰ G. Gasmi, *Pravo i osnovi prava Evropske unije*, Beograd 2013, 303-306.

Pact and the like. Finally, the EU Commission has gained new powers to impose economic sanctions on the Member States that do not follow strict (financial and political) criteria for economic stability. This prevents the unimpeded exercise of power by democratically elected parliaments at the national level. This is how the transfer of power is performed to the appointed, i.e., a bureaucratically established EU Commission. All those processes further influence the undemocratic decision-making procedures in the European Union, with the final negative outcome for the welfare state and prosperous social reforms in the EU.

4. Social Policy – does it contribute to optimal employment rate?

In the modern era, there are different conceptions and models of social policy and their scientific classification. In practice, the following applies in particular:

- Neoliberal model,
- Welfare state (social-democratic model),
- Combined models (or pragmatic solutions).

The semantic meaning of social policy is the ability to manage society. Social policy is the activity of the state and other actors focused on:

- Prevention of social risks,
- Assistance, support and inclusion of poor and socially excluded residents,
- Equalization the life chances of citizens,
- Raising the level of general well-being and social security.

The term “social security” was first used by Simon Bolivar in his speech in Angostura and emphasized that “the most perfect system of governance that is capable of achieving the highest benefit, which accomplishes the greatest possible social security and, to the maximum extent, political stability”. The prevailing opinion is that social policy should be limited to the issues of social security and management of social services. Social policy is in the function of alleviating social contradictions and preserving social peace in a modern civil society. The optimal employment rate has a crucial role in social peace and stability of each state.

However, current processes in the EU point to a significant shift from this original role of social policy. Namely, the open method of coordination, which was established at the EU Lisbon Summit of

2000, is being applied as part of the Lisbon Agenda for the promotion of sustainable growth and employment in the EU. The closer elements of this concept of harmonization of national economic policies of EU Member States are:

- Determining the economic policy guidelines for the Union,
- Introduction of quantitative and qualitative indicators and standards, tailored to the needs of different Member States and economic sectors,
- Translating EU guidelines into national and regional policies, by setting specific tasks,
- Periodic monitoring, evaluation and review.

The EU Maastricht reforms of '93 year represent the largest institutional jump in social policy in the EU until then. However, this social-political breakthrough was distorted by the rejection of Great Britain²¹ to accept the concluded Social Protocol with the Maastricht Treaty on the EU. The powers of the EU institutions have been considerably extended (labour law, social protection and security), the scope of application of decision-making by a qualified majority has been extended, and a quasi-corporatist procedure has been created to involve European social partners.

However, the institutional and legal improvements of the EU social policy could not stop the eruption of the financial crisis within the Union since 2008. Market deregulation, unequal distribution of profits and financial speculation contributed to the detriment of social rights of employees. Therefore, this situation is titled as „casino economy“. The advocates of neoliberalism disclaim their responsibilities. While their unbridled speculation and the massive redistribution of wealth from the bottom to the top have triggered the crisis, they state that people “have lived above their financial ability.” The myth that is still spreading is that pensions are the real causes of the crisis. In particular, the social elites and dominant media in the EU portray as an example Greece where the residents received economic privileges without any real economic basis. This is used as a propaganda to legitimize a widespread attack on the welfare state. The European Trade Union Institute (ETUI)²² quickly documented that these accusations were false. For example, labour productivity rose twice as fast in Greece than in Germany from 1999 to 2009. According to OECD statistics, on average Greeks work much more

²¹ It was accepted by the then eleven out of a total of twelve Member States, in 1993. Because of the British Government's refusal to accept the Social Protocol, at the last moment, the so-called “Opt-out” method of entry into force of this Protocol was applied.

²² ETUC, “EU on a ‘Collision Course’ with Social Europe and the Autonomy of Collective Bargaining,” February 4, 2011, <http://etuc.org>, last visited 18.7.2017.

hours per year (2,152) than Norwegians (1,422) or Germans (1,430).

In several EU Baltic countries, in Bulgaria, Greece, Ireland, Portugal, Romania, Spain, Hungary, wages, working conditions and pensions have been seriously weakened. Pensions have been reduced by fifteen to twenty percent in many countries, and wages in the public sector have been reduced from five percent in Spain and over forty percent in the Baltic. In Greece, the number of public sector employees has been reduced by more than twenty percent, and it is even more demanded, while in Spain, only ten of the public sector jobs are filled, one in five in Italy, and every second public sector vacancy in France. In Germany, ten thousand jobs in the public sector have already been shut down²³. Value Added Tax (VAT) has dramatically increased in several countries, social benefits are cut, especially for the unemployed and the disabled, budgets are reduced, labour laws have been significantly amended and weakened (in particular with regard to employees' protection). Minimum wages are reduced²⁴.

Exactly this is the origin of the importance of trade unions. The ongoing process of negotiation between representatives of workers and employers to establish the conditions of employment²⁵ - the collectively determined agreement may cover not only wages but also hiring practices, layoffs, promotions, job functions, working conditions and hours, worker discipline and termination, and benefit programs.

In the meantime, the capital taxation is constant or even reduced. Due to a general weakening of the trade unions, collective agreements and labour rights are isolated from negotiations with trade unions and are determined by the regulations of the government or as a political decision. Increasing the competitiveness of European enterprises is set as the main goal and all social interests are subordinate to it. This represents a new and dramatic situation in Europe. Michael Hudson, a former economist at Wall Street and now a professor at Missouri University²⁶, notes that there is a massive struggle against workers and their rights: the EU uses the banking crisis mortgages as an opportunity to punish the governments of Member States (the example of Greece) and even lead them to bankruptcy, if they do not agree to reduce wages. Hence, a new type of economic centralization through the activities of the European Central Bank (ECB) appeared. There is an operational independence of

²³ G. Gasmi, O. Zorić, 124.

²⁴ G. Gasmi, P. Dedić, R. Weber R., "Comparative Analysis of Minimum Wages in Western Balkans and in the European Union", *Review of International Affairs*, No. 3/2016, 32.

²⁵ M. Andersson, C. Thornqvist, "Determining wages in Europe's SMEs: how relevant are the trade unions?", *European Review of Labour and Research*, 1/2007, 17.

²⁶ Michael Hudson, "A Financial Coup d'Etat", October 1-3, 2010, <http://counterpunch.org>, last visited 18.7.2017.

the ECB from the political influence of national governments²⁷. Namely, on the one hand, this is a feature of democracy, but in the process of a severe financial crisis, it takes on the traits of the new financial oligarchy.

There is no one compact answer to the question whether social policy contributes to optimal employment rate. The example of the key ingredient of social policy is unemployment benefits that provide individuals with some income security as they look for work. However, unemployment benefits also change the incentives facing the unemployed, lengthening the job search. By easing the pressure of finding employment, the social protection system benefits the unemployed at the expense of overall productivity and long-run economic growth²⁸. More negative effects of some social policy measures could be found in the tax increase, which will likely exacerbate unemployment by making it more expensive for companies to hire new employees.

On the other, positive side, there are many constructive contributions of social policy to employment rate, such as non-standard forms of employment, being a recent phenomenon. Regarding labour market effects, employee sharing, job sharing and interim management seem to be most beneficial among the new employment forms²⁹.

5. Non-standard employment forms

Regular full-time employment which we nowadays consider as a standard form of employment stems from the so-called Fordist model of production, developed in the early 20th century in America by Henry Ford, the founder of the Ford Motor Company. Ford has introduced the single largest change in the patterns of mass production and consumption in the realm of process engineering, which was the main driver behind the transformation from craft production to mass production. Ford's innovations in machine tools and gauging systems made possible the moving assembly line and linear production through fragmented and simplified repetitive work tasks, whereby "a standard product produced by standard machinery using standardized methods and standardized human labour for a standard working day"³⁰.

²⁷ G. Gasmi (2013), 205-211.

²⁸ E. Norcross, E. Washington, „The costs and consequence of unemployment benefits on states“, *Mercatus Center; George Mason University*, No. 67, January 2010, 2.

²⁹ Eurofound, „New forms of employment“, Publications Office of the European Union, Luxembourg 2015., 140.

³⁰ M. Serrano, „From standard to non-standard employment: the changing patterns of work“, in: *Between Flexibility and Security – the rise of non-standard employment in selected ASEAN countries* (ed. M. Serrano), Jakarta 2014, 10.

With the predominance of this more flexible model of production, accompanied by the flexibilization of the workforce in both industrialized and developing countries, there has been a significant global shift from standard employment to non-standard employment. Non-standard forms of employment (hereinafter “non-standard employment forms”, or “NSEF”) represent a group of various employment arrangements that differ from standard employment and include: (1) temporary employment, (2) part-time work, (3) temporary agency work and other forms of employment involving multiple parties, and (4) disguised employment relationships and dependent self-employment³¹.

Temporary employment, where workers are engaged for a specific period of time, includes fixed-term, project- or task-based contracts, as well as seasonal or casual work, including day labour. In the majority of countries, fixed-term contracts are regulated by specific legal provisions on the maximum length, the number of renewals, and valid reasons for recourse. Casual work there represents very short-term or occasional engagement of the workforce, often measures in a number of days or weeks, where the wage is set by the terms of the daily or periodic work agreement. It is primarily the characteristic of low-income developing economies but is lately ever more present in highly developed economies in the jobs associated with the “on-demand”, “platform” or “gig” economy (such as the jobs driven by service-oriented applications). Temporary employment is mostly present in the economic sectors with seasonal fluctuations such as agriculture, although the “gig” economy has lately been largely present in the transport sectors (the companies such as “Uber”). Companies also resort to this form of employment in the situations where short-term lack of workers might represent a bottleneck due to the hikes of demand, or due to a more significant temporary absence of workers.

Two vulnerable groups of employees which are very exposed to temporary employment are migrants and the youths. According to the UN Population Facts report in 2013, some 3.2% of the world population was on the move, as 232 million international migrants were recorded³². In most cases, the migrants are engaged through temporary employment contracts or temporary agency work in their new countries of temporary residence, in a variety of sectors subject to seasonal fluctuations such as agriculture, tourism and catering, construction, etc. The youths often seek temporary employment in order to combine it with education or training,

³¹ ILO, *Non-standard employment around the world – understanding challenges, shaping prospects*, ILO, Geneva 2016, 2.

³² UN Department of Economic and Social Affairs, “UN Population facts 2013/2”, New York 2013, 1, http://www.un.org/en/development/desa/population/publications/pdf/popfacts/PopFacts_2013-2_new.pdf.

mostly in industrialized nations. In less developed nations the temporary engagement of youth often represents a way of cost savings, so many of them tend to stay relatively long under temporary contracts, unable to find a permanent job.

Part-time work stands for the engagement of workers for fewer than the normal working hours, which many countries establish as legal thresholds that distinguish part-time from the full-time work, usually up to 30 hours per week. Part-time employment has been on the rise in many parts of the world over the past decades, as it can represent an important means for integrating women into the labour force, who because of domestic and care responsibilities, would otherwise not be available to engage in paid work. Yet whether part-time employment helps to promote gender equality depends on the quality of the part-time job. Public policies, including social security and tax policies, have at times reinforced the gender divide in the labour market but can be designed to promote good-quality part-time work³³.

A particular form of the part-time work includes „on-call-work” (or the “zero-hours”) – an arrangement under which the employer is not obliged to set a particular number of hours of work in advance; this non-standard form of employment has lately become increasingly popular in the United Kingdom and in the United States of America.

Temporary agency work is an ever-more widespread non-standard form of employment, whereby the workers are not directly employed by the company to which they provide their services, but by a temporary work agency. In this multi-party arrangement, the employment relationship is mostly concluded between the worker and the agency, which on the other hand signs a commercial contract for its services of “renting of the labour force” with the beneficiary company. This means that there is no employment contract between the worker and the user company, although there are examples of shared legal obligation between the agency and the company when it comes to the occupational safety of the workers.

According to the World Employment Confederation (formerly known as CIETT) in 2013, around the world, a total number of 60.9 million people gained access to the labour market through a private employment agency (with 40.2 million working as an agency worker)³⁴. In some countries, the share of temporary agency workers has been much higher than the global average of 1.6%, such as in some sectors such as manufacturing in India, where their share went up to 35%.

³³ ILO, *Non-standard employment around the world – understanding challenges, shaping prospects*, 11.

³⁴ CIETT, *Economic report*, 2015, 4 http://www.wecglobal.org/fileadmin/templates/ciETT/docs/Stats/Economic_report_2015/CIETT_ER2015.pdf.

Disguised employment relationship, according to the International Labour Organization (ILO) “is one which is lent an appearance that is different from the underlying reality³⁵”. It is typically an attempt to distort the employment relationship and diminish the legal protection of the worker by giving the employment relationship a different form. It may also have a form in which the designated employer is only an intermediary, whereas the real employer is released from any involvement in the employment relationship and thus has no responsibility to the workers. The most radical way to disguise the employment relationship consists of giving it the appearance of a relationship of a different legal nature, whether civil, commercial, cooperative, family-related or other³⁶.

Finally, the dependent self-employment describes a situation in which a self-employed worker provides services at the open market for commercial contracts, but in fact remains dependent upon one or few clients who require the bulk of his services, thus making him rely on the constant demand from them for his services. These workers are typically not covered by the provisions of labour law or employment-based social security, although a few countries have adopted specific provisions to extend some protections to dependent self-employed workers.

6. The factors of growth of the non-standard employment forms

Several stages of globalization and the growth of inter-relatedness of the labour markets around the world have nourished the spread of the non-standard employment forms (NSEF) and their importance in the labour markets has grown throughout the past few decades. The factors affecting the NSEF are numerous and vary from one country to another, but they can be grouped into macroeconomic, factors related to the world of work and the effects of the cost reductions.

Each wave of economic recession and crises inevitably affects the labour market, where the concerns about the uncertainty brought by the crisis make the companies more cautious in hiring, whereby they resort more to temporary forms of the labour contract, which is especially true about the aftermath of the Great Recession in the USA.

Another way for many companies to respond to the drop in demand and avoid laying-off workers is the internal reorganization of working hours, whereby the workers accept to work shorter hours for a proportionally smaller wage to avoid losing their jobs. This measure was most widespread in Germany during the latest global economic

³⁵ ILO, *ILO International Labour Conference, 91st session, Report V*, Geneva 2003, 24.

³⁶ *Ibid.*, 25.

crisis, where approximately 1.2 million workers accepted the reduction of their working hours, on average, by one-third while maintaining their employment relationship. At the same time, the recent global economic crisis has also shown an adverse effect towards the workers employed through NSEF, where those working under temporary and multi-party employment relationships were the first to be let go and that was the case on both sides of the Atlantic when the crisis arrived³⁷.

The causes of a more widespread use of the NSEF in the last few decades related to the world of work are above all the waves of globalization which puts pressure onto the local labour markets, consequent technological and organizational changes in the enterprises, and a visible shift of jobs from the primary and secondary to the tertiary economic sector – the services.

An unprecedented international competition with constant pressures to reduce costs, outsource whenever possible and struggle to become and remain part of the global supply chains have all been an immediate consequence of the consecutive waves of globalization onto manufacturing and agriculture. International trade in intermediate goods has been made easier by the trend of liberalization and removal of cross-border barriers, creating ever-bigger pressure onto the local suppliers to reduce costs and ensure in-time production. That, in turn, leads them to outsource and subcontract labour and to use workers for short periods of time repeatedly hiring them on short-term contracts, so the use of NSEF itself can be seen as a “logical extension of global outsourcing”, as it facilitates variation in the numbers of workers, tasks undertaken and wages paid, to meet changing buyer orders at low labour cost. However, simply employing cheap labour that produces poor quality goods could lead to a shift down or out of the value chain, if competitors are better able to manage the pressures. In response, many supplier firms employ a core regular, combined with a casual irregular, labour force. The core labour force provides the requisite skill and training to ensure consistency and quality of output. The casual labour force provides flexibility by using temporary workers (often undertaking similar tasks to core workers) to meet variations in output³⁸.

The expansion of global supply chains is closely related to technological developments and new organizational strategies of enterprises. New information technologies (IT), better infrastructure and consequent improvements in logistics and transportation, allow businesses to organize and manage their production around the globe. In

³⁷ According to the ILO in Spain temporary employment dropped from 29 per cent in 2008 to 22 per cent in 2013 as a result of the economic crisis.

³⁸ S. Barrientos, “Labour chains”: analysing the role of labour contractors in global production networks”, *BWPI Working Paper* 153, Brooks World Poverty Institute – University of Manchester, Manchester 2011, 13-14.

fact, the new IT inventions have generated new forms of NSEF such as the internet platforms with their work-on-demand via apps, which is the essence of the “gig economy”. At the same time, the companies resorted to the increased use of outsourcing in the past two decades in order to focus on their “core” competencies, investing their resources into activities that were central to their competitive advantages. However, while some businesses restricted outsourcing to peripheral functions, others came to rely on non-standard employment arrangements for what arguably were their “core” functions, such as some major hotel chains that outsourced front desk services and cleaning to third-party management companies.

In parallel with the mounting pressures onto the manufacturing and agriculture, the services sector grew over the past few decades and by 2013 employed nearly a half of the global workforce³⁹. The issue with employment in services are the fluctuations in demand – far more volatile than those in manufacturing, which often instigate the companies to resort to flexible (non-standard) forms of employment, especially in some sectors such as hospitality and tourism, which is characterized by high fragmentation, global hotel chains and franchises, outsourcing, seasonality, and the need to provide services outside of standard working hours⁴⁰. In addition, the growth of the retail sector and the subsequent extension of opening hours have also spurred the use of part-time employment, as firms often hire workers on part-time hours to cover these additional shifts. This growth has had implications for women’s employment, as women are more commonly found in service industries, particularly retail.

Many enterprises use non-standard employment arrangements as they are often cheaper, because of lower wage or non-wage costs. In some instances, regulations may unintentionally – or deliberately – encourage the use of alternative arrangements, such as when part-time workers fall below the threshold of social security benefits, or when fixed-term contracts are allowed for permanent tasks⁴¹. The broad use of temporary contracts in European countries began in the 1970s with the deregulation of the labour markets, the aim of which was the increase in labour market flexibility and stimulating job growth. That trend was extended onto the jobs that were not temporary in nature and it involved an increase in

³⁹ ILO, “Global Employment Trends 2014: The risk of a jobless recovery”, Geneva 2014, 23, http://www.ilo.org/wcmsp5/groups/public/dgreports/dcomm/publ/documents/publication/wcms_233953.pdf, last visited 18.7.2017.

⁴⁰ ILO, *Developments and challenges in the hospitality and tourism sector; Issues paper for discussion at the Global Dialogue Forum on New Developments and Challenges in the Hospitality and Tourism Sector*, 23–24 Nov. 2010, Geneva 2010, 10.

⁴¹ ILO, *Non-standard employment around the world – understanding challenges, shaping prospects*, 5.

number and in the duration of temporary contracts. As a result, temporary employment grew in many European countries, so in the past two decades some of them had to implement counter-reforms to constrain the growth of temporary employment, but in many instances, the process has not been easy to reverse.

Non-standard employment examples have also grown in number due to the differences in social security protections for workers earning under a certain income threshold, such as the “mini-jobs” in Germany, where the people earning less than 400 EUR per month were exempt from contributing to social security and their employers paid contributions at a reduced rate. In addition to that, a drop in trade union membership and consequently smaller number of collective agreements (especially at the enterprise level) enabled companies to develop alternative employment arrangements, which were not in conflict with prevailing laws, but which ran counter to what had been prevailing practices. The growth of “zero-hours” contracts in the United Kingdom, “if and when” contracts in Ireland and “just-in-time scheduling” in the US and Canada was not due to the introduction of new legislation, but rather to the realization by businesses that it was not necessary to provide guaranteed hours to workers within the employment contract, and that new arrangements could be introduced to increase businesses’ scope for employing labour more flexibly⁴².

7. Concluding remarks

„Honeste vivere, alterum non laedere, suum cuique tribuere”.
ULPIAN⁴³

The blueprint for achieving social justice generally is often structured by the governmental implementation of laws/rights that provide equal distribution of resources and opportunities, which in effect protects human dignity. If a government supports inequality with oppressive laws then it is up to a non-government coalition to stimulate the change of such laws in a non-violent manner.

A further defining feature of the European social model, when contrasted with that of the USA, is the important role attributed to organisations of workers (trade unions) and employers in Europe. Although a report from Eurofound in 2008 points to a steady decline in union membership across the European Union, it shows that the weighted average union density in

⁴² *Ibid.*

⁴³ “Honestly live, do not insult others, give everyone their own.”, Justinian, Digest 1.1.10.

the EU Member States remains comparatively high, at just under 24%, according to figures contained in the Commission's Industrial Relations in Europe 2010 report,⁴⁴ which states that over the past few years, earlier trends towards declining union density, decentralisation of collective bargaining and greater employee participation have continued, and the company level has become more prominent in terms of bargaining.

The European social model is characterised by a high coverage rate of collective agreements. However, there are large differences in the role, coverage and effectiveness of collective bargaining around the EU. In many countries of the European Union trade union movements are generally weak and/or do not cover all industries sufficiently⁴⁵. Overall, according to the report, an estimated 121.5 million of the 184 million employees in employment in the EU were covered by a collective agreement in 2008, which translates into an adjusted bargaining coverage rate of 66 %, or two-thirds of all EU employees. Over the past decade, the number of employees covered increased by more than eight million, but since employment increased much faster, the coverage rate has slipped by two percentage points. There are wide variations in coverage rates, however, ranging from virtually 100 % in Austria to less than 20 % in Lithuania.

The presence of non-standard forms of employment characterized by the fixed or short duration employment contracts, lower wages, limited or missing social security benefits, work at multiple worksites and low-skill job requirements without career prospect has been expanded beyond its "natural boundaries" and deepened by the accelerating globalization and the increased market uncertainties. "Disguised" under various names and forms, the non-standard employment is spreading throughout the labour markets of both developed and developing countries.

Non-standard employment forms are putting at stake the workers' rights – from the right to organize and the right to collective bargaining, to the right to employment-based social security and other elements of decent work. Those forms of employment should not be treated *ex-ante* as a negative phenomenon by the trade unions, but need to be regulated by the legislation in line with the international labour standards of the ILO and contained to those areas of economy where flexibilization is necessary, as a factor of job-creation and accompanied by the social security coverage.

⁴⁴<http://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/european-social-model>, 04.5.2011.

⁴⁵ G. Gasmi, P. Dedeić, R. Weber, 40.

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EVROPSKI SOCIJALNI MODEL I NEFORMALNI OBLICI ZAPOSŁJAVANJA

Rezime

Studija je fokusirana na analizu otvorenog pitanja evropskog socijalnog modela u svetlu novih neformalnih oblika zapošljavanja. Uloga socijalne politike u zemljama članicama Evropske unije (EU) modifikovana je tako da se nalazi daleko od koncepta socijalne pravde i socijalne sigurnosti. Dakle, država blagostanja je nestala u EU.

Prevalentne ideje humanije ekonomije zapostavljene su u savremenom momentumu EU. Kada su zastupljeni samo ekonomski kriterijumi, tekući razvoj društva može biti vrlo brz, ali istovremeno izuzetno destruktivan, manifestovan u neadekvatnom širenju velikih društvenih problema, posebno u dugoročnoj nezaposlenosti.

U tom kontekstu, važno je razmotriti nestandardne nove oblike zapošljavanja. Ovo je još bitnije, imajući u vidu ogroman postojeći problem nezaposlenosti mladih, posebno visoko obrazovanih. Značajna karakteristika evropskog socijalnog modela, u poređenju sa istim takvim u SAD, je važna uloga koja se pripisuje sindikatima i poslodavcima u Evropi. Otuda evropski socijalni model karakteriše visok stepen obuhvata kolektivnih ugovora, ali se njihovo prisustvo razlikuje po zemljama članicama.

Širenje mnogih neformalnih oblika zapošljavanja predstavlja izazov za evropski socijalni model u pogledu realizacije prava radnika, počev od prava na organizovanje i kolektivno pregovaranje, do prava na odgovarajuću socijalnu zaštitu i druge elemente koncepta pristojnih uslova rada. Uprkos tome, sindikati ne bi trebalo unapred negativno da sagledavaju nove forme nestandardnog zapošljavanja. Potrebno je da ovi oblici zapošljavanja budu regulisani u skladu sa međunarodnim principima ILO i ograničeni na sektore privrede u kojima je neophodna fleksibilnost, kao faktor kreiranja novih radnih mesta, ali uz odgovarajući obuhvat socijalne zaštite.

Ključne reči: Evropska unija, evropski socijalni model, zaposlenost.