

How to Tackle New Form of Works for a Greater Employment Protection

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Employment relationships in Slovenia as well as in Europe have become increasingly diversified. In addition to the prevailing typical employment contract, there is also a variety of atypical forms of work that are allowed under certain conditions and within legal restrictions. If the segmentation on the labour market was once limited to those who were employed for definite and indefinite period of time, the gap is now much greater. As can be observed and as statistics data confirm, more and more work is done outside the employment contract, on a civil basis. Digitalisation and internet have deepened the problem and in some cases workers cannot neatly be classified as either ‘employees’ or as ‘self-employed’. There are concerns that such trends may result in lower employment and social standards, and the evolution of ‘gig work’ has given another perspective to the labour market. In practice it is not rare that atypical forms of work are used also in cases that do not meet the requirements for such work and outside of legal restrictions. This is especially true for false self-employed, single-member private limited liability company, job contract, contract for copyrighted work and student work. Most of those are deprived from employment protection and their social security is on a long run under a real threat. In the absence of a clear strategy on how to approach the diversification of employment relations, the Slovenian legislator enacted some legislative changes, which have created even more confusion. In 2013 the Slovenian *Employment Relationship Act* introduced the category of ‘economically dependent person’, extending the scope of some employment protections beyond ‘employees’. The definition of the ‘economically dependent person’, however, appears to be impossible to apply in practice, as those potentially covered, in fear of losing work, have not demanded protection. Moreover, the legislator has extended some protections (for example, minimum hour payments) for some groups, like students and pensioners, but has ignored the interests of others, arguably equally in need of protection (like the ‘false self-employed’). Thus, the crucial question whether to extend employment protection to more of those who work outside of the classical employment relationship is still on the table. Yet, two approaches should be considered: changing labour legislation and/or by extending the scope of collective agreements. In the paper we argue that a new law should be adopted and that collective agreements should be exempted from the antitrust law. By doing that the wages concluded in the collective agreements will not be considered as a price-fixing cartel.

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